

Public-Private Dialogue

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Moldova / The Economic Council to the Prime Minister as an Advisory Body

by

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Background and Context

Mission:

The Government Decision No. 631 of 22.08.2011 established the Economic Council to the Prime Minister as an advisory body.

The Council was assigned the mission to facilitate the dialogue between the representatives of the business environment, donors' community and policy makers to develop a favorable social-economic climate and non-discriminatory, transparent business environment, which would be attractive for investment. In 2017, the mission of the Council has been extended. For the purpose of implementing the commitments undertaken by our country in the Protocol Amending the Marrakech Agreement Establishing the World Trade Organization (Agreement on Trade Facilitation) approved by Law No. 729 of 9 June 2016, the Council was assigned the functions of the National Committee for Trade Facilitation. As such, the Regulation on functioning of the Economic Council was amended, by enlarging its mandate to discuss and elaborate solutions on trade related issues that are of national importance and that concern public authorities and business community and needs a systematic approach

Mandate:

Council was granted with the following mandate:

- provision of expertise to the Government from the business community in drafting public policies in economic, budgetary, fiscal, trade areas, etc.;
- monitoring and evaluating the impact of public policies implementation;
- engagement of the private sector in developing public decisions in economic, budgetary, fiscal, trade areas, etc.

Instruments:**The Council applies the following instruments:**

- reviews Prime Minister's requests, submitting him opinions and recommendations;
- participates in developing the Government's vision regarding certain reform processes;
- submits recommendations related to public investment programs drafted by the ministries and other public authorities;
- initiates proposals for economic development policies, including improvements in such areas as monetary, credit, budgetary, fiscal, foreign and domestic trade, support for the real economy sector, infrastructure development, labor market, social protection, etc;
- reviews and proposes solutions for the most stringent economic and social problems.

Youth and Inclusion Dimension

Currently Members of the PM Economic Council are various sector associations, SMEs, Micro and big business associations, as well as business woman association. Nevertheless, should the invitation come from Youth association it will be definitely considered by the Secretariat.

Partnership, Structure and Processes

Currently, the Council consists of 59 members appointed by the Prime Minister. The membership of the Council was established so as to respect the principle of balanced representativeness and efficient mediation. Thus, the opinions and initiatives of 23 associative structures of the business community versus 22 state institutions are debated with the participation of 14 representatives of the scientific and research community and international organizations, active in the area of regulatory reform.

The Council is led by the Prime Minister and it meets upon his initiative. The plenary meetings, in full componse of the Council, are meant for organizing, planning, and reporting the activity of the Council. Additionally, the plenary meetings are used to discuss the most intricate problems which need Prime Ministers' special attention. The activity of the Council is based on freedom of expression and transparency in debates.

For a more efficient performance, permanent thematic working groups and temporary (ad-hoc) working groups were created within the Council since 2016. Every group is coordinated and led by a member of the working group elected via simple majority of votes. All the permanent members of the Council are invited to attend the meetings of the working groups, and according to the practice of 2016, such meetings are mainly attended by the members whose activity refers to the topic debated in the meeting.

Permanent Working Group No. 1 Eliminating constraints in entrepreneurial activity

Covered areas: optimization of state controls, fiscal administration, issuance of permits, facilitation of domestic trade and other.

Group Coordinator: Executive Director, American Chamber of Commerce in Moldova.

Permanent Working Group No. 2 Facilitation of trans-border trade

Covered areas: optimization of Customs' administration, facilitation of permits' issuance for export, increasing competitiveness and quality of export-oriented products, harnessing DCFTA opportunities, and other.

Group Coordinator: Executive Director, European Business Association in Moldova.

Permanent Working Group No. 3 Stimulation and retention of private investments

Covered areas: creation and optimization of incentives for investments, facilitation of access to financial resources, improvement of the regulatory framework for ensuring fair competition, development of human capital and vocational training according to the market needs, and other.

Group Coordinator: Executive Director, Foreign Investments Business Association in Moldova.

Permanent Working Group No. 4 Reducing the informal employment and "gray salaries"

Covered areas: identification and assessment of solutions to curb the phenomenon of grey salaries and informal employment, which is causing high risks for employees, lost revenues to the public budget, and unfair competition to businesses. The most affected sectors are agriculture, construction and local trade. The Group is going to explore the benefits and costs of various actions, and find a balanced menu of solutions to reduce informal employment, without significantly affecting the business activity and the national budget.

