

**DECISION**

**On the approval of** **the 2016-2020 Public Procurement Development Strategy and**

**the Action Plan on its Implementation**

**no. 1332 of 14.12.2016**

*Official Gazette no.459-471/1442 of 23.12.2016*

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For the purpose of implementing Title V, Chapter 8 of the Association Agreement between the Republic of Moldova and the European Union and the European Atomic Energy Community and their member states, signed on 27 June 2014 in Brussels, Belgium and for the implementation of the Agreement on Government Procurement, done at Marrakech on 15 April 1994 and the Agreement on Government Procurement, as amended by the Protocol of Amendment thereto, done at Geneva on 30 March 2012, the Government

**DECIDES:**

**1.**To approve:

The 2016-2020 Public Procurement Development Strategy, according to Annex no.1;

The Action Plan on the Implementation of the 2016-2020 Public Procurement Development Strategy, according to Annex 2.

**2.**The Ministry of Finance shall:

ensure the monitoring and coordination of the implementation of 2016-2020 Public Procurement Development Strategy as well as the Action Plan concerning its implementation;

ensure cooperation with international organizations and potential development partners in order to attract the necessary volume of investment, so as to achieve the provisions of the 2016-2020 Public Procurement Development Strategy as well as the Action Plan concerning its implementation.

**3.**Ministries and other central governments shall ensure implementation of the 2016-2020 Public Procurement Development Strategy, as well as the Action Plan concerning its implementation, within their competencies.

**4.**The Ministry of Finance is responsible for the enforcement of this decision.

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| **PRIME-MINISTER** | **Pavel FILIP** |
| **Countersigned by:** |  |
| **Deputy Prime Minister, Minister of Economy** | **Octavian Calmic** |
| **Minister of Finance** | **Octavian Armaşu** |
| **Nr.1332. Chisinau, 14 December 2016.** | |

Annex no.1

to Government Decision

no.1332 of 14 December 2016

**THE 2016-2020 PUBLIC PROCUREMENT DEVELOPMENT STRATEGY**

**1. Introduction**

Achieving an efficient and credible public procurement system is one of the fundamental elements of the Moldovan development process. In this context, stepping up efforts to develop legislation harmonized with the World Trade Organization's Government Procurement Agreement and EU public procurement policies and ensuring proper implementation of legal provisions in practice shall increase the efficiency of the public procurement system and reduce waste, fraud and corruption, thus enhancing the trust of citizens and the business environment.

The Moldova-EU Association Agreement requires Moldova to develop a Comprehensive Roadmap for the implementation of Chapter 8, Title V, covering all aspects of public procurement reform and harmonization of the overall legal framework. This includes the legal harmonization of public contracts, utility contracts, works concessions and review procedures, together with the strengthening of administrative capacity at all levels, including review bodies and enforcement mechanisms.

The public procurement reform is much wider. While legislation is to be harmonized, Moldova must also ensure that the rules are properly implemented and implemented, that a strong and effective procurement system is in place to ensure that value is earned with the money spent.

Therefore, the Roadmap requirements have been integrated into the Strategy and the Action Plan for two years, after consultation with the European partners. An Action Plan for the years 2019-2020 shall be developed in 2018.

**2. The current situation**

The legal framework for the public procurement system has recently been brought closer to the European Union by adopting a new law on public procurement ([Law no.131 of 3 July 2015](lex:LPLP20150703131)in force since 1 May 2016). Generally speaking, the new law provides for a satisfactory regulatory framework and incorporates the fundamental EU principles governing the award of public procurement contracts. However, some provisions are not fully compatible with EU requirements and shall require further modifications. Public procurement in the areas of defence and utilities remains unregulated and the legal framework governing concessions and public-private partnerships requires revision and alignment with relevant EU legislation.

The Public Procurement Agency is currently monitoring compliance by contracting authorities with public procurement procedures, but it also has the role of review body, which is a conflict of responsibilities. The new law seeks to remedy this by setting up a new review body, but the real challenge is how it shall ensure effective independence and neutrality of this institution. These amendments to the law are submitted to Parliament and establish the direct liaison between the National Agency for Complaints Settlement and the Parliament.

The prior approval and registration system currently in place by the Public Procurement Agency removes ultimate responsibility for decision-making by contracting authorities. This prevents the development of a mature and responsible system.

The number of public procurement authorities is very high. There are approximately 4300 contracting authorities. In general, this distribution of responsibilities within the purchasing system makes it weak. The large number of officials involved without sufficient skills and knowledge is a major issue. In turn, this leads to poor and inefficient procurement planning, poor quality development of technical specifications and tender documents and insufficient monitoring of public procurement performance. These issues, coupled with a formal ex ante cumulative approval procedure by the Public Procurement Agency, which in fact distorts the levels of liability and a weak system of redress, are currently undermining the effectiveness of the public procurement system.

Capacity building and training activities undertaken by the Public Procurement Agency are insufficient, especially in the context of the imminent entry into force of the [Law no.131 of 3 July 2015](lex:LPLP20150703131)on public procurement. Vocational training and consultancy are offered to contracting authorities only on request but without regularity and focus. Currently, no training is offered to economic operators.

The importance of further developing the public procurement system is recognized as one of the key processes for overall economic development, also mentioned in the Basic Assessment by the SIGMA (Organization for the Support of Management and Governance). In addition, by signing the Moldova-EU Association Agreement, we are committed to a radical reform of the public procurement system.

**3. Vision and characteristics**

The Republic of Moldova needs a long-term vision and a strategy for the development of the public procurement system in order to make reforms coherent and to coordinate their implementation.

This Strategy has been developed to reflect a clear vision for reforming the entire procurement system, in line with the general principles of Good Governance. This must provide the basis for sustainable development in the country. The Strategy therefore contributes to the achievement of the Government Strategy on Public Administration Reform "Public procurement regulations are in line with EU standards, are harmonized with appropriate regulations in other areas and are effectively enforced." The strategy shall also contribute to the implementation of other reforms related to the development of the private market, business, the rule of law, etc. We strive to create a functional, competitive, responsible and transparent procurement system that generates and ensures the confidence of Moldovan citizens and the international community in the procurement function.

The most important features of the *Good Governance* could be summarized as follows:

***1) The rule of law***, which includes the development of clear and unitary legislation but, more than that, a correct application of procurement rules. Two elements could affect the proper application of the rules, namely lack of knowledge and skills at contracting authority level and / or lack of integrity. Therefore, the measures to be adopted must take into account all the reasons which lead to the incorrect or abusive application of the law. Speaking of lack of knowledge and skills, the main tools to remedy these deficiencies are the availability of manuals / guides / models / standard documents, training and help-desk. In case of lack of integrity, the specific instruments shall be combined or included in a set of anti-corruption measures.

***2) Transparency***is not just a way to increase competitiveness, but also one of the most effective tools to combat corruption. The current trend across the globe is to develop electronic platforms to ensure that procurement opportunities (accompanied by tender documents) are publicized and that contracts are awarded with an efficient search engine.

***3) Accountability***can be addressed through the use of various levers such as legal provisions to establish a clear chain of responsibilities, effective control mechanisms (internal audit, other forms of ex-ante control), better cooperation and coordination of activities aimed at combating corruption Public procurement. A useful measure should be the establishment of a system for identifying risk indicators in the field of public procurement (e.g. the abnormal number of contracts awarded through the negotiation procedure, the large number of contracts concluded with the same economic agent, the existence of the "links" between the company Who obtains the contract and the head of the contracting authority or the members of the tender commission). Effective informational protection systems have proven to be an important tool in the fight against corruption.

***4) Participation*** includes various methods of collective action and interaction with stakeholders, of which the most important are integrity pacts, anti-corruption statements, principles-based initiatives and codes of conduct. The potential of civil society to oversee the different stages of procurement processes is currently not fully exploited and the ways to do so should be further explored during the implementation of this Strategy.

***5) Fair and inclusive***, which refers to the need to take into account the needs of all groups, especially the most vulnerable (promoting employment, promoting social inclusion and combating poverty).

***6) Effectiveness and efficiency (best value for money),***which means that the results meet the needs while using the maximum resources and time available. The concept of efficiency in the context of good governance also refers to the sustainable use of natural resources and the protection of the environment.

**4. Objectives**

*The objectives* to be achieved through the implementation of this Strategy are the following:

1) Ensure an open, transparent and compliant procurement process;

2) Make ongoing improvements across all spending categories through transparent and fair procurement processes;

3) Promote equal opportunities for all businesses;

4) Work in partnership with the private sector and other organizations to get value for money (quality-price ratio), delivering quality and efficient services.

These objectives shall be achieved by increasing administrative capacity at central level and coordinating between institutions that manage key public procurement and efficient, professional and highly trained procurement professionals.

The strategy outlines how the purchasing system shall become stronger and how we shall gradually incorporate EU legislation on public procurement into Moldovan law. Its effective implementation and institutional capacity building activities at central and contracting authorities level are set by the end of 2020.

**5. Priority measures**

Priority measures are intended to achieve the objectives and can be grouped into the following categories:

**5.1. Measures to improve the legal framework**

There are some basic requirements for a strong legal framework:

1) The regulations reiterate the policy objectives and fundamental principles of public procurement, such as value for money, free competition, transparency, equal treatment, mutual recognition and proportionality;

2) The primary legislation is in line with the World Trade Organization Agreement on Government Procurement and the above-mentioned EU directives;

3) The secondary legislation reflects the same key principles as primary legislation and promotes fair and efficient public procurement;

4) For low value contracts, but also in areas where the country is free to include national provisions, legislation reflects good European and international good practice, providing an appropriate regulatory balance in proportion to the nature and size of contracts;

5) The regulations are clear and well known and understood by users (contracting authorities and economic agents) and others concerned and without excessive regulation and unnecessary bureaucratic approaches;

6) The new and amended legislation is prepared in consultation with the entire public procurement community and comes into force only when there are all the prerequisites to apply the new legislation.

**5.2. Measures to improve central institutional capacity and coordination mechanism**

Such measures are intended to create new institutions or provide personnel and other resources needed to manage a set of key public procurement functions and implementation approaches. They are the following:

1) primary policy and legal functions;

2) secondary policy and regulatory functions;

3) international coordination functions;

4) monitoring and surveillance functions (conformity assessment);

5) advisory and operational support functions;

6) publication and information;

7) professional skills and capacity building functions;

8) participatory platforms for all stakeholders;

9) mobilization functions; and

10) development and operational coordination functions.

**5.3. Measures to strengthen implementation capacity at contracting authority level**

One of the most important success factors that ensure proper enforcement of public procurement rules is the level of knowledge and skills of procurement staff within contracting authorities. In order to strengthen implementation capacity, a series of measures such as initiating and coordinating national training programs in different forms (classroom, distance learning and e-learning) shall be provided. A Certification Program for Acquisition Specialists shall be introduced. In addition, operational guidelines shall be developed to manage all stages of the procurement process, standard forms for participation notices, tender documents for goods, services and works (including instructions for tenderers, tender forms, technical specifications) Model contract for the supply of goods, services, works and concessions.

**5.4. Measures to strengthen integrity and combat corruption in the public procurement system**

Another important success factor that ensures the proper application of procurement rules is integrity. The fight against fraud and corruption is a priority for the Government and public procurement is a major risk area in this respect. The fight against corruption in public procurement cannot be isolated from the global effort to improve integrity within a society and encompasses all aspects of public life. But some specific measures may be specifically provided for this sector, such as:

1) increasing transparency at all stages of the procurement process;

2) establishing a clear chain of responsibilities, legal requirements on:

a) keeping records of each procurement for a minimum period of time;

b) the minimum content of procurement records / standardization of public procurement records and clear rules on the right of access to such records;

c) the obligation to justify the reasons for the use of public procurement methods other than open and restricted procedures, in particular the negotiation procedure without publication of a contract notice, rules on conflict of interest;

3) effective control mechanisms, including systems for identifying risk indicators in public procurement;

4) a monitoring system covering all stages of the procurement process, including the full execution of the contract awarded; and

5) efficient, fast, transparent and non-discriminatory redress and review system.

**6. The reform from the perspective of the Association Agreement**

This Strategy sets out a clear vision and concrete steps to be taken in reforming the entire procurement system in line with the general principles of good governance that provide the basis for sustainable development.

The strategy sets out a perspective on the process of gradual reform from 2016 until 2020. We plan first to recover the delays in the process of legal approximation and then to make further harmonization more rapid.

A detailed Action Plan for the implementation of the Strategy is presented in Annex III. With this approach, the intention is to speed up the pace of reforms. When describing the requirements of the Association Agreement, however, we refer to 2022 as a deadline.

In addition, this document is an instrument for the implementation of the commitments resulting from *Chapter 8* Title V of the EU-Moldova Association Agreement, including updated Articles 268-276 and Annex XXIX. The requirements arising from the Agreement are divided into four consecutive steps of harmonizing legislation starting with recovering delays and ensuring full compliance with the basic standards for regulating contract awarding and then moving to the next three phases of gradual alignment with EU directives on public procurement.

As a result of a positive evaluation of the implementation of each phase by the Association Committee in the Commercial configuration, access to the EU and Moldovan procurement markets shall be mutually open as follows:

1) Stage 1 – goods for central government authorities;

2) Stage 2 – goods for state, regional and local authorities and bodies of public law; - goods for all contracting authorities in the utility sector, service contracts and works for all contracting authorities;

3) Stage 3 – concessions for all contracting authorities; and

4) Stage 4 – service and works contracts for all contracting authorities in the utilities sector.

In this way, the approximation process shall concretely contribute to the advancement of the competitiveness and export capacity of Moldovan enterprises in the EU market, which shall result in their ability to work with modern public contracting requirements.

Before moving to the next phase of harmonization, all barriers to the free access of economic agents to that part of the market shall be identified and eliminated. These include both *de jure* barriers in public procurement law and other laws and regulations, as well as *de facto* barriers that restrict free access to practice. For this purpose, a special and changed report shall be prepared between the Republic of Moldova and the EU.

Besides the legal reforms, deep institutional reforms are necessary as the success of the public procurement reform depends on the strong organization and leadership of key central institutions and the way they perform their tasks. In addition, measures to strengthen the appropriate capacities and develop e-Procurement are also included in the relevant chapters of the Strategy.

In order to establish the perspective and identify the needs for the future reform process, this Strategy begins with a description of the current state of the public procurement system in Moldova, as set out in May 2016. The identified key issues form the essential framework for the reform direction. The strategy also describes the expected impact within the four areas mentioned below. The results of the processes must be evaluated. The strategy sets out measurable indicators for individual areas. In this way, national authorities and international institutions can easily assess the progress of the reform in the following four areas:

**Legal harmonisation**: The legal framework of the public procurement system has recently been brought closer to EU standards through adoption [Law no.131 of 3 July 2015](lex:LPLP20150703131) on public procurement. The new law incorporates the fundamental EU principles governing the award of public procurement contracts. The process of harmonization according to EU law must be carried out in the following stages:

**1) Stage 1:**nine months after the entry into force of the Association Agreement - the Roadmap, the basic standards governing the award of contracts and the institutional framework;

**2) Stage 2:**5 years after the entry into force of the Association Agreement (1 September 2019) - the basic elements of the Public Service Directive and the Public Service Appeals Directive; The basic elements of the Utilities Procurement Directive and the Public Service Appeals Directive) and other elements of the Public Sector;

**3) Stage 3:**6 years from the entry into force of the Association Agreement (1 September 2020) The Concessions Directive;

**4) Stage 4:**8 years after the entry into force of the Association Agreement (1 September 2022) - other elements of the Utility Procurement Directive and the Utilities Procurement Remedies Directive.

