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*Promovarea democrației și a drepturilor omului*

# Report

## MONITORING OF PARLIAMENTARY CONTROL IN THE REPUBLIC OF MOLDOVA IN 2017



Chisinau, 2018



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*Report developed for Promo-LEX Association  
by Adrian Fetescu, independent expert*

Chisinau, 2018

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# I. INTRODUCTION

## 1.1. General information

This report has been prepared to assess the function of parliamentary control and aims at detailing the activity of the Parliament of the Republic of Moldova in the given field in 2017, including compared to the previous periods. Previously, the Promo -LEX Association produced a similar report for 2016, and the present study appraises any developments in the issues, addressed in the previous report.

Parliamentary control can identify feedback mechanisms, through which general guidelines of administrative and judicial practice can be corrected and adjusted in line with the political meanings promoted by the electorate, thus emphasizing national sovereignty.

The Parliament is the deliberative authority primarily responsible for the legislative function and, it must, necessarily, establish state entities to enforce the law, respectively, executive authorities, and give the legislative authority control over the way, in which law enforcement process is organized or executed.

The basis of the control function is cumulatively represented by the requirements of the principle of the separation of powers in the state, the representative authority of the Parliament, the provisions of the Fundamental Law, as well as the governmental contract that involves the political platform of the Executive and the principle of governmental responsibility, which is a defining element of the parliamentary regime.

Parliamentary control is one of the fundamental principles of democracy. The control is a means of making the Government accountable for its actions and insuring that it implements policies in line with the laws and the budget adopted by the Parliament. Intense monitoring of the Executive by the Parliament is an indicator of good governance.

The principle of the separation of powers in the state is not simply manifested by the separation of powers but, above all, by the fact that, once the authorities are set up, the excesses or dominant tendencies of a power shall be stopped by the action of the other powers. Members of the Parliament (MPs), being the nation's representatives, are no longer entitled, but also obliged, under the representative mandate, to control public affairs. For these reasons, in any democratic Parliament, the control of the Executive and social-political life, in general, is an essential prerogative<sup>1</sup>.

Thus, the foundation of parliamentary control brings to the forefront the idea of democracy, being associated to the power of the people and national sovereignty, the election of the representatives of the sovereign right of power, and their dignity to exercise control, not only over the Executive, but also over certain activities under the imperative of public good and national interest. The Parliament has the power to exercise general control on behalf of and as representative of the political power holder.

It is praiseworthy that, over the last period, the Parliament of the Republic of Moldova has taken measures to improve its function of control, by a systematic organization of public hearings and consultations.

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1 M. Constantinescu, I. Muraru, *Drept parlamentar*, Ed. Gramar, București, 1994.

## 1.2. Methodology of research

In order to identify the possible progress in the area under investigation compared to the Report on Parliamentary Control for 2016, the same methodology has been used to carry out this research. Therefore, quantitative and qualitative approaches have been used in the research. It has been carried out in an inclusive and consultative manner, involving all relevant stakeholders of the Parliament. Data collection methods are multiple and varied: from analysis of legislation and documents to interviews with stakeholders, directly involved in this process.

The instruments used to analyze the function of parliamentary control:

- analysis of the changes in the regulatory framework made in 2017;
- interviews with those involved in the parliamentary control process;
- interviews with MPs and staff involved in the parliamentary control;
- official quantitative information provided by the Parliament (questions, interpellations, motions, reports, organized hearings, etc.).
- analysis of proposals formulated for the monitoring of the parliamentary control for 2016.

Initially, a review was made of all changes made to the legal framework and policy documents, approved or initiated in 2017.

The analysis of the legal framework assessed the completeness of the regulations of the institutions related to the Government's assumption of responsibility, submission of reports to the Parliament and parliamentary hearings. The existing regulations on the work of the inquiry committees and the extent of their mandates were analyzed.

Meetings were held with persons, involved in implementing the function of parliamentary control, including officials of the parliamentary committees, officials of subdivisions of the Secretariat of the Parliament, MPs, chairs of parliamentary committees, representatives of the parliamentary opposition to map the current situation on the exercise of parliamentary control.

In the meetings with MPs, we analyzed how they understood the mechanisms offered to them by the law (questions, interpellations, motions) and assessed how they applied them based on examples of parliamentary practice. Particular attention was paid to the Parliament's reports on the Government and other public authorities, assessing the mechanism of Parliament's reporting and conducting parliamentary hearings.

It is necessary to mention that analysis of the function of parliamentary control was carried out taking into account of the following:

- a) international standards for the functioning of the Parliament (standards recommended by the Inter-Parliamentary Union),
- b) comparative analysis with other EU member states similar to the Republic of Moldova as to the number of population, MPs, political regime, etc.,
- c) internal realities (forms of control, administrative tradition, socio-political situation, European integration agenda).

## II. ANALYSIS OF LEGISLATION

### 2.1. Detailed analysis of legislation on parliamentary control

Broadly speaking, in 2017, legislation on parliamentary control has not undergone any substantial changes. The detailed description and analysis of the legislative provisions related to the given field are reflected in the Monitoring Report on the Parliamentary Control in 2016<sup>2</sup>. Therefore, we shall just review the list of legislative acts that institutionalize the instruments of parliamentary control. These refer to:

**A. Constitution of the Republic of Moldova**, which establishes the basis of parliamentary control over the executive power and the public administration, and, in particular, regulates:

1. Control over the President of the Republic of Moldova;
2. Control over the Government of the Republic of Moldova;
3. Control over the activity of public administration;

**B. Law No. 797 of 02.04.1996 for the adoption of the Parliamentary Rules of Procedure**, which provides a dimension to parliamentary control, describing the instruments that the Parliament and its working bodies can operate. Thus, we can mention:

Oversight in the Parliament's Rules of Procedure	Article
Supervision exercised by the Standing Committees of the Parliament	art. 25-27, 31
Supervision exercised by the Specialized Committees of the Parliament	art. 32-33
Supervision exercised by Inquiry Committees of the Parliament	art. 34-36
Exercise of legislative parliamentary control	art. 111
Simple motions	art. 112-115
The motion of censure and the Government's accountability to the Parliament	art. 116-119
MPs' Questions addressed to Members of the Government and Heads of Other Public Administration Authorities	art. 122-124
Interpellations of MPs	art. 125
Hearings in the Parliament Plenary	art. 126
Annual Activity Reports of the Government	art. 127
Annual Activity Reports of Public Authorities	art. 128

**C. Law No. 136 of 7.07. 2017 on the Government** - even if it was adopted in 2017, it did not bring any new mechanisms of parliamentary control, compared to the previous law. This law determines the Government's accountability to the Parliament and establishes the manner and conditions for reporting on its work to the Parliament:

<sup>2</sup> *Monitoring report on the implementation of parliamentary control in 2016* - elaborated for the Promo-LEX Association by the independent expert Adrian Fetescu, Chisinau 2017.

