



## MONITORING REPORT NO.3

# Transparency of public enterprises of the Republic of Moldova

*(state-owned enterprises, municipally-owned enterprises and  
companies with full and majority state or municipal ownership)*

***Viorel PIRVAN***



## MONITORING REPORT NO.3

# Transparency of public enterprises of the Republic of Moldova

*(state-owned enterprises, municipally-owned enterprises and  
companies with full and majority state or municipal ownership)*

**Viorel PIRVAN**

The report is a product of the initiative "Supporting democracy, independence and transparency of key public institutions in Moldova". The initiative is implemented by the Institute for Development and Social Initiatives (IDIS) "Viitorul", in partnership with the Institute for Economic and Social Reforms in Slovakia (INEKO) and is financially supported by the Official Development Assistance Program of the Slovak Republic (SlovakAid). The initiative aims to inform the public about the development of democracy and the independence of key state institutions, as well as to improve the transparency and financial stability of local public authorities and state-owned enterprises in the Republic of Moldova.

The opinions expressed in this report are those of the author and do not necessarily reflect the official policy or position of INEKO and SlovakAid.



[www.viitorul.org](http://www.viitorul.org)



Institute for Economic and Social Reforms



**The Institute for Development and Social Initiatives (IDIS) “Viitorul”** is the legal successor of Fundatia Viitorul (Viitorul Foundation) and, overall, preserves the traditions, objectives and principles of the foundation among which: building democratic institutions and developing a spirit of effective responsibility among policy makers, civil servants and citizens of our country, strengthening civil society and criticism, promoting the freedoms and values of an open, modern and pro-European society. IDIS “Viitorul” is a research, training and public initiative institution, which works in several areas related to economic analysis, governance, political research, strategic planning and knowledge management. IDIS serves as a joint platform bringing together young intellectuals concerned with the success of the transition towards market economy and an open society in Republic of Moldova.

**The Institute for Economic and Social Reforms (INEKO)** is a non-governmental nonprofit organization established in support of economic and social reforms which aim to remove barriers to the long-term positive development of the Slovak economy and society.

**Official Development Assistance of the Slovak Republic** is an intrinsic instrument of the Slovak foreign policy, which to a large extent shapes Slovakia's relations with aid recipients and relevant international organizations. Having committed itself to the fulfillment of the Millennium Development Goals, Slovakia shares the responsibility for global development and poverty reduction endeavors in developing countries, aiming to promote their sustainable development.

*Any use of excerpts or opinions of this study authors should contain a reference to IDIS “Viitorul”.*

For more information on this publication or subscription to IDIS publications, please contact Media and Public Communication Service of IDIS “Viitorul”.

**Contact adress:**

10/1 Iacob Hancu St., Chisinau, MD-2005, Republic of Moldova

Tel.: (37322) 21 09 32

Fax: (37322) 24 57 14

[www.viitorul.org](http://www.viitorul.org)



# TABLE OF CONTENTS

SUMMARY .....	4
I. RESEARCH GOAL AND METHODOLOGY .....	6
II. ASSESSMENT OUTCOMES OF AREAS OF TRANSPARENCY .....	8
1. General and comparative matters on enterprise transparency .....	8
2. Economic indicators .....	10
3. Transparency and access to information .....	11
4. Public procurement and property .....	14
5. Human resources .....	19
6. Ethics and conflict of interests .....	20
7. Grants and charity .....	22
III. GENERAL CONCLUSIONS .....	23
IV. RECOMMENDATIONS .....	25
V. TRANSPARENCY RANKING .....	30
BIBLIOGRAPHY .....	32

# SUMMARY

The Institute for Development and Social Initiatives (IDIS) “Viitorul” has measured the level of transparency of publicly-owned undertakings in the Republic of Moldova, relying on the Institute for Economic and Social Reforms (INEKO) aid under the initiative “Supporting democracy, independence and transparency of key public institutions in Moldova”. IDIS “Viitorul” has implemented this initiative in partnership with INEKO, being financially supported by the Slovak Official Development Assistance Programme (SlovakAid). The initiative aims to raise public awareness about the development of democracy and independence of key state institutions, as well as to improve transparency and financial stability of local public authorities and of publicly-owned undertakings of the Republic of Moldova. The ranking of the most transparent publicly-owned undertakings is available at: [www.companies.viitorul.org](http://www.companies.viitorul.org).

