

# THE PROMO-LEX OPINION

relating to the acquisition of rapid  
response vehicles by the General  
Inspectorate of Police during  
the state of emergency declared  
across the country



**Promo - LEX**

*Promovarea democrației și a drepturilor omului*

## **The OPINION of the PROMO-LEX Association relating to the acquisition of rapid response vehicles by the General Inspectorate of Police during the state of emergency declared across the country**

On April 15<sup>th</sup>, 2020, the General Inspectorate of Police (GIP) published on the MTender procurement platform<sup>1</sup> the notice for procurement of 54 field operations vehicles for rapid intervention teams, the time limit for the submission of tenders being May 20<sup>th</sup>, 2020, with the estimated value of the proposed procurement of 20 mil. lei. According to technical specifications, the vehicles' body type must be SUV, 4WD, year of manufacture 2020 and deadline for their delivery - 100 days.

Against the background of the state of emergency, amid criticism relating to the way to deal with the COVID-19 pandemic and public procurement during this period, the procurement notice thereof raised numerous questions, criticism and discontent among different actors in society, including citizens.

In this context, in a press release posted on social networks on April 20<sup>th</sup>, 2020 the GIP clarified that the procurement thereof is financed by the European Union (EU) funds, under the 2016-2020 Police Development Strategy, and not from the state budget. "The purpose of procurement of these vehicles is to increase the capability of the rapid intervention teams of the Police of responding rapidly to emergency calls. According to the reform contract, this aspect implies reducing the intervention time at national level to 15 minutes."<sup>2</sup>

On April 29<sup>th</sup>, 2020, during the Government meeting, the Minister for Internal Affairs stated that the procurement of vehicles is the third stage of the procurement procedure, and at the end of this year, an assessment is to be made in respect thereof by the development partners and this money (1 mil. euro) will be reimbursed to the Republic of Moldova. On the same lines, the Prime Minister of the Republic of Moldova claimed that the EU-funded projects are concerned, capitalization of some financial means (1 mil. euro), which can not be used for other purposes, and therefore these are used as agreed at the time of the launching of those projects.<sup>3</sup>

By this OPINION, the Promo-LEX Association will not set out its views on the opportunity to organize and conduct public procurement for goods and services during the state of emergency, nevertheless considers it necessary to highlight the following aspects:

- ***The procurement of vehicles for this very purpose has actually taken place in previous years.***  
Both in 2017 and in 2018, about 460 vehicles (276 in 2017 and 192 in 2018) were purchased, also with a view to ensuring rapid response to citizens' requests<sup>4</sup>. Nonetheless, in 2018 (second half of the year) the average response time to emergency calls at national level was 42 minutes, whilst in 2019 the response time to emergency calls at national level was 35 minutes<sup>5</sup>, also following the involvement of the patrol teams of the National Patrol Inspectorate in the rapid response.

<sup>1</sup> <https://bit.ly/2x2490t>

<sup>2</sup> <https://bit.ly/2WaOSDy>

<sup>3</sup> Government Meeting of 29.04.2020, min. 18.38. Available at: <https://bit.ly/2xlQkuo>

<sup>4</sup> Report no. 1 on civic monitoring of police reform in the Republic of Moldova. Page 27 <https://bit.ly/3asESe9>

<sup>5</sup> Report on the implementation of the project 4.3. Improve rapid response capabilities of the Police Intervention Team to emergency calls during the year 2019, available: <https://bit.ly/3eKItYh>

The Promo-LEX Association considers that the procurement of 54 more vehicles, without implementing any other necessary measures (as defined in the 2016 – 2020 Police Development Strategy, namely, trained staff<sup>6</sup>, decentralization, etc.), could to some extent contribute, but not yet sufficiently to reducing the intervention time at national level up to 15 minutes.

- ***The procurement of vehicles is a planned measure.***

The procurement of vehicles for the rapid intervention teams has been included in the Plan for public procurement planned for the year 2020, according to the needs of the GIP<sup>7</sup>. It is part of the procurement procedure section on the implementation of the Police Development Strategy, being the largest public procurement planned therein, which was to be carried out in the first-second quarter of 2020.

- ***The allocation of financial resources from Budget Support is at the discretion of the authorities.***

According to the Budget Support Contract<sup>8</sup>, signed between the Government of the Republic of Moldova and the European Union, following the appropriate assessments, the financial resources shall be disbursed as budget support to the State Treasury. Accordingly, the amount and the subsequent use of resources disbursed for Police Reform shall be decided by the authorities of the Republic of Moldova, these being allocated to cover different needs of the state budget. There is no requirement from the EU' side on procuring any new vehicles. This is solely the decision of the competent Moldovan authorities.

- ***No legal prohibition has been established for the General Inspectorate of Police (or other MIA institutions) to conduct public procurement of goods during the state of emergency.***

On March 23<sup>rd</sup>, 2020, the statement of President Igor Dodon, according to which the Ministry of Finance prohibited the public institutions from carrying out any procurement of goods that are not strictly necessary during the state of emergency was published in the media sources<sup>9</sup>. However, we must emphasize that this prohibition, announced by the President, was not materialized in any document that is known in the public space. On the other hand, neither the Law no. 212 /2004 on the regime of the state of emergency, siege and war, nor the Law 131/2015 on public procurement establishes prohibitions on conducting public procurement during the state of emergency.

