



# REPORT: FUNCTIONAL NEEDS ASSESSMENT FOR THE ANTI-CORRUPTION PROSECUTOR'S OFFICE OF THE REPUBLIC OF MOLDOVA TO CONSOLIDATE OPERATIONAL CAPACITIES IN THE FIELD OF PROSECUTING AND COMBATING HIGH-LEVEL CORRUPTION

## REPUBLIC OF MOLDOVA

Strengthening the rule of law and anti-corruption mechanisms in the  
Republic of Moldova  
Consultancy services for strengthening the rule of law and anti-  
corruption mechanisms

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Strengthening the rule of law and anti-corruption  
mechanisms in the Republic of Moldova  
Consultancy services for strengthening the rule of law  
and anti-corruption mechanisms

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Functional Needs Assessment for the Anti-Corruption  
Prosecutor's Office of the Republic of Moldova to Consolidate  
Operational Capacities in the Field of Prosecuting and  
Combating High-Level Corruption

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## ACRONYMS

Art.	article
A.N.I.	National Integrity Authority
C.N.A.	National Anti-Corruption Centre
C.S.M.	Superior Council of Magistracy
C. pen	Penal Code
C. proc. pen.	Code of Criminal Procedure
C.S.J.	Supreme Court of Justice
D.I.I.C.O.T.	Directorate for the Investigation of Organized Crime and Terrorism Offences
N.A.D	National Anticorruption Directorate
I.C.C.J.	High Court of Cassation and Justice
Lit.	letter
M.A.I.	Ministry of Internal Affairs
M.Of.	Official Gazette
No	number
O.G.	Government Ordinance
O.U.G.	Emergency Ordinance
APO.	Anti-Corruption Prosecutor's Office
P.C.C.O.C.S.	Prosecutor's Office for Combating Organized Crime and Special Cases
G.P.	Public Prosecutor's Office
P.I.C.C.J.	Prosecutor's Office of the High Court of Cassation and Justice
Prev	provided
S.I.S.	Intelligence and Security Service
U.E.	European Union

# 1 INPUT FROM BOTH EXPERTS

## 1.1. Summary

In the current geopolitical and military context of the Republic of Moldova - a country in a state of emergency due to the military conflict in Ukraine - corruption must be analysed as a strategic priority, a permanent and topical problem, being a criminal phenomenon characterised as a threat to the rule of law and democracy, constituting at the same time an obstacle to economic development, a danger to the stability of democratic institutions, affecting the fundamental principles of society.

Faced with the reality that no country is immune to acts of corruption, and considering the devastating and subversive effects that corruption can have on members of society and state institutions, the international community has developed useful tools to effectively combat and prevent corruption, calling for attention to be paid to both the public and private sectors...

The Republic of Moldova has joined these efforts by ratifying the Council of Europe Criminal Law Convention on Combating Corruption, the Civil Law Convention on Combating Corruption, the Money Laundering Convention, the UN Convention against Corruption and the European Convention on Mutual Assistance in Criminal Matters.

In this context, it should be noted that in June 2022, the Republic of Moldova obtained the status of candidate country from the EU on the basis of the favourable opinion of the European Commission, and in April 2022 a body called the National Commission for European Integration (NCEI), chaired by the President of the Republic of Moldova, was created at the national level, which on 4 August 2022 approved the Action Plan for the implementation of the measures proposed by the European Commission in its Opinion on Moldova's application for EU membership.

The approved Action Plan includes 9 commitments to be implemented at the request of the European Commission, two of which are relevant to this analysis, namely:

*Commitment 1 - Justice Reform:* Complete the key steps of the recently launched comprehensive reform of the justice system in all institutions within the justice and prosecution chains to ensure their independence, integrity, efficiency, accountability and transparency, including through the effective use of asset verification and effective democratic oversight (1.1);

*Commitment 3 - Fighting corruption;* Deliver on the commitment to fight corruption at all levels by taking decisive action towards proactive and effective investigations and by achieving a credible track record of prosecutions and convictions (3.1).

The lack of concrete results in the area of grand corruption has raised internal and external concerns about the work of the Anti-Corruption Prosecutor's Office, calling into question the independence of the specialised prosecution from the Executive and the ability of the Government to support the provision of sufficient human resources and, in general, to ensure a truly operational structure.

This evaluation report is prepared with the aim of strengthening the fight against high-level corruption, in the context of the recent adoption by the Parliament of the Law no.245 of 31.07.2023 on the amendment of some normative acts (amendment of the Criminal Procedure Code and the Contravention Code), published in the Official Gazette no.325-327, which for the first time delimited the competences of the Anti-Corruption Prosecutor's Office (part of the judicial authority) from those of the National Anti-Corruption Centre, precisely in order to make the activity of investigating, combating and punishing serious corruption offences more efficient.

**Thus, the next 3 months are extremely important for the concrete implementation of the new legal provisions aimed at the operationalization of the specialized structure, due to the fact that this law includes several transitional provisions and deadlines for the adoption of other subsequent normative acts, aimed at concretely strengthening the activity of the Anticorruption Prosecutor's Office, as follows:**

*"The Government shall, within 3 months from the date of publication of this Act, submit to Parliament proposals for bringing the legislation in force into line with this Act.*

*The Government, jointly with the General Prosecutor's Office, within 3 months from the date of entry into force of this law, **shall take all necessary measures to equip and empower the Anti-Corruption Prosecutor's Office in order to ensure its effective functioning.**"*

Therefore, by the end of 2023, the procedure of functional decoupling/separation of the two anti-corruption structures (Anti-Corruption Prosecutor's Office and NAC) **in relation to their new** competences should be completed, following the fully independent start of the activities of investigation, prosecution and sanctioning of cases of of high level corruption in the Republic of Moldova.

The assessments based on the functional analysis focused on the internal organisation (structure, staff, organisation chart), jurisdiction, competences and functional limitations of the Anti-Corruption Prosecutor's Office in the area of high-level corruption.

In accordance with the contractual terms of reference, the evaluation analysed the following functional aspects of the Anti-Corruption Prosecutor's Office:

- Human resources, analysis of the APO operational organigramme and determination of the needs for prosecutors, investigation officers, investigation officers and auxiliary staff;
- Identification of administrative solutions to modify the current staffing scheme (prosecutors, investigation officers, investigation officers, financial specialists, bankers, accountants, IT, evaluators, consultants, clerks, auxiliary staff, drivers);
- Simplification of the recruitment procedures for prosecutors through direct involvement of the APO management, and reduction of the role of the Superior Council of Prosecutors;
- The situation/number of high corruption cases in the pipeline and the workload of a prosecutor in the APO;
- Budgetary independence of the APO (audit of accounting and financial services);
- Procurement activity, responsible persons, verification of the existence of an annual procurement plan;
- Assessment of the need to obtain a separate office for the Anti-Corruption Prosecutor's Office for the independent conduct of investigative activities;
- The need for IT and computer equipment and software products, i.e. purchase, reception, installation, configuration of PS workstations, laptops, high and low capacity copiers, network multifunctional printers, security equipment, Internet access and other necessary services;
- Operational functional independence of the Anti-Corruption Prosecution Office and development of its own Technical Operational Assurance Service for the execution of technical surveillance measures;
- Verification of the management of classified information in order to determine whether the protection of such information is properly organised and ensured in accordance with the National Standards for the Protection of Classified Information in Moldova (existence of internal security structure, responsibilities, persons involved);
- Procedures of the Anti-Corruption Prosecutor's Office regarding access to databases and classified information (to which databases is there access? Who has access? Who does the interrogation? Who searches the databases and who controls the procedure?).

**Brief description of key findings on the functional independence of the Anti-Corruption Prosecutor's Office:**

- does not have functional and financial independence;
- does not have its own separate budget;
- there are no internal structures dealing with financial planning, organisation and management of accounting, organisation of bookkeeping and budgetary means, management and administration of assets and procurement;
- does not have sufficient human resources;



- does not have adequate premises (an office building);
- does not have the technological and IT infrastructure;
- does not have its own Technical Service and the necessary technical facilities;
- the salary level is low in relation to the complexity of the cases and the risks taken by an anti-corruption prosecutor.

## 1.2. Methodological references

**Project name:** Strengthening the rule of law and anti-corruption mechanisms in the Republic of Moldova

**Domain:** Combating corruption at medium and high level

**Contract No:** GOV - MDA22GIZ8439

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### The purpose of evaluation procedures

Through the consultancy contract concluded with GFA Consulting Group GmbH, in the framework of a co-financing agreement for the project "Strengthening the rule of law and anti-corruption mechanisms in the Republic of Moldova", financed by the German Federal Ministry for Economic Cooperation and Development (BMZ), co-financed by the European Union and implemented by GIZ, the international experts were asked to prepare a *Needs Assessment Report for the Anti-Corruption Prosecutor's Office in the Republic of Moldova*.

***Specifically, the purpose of this assessment is to identify operational, managerial and technical needs that need to be addressed to strengthen the capacity of prosecutors to effectively fight corruption. The assessment should cover different dimensions of the specialised prosecutorial structure, with the aim of enhancing the functional independence, capacity and efficiency of prosecution activities in the area of high-level anti-corruption.***

The present analysis involves an assessment of the technical and management systems, i.e. human resources, financial resources required for the acquisition of buildings, cars, computer equipment, software products and other IT equipment, in order to achieve functional autonomy and independence of the specialised prosecutor's office to improve prosecution activities in the field of combating high-level corruption.

The needs assessment report will serve as a basis for informed decision-making and should guide the strategic planning process to develop an independent, robust and effective anti-corruption prosecution service.

### Methodology of the evaluation

It should be noted that this evaluation is not an audit of the performance of the Anti-Corruption Prosecutor's Office or of the level of achievement of certain objectives and results in the area of the fight against high-level corruption.

The purpose of the evaluation is to identify operational, managerial and technical needs to strengthen the activity of the Anti-Corruption Prosecutor's Office in the effective fight against high-level corruption and to enhance its functional independence as well as to identify urgent legislative and institutional solutions for the separation of the criminal investigation activity of the APO and the NAC in order to avoid any functional overlap in the area of the fight against grand corruption.

The methodology used involved:

- Analysis of the primary legislation governing the organization and functioning of the Anticorruption Prosecutor's Office, the Constitution of the Republic of Moldova, the Criminal Code, the Code of Criminal Procedure and other primary laws in the field;
- Analysis of secondary legal acts, such as, Regulations on the organisation and functioning of the APO, NAC, statistics and monitoring reports;
- Analysis of the Anti-Corruption Strategy, the Anti-Corruption Action Plan approved by the European Commission;
- Analysis of information available from open sources posted on the official pages of the AP, NAC and other judicial authorities;
- Analysis of the activity reports of the Anti-Corruption Prosecutor's Office and the National Anti-Corruption Centre for the years 2018 - 2022;
- **Meetings and interviews with the following persons:**
  - The Counsellor on Justice and Anticorruption of the Prime Minister, Mr. Victor Munteanu;
  - The Prosecutor General of the Republic Moldova, Mr. Ion Munteanu;
  - Chief Prosecutor of the Anticorruption Prosecutor's Office, Mrs. Veronica Dragalin;
  - Deputy Chief Prosecutors of the Anticorruption Prosecutor's Office, Mr. Vasile Plevan and Mr Octavian Iasinovschi;
  - Head of the Working Apparatus of the General Prosecutor's Office, Ms Oxana Turcanu;
  - Operational staff of the Anticorruption Prosecutor's Office, intelligence officers and police officers responsible for managing and accessing databases and for the practical implementation of operational measures;
  - Staff responsible for the procurement of goods and services within the Office of the Attorney General and the Anti-Corruption Office.

