



**EUROPEAN BUSINESS ASSOCIATION  
REPUBLIC OF MOLDOVA**

**DCFTA – BUSINESS CLIMATE UPDATE  
- 2018-**



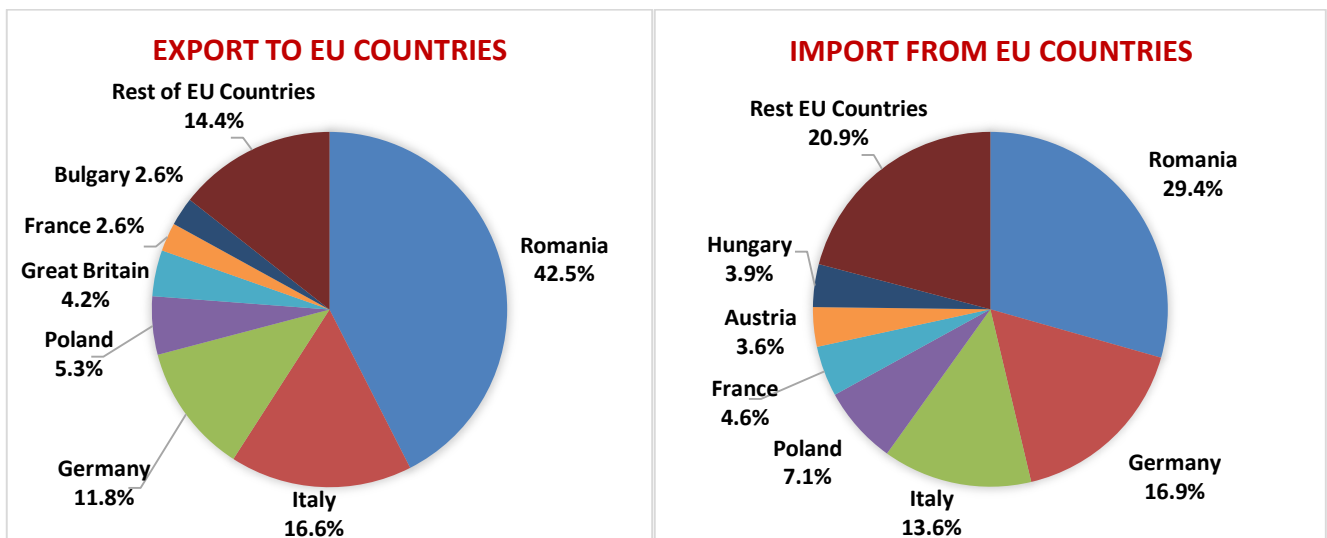


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## 2018 Macroeconomic review

- **GDP increased by 4%** (compared to 2017) and amounted 190 bil. MDL (approx. 9.74 bil. Euro)
- **Foreign Direct Investments (FDI)** increased by 31,3% as compared to 2017 and reached 196.7 mil. USD (approx. 175 mil. Euro)
- **International trade** increased by 16.74% and constitute 8.47 bil. USD<sup>1</sup> (approx. 7.54 bil. Euro)
- **Exports** of the Republic of Moldova **increased by 11.6%**. **Exports to EU** had reached the share of 68.8% of total exports and reached 1.86 bil. USD (approx. 1.65 bil. Euro)
- **Imports increased by 19.3%**. **Imports from EU** stand at 49.5% of total imports and reached 2.85 bil. USD (approx. 2.53 bil. Euro)
- **Average monthly salary per economy** constituted 6446.4 MDL (around 330 Euro) and **increased by 13.2%**
- In 2018 **the inflation rate** was 3% and increased by 3.3 p.p. compared to 2017
- **Public Debt** amounted 52 bil. MDL (around 2.6 bil. Euro) and registered an increase of 0.7% compared to 2017
- **Main sectors:**
  - **Industry** (the manufacture +2.8%, energy supply +7.4%, extractive industry +9.9%)
  - **Agriculture** – increase by 2.5%



<sup>1</sup> Based on data presented by National Bureau of Statistics



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## **I. TRADE IN GOODS**

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### ***Domestic Trade Law***

Over the last two years, amendments to the Domestic trade law represented one of the main concerns for the business community. Its primary goal is to ensure protection of various businesses (retailers, wholesalers, producers, importers, etc.). The draft legal provisions presented to the Parliament generated various discussions and it was decided to freeze the draft law until clear understanding and perception of legal provision shall be shared by all stakeholders.

