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“LOCAL DEMOCRACY SITUATION  
AND THE DEGREE OF IMPLEMENTATION  
OF POLICY DOCUMENTS IN THE FIELD OF  
DECENTRALIZATION IN REPUBLIC OF MOLDOVA”

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**MONITORING REPORT**

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## CONTENTS

I.	SUMMARY .....	3
II.	INTRODUCTION .....	4
III.	CONSULTATION / OPINION PROCESS AND INSTITUTIONAL DIALOGUE.....	7
IV.	THE STATUS OF LOCAL ELECTED.....	12
V.	DECENTRALIZATION AND FINANCIAL AUTONOMY .....	16
VI.	SUPERVISION AND ADMINISTRATIVE CONTROL OVER LOCAL PUBLIC ADMINISTRATION .....	25
VII.	ORGANIZATION, STRUCTURE, STAFF AND SALARIES IN LPA .....	30
VIII.	ADMINISTRATIVE-TERRITORIAL REFORM.....	32
IX.	GENERAL CONCLUSIONS .....	36
X.	RECOMMENDATIONS AND PROPOSALS.....	39
XI.	ANNEXES.....	48

## I. SUMMARY

Decentralization, local democracy and the consolidation of local autonomy represent one of the quite controversial, confused and with outstanding areas domain within the reform process in the Republic of Moldova. Although it is an extremely important area in the context of the modernization and development of the country, the importance of this area has always been in the shadow and underestimated in relation to other areas such as justice, human rights, economic development, etc. As a result, due to a political, administrative, financial, economic, etc. system, which has been extremely centralized for decades, reforms in the Republic of Moldova are not progressing sensibly in any area that is considered as a priority.

Therefore, one of the main objectives of the present study, apart from a strictly technical assessment of the main policy documents in terms of their implementation, is to bring into question the main conceptual and strategic issues that are currently attested in the field of decentralization and local democracy. To analyze them in a certain logical and critical order, as well as to propose the directions for solving these problems to all those interested and, above all, to the state institutions responsible for this field.

In particular, the following fundamental issues are addressed in the study:

- General assessment of the implementation of the main policy documents in the area of decentralization / local democracy;
- The process of involvement, consultation and institutional dialogue between central and local authorities as a fundamental element for the success of reforms;
- The status of the local elected and its diminishing in the last period;
- Excessive administrative control over LPA: its accentuation and its role in preventing the normal activity of LPA;
- Structure, staffing and remuneration in LPA: main causes and barriers in providing LPA with qualified specialists;
- Administrative-territorial reform and its place in reforming the LPA system;
- Technical evaluation of the main policy documents in force in the field of decentralization and local democracy: Decentralization Strategy / Action Plan, Public Administration Reform Strategy / Action Plan and Roadmap (Annexes 1-3).

The study also contains a number of annexes, which consist of the Council of Europe's main documents (resolutions recommendations) that complement the picture of the situation in the given field. As well as several CALM documents containing concrete proposals to remedy the situation in most of the problematic areas found in this report as well as in the relevant Council of Europe reports.

This study was carried out by CALM group of experts, active participants in the last 15 years in the decision-making process in the field of decentralisation and local governance, including at the scientific and academic level.

This paper goes beyond a simple technical monitoring report because it tries to analyze in depth, critically and objectively the problems and causes of their occurrence, offering an objective and profound picture on the existing situation in the field local democracy in the Republic of Moldova to all those interested but mainly to the state authorities.

We hope that the conclusions, recommendations and proposals developed by the authors of this study will be treated in an appropriate way and will be taken into account by decision-makers in order to develop and adopt the most appropriate decisions to overcome all the chronic problems this area is facing and to ensure the advancement, continuity and sustainability of reforms in this area.

## **II. INTRODUCTION**

Building a modern and efficient central and local public administration system is one of the fundamental priorities of the Republic of Moldova. The current system of public administration, proved to be totally outdated, highly politicized and absolutely ineffective. The obvious bottlenecks/inability/inefficiency in the proper implementation of decades-long reforms and the way the state's institutions responded to the latest state-of-the-art challenges (such as theft of the billion, doubtful privatizations, referendums, etc.) confirms that in the Republic of Moldova the administrative system is absolutely inoperative and requires a profound rebuilding from the very ground.

It should be noted that during the reference period some developments were made in the field of central public administration reform and the stated aim was to strengthen the efficiency, professionalism and the capacities of the public administration; increasing the motivation and attractiveness of the public office, and reducing the political influence in the public administration system. In this respect, the ministries were reduced from 16 to 9, several public services/agencies were merged under the umbrella of the newly created Agency for Public Services and the non-affiliated political functions of the General Secretaries and State Secretaries (Head of Ministry and Head of Sector). The beginning of the central public administration reform is a welcome fact, but the effects of these reforms will appear and be evaluated in time. At the same time, an important objection to the central government reform process in the context of this Report may be the fact that there are important shortcomings in the transparency and broad involvement of all stakeholders in the decision-making process in the given area (for example, involvement of LPA/CALM and its representatives). Also, in this reform process, the decentralization principle, which is explicitly envisaged in the same Strategy on Public Administration Reform, seems to have been ignored.

At the same time, another aspect of the reform of the public administration - the local one, raises big question marks, uncertainty and confusion. In this respect, the situation of local democracy and decentralization, together with justice, human rights and freedom of media, has been and remains one of the most important areas in which problems and major arrears have been systematically identified in relation to the commitments of the Republic of Moldova on internal (implementation of policy documents) and external plan, implementation of recommendations of development partners. The reaction of state authorities has always been more formal and declarative.

In this respect, a series of extremely important normative acts and policies have been adopted in the the last six years, in the field of decentralization and local autonomy. In particular, the following can be mentioned: National Decentralization Strategy 2012-2018 (adopted by Law 68 from 2012 and

amended in 2016); The Roadmap for the implementation of Recommendation 322 of the Congress of Local and Regional Authorities of the Council of Europe (signed between the Government of Moldova and the Council of Europe on 08.07.2016) and the Strategy of Public Administration Reform (approved by the Government on 25.07.2016).

The adoption of these documents, as well as certain achievements in the field of decentralization that took place as a result of reciprocal openness and cooperation between the Government and CALM during 2016, had a beneficial effect and was much appreciated internally and on the external arena. These developments have created hope and a conceptual/visionary foundation necessary for the successful continuation of the reforms in the given field and the recovery of the arrears accumulated in the implementation of the documents/commitments mentioned above. More than that, we can say that towards the end of 2016 and the beginning of 2017 (February), the progress of Republic of Moldova in the field of local democracy could be considered as a success and an example, at regional level and within the Eastern Partnership countries.

However, starting with the second quarter of 2017, there was a radical change in attitude and a significant deterioration of the general situation in the LPA, a blockage in the CPA - LPA/CALM relationship, lack of concealment and continuity from the competent authorities of the state regarding the recovery of arrears and implementation of commitments on decentralization and local autonomy, pressures on local elected representatives and their representatives, etc. In fact, it was noted that all the achievements and progress of the previous period was practically shattered and all decentralization processes were blocked by central government actions. In most areas of democracy and local autonomy, in the reviewed period, there were significant regressions or arrears in such areas as the status of local elected, the consistency of the financial autonomy, the administrative control, the institutionalized dialogue, etc. This is also confirmed by the latest reports/resolutions of the Congress of Local and Regional Authorities of the Council of Europe (CALRCE) on the Situation of Local Democracy in 2017 and 2018. In this respect, it is significant and worth all the attention that various aspects of the situation of local democracy in the Republic Moldova have become a concern of the Council of Europe structures and recently the subject of several consecutive reports/resolutions, namely due to the negative developments that have taken place during the last period.

This deterioration of the situation and a radical shift in attitude towards the process of decentralization and the reform of the LPA seems to fit into the complicated political and international context in which the Republic of Moldova came to in 2017 as a result of changing the electoral system and intensifying the political struggle in the perspective of the 2018 parliamentary elections. As a result of the transition to the mixed electoral system, on the one hand, the role and importance of the local public administration increased substantially, and was intensified on it the administrative, political, financial, judicial control. On the other hand, all the reforms, commitments and measures that were to consolidate the already traditional democracy and autonomy of the Republic of Moldova (a method used by all previous governments) were left in the shadow and even blocked. Their effective implementation has led to the strengthening of local autonomy; the local authorities became more independent and stronger in organizational and financial terms. That ultimately reduced the possibility of pressure and political and administrative control over local elected representatives. This political and administrative control, as found in the latest Council of Europe reports in the Republic of Moldova, is an excessive one (recommendation 322/2012) and hinders local development/initiative.

Thus, it is now established that the deadlines for the implementation of the policy documents, reforms/commitments undertaken by the Republic of Moldova have already expired or will expire in 2018. It is significant and characteristic for the Republic of Moldova that the implementation deadline of policy documents have been prolonged, because 50% has not been implemented (officially confirmed), so they remain largely unimplemented. In this sense, new and major arrears are being accumulated in the implementation of the respective policy documents and the necessary reforms in the field of local democracy and decentralization. For example, the National Decentralisation Strategy, adopted in 2012 and prolonged in 2016, expires in 2018 with little chance of being implemented by the end. In spite of all, the roadmap for the implementation of CALRCE Recommendation 322 signed in 2016 is already out of date. Moreover, most of the actions envisaged by the Public Administration Reform Strategy, in the field of LPA reform, are also in delay.

This situation negatively affects the overall situation in the LPA, as well as the efforts of the state authorities in order to restore the credibility and the image of the Republic of Moldova in relation to the development partners. That is why it is now necessary, together with the restoration of a permanent and institutionalized communication, to identify and deeply analyze the main problems that prevent the process of consolidating the local autonomy and LPA reform, as well as to take concrete actions to solve them.

At the same time, it is worth mentioning that in the last period February-March 2018, there are some positive and open tendencies from the Government regarding the restoration of the institutionalized dialogue and communication with CALM as representative of the local authorities from Republica Moldova. In this regard, was held a joint meeting between the Government and CALM Administrative Board and started a systematic communication, including through the creation of a joint inter-sectoral working group and the reinvigoration of the work of the Parity Committee. This being welcomed as the best results in the field of local democracy were acquired in 2016 when there was a good communication between the Government and CALM. However, the lack of effective dialogue and communication between the Government and the CALM in 2017 has resulted in bottlenecks and degradation of the situation in the given field. This has negatively affected the state of affairs in LPA, the implementation of policy documents and international commitments, but also the image of the Republic of Moldova on the internal and external level.

Therefore, the purpose of this report is to highlight and analyze the main problems and arrears accumulated in the last period of the process of decentralization and consolidation of local autonomy in the Republic of Moldova, in the light of the accumulated experience and direct plenary involvement of the authors in all the processes taking place in this field as well as by monitoring the implementation of the main national policy documents and international commitments assumed by the Moldovan authorities. Finally, to provide state authorities, development partners, civil society and all those interested in the given field with an objective picture of the existing situation in the field of local democracy and to propose concrete directions/measures in order to overcome the existing situation, to recover accumulated arrears and advancement in the process of decentralization and consolidation of real local autonomy in the Republic of Moldova.

### III. CONSULTATION / OPINION PROCESS AND INSTITUTIONAL DIALOGUE

Communication and effective institutional dialogue between Central and Local Governments is one of the fundamental elements that must ensure a solid, continuous and effective process of reforms and implementation of policy documents and all external commitments in the area of decentralization and consolidation of local autonomy. The main factor of local democracy is the relationship between levels of public administration - local and central. This is a crucial point for understanding the importance of national dialogue between central and local public administrations.

Also, the obligation to consult the local authorities and their representative associations has been mentioned both in international conventions and in the national legislation of the Republic of Moldova. The European Charter of Local Self-Government, ratified by the Republic of Moldova in 1997 and entering in force since 1 February 1998, states in Article 4, point 6, *that local communities must be consulted as far as possible in a timely manner and in an appropriate manner in the process of planning and decision-making for all matters that concern them directly*. Regarding the financial resources of local communities, art. 9 (6) stipulates that *local authorities should be consulted in an appropriate manner on how to allocate their redistributed resources*. In this context should be also mentioned the resolution of the Congress of Local and Regional Authorities of the Council of Europe no. 328 of 2012, which provides a very clear and necessary interpretation of the provisions of the Charter on the meaning, scope and forms of effective consultation between the Government and the Local Authorities.

The obligation to consult the local authorities and their associative structures is expressly stipulated by the legislation of the Republic of Moldova:

- **Law on Administrative Decentralization no. 435-XVI of 28.12.2006 (Articles 3, 8, 16)**
- **Law on local public administration no. 436-XVI from 28.12.2006 (Articles 6 and 81)**
- **Law on local public finance no. 397-XV of 16.10.2003 (Article 3)**

However, despite the above-mentioned norms and legal provisions, we find shortcomings in the proper application of the norms and provisions and, above all, the spirit of these national and international fundamental norms, and still there are cases where policies and/or normative acts of major importance for the local administration are developed, without consulting and effectively involving local authorities and CALM as its representative.

Regretfully, during the whole period of independence of the Republic of Moldova, a real, permanent, effective and institutionalized dialogue within the meaning of the European Charter of Local Autonomy and good practice, between the central and the local authorities, was completely absent. For the most part, such dialogue was formal and mimic, and its importance for the quality of the decision-making process has been misunderstood by the government. Communication between the central and the local authorities in the Republic of Moldova had a non-systemic character, was occasional, chaotic and very much depended on the subjective relations/elements of the decision-makers.

A positive exception to the above finding can be seen in the year 2016, which in terms of opening for dialogue and communication from the Government was quite promising. That is why the year 2016 can be considered one of the most successful, with several decisions of a strategic order and the unprecedented concept. For example, granting CALM the right to participate in Government meetings, giving LPA the right to change the destination of agricultural land, recognizing the right of LPA to address the Constitutional Court and challenging the normative acts of Parliament and

Government that violate the principles of local autonomy; partial decentralization of the road fund; tripartite signing (Government, CALM and Council of Europe) of the Road map on the implementation of Recommendation 322/2012 of the Congress of Local and Regional Authorities of the Council of Europe, etc.

But, starting with 2017, the situation has changed dramatically and was registered a significant decline. From promising cooperative relations and good effects, during 2016 and early 2017, to (starting with June 2017) practically the blockade of institutionalized communication, the total neglect of CALM initiatives and proposals, and even attempts to discredit CALM and CALM leadership through campaigns organized in media affiliated with government circles.

Another cause, of deterioration of the dialogue between central authorities and CALM, can be considered CALM's main reaction and position on the massive opening of criminal cases, arrests and other forms of intimidation of local elected officials, which intensified during 2017. Among the most striking: the cases of the mayors of Taraclia, Basarabasca, Cimislia and Chisinau, as well the case of President of Dubasari district. In this situation, CALM, according to its mandate, had to take a firm position on these cases, as well as to inform the main international partners about these cases.

In addition, during this period CALM expressed its deep concern about the administrative-territorial reform announced by the Government and elaborated in a hurry, without sufficient transparency and without wide consultation of the LPA and all interested stakeholders.

All of the above raises great questions about the effectiveness, continuity and sustainability of the existing dialogue mechanism, as well as its compatibility with the standards of the European Union and the Council of Europe.

In particular, among the main concrete and problematic elements that has affected negatively the building of an efficient and sustainable communication mechanism we can see:

***1. Legal formats for consultation between the Government and CALM/LPA have been completely neglected and/or not properly implemented.***

Thus, the Parity Commission, which is the legal instrument prescribed by law, which is to ensure communication and institutionalized dialogue between the Government and the LPA, did not work. During 2017, this essential structure was not convened, despite the fact that 2017 was a decisive one in order to ensure the implementation of the decentralization strategy and other commitments in the field of decentralization and consolidation and local autonomy. Effective communication was necessary for discussing and agreeing upon concrete and priority actions to be achieved by the end of 2018 (when most documents and commitments expire).

Moreover, there has recently been an initiative to liquidate this committee, and its attributions to be transferred to another structure - the National Council for Public Administration Reform. What CALM believes is an enormous regression that generates profound concerns. Decentralization is a very complex, continuous and progressive process, which evolves with the expansion of the administrative capacity of the administrative-territorial units in order to efficiently manage the public services under their responsibility. This process goes far beyond the framework of a public administration reform and therefore requires a form of permanent dialogue between local and central authorities on very diverse and different organizational, social, financial, economic, etc. issues.