**Institutional development**: The fundamental institutional framework for public procurement exists and the current structure is a basis for starting the reform process. However, serious institutional reforms are needed. The Ministry of Finance is responsible for the overall policy on public procurement. This function needs to be significantly strengthened to effectively guide the full reform of public procurement. The Public Procurement Agency's mission should be redesigned to move its main focus from direct involvement in individual procurement processes to more general management and overall system monitoring. The National Agency for Complaints Settlement is not yet operational and its independence shall in principle be guaranteed by establishing its accountability to Parliament.

**The e-Procurement system**: The electronic public procurement system is one of the most effective tools to increase the transparency and efficiency of procurement procedures. The transition to full electronic communication in public procurement shall lead to a reduction in the administrative burden on businesses and the achievement of substantial savings in funds, time and administrative capacity. The introduction of e-procurement is an essential component of public procurement reform. EU e-Procurement policies shall be incorporated into national legislation. New streamlined and standardised work processes for e-Procurement shall be developed and implemented, especially for implicit procurement methods such as open tender and restricted bidding. The development of the e-procurement system has to be approached as a unitary and comprehensive project, although different instruments and electronic processes can be developed in successive stages. The results to be achieved through the development of the electronic procurement system for contracting authorities, economic agents, regulators and control bodies, the general public shall be measured according to the set of indicators proposed.

**Capacity building for contracting authorities and officials involved in public procurement:** Professionalizing public procurement staff and enhancing procurement capacity are key to increasing the efficiency of any national procurement system. The lack of sufficiently qualified staff, educational programs and standard documentation jeopardize the success of the overall reform process.

**7. Expected results and impact**

*The overall results expected* from the implementation of this Strategy are as follows:

1) Public procurement is governed by properly implemented policies and procedures that respect the World Trade Organization's Government Procurement Agreement and reflect the principles of the Treaty on the Functioning of the European Union and the European acquis and are supported by competent institutions and adequate resources;

2) The appeal system is aligned with the European Community standards of independence, probity and transparency and ensures a swift and competent handling of complaints;

3) The number of contracting authorities is 75% lower and the remaining ones have adequate personnel and resources and operate in accordance with the applicable regulations and best practices, interacting with an open and competitive market for goods;

4) The procurement system promotes fair competition and prevents any discrimination against economic operators and, on this basis, ensures the best value for money and quality of goods, works and services obtained to meet public needs; and

5) The overall unit costs for purchased goods and services are substantially lower.

The fulfilment of this reform is a priority of the Government and, implicitly, of Moldova, which is committed to its implementation so as to achieve better results in the field of public procurement.

The overall impact of implementing this Strategy is the following:

a) Less wastage of public money by reducing fraud and corruption;

b) better use of the public budget (value for money, economies of scale and low unit price);

c) a healthier business environment, free economic initiative and fair competition from a European perspective;

d) Greater citizen confidence in the system due to increased transparency and efficiency; and

e) Higher standards of living for the population.

**8. Costs, monitoring and reporting**

The costs for the implementation of this Strategy are estimated at about MDL 63 million, including the current operating costs for the procurement system. The specific costs of developing the procurement system are estimated at about MDL 23.5 million, of which about MDL 18 million shall be funded by donors. More details can be found in Annex IV.

The implementation of this Strategy shall be monitored on an ongoing basis. A Supervisory Board shall be created within the Ministry of Finance in charge of monitoring and evaluating the implementation of the Strategy. Implementing institutions shall report on a six-monthly basis to the Ministry of Finance on the implementation of the Strategy, and it shall present an annual consolidated report to the Government by March 1.

The strategy shall ultimately be assessed in 2020.

A draft final evaluation report shall be submitted by the Minister of Finance no later than April 1, 2021.

Annex no.1

To the 2016-2020 Public Procurement

Development Strategy

**THE PUBLIC PROCUREMENT SYSTEM IN MOLDOVA**

**I. CURRENT STATUS**

**1.1 Legal framework**

The legal framework of the public procurement system has recently been brought closer to European Union standards by adoption of [Law no.131 of 3 July 2015](lex:LPLP20150703131) on public procurement, in force since 1 May 2016. The new Law incorporates the fundamental principles of the EU regulating the awarding of public procurement contracts - free competition, transparency, equal treatment, mutual recognition - and is an important step in the long process of harmonizing national legislation with the provisions of EU directives.

The Public Procurement Act should limit the number of procurement methods allowed by the EU Directives 2014 and fully align public procurement procedures: the open and restricted tender with EU directives 2014 by introducing standardized online, process-based and on- Multiple criteria.

In addition, certain elements of the new law deviate from EU rules. First of all, the following aspects of the new legislation need to be addressed:

**Banned economic agents**: Art.25 of [Law no.131 of 3 July 2015](lex:LPLP20150703131) confers the right of the Public Procurement Agency to draw up a list of "banned economic agents", in order to limit their participation in public procurement procedures for a period of three years. In May, 2016, there were 28 economic agents on this list. This automatic exclusion of economic operators in all procurement procedures over such a long period of time is not in line with Directive 2014/24, which calls for a case-by-case approach. This approach must be accompanied by clear implementation instructions.

**Time limits in the contract award procedure**: Pursuant to Article 271 (9) of the Association Agreement, Moldova has an obligation to ensure that contracts are awarded in compliance with the "appropriate deadlines" which, for the expression of interest and the submission of tenders, should be sufficiently long to enable economic operators to make a meaningful evaluation of the tender and to prepare their bid. [Law no.131 of 3 July 2015](lex:LPLP20150703131) sets longer mandatory minimum time limits for each type of award procedure for contracts with values exceeding EU thresholds, but the relevant provisions are subject to a transitional period and shall not enter into force until 31 December 2020.

**Mutual recognition of qualifications**: The same transitional period shall apply toArticle 22 (2) of [Law no.131 of 3 July 2015](lex:LPLP20150703131), which contains the obligation to observe the principle of mutual recognition and to accept equivalent certificates issued by bodies established in the Member States of the European Union. Postponing the implementation of this provision is an obstacle to equal access for EU economic operators to the public procurement market in Moldova.

The existing legal framework does not transpose Directive 2009/81 on defence or the Utilities Directive 2014/25. The former is not included in the Association Agreement.

The most serious example of deviation from EU standards are the current provisions on the National Complaints Agency, which does not guarantee the level of independence required by EU procurement directives (and explicitly by the Association Agreement) from a review body of acquisitions (see chapter on institutional organization below).

Also, a set of regulations has been drafted and approved by the Government to ensure proper implementation of the new rules laid down in the Law. As regards concessions and public-private partnerships, the applicable legal instruments are: [Law no.179-XVI of 10 July 2008](lex:LPLP20080710179) on public-private partnership incorporating the legal framework for public-private partnerships, including concessions as a form of public-private partnership, and [Law no.534-XIII of 13 July 1995](lex:LPLP19950713534) on concessions. Both have been substantially amended in 2010. In addition, under Article 2 (5), the Act also applies to various "forms of public-private partnership not prohibited by law, as well as to the award of contracts Public works concession ". This legal framework is outdated and needs a review in the light of the 2014 Concessions Directive.

Reforming public procurement requires an appropriate regulatory framework. Further developments and further adjustments of legislation are needed in the coming years, in line with the provisions of the EU-Moldova Association Agreement, especially with regard to utilities and concession contracts. Other provisions, which still require revision and alignment with relevant EU legislation, should also be taken into account in the legal process. All these aspects shall be addressed gradually on the basis of a precise timetable, which is set out in detail in the following sections of this Annex and in the Action Plan.

The ultimate objective to be achieved over the five-year period is an adequate level of compliance of national legislation with EU directives in all sectors.

In order to ensure an appropriate legal framework, a set of basic requirements must be taken into account during the legal process:

1) secondary legislation reflects the same key principles as primary legislation and promotes effective public procurement;

2) for contracts below EU thresholds, legislation reflects good European and international good practice, providing an appropriate regulatory balance in proportion to the nature and size of contracts;

3) the new rules are clear, well known and understood by users (contracting authorities and economic agents) and do not contain excessive regulation and unnecessary bureaucratic approaches; and

4) new and amended legislation is being developed in consultation with the entire procurement community that needs to be familiar with the new rules and how to manage and apply them.

**1.2. Institutional framework at central level**

The success of public procurement reform and development depends on strong organization and leadership to organize policy-making and staffing and other resources needed to manage a set of key public procurement functions.

**1.2.1.**The Ministry of Finance is politically accountable for the overall development of the public procurement system in Moldova and is responsible for policy and law drafting in the field of public procurement, but currently clearly has insufficient staff (the unit in charge of the Ministry is made up of two individuals).

The capacity of the Ministry of Finance to develop public procurement policies and legislation, oversee the institutions responsible for implementing the system at central level (Public Procurement Agency, the body managing the e-procurement system, institutions and organizations involved in training), participation in Negotiations with the European Union and coordination of dialogue with all stakeholders (including civil society and business community) should be significantly strengthened in order to enable the Ministry to guide and effectively monitor the entire public procurement reform in Moldova.

**1.2.2.**The Public Procurement Agency is an administrative body specialized in the Ministry of Finance, with a large number of tasks, including supervision, control and monitoring in the field of public procurement.

Currently, the Public Procurement Agency has the following responsibilities in public procurement ([Law no.131 of 31 July 2015](lex:LPLP20150703131) art.9):

a) To implement public procurement legislation and to develop proposals for amending and completing public procurement legislation;

b) To coordinate, monitor, assess and control how contracting authorities comply with public procurement and public procurement procedures;

c) To develop, update and maintain the list of qualified economic operators and the list of prohibited economic agents;

d) To develop and apply the standard documentation for procurement procedures;

e) To review and record the tender documents submitted by the contracting authorities;

f) To review reports on public procurement procedures;

g) To review and record public procurement contracts following procurement procedures;

h) To request that the results of the procurement procedures are reviewed or cancelled, as appropriate;

i) To manage the automated procurement register;

j) To provide the contracting authority with methodological support and consultations in the field of public procurement, initiate and support training actions concerning the staff of contracting authorities involved in organizing and carrying out public procurement procedures and in awarding public procurement contracts;

k) To issue the Public Procurement Bulletin, to develop and maintain on the global network the website "Public Procurement in Moldova", which contains notices and information about the public procurement procedures and the awarding of public procurement contracts;

l) To produce quarterly and annual reports, and statistical analyses on public procurement;

m) To request and obtain from the competent bodies information on the economic operators involved in the procurement procedures and any information they need to carry out their tasks;

n) To cooperate with international institutions and similar foreign agencies active in the field of public procurement;

o) To coordinate the use of external technical assistance in the area of public procurement;

p) To perform other functions provided by this law and other legislative and normative acts.

The Public Procurement Agency has 54 employees. Currently there are 15 vacancies. Most of its work focuses in particular on the control of all procurement procedures at all stages. The main responsibility for conducting procurement (including planning and execution) is decentralized to the contracting authorities. The Public Procurement Agency carries out the centralized review and approval of the awarded contracts by reviewing and registering the tender documents and the public procurement contracts concluded by the contracting authorities.

In principle, this ex-ante control of potential public procurement offers a significant advantage in providing additional assurance against errors and misuse in procurement procedures by contracting authorities. However, potential benefits must be weighed against the difficulties this system generates.

Due to the large number of procedures that need to be checked / checked, staff are overworked, act in very tight deadlines, and cannot provide a high-quality check of all documents received (some of them require very technical knowledge and very specific experience). Even if the approval and registration system generally meets the deadlines set by law, it inevitably prolongs the procurement process and adds to the complexity of the procedures, making it more difficult for contracting authorities and economic agents.

Moreover, this situation hampers the possibilities of focusing on other necessary activities such as the improvement of legislation, help desk and training for contracting authorities.

Last but not least, the system of prior approval and registration by the Agency removes ultimate responsibility for decision-making from contracting authorities. This prevents the development of a mature and responsible system.

Redesigning the Public Procurement Agency's mission to adequately deliver the key public procurement key functions is one of the most important issues to be addressed in the future.

The main focus of the Public Procurement Agency should shift from direct involvement in individual procurement processes (review of tender documents, reports and contracts submitted by the contracting authority for each tender procedure) to more general management and monitoring of the system as a whole (Elaboration and distribution of methodological tools, such as standard tender documents, methodological support to contracting authorities and economic agents, collection and analysis of statistical data on the operation of the system).

The Ministry of Finance should carry out an analysis of the current functions of the Public Procurement Agency in order to determine which functions should be removed or potentially transferred to other institutions and which should be consolidated.

The Ministry of Finance must carry out a thorough evaluation of public procurement oversight in order to weigh the benefits of the Public Procurement Agency's ex-ante approval and registration function compared to the difficulties it faces and to explore alternative ways of ensuring effective public procurement, Legal, economical and efficient, especially in the case of high value contracts.

**1.2.3. The Ministry of Economy** is currently responsible for concession oversight and public-private partnerships, while the National Public-Private Partnership Council is responsible for coordinating, prioritizing and formulating strategies and recommendations.

The distribution of functions and responsibilities between central purchasing authorities must be clearly established by legislation and other implementing regulations.

**1.2.4. National Agency for Complaints Settlement**

In line with EU standards, the main objective of a review system and remedies in public procurement is to implement public procurement legislation in practice by ensuring that infringements of this legislation and the mistakes of contracting authorities are able to be corrected. A functional system of review and remedies in public procurement are in the interest of all parties: economic operators, contracting authorities, as well as the general public.

Basic principles and procedures in the area of review systems and appeals in public procurement should be based on the specific requirements of the EU Directives on appeals in public procurement: 89/665/EEC and 92/13/EEC, as amended by Directive 2007/66/EC.

In addition, according to the Association Agreement (art.270 paragraph (2) letter b), within nine months of its entry into force, Moldova is obliged to designate an impartial and independent body (i.e. separately from all authorities Contractors and economic agents), empowered to review the decisions taken by the contracting authorities during the award of the contracts. The decisions of the National Appeals Agency may be challenged at the next level.

In accordance with the legal mechanisms mentioned above, a procurement system must provide remedial possibilities for offended bidders, which must be:

1) fast;

2) effective;

3) transparent;

4) non-discriminatory.

According to the jurisprudence of the Court of Justice of the European Union and good international practice, the main requirements for a body responsible for providing redress are the following:

**1) The body shall be established by law**. Legal provisions should regulate various aspects that ensure the functioning of the organ, including, for example, provisions on the powers of the review body, the appointment and dismissal of its members, the qualifications required for members of the review body, conflicts of interest provisions, Cases distribution as well as procedural requirements.

**2) The body shall be permanent**. The body shall not be established ad-hoc. Its members shall remain in office for a determined number of years. This requirement does not rule out the possibility of having several groups within the review body dealing with cases under a predetermined distribution system.

**3) The body’s authority shall be mandatory**. Any decision / determination made by the review body must be enforceable. In particular, the body shall be empowered to:

a) impose provisional measures in order to correct the breach or prevention of additional damages, including measures to suspend or ensure the suspension of the tendering procedure or the implementation of any decision taken by the contracting authorities;

b) cancel or ensure the cancellation of any unlawful decision, including the removal of discriminatory technical, economic or financial specifications in the contract notice or tender documentation.

**4) All the parties shall be involved in the proceedings with the review body *(*carried out *inter partes)***. The contradictory general rules must be observed in all cases. All interested parties have the appropriate opportunity to submit the facts and evidence, and each party must have the right to respond or to challenge all the evidence and arguments presented by the other party. Hearings offer a better opportunity for both sides to address the other party's position, but an acceptable alternative is to allow parties to submit written statements during the review process. Both parties should have access to the review dossier, except for confidential information.

**5) The body shall apply the rule of law**. When making decisions, the body is required to apply the provisions on the award of public contracts which are provided for in national law.

**6) The body shall be independent.** This requirement refers to several aspects - institutional, financial - but the basic principle is that the review body fulfils its mission independently and under its own responsibility and that its members are subject only to the law.