	<b>Government's Accountability to the Parliament</b>
<i>Annual Activity Report of the Government</i>	The Government presents to the Parliament its annual activity report in April. The presence of the members of the Government is mandatory in the examination of the activity report of the Government.
<i>Annual Reports of Public Authorities</i>	Members of the Government present activity reports in the area of their competence, if this is requested by the Parliament, or is expressly provided for by the law. In the case of examination of the activity report in a certain area, the member of the Government, whose competence is concerned, is obliged to participate in the plenary session of the Parliament.
<i>Answering MPs' questions</i>	Members of the Government and the heads of other central administrative authorities and organizational structures within their area of competence are obliged to answer the questions posed by the MPs during the plenary sittings of the Parliament.
<i>Accountability of the Government</i>	The Government can assume accountability to the Parliament for a program, a general policy statement, or a draft law, by adopting a decision in this regard. If urgent actions are required, the Government may be accountable to the Parliament for a draft law or, for several draft laws at the same time, if they regulate relations in the same field of activity and lay down legal rules for enforcement in order to ensure the protection or the realization of the public interest, which could be affected by the non-adoption of the respective draft law.
<i>Government's participation in the work of the Parliament</i>	Members of the Government are entitled to attend parliamentary sessions, meetings of the parliamentary committees and express their views on the issues under consideration. At the Parliament's decision, or at the request of the President of the Parliament, the participation of the members of the Government in the work of the Parliament is mandatory.
<i>Accountability to MPs' Interpellations</i>	In the Parliament interpellations, the presence of the members of the Government, to whom questions are addressed, is mandatory. In case of impossibility to attend the plenary session of the Parliament on the interpellations of the Prime Minister, Deputy Prime Minister and Deputy Prime Ministers without portfolio, they shall be replaced by the Secretary General of the Government, or by one of the Deputy General Secretaries of the Government.
<i>Government's participation in the meetings of the parliamentary committees and parliamentary factions</i>	At the request of parliamentary committees or parliamentary factions, members of the Government and heads of other central administrative authorities, or persons with responsibilities shall attend sittings of committees or parliamentary factions and answer questions posed by MPs.
<i>Participation in Parliamentary sessions on the examination of motions</i>	When examining a motion of censure, the presence of members of the Government is mandatory. In the case of the simple motion, the member of the Government, whose competence is the subject of the activity, is obliged to participate in the plenary sitting of the Parliament.
<i>Examination of draft normative acts</i>	In the case of consideration of a draft legislative act in the Parliamentary plenary sitting, the Minister may delegate its presentation to the Secretary General, or to the representative of the Government in the Parliament.

**D. Legal framework that provides for the submission of public authorities' reports to the Parliament**, which establishes how to report to the Parliament on the activities of the public administration authorities, including those with autonomous status.

The table of reports submitted to the Parliament is as follows:

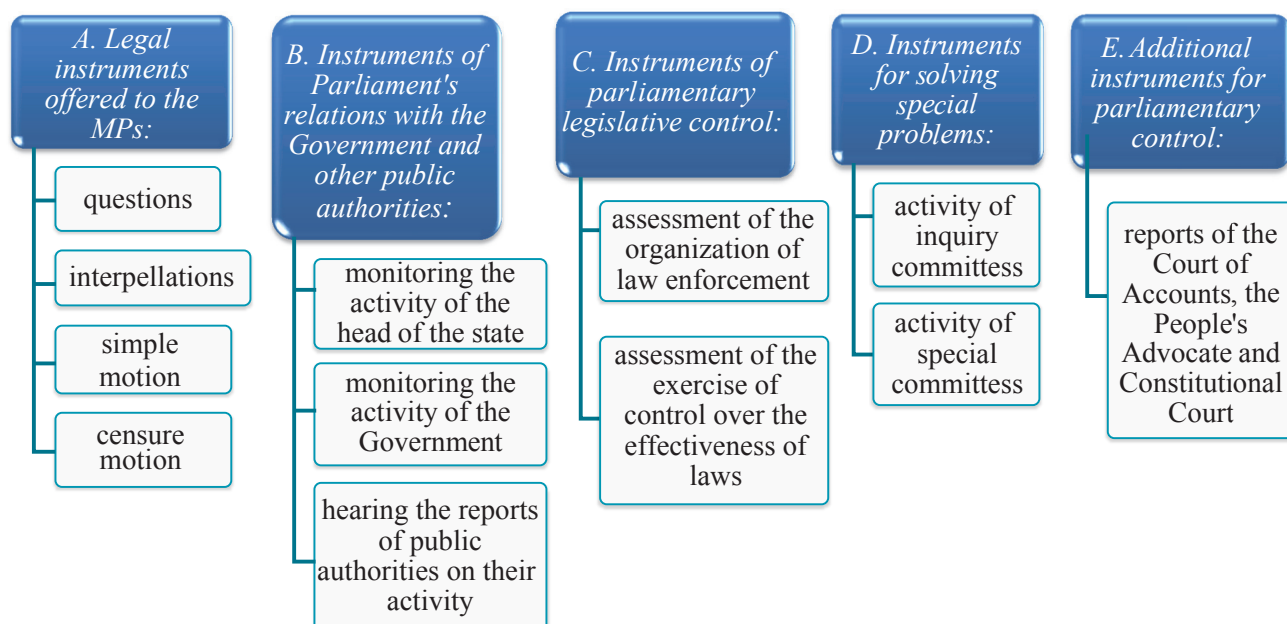
<b>No.</b>	<b>Public Authority</b>	<b>Legal basis</b>	<b>Report</b>	<b>Due date</b>
1	<b>Security and Intelligence Service of the Republic of Moldova</b>	Law No. 753 of 23.12. 1999 on the Security and Intelligence Service of the Republic of Moldova (art.1 par. (2), art.9 clause a), art.20)	Reports on the conduct of its activity	Annually and, if required, on request
2	<b>Central Election Commission</b>	Electoral Code no.1381 of 21.11.1997 (art.22 par. (1), art.35 par. (3))	1) Reports 2) Report on the management of financial resources allocated for the conduct of the elections	1) Annually 2) In the shortest possible time after the election
3	<b>Government (de facto, the Ministry of Economy is meant)</b>	Law no.121 of 04.05.2007 on the administration and nationalization of public property (art.69 para.3))	Report on the totals of administration and nationalization of public property for the previous year	Annually, by 1 July
4.	<b>Constitutional Court</b>	Law No. 317 of 13.12.1994 on the Constitutional Court (Article 10); Law no.502 of 16.06.1995 Constitutional Jurisdiction Code (art. 80)	Reports on the exercise of constitutional jurisdiction	Annually, in January
5	<b>General Prosecutor's Office</b>	Law no. 3 of 25.02.2016 on Prosecutor's Office (Article 11 par.3))	Report on the activity of the Prosecutor's Office in the previous year	Annually, by 31 March of the current year
6	<b>Superior Council of Magistracy</b>	Law no.947 of 19.07. 1996 on the Superior Council of Magistracy (Article 4 (4) clause (d))	Report on the organization and functioning of the courts in the previous year	Annually, but no later than 1 April.
7	<b>National Anti-corruption Center</b>	Law no. 1104 of 06.06.2002 on the National Anticorruption Center (art.44 / 1)	Report on the conduct of its activity	Annually, by 31 March
8	<b>National Center for Personal Data Protection</b>	Law no.133 of 08.07.2011 on the protection of personal data (art. 21 par.3))	Activity report for the previous year	Annually, by 15 March
9	<b>National Integrity Authority</b>	Law no.132 of 17.06.2016 on the National Integrity Authority (art.7 par. (3) clause a), art.14 par. (1) clause m))	Activity report of the Authority for the previous year	Annually, by 31 March
10	<b>The People's Advocate</b>	Law no.52 of 03.04.2014 on the People's Advocate (Ombudsman) (Article 29)	Report on the respect for human rights and freedoms in the Republic of Moldova	Annually by 15 March
11	<b>Court of Accounts</b>	Law on the Court of Accounts no.261 of 05.12.2008 (art.8, art.16 clause h))	1) Financial report for the execution of its own budget in the expired budget year; 2) Report on the administration and use of public financial resources and public patrimony	1) Annually, by 15 March; 2) Annually, by 10 October