## 2 THE CURRENT LEGAL, BUDGETARY AND HUMAN RESOURCES STATUS OF THE ANTI-CORRUPTION PROSECUTION SERVICE (EXPERT CODRUȚ OLARU 'S CONTRIBUTION)

### 2.1. The current regulatory framework for the organization and functioning of the Anti-Corruption Prosecutor's Office.

#### 2.1.1 Relevant normative acts.

The Anti-Corruption Prosecutor's Office is a structure of the Prosecutor's Office of the Republic of Moldova specialized in combating corruption offences, offences related to corruption offences, as well as for the representation of cases before the courts.

In 2003, the Parliament of the Republic of Moldova created a subdivision within the General Prosecutor's Office of the Republic of Moldova, specialized in the fight against corruption. Since its creation, the specialized department, later transformed into the Specialized Prosecutor's Office, has had a specific mandate to investigate corruption and related cases, as well as other cases of great social importance.

By the *Law no.3/2016 on the Prosecutor's Office*, published on 25.03.2016 in the Official Gazette no.69 - 77, art.11, the concept of a specialized prosecutor's office was regulated for the first time in the judicial system, operating in certain special areas and exercising its powers throughout the Republic of Moldova.

The Prosecutor's Office system includes the Anti-Corruption Prosecutor's Office and the Prosecutor's Office for Combating Organized Crime and Special Cases as specialized structures.

According to Art.9 paragraph 4 of this normative acts, the Anticorruption Prosecutor's Office has the following specific duties:

- a) prosecute cases within its jurisdiction, in accordance with criminal procedure legislation;
- b) b) conduct the prosecution of cases handled by the National Anti-Corruption Centre;
- c) represent the prosecution before the trial, appellate and appeal courts in the cases referred to in points (a) and (b).

The Anti-Corruption Prosecutor's Office exercises its territorial jurisdiction through the central unit located in Chisinau municipality, but also through the North Office (based in Balti municipality) and the South Office (based in Cahul municipality).

The regulatory framework in which the Anti-Corruption Prosecutor's Office operates was supplemented by *Law no. 159/ 2016 on specialized prosecutor's offices*, published on 30.07.2016 in M. Of. no.245 - 246, art.519, which expressly provides that the specialized prosecutor's office has the status of a legal entity, has a treasury account, a logo and a stamp with its own distinctive insignia and is headed by a chief prosecutor, assisted by a deputy or, where appropriate, several deputies.

The specialized prosecution service is organized into internal subdivisions, which contribute to the performance of its tasks; the prosecution structure also has subdivisions providing administrative and technical support.

Complementary to the two normative acts mentioned above - the legal framework, structure, competence, powers and organization of the activity of the Anticorruption Prosecutor's Office - are regulated by its own *Activity Regulation*, adopted by *Order No. 8/28 of 17.02.2017 of the Prosecutor General of the Prosecutor's Office of the Republic of Moldova*.

The Regulation expressly states that "*the work of the Anticorruption Prosecutor's Office shall be organized on the basis of the principles of legality, impartiality, integrity and procedural independence of prosecutors, which gives them the possibility to make independent decisions in cases in which they conduct the prosecution, exercise it personally or represent the prosecution on behalf of the State, as well as superior hierarchical control.*"

The Regulation stipulates that the Anti-Corruption Prosecutor's Office is structured into 3 main sections in order to carry out its institutional mission:

- Prosecution Section
- Section for the conduct of criminal proceedings
- Judicial Section.

### 2.1.2 Competence of the Anti-Corruption Prosecutor's Office.

As indicated above, the general competences of this specialized structure currently cover the following aspects:

- to prosecute cases within its jurisdiction, in accordance with criminal procedure legislation;
- conducting criminal prosecutions in cases handled by the National Anti-Corruption Centre;
- representation of the prosecution before the trial, appeal and appellate courts in the cases referred to in points (a) and (b).

Given the fact that the legislative process regarding the demarcation of the competences of the Anticorruption Prosecutor's Office from those of the National Anticorruption Centre was recently completed with the adoption of Law no.245 of 31.07.2023 on the amendment of some normative acts (amendment of the Criminal Procedure Code and the Contravention Code), published in the Official Gazette no.325-327, art.579, it is obvious that in the future, the specialized prosecutor's office will no longer conduct criminal prosecutions in criminal cases of other structures, but will exclusively conduct its own criminal investigations in cases of grand corruption.

Specifically, according to *Article 270<sup>1</sup> the competence of the Anticorruption Prosecutor's Office* is established as follows:

*"(1) The Anti-Corruption Prosecutor's Office shall prosecute offences referred to in Articles 324-335<sup>1</sup> of the Criminal Code No 985/2002:*

*1) if committed by:*

*a) The President of the country;*

*b) Members of Parliament;*

*c) members of the Government;*

*d) judges;*

*e) prosecutors;*

*f) employees of the Intelligence and Security Service;*

*g) employees of the National Anti-Corruption Centre;*

*h) leaders and members of the governing bodies of public authorities and institutions provided for by the Constitution of the Republic of Moldova;*

*2) regardless of the person's status, if the amount of money, goods, services, privileges, advantages in any form and other benefits claimed, promised, accepted, offered, given or received exceeds 6,000 conventional units (approx. 15,000 euros) or if the amount of damage caused by the offence exceeds 60,000 conventional units (approx. 150,000 euros).*

*(2) The Anti-Corruption Prosecutor's Office shall prosecute offences referred to in Articles 325 and 326 of the Criminal Code No 985/2002 if they were committed against persons referred to in paragraph 1. (1) item 1) of this Article.*

*(3) The Anticorruption Prosecutor's Office shall prosecute the offences referred to in Article 181<sup>2</sup> para. (5) and Art. 181<sup>3</sup> of the Criminal Code No. 985/2002."*

### 2.1.3. Staff structure of the Anti-Corruption Prosecutor's Office.

In accordance with the Law no.159/2016 and the Activity Regulation, the Anti-Corruption Prosecutor's Office has **143 positions (units)**, corresponding to the following categories of staff:

- 59 prosecutors (1 chief prosecutor / 6 deputy chief prosecutors)
- 15 seconded prosecution officers
- 15 seconded investigation officers
- 36 prosecutors' consultants
- 9 seconded specialists in various fields of competence
- 3 public relations specialists
- 6 technical staff (drivers)

At present, out of the total number of posts foreseen in the organization chart, the Anti-Corruption Prosecutor's Office is actually operating with a reduced staff structure, with a **significant number of vacancies, 32.17% (97/143)**, as follows:

- 48/59 prosecutors
- 17/30 prosecution officers
- 36/54 other categories of staff

The APO is headed by a Chief Prosecutor, assisted by 6 deputies.

The number of prosecutors in the specialized prosecution service is determined by the High Council of Prosecutors on the proposal of the Prosecutor General, in coordination with the Chief Prosecutor of the specialized prosecution service.

### 2.1.4. Conditions for access/revocation in the Anti-Corruption Prosecutor's Office.

In the Republic of Moldova, the system of access to specialized prosecutors' offices, and therefore also to the Anti-Corruption Prosecutor's Office, requires on the one hand that prosecutor candidates meet certain general and specific conditions, but also a professional evaluation at the level of the College for the Selection and Evaluation of Prosecutors within the Superior Council of Prosecutors.

According to Article 20 para. 1-3 of Law 3/2016 on the Public Prosecutor's Office, the general conditions for a person to be a candidate for the position of public prosecutor are:

- a) holds citizenship of the Republic of Moldova;
- b) knows Romanian;
- c) no judicial protection measure is in place for her;
- d) has a bachelor's degree and a master's degree in law or another equivalent legal qualification recognized by the body responsible for the recognition and equivalence of studies and qualifications;
- e) has completed the initial training courses for prosecutors at the National Institute of Justice or, in the case of a person who has the necessary seniority to be appointed to the post, has passed the examination before the National Institute of Justice's Graduation Commission;
- f) enjoys an impeccable reputation;
- g) he has not previously been found guilty of a criminal offence;
- g1) does not have, in the last 5 years, in the record of professional integrity, entries on the negative result of the professional integrity test for violation of the obligation provided for in Article 7 para. (2) letter a) of the Law no. 325/2013 on institutional integrity assessment;
- (h) is medically fit to perform the duties of public prosecutor.

According to Art.20 paragraph 4 of the law, in addition to these general conditions, the prosecutor must also meet the following conditions for specialized prosecutors:

- a) *have at least four years' seniority as a prosecutor;*
- b) *in the performance appraisal, have obtained at least a 'very good' rating.*

With regard to the procedure for the *revocation/termination of the status of prosecutor within the specialized prosecutor's offices (Anti-Corruption Prosecutor's Office)*, it should be pointed out that there is no separate regulation in this situation, the rule being the general one applicable to all prosecutors, namely:

1. Termination of employment in circumstances beyond the control of the parties (Article 57 of Law 3/2016), as a result of:
  - a) *loss of citizenship of the Republic of Moldova;*
  - b) *reaching the age of 65;*
  - c) *the expiry of the term for which he/she was appointed, in the event of refusal to be appointed to another prosecutor's post;*
  - d) *in which the judgment finding the prosecutor guilty of a criminal offence becomes final;*
  - e) *deprivation of the prosecutor of the right to hold certain offices or engage in certain activities, as a basic or additional penalty, on the basis of a final court judgment imposing such a penalty;*
  - f) *where the prosecutor is declared missing without trace by a final court decision;*
  - g) *the death or declaration of death of the prosecutor by a final court decision;*
  - h) *in which the court decision on the imposition of a legal protection measure becomes final;*
  - i) *if at least one reason is established after his/her appointment for which the person cannot be appointed as a prosecutor.*
2. Dismissal from office, according to Art. 58 of Law No 3/2016, in the following cases:
  - a) *the submission of the resignation request;*
  - b) *refusal to be transferred to another prosecutor's office or subdivision of the prosecutor's office, if the prosecutor's office or subdivision of the prosecutor's office in which he or she served is liquidated or reorganized;*
  - c) *refusal to submit to the disciplinary sanction of demotion;*
  - d) *the application of the disciplinary sanction of dismissal from the office of prosecutor once it has become irrevocable;*
  - e) *obtaining a failing grade in two consecutive assessments or failing a performance assessment;*
  - f) *failure to appear for performance appraisal twice consecutively for unjustified reasons;*
  - g) *registration as a candidate on the list of a political party or a socio-political organization in elections to Parliament or to local government authorities;*
  - h) *in which the act establishing his or her incompatibility or violation of prohibitions remains definitive;*
  - i) *in which he is considered medically unfit to perform his duties;*
  - j) *refusal to be subject to verification under the Law No 271-XVI of 18 December 2008 on the verification of holders and candidates for public office;*
  - k) *appointment to an office incompatible with the office of public prosecutor;*
  - l) *the establishment, by means of a final act of ascertainment, of the conclusion directly or through a third person of a legal act, the taking or participation in the taking of a decision without the resolution of the actual conflict of interest in accordance with the provisions of the legislation on the regulation of conflict of interest;*

m) failure or refusal to submit the declaration of assets and personal interests, in accordance with Article 27 para. (8) of the Law no. 132 of 17 June 2016 on the National Integrity Authority;

n) the court has ordered, by irrevocable judgment, the confiscation of unjustified assets.