**7)** [**Law no.131 of 3 July 2015**](lex:LPLP20150703131)**.**Article 75 of the new law establishes a new body responsible for reviewing the decisions taken by the contracting authority - the National Agency for Complaints Settlement. Although qualified as an "independent administrative authority," this new body is subordinated to the Ministry of Finance, and thus its independence could not be guaranteed. This contravenes Article 270 (2) (b) of the Association Agreement.

Until the creation of the National Agency for Complaints Settlement, the review shall be carried out by the Public Procurement Agency. This solution, in the first place, involves a conflict of responsibilities and, secondly, not being independent of the Government, undermines the confidence of the business environment and civil society in the impartiality and objectivity of the review process.

Another major shortcoming of current practice is lack of transparency, since review decisions on appeals are published but are not motivated.

Adoption of amendments to [Law no.131 of 3 July 2015](lex:LPLP20150703131), to ensure the independence, impartiality and transparency of the National Agency for Complaints Settlement is the highest short-term priority. Amendments are submitted to Parliament.

**1.3. Capacity building for the contracting authority and public procurement officials**

The establishment of an efficient and credible public procurement system should focus not only on developing coherent legislation with the new EU directives but also on enhancing the implementation capacity of all contracting authorities - at central and local level. It is the contracting authorities that shall have to cope with the impact determined by the new legal provisions on public procurement. To develop their implementation capacity, contracting authorities need adequate human resources - in terms of numbers and knowledge.

There are approximately 4300 contracting authorities in Moldova, operating at central and local level. Almost all procurement procedures are carried out in a decentralized manner, which means that even the very small contracting authorities need to organize separate procurement processes using their own administrative capacities. In general, common and centralized procurement processes are underdeveloped or even insufficiently regulated.

As a result, the implementation of public procurement rules by many contracting authorities is poor. The biggest challenges are inappropriate planning of public procurement, poor quality development of technical specifications and bidding documents and insufficient monitoring of public procurement contracts. These problems are currently undermining the effectiveness of the public procurement system.

Contracting authorities shall carry out public procurement operations through designated units or working groups at internal level but, in practice, there are a number of issues related to their operation. At present, officials appointed within the contracting authorities to be members of the working groups are not subject to any professional certification requirements and their current level of training is not monitored. Tasks related to public procurement are often carried out in parallel with other professional activities, which sometimes are not related to public procurement.

The presence of public procurement specialists is not always guaranteed. This lack of procurement specialists partly explains why working groups are unable to prepare adequate tender documentation (for example, they do not describe the subject matter of the acquisition and the goods or services requested with sufficient precision) or correctly determine the criteria for Qualification and evaluation, which ultimately lead to the cancellation of tenders.

The most common irregularities that have been identified in practice are the following: splitting acquisitions in small lots in order to avoid the usual procedures (multiple contracts with exact value below the thresholds granted to the same contractor); Making unreasonable purchases from a single source; Irregularities in the qualification process (non-proportional or unrelated participation criteria); Unreasonably short deadlines; Exclusion of companies for false reasons in order to favour a selected company; Irregularities in the tender evaluation stage (late acceptance of tenders, modification of bids submitted, rejection of "undesirable" bids for formal reasons or even for reasons not provided for by law or tender documentation, application of criteria different from those defined in Tender documentation); The unjustified rejection of all tenders in order to repeat the procedure with different requirements; Non-compliance with transparency and information requirements; The unwarranted increase of the price during the execution of the contract.

Poor implementation of public procurement legislation emphasizes the need to provide adequate support in training and capacity building.

**1.4. The use of new tools and techniques**

The use of framework agreements, joint and centralized public procurement is not advanced at the moment. The development of e-procurement has just begun and it is necessary to establish a clear e-procurement model for public procurement contracts, including technical facilities for some special tools, such as dynamic purchasing systems, electronic auctions and electronic catalogues.

An electronic Public Procurement Register, managed by the Public Procurement Agency, is currently being used by the 220 largest contracting authorities. Auction notices are published in the Public Procurement Bulletin exclusively in January 2015.

**II. REQUIREMENTS OF THE ASSOCIATION AGREEMENT**

The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, on the one hand, and the Republic of Moldova, on the other hand, was signed on 27 June 2014. The Agreement was ratified by the Parliament of the Republic of Moldova at 2 July 2014 and by the European Parliament on 13 November 2014.

The EU-Moldova Association Agreement includes Chapter 8 Title V on Public Procurement, which encompasses art. 268-276 and an annex XXIX. In essence, the Agreement provides for progressive reciprocal access to the public procurement markets of the EU and the Republic of Moldova on the basis of planned, phased and supervised progress in the approximation of national procurement legislation to the EU acquis in the field of public procurement. Developing the legal framework shall be accompanied by institutional reform and an effective procurement system based on the principles governing EU public procurement.

The scope of Chapter 8 refers to procurement and contracting authorities subject to the Directives in accordance with the update of Annex XXIX-A on Procurement to the Association Agreement. This means that the scope of approximation of public procurement includes purchases with an estimated value equal to or above the thresholds listed below:

a) EUR 134,000 – for public contracts for goods and services awarded by central public authorities and project competitions awarded by these authorities;

b) EUR 207,000 – In the case of public contracts for goods and services not covered by letter a);

c) EUR 5,186,000 – In the case of public works contracts;

d) EUR 5,186,000 – In the case of works contracts in the utilities sector;

e) EUR 5,186,000 – In the case of concessions;

f) EUR 414,000 – In the case of Utility and Service Contracts;

g) EUR 750,000 – For public service contracts and other specific services;

h) EUR 1,000,000 – For social service contracts and other specific services in the utilities sector.

These thresholds shall be adjusted every second year, starting from the year in which the Agreement enters into force, to reflect the thresholds in force at that time in accordance with the directives. The above figures shall be therefore subject to adjustment and serve as a baseline for the scope of the directives as regards contract value.

Public contracts awarded in Moldova, which are equal to or above the thresholds of the EU and which shall be directly affected by the requirements of the Association Agreement, represent at present only a small part of the total number of contracts awarded. Most contracts are below the thresholds mentioned above.

However, it is important to note that each party must ensure that those contracts that are below the EU thresholds comply with the principles of transparency, non-discrimination and equal treatment as provided for in Article 271 of the Agreement ("a set of basic standards "). Appropriate rules are needed for contracts below EU thresholds to complement the rules for awarding contracts equal to or above EU thresholds. Rules below EU thresholds may involve a simpler regime that would be more proportionate to low value contracts, but should not include deviations from the principles of transparency, non-discrimination and equal treatment.

Under Article 270 of the Association Agreement "*an adequate institutional framework*" for the proper functioning of the public procurement system and the implementation of the principles must be ensured within nine months of the entry into force of the Agreement:

a) a policy body - called executive body at the central level, empowered to ensure a coherent policy and its implementation in all areas related to public procurement. This body facilitates and coordinates the implementation of Chapter 8 Title V of the Agreement and guides the process of gradual harmonization; and

b) a review body - called an impartial and independent public body (i.e., separately from all contracting authorities and economic agents) empowered to review decisions taken by contracting authorities during the award of contracts.

Moreover, in accordance with Article 271, a "*set of basic standards*", which governs the award of contracts and reflect the basic EU principles of non-discrimination, equal treatment, transparency and proportionality, must be ensured within the nine months after the entry into force of the Agreement.

More substantial challenges are represented by art. 272 and 273 on the planning and implementation of gradual legal approximation to EU standards.

Article 272 provides for Moldova to develop a Comprehensive Roadmap (Strategy) for the implementation of Chapter 8 of Title V of the Agreement, covering all aspects of public procurement reform and the general legal framework, in particular as regards: legal harmonization for public contracts, utilities contracts, works concessions and review procedures, together with strengthening administrative capacity at all levels, including review bodies and enforcement mechanisms. The Roadmap should set timelines (in line with the timetables included in Annex XXIX - B) and benchmarks covering all reforms related to legal harmonization and institutional capacity building. The roadmap is to be implemented within nine months of the entry into force of the Agreement and is to be approved bilaterally by the Trade Association Committee, which shall then monitor its effective implementation.

Article 273 specifically refers to legal harmonization and provides for an obligation to ensure gradual harmonization with EU public procurement standards, with reference to the timetables and phases set out in Annex XXIX. The obligation includes not only the existing procurement directives but also any future changes to the European acquis. In this process, Moldova should take due account of the related rulings of the Court of Justice of the European Union and the implementing measures adopted by the European Commission.

Since the conclusion of the Association Agreement, the EU has adopted three new directives on public procurement. The new directives that came into force in 2014 reform the 2004 Public Utilities and Utilities Directives and introduce new directives on concession contracts.

Therefore, the EU procurement directives covered by Chapter 8 of Title V of the Association Agreement are:

1) Directive 2014/24 / EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC OJ. L 94/65 (Public Service Directive);

2) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on the procurement of entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17 / EC. L 94/243 (Utilities Directive);

3) Directive 2014/23 / EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts J.O. L 94/1 (Concessions Directive);

4) Directive 89/665/EEC on the coordination of laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, J.O. 1989 L395/33, as amended (Directive on Remedies in the Public Service);

5) Directive 92/13/EEC of 25 February 1992 on the coordination of laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors, J.O. 1992 L76/14, as amended (Directive on Remedies in Utility Procurement);

6) Directive 2007/66/EC of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC as regards the improvement of the effectiveness of review procedures in respect of the award of public contracts L335.

Annex XXIX is essential to understanding the stages and timing of the approximation planning required by the Agreement. It consists of the following main elements regarding the stages and deadlines for the harmonization of the legislation on public procurement in Moldova.

**1) Stage 1** – Nine months after the entry into force of the Association Agreement (1 June 2015) - the Roadmap, the basic standards governing the award of contracts and the institutional framework;

**2) Stage 2** – 5 years after the entry into force of the Association Agreement (1 September 2019) - the basic elements of the Public Service Directive and the Public Service Appeals Directive, the basic elements of the Utilities Directive and the Remedies Directive In utilities purchases, and other elements of the Public Service Directive;

**3) Stage 3** – 6 years after the entry into force of the Association Agreement (1 September 2020) - Harmonization and implementation of the Concessions Directive;

**4) Stage 4** – 8 years after the entry into force of the Association Agreement (1 September 2022) - other (mandatory and non-binding) elements of the Utilities Directive and the Utilities Procurement Remedies Directive.

The strategic chronology of the reforms is seven years. We anticipate that this shall allow monitoring and capacity-building to improve the implementation of reforms both by contracting authorities and by economic agents.

Considering all of this, it is clear that the future reform is much broader than simply approximating with the provisions of the EU directives on public procurement. Once legislation has to be drafted, Moldova must also ensure that the rules are properly implemented and implemented.

Therefore, a strategic approach is needed to make reforms consistent and coordinate their implementation.

**III. REQUIREMENTS FOR LEGAL HARMONIZATION**

The Republic of Moldova recognizes the requirements for full acceptance of the European acquis on public procurement in the context of the Moldova-EU Association Agreement. This includes, first of all, ensuring full compliance with the basic standards governing the award of contracts and then phasing in with EU directives on public procurement.

The fundamental legal issues identified in this Strategy, together with the imperative of introducing EU standards, as set out in the Association Agreement with a gradual approach, are the essential framework for the direction of legal reform. Appropriate institutional and capacity building measures and the development of electronic procurement are also included.

The process of legal harmonization shall focus on specific changes to public procurement legislation to incorporate reforms as set out in the following paragraphs.

We have decided to accelerate legal reforms to bring the legislation into line with EU directives by the end of 2018, before the deadlines defined by the respective approximation phases in the Association Agreement.

**3.1. Stage 1**

**Current situation with reference to the requirements of Stage 1**

The provisions of the Public Procurement Law no.131 of July 2015 may be considered as partially fulfilling the set of basic standards provided for in Article 271 of the Association Agreement. There are few unresolved issues that need to be addressed and addressed in an appropriate way, in particular:

1) Time limits in the contract award procedure; and

2) Mutual recognition of qualifications.

Both requirements must have already been met within nine months of the entry into force of the Agreement, i.e. by 1 June 2015.

Secondary legislation has been approved and, at this stage, it is considered to cover the most important procedural aspects necessary to apply the rules provided by the new law.

**Necessary measures**

A set of legal measures shall be adopted to address the issues identified above and to complement primary and secondary legislation and to ensure the proper implementation of the legal rules.

Primary legislation:

Development and adoption of amendments to [Law no.131 of 3 July 2015](lex:LPLP20150703131)aimed at solving outstanding cases of non-compliance with the set of core standards and ensuring the independence of the National Agency for Complaints Settlement.

Secondary legislation:

1) Drafting and approving the Regulation on the Establishment and Operation of the National Agency for Complaints Settlement;

2) Legal requirements which establish the obligation for all contracting authorities to publish, prior to the launch of the procedure, the justification for the use of the negotiated procedure without prior publication;

3) Developing and approving standard models and standard forms for public procurement notices.

**Justification and expected results**

The legal framework must adequately reflect the set of core standards and the National Complaints Board must be independent and operational as soon as possible. Since there is already a significant delay in the implementation of these requirements, they must be implemented immediately and, in any case, no later than October 2016. Even before the new independent review body is established, be prepared a clear set of rules for defining the internal structure of the National Agency for Complaints Settlement, the responsibilities of each internal unit and other organizational and functional details. Based on the Regulation, it is to be expected that, once established, the work of the National Agency for Complaints Settlement shall be carried out from scratch without any problems, without major bottlenecks.

Since one of the problems of the procurement system is the tendency of contracting authorities to use the negotiation procedure without prior publication, even when the legal conditions allowing for this are not fully met, a solution to reduce the frequency of such cases is to increase the level of transparency in this respect. The mandatory publication of the justification for the use of the negotiated procedure without prior publication in a special section of the automated information system "State Procurement Register" could alleviate the amplitude of this trend.

The new standard ad formats set out in the Commission Implementing Regulation 2015 provide a model for the minimum information to be included in the invitation to tender. Not all standard forms need to be reviewed at this stage, but at least the forms set for the "*Intention Notice*", "*Contract Notice*", "*Contract Award Notice*" and "*Rectification*" are very useful for proper implementation of the current provisions of [Law no.131 of 3 July 2015](lex:LPLP20150703131).

**Measurable indicators**

**1.**[Law no.131 of 3 July 2015](lex:LPLP20150703131)shall be amended in order to ensure full independence of the National Agency for Complaints Settlement, transparency and impartiality of its work in line with EU and WTO procurement requirements and to fully reflect the set of core standards required by the association.

**2.**All the secondary legislation and internal regulations on the establishment and operation of the National Agency for Complaints Settlement are approved and promulgated.

**3.**All the secondary legislation, model documents and standard forms required for implementation[Law no.131 of 3 July 2015](lex:LPLP20150703131)shall be revised / amended and approved.

**Possible areas of EU assistance / international donors**

Possible areas for EU / international donor assistance are as follows:

Drafting primary legislation (amendments to the [Law no.131 of 3 July 2015](lex:LPLP20150703131));

Drafting secondary legislation on implementation;

Developing internal regulations for the National Agency for Complaints Settlement.

**3.2. Stage 2**

**3.2.1. Stage 2 sub-Stage 1**

**Current situation with reference to Stage 2 requirements**

Many provisions of the 2004 Public Service Directive have already been provided for in [Law no.131 of 3 July 2015](lex:LPLP20150703131). However, the 2014 Public Service Directive improves the wording of many of the articles in the previous Directive and, in addition, adds more clarifications and additional rules for different stages of the procurement process. Harmonization with the elements of the new Directive requires a careful analysis of all these particularities and appropriate adjustments of the existing provisions.

Therefore, Stage 2 of the legal harmonization process shall include a revision of the existing law, with the objective of ensuring that the following basic elements of the Public Service and Public Service Appeals Directive:

1) art.1 – 5, 7 – 19, 21 – 23, 26 – 29, 32, 40 – 51, 53 – 60, 62, 63 and 65 – 76 of the Public Service Directive;

2) Annexes II – V, VII, IX, X, XII and XIV of the Public Service Directive;

3) art.1, 2, 2 a – 2 d, 2 e and 2 f of the Public Service Remedies Directive.

