

Press release

Monitoring anti-corruption policies in CPA: conflicts of interest, incompatibilities, restrictions

On July 23, 2020, Transparency International - Moldova presented the results of monitoring such anti-corruption policies as *conflicts of interest, incompatibilities, restrictions*. The activity is part of a project financially supported by the National Endowment for Democracy, and aims at analyzing how the central public authorities (CPAs) apply the anti-corruption policies provided in the UN Convention against Corruption, identify eventual problems in their implementation and formulate recommendations for improvement. The subjects of the monitoring are 12 CPAs and 4 subordinate entities with an increased risk of corruption. The monitoring was carried out in May-June 2020, the reference period - years 2018-2019.

Methodological landmarks: during the monitoring TI-Moldova referred to the information provided by the monitored CPAs, mass-media - on eventual violations of the relevant legislation, data from the activity reports of the monitored CPAs, the National Integrity Authority, the National Anti-corruption Center, as well as from the studies of other NGOs, confronting data from different sources. Also, summary tables have been filled that reflect the current state in the implementation of the policy, include individual findings and proposals to improve the situation. Depending on the findings, the authorities have been assigned scores on a scale from 0 to 4, being prepared an *APC ranking*.

Findings

The results of the monitoring show that the CPAs have taken measures to implement the policy, however these measures seem insufficient. Although multiple trainings have been organized, public agents are not well acquainted with the provisions of the legal framework in the field. The number of conflicts of interest (CI) officially declared by public agencies and deviations identified in the monitored entities are very small, compared to the results of the survey of public servants on the quality of anti-corruption policies conducted by TI-Moldova^[1].

It is worrying that some respondents who claim to have been in CI situations note that they have not stated and resolved them.

This would mean that the monitored entities do not sufficiently control the application of the policy, possibly not involving the internal integrity / security subdivisions in this process. Some authorities do not have internal rules that would facilitate the implementation of this policy and ensure institutional memory, and do not publish information on the results of the implementation of the policy.

The National Integrity Authority identified a series of violations of the legal regime of CI, especially in the subordinated entities of CPA monitored in the territory (directors of kindergartens, gymnasiums, high schools, medical institutions). About half of them have been contested in law courts. Single fines were imposed on four public authorities.

Persons in charge for keeping records of declarations of conflicts of interest

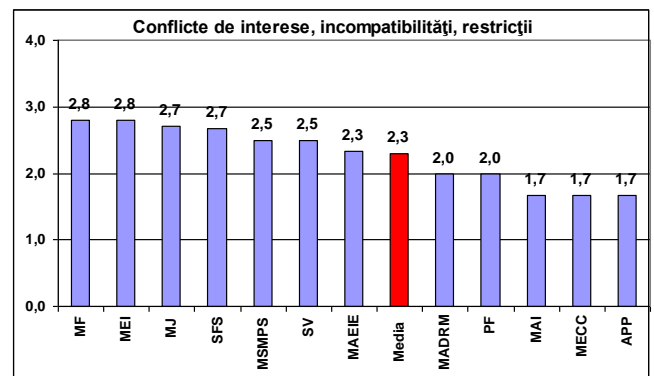
In all monitored entities, persons in charge for keeping the Register of CI declarations were appointed, most of them working in human resources services (MAI, MADRM, MF, MSMPS, PF, APP) or, as the case may be, in the internal audit subdivision (MAEIE), legal section. (MEI), Special Affairs Section (MECC), Internal Security and Anti - Corruption Directorate (SFS), Integrity and Supervision Directorate (SV).

Internal procedures that would facilitate the application of the policy

MAEIE, MADRM, MJ, SFS, PF reported that they are governed by laws 133/2016 or 82/2017, without having any internal procedures, three entities did not answer the question or gave an irrelevant answer (MA, MECC, APP), and four others (MSMPS, MEI, MF and SV) mentioned that, in addition to the legal framework, they are governed by certain internal acts (instructions, orders, guides). The entities are interested in the elaboration by ANI of an explicit guide for the leaders of the public authorities regarding the application of the anti-corruption policies in its field of competence.