### 2.1.5. Quantitative and qualitative benchmarks of the work of the Anti-Corruption Prosecutor's Office.

Since its establishment and until now, the activity of the specialized prosecutor's office has been based on two main components, namely investigations carried out in the field of offences under its own jurisdiction and the conduct of criminal prosecutions by the prosecution body of the National Anti-Corruption Centre (NAC).

Thus, according to existing data at the level of the General Prosecutor's Office, strictly statistically, the results of the Anticorruption Prosecutor's Office for the **period 2020 - 2022** are as follows:

- **2022** / 400 own cases settled / 862 NAC cases settled
- **2021** / 270 own cases settled / 1024 NAC cases settled
- **2020** / 240 own cases settled / 951 NAC cases settled

As of 01.09.2023, the Anti-Corruption Prosecutor's Office had **674 criminal cases** pending, of which 211 cases under its own jurisdiction and 463 under NAC jurisdiction.

As a result of the new rules of jurisdiction, from the own estimates of the management of the structure, it resulted that, *after 1.01.2024*, the APO **will remain** in charge of **260 cases**, the remaining 400 cases (more or less) will be declined to other competent structures.

Of these, strictly on the segment of classical corruption offences (active bribery / passive bribery / influence peddling), the number of cases that will remain in the specialized prosecutor's office is as follows: art.324 Criminal Code - 42 cases, art.325 Criminal Code - 21 cases, art.326 Criminal Code - 45 cases.

Regarding the *representation of the prosecution in front the courts*, during 2022, with the participation of prosecutors from the Anti-Corruption Prosecutor's Office, **198** sentences were handed down, of which:

- conviction **131** against **47** persons, termination **42** against **58** persons, acquittal **24** against **45** persons.

### 2.1.6. Current financial, budgetary and logistical conditions of the Anti-Corruption Prosecutor's Office.

From a financial-budgetary perspective, the specialized Public Prosecutor's Office has the status of a legal person, has a treasury account and, according to Art. 2 paragraf 3 of the Law no. 159/2016 on specialized prosecutor's offices, the budget of the specialized prosecutor's office is reflected separately in the budget of the Prosecutor's Office and is administered by the Chief Prosecutor of this unit.

Moreover, the Chief Prosecutor of the Anti-Corruption Prosecution Office prepares and proposes to the Prosecutor General the draft annual budget of the specialized prosecution service.

According to the organizational structure of the Prosecutor's Office, out of the total number of the approved maximum number of 1420 positions, in 2022 the Anti-Corruption Prosecutor's Office will be assigned **143 positions (units)** with an annual salary fund of **35,073.7 thousand lei (approx.1.82 million Euro)**, of which 59 positions of prosecutor, 30 positions of criminal prosecution and investigation officer and 54 public executive and auxiliary staff positions.

The budget allocation for the year 2022 is comparable to the previous years, 34,830 thousand lei for 2021 and 33,606.3 thousand lei for 2020.

In all cases, more than 95% of the total allocated sums were spent on the payment of employees' salaries and related social security contributions, without the possibility of making investments to strengthen the logistical capabilities of the structure.

From the point of view of the *material infrastructure* available to the Anti-Corruption Prosecutor's Office for carrying out its professional activity in good conditions, it should be pointed out that it is totally insufficient or non-existent even in some budget items, and where it exists, it is morally outdated and physically worn out, which is why it is absolutely mandatory that, in the immediate perspective, financial resources are identified to ensure a real improved material base, adapted to the specific investigative nature of this structure.

Thus, the Anti-Corruption Prosecutor's Office *does not have its own administrative headquarters in Chisinau*, its activity being carried out in a common building (property) of the National Anti-Corruption Centre, which is totally inappropriate, especially after the delimitation of the functional competences of the two units by Law no. 245 of 31.07.2023.

The sub-units of the North Office (based in Balti municipality) and the South Office (based in Cahul municipality) do not have their own premises.

According to the information provided by the General Prosecutor's Office, the current material base of the Anti-Corruption Prosecutor's Office is as follows: **146 computers, 125 printers, 17 notebooks and 5 cars.**



### 3 OPERATIONAL NEEDS OF THE ANTI-CORRUPTION PROSECUTOR'S OFFICE (EXPERT CODRUȚ OLARU 'S CONTRIBUTION)

The assessment of the current legal, budgetary and staffing conditions in which the Anticorruption Prosecutor's Office operates should naturally be followed by a more complete assessment of all its future operational needs, which are absolutely mandatory for the statutory consolidation of the institution and the achievement of higher professional parameters - quantitative and qualitative; these elements are likely to contribute decisively and irrevocably to the internal and international recognition of the Anticorruption Prosecutor's Office as a strong and independent structure.

The recommendations of the appointed international experts express, on the one hand, the vision but also the experience that they have acquired - as former magistrates and prosecutors in specialized structures in Romania - NAD / DIICOT - but equally, it is also a transposition of the vision and their own assessments made by the prosecutors and the management of the Anti-Corruption Prosecutor's Office, consulted throughout the period of this analysis - those who will ultimately, lead and work within this structure.

The experts tried to adapt the present recommendations to the political-judicial context in which the Republic of Moldova finds itself, to the national particularities of the systems - legislative and judicial - but also to the governmental availability for substantial financial-budgetary allocations to this structure.

We would like to stress that the operational needs assessment is in the form of recommendations, which is why the final decision to adopt or implement them in practice rests exclusively with the political decision-makers (Parliament, Government, Ministry of Justice) and the decision-makers in the judiciary (General Prosecutor's Office, Anti-Corruption Prosecutor's Office and High Council of Prosecutors).

#### 3.1. Assessment of the operational needs in terms of jurisdiction rules and functional structure of the Anti-Corruption Prosecutor's Office.

3.1.1. The clear establishment of the functional competences of the Anti-Corruption Prosecutor's Office in the field of combating medium and high level corruption and the delimitation / decoupling from the NAC, in order to focus the prosecution activity of the specialized prosecutor's office on high level corruption cases, was recently achieved, with the adoption by the Parliament of the Law no.245 of 31.07.2023, which introduced new rules for the delimitation of the competences of the Anti-Corruption Prosecutor's Office and the National Anti-Corruption Centre.

Although recently adopted, this normative act does not fully ensure the purpose of the establishment of the specialised prosecutor's office, in the sense that cases of grand corruption are exempted from the competence of this structure, mainly by reference to the quality of the active subject of the offence.

Thus, **lawyers, senior police officers of the Ministry of Internal Affairs, customs personnel, secretaries of state in the Government and mayors of municipalities as well as the offence of money laundering committed by the categories of persons expressly mentioned in Article 270<sup>1</sup> paragraph 1 of the Criminal Procedure Code on the jurisdiction of the Anti-Corruption Prosecutor's Office.**

Consequently, it is necessary to *complete the Law no. 245/2023 in order to amend Articles 269 and 270<sup>1</sup> of the Criminal Procedure Code.*

3.1.2. In order to ensure a real and effective protection of the funds allocated/accessed by the Republic of Moldova from the general budget of the EU or from administered budgets against

fraud consisting of illegal access to or misappropriation of funds, it is necessary to criminalize such illegal acts in detail.

As the current legal norm, only two articles are provided for this category of offences, namely *Article 332<sup>1</sup> Penal Code. - Fraudulent obtaining of funds from foreign funds* and *Article 332<sup>2</sup> Penal Code. - Embezzlement of funds from foreign funds*, which is totally insufficient in relation to the particular importance of investigating frauds of this type, especially from the perspective of European integration of the Republic of Moldova.

Therefore, in our view, it is necessary:

- introducing a *separate chapter on offences against the EU's financial interests* in the *Criminal Code* by transposing the provisions of Directive (EU) 2017/1371 of the European Parliament and of the Council of 05.07.2017 on combating fraud to the Union's financial interests by criminal law means.
- **establish the competence of the Anti-Corruption Prosecutor's Office to investigate/prosecute offences against the EU's financial interests.**
- **the establishment of a separate structure (section/service) within the Anti-Corruption Prosecutor's Office made up of prosecutors specialized in investigating this type of fraud.**

As a result, it is necessary:

- *amendment and completion of the Criminal Code and Law No 245/2023 amending Articles 269 and 270<sup>1</sup> of the Criminal Procedure Code.*
- *modification and completion of the Rules of activity of the Anticorruption Prosecutor's Office, adopted by Order no.8/28 of 17.02.2017.*

**3.1.3.** In order to increase the efficiency of investigative activity, to deal with requests for mutual legal assistance in criminal matters in the case of transnational or cross-border offences, and to ensure liaison with similar institutions in other countries, a ***separate international judicial cooperation structure (section/department)*** should be set up within the Anti-Corruption Prosecutor's Office, ***made up of prosecutors specialized in this field.***

To this end, from the perspective of regulatory norms, it is necessary to *amend and supplement the Regulation on the activity of the Anticorruption Prosecutor's Office, adopted by Order No. 8/28 of 17.02.2017 issued by Prosecutor General of the Republic of Moldova.*

**3.1.4.** During discussions with decision-makers in the judiciary, there was support for the need to ensure the technical component of anti-corruption investigations directly at the level of the Anti-Corruption Prosecutor's Office.

The existence of the technical structure is a guarantee of the autonomy and functional independence of the Anti-Corruption Prosecution Office, contributing directly to the fulfilment of the legal mission in the fight against medium and high-level corruption, by ensuring the technical component through the application of special investigation or surveillance methods in criminal cases under investigation by prosecutors.

***The functioning of a technical structure within the Anti-Corruption Prosecutor's Office*** would lead to a limitation of the number of persons involved in the execution of operational measures and a strengthening of the non-public nature of criminal proceedings and professional secrecy, significantly reducing the risk of information leaks, and in the event of such situations - to the easy identification of the official (prosecutor, police officer, auxiliary staff) who would favour the persons under investigation by communicating information from criminal files or about the transmission of operational measures in progress (see the offence provided for in Article 315 Penal Code - Disclosure of criminal prosecution data).

The creation and operationalization of such a structure is essential for specialized prosecution investigations, which is why the following aspects become particularly important:

- the concrete structure (own organization chart) of this service adapted to the real investigative needs known to anti-corruption prosecutors;
- how to select, appoint and train staff to work in this service;

- how to put in place rules to ensure full confidentiality of operations;
- the related budgetary allocations;
- modern technical equipment.

To this end, from the perspective of regulatory norms, it is necessary to amend and supplement the Regulation on the activity of the Anticorruption Prosecutor's Office, adopted by Order No. 8/28 of 17.02.2017 issued by Prosecutor General of the Prosecutor's Office of the Republic of Moldova.

**3.1.5.** Closely related to the issue of the future technical structure, it is also necessary to set up an **information technology (IT) structure** to provide IT support for investigations, judicial statistics on criminal cases, management of government databases and access to these databases.

**3.1.6.** Ensuring maximum confidentiality of these categories of data, as well as **managing access to information of a secret or top-secret nature** - whether generated directly by criminal investigations conducted by prosecutors or received from other institutional partners with responsibility for gathering information - must be carried out through a dedicated structure headed by a prosecutor.

**3.1.7.** In order to support the prosecution activities carried out by prosecutors, mainly in complex cases, with implications on the macro-economic-financial crime component, we recommend **the establishment of a structure within the Anti-Corruption Prosecutor's Office made up of specialists with expertise in the financial-banking, customs, capital market or money laundering fields**; following the requests made by prosecutors, the designated specialists are to draw up reports of findings, which can later be used in criminal cases.