**Necessary measures**

One year after the entry into force of the [Law no.131 of 3 July 2015](lex:LPLP20150703131), including amendments, it needs to be assessed in order to identify weaknesses and deficiencies identified in practical implementation. The review process should, to the maximum extent possible, involve the entire public procurement community, in particular the practitioners of contracting authorities, economic agents and observers from civil society.

With reference to the requirements set out in Stage 2, a legal package incorporating the next set of measures related to the Association Agreement must be in force not later than 1 December 2017. This time period is less than that required by the Association Agreement, which requires that this task be completed within 5 years of the entry into force of the Association Agreement. We have decided to advance harmonization of[Law no.131 of 3 July 2015](lex:LPLP20150703131)with the basic elements of the Public Service Directive to gain earlier transparency on public procurement provisions. The following activities must be performed in a timely manner:

1) A profound assessment of [Law no.131 of 3 July 2015](lex:LPLP20150703131)in relation to EU directives 2014 must be carried out before harmonization.

2) Assessment of practical implementation of the [Law no.131 of 3 July 2015](lex:LPLP20150703131)shall be conducted in order to critically assess its positive and negative effects at the implementation level.

3) A draft amendment to the existing law or the draft of a completely new law, as appropriate, shall be drafted in due time based on the results of the monitoring and evaluation taking into account the need to ensure proper consultation with the entire procurement community:

a) drawing up the first draft law;

b) publishing the draft law on the Public Procurement Agency website and launching public debates and consultations with stakeholders;

c) drawing up the final draft law;

d) approval by the Government;

e) approval by the Parliament.

4) Secondary legislation (regulations) shall be prepared to give full effect to the law.

5) Develop and approve standard models and standard forms for public procurement announcements.

**Justification and expected results**

The purpose of the second sub-Stage 1 approximation is to ensure that public procurement legislation is further developed and strengthened so as to create an effective framework to support the conclusion and implementation of public contracts in a competitive environment in line with the acquis EU. Considering that[Law no.131 of 3 July 2015](lex:LPLP20150703131)is largely in line with the 2004 Public Service Directive, further harmonization is needed to ensure that all the provisions of the law are fully in line with the above-mentioned basic elements of the 2014 Public Service Directive and the Remedies Directive In the public sector.

The impact of the legal changes after the completion of the approximation stage 2 shall be as follows:

1) Complete alignment with the contracting authorities' definitions and public procurement contracts as an essential starting point, which shall allow coherence of [Law no.131 of 3 July 2015](lex:LPLP20150703131)withEU Directive on Public Service;

2) The introduction of the reference to EU thresholds that shall divide the applicability of the main rules of the Public Service Directive for the award of large contracts for which national rules on awarding contracts with values below EU thresholds;

3) Rules below the EU thresholds shall be proportionatedto the low value contracts but shall not include deviations from the principles of transparency, non-discrimination and equal treatment;

4) Introducing an extra-high threshold and more flexible rules for social services and other specific services;

5) Introducing rules on mixed contracts, which are important to determine which threshold and set of rules shall apply; These rules shall make it more difficult to circumvent [Law no.131 of 3 July 2015](lex:LPLP20150703131);

6) Full alignment, with the exceptions allowed by the Public Service Directive, shall result in fewer contracts excluded from the scope of the law and, therefore, more opportunities for economic operators;

7) The notion of conflict of interest must cover at least any situation in which the members of the staff of the contracting authorities or of a procuring entity acting on behalf of the contracting authorities which are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have , Directly or indirectly, a financial, economic or other personal financial interest which might be perceived as compromising their impartiality and independence in the procurement procedure;

8) Open, restricted and competitive procedures for negotiation shall continue to be aligned with EU rules that shall create more freedom and flexibility for contracting authorities to choose an appropriate procedure for awarding the specific contract. Open, restricted and competitive procedures with negotiation are vital components in procurement legislation;

9) Alignment with the rules governing the use of the negotiated procedure without prior publication shall be further adapted in order to limit the use of this procedure to strictly defined cases and circumstances;

10) The best option for more flexibility in sub-central purchases shall be analysed. If this option is selected, the procurement system shall be more attractive to many contracting authorities;

11) [Law no.131 of 3 July 2015](lex:LPLP20150703131) shall continue to be harmonized with mandatory and optional exclusion reasons as well as economic selection criteria in line with the EU Directive;

12) Alignment with the self-declaration system introduced by the Public Service Directive shall further facilitate work with documentation for economic agents;

13) The provisions on technical specifications shall be further adjusted to allow contracting authorities to refer to the life cycle and production process of works, goods and services, including the extensive use of labels reflecting specific environmental, social or other characteristics Nature of works, goods and services;

14) The introduction of the most economically advantageous tender as a major concept in terms of award criteria is an essential element of high priority within the Association Agreement; More emphasis shall be placed on quality elements and less on price as a single award criterion;

15) Life Cycle Costing (LCC) rules as an award criterion shall allow contracting authorities to consider the costs throughout the life cycle of a product, service or works, including external environmental effects and not just the purchase price; This approach shall facilitate the future application of environmentally sustainable and sustainable policies within the procurement system;

16) The minimum deadlines for submission of tenders and applications shall be adjusted to those set out in the WTO Public Institutions Agreement and EU Directives;

17) The rules on subcontracting shall allow contracting authorities to have a greater influence on subcontractors; Some of the elements of the subcontracting rules of the Directive are optional and decisions shall be taken to determine how such options should be used; This concern, for example, the rules on direct payments from contracting authorities to subcontractors;

18) Contracting authorities shall be encouraged to split batch contracts that shall improve access for small and medium-sized enterprises to bidding and shall be required to justify their decision not to split batch contracts;

19) The rules for preliminary market consultations and prior involvement shall allow contracting authorities to cooperate with the market to gather market information to prepare the procurement, provided that it does not distort competition later;

20) The basic e-Procurement requirements deriving from the Public Service Directive should not impose additional difficulties, taking into account the current level of e-procurement implementation in Moldova;

21) The rules on changing contracts over their term shall bring more clarity about the permissible changes to contracts and those that require a new procurement procedure;

22) Minor changes on remedies are required, in order to bring it fully closer to the basic element of the Remedies Directive.

**Measurable indicators**

1) [Law no.131 of 3 July 2015](lex:LPLP20150703131)or changes to the law fully reflect the basic elements of the Public Sector and Public Service Inventions Directive in 2014 and create an effective framework to support the conclusion and implementation of public contracts in a competitive environment.

2) All secondary legislation, model documents and standard forms required for implementation of [Law no.131 of 3 July 2015](lex:LPLP20150703131)shall be reviewed / amended and approved.

**Possible areas of EU assistance / international donors**

Possible areas of EU assistance / international donors are as follows:

1) Thorough assessment of[Law no.131 of 3 July 2015](lex:LPLP20150703131)in relation to 2014 EU directives.

2) Assessment of the practical implementation of [Law no.131 of 3 July 2015](lex:LPLP20150703131)existing in order to critically assess its positive and negative effects at the implementation level.

3) Elaboration of primary legislation.

4) Elaboration of secondary legislation.

**3.2.2. Stage 2 sub-Stage 2**

**Current situation with reference to the requirements of Stage 2 sub-Stage 2**

At the moment, there are no specific provisions in national legislation that deal with the utilities sector and appeals in this specific sector. Sub-Stage 2 of Stage 2 of the Legal Harmonization Process shall involve a fundamental overhaul of the existing legal framework, including the introduction of new concepts, and shall address the following provisions of the Utilities Directive and the Remedies Directive in Utilities Procurement:

1) art.1 – 16, 18 – 30, 32, 36 – 37, 39 – 42, 44 – 47, 50, 58 – 71, 73 – 76, 78 – 84 and 87 – 93 of the Utilities Directive;

2) Annexes I, V, VI A, VI B, VIII – XIV and XVI – XVIII of the Utilities Directive;

3) art.1, 2 and 2a – 2f of the Remedies Directive in utility purchases.

**Necessary measures**

Referring to the requirements of sub-Stage 2, a legal package must be in force by 1 July 2018 at the latest. This time period is less than that required by the Association Agreement, which requires that this task be completed within 5 Years after the entry into force of the Association Agreement. We have decided to advance harmonization of [Law no.131 of 3 July 2015](lex:LPLP20150703131)with the basic elements of the Utilities Directive in order to ensure the consistency and transparency of the legal provisions on public procurement. The following activities must be performed in a timely manner:

1) An in-depth analysis of the 2014 Utilities Directive shall be carried out in order to assess the potential impact on the utilities sectors to be covered by the new legislation and to avoid overlapping with [Law no.131 of 3 July 2015](lex:LPLP20150703131).

2) The best approach to regulating public procurement in the utilities sector shall be analysed as utilities rules are practically modelled according to public sector rules, except for the apparent differences between the two Directives; Many of the provisions that are equally applicable to utilities shall already be regulated in [Law no.131 of 3 July 2015](lex:LPLP20150703131)after the implementation of the Public Service Directive referred to in sub-section 1.

3) Public procurement in the utilities sector shall be regulated taking into account the need to ensure proper consultation with the entire public procurement community.

4) The secondary legislation (regulations) shall be prepared to give full effect to the law.

5) Develop and approve standard models and standard forms for public procurement announcements.

**Justification and expected results**

Purpose of the approximation sub-stage 2 is to ensure that public procurement legislation is developed in a way that creates an effective framework to support the conclusion and implementation of contracts in the water, energy, transport and postal services sectors, in line with the EU acquis on public procurement.

The impact of the legal changes that need to be implemented after the completion of the approximation subtab 2 is the following:

1) The introduction of the basic provisions of the Utilities Directive shall create a clear procurement regime for these sectors while ensuring more flexibility for contracting authorities operating in the utilities sector compared to the conventional sector;

2) Alignment with the definition of a contract is crucial as a starting point for legal consistency (the same definitions apply as in the Public Service Directive);

3) Introducing the definition of contracting authorities and relevant activities in the water, energy, transport and postal services sectors shall be crucial to identifying the scope of the law. The law shall be applicable to all utilities, whether public or private;

4) The introduction of EU thresholds (which are higher than in the Public Service Directive) shall reserve the main rules of the Utilities Directive for large contracts for which they are intended. Even greater thresholds and flexible rules shall be introduced for social services and other specific services;

5) The rules for calculating estimated acquisition values shall be critical to determining the thresholds;

6) The provisions for mixed contracts shall determine which set of rules is applicable (for the public sector or utilities); These rules shall make it more difficult to circumvent the law;

7) The notion of conflict of interest must cover at least any situation in which the members of the staff of the contracting authorities or of a procuring entity acting on behalf of the contracting authorities who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have , Directly or indirectly, a personal financial, economic or other personal interest which might be perceived as compromising their impartiality and independence in the context of the procurement procedure.

8) Contracting authorities shall have free access to open, restricted and negotiated procedures with prior invitation to tender;

9) The possibility to use periodic indicative invitations to the competition shall allow more flexibility and make the procurement system more attractive to contracting authorities;

10) Specifications shall be designed to allow for the submission of bids reflecting the diversity of technical solutions on the market, including those based on performance and functional criteria and linked to the life cycle and production process of works, supplies and services;

11) Assessing the most economically advantageous offers based on the best value for money is an essential element; More emphasis shall be put on quality elements and less on price as a single award criterion;

12) The rules on the calculation of life costs as an award criterion shall allow for the consideration of costs over the entire life cycle of a product, service or works, including external environmental effects and not just the purchase price; This approach shall facilitate the future application of environmentally sustainable and sustainable policies within the procurement system;

13) The introduction of solutions dealing with abnormally low prices shall provide contracting authorities with legal instruments to react against these prices;

14) It shall be explicitly stated in the law that the economic operator can rely on the capacity of other economic entities in order to prove the necessary capacity levels for the auction;

15) The rules on subcontracting shall allow contracting authorities to have a greater influence on subcontractors. Some of the elements of the subcontracting rules in the Directive are optional and decisions shall be made to determine whether and how such options should be used; This concern, for example, the rules on direct payments from contracting authorities to subcontractors;

16) Contracting authorities are free to choose whether to divide acquisitions into lots or award a single contract; They are not obliged to justify this decision;

17) The rules on preliminary market consultations and prior involvement shall allow contracting authorities to cooperate with the market to gather information from economic agents in order to prepare the acquisition provided they do not distort competition later;

18) The rules on changing contracts over their term shall clarify the changes allowed and those requiring a new procurement procedure;

19) Equivalent rules on appeals shall apply not only to the public sector but also to utilities.

**Measurable indicators**

1) Public procurement in the utilities sector is regulated and fully reflects the basic elements of the Utilities Directive and the Procurement Remedies Directive in 2014 and creates an effective framework to support the conclusion and implementation of contracts in a competitive environment.

2) All secondary legislation and model documents and standard forms necessary for public procurement in the utilities sector are approved.

**Possible areas of EU assistance / international donors**

The possible areas of EU assistance / international donors are as follows:

1) A thorough analysis of the Utilities Directive 2014 in order to assess the potential impact on the utilities sector to be regulated.

2) The best approach to regulating procurement in the utilities sector shall be analysed as the utility rules are practically modelled by public sector rules.

3) Development of secondary legislation.

**3.2.3. Stage 2 sub-Stage 3**

Most of the provisions of the 2004 Public Service Directive - which must be harmonized at this stage - have already been foreseen in [Law no.131 of 3 July 2015](lex:LPLP20150703131). However, the 2014 Public Service Directive improves the formulation of several articles foreseen in the previous Directive and, in addition, adds more clarifications and even additional rules for different stages of the procurement process. Approaching the elements of the 2014 Public Service Directive shall require careful consideration of all these peculiarities and appropriate adjustments of the existing provisions. This shall be the scope of sub-stage 3 Stage 2.

Sub-Stage 3 of the Legal Harmonization Process shall focus on the following provisions of the Public Service Directive and the Remedies Directive:

1) art.2,point 21,paragraph (1), point 22,paragraph (1), point 26 paragraph (3) the second alternative ofparagraph (4), art.30, 31, 33 – 36, 38, 50,paragraph (2) and (3),and point 78-82 of the Public Service Directive;

2) Annexes V and VI of the Public Service Directive;

3) art.2 b first paragraph, letter c), art.2 d first paragraph, letter c) andparagraph (5) of the Remedies Directive in the public sector.

Elements of the Public Service Directive which are not mandatory but recommended for harmonization:

1) art.2 paragraph (14) and (16),and art.37 of the Public Service Directive;

2) art.20 and 77 of the Public Service Directive;

3) art.64 of the Public Service Directive.

**Justification and expected results**

Referring to the requirements set out in Sub-stage 3, a legal envelope must be in force by 1 July 2018 at the latest. One of the objectives of Stage 2 approximation sub-stage 3 is to ensure that public procurement legislation is improved by introducing additional elements Mandatory Public Service Directives and the Public Service Appeals Directive. Moreover, there shall be an approximation opportunity with some optional elements of the Public Service Directive, which are not mandatory but recommended. Once this stage is achieved, alignment with public sector norms shall be completed.