### ***Tariff Quota Allocation and Management***

Another long-standing issue that has to be addressed is related to the utilization of the Tariff Rate Quotas (TRQs) and trigger volumes under Anti Circumvention Mechanism (ACM) granted by the EU for the export of agricultural products (including processed cereals). The existing national ethyl alcohol production capacities are constantly increasing and the trigger volume granted for this product is annually exceeded in a proportion of around 400%. Even though the request to increase the volume of ethyl alcohol was presented at the meeting of the Association Committee in Trade Configuration held in October 2017, the issue still remained unsolved.

### ***Export of walnuts***

Export of walnuts remains an important issue in Moldova EU exports. The problems encountered by companies are related to the additional verifications carried out by the Customs Service's investigation department with the aim to verify the origin and traceability of the exported product. The issue is also related to unclear procedures applied by the Customs Service in screening the origin of the walnuts, significant quantities of which are acquired from individuals. Besides all the taxes that the walnut exporters pay in accordance with the Tax Code of the RM, they also pay a 5 % withholding tax to ensure the tax obligation of the individuals from whom the walnut was acquired. However, there are clear indications about additional costs incurred related to walnut exports from Moldova to EU, which finally make the Moldovan product uncompetitive on the world market, especially given recent emerging global evolutions on the walnut market.

### ***Import of meat (as raw material for meat processing industry)***

In accordance with Annex XV-D of the EU-Moldova Association Agreement, the import of pork from EU is operated under annual tariff quotas (4 000 tonnes), which over the last four years of AA/DCFTA implementation is always used by the third quarter of each year. The main unsolved problem over the years remains the utilisation of the quota for the import of pork by mainly traders at the beginning of the year, with the aim to sell it at a much higher price after the EU quota is exhausted. Additionally, in 2018 companies from the Transnistrian region have benefited from this quota in a proportion of 15%. For Moldovan meat processors the finalisation of the quotas leads to the decrease of the monthly industrial production indices, due to the raw materials deficiency and major financial costs related to the payment of the import taxes which are quite significant (20%+200 Euro/ton).

Currently, the import of pork can be done only from the EU, because of the epizootic situation in the region (especially Ukraine) and the impossibility to import from third countries, as the transit is prohibited both on the



territory of Ukraine and the EU, since companies of the exporting countries are not authorised by food safety authorities of the transit countries.

The most viable solution to overcome this issue is to increase the annual import quota and ensure a more inclusive approach in quota distribution process, thus enabling Moldovan meat processors to use the quota as well.

### **Food Safety Aspects**

Low progress was registered in the field of food safety, especially on the implementation of the AA/DCFTA provisions related to the export of animal origin products; lack of national accredited laboratories for animal health (other than the Republican Centre for Veterinary Diagnostics); low progress in developing the Action Plan to obtain the right of the Republic of Moldova to export to the European Union poultry meat and Class B eggs. It is imperative to devise a functional risk management system and a sound surveillance of establishments' mechanism for food processing facilities (meat processing companies, slaughter houses, etc.).

### ***Sanitary and phytosanitary certification***

In order to overcome the constant issues related to the sanitary and phytosanitary certification, a series of technical meetings were organised over the last 2 years on the topics listed below:

- To exclude the double certification procedure for the same products imported from EU that have been already certified by accredited laboratories in the EU;
- To reduce the extensive duration for issuing the certificate of safety, especially for perishable products;
- To ensure homologation of sanitary-veterinary certificates for animal products imported into RM;
- To offer the possibility to the private sector to transport samples for laboratory investigations in Romania, especially for those lab tests that cannot be made in Moldova.