Group Coordinator: Executive director of the National Confederation of Employers

Permanent Working Group No. 5 On advancing Moldova in international economic rankings

This Group is working on identifying reforms to improve the business environment and advance Moldova's position in international economic rankings. The Working Group explored 10 indicators covered by the World Bank Doing Business ranking. Solutions aim at streamlining legislation and improve its implementation. Following the recommendation of the Working Group, the Prime minister requested public authorities to develop regular recommendations for improving Moldova's ranking. On the one hand, this will enable authorities to better understand the principles of better regulation and best international practices, and on the

Group Coordinator: General Director of Business People Association of Moldova

Temporary (ad-hoc) Working Groups

1. TOPIC: Facilitating the access of Chinese tourists to Moldova – abolishing invitations when requesting short-stay visas.
2. TOPIC: Reducing the number of documents held by economic units in the area of labor relations, labor security and health, requested by the State Labor Inspectorate during controls.
3. TOPIC: Preventing the suspension of cement producers' activity, as a result of the legislative provisions regarding the content of hexavalent chrome in humid cement.
4. TOPIC: Revision of proposals amending the legislation in the area of personal data protection.

5. TOPIC: Revision of Labor Code provisions to reduce the burden on business environment and increase labor market attractiveness.
6. TOPIC: Identification of solutions in the activity of entrepreneur patent holders and switching to a new taxation mechanism.

Secretariat

The Economic Council Secretariat is responsible for the organization of daily activities of the Council and its working groups. The Secretariat operates based on the Regulation of the Economic Council to the Prime Minister and starting from 2013 is supported by the European Bank for Reconstruction and Development, funded by the UK Government's Good Governance Fund, and the World Bank Group project "Investment Climate Reform", funded by the Swedish Government.

The Secretariat has the following tasks:

- provides support to the Council in analyzing problematic issues related to business environment in order to ensure well-reasoned decisions;
- formulates and submits proposals and recommendations to improve business environment and investment attractiveness;
- submits conclusions and recommendations to the Prime Minister and to the members of the Council;
- organizes the meetings of the Council and working groups, prepares and distributes meetings' agenda, keeps the records and disseminates the results of the meetings to the Council members;
- supervises the processes of decisions implementation and results evaluation;
- ensures ongoing communication with mass-media, business community representatives, specialized associations, civil society, with respect to the activity of the Economic Council.

The team of the Secretariat is composed of experts from different areas, being led by the Head of the Secretariat. The members of the Secretariat are selected on an open competition basis by the European Bank for Reconstruction and Development and International Finance Corporation of the World Bank Group.

How we work

Alert

The Prime minister, representatives of the business community as well as any other member of the Economic Council can inform the Economic Council Secretariat about a problem that impedes smooth business development, and cannot be solved by the relevant state authority.

Analysis

Once the problem reaches the Secretariat, the team starts to gather more information on the issue. Facts and data are collected and stakeholders are interviewed. The topic is then prepared for discussions either under a permanent working group (WG) or an ad-hoc one. An expert from the team is assigned to coordinate the process.

Meetings

In due time, the EC members are announced about the planned meeting of the working group and its agenda. The members, those interested to participate, delegate their representatives. If needed, other experts, non EC members, can be invited too. During the meeting, opinions are discussed in an open and non-discriminatory manner. Following the WG, the meetings minutes, indicating the decision reached, are prepared. These are then disseminated to the EC members and, together with the press release are placed online for public access.

Recommendations

The EC Secretariat drafts a note for the Prime Minister informing about the context of the problem and presenting recommendations on the following steps.

PM' Requests

Prime minister issues an official request to the state authority in charge of the issue discussed, asking to implement the proposed solutions in a well-defined period of time.

Follow-up

In order to support the responsible state institutions in solving the issue according to the PM's request, the EC Secretariat provides on-demand support (i.e. co-drafting legislation, re-engineering procedures, etc.). The team continues to monitor further evolution and provides needed assistance until the problem is solved. The Secretariat PR expert informs wide public on the process and the results achieved.

Results so far

Short statistics 2016:

- 59 EC members;
- 50 recommendations to PM;
- 49 issues addressed;
- 4 urgent interventions;
- 47 meetings organized;
- 920 participants at meetings;
- 23 press releases.