The impact of the legal changes that shall take place after the finalization of the approximate subtab 2 is the following:

1) The introduction of the competitive dialogue procedure shall offer more possibilities to identify the solution or solutions that are capable of meeting the needs of contracting authorities;

2) The Innovation Partnership procedure shall allow contracting authorities to select partners on a competitive basis and require them to develop an innovative solution tailored to their requirements. Competitive stage shall take place at the beginning of the procedure when the most appropriate partner (s) is selected based on skills, abilities and price; Partner (s) shall develop the new solution, as necessary, in collaboration with contracting authorities. This phase of research and development can be divided into several stages, where the number of partners can be gradually reduced, depending on whether they meet predetermined criteria; The partner shall then offer the final solution (the commercial phase);

3) Framework agreements have a major potential to simplify procurement processes and to achieve savings in both acquisition costs and time spent in the procurement process. Generally speaking, framework agreements are excellent tools for use when a contracting authority has repetitive or periodic needs over time and has difficulties in determining the exact value or volume for the total contract;

4) The introduction of occasional ad hoc acquisitions shall result in more coordination possibilities between contracting authorities; It may take many different forms - contracting authorities may jointly carry out a procurement procedure, acting together or entrust the management of the procurement procedure to a contracting authority on behalf of all the contracting authorities;

5) Further development of e-Procurement tools and techniques (e-Auction, Dynamic Procurement and Electronic Catalogues) are complementary tools for routine procedures and could be good tools for diversifying the options available to contracting authorities for better results During the procurement process;

6) The alignment of the project competition rules should not impose further difficulties in the approximation process, as this procedure is already foreseen in the [Law no.131 of 3 July 2015](lex:LPLP20150703131);

7) Centralized procurement activities and centralized procurement bodies are optional elements in the context of harmonization. As these tools can deliver better service, increase purchasing power for the centralized agency, and significant cuts in the prices of goods and services, the development and increased use of centralized procurement and centralized procurement, especially at local level;

8) Reserved contracts are optional elements for approximation; It shall determine how useful they are in the national context;

9) Official lists are optional elements, but since there are many similarities to the current concept of *List of qualified economic agents*, this item shall be considered as the basis for updating the list.

**3.3. Stage 3**

**Current situation with reference to Stage 3 requirements**

This stage includes mandatory requirements for the Concessions Directive:

1) art.1 – 8, 10 – 14, 17 – 23 and 25 – 44 of the Concessions Directive;

2) Annexes I – XI of the Concessions Directive;

3) art.1, 2 and 2a – 2f of the Remedies Directive, including amendments approved by the Concessions Directive.

Optional elements:

art.24 of the Concessions Directive.

**Necessary measures**

Referring to the requirements set out in Stage 3, the legal concession package should enter into force by 1 July 2018 at the latest. The following activities need to be carried out in a timely manner:

1) A thorough analysis of the Concessions Directive 2014 shall be carried out in order to assess the potential impact of the new legislation.

2) The best approach to regulating concessions shall be considered and the most appropriate option shall be chosen that fits the national administrative and legal tradition in Moldova.

3) Draft amendments to the existing[Law no.131 of 3 July 2015](lex:LPLP20150703131)and a Specific Law on concession contracts shall be drafted in due time, taking into account the need to ensure proper consultation with the entire procurement community:

a) Preparing the first draft law;

b) Publishing the draft law on the website of the Public Procurement Agency and starting the public debate and consultations with stakeholders;

c) Preparing the final draft law;

d) Approval by the Government;

e) Approval by the Parliament.

4) The secondary legislation (regulations) shall be ready to give full effect to the amended [Law no.131 of 3 July 2015](lex:LPLP20150703131)and the Law on Concession Contracts.

5) Elaboration and approval of standard models and forms for public procurement announcements and concessions.

The objective of Stage 3 approximation is to ensure that national legislation contains appropriate rules in line with the provisions of the Concessions Directive. The regulation of concessions as a separate category of a public contract is an important step in order to allow better use of concessions as a vehicle for private sector involvement in public projects, especially in sectors affecting citizens' quality of life, such as roads Including motorways) and rail transport, airport services, waste management, energy and heating services, leisure facilities or car parks. Even though the Concessions Directive does not provide for specific procedures to be followed in the award of a concession from the point of view of public procurement, it would seem to make sense to harmonize the procedures available to award concessions with those available for the award of public contracts.

The impact of the legal changes that shall take place after the completion of the approximation stage 3 shall be as follows:

1) The introduction of mandatory provisions of the Concessions Directive shall create a special procurement regime for contracting authorities to award concession contracts;

2) Alignment to the definition of a concession is crucial as a starting point for consistency with [Law no.131 of 3 July 2015](lex:LPLP20150703131);

3) The introduction of the EU threshold shall reserve the main rules of the Concessions Directive for large contracts for which they are intended;

4) The introduction of rules lower than the EU threshold is necessary to complete the award rules for equal concessions or beyond the EU threshold. Lower rules than the EU threshold shall introduce a simpler regime that would be more proportionate to small value concessions but shall not include deviations from the principles of transparency, non-discrimination and equal treatment;

5) Clear award rules for concession contracts have a significant potential to mobilize private capital and skills to complement public resources and allow new investment in infrastructure and public services without increasing public debt;

6) The unification of available review procedures and appeals for public procurement and concessions shall ensure legal consistency and legal certainty for economic operators;

7) The existing unclear concession rules shall be reviewed as part of the implementation of the Concessions Directive.

**Measurable indicators**

1) The amended[Law no.131 of 3 July 2015](lex:LPLP20150703131)fully reflects the outstanding elements of the 2014 Public Service Directive and the Public Service Appeals Directive and supports an effective framework for implementing public contracts in a competitive environment.

2) The new Law on Concession Contracts fully reflects the elements of the 2014 Concessions Directive and creates an effective framework to support concluding and implementing concession contracts in a competitive environment.

3) All secondary legislation, model documents and standard forms required for the implementation of [Law no.131 of 3 July 2015](lex:LPLP20150703131)are revised / amended, approved and promulgated.

4) All secondary legislation, model documents and standard forms required for the implementation of the Law on Concession Contracts are approved and promulgated.

**Possible areas of EU assistance / international donors**

Possible areas of EU assistance / international donors are as follows:

1) A thorough analysis of the Concessions Directive 2014 in order to assess the potential impact of the new legislation.

2) An analysis of different concession options to choose the best approach for Moldova.

3) Elaboration of the primary legislation.

4) Elaboration of the secondary legislation.

**3.4. Stage 4**

**The current situation with reference to Stage 4 requirements**

Currently, there are no specific provisions in national legislation that deals with the utilities sector or the remedies in this specific sector. In the present phase, after the completion of the 2nd phase of the legal harmonization process, when the basic elements of the Utilities Directive and the Utilities Revenues Directive should already be implemented, Stage 4 of the legal harmonization process shall focus on:

Additional mandatory elements of the Utilities Directive and the Remedies Directive in utility purchases:

1) art.2 point 17, 16, 44, 48-54, 56, 70, 77, 79 and 95-98 of the Utilities Directive;

2) Annexes VII, XIX and XX of the Utilities Directive;

3) art.2 b, first paragraph, letterc) andparagraph 5 of the Remedies Directive in utility purchases.

Optional elements of the Utilities Directive:

1) art.2 and 55 of the Utilities Directive;

2) art.38 and 94 of the Utilities Directive.

**Necessary measures**

Referring to the requirements of Stage 4, a modified public procurement law in the Utilities Sector should enter into force by 1 July 2018 at the latest. The following must be done in a timely manner:

1) A draft amendment to the Law on Public Procurement in the utilities sector is being drafted in due time, taking into account the need to ensure proper consultation with the entire procurement community:

a) Preparing the first draft law;

b) Publishing the draft law on the website of the Public Procurement Agency and starting the public debate and consultations with stakeholders;

c) Preparing the final draft law;

d) Approval by the Government;

e) Approval by the Parliament.

2) The secondary legislation (regulations) is prepared to give full effect to the Amended Law.

3) Elaboration and approval of standard models and forms.

**Justification and expected results**

The purpose of the final approximation stage 4 is to ensure that public procurement legislation is improved by introducing new mandatory elements of the Utilities Directive and the Remedies Directive into the procurement of utilities. Moreover, there shall be an approximation opportunity with some optional elements of the Directive that are not mandatory but recommended. Once this stage is in place, alignment with utilities rules shall be completed.

The impact of the legal changes that shall take place after the completion of the approximation stage 4 shall be as follows:

1) The introduction of the competitive dialogue procedure shall offer more possibilities for choosing the most appropriate tender procedure for very complex contracts; The rules are the same as those of the Public Service Directive, except that there are no specific conditions for using the competitive dialogue;

2) The Innovation Partnership procedure shall allow contracting authorities to select partners on a competitive basis and develop an innovative solution tailored to their requirements (the same rules apply as in the Public Service Directive);

3) The introduction of framework agreements shall simplify procurement processes and lead to savings both in terms of public procurement costs and time spent on procurement; Only the basic principles for awarding contracts based on framework agreements (without details of the procedure as in the Public Service Directive) are defined; The maximum duration of the framework agreements is 8 years (4 years in the Public Service Directive);

4) The introduction of qualification systems shall allow additional flexibility for utilities operators, including the possibility of limiting offers only from tenderers enrolled in the qualification system. A qualification system is a system in which economic operators interested in signing a contract with contracting authorities may apply for registration as potential suppliers. The contracting authorities shall then register the economic operators qualified in the system. Registered economic operators form a community from which contracting authorities may attract those operators who are invited to tender or negotiate contracts;

5) The introduction of occasional ad hoc acquisitions shall result in more coordination possibilities between contracting authorities (the same rules as in the Public Service Directive);

6) The further development of e-Procurement instruments and techniques (e-Procurement, Dynamic Procurement and Electronic Catalogues) as a complement to the usual procedures should not impose further difficulties as they are already complied with in the public sector;

7) The alignment of the project competition rules should not impose further difficulties, as the similar procedure is already used under the current law (the same rules as in the classical sector);

8) The amendments to the remedies relating to the alignment with the Utilities Remedies Directive shall address the remaining provisions;

9) Centralised procurement activities and centralized procurement bodies are optional elements in the context of harmonization. As these tools can deliver better services, increase purchasing power for the centralized agency, and significant price and service price cuts, the further development and increased use of centralized procurement and centralized procurement in the utilities sector;

10) Reserved contracts are optional elements for approximation; It shall determine how useful they are in the national context.

**Measurable indicators**

1) [Law no.131 of 3 July 2015](lex:LPLP20150703131)as amended in the utilities sector, fully reflects the outstanding elements of the 2014 Utility Directive and the Remedies Directive in utilities procurement and supports an effective framework for implementing public contracts in a competitive environment.

2) All secondary legislation, model documents and standard forms required for the implementation of [Law no.131 of 3 July 2015](lex:LPLP20150703131)are revised / amended, approved and promulgated.

**Possible areas of EU assistance / international donors**

Possible areas of EU assistance / international donors are as follows:

1) Developing the primary legislation;

2) Developing the secondary legislation.

**IV. INSTITUTIONAL SETUP**

**The current situation**

The fundamental institutional framework for public procurement exists in Moldova, and the current structure is a basis for starting the reform process. However, institutional reforms are needed. The Ministry of Finance and the Public Procurement Agency are empowered, according to the law, to fulfil the key functions of the public procurement system. In practice, many of these functions are not adequately met. One of the signs of poor policy-making and coordination functions is the significant delay in approving this Strategy that should have been developed within nine months of the entry into force of the Agreement, i.e. by 1 June 2015.

First of all, the policy functions of the Ministry of Finance and the Public Procurement Agency should be strengthened in order to ensure the elaboration of coherent public procurement policies, to facilitate and coordinate the implementation of the Association Agreement and to guide the process of gradual harmonization with EU legislation (art. 270 paragraph (2) letter a). The Ministry of Finance must be able to effectively coordinate policy and legislation development and oversee the institutions empowered to implement the system at central level.

Secondly, the Public Procurement Agency is the governing body of the electronic procurement system, providing training to institutions and organizations, participating in negotiations with the European Union and international organizations, coordinating the necessary dialogue with all stakeholders (including civil society and the business).

Thirdly, there are contracting authorities. Their number, approximately 4300, is very high and the effectiveness of this solution is questionable.

Fourth, the National Agency for Complaints Settlement is still not operational. This is another example of a delay in institutional reform.

**General objectives of the reform**

The Ministry of Finance must be well prepared to lead the overall design of public procurement policies and the general legal and institutional framework for public procurement. To properly perform this function, the Public Procurement Unit of the Ministry needs to be significantly strengthened.

Current capabilities of the Public Procurement Agency are largely consumed by legal compliance checking by the contracting authorities. This is a very resource-intensive task that cannot provide real benefits - the thorough and thorough verification of all documents is not simply feasible, given the very large number of procedures (documents) subject to review.

From this perspective, it shall need to gradually shift from a full control approach to a selective one to limit serious violations of public procurement rules such as fraud, corruption, conflict of interest and other serious irregularities in procurement.

The Agency needs to focus its efforts on general public procurement support (see below chapter on capacity building).

Developing a comprehensive procurement monitoring system shall be a very important tool in the coming years to assess how the public procurement system develops in its entirety and the direction in which it moves. The monitoring system shall be real support for:

1) Identifying the need for any changes to the system;

2) Setting short and long-term priorities and assessing whether they have been achieved;

3) Analysis of the potential effects of alternative solutions;

4) Providing guidance on purchasing policy and making implementation decisions;

5) Providing relevant information for decisions made by other decision makers.

Collecting the data necessary to perform the monitoring function can be provided by means of technical installations provided by the electronic purchasing system. This shall also be an important improvement in the level of transparency of the public procurement system.

In addition, transparency can be improved by providing economic operators with various tools to identify business opportunities, such as search engines in the electronic purchasing system and online alert notification. This shall also help to improve the competitive environment, especially for small and medium-sized enterprises.

The publication of the National Agency for Complaints Settlement decisions on its website is an effective tool to help its members ensure the institution's increasing consistency with previous resolutions issued in similar cases and to avoid contradictory decisions in interpreting the law.

Moreover, it could also serve as a valuable tool for sharing its experience with other key stakeholders review the system. Contracting authorities and economic operators shall benefit from this excellent way of promoting solutions to various complaints solved by the institution and its interpretation of the various issues faced by the procurement system.

Easy access to relevant data is required to increase the efficiency of the "sharing" mechanism and to allow quick search for cases that meet certain criteria. For this reason, publishing the decision in a raw form (for example, a PDF document) would not be sufficient to guarantee consistent interpretation and law enforcement. It would be difficult for public procurement practitioners to quickly find solutions to legal issues, as reflected in these individual decisions, without reading all.

It is of the utmost importance that staff appointed to carry out various key public procurement functions within the central institutions acquire sufficient knowledge of EU procurement legislation and the provisions of the WTO Agreement on Government Procurement.

To this end, training for staff of the Public Procurement Agency and the National Agency for Complaints Settlement shall be mainly organized within the available technical assistance programs of foreign donors, focusing on the EU legal framework and practices, covering also the Court of Justice's rulings Of the European Union on public procurement. The better the staff shall be prepared in this respect, the easier it shall be for them to "pass" from the old rules to the new requirements of the law. Their skills and knowledge shall then be transferred to the contracting authorities in a more appropriate way.

**Necessary measures**

**III and IV quarter 2016 measures**

To ensure the functionality of the National Agency for Complaints Settlement as soon as possible, a set of urgent measures needs to be completed in a very short period of time:

1) Selection and appointment of councillors (members of the National Agency for Complaints Settlement);

2) Recruitment of support staff of the National Agency for Complaints Settlement;

3) Providing the necessary budget for this year, allocating a building / premises, equipment and furniture, telecommunication connections and the Internet for the new review body;

4) Preparing and adopting a necessary regulatory framework for the establishment and operation of the National Agency for Complaints Settlement (including internal rules of procedure);

5) Creating a website of the National Agency for Complaints Settlement, including an online searchable database of its decisions.

The Ministry of Finance shall continue to play a leading role as a public procurement policy maker, but its capabilities need to be strengthened to enable it to lead the full reform of public procurement in Moldova.

**Measures after Quarter III 2016**

1) Follow-up training for the Public Procurement Agency and the National Agency for Complaints Settlement.

2) The Public Procurement Unit within the Ministry of Finance shall be strengthened.

3) Thorough analysis and review of the Agency's current functions in order to determine which functions should be removed or transferred to other institutions and which should be strengthened.