In the context of the Romanian Presidency of the Council of the EU, EBA proposed to launch an open dialogue between representatives of the Moldovan and Romanian central public authorities such as the Food Safety and Customs Services (but not limited to these) to consolidate the cross-border co-operation between the two countries and to address the deficiencies faced by the private sector in their activities related to the import / export procedures at the border crossing points between the two sides.

### ***Import requirements for food products, subject to food safety control***

Starting with October 2018, when the Government Decision No 938/2018 on the Regulation regarding the National Agency for Food Safety (ANSA) border control of the imported goods entered into force, the business community was illegally required to pay taxes for the control of imports of the non-animal origin products. The respective taxes and its amount was not specified in any legal act of the Republic of Moldova. Moreover, the GD no 938/2018 provides the obligation to notify in advance through TRACES system the introduction in Moldova of non-animal origin products, obligation that is not applied in the European Union. All these new legal provisions led to creation of the technical barriers for the private sector and mainly additional financial costs for the charging of illegal taxes, delays of import transactions at the border, loss of business partners due to their refusal to register in TRACES.

Following EBA's implication the collection of the illegal tax was stopped and the official notification to the European Commission regarding the provision of the aforementioned legal act was send, and the GD no 938/2018 was approved on April 3<sup>rd</sup> 2019 (under the circumstances that the Government was notified about the illegal tax since October 2018, illegal tax collection was levied until February 2019).

Besides the aforementioned issues the GD 938 has also considered the following aspects:

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- Facilitate the procedure of prior notification through TRACES system on the introduction of non-animal origin products into the third country at the border inspection post;
- Diminish the additional financial costs for the importing companies due to new imposed taxes for food safety control;
- Reduce the technical barriers to trade such as creation of the huge border queues, additional transport costs incurred by the private sector, imposed by the obligation to cross the border just at specific border inspection posts;
- Design a transparent and clear mechanism of the calculation and application of the tariffs;
- Ensure the compliance with the national legislation by ANSA regarding the separation of the border control on documentary, identity and physical controls, based on the application of the risk analysis principle;
- Adjust tariffs applied for the control of imported goods, subject of the veterinary, phytosanitary and food safety control based on the current economic situation of the country (including the average salary on economies) and the need to stimulate business and investments in RM, without imposing additional financial burden on the private sector.

With respect to the obligation to prior notification through TRACES system on the introduction in Moldova of non-animal origin products, this issue will disappear starting with 2020, when the new European Integrated Management System for Official Controls will become operational.

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## **II. TRADE AND SUSTAINABLE DEVELOPMENT**

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### **Wastes management and environment protection system in Moldova**

Currently Moldova lacks a National Strategy/Road Map/Master Plan for a sound and functioning waste management and environment protection system. The Law No 209 provides for implementation of Extended Producer Responsibility (EPR), a principle that implies a functioning and integrated waste collection and processing systems with clear delimitation of roles and responsibilities between all interested stakeholders (central and local public authorities, businesses and citizens). However, there is a clear discrepancy between the Law No 1540 and the Law No 209, especially on the financial/tax which has to be earmarked for improvements/enhancement of the functioning of wastes management systems. The pollution tax currently collected is used for other purposes.

With implementation of an EPR System, the role of central and local authorities should be strengthened and increased especially in the process of waste collection and processing as well as building necessary areas in the villages/smaller cities for waste collection, segregation, preservation and treatment. In order to facilitate waste treatment especially for food and light industry wastes, it is imperative to legalise incineration and co-incineration. Currently, despite multiple attempts by the business community, the Parliament did not accept this initiative without presenting clear grounds. It is also crucially important to consolidate the capacities of the waste management and environment protection and surveillance bodies, especially after the recently-implemented public sector reform, as the capacity and expertise of the control institutions is very limited.

The business community is still reluctant to approve the Regulation on packaging and packaging waste, as the Ministry of Agriculture, Rural Development and Environment made multiple attempts to introduce the Regulation without the necessary modifications and adjustments of the relevant law (No 1540) and related normative acts, ensuring applicability of other components of wastes management system.