12	<b>National Commission of the Financial Market</b>	Law no.192 of 12.11.1998 on the National Commission for the Financial Market (art.2 par. (2), art.26)	Report on its activity and on the functioning of the non-banking financial market	Annually
13	<b>National Bank of Moldova</b>	Law no.548 of 21.07.1995 on the National Bank of Moldova (art.69 par.1) - (2)	1) Report that includes information on: a) financial statements confirmed by the external auditor; b) its activity and operations for the end financial year; c) the economic situation of the state. 2) A report containing the analysis of the macroeconomic situation and a mid-term forecast of inflation and of the main macroeconomic indicators	1) Annually, by 1 June  2) Quarterly, within 45 days of the end of the quarter
14	<b>Board of Directors of the Deposit Guarantee Fund in the Banking System</b>	Law no.575 of 26.12.2003 on guaranteeing the deposits of individuals in the banking system (art. 29, clause o))	Activity Report of the Fund for that year	Within 4 months after the end of the financial year
15	<b>National Energy Regulatory Agency</b>	Law no.1525 of 19.02.1998 on energy supply (art.42 para.1 0)); Law no.107 of 27.05.2016 on electricity supply (Article 6 par. (4)); Law no. 108 of 27.05.2016 on natural gas supply (Article 6 par. (4)); Law no.461 of 30.07.2001 on the petroleum products market (Article 9 par. (1)); Parliament Decision No. 238 of 26 10. 2012 on the approval of the Regulation for the organization and functioning of the National Energy Regulatory Agency (point 22, clause j)	1) Report on the Agency's activity in the previous year; 2) Report that will include a financial compartment on the expenditures incurred in the previous year, other information on the petroleum products market	1) Annually, by 1 June 2) Annually, by 15 March
16	<b>Competition Council</b>	Competition Law no.183 of 11.07.2012 (art.33 par. (3), par. (4) clauses a) - d)); Law no. 139 of 15.06.2012 on state aid (art. 21 par.3));	1) Report on its activity; 2) Report on state aids granted;	1) Annually, by 1 June; 2) Annually
17	<b>Audiovisual Coordination Council</b>	Audiovisual Code of the Republic of Moldova no.260 of 27.07.2006 (art. 49 par.1) - (2)	Council report	Annually, by 1 February

18	<b>National Agency for Complaints Settlement</b>	Law no.131 of 03.07.2015 on public procurement (art.75 par.4) - (5))	Annual performance report, which includes data and analysis of dispute resolution cases	1) Annually, by 15 March; 2) At the request of the Parliament, the Agency reports for a period of less than one year
19	<b>Council on the Prevention and Elimination of Discrimination and Ensuring Equality</b>	Law no.121 of 25.05.2012 on ensuring equality (art. 12 clauses (1) - (2)); Law no.298 of 21.12.2012 on the activity of the Council for preventing and eliminating discrimination and ensuring equality (art.7 clause h), art.28 - art.29)	General Report on the Situation of Prevention and Combating Discrimination	At the beginning of each year, by 15 March
20	<b>National Council for State Guaranteed Legal Aid</b>	Law no.198 of 26.07.2007 on State guaranteed legal aid (Article 12 par. (1) clause (f)); Order of the Ministry of Justice on the approval of the Regulation of the National Council for State Guaranteed Legal Aid no.18 of 24.01.2008 (point 55)	Annual activity report on the system of granting state-guaranteed legal aid	Annually, by 1 March

## 2.2. Legal instruments for exercising parliamentary control

The Parliament must have sufficient means and mechanisms to enable it to carry out its supervisory function effectively. Legislation of the Republic of Moldova includes several instruments that enable parliamentary control.



## 2.3. Parliamentary control through the implementation of the Association Agreement between the Republic of Moldova and the European Union

It should be mentioned that the approval of the legislative programs, in order to implement the Association Agreement, is aimed at ordering the activity of the Parliament. It should no longer continue the vicious practice of examining and adopting urgent or priority draft laws that affect the quality and, therefore, effective law enforcement. The approval of legislative programs will enable the Parliament to examine and adopt draft laws, planned in due time, respecting the principles of transparency and participation. Conceptually, **the legislative program will also include sections dedicated to parliamentary control, which include control over law enforcement, hearing of the reports submitted by the Government and other central authorities**, institutionalization of such procedures being the responsibility of the Parliament.