Training of public staff members

An insufficient participation of public officials from some entities in training should be noted and their insufficient awareness about the provisions of the legal framework, findings confirmed by the results of the survey of civil servants on the quality of anti-corruption policies in CPA conducted by TI-Moldova in 2019. Respondents do not know enough notions such as "close persons", "consumed conflict of interest", misinterpret the notion of "personal interests", are tolerant of violations such as the direct subordination of an official of his relatives, violation of post-employment restrictions and other).



Declaration of conflicts of interest, situations of incompatibility and direct hierarchical relations

Five entities (MECC, MSMPS, SFS, SV, APP) reported on 11 cases of CI in 2018-2019. From the data provided we could assume that in some of them the CI situations have not been examined and resolved by the manager, as required by law, but by other persons (eg, the person responsible for keeping the Register of IC statements) and that some solutions applied to solve CI do not comply with the legislation.

Regarding the identification of consumed CI, only MECC and MSMPS reported on such cases, while the results of the TI-Moldova survey show that about 2% of respondents claim to have been in a situation of CI in the last two years (MECC, BVC, SFS, MEI, SV, PF). Worryingly, some of them said they had not told report them. Every 10th respondent indicated that he/she knows cases of CI, abuses in the institution where he/she works, related to the employment of close people, verification of affiliated companies, use of public property for personal purposes, etc. In this sense, the investigations of the journalists who drew the attention of the public and the competent bodies on possible CI in the activity of the decision makers from the monitored authorities and the subordinated entities are relevant.

Identification of violations and application of sanctions by National Integrity Authority (ANI)

According to ANI, as a result of the controls performed, 33 violations of the CI regime and 6 violations of the provisions related to restrictions and incompatibilities in the monitored CPA and subordinate entities were found. Most of the violations concern the activity of the heads of educational institutions (kindergartens, schools, high schools) and medical institutions in the territory, in this case the employment decisions, promotion, awards, taken in respect of relatives. About half of the acts in which the violation of the CI's legal regime is found have been challenged. Single fines were imposed in MECC, MSMPS, MAI and SV.

Transparency of the results of policy implementation

Only a part of the monitored entities published on their web pages reports / informative notes related to the implementation of the Action Plan for the implementation of the National Integrity and Anti-Corruption Strategy (MIA, MF, MJ, MEI), others - placed insufficient information (MECC, MSMPS) or did not publish them at all (APP, MADRM, MAEIE).

Recommendations:

For the National Integrity Authority:

- To support the public authorities by elaborating a guide regarding the application of anti-corruption policies in the field of competence of ANI, which would include examples / cases from its activity;
- To increase the control over the process of resolving the conflicts of interests in the public entities;
- To increase the interaction with the audit / control bodies (Court of Accounts, Financial Inspection, etc.), requesting regular information about the verifications that arouse suspicions of conflicts of interest, participation in the hearing of the results of audits/ controls, consult specialists;
- To strengthen the capacities of the legal department of ANI, to ensure the legal advice of the integrity inspectors;
- To publish on the web page the Register of persons who are forbidden to hold public positions;
- To intensify the training process, using online tools; to extend the trainings in the entities subordinated to the CPAs, including those in the territory.

For monitored public authorities:

- To engage in the training process public servants from central apparatus and from the subordinated entities – training dedicated to the relevant legal framework, applying on-line approaches and ToT technique;
- To elaborate / develop, eventually with the support of ANI, internal documents / rules that facilitate the application of the policy;
- To control the application of the policy in the institution, involving in this process the internal security / integrity subdivisions;
- To focus attention on the risk areas - the areas / subdivisions in which the probability of CI is higher, to take the attitude of the respondents' opinions about such subdivisions exposed in the surveys carried out;
- To inform the general public about the results of the policy application, including by publishing reports/information notes on the website.

For other authorities:

- The Chamber of Accounts, the Financial Inspection, - to publish on the web pages the results of audits and controls that include suspicions of conflicts of interest, to communicate to ANI about such potential conflicts;
- CNA, Working Group for Monitoring the National Integrity and Anti-corruption Strategy - to ensure the access of the media and NGOs to the Electronic Platform for Ensuring Institutional Integrity.

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