The private sector supports the approval of the aforementioned Regulation, if the following recommendation will be considered under EPR implementation:

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- Development of an overall concept for waste management and environment protection that will consider solid/food/animal wastes' segregation, collection, processing/treatment by clear allocation of roles and responsibilities to the LPA, business and citizens;
- It is imperative to devise a sound fiscal/financial system to cover waste collection and treatment costs. In this regard, it is important to amend the Law no. 1540/1998 and ensure that the collected tax is earmarked for waste management purposes. Once EPR is implemented with a clear segregation of roles and responsibilities, the tax has to be abolished.
- It is important that relevant costs for waste management collection and processing are clearly calculated and presented to the business;
- Revision of the Law no. 1540/1998 by introducing the concept of integrated well-functioning waste management principle based on EPR, EU Acquis and best European/international practices;
- Ensure legal harmonisation related to waste processing instruments such as incineration and co-incineration for solid and food/animal wastes;  
Currently animal wastes' incineration is illegal in Moldova, thus limiting economic entities in waste processing tools. Accordingly, most of the slaughter houses and meat processing facilities are using burial sites as a solution for animal waste disposal. The impact of leachates from swine carcass burial site and a cow manure heap on the geochemical and microbiological properties of agricultural water and background wells makes them prone to severe contamination.
- Design a sustainable, transparent and functioning financial/fiscal/subsidy systems to support wastes management process involving proper collection (with segregated wastes), processing, building/creating specialised isolated areas for solid wastes in the regions and municipalities, factories, food industry, meat processing facilities etc.;
- Design a transparent, sustainable and functioning system of subsidies for investors into waste processing/waste collection systems.
- Ensure proper conditions are respected in the design of the land fields, especially in rural areas. Most of the existing land fields are not properly isolated and built without respecting international rules and safety standards. Currently Moldova is facing an alarming situation when the improper isolated land fields are a real threat to the ground and surface water that are hydrologically connected.

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### III. CUSTOMS AND TRADE FACILITATION

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#### ***Customs Valuation***

With respect to the customs valuation, many importers are still uncertain of how to declare properly the value of their goods when importing into Moldova, partly due to many unclear and non-transparent rules and factors to be considered when determining the customs value. Following multiple meetings and discussions, the Customs Service amended the Government Decision no. 974/2016.

In this respect, the most important recommendations of the business community are to clearly describe the customs valuation process and the methodologies thereof; to provide a proper application of the risk management system, to avoid technical errors of the custom inspector which negatively impacts the quality of the customs control; to ensure that all 6 customs evaluation methods prescribed in the GD 974 are applied, since in most cases customs officers disregard the set of documents prescribed in the first method and recur to application of method nr. 6 – “increased value”; and to ensure that the customs valuation procedure is not dependent on the revenue gap in the state budget, despite the registered revenue gaps.

Recently some changes were made to the GD no. 974/2016; nevertheless the issue is still the application of a transparent procedure prescribed under this legal act and the obligation of the customs officer to list clearly the arguments for increase of the value.





It is also important to reiterate that in most of the customs valuation files that reached court, the court decision was in favour of the Customs Service.

### ***Recognition of the Authorised Economic Operator (AEO) status***

As long as the Moldovan Authorised Economic Operator (AEO) status is not recognised by EU countries, Moldovan companies will bear additional financial cost for trucks queuing at the Romanian border and delays of contracts (just-on-time contracts). One of the solutions proposed was to create a pilot Moldovan-Romanian project at the one of the customs point in a form of a joint Moldova-Romania customs point. Based on the international experience on similar points between EU and third countries, these have managed to facilitate trade, saving costs and time. Also, the improvement of the customs infrastructure and procedures in Moldova and Romania would be an asset to increase exports to the European single market.

EBA raised these concerns at various meetings European Commission and donors' meetings and also proposed to discuss the possibility to create a joint custom point Moldova-Romania. The Ministry of Economy and Infrastructure and the Ministry of Foreign Affairs and European Integration expressed their interest and support for this proposal.