The monitoring process of Moldovan publicly-owned undertakings was launched in 2019, and is ongoing through 2021 as well, having revealed the lingering issues and gaps in terms of transparency in their work. Such status is due to the imperfect legal framework, undertakings’ failure to comply with the current requirements and the lack of viable instruments to hold liable those that infringe the law. The report findings reiterate the issues and gaps revealed over the past several years, which are still topical.

The assessment results of the country largest and most important enterprises (60 entities) reveal an overall average level of transparency of circa 26% out of 100%. In comparison with the previous ranking, one may notice an increase in the overall average by + 8.30 percentage points, including each of the six areas of transparency. Likewise, an increase in the overall average recorded for state-owned enterprises is noticeable against municipally-owned enterprises. This is due to the fulfilment of certain important transparency indicators by a larger number of state-owned enterprises such as disclosing the information on share capital, publishing public procurement plans, Ethic Codes, and economic and financial reports and reviews.

The Moldovan publicly-owned undertakings worsened their outcomes only for one transparency indicator, namely publishing the public procurement contracts. No undertaking published such contracts in [the previous ranking](#) or in the current ranking. If previously four enterprises posted limited information on the award of contracts, the contract subject-matter and value on their web pages, only three enterprises disclosed such information in their annual reports and statements under the current ranking. The issue related to the publication of public procurement contracts by enterprises is still topical and remains unresolved.

So far, the Law on access to information is not applicable to publicly-owned undertakings. Hence, circa 1/3 of enterprises subject to monitoring responded to the questionnaire circulated by IDIS “Viitorul”, and only 12% of them answered the request submitted by a natural person, which provided the information sought, thus, a slight increase has been recorded relative to the previous assessment.

The Public Services Agency web page, which is the founder of most state-owned enterprises, has been upgraded recently, and, as a rule, includes the enterprise charter, some economic and financial reviews of earlier years, displaying a larger amount of useful information. Nonetheless, a series

of important data of public interest is still missing, such as annual activity reports and current audit reports.

More than 2/3 of enterprises subject to monitoring have published their instruments of incorporation on their web pages or on the founders' websites, while over 4/5 of enterprises disclosed the data on their owners. However, the enterprises failed to publish the outcomes of the meetings held by management bodies, while six enterprises disclosed limited information to this end.

Public procurement carried out by enterprises is another obscured area in terms of transparency, the reason behind it being the inappropriate legal framework. The situation improved to some extent for the state-owned enterprises once some paramount regulatory acts have been passed to govern the procurement procedures employed by these enterprises and by those working in certain specific sectors. The situation of municipally-owned enterprises and of joint stock companies with full or majority state ownership still remains uncertain. Some of these regulations became applicable in mid-2020, while others are to enter in force in the second half of 2021.

Circa 3/5 of enterprises subject to monitoring do not publish notices of invitation to tender on their web page, and none of the enterprises published the public procurement contracts last year. Instead, 1/3 of enterprises subject to monitoring had used digital platforms for public procurement procedures in 2020, but this happened as per the intention and decision of the enterprise Founders and management rather than as a binding obligation covered by law.

Publicly owned enterprises disclose no information concerning their assets (lands and real estate) they administer or own. As a rule, the information about the economic use of those assets is published by the enterprises dealing with renting/leasing the premises under their management.