**3.1.8.** As stated above, from a financial-budgetary perspective, the Anti-Corruption Prosecutor's Office has the status of a legal person, has a treasury account, and according to Article 2 para. 3 of the Law No. 159/2016 on specialized prosecutor's offices, the budget of the specialized prosecutor's office is reflected separately in the budget of the Prosecutor's Office and is administered by the chief prosecutor of this unit.

All these legal provisions are only of a formal nature, with no practical application, since, at the moment, the entire financial-accounting activity of the specialized prosecutor's office is carried out directly by the General Prosecutor's Office.

The implementation and concrete realization of the infrastructure objectives, which are absolutely necessary for the institutional strengthening of the Anti-Corruption Prosecutor's Office, must be carried out by means of an **economic and financial structure of its own, which must be set up at the level of the specialized prosecutor's office and, complementarily, by granting the chief prosecutor the status of secondary authorizing officer.**

In this way, it would also ensure the acquisition of real financial independence of the Anti-Corruption Prosecutor's Office and create the right framework for prioritizing the procurement of goods and services, truly related to the immediate and future functional needs of the structure.

*In conclusion*, by taking into account the proposals made by the management of the structure, supplemented by the experts' comments made during several days of discussions, the structure (organigram) of the Anticorruption Prosecutor's Office could take the following form:

- Directorate General for Criminal Prosecutions
- Directorate General for Justice
- Directorate General for Analysis and International Cooperation
- Directorate General for Operational Assurance
- Prosecutor's Office - Head of the Anticorruption Prosecution Office
- Public Relations, Petitions, Hearings and Registry Section

Each of the 6 main structures will have subdivisions (sections/services) depending on the investigative priorities set by the management of the structure.

From the perspective of the regulatory rules, and in the case of the structures under items 1.5-1.8., it is necessary to amend and supplement the Regulation on the Activity of the Anticorruption Prosecutor's Office, adopted by Order No. 8/28 of 17.02.2017 of the Prosecutor General of the Republic of Moldova.

### **3.2. Assessment of operational needs in the area of the status of prosecutors and other staff of the Anti-Corruption Prosecutor's Office.**

In June 2022, the Republic of Moldova was granted the status of candidate country by the EU on the basis of the favorable opinion of the European Commission, and the Action Plan for the implementation of the measures proposed by the European Commission in its Opinion on Moldova's application for EU membership was adopted.

The approved Action Plan includes 9 measures to be implemented at the request of the European Commission, relevant to this analysis, being *Commitment 3 - Fighting corruption; Fulfilling the commitment to fight corruption at all levels by taking decisive steps towards proactive and effective investigations and achieving a credible track record of prosecutions and convictions (3.1.); Substantially increasing the use of the National Anti-Corruption Centre's recommendations (3.2.).*

Therefore, the fight against corruption in the Republic of Moldova has become a strategic, priority objective, in which context, the role of the Anti-Corruption Prosecutor's Office becomes fundamental, which is why the following is fully justified:

- ***establishment of a system of exceptions to the general rules on prosecutors' careers, regarding the access and dismissal of prosecutors in / from the Anti-Corruption Prosecutor's Office;***
- ***increase the role of the Chief Prosecutor of the Anticorruption Prosecution Office in the selection/revocation of prosecutors, police officers and other staff within the structure.***

Specifically, our recommendations address the following issues:

**3.2.1.** The statutory strengthening of the work of prosecutors, in relation to the social importance of the work performed, but also as a solid argument from the perspective of recruiting motivated and professionally committed future prosecutors, must be doubled by the statutory strengthening of all prosecutors in the Republic of Moldova, implicitly also anti-corruption prosecutors.

Our proposal aims at taking prosecutors to a higher level of independence, through a constitutional provision, including them - together with judges - in the category of magistrates.

Moreover, in Chapter 1.1.3 on Enhancing the independence of the prosecution system and strengthening the capacities of the High Council of Prosecutors of the Action Plan for the implementation of the Strategy on ensuring the independence and integrity of the justice sector for the years 2022-2025, the measure "*Analysis of the advisability of granting prosecutors the status of magistrate*" was foreseen, but no steps have been taken in this regard so far.

#### **3.2.2. Modification of the procedure for access to the Anti-Corruption Prosecutor's Office.**

For the above reasons, but also in order to provide the Chief Prosecutor with concrete levers in the selection of anti-corruption prosecutors, the decision-making element of the whole procedure of access to the Anti-Corruption Prosecutor's Office must be transferred from the competence of the Superior Council of Prosecutors to the Chief Prosecutor of the specialized prosecution office - ultimately directly responsible for obtaining good and very good results in his field of professional competence.

The recruitment procedure for future prosecutors should be simplified and could take the form of a ***competition (professional interview)*** organized in front of a committee made up of the Prosecutor General, the Chief Prosecutor of the Anti-Corruption Prosecutor's Office and his/her

deputy (or other persons designated by them), with the results being validated by the High Council of Prosecutors.

Once validated, the appointment of prosecutors within the structure will be made by order of the Chief Prosecutor.

Such a procedure is currently successfully carried out in the Romanian judicial system, at the level of both specialized structures – NAD and DIICOT.

The new legislative approach can be adopted and implemented quickly, all the more so as an important step in this direction has been taken with the latest legislative amendments concerning the appointment of deputy chief prosecutors within this prosecution service. Thus, according to Article 25<sup>2</sup> para. 3 of the Law no. 3/2016 *"The deputy chief prosecutor of the specialized prosecutor's office shall be appointed without competition, by order of the Prosecutor General, with the written consent of the Superior Council of Prosecutors expressed on the proposal submitted by the chief prosecutor of the specialized prosecutor's office concerned"*.

Maximizing anti-corruption results can also be achieved by increasing the level of professional experience of prosecutors within the structure, ***in the sense of increasing the current requirement of 4 years of seniority as a prosecutor, necessary for access to the specialized prosecution, to a minimum of 6-8 years as a prosecutor.***

Once admitted to the Anti-Corruption Prosecutor's Office, we consider it useful that the new prosecutors undergo ***for 3-6 months a professional training in the field of anti-corruption***, either at the National Institute of Justice or provided by national or international anti-corruption experts.

### **3.2.3. Modification of the revocation procedure (termination of activity) in the Anti-Corruption Prosecutor's Office.**

Our recommendation aims to amend the procedure for revocation by derogation from the standard rules set out in Articles 57 - 58 of Law no. 3/2016, in the sense that prosecutors within the Anticorruption Prosecution Office may be revoked by order of the Chief Prosecutor, with the opinion of the Superior Council of Prosecutors, *in case of improper performance of the specific duties of the office or in case of application of one of the disciplinary sanctions provided by law.*

The notion of ***"improper performance of specific duties"*** may include professional aspects relating to: inefficiency or improper quality of prosecution work, work relating to participation in court hearings or work carried out in other sectors, improper behavior in relations with prosecutors and judges, specialized auxiliary staff, litigants and other persons involved in the criminal process, other institutions and persons.

In this case, prosecutors who are dismissed return to the unit from which they were promoted and lose their professional rank and the salary corresponding to the level of the specialised prosecutor's office.

From the perspective of the regulatory rules, in both cases in points 2.2. to 2.3., amendments and additions are necessary:

- *Law no. 3/2016 on the Prosecutor's Office (art.20, respectively art.57-58)*
- *Law No 159/2016 on Specialized Public Prosecutors' Offices*
- *Regulations on the College for the Selection and Career of Prosecutors and the Procedure for the Selection and Career of Prosecutors approved by the Decision of the Superior Council of Prosecutors No 12 - 14/17 of 23 February 2017.*

**3.2.4.** As regards the **appointment and dismissal procedure for all other categories of staff within the Anticorruption Prosecutor's Office**, the current provisions in force are clear, predictable and should be maintained.

By way of example, the provisions of Article 7(7) are eloquent in this respect. 1 of Law No. 159/2016 on specialized prosecutors' offices: *"Prosecution officers, investigative officers and specialists to work in the specialized prosecutor's office shall be selected individually by the chief prosecutor of the specialized prosecutor's office and seconded from other institutions for a period*

of up to 5 years, which may be renewed for another period of up to 5 years. The secondment is made by order of the Prosecutor General, with the prior opinion of the head of the institution in which the seconded person is working and with the written consent of the latter."

Also, for these categories of personnel, mainly prosecution and investigation officers, **a 3-6 months training in anti-corruption** by national or international anti-corruption experts is required.

### **3.2.5. Increase the number of prosecutors and other staff in the Anti-Corruption Prosecutor's Office.**

The organizational reconfiguration of the Anti-Corruption Prosecution generated by the latest legislative changes introduced by Law no. 245/2023, naturally entails the need to adapt the number of all categories of staff to the new institutional realities.

In this respect, the experts' discussions with the management of this structure led to the design of the new human resources perspective, reflected in a **reasonable increase in the number of functions required** to carry out the activities.

It should be noted that, in the future organizational form of the structure, **the sub-units of the North Office (based in Balti municipality) and the South Office (based in Cahul municipality) will be abolished**, the entire activity will be carried out only at the level of the central structure in Chisinau municipality.

Thus, the current staff structure of the Anti-Corruption Prosecution Office consists of **143 functions (units)**, corresponding to the following staff categories:

- 59 prosecutors (1 chief prosecutor / 6 deputy chief prosecutors)
- 15 seconded prosecution officers
- 15 seconded investigation officers
- 36 prosecutors' consultants
- 9 seconded specialists in various fields of competence
- 3 public relations specialists
- 6 drivers

and should be **increased to 218 functions (+ 75 functions)** respectively:

- +15 prosecution officers
- +5 investigation officers
- +12 encrypted officers
- +12 prosecutors' consultants
- +27 civil servants/specialists,
- +4 technical staff.

**The total number of senior and executive prosecutors will remain the same as today (59).**

In terms of regulatory rules, for the allocation and budgeting of new functions, amendments and additions are necessary:

- Decision no.78 of 4.04.2010 on the approval of the number of staff of the Prosecutor's Office;
- Order of the Prosecutor General No 681-p of 15.06.2017 on the modification of the internal structure and staffing of the Prosecutor's Office system.

### **3.2.6 Salary rights of prosecutors and other staff of the Anticorruption Prosecutor's Office.**

The statutory strengthening of the work of prosecutors, increasing their level of responsibility, boosting criminal investigations and the involvement of prosecutors in the investigation of complex cases in general and of truly significant cases of grand corruption in particular - must also be supported by *ensuring an adequate level of their salaries*.

At the moment, the salaries of all prosecutors and other categories of staff within the Prosecutor's Office are governed by the provisions of Law no.270 of 23.11.2018 on the unitary salary system in the budgetary sector - Annex no. 4 - Occupational group "Justice B".

Strictly in relation to the salary rights of anti-corruption prosecutors, it should be pointed out that they are *paid at a coefficient equal to that of prosecutors in the Prosecutor General's Office, which is 20% more than the salary of prosecutors in territorial prosecutor's offices.*

The Chief Prosecutor of the Anti-Corruption Prosecutor's Office is paid similarly to the Deputy Prosecutor General and the Deputy Chief Prosecutor of the Anti-Corruption Prosecutor's Office is paid similarly to the Chief Prosecutor of the General Prosecutor's Office.

Following discussions with some officials from the judiciary, it emerged that, as of January 2023, the Executive has identified concrete solutions for increasing the salaries of judges in all courts and employees of the National Anti-Corruption Centre, while for prosecutors and the prosecution service, the last salary increase took place in 2018.