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## ***IV. TRADE IN SERVICES***

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### **A. Banking sector**

Contradictions between two legal acts are creating obstacles for future development of the banking business. In this respect, there are significant divergences between Law no. 202/2017 on banking activity and Law no. 1134/1997 on joint stock companies, in particular related to rights of shareholders to submit candidates to the Council of Banks. Thus, commercial banks of Moldova, being subject to both laws, have a problem in submitting candidates for the Board of Directors, as these two laws provide different conditions. In fact, in the process of developing Law no. 202/2017 on banking activity, National Bank of Moldova (NBM) did not take into consideration the provisions of Law no. 1134/1997.

### ***Microfinance lending***

Although on 16.03.2018 was adopted the new Law on non-banking crediting organizations, the banking sector still has multiple, reasonable and justified objections regarding the normative framework for Non-banking Financial Institutions (NBFIs). NBFIs are still benefiting from unfair advantages over banks and represent a parallel financial sector, liberally supporting the grey economy, free from any meaningful regulation, while in most EU countries they are "niche players" catering to specific constituencies (rural communities, minorities, starting entrepreneurs, etc.) with limited access to mainstream banking.

### ***Anti-money laundering (AML) issues***

Following the indeed needed efforts to improve the AML legislation, several situations have occurred recently that prove to be counter-productive for the normal activity of banks:

- The new AML law no. 308 of 22.12.2017 contains ambiguous requirements for keeping/ archiving clients' data and documents. Such requirements, if executed literally, subject the banks to incommensurable efforts and costs of physical archiving and scanning.
- The Service for Prevention and Combatting Money Laundering (SPCML) requires banks to send specific reporting of limited and cash transactions. However requirements regarding certain data are difficult to fulfil as it depends on the information given by other international banks which cannot be influenced by

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local banks. As a result, the latter have to either reject the incoming transfers (with potential significant negative consequences for banks' clients) or risk being penalized with considerable pecuniary sanctions from SPCML or NBM.

- Due to the rules set by the AML legislation for periodical KYC update of clients' data, banks encounter the issue of applying these rules towards inactive clients. It is proposed that such clients to not be included in the total bulk of clients required to update their data, since (i) the AML risks associated with such type of clients are minimal and more fundamentally (ii) the banks are able to clearly identify and block within their informational systems the accounts of inactive clients;

### ***Simplification of consumer loan process***

Considering the importance of consumer finance as a major development tool for emerging economies, it is proposed to disburden the process of consumer crediting of unnecessary and unreasonable restrictions:

- According to the NBM Regulation on crediting activity of banks activating in Moldova of 25.12.1997, each credit transaction has to be concluded only with the approval of at least 3 persons. However, the banks should be allowed to have requirements that are more lenient when granting small consumer loans (up to 200 thousand MDL).
- The NBM requires banks to gather certain information regarding the borrowers in order to address the concentration risk – identifying connected groups of individuals taking out loans. Though this requirement is indeed necessary, it should be applied as regards consumer loans starting from a reasonable threshold (e.g. 1 million MDL) and definitely not for unsecured loans. It is unreasonable to put the small loan applicants to reveal their relatives (up to 3<sup>rd</sup> keen) fiscal codes and other similar details.

### ***Communication with bailiffs***

The banking sector has been insisting for several years already, without obtaining any results, for the implementation of an IT solution, which would facilitate the information exchange between banks and bailiff. Such a tool would significantly ease the burden for banks in this field, as well would help to avoid problems which can occur in case of incorrect understanding of bailiff's inquiries/ demands. Additionally, bailiffs should not benefit anymore of such services free of charge and the costs supported by banks (but not only) should be compensated by bailiffs.

### ***Payroll cards liberalization***

The Labour Code (art. 141) has been stipulating since 2003 that the Government and NBM should provide a mechanism for salary payment through banks. However, no such mechanism exists, which is an infringement of employees' right as consumers to choose the bank where they receive their salary. Moreover, it would contribute to a more transparent process of inter-action between banks and the governmental companies/ authorities, since the criteria for choosing the winner of a tender for providing salary payment services are not clear.