Following the conclusion of the Association Agreement between the Republic of Moldova and the European Union<sup>3</sup>, the obligation to revise national legislation and bring it in line with that of the European Union has been undertaken. To this end, at the request of the development partners, the Government approved the National Action Plan for the implementation of Moldova - European Union Association Agreement for the period of 2017-2019<sup>4</sup>. On 30 July and 30 January of each year, the Ministry of Foreign Affairs and European Integration has the task of presenting to the Government a report on the implementation of the National Action Plan aimed at the implementation of the Association Agreement between the Republic of Moldova and the European Union.

After the examination of the National Plan in the Parliament, it became a legislative program for 2017, approved by the decision of the Parliament<sup>5</sup>.

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3 Law no.112 of 2.07.2014 on the ratification of the Association Agreement between the Republic of Moldova on the one hand, and the European Union and the European Atomic Energy Community and their Member States, on the other part.

4 Government Decision no.1472 of 30.12.2016 on the approval of the National Action Plan for the implementation of the Moldova-EU Association Agreement in the period of 2017-2019.

5 Parliament Decision No.1 of 24.02.2017 on the approval of the Legislative Program for the implementation of the Association Agreement between the Republic of Moldova and the European Union for the year 2017.

### III. MECHANISM OF PARLIAMENTARY CONTROL

#### 3.1. Statistical data on parliamentary control in 2017

An overview of the mechanism of parliamentary control in the Parliament is set out in the Statistical Report on the Legislative Process in 2017 and in the Report on the activity of the Parliament Secretariat in 2017, which also includes information on the exercise of parliamentary control.

Thus, in the period of January 1 - December 31, 2017, MPs addressed a total of 103 questions and 7 interpellations to the Government and the authorities of the public administration.

More details can be found in the table below:

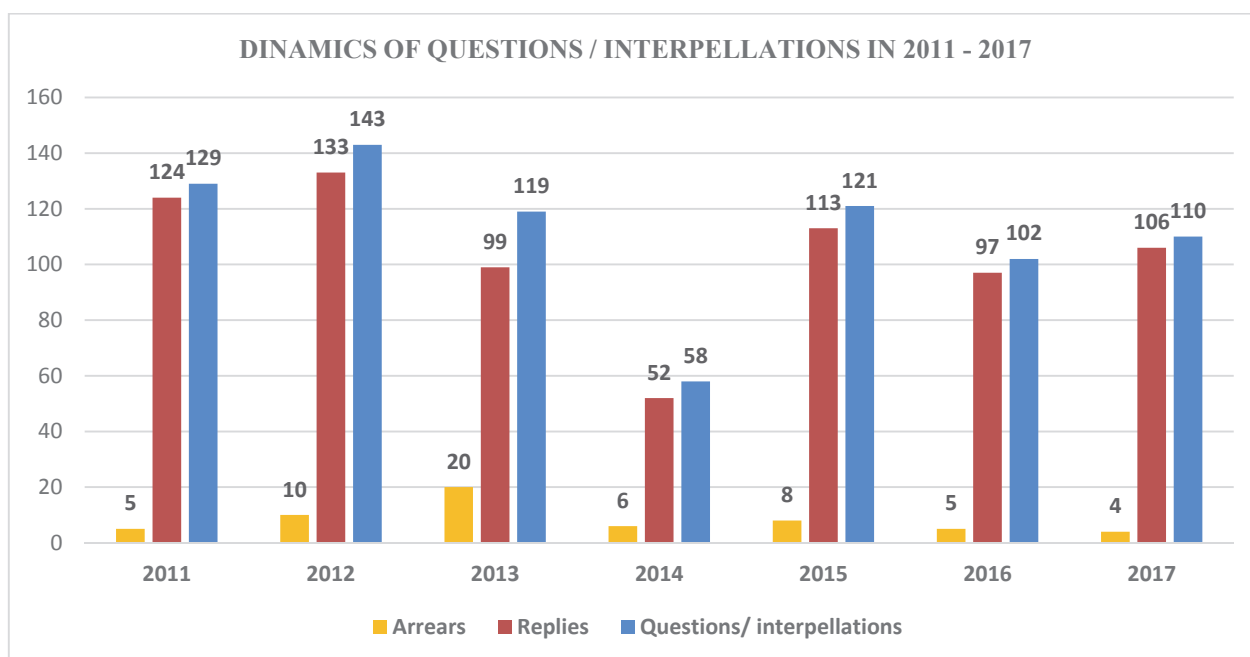
№	Faction	No. of questions				Replies	No. of interpellations				Replies
		Reply requested in writing	Reply requested in plenary session	Reply requested in plenary session and in writing	TOTAL		Reply requested in writing	Reply requested in plenary session	Reply requested in plenary session and in writing	TOTAL	
1	PSRM	2	-	3	5	99	-	-	-	-	7
2	PLDM	9	20	8	37		-	-	5	5	
3	PDM	4	-	-	4		1	-	-	1	
4	PCRM	11	26	3	40		-	1	-	1	
5	PL	6	4	2	12		-	-	-	-	
6	GPPE	-	2	-	2		-	-	-	-	
7	Non-attached MPs	2	1	-	3		-	-	-	-	
<b>TOTAL</b>		34	53	16	<b>103</b>	<b>No reply: 4</b>	1	1	5	<b>7</b>	<b>No reply: 0</b>

№	Institutions, to which MPs have posed questions / interpellations	Number of Applications
1	Prime minister	8
2	Government / State Chancellery	29
3	Ministry of Health, Labor and Social Protection	6
4	Ministry of Education, Culture and Research	9
5	Ministry of Economy and Infrastructure	15
6	Ministry of Agriculture, Regional Development and Environment	4
7	Ministry of Internal Affairs	5
8	Ministry of Finance	7
9	Ministry of Foreign Affairs and European Integration	2

10	Ministry of Defense	1
11	Ministry of Justice	1
12	Supreme Court	1
13	General Prosecutor's Office	5
14	Anticorruption Prosecutor's Office	1
15	National Anticorruption Center	1
16	General Inspectorate of Police	3
17	National Agency of Auto Transport	1
18	Audiovisual Coordination Council	2
19	Competition Council	1
20	National House of Social Insurance	1

A bigger number of questions compared to the interpellations results from the fact that MPs, as a rule, confuse these two supervision instruments. Thus, some of the questions are de facto interpellations, requesting explanations on some aspects of the Government's policy related to its internal or external activity. At the same time, the number of questions asked by MPs includes some that have been repeated, either because the people concerned did not provide answers to them, or the answers are unsatisfactory, incomplete or elusive.