Circa 40% of enterprises subject to monitoring post job vacancies on their web page, but none revealed the selection procedure outcomes to fill the vacancies in 2020. Only two enterprises stated the administrator's wage and allowances received by the Management Board members. At the same time, no undertaking published the CVs of Management Board members.

The monitoring helped identifying 22 enterprises that developed and published Ethics Codes for their employees and four enterprises that have Corporate Governance Codes. More than 1/3 of enterprises developed certain in-house integrity instruments foreseen by the regulatory framework, shaped as anti-corruption policy or as ethics and Corporate Governance Codes.

As for "Grants and charity", only five publicly-owned undertakings published on the website some limited information about events supported financially in 2020, which were directly related to the donations to fight Covid-19 pandemic.

Therefore, the monitoring outcomes of this year have underline the same major issues in terms of transparency for publicly-owned undertakings, revealing gaps for all monitored transparency indicators.

Finally, the recommendations formulated in this report are intended for, on the one hand, public authorities responsible for the development, improvement and implementation of public policy, monitoring and ensuring sound activity of publicly-owned undertakings, while, on the other hand, for enterprises to better comply with the legal requirements on transparency and made public important information.

# I. Research goal and methodology

The Institute for Development and Social Initiatives (IDIS) “Viitorul”, having adopted the Slovak experience, has continued to monitor the Moldovan state/municipally-owned enterprises and the companies with full/majority state/municipality ownership (hereinafter referred to as publicly-owned undertakings) to measure **transparency level in their 2020 work**.

The research covered 60 Moldovan publicly-owned undertakings, of which 46 are state-owned enterprises and companies with full/majority state ownership, while 14 are municipally-owned enterprises and companies with full/majority municipality ownership, 10 of them being located in Chisinau municipality. The undertakings have been selected based on economic indicators, depending on the size of assets, importance of activity area the undertakings are engaged in, having included the undertakings founded by Local Public Authorities (LPAs). In case of companies with state or municipal capital, we selected those entities where the state or the administrative-territorial unit holds >51% of shares, with some exemptions made for the companies working in important sectors and with major societal impact, where the stake is smaller.

The selection process was carried out in compliance with the data published by the Public Property Agency, which holds the Registers of state/municipally-owned enterprises and the Registers of Joint Stock Companies where the state or the administrative-territorial units hold shares. The records of the aforementioned Registers have been used, which were updated in 2020.

The 2021 ranking does not include those enterprises, which were subject to ongoing reorganisation/privatisation process.

**The measurement of undertakings transparency level was carried out in January – May 2021**, having resorted to a quantitative approach, engaging the following instruments:

- questionnaires addressed to Moldovan undertakings subject to monitoring, by which a series of public data was sought;
- requests devised by a third party and addressed to Moldovan undertakings subject to monitoring, by which public information was sought pursuant to the Law on access to information;
- information identified on the web pages of Moldovan enterprises subject to monitoring;
- information identified on web portals of public authorities ([www.app.gov.md](http://www.app.gov.md), [www.declaratii.ani.md](http://www.declaratii.ani.md), [www.chisinau.md](http://www.chisinau.md), [www.balti.md](http://www.balti.md), [www.primariacahul.md](http://www.primariacahul.md), [www.primisoroca.md](http://www.primisoroca.md), [www.straseni.md](http://www.straseni.md));
- information identified on web portals touching upon with the work and transparency of undertakings subject to monitoring ([www.emitent-msi.market.md](http://www.emitent-msi.market.md), [www.amac.md](http://www.amac.md));
- information identified on public procurement web portals ([www.mtender.gov.md](http://www.mtender.gov.md), [www.achizitii.md](http://www.achizitii.md), [www.e-licitatie.md](http://www.e-licitatie.md)).