Consequently, our recommendation is to identify budgetary solutions at government level that will lead to salary increases for all prosecutors, including those working in the fight against corruption.

From the experience of the Romanian judicial system, it would not be without managerial efficiency - at least for a certain period of time - to take over **the system of granting a salary increase of 30-40% for prosecutors and other categories of staff within the Anticorruption Prosecutor's Office** who work to combat these categories of facts.

Strengthening the role of the Chief Prosecutor of the Anti-Corruption Prosecution Office within the structure, by providing concrete means, including in budgetary terms, can be ensured by creating an **Award Fund at the disposal of the Chief Prosecutor, amounting to 1-2% of the total salary fund**, which can be used to reward prosecutors/staff who have achieved meritorious professional results in anti-corruption investigations.

One argument in favor of adopting such a measure is that in *Art. 21* of the above-mentioned law, the notions of "One-time awards" or "Annual awards" are already provided for, i.e., "*The staff of budgetary units may receive one-time awards on the occasion of professional holidays and non-working holidays, which shall be paid from the savings account of the funds allocated for remuneration of work for the respective year, but not more than 5% of the annual salary fund at the level of budgetary unit*"; the current system of rewards can be adapted to the above-mentioned purpose, in the sense that it is possible to make the transition from the rule of granting financial incentives based solely on the mere status of civil servant in the budgetary sector to that of salary rewards based on the principles of professional meritocracy.

From the perspective of the regulatory rules, the proposed salary increases require the *amendment and completion of the Law no.270 of 23.11.2018 on the unitary salary system in the budgetary sector.*

### **3.2.7 Set up of a flagrant fund at the disposal of the Chief Prosecutor of the Anti-Corruption Prosecution Office.**

The specific investigative nature of corruption offences requires the adoption of specific procedural means and operational measures, which is why we recommend the establishment of a fund, made available to the Chief Prosecutor of the Anti-Corruption Prosecution Office.

This fund is to be used for actions relating to the organization and detection of offences in flagrante delicto or involving the use of undercover agents, informers or their collaborators.

***The deposit is to be made annually and its value should be at least 200,000 - 300,000 Euro in MDL equivalent.***

This tool is used routinely and with excellent investigative results by both specialized prosecutorial structures in Romania.

In terms of regulatory rules, amendment and completion are necessary:

- Law No 159/2016 on Specialized Public Prosecutors' Offices
- Regulation of the activity of the Anticorruption Prosecutor's Office, adopted by Order No. 8/28 of 17.02.2017 - General Prosecutor of the Republic of Moldova.



## 4 ANALYSIS OF THE ASSISTANCE NEEDS FOR THE FUNCTIONING OF THE ANTI-CORRUPTION PROSECUTOR'S OFFICE. ASSESSMENT OF RESOURCE ALLOCATION, INFORMATION TECHNOLOGY INFRASTRUCTURE AND DATABASE MANAGEMENT (EXPERT CLAUDIU DUMITRESCU'S CONTRIBUTION)

### 4.1. The need to allocate a suitable office for the activity of the Anti-Corruption Prosecutor's Office (APO)

**The first urgent measure related to functional independence of the Anti-Corruption Prosecutor's Office: (by the end of the year) in order to allocate premises that meet the requirements set out in this chapter (responsible to the Government through the Ministry of Justice and the General Prosecutor's Office).**

During the mission in the Republic of Moldova, the current headquarters of the Anti-Corruption Prosecutor's Office was visited, which operates in a building located in Chisinau, 198 Stefan cel Mare și Sfânt Boulevard, rented by the Prosecutor General's Office from the National Anti-Corruption Centre on the basis of a contract for the purchase of public utilities **valid until 31 December 2023**.

Specifically, the Anti-Corruption Prosecutor's Office has 45 offices on the 4th and 5th floors of the building, as well as on the ground and basement floors, with a total area of 1334.07 square meters, for which the General Prosecutor's Office pays annually 989,868.03 MD (Moldovan lei), approximately 52,100 Euro.

The rest of the building is occupied by staff serving the National Anti-Corruption Centre (NAC), an institution with multiple competences including the investigation of minor corruption offences. It should be noted that both the European Commission and other domestic and international bodies (*International Monetary Fund*) have called for the functional and legal separation of powers of the NAC and the APO, a legislative process completed at the end of August 2023 with the adoption of Law No. 245/2023, amending and supplementing the Criminal Procedure Code.

In fact, there is still a procedural collaboration between the two institutions that will end on 31.12.2023, when the Anti-Corruption Prosecutor's Office becomes a fully functionally independent structure focusing only on fighting high-level and medium corruption.

At the moment 143 people work in the APO (prosecutors, police officers, investigators, consultants, specialists, technical staff), working conditions being inadequate in the absence of a sufficient number of offices to ensure decent conditions for the conduct of prosecution activities.

Moreover, from 1 January 2024, the new staffing scheme discussed with the management of the Anti-Corruption Prosecutor's Office will increase by another 47 posts of officials, which necessarily requires the identification and relocation of the specialized prosecutor's office to another building with a much larger number of offices that allow the work activities to be carried out in optimal conditions.

On the other hand, during the visit of the current office, it was found that it does not have the necessary space for archiving criminal files, it does not have the IT facilities for the optimal conduct of activities. Also, according to the draft of the new organisation chart (**see Annex 1**), from 2024 onwards, several support structures for the work of the prosecutors should be set up, namely a technical service, a specialist service, a human resources structure, an administrative service and an office for the management and storage of classified documents.

For all these new internal structures there is a need to identify a new building for the functioning of the Anticorruption Prosecutor's Office, which according to the discussions with the management of the institution must have at least 95 rooms as well as certain special facilities to which we will refer below.

During the discussions with the management of the General Prosecutor's Office and the Anticorruption Prosecutor's Office, it was established that there are two building options that can be discussed, namely an old office building belonging to the General Prosecutor's Office located in Chisinau municipality, Alexandru cel Bun street no. 100 and the second option in a building (right wing) of the General Prosecutor's Office.

In order to evaluate the two buildings under discussion, on 4 October 2023, together with the head of the working department of the Prosecutor General's Office, Mrs. Oxana Turcanu, we visited the first objective, namely the office building at 100 Alexandru cel Bun Street, Chisinau municipality, where we found a disused 3 floors building in an advanced state of deterioration, the renovation works having stopped 15 years ago. At the time of the visit, photographs were taken of both the interior and exterior of the building (**see Annex 3, the photo plan attached to this report**).

From the discussions with the head of the working department of the General Prosecutor Office, she explained that the building needs to be technically expertised and the amount needed for such an expertise 600,000 Moldovan Lei (MDL), approximately 31,500 EUR, which is to be provided for in the draft state budget for 2024. After such an expertise has been carried out, on the basis of the recommendations of the technical experts, the advisability of renovating this building will be determined, the amount required being 1 500 000 EUR.

In relation to this property, the Court of Accounts of the Republic of Moldova in the *"Report of the compliance audit on the formation, management and use of public financial resources and public assets by the Prosecutor General's Office in the period 2018-2022"* noted:

*"Failure to solve the problem related to the asset under construction, located at 100 Alexandru cel Bun Street, for which budgetary means amounting to over 26.2 million lei were used, renovation works have been stopped for more than 15 years, and the construction is in a process of continuous degradation, although the Prosecutor General's Office has intervened with addresses to the Government regarding the transfer of this asset to state management, which have not been resolved"*.

Given the advanced physical state of deterioration of this building located at 100 Alexandru cel Bun Street, Chisinau, as well as the lack of any necessary funds from the budget of the General Prosecutor's Office to carry out a technical expertise and consolidation works that will take at least 5 years, I exclude considering this building as a real option for the functioning of the Anticorruption Prosecutor's Office, a judicial authority that urgently needs a new headquarters starting January 2024.

The second solution discussed with the management of the General Prosecutor's Office and the Anticorruption Prosecutor's Office is a building on the right wing of the General Prosecutor's Office, which is the only viable and current solution where the Anticorruption Prosecutor's Office can move its headquarters, even if it implies some administrative changes for the staff currently working in this building.

According to the cadastral plan of the administrative building of the General Prosecutor's Office located at 73 Stefan cel Mare Street, Centru sector, Chisinau municipality, the right wing of the building has about 90 offices grouped on the 3 floors, as well as a basement with 59 rooms in an acceptable physical condition and requiring only usual renovation works.

During the visit of 4 October 2023 we found that this building is suitable to function as the headquarters of the Anticorruption Prosecutor's Office for the following objective reasons:

- has several access routes (main, secondary) that can be used separately for the staff of the institution, the persons subject to trial, as well as for bringing to safety persons detained, remanded in custody, or in detention, without being exposed to the public;
- provides office space for approximately 190 specialised prosecution staff (prosecutors, officers, consultants, specialists, administrative staff);
- provide sufficient and adequate space in the basement of the building for the organisation of the archive services of the Public Prosecutor's Office and the storage of documents;
- a waiting room can be set up quickly for people called for hearings;

- special space may be provided for the structure of classified documents and for the organisation of the technical-operational service;
- space/room can be set up for corpus delicti;
- there is space for special server rooms;
- has sufficient sanitary facilities;
- the premises already have military security;
- the premises have all the facilities (electricity, water, telephone services, internet) and are located in the city centre;
- security and video surveillance systems can be quickly installed, as an IT infrastructure already exists.

It should also be noted that at the end of 2023, the General Prosecutor's Office will regain possession of several premises located on the ground floor of this building (*with an area of approximately 200 square meters*) which were used for commercial purposes by various companies following leases concluded by the former management of the General Prosecutor's Office many years ago to the detriment of the institution's activity.

This building corresponds technically and functionally to the needs of the Anti-Corruption Prosecutor's Office, which must have all the conditions for carrying out the activities within its legal competence, and is currently staffed by 143 officials (*59 prosecutors, 15 seconded prosecution officers, 15 seconded investigation officers, 36 prosecutor's consultants, 21 specialists and 6 drivers*).

**For these reasons, concrete actions/measures are to be taken by the Anti-Corruption Prosecutor's Office, the Prosecutor General's Office and the Ministry of Justice, for the purpose of allocating this building to the Anti-Corruption Prosecutor's Office, an institution that must have functional independence as of 1 January 2024, as required by the European Commission and the International Monetary Fund.**

**It should not be forgotten that on 31 December 2023 the lease for the current space held by the Anti-Corruption Prosecutor's Office also expires.**

**Another solution would be the identification and allocation by the Government of the Republic of Moldova of another building in the state patrimony, a building that would meet the above conditions. This issue requires institutional interventions initiated by the Anti-Corruption Prosecutor's Office and General Prosecutor's Office leadership at the level of government leadership.**

#### **4.2. Evaluation of the procedures for allocating financial and material resources for the activity of the Anti-Corruption Prosecutor's Office**

**At the moment the Anticorruption Prosecutor's Office has no real financial independence, as provided for in Article 2 of Law No. 159/2016, with no separate budget of its own, no Finance-Accounting Service and no Procurement Service to deal with financial planning, organisation and management of accounting and budgetary means, management and administration of assets and procurement**

Obviously, the functional independence of the Anti-Corruption Prosecutor's Office also implies a **financial independence** component, a legal aspect regulated in Law no. 159/2016 on specialized prosecutors' offices, where Article 2 provides for **the organizational and functional independence of the specialized prosecutor's office and its prosecutors**, as follows:

- 1) The Specialised Public Prosecutor's Office **is an independent entity within the Public Prosecutor's Office**, which operates on the basis of the principles of organisation and activity of the Public Prosecutor's Office and the prosecutor, as laid down in the Law on the Public Prosecutor's Office.
- 2) The work of the specialised public prosecutor's office shall be organised and coordinated by the Chief Public Prosecutor of the specialised public prosecutor's office.