Dynamic information for the period of 2011-2017 on the number of questions / interpellations, as well as answers to them, is shown in the chart below:



In 2017, MPs made four simple motions. All the motions were submitted by the PSRM faction and all of them were rejected by the Plenary of the Parliament.

The picture of motions shows that these instruments are used by parliamentary opposition strictly for political purposes to exercise pressure on the governance. The following simple motions were put forward:

1. The Simple Motion with regard to the Internal Health Policy, adopted by the Health Minister, Ms. Ruxanda Glavan (No. 43 of 24.02.2017);
2. The Simple Motion with regard to the domestic policy in the field of transport, carried out by the Minister of Transports and Roads Infrastructure, Mr. Iurie Chirinciuc (No. 63 of 15.03.2017);
3. The Simple Motion with regard to the internal education policy of the Ministry of Education (no. 102 of 06.04.2017);
4. The Simple Motion with regard to the Foreign Policy, carried out and promoted by the Ministry of Foreign Affairs and European Integration (no.171 of 02.06.2017).

Consequently, all the simple motions submitted were either blocked by the parliamentary majority and refused examination in the Parliament, or were examined, but rejected by the Parliament.

No motions of censure were submitted in 2017. If we compare the data of this year to that of 2016, when two censure motions were put forward, we could deduce two explanations: either the quality of the governance has increased or the MPs were more indifferent to this instrument.

In 2017, 4 public hearings were held in the Parliament plenary, namely:

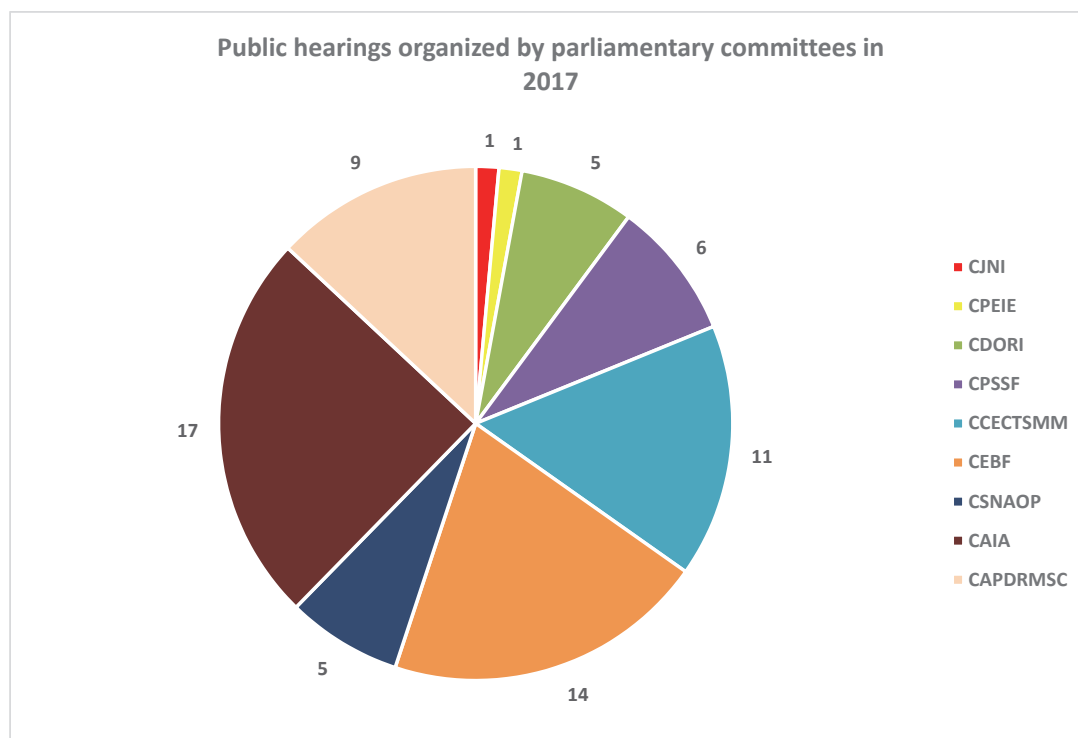
- **Parliamentary hearings on measures taken by the Ministry of Environment for the protection of the Dniester River ecosystem** (Rapporteurs: Valeriu MUNTEANU - Minister of the Environment, Lilian DARII - Deputy Minister of Foreign Affairs and European Integration and Valeriu TRIBOI - Deputy Minister of Economy) - 17.03.2017;
- **Parliamentary hearings on the organization and conduct of the tender for the selection of a concessionaire for geological exploitation of oil and natural gas on the territory of the Republic of Moldova** (Rapporteurs: Mr. Valeriu MUNTEANU - Minister of Environment, Mr. Nicolae ESANU - Deputy Minister of Justice and Mr. Valeriu TRIBOI - Deputy Minister of Economy) - 17.03.2017;
- **Parliamentary hearings on the organization and conduct of the bacalaureate exam in 2017** (Rapporteur: Ms. Lilia POGOLSA - Deputy Minister of Education) - 20.07.2017;
- **Parliamentary hearings on the implementation of the provisions of the Parliament Decision no.45 of March 24, 2017 on the Report of the Special Commission for Efficiency of the Legislative Framework on Child Nutrition in Preschool and Educational Institutions** (Rapporteurs: Mr. Igor SAROV - State Secretary of State of the Ministry of Education, Culture and Research, Mr. Vasile LUCA - Deputy Minister of Agriculture, Regional Development and Environment, Mr. Ion TOMA - Deputy Director of the National Agency for Food Safety, Mr. Iurie PINZARU - Director of the Public Health Center and Mr. Viorel MORARI - Chief Prosecutor of the Anticorruption Prosecutor's Office) - 16.11 .2017.

Although Parliamentary Rules of Procedure contain general rules on parliamentary hearings, types and procedures for holding the hearings, the Standing Committees do not actually use this instrument in their work.

In order to improve the quality of parliamentary control, on November 11, 2017, the Standing Committee of the Parliament of the Republic of Moldova approved the Decision no. 42 on the composition of the legislative program for the implementation of the parliamentary control over the enforcement of laws in the autumn session of 2017. In order to carry it out, some committees have drawn up annual activity plans, which expressly provided for public hearings.