	Areas (Transparency criteria)	Share, %
I	Economic indicators	19
II	Transparency and access to information	24
III	Public procurement and property	23
IV	Human resources	14
V	Ethics and conflict of interests	13
VI	Grants and sponsorships	7

The undertakings have been assessed and assigned to **six areas (criteria of transparency)**, which **cover 42 indicators**. The assessed areas tackle the most important directions of enterprise organisation and activity, which is of public interest, as well as the areas considered important to ensure transparent administration of undertakings, such as ethic issues or conflicts of interests. The results are based on publicly available data, which is easy to measure and check. The maximum score for an enterprise, including all areas, is 100 points.

The assessment outcome of each enterprise varies from 0% (the weakest) to 100% (the best). In order to perform a quicker comparison, the enterprises have been classified as per a progressive scale (from A+ through F).

The monitoring enabled **establishing the ranking of the most transparent enterprises. The ranking is available at: [www.companies.viitorul.org](http://www.companies.viitorul.org)**. This portal hosts also the previous ranking, thus, making possible to compare its data with the 2021 ranking outcomes.

The position assigned to an enterprise within the ranking should mirror its level of transparency. Therefore, the higher an enterprise, the narrower the space for corruption and non-transparency. However, one may not claim that an extremely open enterprise is free of corruption, and vice-versa. As a rule, appropriate compliance with the legal requirements lead to a low level of corruption, however, it does not guarantee full eradication of corruption.

Essentially, this **ranking is an instrument to measure undertaking transparency, identify the major issues, obstacles and gaps, and help the competent public authorities and undertakings enhance their level of transparency.**

Moreover, **recommendations have been formulated to improve transparency and ensure that public information is made available to citizens.**



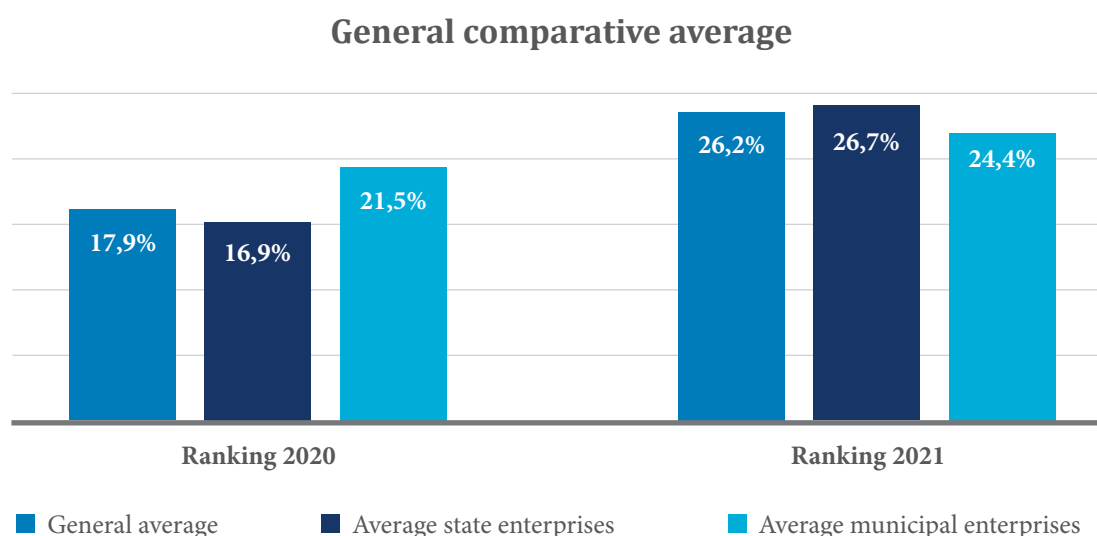
## II. Areas of transparency measurement outcomes

### 1. General and comparative matters on enterprise transparency

The overall average transparency level of 60 Moldovan state-owned enterprises, municipally-owned enterprises and companies with full or majority state or municipal ownership **increased from 17.4% in 2018 and 17.9% in 2020 to 26.2% in the 2021 ranking.**

The most transparent monitored enterprises obtained more than 50% out of maximum score of 100%, relative to the previous ranking when no undertaking managed to go over such score. Hence, SoE “**Moldelectrica**” has got 58.4%, being included in category “B-”, SoE “**MoldATSA**” has got 58.3% (category “B-”), JSC “**Energocom**” has got 56.5% (category “B-”), while SoE “**Athletics Arena**” has got 52.4% (category “C+”). At the same time, circa 1/3 of monitored enterprises obtained less than 20% out of 100% as compared to the previous ranking, when 1/3 of them failed to get even 10%.