Therefore, by liquidating the Parity Commission, the role of the local public authorities and its representative associations is being diluted and diminished, through this legal "operation" being eliminated/ neutralized the real instrument for achieving the principle of parity and cooperation between central and local authorities, as well as neglecting the fundamental legal principles of local autonomy such as cooperation and lack of subordination between central and local authorities. By replacing the parity commission with the Council, which is dominated by the central authorities, it is obvious the transformation of the dialogue into a monologue in which the opinion of the LPA representatives will no longer have any power. In CALM's view, this intention is an enormous regression in the field of local democracy and decentralization, leaving behind an enormous legislative and institutional gap in ensuring a real, permanent and viable dialogue mechanism between central and local authorities, based on the principles of collaboration and parity.

However, it should be noted that following the discussions between the Government and CALM over the last period of time (march-april 2018), the government has shown its readiness to review this position, to form a working group for operative communication and to keep the Commission Parity, being jointly revised with CALM, its status, composition and manner of operation. Thus, this structure will become a truly functional one.

## **2. Consultation and involvement of CALM/APL in the decision-making process**

Local authorities and CALM often learn about the adoption of acts, policy documents and changes to them only when the normative act were published on the Parliament's website or already in the official monitor, when it is already too late to radically change something in the concept and structure of the normative act.

Such an approach of the central authorities contravene to the principles and legal framework (national and international) that governs the area of local democracy and LPA, including the meaning and norms of the European Charter of Local Self-Government, which refers to effective consultation.

In general, issues related to effective involvement and consultation of local public authorities and CALM can be categorized into the following categories:

- a) Excluding and disregarding CALM/LPA representatives in the national decision-making process and in the development of policies and normative acts.** For example, the recent central government reform was adopted without consultation and participation of CALM/LPA. Also, no CALM/LPA representative participates in the initial steps of developing the legal framework on the new remuneration system, the domain managed by the Ministry of Finance. As a result, these documents, in their current form, contain several gaps and leaks in the area of local administration and the application of the principle of decentralization. In the same way, we mention that there are a number of committees, councils, structures (interministerial, coordinating, etc.) that are responsible for the development of policies and policy directions that directly target LPA, but within these structures CALM/LPA do not participate in any form. Thus, policy-making practices are pursued without being involved appropriately those who are aimed by these policies and acts.
- b) Confusion of decisional transparency with the legal obligation to effectively and properly consult the local authorities and its representative associations.** As a rule, central

government officials argue that certain draft acts are placed on their website, considering that this is equivalent to consultation. But in this case it is a confusion of decisional transparency with the express obligation by law to consult local authorities and its representative associations. Placing/publishing information or draft acts on the website can not in any way be considered as consultation. As the European Charter of Local Self-Government, Resolution no. 328/2012 of CALRCE, the Law on Local Government, the Law on Administrative Decentralization mentioned above, expressly stipulate that the consultation must be effective, in a proper manner and in useful terms! Moreover, art. 8 of the Law on Administrative Decentralization provide expressly the obligation of the State Chancellery and of the central authorities to organize such consultations.

As the Council of Europe experts also pointed out, consulting local authorities should not simply require a simple opinion. In order to ensure real consultation, the law should focus on the criteria set out in the European Charter of Local Self-Government, i.e. to provide for a reasonable consultation period, a formal consultation procedure and to apply to all issues addressed by government that is of interest to local communities.

- c) *Formal consultation of CALM and local authorities.*** In cases, when the opinion of CALM was required, most of the times the arguments of the association were unjustifiably omitted and were not even included in the tables of divergences that are reaching the MPs' tables and in the special committees of the Parliament.

In the same context, although the central public administration is consulting CALM's opinions, short deadlines of 3 to 5 days are normally set (similar to government institutions/ministries). Due to its organizational specificity and the internal consultation procedures of the CALM, CALM fails to consult its members in such short time according to established practices - by sending the relevant information package to all members (over 800) requesting their opinion. Given the large number of local authorities, the number of domains and competences, it is reasonable that they are consulted for a rather longer period than the usual procedure within the central authorities, plus the inclusion of local authorities and associative structures from the initial stage and allowing local authorities and their associative structures to have an alternative legislative project that takes into account the principle of subsidiarity, local needs and interests.

At the same time, widespread practices are being continued and even strengthened when central public administration institutions avoid sending out final draft legislation that have a major impact on local public administration, and then it is rather difficult to assess which measures and acts have been approved and which opinions of local authorities have been taken into account and which do not.

As a result, the enormous logistical, human and financial effort made in drafting these acts is jeopardized by the adoption of normative/legislative acts that are vulnerable to constitutionalism through the principles of local autonomy and decentralization.

- d) *The consultation takes place at a final stage of the legislative or decision-making process.***

Thus LPAs are consulted at the pre-final stage, when the concept and policy document or normative act is already elaborated. Thus CALM, after consulting the members of LPA, gives

opinions on various draft laws and normative acts. As a rule, only nonessential proposals are considered and at the final stage, the interests of the central authorities and their subordinate structures being promoted. As an example, the draft law on the address system, the rescue fire service, the public monuments, etc.

In the same context, most of the time CALM opinion is requested by the parliamentary commission, or at best by the State Chancellery, when the draft law is already approved by the government. CALM believes that the association and the local public authorities should be involved in the decision-making and drafting of legal acts from the initial phase, through preliminary discussions, inclusion in the working groups, etc.

- e) General lack of any form of involvement and consultation of LPA opinion. In these cases, as mentioned above, the opinion of LPA is generally ignored, CALM and its members finding out about the existence of normative acts of major importance for the LPA only when the normative act is published in the Official Gazette or on the Parliament website. For example, the recent reform of the government, treasuries, tax inspectorates, courts, etc. which are of major importance for the LPA, has not been consulted in any way with CALM and local authorities.***

In the same context, some rather important legislative acts are not brought to the attention of CALM, and CALM finds out about approved laws from some MPs (usually former mayors). For example, the draft law on state and municipal enterprises, the draft law on the service of exceptional situations, etc. CALM presented its views, but due to conceptual objections and lack of time, managed to intervene only in the final stage of the parliamentary committee examination.

- f) Adoption of legislative acts by the specialized parliamentary committees without involving and consulting in an appropriate manner the opinion of CALM and the local authorities.***

As a matter of fact, with some exceptions, at parliamentary level there is a lack of adequate practice of consultation and involvement of CALM/LPA in the debate of legislative drafts concerning their rights and interests. To this end, majority of parliamentary committees do not involve or consult local public authorities and CALM in its work on the examination of legislative acts. This, despite the fact that most of the legislative acts that are examined in commissions directly or indirectly target local authorities, regardless of the specialized fields: social, economic, financial, cultural, etc. We believe that the involvement of CALM and LPA representatives in an appropriate and timely manner would contribute substantially to the quality of the legislative process and to the adjustment of future legislative acts to the principles and legislative framework in force in the field of local public administration and decentralization.

Therefore, in view of the above mentioned, there are deficiencies in the effective information and consultation by the central authorities of the local public authorities in a timely manner and at the initial stage in the planning and decision-making process, including through their associative structures, when problems and solutions are conceptualized, on any issues that concern them directly or are related to the process of administrative decentralization.

#### IV. THE STATUS OF LOCAL ELECTED

To properly exercise its mandate and legal attributions, local elected representatives must have adequate legal status and certain legal guarantees. In Republic of Moldova, over the past decades, local public administration in general, and local elected representatives in particular, have benefited from a strong influence and position at the level of local communities.

This is due, on the one hand, to the adoption of a rather advanced legal framework in the given field, including the Constitution (1994), the European Charter of Local Self-government, with no exceptions (1997), and several laws that have developed the provisions of Constitution and the European Charter. On the other hand, until recently, mayors were the only public authority directly elected by the population, which constitutes an additional factor in consolidating their status as a local and elected local authority.

It should be noted that the local public authorities (mayors) have benefited and continue to enjoy the greatest trust from the citizens, alongside the church, despite some major shortcomings in the area of administrative, organizational and financial local autonomy, with which is confronted traditionally the LPA system in the Republic of Moldova (see below).

The Local Public Administration and local elected representatives have always been of particular interest to the political class and to all the governors, because of its direct influence on population and its attitude, first of all from the electoral point of view. In this sense, central authorities always used various methods of influence/pressure on local elected.

In the last period of time, the situation of the local elected representatives in the Republic of Moldova has deteriorated considerably with several worrying and negative trends, both theoretical and practical. Concerns are shared by the Council of Europe structures (CALRCE) through recent reports and resolutions.

The main developments in the status of the local elected may be classified into several categories:

- Modification of the legal framework by which the persons who did not hold a local elected status and who did not participate in the local elections have access in the positions of the LPA leader;
- Opening of criminal cases and arrest/suspension of local elected officials;
- Use of control and judicial bodies as a tool of pressure on local elected representatives.

##### a) **Diminishing the status of the district president.**

Thus, on July 21, 2017, the Parliament of the Republic of Moldova adopted in final reading the law stipulating that the presidents of the districts can be elected from persons that are not members of the district council. According to these norms, the position of chairman of the district may already be a person who has not participated in the local elections and has not been local elected. This law has opened the door for diminishing the importance of the leadership status of LPA II as local elected. It has brought a greater politization/dependence on the respective function and now generates total confusion as to the nature and content of the local elected status, leader of the LPA level II. These legislative changes were largely overlooked by the general public and most actors, although they are extremely dangerous and clearly contrary to the constitutional principles of local autonomy, decentralization, local democracy, eligibility and the rule of law.

**b) Suspension of the mayor and election of the new leadership. The case of Chisinau.**

Another form of diminishing the status of a local elected representative is the case of mayor of Chisinau Dorin Chirtoaca, who was arrested and subsequently suspended from the post of general mayor of Chisinau, without having for almost one year a court decision that would prove his guilt in the incriminated cases. In this sense, we actually have a situation, when a person chosen directly by hundreds of thousands of citizens is blocked to exercise his mandate, and the principle of the presumption of innocence is violated. Moreover, despite the fact that a referendum on the dismissal of mayor of Chisinau has been organized, the situation has not changed, Mr. Chirtoaca, being actually prevented from returning to office. As a result, Mr. Chirtoaca announced his decision to resign because of his inability to continue his mandate and in Chisinau following to be organized local elections in accordance with the law.

The case of Chisinau also raised other fundamental issues related to the local democracy and the status of the local elected, which reached the Council of Europe (CoE) and the Venice Commission. In particular, apart from the way of removing the mayor of Chişinău by suspension, the specialized structures of the CoE were also worried about the way the law was interpreted in the case of appointment of its substitute - the interim mayor. The main controversy is generated by the following facts:

- If a person who has not been elected can also act as interim mayor?
- If a Deputy Mayor whose mandate has expired, can hold the post of interim mayor and may appoint another Deputy Mayor as interim mayor?

**c) Use of judicial bodies as pressure instruments. Opening criminal cases and arresting local elected representatives.**

In Republic of Moldova, these pressure instruments for local elected officials have been used practically by all governments of the last decade. This is a highly perfidious, unhuman and very effective pressure instrument, in the conditions of a society with a fragile democratic system where the basic human forms are not respected, with a centralized and highly politicized administrative system, and with an extremely low level of credibility and efficiency in the judiciary system. In the case of bad will, the use of these obsolete methods is harassment and even the destruction of any uncomfortable personality for some subjective or political reasons. As a rule, life, health and well-being are affected, not only of local elected officials, but in many cases also of those close to them.

In the last period of time, this phenomenon has taken a worrying extent.

Although there is no express data on the number of filed cases, and the overwhelming majority of local elected representatives can not speak openly because they have no confidence that they will be defended by the Moldovan justice, however, from unofficial sources and communication with local elected representatives results that criminal cases are or have been filed in respect to the majority of mayors and/or district presidents. At the same time, a confirmation of irregularities in this direction is also the fact that at least 1/3 of local elected representatives (mayors, district presidents, and councilors) have changed their political affiliation.

Among the most frequently used reasons in the process of filing criminal cases against local elected representatives are: abuse of service, overcoming service duties and negligence in service. The

provisions of the criminal code that can and are very broadly interpreted and based on the so-called "reasonable suspicion" can be applied to any LPA leader/local elected or civil servant working in the LPA.

The most relevant and sound examples of the past few years, related to the above mentioned are:

- Domestic arrest, suspension from office, legal prosecution of Chisinau mayor, Dorin Chirtoaca, Vice-president of the Congress of Local and Regional Authorities of the Council of Europe, Vice-president of the Congress of Local Authorities from Moldova.
- Similar actions - criminal prosecution of the other two members of the Delegation of the Republic of Moldova to the Congress of Local and Regional Authorities of the Council of Europe - Gheorghe Raileanu, Mayor of Cimislia, Vice-President of the Congress of Local Authorities of Moldova and Mr. Grigore Policinschi, President of Dubasari district, Vice-President of the Congress of Local Authorities of Moldova. Mr Policinschi was detained for interrogations by the National Anti-Corruption Center escorted by press, right at the airport, after returning from vacation. The next day he was released, but with the precautionary measure not to leave the country.
- A particularly trivial case occurred during the reporting period, repressing the Mayor of Basarabasca who was accused of not having intervened in a case of child sexual abuse by his parent. Local authorities at the first level in Moldova do not have their own skills and tools in the field of social protection or public order. Their competences being in fact delegated. In this sense, neither the social assistance services nor the police are subordinated directly or indirectly to the mayor. At the same time, the mayor is accused by the police and the prosecution - exactly those structures whose competence is to intervene in such matters. As a result, the mayor who had no criminal record and had family and children, was arrested for 30 days in a demonstrative way with dozens of masked police forces.
- Another relevant case which has disturbed the entire society and generated negative reactions from the development partners of the Republic of Moldova, in this context, represents the case of mayor of Taraclia, which took place in 2016. The mayor was accused of ordering the cutting of dried shrubs in violation with legal norms. Based on these charges, a criminal case was filed and the mayor that was elected in the first round, with the vote of about 60% of the population, was suspended from office and forced to go through the courts for two years to prove his innocence.

#### **d) The role of control bodies as impediments to local development and pressure instruments**

The issue of the control bodies and the pressure exercised by them on the business environment and other actors in society has been and remains a very current and impetus topic. In this regard, the Government has taken certain measures to reform the control bodies and reduce their pressure on the business environment in particular.

However, this problem is just as serious or even worse with regards to local authorities. In the Republic of Moldova, this control system is found to be totally outdated, which has largely kept the methods and approaches of the totalitarian Soviet system. And in the context of an enormous deficit of administrative staff and capabilities, excessive control over LPAs brings enormous damage to the status of the local elected, the LPA functionality and constitutes a huge impediment to local development.

At present, there are a lot of control bodies with general and special competencies to check different aspects of LPA activity in administrative, financial, environmental, construction, public procurement, social field, and etc. From this point of view, LPAs from the Republic of Moldova are some of the most controlled institutions/organizations. At the same time, the institutional capacity of LPA to defend and cope with all the requirements is extremely limited due to a highly centralized, politicized and outdated administrative system. Under this aspect, LPAs are limited in the right to have own staffing policy, remuneration, etc.

LPA representatives are indicating situations when their activity is practically blocked due to the permanent controls to which they are subjected.

Among the main issues raised in this area are:

- Confused and imprecise legal framework in the field of control over LPA activity;
- Large number of control bodies with overlapping functions;
- The reduced institutional capacity of LPA to defend itself, the outdated system in the field of staffing and salary policy; lack of qualified specialists/lawyers, bans from control bodies to hire lawyers or legal aid companies, etc.
- Lack of clear rules and deadlines for undertaking these controls and/or not applying them;
- Abusive interpretations and incompetence of LPA controllers;
- Excessive requirements that exceed the boundaries of the subject of control and interference in other areas of LPA activity;
- Undertaking inspections based on superficial and formal grounds;
- Long period of controls;
- Lack of accountability by control bodies for abusive control acts, blocking of LPA activity and lost litigation cases.

Therefore, there is a need for profound analyzes and appropriate reforms in this area, so that the control system is modernized and effective, to become much simpler, more effective in order not to block LPA activity and local development.