The subjects of the public hearings were selected depending on their topicality, urgency and importance, as a rule, hearings on certain draft laws are held as public consultation instruments. Most hearings were held by the Committee on Agriculture and Food Industry (17), followed by the Committee on the Economy, Budget and Finance with 14 public hearings. The number of hearings is important, but the best indicator is the number of recommendations that are implemented following the public hearings. In this respect, the parliamentary committees have great difficulties and do not have the capacity to monitor this process.

In 2017, the parliamentary committees held 69 public hearings, as follows:



During the same period, 27 reports were submitted by the public authorities and institutions, of which 8 were heard in the Parliament plenary.

The list of these reports is set out below:

1. Report of the Competition Council No.180 of 02.02.2017 on State aid granted in the Republic of Moldova for 2015;
2. Report No. 183 of 02.02.2017 on the activity of the Audiovisual Coordination Council of the Republic of Moldova for 2016;
3. Report No.374 of 03.03.2017 on the activity of the National Anticorruption Center for 2016;
4. Report of the National Council for State Guaranteed Legal Aid No.378 of 03.03.2017;
5. Activity Report No.424 of 14.03.2017 of the National Center for Personal Data Protection of the Republic of Moldova for 2016;
6. The People's Advocate Report No. 478 of 20.03.2017 on respect for human rights and freedoms in the Republic of Moldova for 2016;
7. Activity reports No.621 of 04.04.2017 and No. 707 of 12.04.2017 (separate opinion) of the National Integrity Authority for 2016;

- 8.** Report No.627 of 04.04.2017 on the activity of the General Prosecutor's Office for 2016;
- 9.** Report No. 663 on the activity of the Superior Council of Magistracy and the Courts for 2016;
- 10.** Activity Report No. 671 of 10.04.2017 of the Court of Accounts for 2016;
- 11.** Financial Report No.672 of 10.04.2017 of the Court of Auditors on budget execution in the budget year 2016;
- 12.** Activity Report No.692 of 11 04.2017 of the Central Election Commission for 2016, in line with the activities set out in the Strategic Plan of the CEC for 2016-2019;
- 13.** Annual Report No. 797 of 28.04.2017 on the implementation of the Government Activity Program 2016 - 2018;
- 14.** Activity Report No. 792 of 28.04.2017 of the Bank Deposit Guarantee Fund for 2016;
- 15.** Annual Report No.1062 of 30.05.2017 on the activity of National Commission for Financial Markets and operation of the non-banking financial market for 2016;
- 16.** Report on the activity of the Competition Council in 2016. Financial Report No.1063 of 30.05.2017 for 2016;
- 17.** Annual Report No.1064 of 30.05.2017 of the National Bank of Moldova for 2016;
- 18.** Report of the Central Election Commission No.1171 of 12.06.2017 on the financing of political parties and election campaigns in 2016;
- 19.** Government Report No.1688 of 14.09.2017 on the execution of the national public budget and its components;
- 20.** Report No. 1836 of 10.10.2017 on the administration and use of public financial resources and public patrimony for the year 2016 - Court of Accounts;
- 21.** Constitutional Court Report No. 2194 of 22.11.2017 on the execution of constitutional jurisdiction in 2016;
- 22.** General Report of the Council on Prevention and Elimination of Discrimination and Ensuring Equality on Preventing and Combating Discrimination in the Republic of Moldova for 2016; DPA No. F-3272 of 17.11.2017;
- 23.** Report No. 2212 of 24.11.2017 on the activity of the National Energy Regulatory Agency for the period of 2016;
- 24.** The report of the National Energy Regulatory Agency No. 2213 of 24.11.2017 on the result of the monitoring of petroleum products market of the Republic of Moldova in 2016;
- 25.** General Report No. 2220 of 24.11.2017 on the totals of administration and nationalization of public property in 2016;
- 26.** DPA Report No. F-3272 of 17.11.2017 on preventing and eliminating discrimination and ensuring equality in preventing and combating discrimination;
- 27.** Generalized information on the socio-economic situation in the Republic of Moldova presented by the Ministry of Economy (monthly).

It should be noted that the responsible authorities respect the deadlines imposed by legislation for reporting. With regard to the hearing of reports in the Parliament, the situation remained unchanged compared to 2016.

Based on the information on the official website and the information contained in the statistical reports of the Parliament Secretariat, we note that in 2017, the Parliament has set up a single specialized committee, namely, the Specialized Committee to develop the package of legislative changes in suicide prevention (established by the Parliament Decision No. 46 of 24.03.2017).

## 3.2. Regulation of Parliamentary Control in Parliamentary Rules of Procedure

The Rules of Procedure of the Parliament of the Republic of Moldova, adopted by Law no. 797/1996, contains several provisions, regulating the Parliament's supervision function.

For simplicity, we divided these provisions and norms from Parliamentary Rules of Procedure into four major forms of parliamentary control, namely:

### **A. Supervision exercised by Standing Committees, Specialized Committees and Parliament Inquiry Committees (art. 25 – art. 27, art. 31 – art. 36).**

The parliamentary practice in the Republic of Moldova does not have a rich history of initiating parliamentary inquiries, be it by the standing committees, or by establishing inquiry committees. In most cases, the inquiry committees set up did not bring their activity to an end and the reports and conclusions presented had a political flair. **The parliamentary inquiry must be a well regulated institution and must be an effective instrument of parliamentary control** without political connotations. At present, issues pertaining to the regulation of inquiry committees' activity are very vague.

There is another problem related to evasive answers of those who have been heard, who are exempt of any responsibility for the provision of untrue or incomplete information. Cases, where the requested information is submitted by the public authorities exceeding the time limits specified by the committee, are frequent.

Parliamentary Rules of Procedure contain general rules on parliamentary hearings, types and procedures for conducting public hearings, etc. It is clear from the rules that parliamentary hearings can be carried out directly by the Plenary of the Parliament and by the parliamentary committees, but **it is not always clear when a hearing is carried out by the committees and, respectively, by the Plenum.**

As a rule, hearings are an important mechanism in the work of parliamentary committees. **In this respect, it would be appropriate to clarify and expressly set out in Parliamentary Rules of Procedure the primary and fundamental role of parliamentary committees in conducting parliamentary hearings.**

### **B. Supervision exercised by MPs (art.112 - art.119, art.122 - art.125)**

In the interviews with MPs, they point out the issue of delayed replies, formal replies or even lack of replies from public authorities to questions and interpellations of MPs. This state of affairs discourages MPs.