### ***Access of one credit history office to the data gathered by another***

According to the recent amendments of the Law on credit history office no.122/2008, a credit history office (CHO) is obliged to ensure automatic access for another CHO to the information gathered from commercial banks. This is not acceptable from the perspective of a free market economy, as well from the perspective of fair competition principles. Ensuring automatic access of any CHO to the data held by another CHO represents a measure of advantaging the activity of the first one, especially a new comer, which is the case in Moldova, who will benefit from the efforts and investments made by other CHO to accumulate, keep and process the respective data. Currently all commercial banks and several microfinance companies cooperated with SRL „Biroul Istoriilor de



Credit”, being also its founding members. Moreover, banks do not have any indicators of security level of data protection, should they be transferred in this way.

### ***Amendments to the Civil Code***

The new edition of the Civil Code entered into force without a proper term given to get acquainted with the new provisions. This fact is valid not only for banks, but also for notaries or even the Government, which e.g. did not manage to approve until now an important normative document needed for the crediting entities (banks and NBFIs) referring the independent consultancies offered to personal guarantors. This particular issue, regulated by art. 1663, represents a major factor of uncertainties, since the provisions of this article are not only quite ambiguous, but also creating significant obstacles for an efficient and prompt process of loans granting. Therefore it is proposed to abrogate this article.

### **B. Insurance Sector**

The insurance sector still requires restructuring, effective supervision and an improved legal framework. The major risk is connected to uncertainties related to MD's membership in the international Green Card System. Unfortunately, investigation of frauds which led to massive funds withdrawal from the National Bureau of Motor Insurers (BNAA) were not yet concluded and funds were not recovered. Moreover, there were some changes in the management of the Bureau as well as outsourcing of some of its core responsibilities which were not in line with Council of Bureaus (Green Card HQ) recommendations. Moldova is the only and the longest-monitored country (since 2002) from all 48 members of the Green Card System.

Another issue of concern for the insurance sector is financial stability of the market. Unfortunately, not all market participants comply with financial requirements. There are indications to believe that the information provided in financial reports of some companies is not correct. If not properly managed by the National Commission for Financial Markets (NCFM), the financial stability of the market might be at risk.

The latest amendments excluding intermediaries from mandatory insurance products from the end of 2018 led to high monopolisation of the market. Unfortunately, neither the NCFM nor the Competition Council intervened in order to stop anti-competition practices.

Therefore, in order to improve the stability of the insurance sector the following measures should be considered urgently:

- Avoidance of the creation of market monopolisation trends done through unpredictable and constant legal adjustments, while the supervisory authority is lack capacities and good will to intervene;
- Immediate restoration of the financial stability and security of the BNAA in order to eliminate the risk of Moldova being suspended from the International Green Card System.
- Accelerate and finalise the fraud investigation related to embezzlement of assets from BNAA and measures to ensure the recovery of these assets;
- Ensure implementation of an ultimate beneficial owner verification mechanism in the insurance sector similar to the banking system;
- Reform the actuary system in Moldova by enhancing its capacity and increasing its transparency, especially by increasing the professional requirements for actuaries (auditors of insurance companies);
- Ensure unbiased controls of companies, in particular concerning their long-term solvability and liquidity, in order to avoid any issues in advance.

### **C. Electronic Communication Networks and Services**

The telecommunication sector is still facing challenges that impede the development of the sector as a whole. A major concern of private ICT companies relates to the continuing application of a 2, 5% tax for luxury services



applied to mobile telephone operators since 2000. The imposed tax is regulated by the Law on the Republican Fund and local funds for social support of the population no. 827/2000 and is considered to be irrational, counter-productive and harmful for the development not only of the electronic communications sector but also of the development of ICT services, especially considering that mobile telephony services are no longer regarded as luxury services.

Another issue concerns the application of the Law no. 28/2016 on access to properties and shared use of infrastructure associated with public electronic communications networks. The respective law was approved with the aim to facilitate any legal activities related to the access to properties to perform the works related to the coherent use of the electronic communications network infrastructure.