- 3) **The budget of the specialised prosecution service** shall be reflected separately in the budget of the Public Prosecutor's Office and shall be administered by the Chief Prosecutor of the specialised prosecution service.

Checking the current organizational chart, it is found that the institution does not have its own financial-accounting department, no procurement department and no people involved in financial planning, which was confirmed by the management of the Anti-Corruption Prosecutor's Office during discussions held at the institution's headquarters. In fact, all the financial and accounting aspects (*salary payments, purchases, payment of utilities, rent, car fuel, telephone, etc.*) relating to the functioning of the specialised prosecution service are carried out by the specialised staff of the General Prosecutor's Office.

From the discussions held directly with the head of the General Prosecutor's Office's working apparatus it was established that there is no separate budget for the Anti-Corruption Prosecutor's Office although this separation should have been made since 2016 according to the legal provisions mentioned above, and the Finance and Accounting Section and the Procurement-Planning Section of the General Prosecutor's Office deal with all financial and accounting matters of the Anti-Corruption Prosecutor's Office

It has also been established that there is no procurement plan that strictly governs the activity of the APO, the procedures being carried out centrally at the level of the General Prosecutor's Office for all the prosecutor's offices under its functional subordination, both specialized and territorial prosecutor's offices in the Republic of Moldova.

**Under these circumstances, it was not possible to verify and evaluate the budgetary situation of the Anti-Corruption Prosecutor's Office in order to determine the existence of the financial resources necessary for its effective functioning, as there was no real system of financial independence, as provided for in Article 2 of Law No 159/2016.**

**It could be noted that the Anti-Corruption Prosecutor's Office has an annual budget of 41022.0 thousand lei, of which 85%, more precisely 35037.7 lei, are personnel expenses, the remaining 15% being expenses for covering the costs of rental contracts, procurement of fixed assets, fuel, supplies, expertise services, postal services, translations, telecommunications, etc.**

#### **The need to set up an Economic, Financial and Administrative Service within Anti-Corruption Prosecutor's Office**

Such a prosecutor's office specialised in fighting high-level corruption needs financial independence, it needs a support structure made up of accountants, economists, procurement specialists with clear tasks in the areas of finance, budget, accounting, payroll, investment, public procurement, logistical needs and vehicle park.

At present, in the draft of the new organigramme (Annex 1), a Finance-Accounting Service and a Procurement, Administration and Logistics Service are foreseen in the Office of the Head of the Anti-Corruption Prosecutor's Office:

- financial planning;
- organisation and management of accounting;
- organisation of accounting and budgetary means;
- management and administration of assets;
- the procurement plan and its implementation.

These internal structures are to be provided for in the future Regulation on the organisation and functioning of the Anti-Corruption Prosecutor's Office, which will indicate in detail the tasks and staff that will work within them.

### 4.3. Information technology infrastructure assessment

#### **The Anti-Corruption Prosecutor's Office is not able to function independently without technological and IT infrastructure facilities.**

In the immediate future, one of the main objectives necessary to strengthen the functional and operational independence is to start the computerization of the Anti-corruption Prosecutor's Office by equipping it with high-performance computing technology and software products compatible with the existing systems, while ensuring a high level of security, especially for digital encryption or data storage systems.

At present, the Anti-Corruption Prosecutor's Office uses the existing IT infrastructure in the building rented from the National Anti-Corruption Centre, being quantifiable only the total number of IT equipment purchased from 2016 to date by the General Prosecutor's Office, necessary for the work of prosecutors, criminal investigation officers, investigation officers, consultants and specialists.

In the future, after the Anti-Corruption Prosecutor's Office moves to a new location, it will be necessary to wire all the premises in order to computerize the activity by equipping them with computers and software products, namely the purchase, reception, installation, configuration of PC workstations, laptops, high and low capacity copiers, network multifunctional printers (colour and black/white), the number of which will be determined according to the future staffing of the Anti-Corruption Prosecutor's Office.

Servers will need to be purchased, followed by the interconnection of the APO's headquarters with its territorial structures (*to the extent that the APO's North and South Territorial Offices are not closed*), through security equipment with access to the Internet and other necessary IT services.

#### **Current state of IT equipment.**

According to the data requested and made available to the experts by the management of the institution, the following equipment is under the management of the Anticorruption Prosecutor's Office:

- 1) PC type work units (computers) - 108 pieces;
- 2) simple black and white desktop printers - 60 pieces;
- 3) multifunctional printers - 5 pieces;
- 4) Laptops - 15 pieces;
- 5) Reporters - 0;
- 6) Video cameras - 0.

#### **Regarding the state of operation of the equipment, the IT specialist reported the following situation:**

- 1) 85 PC units are in operation;
- 2) 27 PC units are out of order;
- 3) 59 PC units are older than 7 years and require replacement;
- 4) 52 simple printers are operational;
- 5) 20 simple printers no longer work (out of use);
- 6) 17 simple printers are more than 7 years old and require replacement;
- 7) 3 multifunctional printers (3 in 1 type) are in working order;
- 8) 2 multifunctional printers are defective and require scrapping;
- 9) 10 laptops are working
- 10) 2 non-functioning laptops require removal.

#### **Required purchase**

In view of the current equipment mentioned above, which is clearly insufficient and consists of old generation, inefficient equipment, the **following technology needs** were identified in discussions with the management of the Anti-Corruption Prosecution Office, based on a staff of 218 employees (*one chief prosecutor, 6 deputy prosecutors, 52 prosecutors, 30 criminal*

investigation officers, 20 investigation officers, 12 encrypted officers, 48 consultants, 39 civil servants/specialists and 10 technical staff as follows:

- 180 PC stations (computers);
- 180 single printer;
- 60 laptops (15 for Judicial Directorate, prosecutors going to courts to participate in criminal trials, 30 for operational officers going in the field, 10 for the Technical Service involved in the application of special surveillance measures, 4 - 5 for prosecutors for various professional purposes);
- 180 memory sticks with a minimum capacity of 128 GB;
- 30 computer data storage media (**external hard disk drives**) with capacities of 8 TB (Terabyte), mainly required for the collection of data and information in electronic format and for carrying out computer searches in criminal cases.

During the evaluation mission, major IT facilities, the number and type of servers needed, service providers, licenses, interventions and internet were not discussed, as a new building for the operation of the Anti-Corruption Prosecutor's Office has not yet been allocated. This subject remained open for the future with regard to ensuring the necessary equipment and software for the development of the main IT system.

**Another urgent problem for the Anti-Corruption Prosecutor's Office is the purchase of tape recorders and video cameras needed in the prosecution activity, more specifically for recording the hearings of witnesses or parties in the criminal process.**

Thus, according to the provisions of Article 115 paragraph 1 of the Code of Criminal Procedure, as amended by Law No. 254/2023, *"When hearing the suspect, the accused, the defendant, the injured party, the witnesses under conditions other than those provided for in Article 110/1, the prosecution body or the court shall apply audio and video recordings. The person to be heard shall be informed about the application of audio and video recordings before the beginning of the hearing."*

**As can be seen, the legislation has made it an obligation for the prosecution bodies to record all hearings and statements given by the above-mentioned persons, which requires the necessary recording equipment. In the absence of such recordings, the criminal procedure is violated and the statements of the persons interviewed are invalid.**

**Under these conditions, investigating officers and prosecutors urgently need the following equipment:**

- 30 video cameras,
- 30 recorders,

**which will be used by the General Directorate for Criminal Prosecution of the APO, the structure responsible for conducting criminal investigations.**

According to the existing statistical data of the Anti-Corruption Prosecutor's Office, starting from January 1st 2024, when the activity will be completely decoupled/separated procedurally from the National Anticorruption Centre. The operational prosecutors of the General Directorate for Criminal Prosecution will have approximately 8-10 cases of high level corruption in their work, according to the legal competences provided for in Article 270<sup>1</sup> of the Criminal Procedure Code, as amended by Law no. 245 of August 2023.

**Under the circumstances, given the volume of cases, their importance and complexity, it is necessary to immediately supply the Anti-Corruption Prosecution Office with all the above-mentioned equipment in order to fully comply with the legal provisions on evidence management.**

#### **4.4. The need to set up an internal IT structure**

In order to ensure a functional and efficient IT system, the new draft organisation chart has provided for an Information Technology and Protection Section within the Directorate-General for

Analysis and International Cooperation, which should have the following tasks strictly provided for in the new Rules of Procedure of the Anti-Corruption Prosecutor's Office:

- IT strategy management and IT infrastructure planning;
- -analyzing IT developments in order to equip with state-of-the-art security products and services;
- -analyze, test, evaluate and recommend new hardware/software/services to determine efficiency, reliability and compatibility with existing equipment;
- -centralised distribution of software updates on the institution's terminals;
- installation and monitoring of active network equipment (routers, switches);
- -providing recommendations for use and technical support to prosecution staff;
- -maintaining liaison with service, licence, intervention and Internet providers;
- -drafting of technical specifications for IT logistics procurement specifications;
- -maintaining and troubleshooting hardware, software and services to ensure a secure, efficient and up-to-date IT infrastructure;
- -installing, managing and updating software/hardware;
- -administration of the communication and networking servers of the Anticorruption Prosecution Office;
- -installing and configuring computers and managing user accounts (managing user accounts, groups, permissions, network shares);
- -monitoring the use of the computer network of the Anticorruption Prosecution Office;
- -equipment management (hardware inventory, IP addressing, etc).

For the functioning of such a structure on information and communication technology, whose existence is mandatory for the work of the Anti-Corruption Prosecution Office, IT specialists with proven skills and competences in this field are to be recruited and hired. Their number will be determined according to needs and workload.

#### **4.5. Setting up an operational structure (Technical Service) - technical facilities, equipment, human resources**

**The functional independence of the Anti-Corruption Prosecutor's Office depends on the establishment of an internal technical structure that ensures functional autonomy and contributes to the fulfilment of the legal mission in the fight against medium and high level corruption by providing technical support in the application of special investigation or surveillance methods in criminal cases under investigation by prosecutors.**

Since its establishment in 2016 and until now, the Anti-Corruption Prosecutor's Office has not had functional independence in the application of judicial procedures, being dependent on other judicial authorities such as the National Anti-Corruption Centre, which provided it with human resources (in particular investigation officers and criminal investigation officers) involved in investigations coordinated by anti-corruption prosecutors, as well as technical support for the application of special investigative methods regarding wiretapping, audio-video surveillance, tracking and tracing by technical means (surveillance).

During the collaboration between the two institutions, certain institutional conflicts (also exposed in the Moldovan media) arose regarding potential leaks of information about ongoing investigations, disclosure of confidential data about certain operational moments (searches, wiretapping) to be carried out by prosecutors and criminal investigation officers of the anti-corruption prosecutor's office.

Such accusations are of an extremely serious nature and constitute criminal activities according to Article 315 of the Criminal Code on "Disclosure of criminal prosecution data", which should be analysed and firmly sanctioned by the Anti-Corruption Prosecutor's Office, which over time has complained that the National Anti-Corruption Centre is a politically controlled institution under the control of the Moldovan Parliament, as long as the head of the institution is appointed by the Parliament (see Article 8 of Law no. 1104 of 06-06-2002 on the National Anti-Corruption Centre according to which "*the Centre is headed by a director. The Director of the Centre (hereinafter referred to as the Director) is appointed by the Parliament by a majority vote of the elected*

**deputies**, on the proposal of at least 20 deputies, with the positive opinion of the Legal, Appointments and Immunities Committee, for a 5-year term, without the possibility of appointment for another term,,.