The conclusion resulting from these interviews is that **the Parliamentary Rules of Procedure are to be revised in order to make questions and interpellations more effective instruments of parliamentary control.** A possible solution could be the establishment of legal mechanisms to empower decision-makers and competent authorities in the process of data collection by MPs, including **responsibility for ignoring, or formulating formal answers to questions and interpellations of the MPs.**

In the opinion of the interviewed MPs, although Parliamentary Rules regulate the institute of motion, it **would be appropriate to improve the procedures of motions to make them more efficient**. For example, the lack of an explicit time limit for discussing and debating a motion was highlighted. This time limit is currently being put to the vote. It is also mentioned that MPs often divert in Parliamentary sessions from the subject of motion to other subjects.

Parliamentary Rules of Procedure should also specify the role of the General Legal Directorate of the Parliament Secretariat with regard to the examination of motions. Currently, according to the interviews with MPs and representatives of the Parliament Secretariat subdivisions, even if there are no regulations, at the indication of the President of the Parliament, the General Legal Directorate performs the legal expertise of the motions submitted to the Parliament, analyzing whether these motions contain the necessary elements to be forwarded for the examination in the Parliament.

### **C. Exercise of Legislative Parliamentary Control (art. 111)**

The regulations contained in Article 111 of the Rules are insufficient to ensure Parliament's effective control over the legislation. It is necessary to elaborate and apply procedures, which will order the stages of the parliamentary control.

There is lack of clarity with regard to the meaning of parliamentary control (the scope of parliamentary control), the forms of parliamentary control, the way in which control processes should be carried out, the obligation / imperative of the parliamentary control process. For example, the Parliamentary Rules of Procedure state that upon the expiry of 6 months after the law enters into legal force, parliamentary control shall be exercised, without providing for any procedures. As a result, the parliamentary committees do not perform this function of verifying whether the enforcement of the law is performed in the terms, established by Parliamentary Rules of Procedure.

In 2017, due to the absence of clear, detailed and uniform procedures for the ex-post analysis of legislation, this instrument of parliamentary control was not used by the parliamentary committees. This was also reiterated in the interviews with the chairs of the standing committees.

The situation changed in 2018, due to the adoption of Decision no. 2 of 07.02.2018 of the Standing Committee for the approval of the ex-post evaluation methodology on the implementation of legislative acts. As a result, two ways of ex-post analysis were set up: **legal analysis and impact analysis**. The legal analysis aims at approving all the normative acts necessary for the execution and enforcement of the law, it examines whether there are certain legal dysfunctions impeding enforcement of the law, if the rules of law were subject to appeals and litigations in the courts. The second aspect is related to the impact of the law, its effectiveness, whether the law has achieved its purpose and objectives. If in the first case, the legal analysis can be carried out by the Parliament's subdivision, then in the second case, the impact analysis is carried out by the specialized parliamentary committees.

One aspect, directly related to the subsequent assessment of the law and mentioned by the interviewed MPs, is the urgent or priority adoption of draft laws, which often causes major problems in the enforcement of future laws. The interviews show that the Government comes with such initiatives at the end of the session, before Parliament's holiday. The legislator, being pressed for time, scrutinizes these draft laws and votes in a hurry, and MPs fail to thoroughly analyze these legislative initiatives.

**One of the solutions expressly mentioned by an interviewee stipulates that if the Government comes to the Parliament with a priority draft law, it must also come up with a draft Government Decision to implement the future law.** When the law enters into force, the Government Decision will also be approved.

Some recommendations derived from the interviews emphasize the importance of **establishing a system that would allow MPs adopt a list of laws to be evaluated by committees at the beginning of each session**. Making this list public will allow civil society involve in the evaluation of some selected laws.

The limited capacity of parliamentary committees to carry out ex-post analysis of legislation was emphasized both in discussions with MPs and with consultants of parliamentary committees. In order to strengthen the capacities of parliamentary committees' consultants and MPs, **evaluation of the legislation could be outsourced, for a period of time**. To this end, the Parliament could either directly provide financial resources for outsourced contracts when adopting its own budget, or require international donors' assistance.

#### **D. Annual Reports of the Government and Public Authorities (art. 127 – art. 128)**

Given the incomplete and summary regulations on reporting, this activity becomes a formal one. This was reported in the interviews with MPs and by the chairs of the parliamentary committees, according to which the reports of the public authorities are not subject to a detailed examination in the parliamentary committees. Moreover, the Parliament not always resorts to debating reports in the plenary session, which by law, are required to be heard and debated. With regard to reports submitted by other public authorities, since the law does not provide for the obligation to debate them in the Parliament, they are only sent to the Parliament for information.

Although the Government and public authorities submit their reports to the Parliament, the latter has no capacity to study and analyze them. **The current legal framework does not expressly state what happens to a report submitted to the Parliament, whether it is disseminated to committees, to the Legal General Directorate, whether it is examined by the parliamentary committees, etc.**

Reports of the independent institutions contain information that is useful for parliamentary control. There is a number of reports, on which parliamentary committees may hold several public hearings discussing specific issues, referred to in these reports.

Following the discussions within the focus group, it was found that, despite the fact that Moldova's legislation provides for more parliamentary control procedures and forms, the Parliament, its working bodies and MPs do not fully use these constitutional and legal opportunities to exercise a genuine parliamentary control. For example, the report of the People's Advocate has not been heard in the Parliament for more than 7 years. Only in 2017, the Parliament heard the report of the People's Advocate for 2016. This exercise is very important, being an instrument of parliamentary control over the respect of human rights by the Executive.

At the same time, it should be noted that parliamentary control is hampered by an inadequate framework of operating competences and procedures that does not allow the Parliament to be effective. The analysis of the domestic legal framework shows us that in some situations the Parliament's supervisory powers are inadequately restricted or defined. For example, legislation establishes that public authority reports are submitted to the Parliament, without specifying the procedure, whether these reports are debated in committees, in the Standing Committee or in the Parliament plenary session.