4) Assessing the Public Procurement Agency's function of overseeing public procurement in order to weigh the benefits of the *ex-ante* approval and registration function over the burdens it entails and to analyse alternative ways of ensuring effective, legal, economical and effective procurement, Especially in the case of high value contracts.

5) Based on the results of the analysis and evaluation - reorganizing the current structure of the Public Procurement Agency in order to focus on the ex-ante control function only for major and risk-prone contracts and avoiding serious violations of public procurement rules; More emphasis shall be put on counselling and training functions.

6) A first set of procurement indicators shall be prepared to allow monitoring of the public procurement system. The evolution / trend of these indicators shall be carefully followed and analysed by the Public Procurement Agency over the years to assess the performance and efficiency of the public procurement system.

7) The powers of the administrative litigation courts to deal with public procurement cases need to be strengthened and more opportunities should be offered to members of the judiciary to participate in training specific to public procurement.

**Measurable indicators**

1) The National Agency for Complaints Settlement is fully operational: counsellors are appointed, auxiliary staff are employed. The staff was properly trained. Budgetary resources for the last quarter of 2016 are secured. The agency is equipped with appropriate headquarters and office equipment. The National Agency for Complaints Settlement is fully functional, including the tools for publishing Agency decisions in a search format.

2) A minimum set of indicators for the review process is defined for the periodic reports of the National Complaints Board. Periodic (quarterly / yearly) reports from the Agency should systematically describe and analyse statistical data and trends. Potential indicators include:

a) The cost of submitting a contest (for economic operators), in relation to the value of the contract;

b) The average duration of actual processing of appeals compared to legal requirements;

c) The number of cases where the actual processing time exceeded the maximum legal requirements;

d) The number of appeals filed against the number of published auctions / purchases launched;

e) The number of appeals filed by foreign economic operators;

f) Weight of approved / refused appeals;

g) The weight of the National Agency for Complaints Settlement decisions contested in the judiciary;

h) The popularity of the National Agency for Complaints Settlement (number of visitors).

3) The staff of the relevant institutions participated in at least one workshop / workshop focused on the legal framework and international practice.

4) The structure of the Public Procurement Agency is redesigned in order to improve the overall management functions of the public procurement system as a whole.

5) A minimum set of procurement indicators (based on the SIGMA methodology) is defined and the annual reports prepared by the Public Procurement Agency contain analyses of the characteristics and trend resulting from the statistics. Potential indicators include:

a) The number / value of procurement procedures published and / or launched during a given period (market size, competitiveness and market opening), broken down by type of procedure used and by type of contract (goods, services, works);

b) The number / value of procurement procedures completed by the conclusion of a contract during a given period in relation to the number / value of cancelled procurement procedures during the same period (system efficiency);

c) The average time between the publication of the contract notice and the conclusion of the contract (system efficiency), broken down by type of procedure used and type of contract;

d) The difference between the estimated value and the value of the contract awarded, broken down by type of procedure used and type of contract;

e) The number of tenders submitted in a given procedure (the competitiveness of procurement procedures), broken down by type of procedure used and types of contracts;

f) the number of rejected offers in the procurement process and the reasons for it;

g) the types of award criteria used by the contracting authorities;

h) number / value of contracts awarded to foreign companies;

i) the number / value of the contracts awarded to SMEs;

j) the weight of the contracts not executed on time;

k) the weight of terminated contracts and the reasons therefor.

6) The electronic purchasing system is able to provide reports / statistical data in accordance with the needs of the Public Procurement Agency and reporting requirements under the WTO Public Procurement Agreement.

7) The electronic procurement system is being developed to provide adequate search tools for easier identification of auctioning opportunities and the provision of online alert notifications to interested economic operators.

8) A set of qualitative indicators (based on the SIGMA methodology to assess the implementation of public administration principles) defined and monitored in order to assess the quality of public procurement legislation and its level of harmonization with EU requirements:

a) The extent to which the legislation on public procurement (primary and secondary) is complete;

b) The level of compliance of the legislation on public procurement (primary and secondary) with the *EU acquis*;

c) The level of harmonisation between public procurement regulations and other regulations, in particular on public finance management (budget planning and execution) and administrative procedures;

d) The nature and extent of public consultations during the procurement process;

e) The existence of legal and practical barriers for foreign companies to have access to the public procurement market in Moldova (both in public procurement legislation and in other (administrative).

**Possible areas of EU assistance / international donors**

Possible areas of EU assistance / international donors are as follows:

1) Training for the Public Procurement Agency and the National Agency for Complaints Settlement.

2) Thorough analysis and review of the current Public Procurement Agency's functions.

3) Evaluation of the Public Procurement Agency's function of overseeing public procurement in order to weigh the benefits of the *ex-ante* approval and registration function.

4) Developing technical facilities of the electronic purchasing system.

5) Developing a comprehensive monitoring system for public procurement procedures.

6) Developing the National Agency for Complaints Settlement website.

7) Set up a special section of the Public Procurement Agency webpage: *Frequently Asked Questions and Answers*.

8) Publications on the new legal framework distributed to contracting authorities and economic operators.

**Institutional Changes in Stages 3 and 4**

The institutional framework must be well structured to ensure full coordination and support for public procurement and public concessions. At the end of Stage 3, the entire system shall be stable and predictable. The development of procurement techniques and e-procurement shall be completed and the expected outcome is that the level of administrative burdens shall fall significantly, and procurement procedures shall become cheaper and greener. Establishing a template for centralized procurement for some standard procurement types could provide a good basis for starting up with modern electronic means such as mandatory electronic procurement in the procurement cycle, introducing dynamic purchasing systems, electronic catalogues, etc.

At present, the Ministry of Economy and the National Council for Public Private Partnership are responsible for specific tasks related to concession supervision and public-private partnership, as well as coordination, prioritization and formulation of strategies and recommendations. However, The Ministry of Finance is responsible for general policy on public procurement, but concession law is part of the same *European acquis*. In order to ensure the consistency of legal acts, the Public Procurement Agency is the most suitable solution for the implementation of normative acts in the field of concessions.

In this context, it is essential to avoid overlapping between the tasks of the various institutions that have certain functions in the field of concessions / public-private partnership.

**Measures**

1) Clarifying the role of the Ministry of Economy, the National Council for Public-Private Partnerships, the Ministry of Finance and the Public Procurement Agency, in the field of concession contracts.

2) Training the staff of the National Agency for Complaints Settlement and Administrative Litigation.

3) Establishment of centralized local / regional and sectoral purchasing units in order to support the work of small contracting authorities.

4) The initial set of procurement indicators to allow monitoring of the procurement system shall be improved and developed.

**Measurable indicators**

1) The institutions involved in concessions have clear tasks and responsibilities, without overlapping risks.

2) The staff of the relevant institutions participated in at least one seminar / workshop focused on the legal framework and EU practices in the field of concessions.

3) A Centralized Purchasing Unit and several sectoral units are established.

4) The electronic procurement system is being developed to provide technical facilities for the use of electronic auctions, dynamic purchasing systems, electronic catalogues as well as electronic invoicing and electronic payments.

**Possible areas of EU assistance / international donors**

Possible areas of EU assistance / international donors are as follows:

1) Support in clarifying the roles of the Ministry of Economy, the National Public-Private Partnership Council, the Ministry of Finance and the Public Procurement Agency in the field of concession contracts;

2) Training the staff of the Public Procurement Agency, the National Agency for Complaints Settlement and the Administrative Courts.

**V. THE ELECTRONIC PROCUREMENT SYSTEM**

The introduction of e-procurement is one of the key components of the reform program in this area. A functional e-procurement system is one of the most effective tools to increase the transparency and efficiency of procurement procedures.

**General objectives of the reform**

The use of electronic tools and processes in public procurement shall substantially contribute to increasing transparency, combating and effectively preventing corruption in the field. Public access to all information in the system, except for those protected by law, shall be ensured. Achieving full electronic procurement processes shall lead to a reduction in the administrative burden for businesses and substantial savings, time and administrative capacity.

**Necessary measures**

**Measures in the third and fourth quarters of 2016**

Therefore, at the beginning of Stage 1, it is of paramount importance to make in-depth analyses of the best solutions / options already in operation in other countries as well as to identify the most appropriate e-procurement architecture to be implemented in Moldavia.

Irrespective of the selected implementation model, the e-Procurement Scheme / Scheme should cover the entire procurement cycle and provide the cap-and-tail functionality needed for different types of public contracts and aggregate procurement in line with the provisions of the WTO's IPA EU directives.

The development of the electronic purchasing system should not only allow the publication of procurement notices but should create interactive online workflows for all procurement methods. It must have search engines to increase the transparency of procurement and ensure better access for SMEs to public procurement opportunities.

The electronic procurement system must be able to collect and process in real time the information included in the notices and generate reports / statistical data in accordance with the needs of the Public Procurement Agency and other public institutions and the reporting requirements of the WTO Agreement on Public Procurement. This information shall be used to monitor the procurement system as a whole, but also to ensure efficient planning and enforcement mechanisms. As a result, an important effect of implementing this process shall be to efficiently collect reliable statistical information on the procurement market, assisting ex-post auditing and control processes, and increasing public confidence in the system.

The electronic procurement system must be configured to allow e-communication and full electronic submission of documents, as these requirements become mandatory starting with Stage 2.

**Measures after Quarter IV 2016**

1) Develop the technical facilities of the electronic purchasing system in order to be able to collect and process the information included in the announcements and generate reports / statistical data in accordance with the needs of the Public Procurement Agency.

2) Developing specific search engines within the electronic procurement system to identify easier bidding opportunities and historical information using different types of filters (e.g. contract type, contract object, contract value, contracting authority, type of procedure etc..).

3) Develop an online alert notification system (*Business opportunities alert*) for economic operators registered in the electronic purchasing system.

4) Developing an Internet-based search engine to allow navigation through the content of the National Agency for Complaints Settlement.

5) Ensure the possibility to use the electronic “self-declaration” tool (which shall be similar to the Single European Document for Procurement - ESPD). This shall facilitate the participation of small and medium-sized enterprises and shall ultimately lead to increased competition and better conditions for all authorities / entities.

6) Electronic auctions, dynamic purchasing systems, electronic catalogues are other tools to increase the transparency and efficiency of the procurement system, and the use of such methods must be supported by appropriate technical facilities.

7) E-Invoicing, other e-Commerce services (such as e-payments) and e-Government services (authentication, signature) must be embedded or interoperable with the e-Procurement Central Platform.

The development of the electronic procurement system must be approached as a unitary and coherent project, although different components can be developed in successive stages.

**E-Procurement in Stages 3 and 4**

1) Developing a special section / module in the electronic procurement system for organizing electronic auctions as a final stage of an open, restricted and competitive negotiated procedure as a means of re-opening competition between the parties to a framework agreement and opening competition for contracts Are to be assigned to the dynamic purchasing system.

2) Development of a special section / module in the electronic procurement system for the initiation and operation of dynamic purchasing systems.

3) Development of a special section / module in the electronic procurement system for the initiation and operation of electronic catalogues.

4) Integration of the electronic purchasing system with electronic invoicing and electronic payments.

**Measurable indicators**

In short, at least the following functions are expected to be secured at the end of the implementation process:

For contracting authorities:

a) registration in the electronic procurement system;

b) uploading and publishing the annual public procurement plan;

c) publication of changes to the annual procurement plan during the year;

d) online completion of standard ad formats;

e) publishing all types of ads;

f) publishing online auction documents;

g) the publication of online clarifications / notifications before submitting bids (attached to the related advertisements);

h) processing offers, proposals and other documents submitted by economic operators;

i) online communication with bidders / candidates during the entire procurement process;

j) publication of the outcome of the tender procedure;

k) signing online contracts;

l) registration of contracts and execution management and payment schedules;

m) the publication of the contract modifications during its execution;

n) special tool for operating dynamic purchasing systems;

o) a special instrument for reverse electronic auctions as a final stage of an open, restricted and competitive procedure as a means of re-opening competition between the parties to a framework agreement and the opening for competition of the contracts to be awarded under the scheme Dynamic purchasing;

p) Special tool for operating electronic catalogues;

q) e-Billing;

r) e-Payments.

For economic agents:

a) registration in the electronic procurement system;

b) search engine to identify business opportunities;

c) online alerts based on the search profile or specific requests;

d) unrestricted online access to public procurement plans;

e) unrestricted online access to bidding documents;

f) communicating online with contracting authorities to request additional information and / or clarifications on the published tender documents;

g) Electronic presentation of documents and automatic confirmation of the successful presentation;

h) Online communication with contracting authorities throughout the procurement process;

i) online access to the publicity of the tenders for the state seized goods and auctioned;

j) access to participate in competitions organized within dynamic purchasing systems;

k) access to participate in electronic auctions.

For regulators and control bodies:

a) registration in the electronic procurement system;

b) unrestricted online access to all public procurement information and documents processed in the e-Procurement system;

c) on-line communication with all the contracting authority and the economic operators participating in the tender.

For the general public:

a) unrestricted online access to procurement plans, notices and tender documents published by the contracting authorities;

b) search engine to identify certain auctions / purchase information;

c) unrestricted online access to general statistical reports on public procurement.

**Possible areas of EU assistance / international donors**

Possible areas of EU assistance / international donors are as follows:

1) support for a thorough analysis of the best solutions / options already in use in other countries as well as for identifying the most appropriate architecture for e-procurement to be implemented in Moldova;

2) developing a modern electronic public procurement system.

**VI. STRENGTHENING CAPACITIES FOR**

**THE CONTRACTING AUTHORITIES AND OFFICIALS**

**INVOLVED IN PUBLIC PROCUREMENT**

Enhance the level of professionalism of public procurement staff and capacity building of procurement operations are considered as essential functions in increasing the efficiency of any national procurement system. Lack of sufficiently qualified staff, educational programs and standardized documentation are vulnerabilities of public procurement systems in several countries. This is also true for Moldova, both for small and large contracting authorities.

An urgent problem is the organization of training sessions / workshops on the new rules foreseen by the [Law no.131 of 3 July 2015](lex:LPLP20150703131).

A National Training Program should be developed in the coming years to provide a sound basis for strengthening institutional capacity at the level of all contracting authorities and professionalising public procurement specialists. An adequate body of local trainers should be trained in the first phase and a system of multiplying / repeating seminars / workshops.

The new documents, models, standard forms and instructions are developed by the Public Procurement Agency in the next period in accordance with the needs arising from the progressive development of primary legislation and from the day-to-day practice of contracting authorities and economic operators.

**III and IV quarter 2016 measures**

Proper understanding and implementation of the rules laid down in [Law no.131 of 3 July 2015](lex:LPLP20150703131)represents a real challenge, especially in the first months of its entry into force.

An awareness campaign shall be organized after the entry into force of the law, including the publication of brochures containing the most important provisions of the new legal package, events / conferences organized to promote new provisions, press releases and advertising spots (video) intended for broadcasting through mass media, in order to give importance, values and vision to the further development of the public procurement system in Moldova.

These activities will be repeated each time an important change of legislation is made, in line with the legal harmonization requirements set out in steps 1-4.

The expected result is to reduce the number of misunderstandings, errors and / or inappropriate practices that are inherent in such a stage. Representatives of the Public Procurement Agency should also be able to discuss "face to face" with contracting authorities in order to better understand their concerns and difficulties. Based on these discussions, the need for future development of instructions and other useful document models will be identified in due course.

**Measurable indicators**

1) Publications on the new legal framework distributed to contracting authorities and economic operators.

2) Major events organized in the first three months after the entry into force of [Law no.131 of 3 July 2015](lex:LPLP20150703131).

3) On-site trainingheld by thePublic Procurement Agencyat local levelto promote and present the most important changes, news and challenges of the new legislation.

4) Contracting authorities have the opportunity to contact the Public Procurement Agency's consulting department to get quick answers on how to deal with the routine issues encountered in their activities.