Finally, it should be noted that, with regards the statute of the local elected and the situation of local democracy in the Republic of Moldova, several reports have recently been drawn up, adopted a resolution of the Congress of Local and Regional Authorities of the Council of Europe (CALRCE) the examination of this case by the Venice Commission (Resolution 440/2017) and another one in March 2018. In particular, the documents in question are:

- a) Several violations of the Charter identified in Resolution 420 (2017), are still valid, in particular Articles 8 (3), 3 (2) and 7 (1), that considers the conditions of the suspension of the Mayor of Chisinau and the consequences this situation has on the disfunction of local government in the capital;
- b) Lack of a clear legal basis in legislation to suspend a local elected representative, which also derives from contradictory provisions of domestic law; the same holds for the local recall

referendum and the conditions for the town hall and the conditions for the suspension of the mayor;

- c) The fact that a large number of cases of criminal prosecution have been carried out against local elected officials by invoking the anti-corruption fight and which seems to exceed the European standards;
- d) Deterioration of the general situation of local democracy in the Republic of Moldova, in relation to the latest monitoring report of the Congress of Local and Regional Authorities of the Council of Europe adopted in 2012.
- e) Lack of adequate dialogue between the Government and the LPA/CALM.

## V. DECENTRALIZATION AND FINANCIAL AUTONOMY

The correspondence of the financial and material resources allocated to the LPAs with the volume and nature of the competences assigned to them, namely the assurance and consolidation of the financial autonomy to ensure their efficient fulfillment, is a major problem in the Republic of Moldova.

One of the main issues and dilemmas in the field of decentralization and strengthening of local autonomy was and remains the implementation of the FISCAL BASE CONSOLIDATION stage, within the framework of the local public finance reform initiated in 2015. Even though, during 2016 and partially in 2017, were taken measures in the field of local finance, they did not fundamentally change the situation in terms of increasing the degree of financial autonomy and strengthening the local tax base.

In particular, we note that during 2016 some important normative acts were adopted through which LPAs have obtained the right to change the destination of the agricultural land, to address the constitutional court, to start the evaluation of the real estate property, to have higher quotas of taxation of real estate, to decide on the granting of tax exemptions for certain categories of persons. Also, during this period, was adopted a partial decentralization of the road fund, and in 2018 the cities that were granted with the status of municipality increased their tax on the income of the physical persons (from 20 to 35%).

However, as noted above, despite these measures adopted during 2016 and early 2017, it is noted that most of these measures have been much limited, isolated, sporadic and without a major general systemic impact in the field consolidating local financial autonomy. For most part, the above-mentioned measures have been a necessary, long-term correction/correlation of the legal/fiscal framework with the legal principles and framework of decentralization and local autonomy.

At the same time, if we analyze the background situation of financial autonomy, during the last years, in terms of the basic criteria for assessing the degree of local financial autonomy: the size of the own revenues within the local budgets and the degree of the freedom to use the budgetary resources, there is a process of reducing local financial autonomy. In that sense, and in particular it is noted:

1. The main state financial documents for 2018, the fiscal and customs policy and the state budget for 2018 were not correlated with the policy documents and countries' commitments in the area of decentralization and consolidation of local autonomy.

At present, the obligations and responsibilities of the Moldovan authorities are derived from the following international policy documents and agreements:



- National Decentralization Strategy and Action Plan for 2012-2018 (adopted by Law no. 68 from 2012 and amended/extended in 2016);

- Recommendation no. 322 of the Congress of Local and Regional Authorities of the Council of Europe (from 2012)

- Roadmap for the implementation of Recommendation no. 322, signed between the Government and the Council of Europe on 08.07.2016)

- The Public Administration Reform Strategy (approved by the Government on 25.07.2016).

All these normative acts, policy documents and commitments contain concrete obligations and actions in the field of financial decentralization and consolidation of the tax base of local budgets.

Thus, for example, according to articles 2.1-2.3 of the National Decentralization Strategy and the Action Plan on the Implementation of the National Decentralization Strategy for 2012-2018, approved by Law no. 68 of 05.04.2012 and modified by Law no. 168 from 15.07.2016 provides the "consolidation of LPA's own local revenue base and autonomy of decision on them"; "Reforming the system of shared transfers and taxes, its statute on objective and predictable basis, with the separation of LPA budgets of first and second level to ensure at least a minimum level of service, provided that the system does not discourage its own tax effort and the rational use of resources"; "Strengthening the autonomy and financial management at the LPA level, guaranteeing financial discipline, increasing transparency and public participation".

As well point no. 96 of the Strategy for Public Administration Reform for 2016-2020, approved by the Government Decision no. 911 from 25.07.2016 and the Action Plan for the Strategy for Public Administration Reform for the years 2016-2020, approved by the Government Decision no. 1351 from 12.15.2016 states that "the overall impact of expected changes to the law on local public finance and tax code consists of (i) strengthening, broadening and significantly increasing local autonomy in the foundation and administration of own revenue system;

(ii) stimulating the collection of own revenues by local public authorities;

(iii) transparency, predictability and stability;

(iv) indicators of financial autonomy - significant improvement.

This requires the creation of a mechanism by which jurisdiction is attributed with allocation of sufficient financial resources (such as package laws that will include the competences and the respective necessary resources)". Point no. 33 of the Strategy provides for "the development and consolidation of the local government's own revenue base and the autonomy of decision-making on them".

The same issues are outlined in Recommendation no. 322 of the Congress of Local and Regional Authorities of the Council of Europe from March 22, 2012 and the Roadmap for the implementation of Recommendation 322 and the commitments of the Republic of Moldova in the field of local democracy, signed by the Council of Europe, the Government of the Republic of Moldova and CALM, on 8 July 2016.

The deadline for accomplishing the majority of these actions has already expired and consists of important arrears both internally and externally in relation to the partners of the Republic of Moldova. For example, most of the actions foreseen in the Roadmap were to be carried out in the

years 2016-2017. Also, most of the actions provided for by the National Disintegration Strategy, which expires in 2018, should already be completed.

In this context, from the analysis of the draft state budget law and fiscal and customs policies for 2018, we note with regret the fact that these financial documents are not correlated with the policy documents and Government's commitments mentioned above in the field of decentralization and local autonomy/democracy.

In other words, these two most important financial documents of the state do not provide for any concrete measures aimed at strengthening the financial autonomy, the own revenues and the implementation of the policy documents mentioned above. This is happening, despite the fact that in 2018 the term of the National Decentralization Strategy expires with its Action Plan (which has already been prolonged once) and other documents/commitments assumed by the Republic of Moldova in the area of decentralisation and consolidation of local democracy.

This position of the state authorities responsible for this area, the lack of reaction, vision and solutions to this, raises concern or even wonder. Moreover, in 2018 will be developed the country's report and the resolution of the Council of Europe on the situation of local democracy and the implementation of the commitments of the Republic of Moldova in this field. Fiscal decentralization is one of the main areas in which results from state authorities are expected. It should be noted that CALM has come up with a set of concrete proposals on strengthening the tax base, but they have not been discussed and taken into consideration by the Government.

**1. In the Republic of Moldova, instead of financial decentralization, there is evidence of an accentuated process of centralizing and reducing real local financial autonomy.**

In this respect, analyzing the main state financial documents for 2018 as well as state policies in several fields not only confirms the above mentioned on the lack of correlation between the state's financial policies and the decentralization policies but also confirms the fact/tendency that in the Republic of Moldova, instead of financial decentralization, there is a reverse process: increasing the centralization of the revenues, manifested by the constant decrease of local own revenues (financial autonomy) and the increase of the state budget revenues. All these trends are confirmed by the following facts:

a) The draft state budget for 2018 provides for an increase of the local budgets' own revenues by only 1.9% compared to the 4, 9% increase of the State Budget revenues (a trend that has existed for many years). These figures clearly show a negative trend that and the gap between state budget and local budgets revenues is growing at the expense of local ones. It also demonstrates that the current structure of local budget revenues is totally inappropriate, outdated and uncorrelated in relation to the current legal framework of the competencies and responsibilities placed on the LPAs.

b) The current structure of LPA revenues and the lack of substantial changes in this area, DOES NOT allow real consolidation of local financial autonomy for local authorities. And the main reason for this is the total disregard in the current national decision-making process, the policy papers and commitments mentioned above in the field of decentralization and local autonomy, as well as the delay of the second stage of the local public finance reform started in 2015 (the consolidation phase of the local tax base).

## **2. The practices of reducing local financial autonomy are continuing**

In the monitored period, there is an extremely worrying situation. Instead of providing a vision of concrete measures of financial decentralization and consolidation of the tax base and in order to effectively implement the adopted policy documents and the international commitments assumed, we find even a reverse process - initiatives and measures aimed at limiting and/or even reducing the local financial autonomy. Thus, for example: the Ministry of Finance in the draft state budget, customs and tax policy has come up with proposals limiting the tax base of LPAs (in terms of local taxes by granting exemptions and additional facilities) and limiting LPA mechanisms for tax administration and local taxes as follows:

1) Limitation of LPAs of Level I to evaluation and revaluation of immovable property *from legally contracted loans* (Article 279 (6) of the Fiscal Code (Article I point 96 of the Draft Law).) At the request of CALM this limitation was excluded;

2) Farmers' households were removed from the area of LPA administration (local tax collection and tax collection services) - Article 286, etc. of the Fiscal Code (Article I, point 102 of the Draft Law);

3) The fiscal base of the local tax for land use was limited (Article 291 (1) of the Fiscal Code (Article I, point 105 of the Draft Law)). For example, individual businesses and individuals working in the justice sector may have other employees besides founders and the person in charge of the justice sector. Last year, CALM advanced the notion of employee<sup>1</sup> to consolidate the tax base for that local tax;

4) LPA's revenues were reduced by exempting the local taxes for the territory and the tax for the commercial units and/or services provided by the commercial units operating in the markets (Article 295 (g1) of the Fiscal Code (Article I point 109 of the Draft Law));

5) In the context of excessive control by the territorial offices of the State Chancellery, which we will discuss in a separate chapter, a new form of control was set up, namely the "monitoring" by the State Chancellery, how local authorities set some local taxes (Article 297 (10) of the Fiscal Code) (Article I point 110 of the Draft Law).

6) Granting LPAs with the right to a simplified procedure to determine the value of real estate (houses and dwellings) and thus strengthening a significant source of income to local budgets is delayed. At present, real estate from rural areas has never been evaluated, and about 50% is not even registered due to the enormous costs of the procedures. The law provides for the possibility of assessing the value of immovable property for valuation purposes by the LPA, which could lead to an increase in local budgets revenues of about 10 times. However, the Ministry of Finance, despite the fact that CALM has formally addressed concrete proposals in this sense, already more than 6 months, is delaying the delivery of a concrete answer and solutions.

7) Continues the practice of adopting some legislative acts whereby certain economic agents are exempted from taxes and payments which represent exclusive revenues of local budgets (ex. MoldTelecom and access to premises property of LPAs).

Also, a major problem (regress) remains the financial coverage of the LPA's own areas and competences.

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<sup>1</sup> CALM proposal: „point 10<sup>1</sup>) from article 288 is proposed in the following reading:

„10<sup>1</sup>) Employees – all fizical persons employed through individual labour contract or through other types of civil contracts in order to deliver works or services for a definit or indefinite timeframe;”.

Tax exemptions from local taxes and duties are set for certain categories of people, i.e. these exemptions are set by Central Authorities, but they are actually missed revenues of the LPAs. As a rule, Central Authorities does not reimburse these losses to local budgets, and they do not grant the respective function to LPA, violating the decision-making and financial autonomy of LPA.

Thus, it is necessary to create a mechanism whereby competence is attributed with the allocation of sufficient financial resources (such as a law package that also covers competence and the necessary resources), general purpose transfers should be irrevocably granted, as defined in the Law on Local Public Finance.

It is also a major issue to extend the compensation fund's action for the coming years (2018-2019), until the commitments and measures to strengthen the local tax base mentioned above are implemented. According to the essence and logic of the fiscal decentralization strategy, the existence of the compensation fund is closely related to the simultaneous implementation of the concrete measures to strengthen the tax base. However, given the fact that the fund has been extended for one year and very few measures to consolidate the tax base have been achieved, then the action of this fund will undoubtedly be extended unconditionally.

### **3. Lack of vision and solutions from authorities vs rejection/neglect of concrete CALM proposals**

In the context of policy papers and commitments, CALM has, as a result of consultations with its members, forwarded concrete proposals on the implementation of policy papers and the strengthening of municipalities (metropolitan areas) as potential growth poles in the context of new changes in local public administration legislation:

1. Proposals for the draft Medium-Term Budgetary Framework (MTBF) for the period 2018-2020, no. 12 from 25.05.2017;
2. Proposals for budgetary-fiscal policy for 2018, no. 92 from 27.06.2017;
3. Proposals on strengthening the status and role of newly created municipalities in the Republic of Moldova, no. 68 from 02.06.2017

Mainly these proposals have been neglected and completely disregarded and not even properly discussed by Central Government. This despite the fact that all these proposals and initiatives could have been discussed within the Joint Working Group of the Ministry of Finance with CALM representatives, established by the Order of the Minister of Finance no.144 from 18.11.2016, for establishing a dialogue on the issues rose in the field of local public finance. However, this promising dialogue structure at the level of the Ministry of Finance was not implemented effectively. Throughout 2017, this group has never met, even though CALM has addressed multiple times and there have been many reasons to meet and solve various problems.

At the same time, the Ministry of Finance/Government presented to the Parliament the fiscal and customs policy for 2018, completely neglecting CALM proposals and disregarding all the above-mentioned political and interinstitutional documents and commitments. In this respect, the Ministry of Finance did not come up with a vision or solutions in the area of financial decentralization for

2018, despite the fact that this year are expiring the majority of the policy papers and the international commitments assumed by the Government in the area of decentralization and local autonomy. This is a direct responsibility and commitment of the Government and the relevant Ministry.

Such an approach by the responsible ministry, primarily responsible for the effective development and implementation of policy documents and international commitments on local self-government, is hard to explain in the situation that this institution has to come up with concrete solutions to the majority of commitments that has expired. We believe that this situation will affect the image of the Government of the Republic of Moldova in relation to the development partners and especially with the Council of Europe. Because local democracy and strengthening of financial autonomy - it is one of the key areas of Moldova's arrears/commitments in which promises have been made and real progress is expected.

#### **4. In the Republic of Moldova the essence and content of local financial autonomy is NOT known and interpreted contrary to the meaning and provisions of the European Charter of Local Self-Government and the documents of the Council of Europe**

A fundamental and important issue today is the lack of vision and improper interpretations by the financial institutions of the essence of fiscal decentralization, and its close link with the size of local budget revenues.

In this respect, some symbolic and formal measures undertaken of correlation/adjustment to the normative framework of decentralization are presented as important measures of financial decentralization. For example, granting LPAs the right to change the destination of agricultural land destination, to address directly to the constitutional court, or to initiate valuation of real estate on their own, are natural rights of LPA, resulting from the meaning of all constitutional and legal provisions, including international one, which has been in force for the Republic of Moldova for decades. In the same line, the increase of the maximum limits on real estate tax up to 0.4% of the tax base can not be considered as a real measure of financial decentralization as described by the recommendations of the Council of Europe regarding the allocation of additional sources of income to the LPA. Because it is not an additional source, it does not bring a change of system and its effects are very isolated and limited, referring more to Chisinau.

Also, modifying the mechanism for the allocation of road fund and road infrastructure resources is an important and positive step. However, in terms of local financial autonomy, this measure does not fall into the line of consolidation of own revenues. As these resources are considered as State revenues at the moment and are allocated to local budgets by conditional grants, which have a legal regime quite different from own revenues and general purpose grants, which LPAs can use freely and in accordance with its priorities. If the resources for road infrastructure were allocated by general purpose grants, then we could really talk about increasing the degree of local autonomy, of a new source of own revenues and real progress in this direction.