In this context, it is necessary to create its own Technical Structure of the Anti-Corruption Prosecutor's Office provided for in the Regulation on the Functioning of the Specialized Prosecutor's Office, which should become operational from January 2024, when the institution should be functionally independent.

According to the organigram discussed with the management of the APO, a General Directorate for Operational Enforcement will be set up, which will have two special services for the execution of special investigation methods, namely:

- **Technical Service, consisting of about 12 officers with secret identity and 3 specialists;**
- **Telecommunications Service, consisting of 4 specialists and 4 typists.**

Such a technical structure must be logistically equipped (premises, equipment, vehicles, qualified personnel) in order to increase the efficiency of investigations and to eliminate functional vulnerabilities consisting in the risk of leaking confidential or secret information and implicitly the risk of compromising investigations and exposing persons (witnesses-complainants) who report such criminal behaviour.

### **Specific technical equipment and facilities necessary for the functioning of the Technical and Telecommunications Structure of the Anticorruption Prosecution Office and the purchase prices**

According to the discussions held during the evaluation missions with the management of the Anti-Corruption Prosecutor's Office and with the technical staff, we have prepared the present specific equipment requirements for the operation of the technical structure and telecommunications, in order to apply the special methods of investigation (*interception and recording of conversations, communications and images, operational surveillance,etc.*), as follows:

NO.	NAME	QUANTITY	ESTIMATED COST (EURO)	COST ESTIMATED (MDL)
<b>Equipment for special investigative measures</b>				
1	Camouflaged audio/video instruments with real-time transmission (4G,WI-FI) DVR - miniature cameras, miniature dictaphones, radio microphones (camouflaged), video cameras, batteries, external memory, etc.			
	a) for body mounting	12	47,000.00	900,500.00
	b) for car and home	3	58,800.00	1,200,000.00
2	Specialised tools for confidential lock picking (including electronic, machine); key cloning software	1	10,000.00	192,000.00
3	Instruments with GPS/GSM tracker capability with monitoring software and server	6	3,000.00	58,000.00
4	Camouflaged Dictaphone/Miniature Voice Recorder	10	15,000.00	288,000.00
5	Dictaphone/voice recorder	10	400.00	8,000.00



6	Radio transmitter RMK 124, 122	3	1,500.00	29,000.00
7	Frequency scanner for remote connection with transmitter	3	3,000.00	58,000.00
8	Binoculars/monoculars with video/photo recording at night	2	36,000.00	700,000.00
9	Portable and mobile radios for cars, micro-cabs	10	5,000.00	96,000.00
10	Professional video cameras for visual tracking	3	3,000.00	58,000.00
11	Professional cameras for visual tracking	4	3,000.00	58,000.00
12	Unmanned light drone (flight time 60-90 min; altitude over 200 m; flight distance up to 20 km; manual or automatic guidance) + antenna for digital broadband network for remote tracking/documentation	2	10,000.00	192,000.00
13	Tools for countering leaks of confidential information (detection, jamming of radio signals, etc.)	3	50,000.00	960,000.00
14	Directed listening device	1	100,000.00	19,000,000.00
15	IMSI Catcher (2G, 3G, 4G, 5G)	1	600,000.00	11 600 000,00
<b>T equipment and technologies</b>				
1	Devices for setting up a computer network (modem, router, firewall, switch, LAN cable, access point, repeater, patch panel, etc.)	1	52,000.00	1,000,000.00
2	Server	1	52,000.00	1,000,000.00
3	Forensic laptop	1	6,000.00	116,000.00
4	Forensic workstation	6	36,000.00	700,000.00
<b>Software</b>				
1	Licenses software MALTEGO Pro, Social Links	1	8,000.00	160,000.00
2	Software for information analysis and graphical display / database creation	2	18,000.00	345,000.00
3	Specialized software for extracting information in forensic expertise	2	50,000.00	965,000.00
<b>TOTAL</b>			<b>1,167,700.00 EUR</b>	<b>28,083,500.00 MDL</b>

The approximate total amount required for the purchase of equipment to equip the Technical Structure of the Anti-Corruption Prosecution Office is 1.000.000 Euro (*this amount may differ depending on price fluctuations and financial offers identified by the beneficiary or donors involved in the procurement procedures*).

Please note that the table above does not include all the equipment needed to set up the Technical Structure. The list will be completed with other such equipment depending on the future needs identified during the implementation and putting into operation phase.

**Technical note:** It is mainly recommended to purchase equipment with the above mentioned names and manufacturers, but other analogue versions may be accepted depending on budget allocations and price offers on the market.

All of the above equipment and technologies will be used by investigation officers and personnel with secret identity and quality (encrypted personnel) with digital skills and competencies as well as thorough professional training in this field to carry out the following operational activities:

- a) forensic activities for the detection of corruption offences in flagrante delicto (marking money or other undue advantage);
- b) placing audio-video equipment on the body of individuals, installing audio-video recording equipment in buildings, private or public premises, cars, etc;
- c) the implementation of authorisations to intercept and record conversations, communications and images;
- d) technical and logistical support for carrying out criminal prosecutions, operational surveillance vehicles (surveillance), drones, motorcycles, etc.

#### 4.6. Assessment of access to databases by staff of the Anti-Corruption Prosecutor's Office

Access to the information provided by databases is essential for the entire prosecution activity ensuring the efficiency in identifying potential criminal activities, identifying perpetrators and obtaining evidence.

Moreover, in investigative activity, access to information in databases makes it possible to carry out financial investigations with practical utility for:

- identification of evidence in criminal proceedings;
- identification and tracing of criminal proceeds and property subject to confiscation and extended confiscation;
- identification of natural or legal persons involved in criminal activity;
- identification of respondents' lifestyles and financial profiling;
- collecting any data and information on the criminal activities under investigation and persons involved (suspect, accused, defendant).

Given the importance of this area, an assessment was made of the current state of access to databases and of the additional needs for accessing and interrogating databases held by public or private institutions.

The assessment established that the Anticorruption Prosecutor's Office currently has unrestricted access to the following databases managed by a single designated investigation officer, as follows:

INSTITUTION MANAGING THE DATABASE	LINK	DATA PROVIDED	ACCESS PERIOD
Border Police	border.gov.md	Crossing the state border	5-year period
Tax Service	reports.gov.md	Information on economic agents/individuals related to taxes	Unlimited
Public Services Agency	asp.gov.md E-Cadastre	Real estate information, does not allow access to electronic records.	Unlimited
Public Services Agency	ACCESS	Information about people, means of transport	Unlimited
Ministry of Internal Affairs		Central data bank	Unlimited

Taking into account the complexity of the files investigated by the Anticorruption Prosecutor's Office and the large number of files in progress, it is necessary to obtain the rights of interrogation of other databases, taking the necessary measures according to the technical possibilities and specific regulations of their creators and holders, as follows:

NO.	INSTITUTION MANAGING THE DATABASE	LINK
1.	Ministry of Internal Affairs	Register of Contraventions Road Accident Register Register of detained, arrested, convicted persons
2.	Ministry of Labour	
3.	Ministry of Finance	Treasury
4.	Public Procurement Agency	Tender.gov.md
5.	National Social Insurance House	CNAS
6.	Railway	TripTracer
7.	National Financial Market Commission	The CAR data information system
8.	Agency for Intervention and Payments in Agriculture	AIPA information system
9.	Customs Service	SI Asycuda World
10.	Competition Council	Register
11.	SIA "Autotest"	Car testing register
12.	INFOSAPR	Register of municipal services
13.	SIA SIVABON	Credit history
14.	City Hall Chisinau	E-Kindergarten E-School
15.	Public Services Agency	Civil Status Archive
16.	Public Services Agency	Register of real estate collateral
17.	Government	MConnect (date.gov.md)
18.	Telephony Orange Moldova	Orange information system
19.	National Health Insurance Company	CNAM

#### **Additional details.**

*It should be noted that the interim report has been sent for consultation to the Ministry of Justice, the Attorney General's Office, the Anti-Corruption Prosecutor's Office and the national experts indicated by the beneficiary, with a view to providing possible recommendations on the content and form of the report, as well as on the preliminary findings of the two international experts involved in its preparation.*

*Before the preparation of this final report, the Anti-Corruption Prosecutor's Office, as the main beneficiary of the evaluation, has reviewed the equipment needs and provided the experts an inventory of the technology they will need in the immediate future to operationalise the Technical Structure.*

*It should be noted that the national experts from the Republic of Moldova representing civil society and academic field (lawyer and local expert Lilia Ionita, university professors Igor Dolea and Osoianu Tudor) studied the preliminary report and had no objections or comments on the substantive content of the report.*

## 5 CONTRIBUTION OF BOTH EXPERTS

By the end of 2023, the procedure of decoupling / functional separation of the two anti-corruption structures (Anti-Corruption Prosecutor's Office and National Anti-Corruption Centre) must be completed, in relation to their new competences - established by Law no.245 of 31.07.2023 on the amendment of some normative acts (amendment of the Criminal Procedure Code and the Contravention Code), published in M.Of. no.325-327 - a mandatory element in order to be able to proceed to the concrete start of the activities of investigation, prosecution and sanctioning of cases of grand corruption in the Republic of Moldova.

The Government has undertaken that, together with the Prosecutor General's Office, within three months of the date of entry into force of the law, it "will take all necessary measures to equip and empower the Anti-Corruption Prosecutor's Office in order to ensure its effective functioning".

The experts' recommendations, classified according to the timeframe/period of implementation (short 1-3 months, medium 3-6 months, long 6-12 months), are as follows:

### **Changes to the organisation chart:**

- the establishment of a separate structure (section/department) within the Anti-Corruption Prosecution Office for the prosecution of offences against EU financial interests, consisting of prosecutors specialised in investigating this type of fraud, mid-term of implementation;
- the establishment of a separate international judicial cooperation structure (section/department) within the Anti-Corruption Prosecutor's Office, made up of prosecutors specialised in this field, to deal with requests for mutual legal assistance in criminal matters in cases of transnational or cross-border crimes, mid-term of implementation;
- ensuring the technical component of anti-corruption investigations, directly at the level of the Anti-Corruption Prosecutor's Office, by setting up its own technical structure, as a guarantee of the autonomy and functional independence of the Anti-Corruption Prosecutor's Office, an element that contributes to the fulfilment of the legal mission in the fight against corruption at medium and high level, short-term of implementation;
- establishment of an information technology (IT) structure with a role in IT support for investigations, judicial statistics of its own criminal cases, management of government databases and granting access to these databases, short-term of implementation;
- management of access to information of a secret or top secret nature - whether generated directly by criminal investigations carried out by prosecutors or received from other institutional partners with responsibility for gathering information - must be carried out by a dedicated structure headed by a prosecutor, short-term of implementation;
- the establishment of a dedicated structure made up of specialists with expertise in the fields of finance, banking, customs, capital markets or money laundering; following requests made by prosecutors, mainly in complex cases with implications on the macro-economic and financial crime component, the designated specialists are to draw up reports of findings, which can subsequently be used in criminal cases, mid-term of implementation;
- the practical implementation and concrete realisation of the infrastructure objectives of the Anti-Corruption Prosecutor's Office must be achieved by means of its own economic and financial structure and by granting the Chief Prosecutor the status of secondary authorising officer, short-term of implementation.