Contribution to state inspection reform

The Ministry of Economy, with the assistance of IFC, is implementing the state inspection reform, which is supposed to reduce considerably the inspection burden on businesses and reduce the number of inspection bodies from 58 to 18. The set of amendments for the first stage of reform was consulted with the Economic Council before being submitted to the Government for approval. Business community and ECS proposed 7 impactful amendments to the draft, the main being about additional principles for less invasive and costly inspection and more transparency and predictability in setting inspection checklists. The amendments were accepted and approved by the Parliament - Law no. 230, dated 23.09.2016. The proposed amendments are going to contribute significantly to the transparency, accountability and

predictability of the inspection requirements and reduce the burden on businesses and diminish corruption practices.

Abolishing powers of police to detect economic offenses under the Administrative Code

An important reason of initiating the inspection reform and moratorium of inspections, introduced by Law no. 18, dated 04.03.2016, was the alarming incidence of reports about harassment of businesses by economic police. Following the discussions with the business community on the platform of the Economic Council, the Secretariat drafted and proposed amendments to the Administrative Code, within the package of amendments related to inspection reforms, and managed to promote them in the Parliament in association with the MPs. The package was adopted by the Parliament, including the proposal of the Secretariat, which abolished the powers of police to detect economic offenses, such as violating the rules of bookkeeping, completing and submitting financial reports, operation of cash register, making cash payments, storing and inventorying mandatory bookkeeping documents. These measures will significantly reduce the risks and costs for businesses.

Abolishing the requirement to use a corporate seal

At the insistence of the members of the EC the draft amendment of legislation on abolishing the requirement to use a corporate seal, after being rejected by the Parliament, returned to the table of the EC for improvements. In coordination with the ESC team, the Ministry of Justice prepared a new draft, which was approved by the Government on 20.04.2016 and was positively voted in the Parliament. The law entered into force on 16.09.2016 (Law no. 160 dated 07.07.2016). Abolishment of the stamp simplifies the life of the entrepreneurs and, as result, reduces their expenses for running a business. The cost for getting the seals amounted to 30% of the cost of opening a company. This reform will have also a positive impact on Starting a Business Indicator within the World Bank Doing Business ranking.

Preventing significant unintended impacts on businesses of draft amendments to the Law on Personal Data Protection

The draft amendments to the legislation on Personal Data Protection, which set high fines for businesses (up to 5.000.000 MDL) and a number of regulatory requirements, could have had significant unintended impacts on business activity. The business community alerted the EC about the draft legislation submitted to the Parliament and the need to revise and consult it with major stakeholders. Following negotiations and debates on the legislative amendments, the EC contributed to recalling of the law from the Parliament for further consultations with the business community representatives in the EC.

Certificates of origin

The issuance of certificates of origin has been a lengthy and burdensome procedure for many years. The biggest problem is that the list of documents for receiving the certificate of origin is not clearly stated and there were numerous cases when businesses reported abuses and demands for various additional documents as proof of origin. Following a number of addresses from the private sector regarding the need to amend the issuance procedure of certificates of origin, and a series of meetings within the Customs Service with various business associations and private sector, with the support of an EU High Level Advisor, Customs Service has developed a draft Government Decree (in Dec 2016), stating a clear procedure of issuing the certificate of origin and the self-declaration. Following the latest discussions with the Customs

Service and EC Secretariat, the draft of this Government Decree will be promoted as a part of a joint package with E-Customs Clearance and PVD Regulation (May 2017) . The draft Government Decree was submitted by Customs to public authorities for consultations. The draft Government Decree was also presented in a technical meeting of the Trade Facilitation Working Group (2) on February 23.

Solutions for entrepreneurial patent holders

The entrepreneurial patents were supposed to become void in retail trade starting with January 1, 2017, as it is considered as a major source of shadow economy. There were about 16000 patent holders in retail trade. Representatives of the patent holders were protesting on the streets and requesting extension of deadline for validity of patents. The Government proposed to patent holders to register as sole entrepreneurs subject to simplified tax and reporting regime. However, the patent holders considered that registration and requirement to use cash registers would increase the regulatory burden and risks related to regulation to an unacceptable extent. The Prime Minister requested the EC to explore the issue and identify appropriate solutions. Following the meetings with patent holders in the platform of EC, the consensus was achieved to allow an extension for another two years for existing patent holders to operate under the patents in places authorized by local authorities. By the end of this period they will have to register as sole entrepreneurs. The Government approved the amendments on December 5th and the Parliament adopted it on December 16th.