In the same order of ideas, as progress in consolidating local financial autonomy, it is wrongly interpreted the fact that the nominal local budgets grow in a certain period of time. The growth of local budgets in recent years, in their own terms, refers to the component intended to cover the delegated functions and which are secured/financed from the state budget by means of conditional grants. As mentioned above, these grants, as a rule, have nothing in common with the local financial

autonomy and do not fall within the notion of LPA's own revenues. Namely, developments or involutions in the field of local budget revenues serve as the indicator that speaks about increasing or reducing the degree of local financial autonomy. In this chapter, as demonstrated above, in the Republic of Moldova there is a clear regression and the decrease of the degree of local autonomy. The share of own revenues from local budgets is replaced by sources coming from the state budget as conditional grants.

##### **5. The role of Chisinau municipality in distorting the public decisions and policies in the field of local financial autonomy**

One of the problematic aspects of the advancement of local democracy in the Republic of Moldova is the fact that the data and information related to Chisinau municipality are taken at the basis of all the estimates and decisions taken in this area. What creates a generally distorted and overly positive/optimistic picture of the real situation in the whole country, contrary to the realities existing in other local communities than Chisinau municipality. These factors influence negatively the correct information of decision-makers and the quality of decisions valid for all local communities in the country.

Moreover, the policies and decisions taken only on the basis of the situation in Chisinau (in various areas, including the financial one) are largely non-functional and remain only on paper.

This is due to the fact that Chisinau municipality has a distinct administrative, political, economic, financial, social, cultural, etc. role and is absolutely incomparable with other administrative-territorial units. Only in terms of economic and financial power this ATU accounts for about 70% of all the potential existing in the Republic of Moldova. Therefore, the elaboration of some or other public policies for the rest of the local communities based on or taking into consideration the system of Chisinau is a big drawback or even a mistake.

For example, the rigid and express setting of the number of local taxes in its time in the Tax Code largely took into account only the situation in Chisinau. Most of these taxes (in the amount of 13) are NON-functional for the rest of the administrative-territorial units, where up to 3 taxes are applied. When the Ministry of Finance brings a generalized argument, the likely increase in local budget revenues from real estate tax as a result of the increase in the tax rate (from 0.3 to 0.4), it is NOT taken into account that around 90% of the so-called increase concerns only Chisinau municipality. For the rest of the localities, for the most part, the benefits of the measure are nonexistent or extremely limited. Especially if we take into account the fact that in all rural territorial administrative units the evaluation of the real estate property was not done. And in the urban ATU, the evaluation took place over 10 years ago.

Last but not least, even the data on the increase of local budget revenues by 1.9%, presented at the budget adoption process for 2018, shows a distorted situation, because, all this growth is certainly due to Chisinau. However, in comparison with all the rest of the administrative-territorial units (without Chisinau), the respective increase either does not exist, or it is insignificant or even below 0. What confirms once again the above conclusions that the situation in the field of local financial autonomy, not only does not improve, but on the contrary - is getting worse, and in the Republic of Moldova, in fact, there is a reverse process of decentralization and consolidation of local autonomy.

Therefore, it is necessary to draw attention to this aspect and to know the real situation in the data field, to estimate the real situation by separating the Chisinau municipality from the rest of the administrative-territorial units in the policy elaboration/implementation process.

## **6. Permanently Deferred Financial Decentralization**

Financial decentralization is the essential element of genuine local autonomy. Namely, the situation in this area is the most pertinent and conclusive indicator for establishing the real state of things, the real will of the governors, the evolutions or involutions of the decentralization domain, and, as mentioned above, the trends at this chapter are worrying.

In this respect, the fundamental problem that prevents the decentralization process and the consolidation of the real local autonomy from the Republic of Moldova is the substantive substitution by the Central Authorities of the concrete measures/commitments of financial decentralization with invoking different reasons for delaying their implementation and/or through declarative, confusing, long-term and non-practical issues.

In this sense, analyzing the last 15 years, we have the impression that practically all the Moldovan governments successfully managed to avoid the partners' commitments/recommendations/criticisms and hide the real consolidation of the local democracy/autonomy by adopting multiple strategies, laws, road maps and other medium and long-term documents, without implementing them effectively and without undertaking and implementing concrete measures in the field of financial decentralization.

Exclusive centralization in the economic/financial sphere and the lack of local financial autonomy are at present the main problem faced by the local public administration system in the Republic of Moldova. Moreover, for this reason, the Republic of Moldova is currently a good case study for all those interested in analyzing how a well developed and modern conceptual and legal framework in the field of local autonomy can coexist with a very low degree of effective local autonomy and a very centralized and inefficient administrative system, in which all administrative, financial and economic resources are concentrated at the level of the central authorities!

Over the years, various methods have been used in the Republic of Moldova to delay the implementation of reforms in the field of local democracy and decentralization. In particular:

- a) Adopting medium and long term packages of legislation, laws, strategies, action plans without ensuring their implementation and without taking real measures of financial decentralization.

So that, on the one hand, a certain progress and achievements could be reported in the eyes of the development partners, on the other hand, the implementation of all these documents should be possible as late as possible (preferable by other governments) or even impossible due to lack of financial coverage.

For example, in 2006 a number of important and fairly good laws were adopted: the Law on Administrative Decentralization, Local Public Administration Law and the Regional Development Law. However, the Local Finance Law was "forgotten" a fundamental element that was to provide the necessary resources for effective implementation of the new legal framework of local autonomy. As a result, some of the laws mentioned have not been implemented for years (regional development

law), and the rest of the laws have had little effect and could not be properly applied due to the lack of the financial element of local autonomy, problem present to date.

Another, more current example, is the state of implementation of the National Decentralization Strategy and its Action Plan, adopted in 2012 and targeting the period 2012-2015. This document, which contains concrete actions and deadlines in the area of financial decentralization, has been implemented to a very limited extent or as the state authorities themselves recognize (up to 50%). It was then extended until 2018. To make it clear today that it will not be implemented to a large extent in 2018 either.

- a) Involvement of various reasons and new excuses of political, administrative, capacity, functional, structural, economic, financial, social character, justifying the non-implementation of adopted policy documents, development partner recommendations, and concrete commitments made in the field of local democracy and financial decentralization.

Thus, at present, as reasons for delaying or not implementing all the commitments in the domain of consolidation of local autonomy, are brought: the necessity to carry out the reform of central public administration, the need of administrative-territorial reform, the lack of administrative, institutional and financial capacity of the local authorities. All these instead of implemented on a regular basis of all policy papers and concrete commitments in the area of consolidating democracy and local autonomy.

However, all these aspects, like administrative-territorial reform, capacities, etc. are very complex phenomena and require a lot of time and a gradual approach to be achieved. At the same time they do not contradict each other, at all. On the contrary, as needed, they can and should be addressed at the same time. Invoking these issues as motives and impediments to further delaying the process of financial decentralization is a professional mistake and/or an intentional unwillingness to move forward in the field of administrative and financial decentralization in particular.

Moreover, we believe that successful implementation of all concrete measures from policy documents must be a priority because it can provide a picture of the real situation in the territory and greatly help to identify objective and appropriate solutions for effective solution of all the problems mentioned above as an impediment to strengthening local financial autonomy.

- b) Initiating the development of new policy documents and reforms, without being properly implemented in the previous ones

It is a fairly convenient and efficient method to delay the decentralization process in general and the financial one in particular. Through this method, it is tried to block the implementation of reforms/commitments, motivating the need to adopt new policies and reforms, considered as priorities. Thus, for example, the Public Administration Reform (implemented under the 2016 PAR Strategy) is currently being cited as a priority, while actions in the field of administrative/financial decentralization are left in the shadow. Or, there is a complete blockage in the implementation of policy documents and commitments in the area of decentralisation because the government insists on the necessity and is working on an administrative-territorial reform. And this argument is widely used by certain state institutions responsible for the implementation of various aspects of



decentralization as an argument for NOT carrying out concrete measures and NOT implementing policy documents, also adopted by the Law on Decentralization.

Such an approach, in our opinion, is counterproductive and detrimental both to all the processes of reform. For instance, a central public administration reform can not be effective if it is not addressed through the principles of decentralization (expressly foreseen in the PAR Strategy) and if in parallel or at the same time concrete measures of administrative and financial decentralization are not implemented.

As a result, practically all areas of decentralization and local democracy currently have big gaps, in spite of the existence and supersaturation of the domain with documents, acts, commitments, action plans, roadmaps with very concrete measures and deadlines. Most of these documents are overcome and remain unfinished. This fact was confirmed not only by national but also international experts, through the Council of Europe's monitoring reports. In particular, the reports/resolutions of the Congress of Local and Regional Authorities of the Council of Europe from 2005, 2012, 2017 and 2018 illustrate the limited/formal progress and non-implementation of the assumed commitments, in particular, in the field of financial decentralization.

Consequently, the (financial) decentralization process is practically blocked, and the image of the Republic of Moldova is greatly affected at the level of European institutions due to such situations and approaches. This complicates the relationship of the current leadership of the Republic of Moldova with the development partners and especially the Council of Europe.

## **VI. SUPERVISION AND ADMINISTRATIVE CONTROL OVER LOCAL PUBLIC ADMINISTRATION**

Supervision and/or excessive administrative control over LPAs are other chronic and important arrears, which have an enormous impact on LPA activity, and which in some cases already turn into total political control. If in the field of entrepreneurial activity by the central authorities, actions are taken to reduce the administrative burden of state control (time of control, removal of documents, making copies, restitution etc.), then in the field of LPA, the changes/reforms in the given domain are in the waiting mode.

This happens despite the existing legal framework which at first glance offers certain safeguards against abuse by control bodies.

In accordance with Article 6 (3) of the Law on Local Government "The relationship between central and local authorities is based on the principles of autonomy, legality, transparency and co-operation in solving common problems. There are no subordination relationships between central and local authorities between first and second level of local authorities, except in the cases provided by law. Any administrative control over the activity of local authorities should not pursue other purposes than the observance of the law and the constitutional principles. "Opportunity control can only concern those delegated powers under the law. In turn, the Law on Administrative Decentralization in Art. 7 (2) establishes the principle of non-interference of central public authorities in fulfilling the competences of local public authorities, expressly stipulating that "in defining the responsibilities of their territorial structures, the central public administration authorities ensure the avoidance of any interference in the responsibilities related to the realization of the competences of the local public authorities."

Although these legal provisions exist, the situation has not improved, but has worsened in the analyzed period. Over the last period of time, this control has become increasingly disabling. The State Chancellery, the Court of Accounts, the Competition Council, the Prosecutor's Office, the Courts of Law, and other judicial or control bodies, are going through the city halls in search of grounds for sanctioning the LPA representatives, humiliating local elected representatives and blocking the normal activity of the LPAs. Some mayors, for months and years, do not escape controls, and mayors are forced to go through courts in search of the truth.

The above mentioned facts are usually happening because of a very confusing and contradictory normative framework, unconsulted and uncorrelated with the constitutional and legal framework of the LPA, for which Parliament and Government are responsible! There is the impression that in such complicated conditions of LPA activity, instead of helping and acting in collaboration and harmony with LPA for the benefit of the country, the state apparatus is directed against the local authorities. In particular, state control, investigation and judiciary bodies in many cases act in the absence of elementary knowledge of the constitutional/legal framework in the field of local autonomy; interpreting the legal framework in an inappropriate and abusive manner; in the absence of any respect for the position and the status of the local elected and in most cases, in violation of the presumption of innocence and fundamental human rights to freedom, life, health, dignity, etc. Mayors, district presidents and other officials from the LPA, which are uncomfortable for the central authorities, are treated in a "special" way, with humility and disrespect, being publicly affected their honor and dignity of local elected officials through the excessive and usually unmotivated application of detention, arrest, suspension, deferral of trial, etc. The judiciary bodies usually act demonstratively and by applying exceptional preventive measures (deprivation of liberty) for the sole purpose of intimidating, humiliating and destroying the public personalities of the LPA representatives.

This state of affairs has been officially confirmed by the Council of Europe in its reports, resolutions and other documents adopted in 2012-2016.

Among the specific issues and recommendations identified by international rapporteurs in this chapter are:

- a) Supervision (administrative) remains a sensitive subject and we are actually experiencing quite a few significant innovations in this respect.
- b) lack of regulations for efficiency controls, sometimes carried out by the central public administration at their own discretion on how the local public administration exercises the competences delegated to them by the state;

In this respect, the experts of the European Council have recommended:

- a) to reduce the control over the LPA so as to allow the management of its own business, according to art. Article 8 (3) of the Charter, which provides that "Administrative control over the activity of the local public administration authorities must be exercised with respect to proportionality between the extent of the control authority's intervention and the importance of the interests it understands to protect."
- b) to diminish the supervision of local authorities and to amend the legislation on opportunity control as to enable local authorities to effectively manage their own businesses;
- c) to amend the legislation on opportunity controls to supervise and limit them, in particular by defining precisely the criteria, the cases in which such controls can be carried out;

- d) prohibiting in practice the interference of district authorities or financial administrations into all the activities of the first level of local public administrations, especially in the process of adopting local budgets;
- e) must be definitively terminated the interference of the administrative or financial control bodies in the aspects of the internal structure of local authorities;
- f) It is essential to revise the legality control mechanisms in general, to make them fair and transparent (with the publication of control reports) for all local authorities.

The above-mentioned findings and recommendations of the Council of Europe were made during 2012 (Recommendation no. 322 from 2012) and 2016 (Roadmap). However, at present, by analyzing the situation in the given field, we can see with certainty that most of these problems and recommendations have not been implemented. Moreover, in the analyzed period, (2017), we can observe opposite processes; this control has become an enormous impediment in the activity of the LPA, blocking the initiative at the local level and creating an atmosphere of uncertainty and even general intimidation in the LPA.

The general impression is that the main objective of the current state control system is predominantly directed towards supervision over local administration, increasing administrative pressure on the LPA and even blocking its activity. This, instead of supporting and helping the LPA, in the context of the huge institutional deficits, staffing and financial problems they face. This situation, being absolutely unnatural and contrary to logic, because without local efficiency, central government can not achieve its government program and its objectives.

Among current key issues in this field can be mentioned:

1) Lack of a clear and explicit legal framework regulating the administrative control and the activity of all the control bodies in relation to the LPA. This allows improper/extended interpretation of the legal framework, duplication of controls on the same subject, and creates conditions for interference in LPA activity and abuse by control bodies.

2) *Lack of adequate coordination between the control bodies and the territorial structures of the central authorities.* Due to the large number of control bodies, there are cases when various control organs are checkin the same LPA, having the same object of control and creating uncertainty/chaos in the LPA activity. At the same time, the state clerk is not consistent in actions, and lately there is an excessive "supervision" from the territorial offices of the State Chancellery, which exercises the administrative control of LPA.

3) *The improper, widespread and often abusive interpretation by the control and judicial bodies of the legal framework in the field.* For example, the State Chancellery interprets restrictively the provisions of the legislation as regards the temporary delegation of certain competences by the mayor's local council (such as awards fixing, representation, etc.), their establishment being based on priorities and issues of local interest. Such interpretations, as a rule, are clearly contrary to the interests of the LPA and the principles of efficiency/economy. What is, in essence, a direct interference in organizational autonomy as a very important element of local autonomy. In these cases, the State Chancellery, instead of coming up with legitimate legislative initiatives to ease the work of the LPA, approached a simplistic tactic - to resist LPA and/or to block any possibility of being more efficient/economics by challenging the respective acts in court.

4) *Confusing/replacing legal and opportunity control.*

Both in the above-mentioned case and in other cases the control bodies do not differentiate between legal and opportunity control. Between these two forms of administrative control, there are

fundamental differences. In this sense there is a total confusion, which is an important source of violation of the principles of local autonomy in the Republic of Moldova. According to the legal norms and all national and international principles in the field of local autonomy, the central government (through its organs) can mainly accomplish only a legal control over the LPA. And control, of opportunity, is admitted only in the case of competences expressly delegated by law to the LPA and covered with sufficient financial/institutional resources. However, in the Republic of Moldova, the state bodies, especially those of financial control, DO NOT make any distinction in this respect, thus committing a direct interference in the exclusive fields of LPA competence.

For example, the Financial Inspection or the Court of Accounts constantly raises the issue of the lost revenues of LPA due to the fact that, in their opinion, LPA does not collect on time and in full volume certain local taxes and duties. However, this issue is not the responsibility of respective controllers. It is an exclusive domain of LPA, the respective revenues being exclusively local and the concerned LPAs may have various reasons/causes for the collection or non-collection of these revenues (ex. economic policies to attract investors, lack of specialists, the imperfection of the legal framework, stray goods, enormous costs for the registration of those assets, other objective issues, etc.). In other words, this issue is exclusively the competence of LPA.