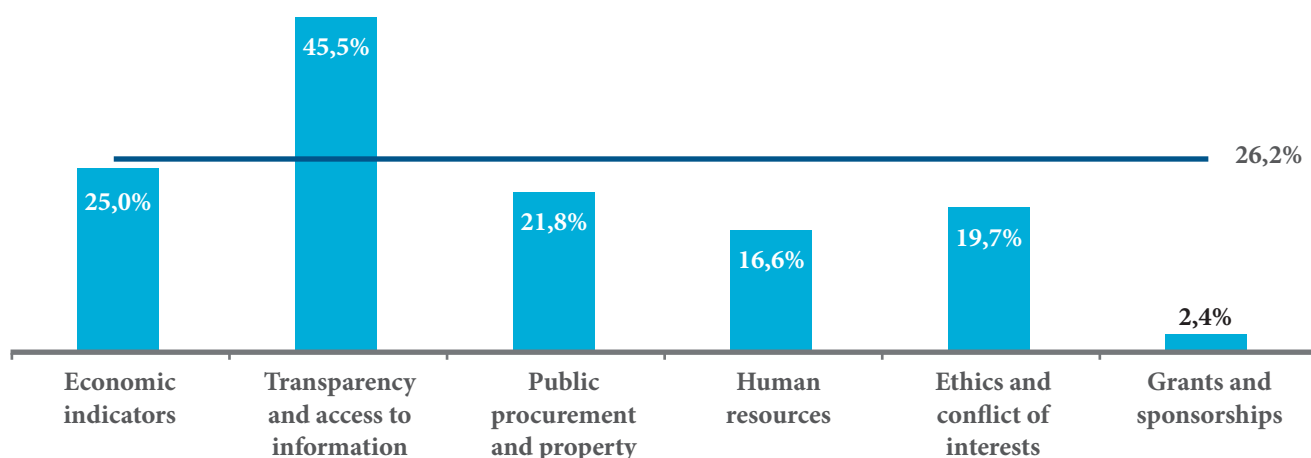
Depending on the enterprise type (enterprise owners), a better situation is attested for state-owned enterprises, with an average of 26.7% relative to municipally-owned enterprises, which average score was 24.4%. The state-owned enterprises average score increased significantly (+9.8% in comparison with the 2020 ranking). The average of municipally-owned enterprises increased as well by +2.9%, although at a slower path than the one recorded in the previous ranking. Only six out of 14 municipally-owned enterprises (43%) are positioned above the ranking median relative to 71% of the previous ranking. MoE “**Exdrupo**” is the municipally-owned enterprise with the highest score (39.3%), and holds the highest position (the eleventh) in the ranking.



*Diagram 1. The general average of transparency of enterprises depending on their owner*

The municipally-owned enterprises obtained a higher score than the state-owned enterprises for a series of transparency indicators. For instance, digital platforms for public procurement procedures were used more intensively, the annual procurement plans were published, as well as the Administrator and responsible people contact data, enabling the public to request information/send requests. Likewise, municipally-owned enterprises have got a better average in terms of their reaction to the request submitted by a ‘mysterious petitioner’, making public the Administrator’s CV or posting job vacancies on the website.