Any report drawn up by the Court of Accounts, presents recommendations to the Parliament, the Government, other public authorities. Although many of the Court's recommendations refer to amending the legislation, there are no tangible results in reality. **At the same time, there are no effective mechanisms for sanctioning those who do not follow the recommendations presented in the reports of the Court of Accounts**. Here again, the capacity of the parliamentary commission to analyze and review reports, as well as to monitor the recommendations of the

reports is concerned. The Parliament has no capacity to monitor whether the recommendations of the Court of Accounts have been implemented or not. A solution publicly debated and supported by some interviewees is **to set up a separate committee in the Parliament in charge of the Court of Accounts**. This separate committee has to deal only with the Court of Accounts and the Budget. To this end, the draft law no. 104 of 29.03.2018 has been registered. The draft law amends and supplements the Parliamentary Rules of Procedure and provides for the establishment of the Public Financial Control Committee, its primary objective being the examination of reports submitted by the Court of Accounts.

One of the proposals, resulting from the interviews, indicates the **need for a simultaneous examination in the Parliament of the two reports: that of the Court of Accounts on budget execution and that of the Government on budget execution**. These reports need to be examined together in a single package, as they concern the proper use of public money.

# IV CONCLUSIONS AND RECOMMENDATIONS

## 4.1 Conclusions

Based on the information mentioned above, some key findings result from this report, which remained largely the same compared to the findings of 2016<sup>6</sup>. We will list the most relevant ones:

1. The inefficient use by the Parliament, its working bodies and MPs of instruments and forms of parliamentary control.
2. Parliamentary control is often constrained by an incomplete legal framework, as the competences of Parliament control are not properly defined, nor do they clearly describe the working procedures in the exercise of parliamentary control.
3. The inefficiency of MPs' questioning and interpellations as instruments of parliamentary control, since the answers of those concerned are incomplete, elusive, formal and submitted by exceeding the time limit set.
4. Lack of a legal framework for accountability (administrative or criminal) of the decision-makers, who provide untrue, incomplete or erroneous information to the MPs and Inquiry Committees, leads to the impossibility of adequately performing their mandate.
5. Lack of exhaustive rules on parliamentary hearings, such as:
  - the types of hearings and the conditions for initiating them,
  - description of cases, where hearings are conducted by parliamentary committees and / or directly by the Parliament Plenary session,
  - the purpose of parliamentary hearings, including monitoring of recommendations.
6. Lack of special premises in the Parliament, where reports and secret information could be examined.
7. Due to the lack of a regulatory framework and a monitoring mechanism, after the public hearings, the Parliament and parliamentary committees are not informed of the recommendations that have not been implemented.
8. The legal provisions concerning the obligation of public authorities (General Prosecutor's Office, Court of Accounts, etc.) to report to the Parliament are incomplete and some situations are not described at all, such as:
  - the content and form of the report submitted to the Parliament,
  - it is unclear where these reports are debated (in the plenary sitting of the Parliament and / or in the parliamentary committees), who and how monitors the implementation of the recommendations made on the report, etc.,

It should be noted that the Parliament of the Republic of Moldova has taken some concrete actions to boost in time the effects of a modern parliamentary control focused on best European practices. This effort is materialized through the following actions, undertaken during the period of 2017-2018:

1. Adoption of the Decision of the Standing Committee of the Parliament of the Republic of Moldova no. 42 of 01.11.2017 on the composition of the legislative program for executing parliamentary control over the enforcement of laws in the autumn session of 2017.

<sup>6</sup> See the conclusions of the *Monitoring report on the implementation of parliamentary control in 2016*, elaborated for the Promo-LEX Association by the independent expert Adrian Fetescu, Chisinau 2017

2. Elaboration of an ex-post evaluation methodology on the enforcement of legislative acts and its approval by the Decision of the Permanent Committee no. 2 of 07.02.2018. It should be noted that the ex-post evaluation process has begun and the degree of implementation is to be analyzed in the Evaluation Report for 2018.
3. Initiating the drafting of new Parliament Rules of Procedure, in which the parliamentary control function is approached at a more profound and qualitative level, by explaining broadly the procedures of parliamentary control and avoiding ambiguous interpretation of the norms of law.

## 4.2. Recommendations

Even if in 2017, the Parliament of the Republic of Moldova did not put in place the recommendations, formulated in the Monitoring Report on the implementation of parliamentary control in 2016, they remain valid for this report. We consider it appropriate to encourage the intention of the legislative force to remedy this state of affairs and start reforming the entire process of parliamentary control, activities that began to materialize in the second half of 2017.

However, we reiterate the most important recommendations, expressed in the previous report that are to be implemented as soon as possible:

1. Providing, in the Parliamentary Rules of Procedure and other normative acts, including internal ones, a clear description of the procedure of parliamentary control, covering all aspects of its conduct (hearings, motions, committees of inquiry, etc.).
2. Providing a procedural regulation of the way, in which parliamentary inquiries are conducted to turn them into an effective instrument of parliamentary control without political connotations, clearly setting out the responsibilities of the inquiry committees.
3. Expressly providing in the Parliamentary Rules of Procedure, for the primary and fundamental role of parliamentary committees in conducting parliamentary hearings, which are an important instrument in exercising parliamentary control.
4. Establishing the legal framework, required for mandatory ex-post analysis of the legislation, developing a methodology in this respect and identifying the authorities responsible for this exercise.
5. Establishing the obligation of the Parliamentary Secretariat, MPs and parliamentary committees to publish on the official website ([www.parlament.md](http://www.parlament.md)) information about the actions related to the conduct of parliamentary hearings, as well as other actions, related to parliamentary control.

## V. GLOSSARY

<b>PDM</b>	Democratic Party of Moldova
<b>PLDM</b>	Liberal Democratic Party of Moldova
<b>PL</b>	Liberal Party
<b>PSRM</b>	Party of Socialists of the Republic of Moldova
<b>PCRM</b>	Party of Communists of the Republic of Moldova
<b>CJNI</b>	Legal Committees for Appointments and Immunities
<b>CPEIE</b>	Foreign Policy and European Integration Committee
<b>CDORI</b>	Committee for Human Rights and Inter-Ethnic Relations
<b>CPSSF</b>	Committee for Social Protection, Health and Family
<b>CCECTSMM</b>	Committee for Culture, Education, Research, Youth, Sports and Mass Media
<b>CEBF</b>	Committee on Economy, Budget and Finance
<b>CSNAOP</b>	Committee on National Security, Defense and Public Order
<b>CAIA</b>	Committee for Agriculture and Food Industry
<b>CAPDRMSC</b>	Committee for Public Administration, Regional Development, Environment and Climate Change
<b>EX-POST</b>	analyzing the actual results of a completed intervention in a public policy, which allows to understand the factors of success or failure and a wider impact of public policies.

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