The same situation exists in other cases when the financial control bodies intervene in operational activities, such as hiring personnel, procurement of certain goods, delegating LPA leaders and officials abroad, the delegation of competences by the local councils, participation of LPA at establishment of inter-municipal local development structures, etc. For example, the fiscal authorities lately by restrictively enforcing licensing legislation simply destroy the poor water and sanitation services in rural areas. Thus, small municipal enterprises in rural areas are fined hundreds of thousands of dollars for unlicensed work, although the legislation provides for the need to license only when the service is complete (water and sanitation). In addition to this, it is known the deplorable situation in the rural area, where, on the contrary, state support is needed for the service and the necessary staff to be strengthened.

As a result, the normal activity of LPA is affected, because these control acts are used by other control bodies for other verifications, including by the judicial bodies for the filing of criminal/administrative cases, the settlement of which takes years and often constitutes a method of pressure in the conditions of the Republic of Moldova.

##### *5) Arbitrar broadening of limits/subject of the control*

In many cases can be stated that control bodies while performing controls over specific aspects of LPA activity are arbitrarily and abusively broadening the limits of the control topic and are soliciting information/documents that envisage completely other LPA domains not foreseen by the initial control. This creates uncertainty and impediments in LPA activity that are forced to lose precious time and additional resources that are rather limited.

##### *6) Imposition of disproportionate obligations and responsibilities with the institutional capacities of LPA*

Some organs or persons with control functions impose obligations and responsibilities regarding deadlines and the form of presentation of information from LPA, without taking into account the LPA's institutional, financial and human capacity. This is a typical example for many other institutions of the state with control functions, where the Competition Council, in one of its letters (No. 06 / 96-624 from 28.03.2017), asked all LPAs, in due time of 7 days to present all copies of the decisions and annexes to the decisions regarding the approval, modification and/or completion of the decisions of the local councils regarding the local budgets as well as the approval of the local taxes for the years 2015, 2016 and 2017. In light of the constitutional principles of local autonomy and the international

commitments of the Republic of Moldova in the field of local democracy and decentralization, such a request is an administrative burden for LPAs that do not have sufficient resources, including many documents being in the archives. At the same time, at central level, on the contrary, there is a register of local acts, including information held by the territorial structures of the State Chancellery exercising the administrative control of the LPA activity.

It should be noted that as a result of the discussions that have taken place between CALM and the Competition Council, compromise solutions have been reached. However, such practice and approaches remain characteristic for the control bodies in relation to local authorities. Among other examples, being the requests of MPs regarding LPAs to present copies of all decisions and documents regarding public procurement for a period of 10 years.

*7) Confusion in the activity of state bodies of a clear demarcation between binding acts and recommendations for LPA*

According to the constitutional principles of local autonomy and the provisions of art. 6 of the LPA Law, there are no subordination relations between central and local authorities, only reports based on the principles of legality, transparency and cooperation. In this respect, the Government and the central authorities can NOT adopt acts binding on the LPA, but can only adopt recommendation acts. In practice, this fundamental constitutional rule of the way in which local public administration is organized and functioning, is not entirely understood and applied in the Republic of Moldova.

Therefore, the provisions of governmental administrative acts that have a character of recommendation are regarded in the control process as mandatory acts for LPA (ex. Dubasari case, in the health sector, state enterprises, etc.). Many legal processes are started, which takes time and resources (and so insufficient) from the LPA and the CPA, rather than focusing efforts on solving the problems of local communities.

*8) Lack of any responsibility including legal of the control bodies and/or of the persons representing them*

In everyday practice, there are cases when the conclusions, decisions, actions and sanctions of the control bodies imposed on the LPA were challenged and proved to be INCIDENTAL AND ILLEGAL. As a result of these actions, as mentioned above, the public interest is hindered and the normal activity of the LPA is hindered. However, there are very rare cases, or even nonexistent, where a control body or its representative who has committed an abuse and illegality with respect to LPA is punished to legal liability (criminal, administrative, disciplinary, or civil/material.) The actual system which is an inoperable one remains an important issue and still encourages abusive practices against LPA.

*9) Disproportionate actions by law enforcement bodies*

Currently, there is a tendency to carry out excessive scrutiny by the prosecuting authorities with regard to local elected representatives, usually mayors.

This control, especially criminal prosecution, is disproportionate and unpredictable. As example are the cases of Mayor of Chisinau, the President of Dubasari district, Mayor of Basarabasca, but also others. Correspondingly, the criminal prosecution bodies apply disproportionate measures to the imputed facts. The emergence of Special Forces for the detention of mayors in the locality primarily hurts human honor and dignity; secondly, these "performances" affect the honor and dignity of the local elected person, and there is a major risk of negatively influencing the political career of the local

elected. Elective functions, which are already unattractive, will become vacant, which may seriously affect the interests of local communities.

Also in the case of the president of Dubasari district, the criminal investigation authorities applied coercive measures on the basis of some provisions of the legislation that were not in force in the field of delegation to business trips.

The same is on waste management. Recently, some local prosecution offices have approached the LPA in order to obtain the necessary permits and documents for the storage sites, under the pressure to sanction the responsible persons at the local level. The Prosecutor's Office, according to the latest amendments to the legislation, deals with the prosecution and the prosecution in the court. Thus there is uncertainty as to the limits of competence of those bodies.

10) *Demonstrative and selective actions by judicial bodies for the purpose of intimidating local elected representatives.* Recent cases of the Dubasari district president Mr. Grigore Policinschi and Mayor of Ghelauza Nicoleta Malai. In the first case, there was a massive public media campaign stating that Mr Policinschi's file had been finalized and sent to court, and he was at risk of a 16-year sentence of imprisonment. And in the second case, against the mayor of Ghelauza, Nicoleta Malai, the preventive measure was changed in a more drastic way - arrest in the insulator. Without taking into account the fact that the plea is dull, that Mrs. Malai is a mother with a minor child, etc. In these cases, it is unclear why so much public attention has been given to Mr Policinschi's case, while such cases are very numerous. Also, the tightening of the preventive measure against the mayor of Ghelauza seems suspicious, taking into account the reason and circumstances of the given case. All this leads to the finding of a selective and demonstrable approach by the judicial bodies in these cases.

11) *Among other issues of administrative control, there can be mentioned the lack of adequate institutional/human capacity at the level of the control bodies (studies, personnel, salary etc.).* Also, the reduction of the mandatory legal function of granting preliminary administrative assistance from the administrative control bodies to the APL, in relation to the control function.

Therefore, taking into account the above mentioned and in line with the recommendations of the Council of Europe experts, it is now necessary to review the essence and functioning of the administrative control over the LPA in the Republic of Moldova in order to reduce excessive administrative control and to bring the state control system to the standards of the European democratic countries. LPA control, which is mainly on legality, should not turn into political control or opportunity from central structures.

## **VII. ORGANIZATION, STRUCTURE, STAFF AND SALARIES IN LPA**

During the reporting period in the public administration, the problem with the staffing, personnel policy and staff remuneration of the LPA appeared with a new intensity. The situation in the area of personnel and wages is extremely serious both at the level of the central administration, but especially within the local public administration (LPA). The staff remuneration policy in local public administration becomes not only a matter of reform but a problem of the survival of the entire administrative system. A real threat becomes the general "depopulation" of local government, the huge staff fluctuations, the lack of human resources, employment opportunities and motivation.

One of the main causes of the high degree of corruption, the low quality of the policy/legal framework and the very low degree of implementation of all policies/legal frameworks/reforms represents the presently highly outdated and non-motivating pay system in the field of local public administration. This system is contrary to the spirit and norms of all national and international

documents in the field of local autonomy and decentralization in force. A situation that has lasted for decades and is not in line with current realities.

In the same sense, the Council of Europe in its recommendation 322/2012 mentioned as a problem - the limited freedom of LPA in the Republic of Moldova, regarding the recruitment and establishment of remuneration conditions for local public administration officials, and the existence of discrimination regarding the wage conditions between local and central officials. And, in the chapter of the recommendation, it asked the state authorities to protect/recognize the right of the LPA to decide on its own personnel policy and eliminate the discrimination in the national legislation of LPA civil servants regarding the status and remuneration of civil servants in the national public administration and of LPA officials.

Thus, regarding the main issues, we can see that the practice of approving the staff of the LPA by the Government (State Chancellery) continues to be confusing, according to legal provisions, which are contradictory with the national and international legal framework in the field of local autonomy. This practice, which has not been solved for nearly ten years, contravenes to the express provisions of the European Charter of Local Self-Government, the Recommendations of the Council of Europe and to the Law on Local Public Administration. According to these documents, the organization chart and staffing are approved by deliberative local authorities (local councils) at the proposal of the executive (mayor or district president).

The majority of the heads of the subordinated institutions and even some of the LPA officials have higher salaries than the leader of the LPA (the mayor), an abnormal situation related to responsibility and attributions. Additionally, the legislation on organizing contests and conflicts of interest is inconsistent with the realities of the territory and the acute lack of specialists. Thus we attest an excessively centralized system of recruitment and remuneration, limited possibilities of LPA in terms of hiring and establishing material conditions/incentives for hiring local public administration officials, and the existence of discrimination in terms of wage conditions between central public administration officials APC and LPA (according to CALRCE Resolution No. 322/2012).

At the same time, the amount of work and responsibilities in LPA has increased enormously in recent years. Parliament and Government are adopting non-stop normative acts imposing LPA obligations, but without any financial coverage. Plus, as a rule, enormous and disproportionate sanctions are set in relation to the level of remuneration for each violation.

It should be mentioned that this problem is a general and systemic one and refers to all LPAs in the Republic of Moldova, irrespective of their size or their administrative, economic, financial and administrative capacities. Even though there are quite a few LPAs with high incomes, they can not afford a proper wage policy due to multiple barriers and legal inefficiencies applied by the financial and state control organs. This system blocks the creation of a competitive environment and to attract and/or maintain staff trained in local public administration. If there are no major changes in this direction in a short period of time, no specialists will be attracted to the local public administration, then any effort to implement ambitious reforms will be doomed to failure, and the few existing opportunities will be missed.

In 2017, the government undertook some isolated attempts to improve the situation by granting civil servants the right to be employed in international projects and to receive a pertinent remuneration. However, this does not refer to persons with public dignity functions (LPA leaders). And the overall effect of this measure is rather limited, as there are very few possibilities for projects in Moldova,

didactic and pedagogical activities are a concern for a very limited number of public officials or local elected officials.

One of the obstacles invoked by authorities to solve the current problems would be the position of the IMF. In itself, this is quite a controversial and questionable position. Because, on the one hand, the Republic of Moldova is not a very indebted country, while one of the major reasons for many cases of corruption, fraud and misappropriation is precisely the low level of remuneration in the public administration. On the other hand, if such an explicit position of the IMF is confirmed in the LPA, then there is a big problem of the compatibility of such positions with the Constitution, the European Charter of Local Self-Government and the legal framework in force in the LPA domain and decentralization.

However, we tend to believe that the IMF's position frequently invoked by the central authorities as a barrier to increasing remuneration at the LPA level is rather an extended interpretation that does not fully correspond to the IMF's true meaning and position on this dimension.

Local authorities, according to the law, benefit from organizational, financial and patrimonial autonomy. Salary is an element of the organization of the activity and it can not be separated because it creates distortions, most of the times negative ones in the efficient activity of some or other public entities. The concept of payment would start from this "axiom" or "postulate". Thuther more, the Council of Europe has been stated the same line of ideas in all its reports and recommendations throughout the last few years in the domain of local democracy. Problems related to the limitation of the freedom to establish the staffing of personnel and wage levels in the LPA are constantly invoked as basic ones.

At present, the Ministry of Finance is working on a new unitary pay system. It is supposed to be implemented starting with 2019. However, in the absence of information and without proper involvement of CALM/LPA in the process of development of this system, there is a great risk that at the development of the new remuneration system, the principles of decentralization and local autonomy, will not be considered.

In this context, CALM has come up with a number of concrete conceptual and technical proposals aimed at improving the situation and sent them to the Government. Under these proposals, in the field of staffing and wage policy, it is necessary to have a decentralized remuneration and staffing system, at least at the level of the LPA, in order to be finally "in harmony" with the constitutional and international provisions in field. CALM also came up with concrete legislative proposals in partnership with the Gaguz Yeri People's Assembly, we even came up with a bill that would give LPA greater freedom to set higher remuneration for its own employees from own revenue.

## VIII. ADMINISTRATIVE-TERRITORIAL REFORM

In the context of public administration reform in the Republic of Moldova, began also the discussions on the need for an administrative-territorial reform.

Administrative-territorial Reform is a extremely important, complex and sensitive reform for the entire society within the country. Moreover, Republic of Moldova has gone through such reforms, which can not be considered successful. From the experience of the Republic of Moldova, this important and controversial reform has left extremely negative traces on the development of the local public administration system and local development in general. The disappointments and



negative memories left by the previous reforms in 1998 and 2001 are preserved in the collective memory of the population and the representatives of the LPA so far. And some of the main causes of failure can be considered: excessive politicization, rushing in the process of developing and implementing the reform, lack of broad discussion in society, and consequently lack of broad social and political consensus to ensure the sustainability of the reform; lack of adequate consultations with the LPA and its representative associations, lack of evaluations and impact analyzes at each stage, etc.

But the biggest problem of the respective reform, in our opinion, was the fact that many local communities and the people themselves were simply forgotten, from the point of view of public services, being forced to travel long distances in search for vital services. At the same time, many localities, including urban ones, began to degrade due to the reorganization/centralization of most public services.

As a consequence, a necessary and important reform, sustained by the development partners of the Republic of Moldova (TA reform from 1998) has become a major failure, being discredited and canceled by a counter-reform in 2001. Moreover, the failure of this reform has, in fact, led to the blockage of the modernization and development of the LPA system, as well as the whole process of decentralization and consolidation of local autonomy. And the Republic of Moldova has begun to be a constant source of concern at the level of the Council of Europe on the situation of local democracy.

At present, we also have to mention, that there are no comprehensive studies and analyzes that would carry out a thorough and comprehensive evaluation of the 1998 reform and the 2001 anti-reform, which would explicitly and objectively establish the effects of the respective reform, the causes of the failure, the gaps, their shortcomings and their impact on the whole process of LPA reform in the Republic of Moldova.

Under these circumstances, any discussion of a new TA reform without a prior, complex and profound assessment of previous reforms and especially their shortcomings in terms of historical, conceptual, organizational, economic, financial, social, administrative, etc. aspects can seriously damage the process of drafting and implementing the reform.

Moreover, we note with regret that the lessons of the previous reforms are not taken into consideration, and the same mistakes and approaches are almost entirely repeated. The problem of the administrative-territorial reform is approached in a very narrow circle, unilaterally and non-expressively.

Thus, during the reference period was created a Working Group on Territorial Administrative Reform by the Prime Minister's order no. 127-d of September 13, 2016. However, this group, in the course of 1.5 years, met only in a few sessions without actually starting the reform debates.

Also, there was an extended debate with the participation of the Government, CALM/LPA, development partners and experts, organized by the State Chancellery on April 11-12, 2017, in Holercani, with the participation of key actors and international experts. This session aimed at an initial discussion on the causes, necessity, objectives, possible models and other conceptual aspects of the reform.

However, for the most part, at this meeting, the government and development partners tried to impose/promote some reform options, relying on highly controversial premises and experiences and without sufficient time to analyze all possible options in terms of advantages, disadvantages and

solutions. In particular, on the basis of previous studies/analyses, two options have been discussed proposing a forced and radical reduction of city halls (from 898 to about 300 and even 100 units). And the third - refers to voluntary amalgamation / optimization.

Also, experts from countries that have made such reforms or have participated in such reforms have also participated in this event. However, their developments and the explanation of the countries brought were not at all convincing. For example, they presented information disconnected from the realities of the Republic of Moldova and represented countries where the reforms were either just begun (Ukraine), or that the respective reforms can not be considered as successful (Albania) and even countries where such reforms did not take place (Slovakia). Among other examples of countries were France (where the reform did not take place, but presents an interesting inter-municipal cooperation model) and Latvia (as a staged reform model and with an interesting mechanism of economic/financial stimulation of municipal amalgamation).