Those 60 enterprises subject to monitoring obtained the highest scores for “Transparency and access to information” (45.5%), “Economic indicators” (25%) and “Public procurement and property” (21.8%). The remaining areas of transparency have an average below 20%. “Grants and charity” is the most problematic transparency area for all enterprises, as its average goes slightly over 2%. For five transparency indicators out of 42 indicators (12%) subject to measurement, both state-owned and controlled enterprises and municipally-owned enterprises obtained zero points.



*Diagram 2. Average for each transparency area*

In comparison with the previous ranking, **one may notice improvements in the 2021 ranking for SoE “Chisinau Printing Plant” (+47 positions and 32.6 percentage points), followed by SoE “Division of Real Estate Operation” (+23 positions and + 18%) and SoE Institute of Geodesy, Technical Surveys and Cadastre “INGEOCAD” (+20 positions and +24%).** Overall, the score either increases or remained unchanged for 51 out of 60 enterprises included in both editions of the ranking.

At the other end of the spectrum, one may ascertain regress in nine enterprises, the most affected being SoE “Republican centre for livestock breeding and genetic improvement” (-17 positions and -6.4%), MoE “Sanitation Service” (-17 positions and -6%) and MoE “Apa-Canal Strasenii” (-16 positions, although it got the same score).

The share of affirmative answers increased (the best practices) in circa 2/3 out of 42 monitored transparency indicators. The most dramatic increase was noticed in case of posting the information on enterprise share capital on the website. If such reviews were posted by 16.4% of enterprises subject to monitoring in the 2020 ranking, then the current ranking displayed the example of 73.3% of enterprises. Similar observations have been expressed for the reviews of economic and financial indicators for three years (2017 – 2019), with an increase from 4.5% in 2020 to 36.7% in 2021 (+32.2%). An important increase has been noticed in case of posting annual procurement plans (+29%).

## 2. Economic indicators

The performance indicators of undertakings are established on the basis of economic and financial outcomes, with the description of profits, losses, other indicators related to the enterprise activity. Transparency of economic indicators is important to see how efficiently the undertaking works.

Pursuant to Article 18 of the Law on state-owned enterprise and municipally-owned enterprise No. 246/2017, the enterprise shall be required to post on its official web page and on the founder's official web page more information to include mandatorily the enterprise annual activity report. According to the legislation, the enterprise annual report shall be posted on the web page no later than four months after the end of the reporting year, and shall contain at least financial information, financial commitments, information about the enterprise staff and management, their salaries and income, Management report, other information.

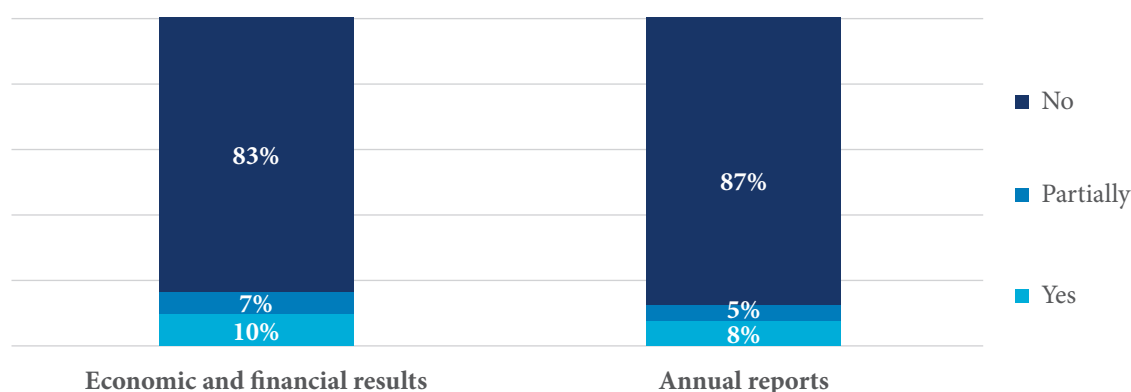
The monitoring results show that only five **publicly-owned undertakings out of 60 have published on the web page their 2020 annual reports, namely SoE “MoldATSA”, SoE “Moldelectrica”, JSC “Metalferos”, JSC “Energocom” and SoE “Radiocommunications”**, while three enterprises published their reports for the first half of 2020, namely JSC “Franzeluta”, JSC “Termoelectrica” and JSC “Moldtelecom”. Circa 20% of enterprises have published their annual reports for three years (2017 - 2019), while other 15% have published at least one annual report for the previous years. Regarding the quality of annual reports, the national and international practices show the need of a more structured report to comprise detailed information and descriptions of works and data on enterprise main activity areas (SoE “MoldATSA”, SoE “Moldelectrica” and SoE “Radiocommunications” managed to get close to this level).