### **Measures concerning the rules of jurisdiction of the Anti-Corruption Prosecutor's Office:**

- the jurisdiction of the Anti-Corruption Prosecutor's Office must be supplemented with the offences committed by lawyers, senior police officers of the Ministry of Internal Affairs, customs personnel, secretaries of state in the Government and mayors of municipalities as well as for the offence of money laundering committed by the categories of persons expressly mentioned in Article 2701 paragraph 1 of the Criminal Procedure Code on the jurisdiction of the Anti-Corruption Prosecutor's Office, short-term of implementation;

- In order to combat fraud against the financial interests of the European Union by criminal law means, it is necessary to introduce in the Criminal Code a separate chapter on offences against the financial interests of the EU by transposing the provisions of Directive (EU) 2017/1371 of the European Parliament and of the Council of 05.07.2017, mid-term of implementation;
- From a legislative point of view, it is necessary to amend and supplement the Criminal Code and the Law no. 245/2023 in order to amend Art. 269 and Art. 270<sup>1</sup> of the Criminal Procedure Code, short-term of implementation.

**In the matter of access and dismissal of prosecutors, police officers and other categories of staff within the Anticorruption Prosecutor's Office**, the decision-making element of the whole procedure should be transferred from the competence of the Superior Council of Prosecutors to the Chief Prosecutor of the specialised prosecutor's office, long term of implementation:

- the recruitment procedure should be simplified and could take the form of a competition (professional interview) organised before a committee made up of the Prosecutor General, the Chief Prosecutor of the Anti-Corruption Prosecutor's Office and his/her deputy (or other persons designated by them), with the results being validated by the High Council of Prosecutors;
- after admission to the Anti-Corruption Prosecutor's Office, new prosecutors should undergo a 3-6 months training in anti-corruption, either at the National Institute of Justice or by national or international anti-corruption experts;
- modification of the revocation procedure so that prosecutors of the Anti-Corruption Prosecutor's Office may be revoked by order of the Chief Prosecutor, with the opinion of the Superior Council of Prosecutors, in case of improper performance of the specific duties of the office or in case of application of one of the disciplinary sanctions provided for by law.
- As regards the procedure for appointment and dismissal in / from the Anti-Corruption Prosecutor's Office of all other categories of staff, the current provisions in force are clear, predictable and should be maintained. It is necessary to introduce a form of anti-corruption training similar to that of prosecutors.

**Identify budgetary solutions** at government level that would lead to salary increases for all prosecutors, including those working in the fight against corruption, mid-term of implementation:

- Granting a salary increase of 30-40% for prosecutors and other staff of the Anti-Corruption Prosecutor's Office working to combat corruption.
- Strengthening the role of the Chief Prosecutor of the Anticorruption Prosecution within the structure, by providing concrete means, including in budgetary terms, can be ensured by creating an Award Fund at the disposal of the Chief Prosecutor, amounting to 1-2% of the total salary fund, which can be used to reward prosecutors/staff who have achieved meritorious professional results in anti-corruption investigations.

**Establishment of a flagrant fund** at the disposal of the Chief Prosecutor of the Anticorruption Prosecutor's Office, to be used for actions related to the organization and detection of flagrant offences or offences arising from the use of undercover agents, informers or their collaborators, the value of which should be at least 200,000 - 300,000 Euro in MDL equivalent, mid-term of implementation.

**At this moment the Anti-Corruption Prosecutor's Office does not have real financial independence**, as provided for in Article 2 of Law no. 159/2016, not having its own separate budget, without a Finance-Accounting Service and a Procurement Service to deal with financial planning, organization and management of accounting, organization of bookkeeping and budgetary means, management and administration of assets and carrying out public procurement;

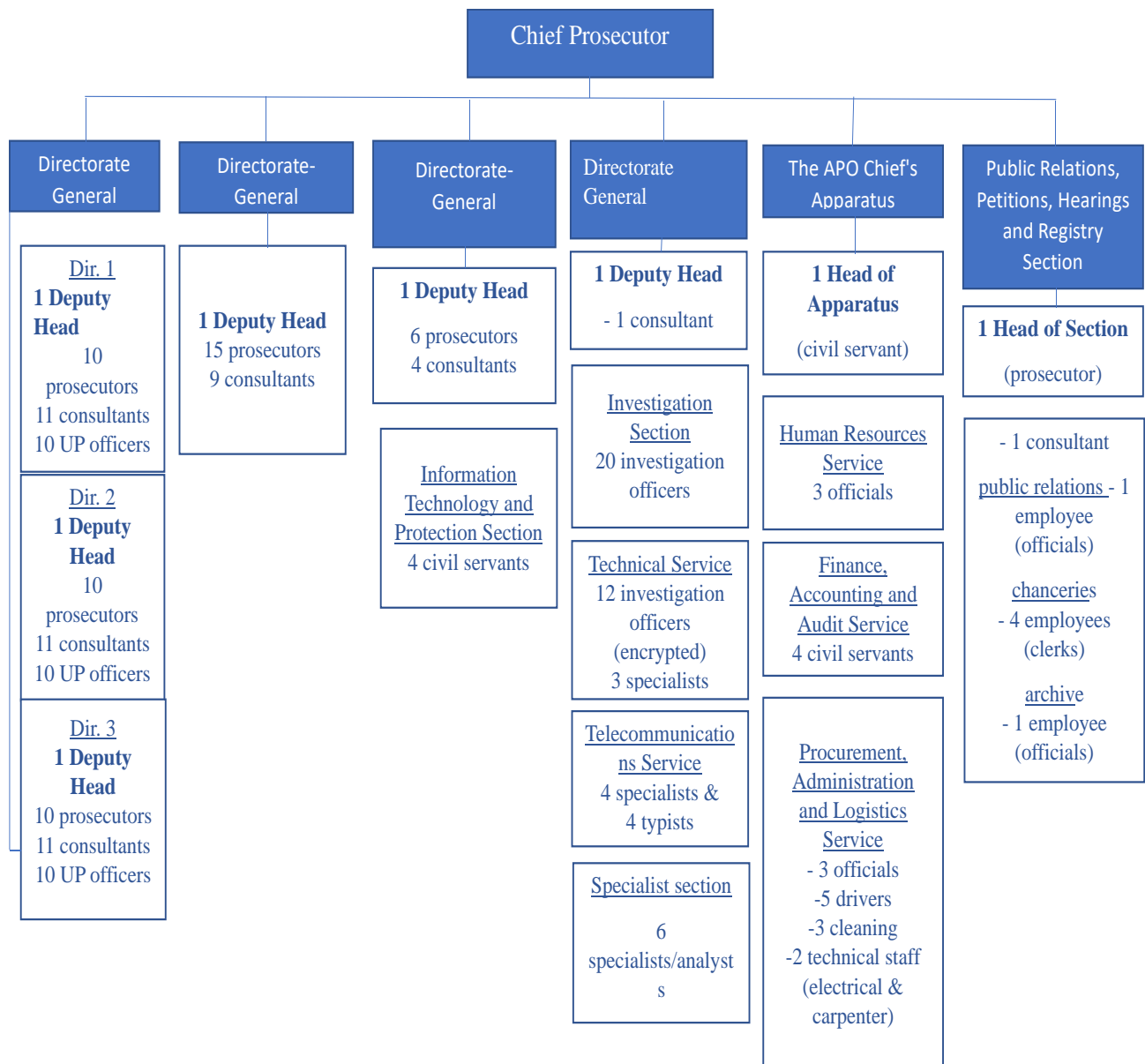
**The Anti-Corruption Prosecutor's Office does not have functional independence** for the following reasons:

- it does not have sufficient human resources;
- it does not have adequate premises (an office building);
- it does not have a technological and IT infrastructure;
- it does not have its own Technical Service nor the necessary technical equipment;
- the salary level is low in relation to the complexity of the cases and the risks assumed by an anti-corruption prosecutor.

### **Recommendations:**

1. Urgent measures (by the end of the year) to allocate a new headquarters for the Anti-Corruption Prosecutor's Office that meets the requirements set out in this report, Chapter V, point 1.1; (responsible to the Government through the Ministry of Justice and the General Prosecutor's Office) , short-term of implementation;
2. Launch procurement procedures for equipping the Anti-Corruption Prosecutor's Office with IT equipment as provided for in Chapter V, point 1.3 entitled "Assessment of the information technology infrastructure" of this report, and identify sources of funding from the State budget or international donors, short-term of implementation;
3. Initiate procurement procedures for equipping the Operational Support Technical Structure with the equipment set out in the table in Chapter V, point 1.5 "Establishment and operationalization of an Operational Assurance Structure (Technical Service)" of this report and identify sources of funding from the State budget or international donors, short-term of implementation;
4. The elaboration by the Ministry of Justice together with the General Prosecutor's Office and the Anti-Corruption Prosecutor's Office of a draft law on the amendment and completion of Articles 269 and 2701 of the Code of Criminal Procedure, by introducing into the jurisdiction of the Anti-Corruption Prosecutor's Office, the following categories of subjects: police officers, customs personnel, state secretaries, lawyers, as well as the offence of money laundering provided for in Article 243 of the Criminal Code, short-term of implementation;
5. Development by the Anti-Corruption Prosecutor's Office of a new Regulation of organization and functioning and a new staffing scheme, approved by Order of the Prosecutor General by the end of 2023, and abrogation of the current Regulation of activity of the Anti-Corruption Prosecutor's Office, adopted by Order No. 8/28 of 17.02.2017 of the Prosecutor General of the Republic of Moldova, short-term of implementation;
6. From the perspective of regulatory rules, the following normative acts need to be amended and completed, mid-term of implementation:
  - Law No. 3/2016 on the Prosecutor's Office (art.20, respectively art.57-58);
  - Law No. 159/2016 on specialized prosecutors' offices;
  - -Regulations regarding the College for the selection and career of prosecutors and the procedure for the selection and career of prosecutors approved by the Decision of the Superior Council of Prosecutors No. 12 - 14/17 of 23 February 2017;
  - Decision No 78 of 4.04.2010 on the approval of the number of staff of the Prosecutor's Office published in M.Of. No 78-80, art.228;
  - Order of the Prosecutor General No. 681-P of 15.06.2017 on the modification of the internal structure and staffing of the Prosecutor's Office system.

## ANNEX 1. DRAFT ORGANIGRAM OF THE ANTI-CORRUPTION PROSECUTOR'S OFFICE



## ANNEX 2 BUDGETARY IMPACT OF THE APO REORGANISATION

POSITIONS	TOTAL APO 2023		UNITS INCREASES APO		TOTAL APO 2024	
	Total staff number	Annual fund (thousands MDL)	Number of units	Annual fund (thousands MDL)	Total number of units	Total annual fund (thousands MDL)
<b>Prosecutors</b>	59	20803,8	+0	0	59	20803,8
<b>Officers</b>	30	7119,7	+32	+7593,6	62	14712,6
<b>Other staff</b>	54	7150,2	+43	+5693,7	97	11154,4
<b>Total staff costs</b>	<b>143</b>	<b>35073,7</b>	<b>+75</b>	<b>+9622,0</b>	<b>218</b>	<b>44695,7</b>



**ANNEX 3. PHOTOGRAPHIC DRAWING OF THE  
BUILDING LOCATED ON THE STREET ALEXANDRU CEL  
BUN, NO. 100, CHISINAU**