Regretfully, instead of making this event a starting point for discussions on the LPA reform, including the AT, as a result of this meeting, any dialogue between the government and CALM on this subject, but also on others, was stopped. The information on this reform got into shadow and total uncertainty, without the most interested and directly concerned by this reform (CALM/APL) knowing something.

For the time being, there is no clear information on the government's decisions on this dimension due to a lack of transparency on this issue. At the same time, there has been a certain change in the Prime Minister's speech on this issue, which has become more prudent with invoking the complexity of this reform, as well as the need to ensure a number of preconditions in local communities to ensure that after the reform the citizens will not suffer, and the services will not go to a longer distance.

Also, an important factor that makes this reform being in shadow, is that Moldova has two electoral years - 2018 the parliamentary elections and 2019 the local election year. The administrative-territorial reform is an extremely politically sensitive one. However, in governmental circles, it is rumored that immediately after the parliamentary elections, the reform will be carried out.

Thus, among the problems and shortcomings in the field of TA reform can be mentioned:

- Lack of complex visions, well connected to the needs, realities and experience of the Republic of Moldova;
- Superficial, isolated and selective approaches, without taking into account the complexity of all the aspects and effects of such reform: economic, financial, social, historical, cultural, administrative, ethnic, etc.
- Confusing the AT reform with a complex LPA reform. The administrative-territorial organization, being just an element of LPA reform, a extremely controversial one from the point of view of priority, form and content;
- Mechanical imposition of models/examples of AT reform from incomparable countries/systems concerning history, mentality, level of devotion, democratic traditions, economic/financial potential, etc.;

- Lack of broad debates in society among the main actors, as well as a broad political and social consensus;
- Lack of proper consultation with CALM/APL,
- Pressure of development partners and hurry in the implementation process;
- Lack of assessments and impact assessments of the options discussed;
- Excessive politicization of the reform, due to lack of transparency in the process of reform modeling;
- Unilateral attempts to force a certain vision.

In turn, during June-October 2017, CALM has organized a broad consultation process with its members in about 20 districts with regard to administrative-territorial reform and in order to develop its own model of complex LPA reform, including important elements/stages of consolidation/recalibration. As a result of these consultations, with about 500 mayors, district presidents and other representatives of the LPA, CALM has defined the concept and vision of a reform model called DACIA. The model is based on three basic elements defined as priority: Administrative Decentralization (DA), Inter-municipal Cooperation (CI) and Voluntary Amalgamation (A).

According to CALM, for the Republic of Moldova at the present stage it is extremely important and essential to continue the process of administrative decentralization, to recover all arrears in the given field and to effectively implement all policy documents in the field of organizational, financial, property, sectoral decentralization. At the same time, it is necessary to create appropriate legal, institutional and financial conditions for the development of different forms of inter-municipal cooperation, including financial incentive mechanism. Also, during this period, it is necessary to stimulate the voluntary amalgamation of the territorial-administrative units by creating an appropriate legal, institutional and financial framework, including by providing important funds to stimulate this process.

The LPA reform model proposed by CALM is a complex and comprehensive one, including several important, closely related and interdependent projections. This model proposes a visionary, step-by-step approach, connected to the realities/needs of the LPA system in Moldova and less sensitive, which can achieve the general consensus needed to ensure sustainability and continuity of reforms in this area. In particular, the following main directions are proposed:

a) Territorial optimization/re-calibration of public services. Under this heading, it is proposed to review the location, role and status of ATU of level 2 (raions), create the necessary framework for stimulating voluntary amalgamation, inter-municipal cooperation, development and implementation of the poles for growth and development of the competence services from ATUs to others.

b) Implementing measures to decentralize/strengthen financial autonomy and increase local budget revenues in line with the recommendations of the Council of Europe and the proposals developed by CALM and submitted to the Government.

c) Organizational decentralization measures in the field of personnel and wages ensuring the full right and liberty of LPAs to have its own personnel policies in accordance with the specificity of the administered territory and its own economic/financial possibilities.

d) Measures to reduce political and administrative control over LPA. At present, the administrative, political, financial control system, etc. is an excessive and totally outdated one, constituting an enormous barrier to LPA activity and local development.

This model is to be finalized and supplemented with concrete proposals for legislative changes and a timeframe for its implementation.

## IX. GENERAL CONCLUSIONS

1. Decentralization, consolidation of local democracy/autonomy and implementation of policy documents in the given field during the reference period did not constitute a priority for the Moldovan authorities. State authorities are focused on other topics considered as more important, reform of the central public administration, modification of the electoral system, etc. As a result, major arrears have accumulated in this area. And some of the actions that have been undertaken have been more of an isolated, unsystematic with limited impact on the overall situation.

2. A large number of policy documents, normative acts and international commitments are in place in the Republic of Moldova providing concrete measures/actions/deadlines in the field of decentralization and consolidation of local autonomy/democracy. Over the past six years, Council of Europe has adopted strategies, laws, recommendations, roadmaps, etc., however, most of these acts and commitments remain unfulfilled for years. Also, the sectoral legal framework is largely unrelated to the LPA/decentralization approach adopted over the past 10 years. The confusions and legal contradictions generated by this uncorrelation constitute a considerable impediment in the work of the LPA, distort the real situation in the LPA and constitute an important source of pressure on the LPA by the control/judicial bodies. Moreover, it is noted that at the level of the majority of the central public authorities and institutions responsible for the elaboration of the policy/normative framework, as well as the judicial bodies, the European Charter of Local Self-Government is not known or is not applied as the main document/international engagement in the field of local democracy, including the resolutions/recommendations of the Council of Europe. This situation prevents the development of a normative framework and permanently affects the image of the Republic of Moldova at international level.

3. In the Republic of Moldova, at present, there is no institutionalized and efficient institutional framework that would ensure the stability, continuity and sustainability of reforms in the field of decentralization and the strengthening of local autonomy. As a result, most of the actions on the given field carry an unsystematic, chaotic and selective character. In this sense, institutions directly responsible for local democracy/autonomy are either extremely limited in resources or capacities, or they do not exist at all (at Parliament level). That is why, in this field, we regularly find periods when there are certain optimistic developments and trends (ex. 2012 when the National Decentralization Strategy was adopted or 2016, when more impressive measures for local autonomy were adopted). For then to follow periods of actions/measures that are absolutely contrary to the previous ones and which suddenly damage the situation and sometimes even throws off the situation many years ago (i.e. 2013 when was not adopted the implementation of the new system of local finance or 2017, marked by arrests, pressures, blocking reforms and other worrying signs).

4. The overall situation in the field of local autonomy and decentralization in the Republic of Moldova in the reference period (2017) did not show any significant progress, with some exceptions. On

several dimensions and directions, important regressions were found. At present, virtually the whole process of decentralization and consolidation of local autonomy in the Republic of Moldova is blocked and is outside governmental priorities, accumulating backlogs in the implementation of international policy documents and commitments. Among the most problematic areas are: deterioration of the LPA/CALM dialogue, accentuation of administrative, judicial and political control over LPA, lack of concrete and real measures of financial decentralization, serious situation in the field of personnel and payroll policy in LPA, etc. The general worsening of the situation in the field of local democracy is also found in the last resolutions of the Congress of Local and Regional Authorities of the Council of Europe (CALRCE).

5. The institutionalized dialogue and communication between the Government and LPA/CALM over the reference period has deteriorated significantly. From promising cooperation and good results, during 2016 and early 2017, to practically blocked institutionalized communication, total neglect of CALM initiatives and proposals, and even attempts to discredit CALM and CALM leadership, through campaigns organized in certain media. The deterioration of the dialogue between the central and the local authorities can be considered one of the main causes of the general regress in the field of local democracy, the accumulation of significant arrears and the blocking of the implementation of all the adopted policy documents/commitments undertaken in recent years.

6. The implementation of new formulas for allocating resources to the road fund and increasing the tax rate of Personal Income Tax for cities that have recently acquired municipality status (from 20 to 35%) can be considered as some of the few positive achievements in the area of local autonomy in the period. However, these achievements are relatively limited and have rather limited effects on the overall situation of local financial autonomy since the resources for road infrastructure are not considered to be LPA's own revenues and do not increase the degree of local financial autonomy, and the increase of the rate of Personal Income Tax refers only to a narrow aspect of the municipal status and impact a limited number of cities.

7. The main policy documents and commitments in the area of decentralization and local autonomy have expired and remain largely unfulfilled. Most of the provisions set out in the Congress of Local and Regional Authorities of the Council of Europe Recommendation no. 322 from 2012, the Roadmap, the Decentralization Strategy and the Public Administration Reform Strategy, are already outdated. Without a clear vision and certainty about how the state arrears are being recovered.

8. The main financial documents of the state for 2018, the fiscal and customs policy and the state budget for 2018 are not correlated with the policy documents and the authorities' commitments in the area of decentralization and consolidation of local autonomy/democracy. They do not provide for concrete measures aimed at strengthening financial autonomy, revenues, and implementing the policy documents mentioned above, although the term of the National Decentralization Strategy with its Action Plan expires in 2018 (which has already been prolonged once), the Roadmap signed with the Council of Europe on the implementation of Recommendation no. 322 and other documents/commitments undertaken by the Republic of Moldova in the field of decentralization and consolidation of local democracy. At the same time, in 2018, will be drawn up the country report and adopted the resolution of the Council of Europe on the situation of local democracy and the implementation of the Republic of Moldova's commitments in this field.

9. Instead of decentralization and contrary to several declarations/policy documents in the Republic of Moldova, de facto there is evidence of accentuated financial CENTRALIZATION tendencies and increasing dependence of local authorities on central ones. The share of local budget revenues as the main indicator of decentralization and local autonomy is steadily decreasing. Own revenues are being replaced by conditional grants. The structure of current LPA's own revenues is not appropriate for policy papers and commitments in the field of decentralization and consolidation of local autonomy. The most important sources of income in the state are concentrated at the central level, and local government revenues are replaced by conditional grants.

10. The status of the local elected representative in the Republic of Moldova during the reference period has suffered a significant deterioration and deviation from the Council of Europe standards in conceptual, legal terms and approaches towards local elected representatives of the state institutions (control and judiciary). In this respect, the cases of mayors of Taraclia, Basarabeasca, Chisinau municipality, the change of the appointment of the districts presidents, as well as the massive leaving of some parties and the passing of the local elected ones are relevant. This situation is a matter of concern to the Council of Europe institutions, including the Venice Commission.

11. Excessive administrative control over LPA represents other chronic and important arrears, which have an enormous impact on LPA activity and which in some cases already turn into total political control. Over the last period of time, this control has become increasingly disincentive, becoming an enormous impediment to the work of the LPA, blocking the initiative locally and creating an atmosphere of uncertainty and even general intimidation in the LPA. Instead of diminishing in line with the recommendations of the Council of Europe, this control has intensified. The general impression is that at the level of central authorities responsible for administrative control, there is insufficient understanding of constitutional/legal principles on the status and functioning of LPA, as well as international documents/recommendations in the field of local democracy. What makes state control bodies one of the main impediments to local development and what is more serious - the main source of intimidation of local elected representatives and blocking the local initiative.

12. The judiciary system in relation to the local elected representatives/LPA during the reference period has demonstrated the abusive character of the totalitarian and inhuman past. Massive filing of criminal cases based on unclear reasons, deprivation of liberty (arrests), suspension of mayors on questionable and ridiculous grounds, delay of investigation and/or examination of files, treatment of local elected representatives as criminals and the generalized violation of the presumption of innocence, etc. - are actions which have enormously affected the status of local elected officials, their honor and dignity, have created an atmosphere of intimidation and fear within the LPA, and have drastically reduced the trust of the local elected representatives in the Moldovan Justice.

13. The organization and remuneration system within the LPA is another important area of local democracy, which has also not made any significant progress during the reference period. It remains a totally discriminatory, disproportionate, humiliating and contrary to the constitutional and legal framework of local autonomy. The current situation in this area, enormously affects the capacity/motivation within the LPA, generates enormous problems in having qualified LPA staff and risks in the near future to become a factor that will block not only the LPA activity but also the implementation of any government programs at local level.

14. Administrative-territorial reform remains a controversial and enigmatic subject, surrounded by a total lack of transparency, including for some main actors (LPA representatives). At the moment there is no official vision and conception from the Government and there is a lack of any debates and discussions between the Government and the CALM/APL in the process of drafting the reform concept. This generates major suspicions, interpretations and concerns about the risk of repeating the mistakes from the past. At the same time, the administrative-territorial reform is confused with a real LPA reform and it is invoked as a pretext for NOT continuing the decentralization in various areas: administrative, economic, financial, property, organizational, salary, social, etc.

## X. RECOMMENDATIONS AND PROPOSALS

Based on the findings of this report and in order to redress the situation in the area of local democracy, the following short- and medium-term action are proposed:

1. Establish and analyze complexly the causes of the worsening of the situation in the field of local democracy, accumulation of arrears and non-implementation of the respective international policy papers/commitments. In this respect, CALM's recent report, the recent monitoring report on the implementation of central public administration reform made by IDIS Viitorul, and the Council of Europe's latest reports/resolutions on local democracy represent objective and comprehensive sources for building a fair image of the current situation in the given area and the urgent measures to be taken by decision-makers.

2. It is necessary to fully implement all outstanding actions/measures of the National Decentralization Strategy (extended in 2016), Recommendation 322/2012 of the Congress of Local and Regional Authorities of the Council of Europe (CALRCE) on the implementation of Recommendation 322 (2016). The recent CALRCE resolutions on the case of the mayor of Chisinau (Resolution of 19.10.2017) and the Resolution of 19.03.2018 on the situation of local democracy in the Republic of Moldova are added to these documents, which are to be implemented. In this respect, a realistic and credible short-term action plan is to be developed and implemented in order to implement concrete measures that would be a positive signal regarding the awareness of the situation by the Moldovan authorities and their determination to change the situation.

3. Decentralization and consolidation of local democracy/autonomy must be expressly declared and recognized as main and real priorities assumed by the authorities, civil society, development partners and society as a whole. Priority not less important than justice, the rule of law, human rights, freedom of media, etc. Especially this is extremely important for such countries as Moldova, with a totalitarian past, a highly centralized political-administrative system and extremely fragile democracy. Without any genuine local democracy/autonomy and a decentralized political, administrative, economic and financial system, any effort to modernize such countries as the Republic of Moldova and to implement reforms in other areas will have no results. There can be no reformed justice and/or an attractive economic system, with an overly centralized administrative and political system where all resources and decisions are concentrated in the center and/or are in the hands of narrow interest groups. That is why the theme/subject of decentralization, together with that of justice and the rule of law, should be the subjects of interest, conditioning and constant

monitoring by all development partners and stakeholders interested in the advancement of the Republic of Moldova on the path of reforms and modernization.

4. To create an adequate and effective institutional framework at all levels of state authorities in the Republic of Moldova in order to correlate and effectively implement policies/commitments in the field of LPA, decentralization and consolidation of local autonomy. The lack of such a framework creates enormous confusion and also greatly affects the activity of central and local public institutions, due to the many legal and conceptual confusions and contradictions that arise in the elaboration and adoption of the normative framework. To this end, we consider it necessary to create appropriate structures and institutions at Parliament, Government and Ministries level. In particular, they can be considered as options:

a) At Government level:

- Establishment of a consultative council neaby the Prime Minister of the Republic of Moldova, comprising from notorios national experts in the public and administrative law, academic and scientific field, relevant NGOs and assisted by international/European experts. The role of this council would be primarily to provide the necessary professional advice to the Government before making any decisions.

- Revitalizing the Parity Committee by reviewing and consolidating the status, organization, composition and functioning of the Parity Committee;

- Establishment of the Ministry of Public Administration and Regional Development, granting the head of the respective institution the position of Deputy Prime Minister, or

- Demilitarization and transformation of the Ministry of Interior into the Ministry of Interior and Public Administration (Administration and Interior), or

- Establishing the position of Deputy Prime Minister on Public Administration Reform (without portfolio)

b) At the level of the Parliament, it is proposed to re-establish the special commission for strengthening of local autonomy and decentralization, responsible for improving and adjusting the legal framework in this field. Also, the normative acts regulating the activity of the standing parliamentary committees are to be reviewed in order to effectively ensure the participation of the LPA representatives in the work of these committees and to take into consideration their opinion when discussing and adopting the normative acts referring to the rights and interests of the LPA.

c) At the level of Ministries and other central public authorities: creation of working groups (committees, focal points) on decentralization issues, local autonomy and the relationship with LPAs.