**Six enterprises, namely SoE “MoldATSA”, SoE “Moldelectrica”, JSC “Metalferos”, JSC “Energocom”, SoE “Moldaeroservice” and SoE “Athletics Arena” published the 2020 review of economic and financial indicators and the assessment of economic and financial outcomes**, in light of the main indicators developments (net profit, revenues from sales and other indicators related to specific business conditions). At the same time, four monitored enterprises have published such information only for the first half of 2020. Such reviews have been published for three years in a row (2017 – 2019) by 22 enterprises (37%), while at least one review for the aforementioned years was identified for 27 enterprises (45%). The majority of such reviews (annual financial statements) are posted on the Public Services Agency web page, which, pursuant to Government Decision No. 806 of 01.08.2018, in the context of reorganisation of central public administration authorities, has become the founder of state-owned enterprises and companies owned or controlled by state. **It is important that the Public Property Agency updates, on a continuous basis, and publishes on its web page all important information about the Moldovan state-owned enterprises and companies owned or controlled by state. At the same time, the Agency could also systematise and made public the information on municipally-owned enterprises.**

Law No. 246/2017 has laid down the binding requirement to post the audit report of state/municipal owned undertakings and the outcomes of inspections carried out by relevant bodies on the enterprise web page and the Public Services Agency website.

**Only four Moldovan publicly-owned undertakings made public in 2020 the outcomes of inspections and of economic and financial audits, namely SoE “MoldATSA”, SoE “Moldelectrica”,**

## Annual reports and economic and financial outcomes



*Diagram 3. Transparency of annual reports and of economic and financial outcomes of Moldovan publicly owned enterprises*

**SoE “Chisinau Printing Plant” and SoE “Ungheni Fluvial Port”**, while ten enterprises subject to monitoring provided limited information about such inspections and audits.

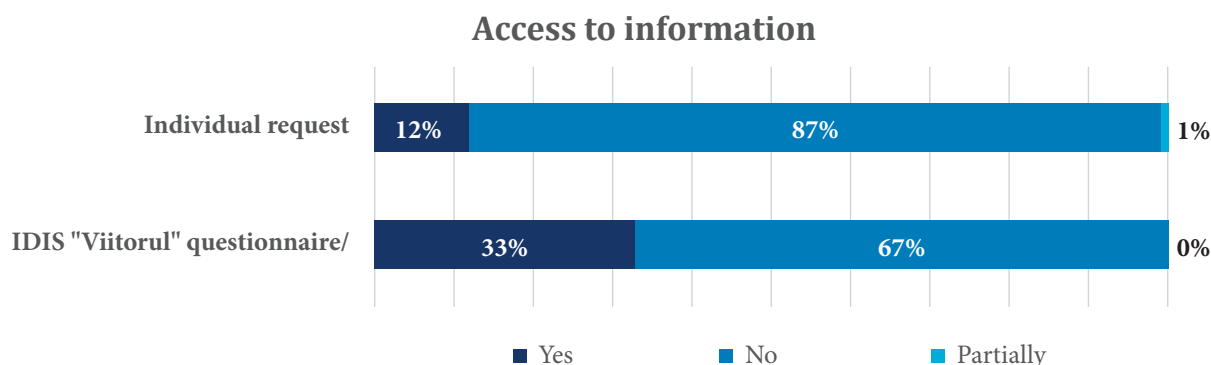
About 3/4 of enterprises subject to monitoring have published on the web page (or on the Public Services Agency web page) information on share capital. The monitoring ascertained that the enterprises failed to post any information on loans/credits contracted in 2020 on the web page. Such information should have been mirrored on their 2020 annual report and in annual financial statements as well; however, no such data were made public. **The most detailed information about the contracted loans and credits have been published by SoE “Moldelectrica” and by other six enterprises** (JSC “Franzeluta”, JSC “Termoelectrica”, SoE “MoldATSA”, JSC “Metalferos”, SoE “Moldaeroservice” and SoE “Athletics Arena”). It is worth noting that Law No. 246/2017 stipulates the requirement to publish in the annual report the information on financial assistance the enterprise benefits from, the guarantees provided by the Government/LPAs/Gagauzia Executive Committee, financial commitments and obligations undertaken by the enterprise.