Nevertheless, the biggest impediment for coherent implementation of the law is the major resistance from the public (state institutions) and private property rights holders, mainly related to:

- The failure to comply by the state institutions with the obligation to publish conditions for exercising the right of access within 60 calendar days from the date when the law no. 28/2016 entered into force;
- The request of the state institutions for annulment of the existing lease contracts after receiving an official request from the electronic communications network suppliers, or a request for repeated submission of the initial set of documents required for the network infrastructure placement, which creates financial losses for businesses and involves additional time and resources;
- The request to sign the new lease contracts (which provide monthly rent payments), despite the fact that the law provides a single payment for any related infrastructure works (construction, maintenance, dismantling, replacement, transfer);
- The refusal of the private property rights' holders to present conditions for exercising the right of access and reasonable justification of the refusal to present the respective conditions, at the same time favouring other providers by offering them access for installation of electronic communications networks.

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## V. ENERGY SECTOR

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### A. Recovery of Electricity Tariff Arrears

Due to the accumulation of a huge tariff deficit derived from the lack of electricity tariff adjustment by the energy regulator since 2012 to reflect the real costs of energy, Gas Natural Fenosa (GNF), the largest EU private investor in Moldova, launched in August 2015 arbitration proceedings against Moldova in ICSID (International Centre for the Settlement of Investments Disputes).

In June 2016, with the mediation of Energy Community Secretariat (ECS), a Settlement Agreement was signed between the Ministry of Economy and Infrastructure and GNF, where a debt (the tariff deficit) with GNF of €82 Million was recognised, to be paid in 4 years (2017 -2020) via tariff adjustments. The implementation of this Agreement is ongoing and the debt is being recovered satisfactorily.

### B. Amendments to the Electricity Tariff Methodology

In February and March 2017, the energy regulator (ANRE), without consulting stakeholders, made several amendments to the distribution tariff methodology, without respecting its period of validity and against the firm recommendation of the ECS. According to ANRE, the changes in the regulatory framework derived from the new electricity law 107/2016, which implemented the III Energy Package of the European Union, whereas the III Energy Package does not refer to the amendments made by ANRE.



With the involvement of ECS, GNF initiated discussions with ANRE to resolve the outstanding dispute. In February 2018, new electricity tariff methodologies were approved by ANRE, after discussions with stakeholders and with the assistance of the ECS, to ensure compliance with European standards. In June 2018, ANRE set the electricity tariffs for 2018, based on the new methodologies.

During the discussions, GNF and ANRE agreed to withdraw partially some of the above-mentioned amendments in exchange for further investments made by GNF. In conclusion, new tariff methodologies are in place in compliance with European standards, and the existing discrepancies between ANRE and GNF have been cleared, apart from the ongoing commitments for the effective recovery of the tariff arrears and the full withdrawal of the amendments made in 2017. In this endeavour, the involvement of the European Union, via the EU Delegation in Chisinau, ECS, EU Commission, as well as other international institutions like IMF and WB, has been fundamental.

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## **RULE OF LAW**

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### **A. Data Protection**

With the enforcement of the EU General Data Protection Regulation (GDPR), the business community is aware that GDPR comes with an increased territorial scope, targeting local businesses offering their services and goods for EU consumers, residing in the EU or on the territory of Moldova for the EU data subjects.

The main needs identified in the process of GDPR transposal are related to the necessity to create an awareness and provide pertinent explanations on how GDPR is applied in the EU, what are the companies' roles and responsibilities in this regard and to ensure that in the process of legal replication of GDPR, any types of administrative constraints and over regulation which create additional costs will be avoided.