**Measures of Quarter IV 2016**

1) Strengthen the counselling and help-desk function within the Public Procurement Agency by creating the possibility of online communication (a dedicated e-mail address).

2)*The green line /* TelVerde (free phone number) for all who want to get in touch with the Public Procurement Agency's advisory unit.

3) Set up a special section on the Public Procurement Agency website - *Frequently Asked Questions and Answers*, to be updated on a monthly basis with the most relevant and sensitive issues encountered by contracting authorities in the procurement process.

4) Regularly publish commentary and interpretative communications on various legal and practical aspects of public procurement.

5) Elaboration and publication of public procurement instructions on the Public Procurement Agency website.

6) Develop and publish on the website of the Public Procurement Agency a minimum set of standard contractual clauses to be included by the contracting authorities in their contracts.

7) Instructions and brochures adapted for economic operators will be developed, published and distributed in cooperation with relevant business associations.

8) Organise training sessions to help end-users benefit from easy adaptation to new e-procurement facilities.

It is expected that in the next few years the development of specific tools to increase support for contracting authorities and economic operators will help to strengthen their capabilities. Easier contact with the Public Procurement Agency's consultants will enable procurement officials to clarify / solve the minor problems they face in their day-to-day work in a very fast manner. Their efficiency will increase, and procurement procedures will be faster without unnecessary delays.

The global strategic approach should not ignore the need for a well-established plan to ensure the sustainability of the activities undertaken to strengthen the capacities of contracting authorities and public procurement officials. In this sense, the Public Procurement Agency has to prepare instructions that will not only reproduce the texts of the law but rather give practical advice on how to overcome different situations and present examples of "good and bad practices", also trying to explain the reasons behind the legal provisions and the rules.

**Measurable indicators**

1) The*Frequently Asked Questions and Answers*section ready to use on the website of the Public Procurement Agency and constantly updated.

2) Instructions and contract models are prepared and published on the website of the Public Procurement Agency and are constantly updated.

3) A set of quantitative indicators defined and monitored:

a) The number of distributed information materials;

b) The number of participants in promotional events;

c) The number of participants in training events (workshops, courses);

d) The number of users of instructions and other materials published on the Public Procurement Agency's website;

e) The number of consultations with contracting authorities and economic operators conducted by the Public Procurement Agency.

**Special measures to be implemented during the period of 2017-2019**

The development of a national training program is an essential measure in order to create an efficient, professional and highly educated state administration that will be able to respond to all the challenges ahead in the process of reforming the public procurement system. The program should be adopted annually, following needs assessment and target groups. A comprehensive program aimed at establishing a fair and coherent practice for contracting authorities will be prepared in advance and updated at any time when legal changes occur. The program will include special components for the utility sector as well as concessions.

Modules should be structured in line with developments in legal development and include, among others, topics such as:

1) the way to evaluate the estimated contract value and how to determine which rules to use for mixed contracts;

2) how to interpret exceptions to the law, in particular, "internal" exceptions;

3) different types of procurement procedures, including the conditions for their use;

4) how to use different types of technical specifications;

5) division of contracts into lots;

6) the most economically advantageous tender;

7) ecological / social performance requirements and criteria and how to calculate different costs as part of a lifecycle approach;

8) changing contracts during their implementation;

9) availability of review and redress procedures;

10) use of competitive dialogue and innovation partnership procedures;

11) the use of framework agreements;

12) how to use the dynamic purchasing system, electronic auction, electronic catalogues;

13) how to configure and use the qualification systems;

14) how to use project contests.

As a first step of this measure, it is very important to select a group of local trainers, well trained at an initial stage of trainers training (ToT). Selected trainers will be involved in the training of training materials and will ensure the rehearsal of seminars across the country.

The main purpose is to ensure that all contracting authorities have at least one or two procurement staff trained under the same programs and having access to the same information presented in a coherent manner.

The Public Procurement Agency will also make continued significant efforts to strengthen the capacities of other relevant institutions and stakeholders for full and proper implementation of public procurement rules. The focus will be on further developing cooperation and coordination in preventing and eliminating irregularities in public procurement procedures. Different forms of training and awareness will be used.

The national training program will provide the basis for a *certification system* for trainers and practitioners responsible for public procurement. Such a system will be used to provide skills in public procurement both in the public and private sectors. In addition, it will be important to use different modules, as appropriate, to raise awareness and train other officials interested in these areas, for example the Court of Accounts, the Competition Council and the National Anti-Corruption Centre.

**Measurable indicators**

Implement a national continuous training program for all contracting authorities, including the training of trainers and a system for certifying trainers and practitioners responsible for public procurement.

**Possible areas of EU assistance / international donors**

Possible areas of EU assistance / international donors are as follows:

1) Setting up a special section on the Public Procurement Agency’s website -*Frequently Asked Questions and Answers.*

2) Elaboration of guides, manuals and other publications on the new legal framework, distributed to contracting authorities and economic operators.

3) Implementing the National Training Program.

**VII. METHODS FOR EVALUATING AND MONITORING**

**THE FULFILLMENT OF THE ESTABLISHED OBJECTIVES**

In order to monitor and evaluate the implementation of the actions and sub-actions foreseen in this Strategy, the Strategic Committee is established. The Committee is headed by The Ministry of Finance and will include representatives of ministries, relevant agencies, civil society and the business community.

The Committee shall meet once every six months or whenever necessary and will produce reports that will be posted on the Public Procurement Agency's website on progress made, any specific barriers that have arisen, and specific recommendations to address the issues and Remedy any deficiencies or omissions. The Committee may appoint members to be directly responsible for carrying out certain monitoring and evaluation actions.

Annex no.2

To the Public Procurement

Development Strategy for 2016-2020

**STRATEGY DEVELOPMENT METHODOLOGY**

The implementation of this Strategy aims to increase the efficiency of the public procurement system and reduce waste, fraud and corruption, thus increasing the trust of citizens and businesses.

The strategy is also a tool for implementing the commitmentsresultingfrom*Chapter 8 – Public procurement*Title V of the EU-Moldova Association Agreement comprising Articles 268-276 and the associated Annex XXIX.

The strategy was developed in the following phases:

1) information gathering;

2) SWOT analysis;

3) risk assessment;

4) goals setting;

5) options / scenarios development;

6) options assessment;

7) consultation; and

8) elaboration.

The following methodological steps have been implemented:

**1) Information gathering and bibliography review**

The bibliography review included the assessment of:

a) legal and regulatory regime in Moldova;

b) best international practices;

c) other countries’ experience of in the implementation of public procurement systems; and

d) public procurement evaluation frameworks and their application.

**2) Situation analysis**

The analysis of the situation has taken into account the applicable legislation, the regulatory regime, the operational systems and practices used by the contracting authorities. We have also examined the risks and opportunities of different procurement approaches.

**3) Establishing and Assessing Objectives**

The most important and relevant results of the assessments and analyses carried out by SIGMA, the European Bank for Reconstruction and Development (EBRD) and the World Bank (WB) were used to establish and assess the objectives.

**4) Consultation with stakeholders**

There were carried out interviews with the contracting authorities, economic operators and NGOs, as well as the chambers of commerce and the media.

Consultation with contracting authorities focused on:

a) the role (positive or negative) of the public procurement legislation in the smooth implementation of public procurement procedures;

b) the degree of training of contracting authorities in terms of infrastructure and human resources;

c) the degree of preparation of the Public Procurement Agency as the basic stakeholder of the system;

d) the degree of preparation of the economic operators in order to comply with the public procurement regulations;

e) The quality of the information flow; and

f) the quality and relevance of the training of procurement specialists.

Consultation with economic operators focused on:

a) the extent to which the current legal framework supports the participation of companies in public procurement procedures;

b) ease of access and quality of information on public procurement;

c) the clarity of the tender procedures;

d) transparency and fairness of the assessment;

e) transparency and fairness of the review procedure;

f) effectiveness of contract implementation; and

g) the need for training in the public procurement.

The results of the above information as well as the main axes of this Strategy were presented and discussed in three workshops dedicated to the Strategy.

**5) Strategy development**

The information, data, proposals and opinions collected were analysed for:

a) to establish the objectives of the Strategy; and

b) Develop alternative options, appreciate and evaluate alternative options before developing the Strategy.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Annex no.3  To the Public Procurement  Development Strategy for 2016-2020  **Cost estimation**    The estimated costs required to finance the implementation of the Strategy are presented below. Implementation costs will be covered from:  1) allocations from the State Budget within the limits set in the Medium-Term Budgetary Framework (MTBF) and the annual budget law;  2) grants from international partners.    **Estimated costs for implementing the Strategy (MDL million**) | | | | | | | | |
|  | **2016** | **2017** | **2018** | **2019** | **2020** | **Total** | **Including allocations:** | |
| **From the State Budget** | **from Grants** |
| Creating and Enhancing the Functionality of the National Agency for Complaints Settlement | 1.2 | 3.5 | 3.7 | 3.7 | 3.7 | **15.8** | *15.8* | *-* |
| *including running costs* | *-* | *3.5* | *3.7* | *3.7* | *3.7* | *14.6* | *14.6* |  |
| Legal reform on public procurement | 0.3 | 0.8 | 0.3 | 0.3 | 0.2 | **1.9** | *-* | *1.9* |
| Reforming and ensuring the functionality of the Public Procurement Agency | 4.5 | 4.5 | 3.7 | 3.8 | 4.0 | **20.5** | *20.5* | *-* |
| Develop and ensure the functionality of the e-Procurement system | 0.4 | 10.8 | 6.5 | 2.2 | 2.2 | **22.1** | *7.0* | *15.1* |
| *including running costs* | *-* |  | *2.2* | *2.2* | *2.2* | *6.6* | *6.6* |  |
| Capacity building of contracting authorities (seminars, e-Learning system, certification) | 0.6 | 0.8 | 0.6 | 0.4 | 0.4 | **2.8** | *2.0* | *0.8* |
| **Total** | **7.0** | **20.4** | **14.8** | **10.4** | **10.5** | **63.1** | ***45.3*** | ***17.8*** |
| *Of which* |  |  |  |  |  |  |  |  |
| *allocations from the State Budget* | *5.6* | *8.1* | *11.2* | *10.1* | *10.3* | ***45.3*** | *X* | *X* |
| *Grants from international partners* | *1.4* | *12.3* | *3.6* | *0.3* | *0.2* | ***17.8*** | *X* | *X* |