5. Initiation of the correlation process of the entire sectoral/specialized normative framework with Art. 109-112 of the Constitution, the European Charter of Local Self-Government and the legal framework in force in the field of LPA. In this respect, wide-ranging discussions within the sectoral working groups (after their creation) are to be initiated, analyzes and studies elaborated on each field/sector and elaborated/approved drafts for amending the normative framework to eliminate all the existing contradictions. In addition to this, the application of the "guillotine" law regarding normative acts contrary to the principles of local autonomy, the European Charter of Local Self-Government, the Law on Administrative Decentralization and the Law on Local Public Administration, as well to those that were adopted in violation of the principle of mandatory and effective/real consultation of local authorities.



6. Establishment of an institutionalized, permanent, effective and real dialogue between the Government/Parliament and LPA through representative associations/CALM in accordance with Resolution no. 328/2012 of the Congress of Local and Regional Authorities of the Council of Europe (CALRCE).

In order to ensure the efficiency, continuity and sustainability of the process of decentralisation and consolidation of local autonomy in the Republic of Moldova, it is necessary to build a permanent, efficient and institutionalized mechanism for communication/dialogue/negotiations at the level of the entire system of public administration between the CENTRAL GOVERNMENT/Parliament/other central institutions) and LOCAL GOVERNANCE (namely CALM/APL). Institutionalized dialogue means that there are two equal partners at the negotiating table, supported on both sides by the necessary expertise, and which systematically discuss all general issues that concern the rights and interests of all LPAs and/or the entire public administration system. This dialogue must be real and continuous, not dependent on subjective relations/attitudes and political/administrative changes at national or local level. Such a dialogue should ensure full and effective CALM/LPA involvement at all stages of the national decision-making process, from the conceptualization stages to the decision-making ones. The essence, content, forms and modalities of an effective dialogue in accordance with the provisions of the European Charter of Local Self-Government are now described quite clearly and in detail in Recommendation no. 328 of CALRCE. They are to be adjusted to the realities of Republic of Moldova and implemented by state authorities.

In this respect, it is necessary to create such a systemic/institutionalized mechanism of permanent and comprehensive communication at the level of the entire public administration system. Including: Parliament, Government, Ministries and other central public authorities/institutions. In particular, it is proposed, as a matter of urgency, to review and consolidate the Parity Commission as the main structure for ensuring the institutionalized, permanent and effective dialogue between the Government and the LPA/CALM, including through:

- Detailed regulation of the Commission's legal consultation and working procedures based on negative past experience;
- Establishment nearby the Parity Committee of a Interaction Working Group/Task Force formed in parallel by the State Secretaries of all Ministries and CALM/LPA Representatives/ Experts.
- At Parliament level, to set up an advisory council on LPA issues nearby the Parliament chairman/ Permanent Bureau and amend the normative regulations to ensure the invitation/participation of CALM/LPA representatives in discussing issues that concern them directly or indirectly;
- Establishing technical and thematic working groups, in addition to each ministry/institution/ parliamentary committee.
- Fix all the basic aspects of the institutionalized dialogue in the law/normative acts and the technical and procedural ones, in regulations approved by the Government or Parliament.
- Ensure the participation of CALM/LPA in all relevant consultative structures at national level with national authorities: the inclusion of LPA representatives in the National Council for Public Administration Reform, the Road Fund Council, the National Environment Fund Council, the National Council for Regional Development, Colleges of Ministries, etc.

7. The main financial documents of the state fiscal and customs policy as well as the state budget should be correlated with the policy documents and the authorities' commitments in the area of decentralization and consolidation of local autonomy/democracy.

They should provide for concrete measures aimed at strengthening financial autonomy, increasing own revenues and effectively implementing the provisions of the above-mentioned policies/commitments of the Republic of Moldova in this field. Thus, to stop the worrying trend of

reducing own revenues to local budgets and replacing them with conditional grants that limit local financial autonomy.

8. Urgent measures to strengthen local financial autonomy and the increase of own revenues to local budgets.

One of the outstanding recommendations of the Republic of Moldova in the field of local democracy is the increase of local own revenues. Throughout 2017 CALM has come up with a whole set of concrete proposals to strengthen local financial autonomy and increase of own revenues to local budgets. Most of these proposals remain valid, and some can be implemented and fastly deliver the expected effects. Among the most important measures that may have beneficial effects on the situation of financial autonomy in short periods of time are:

a) Introducing and explicitly defining the notion of "missed income" of local budgets and establishing their compensation mechanism, given that local budgets are approved without deficit. In the course of the year, prices may increase, in some cases salaries, exemptions and facilities granted by law that affect the incomes of local budgets are, thus infringing the principles of equity and matching resources with competencies.

b) Increase of the income from the real estate/land tax through:

- allowing LPAs to identify the real estate costs for taxation in rural and urban areas through a simplified mechanism which would ensure the real estate valuation directly by the LPA and the essential increase of the incomes at the local budgets from this source;

- granting LPA entitlement to determine the cost (value) of real estate (land, houses, etc.) for tax purposes;

- granting the LPA the right to set the maximum rate of land tax, depending on the situation in the respective territories.

- ensuring mandatory annual indexation of this and other local taxes/charges in line with inflation.

c) Canceling/reviewing the granting of exemptions to real estate/land tax as well as local taxes by compensating lost revenues to local budgets and/or transferring that full competence to the LPA, which will decide independently which categories can be exempted. The current system of facilities/exemptions unilaterally set by Parliament and without compensating local budget losses is unconstitutional because it directly affects local budgets that lack income sources belonging exclusively to LPAs.

d) Revise the status, membership and allocation of taxes on natural resources so that they reach local budgets of ATU level 1;

e) Review of tax exemptions, local taxes and other payments (rent) unilaterally established and without any compensation by the Parliament for such prosperous economic agents as: Moldtelecom, Posta Moldovei, MoldSilva and other state enterprises, as well as Union Fenosa, MoldovaGaz, etc.

f) Revision of the conditional grants mechanism for local road infrastructure, taking into account that the construction and maintenance of local roads is its own competence to be financed from general grants.

In addition to these urgent and short-term measures, discussions on:

- Including the corporate income tax (sharing it with CPA) in the local revenues from legal entities collected in the respective territory, in order to increase the motivation of LPA to develop the local business environment, attract investments, and to develop the close link between business and LPA.

- Introduction of the system/mechanism for collecting/transferring the Personal Income Tax on at the place of residence (residence).

9. An official review and interpretation of the legal provisions, including those adopted in 2017, which in the last period of time raises concerns and confusion about the status of local elected and the modalities of suspension/termination of its mandate, is required.

Currently, there are serious concerns from all competent actors regarding the compatibility of allowing to elect the district presidents not from district councillors, the appointment of the interim leadership in Chisinau, the use of the referendum as an instrument of dismissal of the mayor and the ease with which the judiciary system implements one of the most drastic measures of deprivation of liberty - arrest in relation to local elected officials. This issue has come to the attention of the Council of Europe structures (CALRCE), which has found several violations of the European Charter of Local Self-Government and has expressed its concern, and the Venice Commission will soon be examining these issues.

10. Revision of the entire system of administrative control over the LPA in order to adjust it to the constitutional principles of local autonomy, reduce administrative supervision, exclude abuses and the use of control bodies as a pressure tool on local elected representatives/LPAs.

This field with many barriers and with serious problems of compatibility with the rules of local democracy/autonomy requires urgent intervention by the state authorities to give positive signals of recovery. Together with the extremely controversial activity of the judiciary bodies in relation to the local elected representatives, they generate serious problems in the activity of LPAs and affect the image of the Moldovan authorities at the level of the European institutions.

It is therefore urgently necessary to revise the regulatory and institutional framework in the field of administrative control in order to reduce administrative supervision through:

a) detailed regulation of the administrative control and activity of all control bodies in relation to the LPA, to exclude the possibility of improper/extended interpretations, the legal framework, duplication of controls on the same topic and respectively - to reduce the possibility of interference and abuse by the control bodies in relation to LPA;

b) Reducing the number of control bodies and ensuring adequate coordination between the control bodies and the territorial structures of the central authorities.

c) Introduction of practices to suspend any control until the receipt of official legal interpretation, in case of legal confusion and contradiction, based on administrative controls.

d) Clear and explicit delimitation of legality and opportunity control. Establishing in the law, in accordance with the principles of decentralization and local autonomy, all cases and grounds for initiating/carrying out these two types of different controls, as well as clear procedure, period, form, etc. of these controls.

e) Expressly stipulate in the law the prohibition to extend the limits/objects of the controls, as well as express sanctions for such cases. This would exclude common situations when control bodies in order to find any reason to sanction and/or harass an inappropriate LPA for some reason (or on order) exceed their attributions by unguided widening of the limits and the object of control.

f) Establishing and regulating the limits of the controls and requests of all subjects with the right to request information from the LPA in relation to the institutional capacity of the LPA and the rationality of the respective requirements. This in order to exclude additional administrative burdens for the LPA and to adjust the requirements of the subjects with control functions, the institutional capacities of the LPA, the principles of local autonomy and decentralization.

g) Ensuring the knowledge and proper application by the control bodies of the legal norms and fundamental principles of local autonomy, according to which there are no subordination relations between local and central authorities. The central authorities being entitled to approve, in relation to

local ones, only documents with a recommendation charter, except for areas explicitly delegated to LPA by law and provided LPAs with adequate institutional and financial resources.

h) Establishing/completing sanctions/legal responsibilities for the control bodies and their representatives in the case of unofficial controls or on obviously ridiculous ground, delays in controls, unjustified application of sanctions, etc.

i) Correlation of the material sanctions applicable to the LPA representatives with their salary/subsistence level and the seriousness of the deviations found. At present, there is a huge disproportion between the levels of remuneration (extremely low) and enormous sanctions/fines which in many cases exceed the salaries of LPA officials. This contributes to worsening the situation with personnel and specialists in LPA.

j) Analyze, clarify/regulate very strictly and in detail the differences between the legality and opportunity control in order to minimize the interference of the control bodies in the operative activity of the LPA.

k) Revision of the competences and attributions of all bodies with LPA control functions, with a view to eliminating duplication, blocking of LPA activity and establishing clear rules on the periodicity, the basis, the content, the limits and the forms of such controls and the responsibility of the control bodies for the initiation of unwarranted controls and the application of unjustified sanctions. In particular, should be analyzed the competences and attributions of State Chancelleries, the Court of Accounts, the Competition Council, the Construction Inspection, etc.

#### 11. Revision of the legal framework in the criminal field, the grounds for filing of criminal cases and monitor the cases of disproportionate/abusive application of preventive measures (arrest) by judicial bodies in relation to LPA.

Intensification of criminal records, their large number and the widespread use of arrest/detention as a preventive measure by the judiciary bodies against local elected officials during the reference period raises concerns and compatibility between the actions of the judicial bodies and the legal framework with the current system of local public administration organization and the legal base in the field of LPA, including the European Charter of Local Self-Government and the constitutional principles of local autonomy and decentralization.

That is why the following measures are necessary:

- Revision of the main articles of the criminal code invoked against the leaders and representatives of the LPA: art. 370 (abuse of power or service, excess of power or exceeding of service duties) and art. 329 (negligence in service), in order to clarify and limit any possibility of wider and abusive interpretation of these legal provisions;

- Exhaustive definition, clear specification and setting of explicit criteria for the application of the so-called "reasonable suspicion" on the basis of which are taken preventive measures and/or investigative measures, including imprisonment, personal search and of residence. For later to be prove that the "suspicion" was ungrounded;

- Establishment/enforcement of the criminal responsibility of the judicial bodies/representatives for the criminal prosecution of criminal files and for illegal/unreasonable application of preventive measures, which have led to serious consequences;

- Establishing in law the obligation of the superior bodies within the judiciary system to initiate exofficio investigation of the persons in all cases of proven illegal criminal prosecution, deprivation of liberty by the application of detention/arrest and misuse of other preventive measures or actions investigation, which seriously damages life, health, honor, dignity, professional reputation and other fundamental human rights.

12. Urgent review of the current system of organization and remuneration within LPA and its correlation with the conceptual/legal framework in force in the field of decentralization, democracy and local autonomy

CALM has come up with a concrete package of legislative changes to this chapter. At the same time, among the main conceptual elements of the CALM proposals in this field can be mentioned:

- 1) Transposing the constitutional principle and the provisions of the European Charter of Local Self-Government in the wage law, according to which organization and remuneration is an indispensable and exclusive part of local autonomy.
- 2) Elimination of all technical barriers in the field of awarding prizes within LPA, including ensuring the LPA leaders to have the right to receive prizes and supplements in common with the subordinate officials.
- 3) Introducing a differentiation between the remuneration of LPA leaders by setting salary increases according to certain objective criteria (number of mandates, value of projects attracted, number of projects, etc.);
- 4) It is necessary to decentralize the organizational chart and staffing of personnel in order to grant the full and exclusive right to LPA to determine the necessary specialists, the terms of employment, the form of employment (public or civil contract), the remuneration etc.
- 5) Liberalization and full right of LPA for the application of the service contract or other civil contracts in LPA, including lack of specialists, failure of employment competitions, lack of interest in the civil service positions, etc. It would also be necessary to grant LPA the right to cooperate in the provision of administrative services: accounting, procurement, legal, IT, etc. (including when a specialist provides services for several mayoralities or inter-municipal cooperation in the field of provision of administrative services - common accounting, etc). At this time there are legal confusions and limitations.
- 6) Recognition of the current wages rates in the LPA provided by the law for leadership and officials in LPA, as minimum guaranteed values. These values may be increased depending on income, results, achievements, performance and other criteria set by local councils based on internal regulations;
- 7) Review the current system of incompatibilities in order to provide more flexibility for LPA Leaders to perform other remunerated functions and/or to participate in projects as coordinators, managers, experts, etc. in order to increase their revenues;
- 8) Introduction of the rule/principle that the LPA leader CAN NOT have a lower overall remuneration than any head of subordinate institutions/subdivisions;
- 9) Ensuring the pay system to be objective and competitive, i.e. its minimum value to be based on average salary of the economy.

13. Development of a complex and comprehensive concept and vision of the reform of the local administration, widely discussed and connected to the conditions/realities/needs of the Republic of Moldova.

In this respect, the following objectives and principles of the future reform of the LPA are proposed, which are to be taken into account in the development of the LPA reform:

Objectives:

- The priority of the interests of citizens and local communities, not administrative convenience, but ensuring the comfort of local communities and concrete citizens.

- Strengthening democracy, self-government and local autonomy. This element is fundamental to a modern and democratic state. Especially for countries with a totalitarian past in which there is an increased risk of reviving the vertical of power.
- Ensuring the implementation of the principle of subsidiarity/European Charter of Local Self-Government. The services should be provided by the authorities which are closest to the citizens.
- Ensuring that local communities have access to more diversified and better quality public services
- Stopping/slowing the depopulation of rural/urban communities. Providing the perspective and preserving the hope of reviving local rural communities.
- Ensuring the representation/mandate directly from the population, regardless the size of the locality and the number of the population. Real assurance of the constitutional right of the citizen to equality and equity, including in the provision of minimum public services, irrespective of the place of living, size of the locality, number of population, etc.