Considering that the draft laws are in the second reading of the Parliament, EBA organised technical meetings where the following risks were identified related to:

- Staff recruitment and information management in the human resources record system;
- Collection, storage, disclosure and processing personal data of the customers;
- Consent vs. other legal basis for the processing of personal data;
- Video surveillance at work;
- Privacy Policy for Personal Data Processing vs. regulations, forms, instructions, provisions;
- Registration as data protection officer vs. compliance with the principles of "Privacy by Design" and "Privacy by Default";
- Pre-consultation with the Supervisory Authority (National Centre for Personal Data Protection);
- Applicability of the Law no. 308/2017 on the prevention and combating of money laundering and terrorism financing in relation to the provisions of the Law on the protection of personal data;
- Incompatibilities and restrictions of the person in charge of personal data protection (DPO);
- Control of the National Centre for Personal Data Protection;
- Liability for violation of personal data protection principles;
- The extremely limited term of entry into force of the laws (May 2<sup>nd</sup> 2019, according to the draft law);
- The disproportionate sanctions of up to 2 million MDL or 2% of the enterprise's overall income. The draft law stipulates that when one of these sanctions is applied, the higher value will be taken into account, thus meaning that each time 2% will be applied.

### **B. Human resource development**

Following various surveys carried out among the business community in Moldova, one of the constantly emerging issue over the last years is the worsening quality of the education system in the RM at all levels. With the



increasing flow of foreign investors and emerging share of Moldovan companies in various sectors, employers face huge challenges in identifying competent staff with a relevant profile and preparation that match the demands of the sector, considering the constant upgrade and evolution occurring in various industries. As such, employers identified the following issues that impede business development and expansion because of limitations related to HR Resource development:

- Lack of international evaluation and accreditation of the educational institutions and their teaching staff;
- Out-dated curricula which do not correspond to the demands of the industry;
- Insufficient training of teachers; lack of life-long learning programmes in the education sector
- Miserable remuneration of teachers, leading to corrupt examination system /corrupt diploma writing;
- Out-dated equipment used for learning purposes which does not correspond to the current technological context (lack of sound and modern laboratories in various sectors, software, which would provide the necessary basis for achieving the professional skills and knowledge for training of a specialist)
- It is important to implement dual education at all levels by strengthening co-operation between academia and the private sector; improve and streamline the internship process;
- Develop R&D Centres involving partnerships between academia and the business community/foreign donors;
- The current state financing system of the educational institutions does not allow a more flexible reallocation of funds aimed at per student financing depending on the type of educational profile;
- The admission process for students should be more rigorous and transparent

### C. Justice Sector reform

Currently the justice sector, which includes the judiciary system, the prosecutor's office, and other law enforcement agencies, has to be improved in terms of ensuring accessible, transparent and accountable justice.

The main concerns identified by the private sector in relation to the justice sector are as follows:

- Insufficient independence of judges and lack of control of the prosecutors activity;
- Perception of selective and politicised justice, where certain court files are examined as a matter of priority while the examination of others lasts for years without sufficient justification;
- Perception of the existence of judicial bias and favouritism towards certain parties; unbiased judicial review is critical for a trustworthy judiciary;
- Constant need to provide training and improve the qualification of judges in all areas of law that are important for business, as well as in judicial assessment of economic decisions made by business decision-makers;
- Constant need to provide training and improve the quality of legal reasoning of judicial decisions; when the court denies or declares a claim to be inadmissible, the party needs to receive a clear and sufficient feedback / justification / legal explanation as to the reasons for such denial or inadmissibility.

### D. Implementation of the state reforms

#### *State Control reform*

EBA participated in the process of amendment of the Law 131/2012 on state control of entrepreneurial activity, aiming to increase transparency of the control and inspection body and to diminish the administrative burden on the business community. Indeed, the number of control bodies was reduced from 72 to 18 (13 control bodies and 5 regulatory body) and the control process became clearer.

Nevertheless, the **electronic state register of controls** is not developed and there is a reluctance from the central authorities to make this register functional. The lack of functionality of the respective Register seriously affects the legality and transparency of the control process.



### ***Permissive acts reform***

Under the permissive acts reform, the number of permissive acts has been reduced from 416 to 152 acts. Still, the expectation of the private sector is to ensure a functional **One Stop Shop which would enable a digitalisation of the overall process and electronic application for the necessary licences and permits**. Regrettably, only a limited number of permissive acts can be obtained electronically and it is still not possible to obtain any acts in electronic format at the level of local public authorities.