Waste Management Legislation

Recent amendments to Law 1540/1998 on payments for environmental pollution raise the following serious concerns:

- There is no clear mechanism on the application and for the calculation of the pollution taxes;
- Despite recent adjustments to the legislation the administration of the pollution tax by the State Ecological Inspectorate and Tax Service is still not clear and as a result the sanctions mechanism is not transparent;
- The implementation of the extended producer responsibility principle is being delayed as the collective waste management system is not yet operational; and

The use of pollution taxes for general budget expenditures instead of using these funds for the development and operation/maintenance of the collective waste management systems.

Under the PM Economic Council, numerous meetings have been held to ensure greater transparency on the application and calculation of the pollution tax mechanism, especially for the import of goods.

Expected Results

Simplification of business reporting and elimination of employment record book

ECS and the Ministry of Economy with donor support drafted amendments to the legislation to consolidate reporting related to wages and state mandatory social and medical contributions. The initiative will reduce the number of reports from 5 to 1. As a result, the State Tax Inspectorate becomes the only agency responsible for receiving and processing the

consolidated report related to wages. The proposed simplification eliminates overlapping of reported data, reduces the amount of data reported by cca 40% and eliminates the mandatory requirement to keep employment record book. This is going to reduce considerably the administrative costs for businesses and contribute to improving the ranking of Moldova in Doing Business Paying Taxes indicator. Moreover, the proposed solution will enable better tax administration and will help Tax Service fight informal employment and “gray salaries”. The draft was approved by the Government and submitted to the Parliament, where it has been discussed in eight committees by the end of 2016.

Labour Code Amendments

Following the Prime Minister’s initiative on amending the existing Labour Code, a dedicated working group on Labour Code amendments was created under the PM Economic council which includes representatives of business associations, Ministry of Labour and social protection, Trade Unions, Employers Association etc. The draft amendments have been jointly agreed and currently the draft is circulated among the ministries for approval.

Simplification of the procedure of foreign labour migration to Moldova (for example, registration of expats)

At the initiative of the Prime Minister the Economic Council in cooperation with responsible authorities have developed an action plan and identified key issues to be addressed in the process of registration of foreign labour force in the RM. The draft amendments have been discussed with business community and relevant authorities and presented to Government for approval. Currently the draft is ready for Parliament approval.

Biographies of Authors

Mrs. Diana Levcenco

Consultant, World Bank Group (WBG) Trade & Competitiveness (T&C) Moldova Investment Climate Reform Project (ICR) and the Secretariat of the Economic Council/National Trade Facilitation Committee under the Prime Minister of Moldova

Diana is in charge of ensuring effective policy dialogue and coordination of activities with government authorities, private sector associations, donor community, and other stakeholders to support successful implementation of business environment enabling reforms in Moldova.

Diana has more than 20 years of experience in economic and regulatory reforms in the country, including the areas of business regulation of entrepreneurial activity, tax administration and business reporting requirements, system of inspections and state control. As a Regulatory Reform Expert within the Development Alternatives Inc. (DAI), BIZPRO project, USAID under the Contract for the Support to Micro, Small, and Medium Enterprise Development in Moldova for the Government of Moldova, Implementation Unit of the World Bank Competitiveness Enhancement Project (phase I and II), Diana has more than 10 years of experience in providing advisory services to public authorities of Moldova on policy, legal and economic issues. She is experienced in legislative drafting, technical expertise and analysis of permissive documents, developing recommendations to streamline permissive documents in Moldova.

Diana graduated the State University of Moldova and the State Agricultural University of Moldova.

Mrs. Mariana Rufa

Executive Director, European Business Association of Moldova

Mariana Rufa has extensive responsibility of participating in various Public Private Dialogue Platforms in Moldova and outside. She has created and developed the process of lobbying and advocacy within the organization, its institutional functionality as well as its practical application. All the EBA 57 Members representing international and local businesses are actively participating in the legislative amendments with the active support of EBA and the PPD platforms in which the association is an active member. EBA has also 5 functioning sector committees that are generating proposals, position papers, various publications which are later presented as reference to the public authorities in the decision making process.

Mariana Rufa is also presiding the Trade Facilitation Working group within the PM Economic Council and has extensive experience in the public and private sectors. Her background is in economics, public budget development, foreign trade and WTO as well as donor cooperation in various areas of economy and finance policy writing.