Principles:

- Ensuring a broad and very transparent process of discussion in society on the theme of this reform in order to reach the widest possible social, political, national consensus. To reduce risks and ensure the sustainability of reforms.
- Ensuring a clear demarcation of the administrative-territorial reform by a genuine and complex reform of the local public administration by recognizing the necessity and the priority of a genuine reform of the local public administration, based on the concrete measures of decentralization. Administrative-territorial reform is only one element of a much more complex process of decentralization and reform of the local public administration, which is to be approached very carefully, responsibly and phased in order to achieve the necessary conditions.
- Continuing the process of decentralization and implementation of all policy documents and commitments of the Republic of Moldova on decentralization and local democracy, in order to ensure an objective and adequate image of the further directions for the continuation of the LPA reform.
- Improvement and prior provision of vital conditions/services for citizens: infrastructure, communications, one-stop shop, e-government, etc.
- Flexibility, complexity, assurance of alternatives and the right to decide by LPA
- The voluntary nature and the broadest possible social/political consensus
- The reform is to be evolving, phased and inclusive. Thus, all relevant actors should be effectively and properly involved in developing and selecting the appropriate model: LPA, CPA, civil society, business, academia and science, MPs, political parties, minorities, vulnerable groups, etc.
- Developing own solutions connected to the realities of the Republic of Moldova. The non-admission of the imposition and the mechanical application of some foreign models and adjusting to the national realities of reform.
- Ensure effective communication and ongoing dialogue between central and local government in the process of developing and implementing the reform.
- Ensure the necessary data/information and the permanent evaluation of the results of the reform
- Not allowing radical, unilateral and hurried approaches.

14. Organize and carry out a broad national process of information, promotion and training of all actors and society on the current system of local public administration, principles and legal framework on decentralization, local democracy/autonomy and LPA reform.

The main actors involved in this process should be: central public authorities, judicial bodies, civil society, population, etc.

15. Establishment and/or implementation at national level of a system of permanent monitoring of the situation in the field of decentralization, LPA reform and implementation of all commitments in this field.

This system involves a broad involvement of all stakeholders: government, parliament, deputies, civil society, CALM, etc.

In particular, it is recommended:

- To be implemented the provisions of the law on administrative decentralization, which requires the Government to report to Parliament on the results of the decentralization process.
- The Parliament of the Republic of Moldova should apply in practice and more actively its right and its function of monitoring the implementation of the national and international legal framework in the field of local autonomy/democracy and decentralization.
- To organise a special and joint meeting of the Government and CALM, discussing the situation in the field of LPA, implementing national policy documents and implementing international commitments in the field of local democracy and decentralization;
- At parliamentary level, the organization of a special plenary session on the situation in the area of local autonomy, the activity of the control bodies and the implementation of the provisions of the Law on the National Decentralization Strategy, the recommendations and other legislative acts in the field of LPA and decentralization, as well how to fulfill the countries commitments to the Council of Europe on the dimension of human rights and local democracy.
- Special parliamentary committees should organize public hearings by inviting all heads of judicial, financial and administrative bodies to discuss the raised issues;
- Deputies in the Parliament to make more use of the tools provided by the law on the control of governmental and state institutions and to demand the application of the legal framework in the field of local autonomy as well as respect for the local elected status.
- Organize jointly with the Government, Parliament and civil society conferences and wide-ranging systematic debates on the topic of decentralization, local democracy and LPA reform.

**ROAD MAP**  
**on the implementation of Recommendation no.322 and the commitments of the Republic of Moldova in the field of local democracy signed by the Council of Europe, the Government of the Republic of Moldova and CALM on 8 July 2016**

N/o	Actions	Deadline	Execution level
1.	The National Decentralization Strategy should be fully implemented by the end of 2018. It is also underlined the importance of its implementation in consultation with the representatives of the local governments associations of the Republic of Moldova	End of 2018	Unaccomplished
2.	Ensuring careful monitoring of the implementation of the amended Law on local public finances, which was applied to all communities only in 2015	End of 2016	Unaccomplished
3.	Taking into account the dialogue with local governments and their representative associations in all areas that are not covered by the amended law, and to see what does not meet the needs of local communities.	End of 2016	Unaccomplished
4.	The <i>de facto</i> elimination of the "raions" interference in the process of approving of local budgets to meet the requirements of Article 3 of the Amended Law on Local Public Finance and Article 12 of Law no. 435/2006 on administrative decentralization. For this purpose, a training program could be envisaged, mainly for elected representatives and officials belonging to the two levels of local administration.	End of 2016	Unaccomplished
5.	Ensure the allocation of public finances based on transparent criteria for the next fiscal years 2016-2017.	End of 2016	Partially accomplished
6.	Continuation of property decentralization with the implementation of the new ownership transfer mechanisms to the local and regional authorities of I and II level provided by Law 121-XVI/2007, modified in 2013.	End of 2016	Unaccomplished
7.	Revaluation of cadastral value in rural areas to update it so that local authorities can accurately estimate real estate prices in order to properly collect local taxes.	End of 2016	Partially accomplished
8.	Develop and implement a new personal income tax collection system	End of 2016	Unaccomplished
9.	Overcoming the difficulties of implementing the financial and fiscal decentralization reform, as outlined above.	End of 2016	Unaccomplished
10.	Modifying and harmonizing the legislative and	End of 2016	Unaccomplished



	normative framework for local governments of Level I and II competencies, especially in the areas of education, social protection, health, local heritage management, etc. in order to avoid duplication, confusion and conflicts that may arise between the two administrative levels.		
11.	Clearly define the competences of local and regional authorities of levels I and II, as well as those of central authorities in the field of local democracy.	End of 2016	Unaccomplished
12.	Establish a normative procedure to regulate the power of local authorities to apply fines in the fields related to their competencies.	End of 2016	Unaccomplished
13.	Article 6 paragraph 5 of the Law on Local Public Administration should be amended to make it a binding principle in its normative formula and, therefore, to make it effective. Consultation of local authorities should not be limited to asking for a simple opinion. In order to ensure real consultation, the law should focus on the criteria set out in the European Charter of Local Self-Government, i.e. to provide for a reasonable consultation period, a formal consultation procedure and to apply to all issues addressed by government that is of interest to local communities. The consultation procedure could, for example, be coordinated by the State Chancellery.	End of 2016	Unaccomplished
14.	The interference of the administrative or financial control bodies must be definitively terminated in the internal aspects of the internal structure of local authorities	I semester 2016	Unaccomplished
15.	It is essential to revise the legality control mechanisms in general, to make them fair and transparent (with the publication of control reports) for all local authorities.	I semester 2016	Unaccomplished
16.	Adoption of a new law on the status of Chisinau municipality.	End of 2016	Accomplished
17.	To sign and to ratify as soon as possible the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of local communities from 16 November 2009. With regards to the signing of the Additional Protocol to the Charter, nothing seems to oppose signing it, but the government prefers to first proceed to complying with national law. The rapporteurs considered that this was a guarantee of seriousness and are confident that signing will be possible in the near future.	End of 2016	Unaccomplished

## ACTION PLAN

### on the implementation of the National Decentralization Strategy for 2012-2018

N	Actions	Deadline	Execution level
1.1	Elaboration of the nomenclature of competences of first and second level local authorities	2016	Unaccomplished
1.2	Assessment of the necessary / available financial resources necessary for the effective exercise of the competences transferred to the local authorities - assessment of the total expenditures of the local governments according to the transferred competencies	Quarter III, 2013	Unaccomplished
1.3	Revision of the current institutional / legal system of delegating competences to local authorities according to the principles and criteria set out in the Strategy	2016	Unaccomplished
1.4	Creation of institutional, legal and financial instruments to stimulate the efficient provision of decentralized services (association, concession, sub-contracting)	2016	Unaccomplished
1.5	Elaboration of sectoral decentralization policy documents based on the principles and criteria set out in this Strategy, taking into account the forms and the special status of autonomy, under the conditions of an organic law (the special legal status of Gagauzia)	2016-2017	Unaccomplished
1.6	Strengthen institutional and professional capacity at the central level, especially at the level of the State Chancellery, the LGs in applying the principles and criteria specific to an efficient and effective and gender-sensitive decentralization	2018	Unaccomplished State Chancellery was reformed, its structure has changed, however the sub-division for decentralization vice-a-versa was removed and fused in with public administration reform division. Capacities are still rather low what is being manifested in multiple deficiencies described in the report
1.7	Improve the institutional mechanism at the local level in order to ensure the implementation of the principle of gender equality in local development policies	2016-2017	Partially accomplished
1.8	Revision and improvement of the legislation regulating the status of the Chisinau municipality	2016	Accomplished New status Law was drafted and approved. Law indeed represents a sufficiently significant

			improvement comparatively with the previous one, which was essentially limiting Mayor's rights to nominate personnel in mayor's office including deputy mayors. Thought this needs to be correlated with the equal rights of other local governments within the pertinent national legislation
2.1	Strengthen local LPA's own local income base and autonomy of decision on them	2013	Partially accomplished Were indeed added few important sources of income for local governments – road tax, fees for changing land use destination, were carried out measures towards improvement of real estate tax collections. However, overall tax collections still remain significantly depressed by different ceilings and limitations of the tax base – what concerns land tax and local taxes
2.2	Reforming the system of shared transfers and taxes, its statute on objective and predictable basis, with the separation of first and second level APL budgets to ensure at least a minimum level of service, provided that the system does not discourage its own tax effort; and rational use of resources	2018	Unaccomplished yet System was reformed initially with launching in 2015 of the new system of shared taxes and transfers. However, no further efforts did follow. While existing system is poorly motivational of local economic development and economic growth. More shared taxes to motivate LGs as well as to ameliorate and finance their efforts towards this end are necessary – for ex. sharing of CIT, natural resources tax
2.3	Strengthening autonomy and financial management at LGs level, guaranteeing financial discipline, increasing transparency and public participation	2018	Partially accomplished It might be stated that there is quite an exaggeration of supervisory and control bodies monitoring LGs financial discipline and financial management. Much bigger is the need of consulting and advisory services on behalf of the central level institutions
3.1	Elaboration of legal instruments for delimitation of state property and ATU property	2017	Partially accomplished
3.2	Inventory and records of state property and LGs property	2018	Unaccomplished yet
3.3	Completion of the process of delimitation of state property and LGs property	2018	Unaccomplished This is one of the biggest problems limiting LGs fiscal base and tax collections

3.4	Regulation of the legal regime and the delimitation of public and LGs property - private and public domains	2017	Unaccomplished
3.5	Developing LGs capacity to manage property by developing and conducting training courses on effective property management	2018	Unaccomplished yet
3.6	Elaboration of cooperation mechanisms (public-private, public-public, public-public-private) for the effective management of the patrimony	2016	Partially accomplished Few measures and piloting efforts were carried out towards streamlining the IMC and delegation of services. However, on the ground there are no real palpable results, while IMC and PPP are almost entirely non-operational
4.1	Improving the legal framework for LGs empowerment with capacities and tools to boost the local development process, including through the use of modern forms and concepts of territorial cooperation	2017	Unaccomplished
4.2	Creating and developing institutional capacities to attract financial resources for the development, implementation, monitoring and evaluation of the PUG and local development strategies	2018	Partially accomplished
4.3	Elaborating / updating the PUG and local development strategies, including the human rights and gender equality approach	2017	Partially accomplished PUGs were updated within various international aid projects and for selected towns mostly. For rural communities such outcome is almost entirely missing
4.4	Development of LGs capacities to support cross-border cooperation	2018	Unaccomplished yet To mention that for 3-4 years already due to the restructuring of the CBC program Moldova-Romania-Ukraine there were no CBC programs for Moldova and particularly those interesting for LGs which include public investments in local infrastructure.
5.1	Examining the opportunities for rationalization of the administrative-territorial structure based on studies on LGs capacity building, in accordance with the criteria and principles contained in the Strategy	2016	Unaccomplished Few studies were carried out yet in 2012-2013. These studies are rather superficially (mathematically) addressing the complex issues of public administration and democracy. But the major problem is not even that but the heavy push for this reform on behalf of international partners contrary to any will and

			appreciation of importance of this reform on behalf of national and local actors and stakeholders
5.2	Consultation of members of local communities, including vulnerable groups, on options to strengthen LGs capacities and inter-municipal cooperation	2017	Partially accomplished Mainly via the efforts undertaken by CALM and international aid projects
5.3	Creating conditions for implementing LGs capacity building and inter-municipal cooperation	2018	Unaccomplished yet
6.1	Improve the training system in order to increase the professional capacity of human resources for both civil servants and local elected representatives, especially in the following areas: participatory strategic planning; project management; modern financial and budgetary management; organization and provision of communal and sectoral services; information technologies; foreign languages; gender impact analysis and human rights analysis; planning, implementation, monitoring and evaluation based on human rights and gender equality	2018	Partially accomplished
6.2	Ensuring organizational autonomy in terms of institutional structure and personnel policy, non-admission of interference by central authorities in the local or rational executive structure	2017	Unaccomplished Interferences in executive and personnel structures as well as in other fields of local decision-making have becomes even more pronounced in 2017
6.3	Developing the normative framework and practices regarding human resources management, ensuring free and non-discriminatory access through open competition to the public function, motivation, stimulation, stability in office and possibilities for career advancement for civil servants, including through the gender dimension	2017	Unaccomplished
7.1	Improve the system of LGs elections so as to significantly increase the representativeness, responsibility and competence of local elected representatives	2017	Unaccomplished Vice-a-versa there was an element of deterioration of this system when it was allowed for the Presidents of raions to be elected in raional council from non-elected

			people. In Moldovan conditions this opens doors and windows for interference of the politics in local affairs
7.2	Clarification of the regime of administrative control of legality, coordination of deconcentrated services in the territory, strict observance of the local autonomy	2017	Unaccomplished The system has deteriorated as it is explained in the text above
7.3	Extending public participation in local decision-making, including through gender balance, and generalizing universal consultation methods for democratic consolidation	2017	Unaccomplished
7.4	Elaborating the Communication Strategy and the Action Plan, which will ensure the maximum transparency of the implementation process of this Strategy	2012	Unaccomplished

**Annex 3**

**ACTION PLAN**

for 2016-2018 on the implementation of the Public Administration Reform Strategy for 2016-2020

<b>Order number</b>	<b>General Objectives / Specific Objectives / Actions</b>	<b>Deadline</b>	<b>Execution level</b>
5.	Optimal competences distribution between central public authorities and local public authorities	November 2017	Unaccomplished
6.	Elaboration and implementation of sectoral public policies in decentralization areas	November 2017	Unaccomplished
7.	Capacities strengthening of central and local public administration authorities in the field of decentralization and local and regional development	December 2018	Unaccomplished
8.	Organizing the administrative-territorial reform of the Republic of Moldova by consulting the main actors on the options for administrative consolidation	January 2018	Partially accomplished

9.	Strengthening the institutional and professional capacities of local public authorities for the effective implementation of public land management policies (eg land allocation, land management, land use management, expropriation procedures for public utilities, etc.)	November 2018	Unaccomplished
13.	Implementation of the regulatory framework in the area of access to information, transparency in the decision-making process, the publication of open government data and on the official web pages of public authorities	September 2018	Partially accomplished
22.	Developing normative and methodological framework to ensure the modernization of public services, increasing their efficiency, increasing the accessibility and implementation of quality and cost standards for public services	June 2018	Partially accomplished
23.	Building institutional capacities and strengthening human capacities for the implementation of initiatives to modernize public services at the level of the State Chancellery and the public authorities responsible for public services provision	December 2017	Partially accomplished
24.	Removing of obsolete public services and re-engineering of priority public services	December 2018	Partially accomplished
25.	Digitization of public services previously subjected to the re-engineering process	December 2018	Partially accomplished
26.	Development and piloting of the universal service delivery center concept	March 2018	Partially accomplished
28.	Development implementation procedure of the financial and control systems and its implementation by all institutions	April 2018	Partially accomplished
31.	Modernizing and streamlining public procurement processes, as well as strengthening their institutional capacities	December 2018	Partially accomplished
33.	Development and consolidation the local government's own income base and of its decision-making autonomy	December 2018	Partially accomplished

34.	Drawing up of legal instruments for state administrative-territorial units' property delineation	June 2017	Partially accomplished
35.	Inventory and evidence of the public and administrative-territorial units' property delineation	December 2018	Unaccomplished
36.	Drawing up of cooperation mechanisms (public-private, public-public, public-public-private) for the efficient management of the patrimony	December 2017	Unaccomplished
37.	Reviewing and adjusting the regulatory framework through the implementation of European governance principles	December 2017	Partially accomplished
39.	Accelerating the implementation of e-solutions in staff management in public authorities	December 2018	Partially accomplished
41.	Drawing up and promotion of the recruiting and retaining high-performance staff in public authorities mechanisms	March 2018	Partially accomplished