Moreover, until April 30<sup>th</sup>, 2020, under the Orders issued by the Commission for Exceptional Situations, the conduct of procurement of fixed assets has been suspended with the exception of those of vital importance for providing medical assistance, for public medical-sanitary institutions only (Order no. 2 of March 20<sup>th</sup>, 2020), along with the electricity procurement procedures initiated by regulated electricity suppliers, distribution system operators and transmission system operator (Order no. 4 of March 24<sup>th</sup>, 2020). Consequently, the Promo-LEX Association believes that the opportunity for the procurement of vehicles for the rapid intervention teams during the state of emergency declared across the country can be determined by the authorities in charge (the GIP, the MIA/Government of the Republic of Moldova).

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<sup>6</sup> The Promo-LEX Opinion in the context of the Police Reform and the Community Police Activity on the rationality and the opportunity to restore the work of the district police officer in every locality, pages 6-7. Available at: <https://bit.ly/2Ykjlwd>

<sup>7</sup> GIP Public Procurement Plan, section 62 <https://bit.ly/2xQtKu4>

<sup>8</sup> Section 5.3.3. <https://bit.ly/2KHJ7YV>

<sup>9</sup> <https://bit.ly/2x1kFOI>

- ***Announcing and organizing public procurement after the end of the state of emergency could be another cause for delaying the achievement of the objectives set therein.***

Building on the deadlines established by the legislation in force, but also on the delivery deadline indicated in the announced procurement procedure, in the event of a successful procurement, with no complaints, the vehicles could be delivered until September 2020. It should be recalled that 2020 is the last year of implementation of the Police Development Strategy, while the deadline for reaching the 15-minute emergency response indicator is December 31<sup>st</sup>, 2020, thereby its achievement being highly unlikely (taking into account the fact that in 2019 the response time to emergency calls at national level was 35 minutes).

- ***The budget intended to ensure public order is mainly affected by the reduction in the expenditures under the projects financed from external sources.***

The draft Law amending the Law on the state budget,<sup>10</sup> in the Public Order and National Security section, contains reductions in allowances, including for “the procurement of vehicles” (2.7 mil. lei) but also for “project expenditure funded by external sources” (189.6 mil. lei).

In the light of the foregoing, the Promo-LEX Association concludes that,

- although there is no requirement from the EU’ side on procuring any new vehicles,
- it is the exclusive right of the Moldovan authorities to decide on the need for public procurement to achieve the strategic objectives set;
- however, under the conditions of the state of emergency, while using certain information not reflecting reality<sup>11</sup>, but also under the substantial arrears in the fulfillment of the commitments undertaken<sup>12</sup>,
- the appropriateness of these procurements can be subject to serious criticism, including from partners but also from citizens.

That is why, in view of ensuring the transparency of the procurements made, but also for enhancing the achievement of the objectives set under the 2016 – 2020 Police Development Strategy and Budget Support Programme for Police Reform, **the Promo-LEX Association recommends**, in addition to the procurement procedures, ensuring the following measures:

- publishing the information on the provision of rapid response teams with the equipment needed (albeit with vehicles), as well as the information on their short-and long-term needs;
- supplementing the number of rapid response teams to citizens’ calls, according to territorial needs;
- conducting trainings on the way of response for both persons involved in taking emergency calls (dispatchers) and response teams, including on the use of special equipment and means;
- preparing and approving all the documents required for the operationalization of the National Inspectorate of Public Security and decentralization of patrol and rapid response structures under the Police Development Strategy. Implementing the measures taken after the end of the state of emergency;
- providing true information to the public on the sources, methods and limits of procurement of the equipment, tools, etc., but also on the procedures for disbursement of financial means by development partners.

<sup>10</sup> <https://bit.ly/3cUKIXp>

<sup>11</sup> <https://bit.ly/2WaOSDy>

<sup>12</sup> Report no. 1 on civic monitoring of police reform in the Republic of Moldova - <https://bit.ly/3asESe9>, see page 82. Report no. 2 on civic monitoring of police reform in the Republic of Moldova - <https://bit.ly/2YnqGR4>, see page 23.

This OPINION has been drafted by the Promo-LEX Association within the “Civic Monitoring of Police Reform in the Republic of Moldova” project implemented between December 14<sup>th</sup>, 2018 and December 13<sup>th</sup>, 2021, with the financial support of the European Union. The overall objective of the project is to consolidate the responsibility, efficiency and transparency of the police reform in the Republic of Moldova. It highlights the role of civic oversight by non-governmental organizations during the implementation of reforms, as well as the right of citizens to participate in the decision-making process.

The Promo-LEX Association is a non-governmental, non-profit and apolitical organization, whose mission is to contribute to the development of democracy in the Republic of Moldova by promoting and defending human rights, monitoring democratic processes and strengthening civil society.

The opinions expressed herein belong to the Promo-LEX Association and do not necessarily reflect the position of the European Union.