Annex no.2

to Government Decision

no.1332 of 14 December 2016

**THE ACTION PLAN**

**On the implementation ofthe 2016-2018** **Public Procurement Development Strategy**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Ord. no.** | **Name of the actions** | **Implementing officers** | **Timetable set out in the Association Agreement** | **Deadline** | **Financing** | **Expected results** | **Progress indicators** |
| **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** |
|  | **Stage 1** | | | | | | |
| 1. | Ensure that legislation is aligned with the basic standards governing contract award and institutional framework | The Ministry of Finance | Nine months after the entry into force of the Association Agreement | Quarter IV, 2016 | The State Budget | The national legislation is compatible with the basic standards laid down in Article 271 of the Association Agreement | Amendments to[Law no.131 of 3 July 2015](lex:LPLP20150703131)on public procurementapproved by the Parliament and published in the Official Gazette of the Republic of Moldova 10 regulations approved by the Government and published in the Official Gazette of the Republic of Moldova  6 standard documents approved and published in the Official Gazette of the Republic of Moldova |
| 2. | Develop the legal framework for the establishment of an independent review body | The Ministry of Finance | Nine months after the entry into force of the Association Agreement | Quarter IV, 2016 | The State Budget, The European Bank for Reconstruction and Development | The fully independent review body - National Agency for Complaints Settlement –designated by [Law no.131 of 3 July 2015](lex:LPLP20150703131)and the legal provisions ensure that it is created urgently | Amendments to[Law no.131 of 3 July 2015](lex:LPLP20150703131)approved by the Parliament and published in the Official Gazette of the Republic of Moldova Regulation on the establishment and operation of the National Agency for Complaints Settlement, approved and published in the Official Gazette of the Republic of Moldova |
| 3. | Ensuring the National Agency for Complaints Settlement functionality | The Ministry of Finance | Nine months after the entry into force of the Association Agreement | Quarter IV, 2016 | The State Budget, The European Bank for Reconstruction and Development | The requirements of art. 270 (2) letter b) of the Association Agreement are fulfilled - National Agency for Complaints Settlement is fully functional | Budget resources allocated to the National Agency for Complaints Settlement |
| 4. | Functional review and reorganization of the internal structure of the Public Procurement Agency | The Ministry of Finance, Public Procurement Agency | Nine months after the entry into force of the Association Agreement | Quarter IV, 2016 | The State Budget | Counselling and Training Functions of the Enhanced Public Procurement Agency | Functional review completed at the end of November 2016 Structure of the Public Procurement Agency redesigned by the end of December 2016 |
| 5. | Strengthen the capacity of the policy unit within the Ministry of Finance | The Ministry of Finance | Nine months after the entry into force of the Association Agreement | Quarter IV, 2016 | The State Budget | The Ministry of Finance is better able to fulfil its role as policy maker in public procurement | Enhanced policy unit |
| 6. | Elaboration of a set of macro-monitoring indicators for acquisitions, on the basis of which are analysed the functioning of the public procurement system in Moldova and included in the annual reports | The Ministry of Finance, Public Procurement Agency | Nine months after the entry into force of the Association Agreement | Quarter II, 2017 | The State Budget | The monitoring function of the Public Procurement Agency is being developed by providing the basis for introducing a system for measuring the performance of public procurement | Set of Defined Buying Indicators  The Annual Report 2017 contains an analysis of the characteristics of the public procurement system resulting from the statistical data |
| 7. | Further development of the centralised procurement, framework contracts, sector procurement instructions and structures with new responsibilities | The Ministry of Finance, Public Procurement Agency | - | Quarter II, 2017 | The State Budget, International donors | Introduce the necessary guides, functions and contracting authorities to carry out the new tasks | Structures created  Number and categories of purchases made centralized |
| 8. | Develop the technical facilities of the electronic purchasing system to be able to collect and process the information included in the announcements and generate reports / statistical data in accordance with the needs of the Public Procurement Agency | The Ministry of Finance, Public Procurement Agency | - | Quarter I, 2018 | The State Budget, EU funds, The European Bank for Reconstruction and Development | The monitoring function of the Public Procurement Agency is supported by modern technologies | The Automated Information System (e-Procurement System) capable of generating reports / statistical data in accordance with the needs of the Public Procurement Agency Applicable Regulations |
| 9. | Develop a web search engine to allow navigation through the content of the National Agency for Complaints Settlement | National Agency for Complaints Settlement | - | Quarter IV, 2017 | The State Budget | Quick access to relevant data contained in National Agency for Complaints Settlement as a valuable tool to share the review body's experience with other key stakeholders in the system | The website of the National Agency for Complaints Settlement contains a database of decisions, including easy-to-use search facilities for individual legal issues and relevant interface solutions |
| 10. | Organising training forthe Public Procurement Agencyandthe National Agency for Complaints Settlementafter the harmonization of legislation with the basic standards governing the award of contracts and the institutional framework | The Ministry of Finance, Public Procurement Agency, National Agency for Complaints Settlement | - | Quarter IV, 2017 | International donors | Personnel assigned to carry out key public procurement functions within central institutions shall gain more knowledge about EU legislation and practice in the field of procurement (including the judgments of the Court of Justice of the European Union) | Number of staff from relevant institutions who participated annually in at least one workshop / workshop focused on EU legal framework and practice |
| 11. | Organising training for contracting authorities and economic operators after harmonizing legislation to the basic standards governing contract award and institutional framework | The Ministry of Finance, Public Procurement Agency | - | Quarter II, 2017 | The State Budget, International donors | Proper understanding and implementation of the new rulesin the first months after the entry into force of the[Law no.131 of 3 July 2015](lex:LPLP20150703131) | On-site trainingheld annually de Public Procurement Agency, at local level, ensuring a local event in each districtPrinted and distributed brochures |
| 12. | Setting up a Help Desk contact point | Public Procurement Agency | - | Quarter IV, 2016 | The State Budget | The contracting authorities shall be able to contact the Public Procurement Agency's consultancy department by e-mail and telephone to get quick answers on how to deal with routine issues encountered in their activities | Email and TelVerde phone line available to the public |
| 13. | Setting up a special section on the Public Procurement Agency’s website*Frequently Asked Questions and Answers* | Public Procurement Agency | - | Quarter IV, 2016 | The State Budget | Contracting authorities shall be able to find answers to the most relevant and sensitive issues encountered in the procurement process | The Sectionof*Frequently Asked Questions and Answers*ready to use on the Public Procurement Agency website (constantly updated) |
| 14. | Elaboration of instructions after the harmonization of the legislation with the basic standards regulating the awarding of contracts and the institutional framework | Public Procurement Agency | - | Quarter IV, 2017 | The State Budget, International donors | Proper understanding and implementation of the rules by the contracting authorities | Set of instructions and contract models prepared and published on the website of the Public Procurement Agency |
| **Stage 2 Sub-stage 1** | | | | | | | |
| 15. | Ensure the approximation of legislation to the elements of the directives 2014/24/EU and 89/665/EEC (as amended by Directive 2007/66 / EC) | The Ministry of Finance | 5 years after the entry into force of the Association Agreement | Quarter IV, 2017 | The State Budget, International donors | The national legislation is fully in line with the basic elements of the 2014 Public Service Directive and the Public Service Appeals Directive | Harmonized legal framework, approved by the Parliament and published in the Official Gazette of the Republic of Moldova  Regulations approved by the Government and published in the Official Gazette of the Republic of Moldova |
| 16. | Ensure implementation of the standard format for public sector ads containing the same information as those approved by Commission Implementing Regulation (EU) 2015/1986 of 11 November 2015 | The Ministry of Finance, Public Procurement Agency | 5 years after the entry into force of the Association Agreement | Quarter IV, 2017 | The European Bank for Reconstruction and Development | The rules on transparency and advertising are respected | Standard formsfor announcementsrelated to the public sectorimplemented in the e-Procurement system |
| 17. | Creating local / regional and sectoral procurement units to support the work of the contracting authority | The Ministry of Finance, Public Procurement Agency | - | Quarter IV, 2017 | The State Budget | Better services, increased purchasing power and significant cuts in the prices of goods and services | At least 2 sectoral procurement units and three established local / regional ones |
| 18. | Developing specific search engines for the electronic procurement system to more easily identify auctioning opportunities as well as historical information using different types of filters and online alert notifications | The Ministry of Finance, Public Procurement Agency | - | Quarter I, 2018 | The State Budget, EU funds, The European Bank for Reconstruction and Development | Transparency is enhanced and the identification of tender opportunities by economic operators (especially SMEs) is easier | An electronic purchasing system that provides the right search tools for easier identification of auctioning opportunities and generates online alert notifications for developed business operators |
| 19. | Organizing training for the Public Procurement Agency and the National Agency for Complaints Settlement following the harmonisation of legislation with the basics of Directives 2014/24/EU and 89/665/EEC (as amended by Directive 2007/66/EC) | The Ministry of Finance, Public Procurement Agency | - | Quarter I, 2018 | The State Budget, EU funds | Proper understanding and implementation of the new rules in the first months after the entry into force of the[Law no.131 of 3 July 2015](lex:LPLP20150703131)on public procurement, including the 2014 requirements | Number of staff from relevant institutions who participated annually in at least one workshop / workshop focused on EU legal framework and practice |
| 20. | Implementation of the National Training Program after the harmonization of legislation with the basics of Directives 2014/24/EU and 89/665/EEC (as amended by Directive 2007/66/EC) | The Ministry of Finance, Public Procurement Agency | - | Quarter II, 2018 | EU funds | More professional public procurement | National training program implemented (training of trainers: 20 local trainers, 2000 trained people annually) |
| 21. | Developing guidelines following the harmonization of legislation with the basics of Directives 2014/24/EU and 89/665/EEC (as amended by Directive 2007/66/EC) | Public Procurement Agency | - | Quarter IV, 2018 | EU funds | Proper understanding and implementation of the rules by contracting authorities | Complete set of instructions and contract models prepared and published on the website of the Public Procurement Agency |
| 22. | Introducing the Certification System for Procurement Specialists | Public Procurement Agency | - | Quarter IV, 2018 | EU funds | More professional public procurement | Certification system implemented |
| **Sub-stage 2** | | | | | | | |
| 23. | Ensure the approximation of legislation to the elements of the directives 2014/25/EU and 92/13/EEC (as amended by Directive 2007/66/EC) | The Ministry of Finance | 5 years after the entry into force of the Association Agreement | Quarter II, 2018 | The State Budget, International donors | The national legislation is fully in line with the basic elements of the Utilities Directive and the 2014 Remedies Directive in the Utilities Sector | Harmonised legal framework, approved by the Parliament and published in the Official Gazette of the Republic of Moldova  Regulations approved by the Government and published in the Official Gazette of the Republic of Moldova |
| 24. | Ensure implementation of the standard form for the utilities announcements, containing the same information as those approved by the Commission Implementing Regulation (EU) 2015/1986 of 11 November 2015 | The Ministry of Finance, Public Procurement Agency | 5 years after the entry into force of the Association Agreement | Quarter III, 2018 | The European Bank for Reconstruction and Development | The rules on transparency and advertising are respected | Standard formsfor announcementsrelated to the utilities sector implemented in the electronic procurement system |
| 25. | Organising training forPublic Procurement Agencyand theNational Agency for Complaints Settlementon the legal framework in the utility sectors | The Ministry of Finance, Public Procurement Agency, National Agency for Complaints Settlement | - | Quarter IV, 2018 | The State Budget, International donors | Personnel assigned to carry out key public procurement functions within central institutions shall gain more knowledge about EU public procurement law (including the Court of Justice of the European Union) applicable to the utilities sector | Number of staff from relevant institutions who participated annually in at least one workshop / workshop focused on EU legal framework and practice |
| 26. | Organizing training for contracting authorities and economic operators on the legal framework in the utilities sector | The Ministry of Finance, Public Procurement Agency | - | Quarter IV, 2018 | The State Budget, EU funds | Proper understanding and implementation of the new rules in the first months after the entry into force of the[Law no.131 of 3 July 2015](lex:LPLP20150703131)on public procurement | On-site trainingheld by thePublic Procurement Agencyat local level, ensuring a local event in each district Printed and distributed brochures |
| 27. | Development of instructions for contracting authorities on procurement procedures in the utility sectors | Public Procurement Agency | - | Quarter IV, 2018 | EU funds | Proper understanding and implementation of the rules on contracting authorities | Set of instructions and model contracts tailored to the needs of contracting authorities prepared and published on the website of the Public Procurement Agency |
| **Sub-Stage 3** | | | | | | | |
| 28. | Ensure harmonization of legislation with other mandatory and optional elements of Directives 2014/24 / EU and 89/665 / EEC (as amended by Directive 2007/66 / EC) | The Ministry of Finance | 5 years after the entry into force of the Association Agreement | Quarter II, 2018 | The State Budget | National legislation is fully compatible with all mandatory elements of the 2014 Public Service Directive and the Appeals Directive | Harmonised legal framework, approved by the Parliament and published in the Official Gazette of the Republic of Moldova Regulations approved by the Government and published in the Official Gazette of the Republic of Moldova |
| 29. | Organising training forPublic Procurement Agencyand theNational Agency for Complaints Settlementon the amendments brought into force after the harmonization of legislation with other mandatory and optional elements of Directives 2014/24 / EU and 89/665 / EEC (as amended by Directive 2007/66 / EC) | The Ministry of Finance, Public Procurement Agency, National Agency for Complaints Settlement, Ministry of Economy | - | Quarter IV, 2018 | The State Budget, International donors | Personnel appointed to carry out key public procurement functions within central institutions shall gain more knowledge of EU procurement legislation (including the Court of Justice of the European Union's decisions) applicable to the utilities sector | Number of staff from relevant institutions who participated annually in at least one workshop / workshop focused on EU legal framework and practice |
| 30. | Organizing training for contracting authorities and economic operators on changes in legislation enacted after alignment with other mandatory and optional elements of Directives 2014/24/EU and 89/665/EEC (as amended by Directive 2007/66/EC) | The Ministry of Finance, Public Procurement Agency | - | Quarter IV, 2018 | The State Budget, EU funds | Proper understanding and implementation of the rules in the first months after the entry into force of the [Law no.131 of 3 July 2015](lex:LPLP20150703131) | On-site trainingheld by thePublic Procurement Agencyat local level, ensuring a local event in each district Printed and distributed brochures |
| 31. | Elaboration of instructions for contracting authorities after harmonisation of legislation with other mandatory and optional elements of Directives 2014/24/EU and 89/665/EEC (as amended by Directive 2007/66/EC) | Public Procurement Agency | - | Quarter IV, 2018 | EU funds | Proper understanding and implementation of the rules by contracting authorities | Complete set of instructions and contract models tailored to the needs of contracting authorities prepared and published on the website of the Public Procurement Agency |
| 32. | Development of technical facilities of the electronic procurement system to ensure electronic communication between contracting authorities and tenderers throughout all stages of procurement | The Ministry of Finance, Public Procurement Agency | 5 years after the entry into force of the Association Agreement | Quarter I, 2018 | The State Budget, EU funds, The European Bank for Reconstruction and Development | Transparency and traceability are increased and the participation of economic operators (especially SMEs) in procurement procedures is easier | An electronic purchasing system that provides the appropriate tools for ensuring electronic communication between contracting authorities and bidders throughout all stages of the procurement procedures developed |
| 33. | Elaboration of special modules of the electronic procurement system for the organization of electronic auctions, initiation and operation of dynamic purchasing systems and electronic catalogues | The Ministry of Finance, Public Procurement Agency | 5 years after the entry into force of the Association Agreement | Quarter IV, 2018 | The State Budget, EU funds, The European Bank for Reconstruction and Development | Development of procurement techniques and e-procurement shall be completed Administrative burdens shall drop significantly and procurement procedures shall become cheaper and more environmentally friendly | Number of modules developed and implemented |
| **Stage 3** | | | | | | | |
| 34. | Ensure the harmonisation of legislation with mandatory and optional elements of Directives 2014/23/EU and 89/665/EEC (as amended by Directive 2007/66/EC and Directive 2014/23/EU) | The Ministry of Finance, Ministry of Economy, The National Council for Public-Private Partnership | 6 years after the entry into force of the Association Agreement | Quarter II, 2018 | The State Budget | National legislation is in full compliance with all mandatory elements of the Concessions Directive | Legal Framework on Harmonized Concessions, approved by Parliament and published in the Official Gazette of the Republic of Moldova  Regulations approved by the Government and published in the Official Gazette of the Republic of Moldova |
| 35. | Clarifying the role of the Ministry of Economy, the National Public Private Partnership Council, the Ministry of Finance and the Public Procurement Agency in the field of concession contracts | The Ministry of Finance, Public Procurement Agency, Ministry of Economy, The National Council for Public-Private Partnership | 6 years after the entry into force of the Association Agreement | Quarter IV, 2017 | - | Prevention of overlapping tasks and responsibilities, uniform interpretation in the course of enforcing legal provisions | Institutions involved in concessions with clear tasks and responsibilities, without overlapping risks |
| 36. | Organising training forPublic Procurement Agencyand theNational Agency for Complaints Settlementon the award of concession contracts | The Ministry of Finance, Public Procurement Agency, National Agency for Complaints Settlement, Ministry of Economy, The National Council for Public-Private Partnership | - | Quarter III, 2018 | The State Budget, International donors | Personnel assigned to carry out key public procurement functions within central institutions shall gain more knowledge of EU law applicable to concession contracts | Number of staff from relevant institutions who participated annually in at least one workshop / workshop focused on EU legal framework and practice |
| 37. | Ensure implementation of the standard ad concession form containing the same information as those approved by the Commission Implementing Regulation (EU) 2015/1986 of 11 November 2015 | The Ministry of Finance, Public Procurement Agency, Ministry of Economy | 6 years after the entry into force of the Association Agreement | Quarter III, 2018 | The State Budget, EU funds, The European Bank for Reconstruction and Development | The rules on transparency and advertising are respected | Standard form for announcements on concession contractsimplemented in the electronic procurement system |
| 38. | Organise an information campaign on the new rules on awarding concession contracts | The Ministry of Finance, Public Procurement Agency, Ministry of Economy, The National Council for Public-Private Partnership | - | Quarter IV, 2018 | The State Budget | Proper understanding and implementation of the new rules in the first months after the entry into force of the Concessions Act | Two major events organized in the first three months of the entry into force of the Concessions Act Printed and distributed brochures |
| 39. | Implementation of the National Training Program based on the adapted curriculum for concession contracts | The Ministry of Finance, Public Procurement Agency, Ministry of Economy, the National Council for Public-Private Partnership | - | Quarter IV, 2018 | EU funds | Professional concessions | National training program implemented annually |
| 40. | Elaboration of instructions for concession contracts | Public Procurement Agency, Ministry of Economy | - | Quarter IV, 2018 | EU funds | Understand and correctly implement the award rules for concession contracts by contracting authorities | Set of instructions and contract models adapted for concession contracts prepared and published on the website of the Public Procurement Agency |
| **Stage 4** | | | | | | | |
| 41. | Ensure harmonisation of legislation with other mandatory and optional elements of Directives 2014/25/EU and 92/13/EEC (as amended by Directive 2007/66/EC) | The Ministry of Finance | 8 years after the entry into force of the Association Agreement | Quarter II, 2018 | The State Budget | National legislation is fully in line with all mandatory elements of the Utilities Directive 2014 and the Utilities Appeals Directive | Harmonized legal framework approved by Parliament and published in the Official Gazette of the Republic of Moldova  Regulations approved by the Government and published in the Official Gazette of the Republic of Moldova |
| 42. | Organising training forPublic Procurement Agencyand National Agency for Complaints Settlementon the amendments following harmonization of legislation with other mandatory and optional elements of Directives 2014/25/EU and 92/13/EEC (as amended by Directive 2007/66/EC) | The Ministry of Finance, Public Procurement Agency, National Agency for Complaints Settlement | - | Quarter III, 2018 | International donors | Personnel assigned to carry out key public procurement functions within central institutions shall gain more knowledge about EU public procurement law (including the Court of Justice of the European Union) applicable to the utilities sector | Number of staff from relevant institutions who participated annually in at least one workshop / workshop focused on EU legal framework and practice |
| 43. | Organising training for contracting authorities and economic operators on changes following harmonization of legislation with other mandatory and optional elements of Directives 2014/25/EU and 92/13/EEC (as amended by Directive 2007/66/EC) | The Ministry of Finance, Public Procurement Agency | - | Quarter IV, 2018 | The State Budget, EU funds | Understand and correctly implement the new rules in the first months after the entry into force of the [Law no.131 of 3 July 2015](lex:LPLP20150703131)on public procurement | On-site trainingheld annuallyby the Procurement Agency, at national level, ensuring a local event in each district  Printed and distributed brochures |
| 44. | Elaboration of instructions for contracting authorities regarding changes following harmonization of legislation with other mandatory and optional elements of Directives 2014/25/EU and 92/13/EEC (as amended by Directive 2007/66/EC) | The Public Procurement Agency | - | Quarter IV, 2018 | EU funds | Proper understanding and implementation of the rules on contracting authorities | Set of instructions and model contracts tailored to the needs of contracting authorities prepared and published on the website of the Public Procurement Agency |

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Government Decisions  
1332/14.12.2016 Decision on the approval of the 2016-2020 Public Procurement Development Strategyas well as the Action Plan concerning its implementation*//Official Gazette 459-471/1442, 23.12.2016*