### 3. Transparency and access to information

Increased attention in this review was paid to how the enterprises subject to monitoring comply with the legislation on access to information. Pursuant to the provisions of Law No. 982/2000 on access to information, natural persons and legal entities shall have the right to demand, based on a request submitted in writing, any information held by the providers of information, while the latter shall have the obligation to deliver it, save the exemptions stipulated by the legislation.

IDIS “Viitorul” sent out questionnaires to undertakings subject to monitoring, having sought different kind of public information. As a result, **circa 1/3 of enterprises filled in the questionnaire, answered the questions and sent back the questionnaire to IDIS “Viitorul”**.

At the same time, upon the initiative of IDIS “Viitorul”, a natural person submitted his/her requests to enterprises, by which he/she demanded certain published information, namely “the number of trainings on integrity issues the staff and management of the enterprise concerned attended in 2020”. This was meant to check how enterprises react to information requests submitted by natural persons. Therefore, **seven publicly-owned undertakings responded to the natural person and provided the information sought** (only one enterprise provided such training for its staff and management, while other enterprises invoked the pandemic).



***Diagram 4.** Answers of enterprises with public capital to requests for the provision of public information*

According to the Law on access to information, some of the holders of official information are legal entities that, pursuant to the legal/contractual provisions concluded with the public authority/institution, are empowered to manage/render certain public services and collect, select, hold, store, and use official information. Publicly owned enterprises construe these provisions as not applicable to state-/municipally-owned enterprises and companies with full and majority state or municipal ownership. To avoid any interpretations, it is needed to amend the Law on access to information in order to include the state-/municipally-owned enterprises and companies with full and majority state or municipal ownership as providers of information, with the obligation to deliver it to solicitors. This is necessary also in the context of Article 18 (4) of the Law on state-owned enterprise and municipally-owned enterprise No. 246/2017, according to which these enterprises shall have the obligation to satisfy public interest and respond to requests submitted by media and civil society organisations in strict conformity with the legislation on access to information.

However, the undertakings resort to the idea that the information regarding their work is a trade secret protected by law (as of 1.03.2019, the regulations on trade secret is covered by the Civil Code (Law No. 1107/2002) only, updated by Law No. 133/2018). Therefore, not all information may be regarded as trade secret, because to be considered as such, the information shall meet a number of cumulative requirements, stipulated expressly by the Civil Code. Essentially, the enterprise activity is of public interest, as they are established by public authorities, which transferred to them, for administration purposes or as input to their share capital, certain state/municipally-owned assets, enabling them to carry out economic activity, while the enterprises in question shall transfer part of their profit to the state/municipal budget. Against this background, one shall mention certain legal cases, representing good practices (The Association of Independent Media to SoE “Post of Moldova” concerning the provision of information about the companies, which rendered construction and renovation services to post offices, as well as the invested amounts<sup>1</sup>).

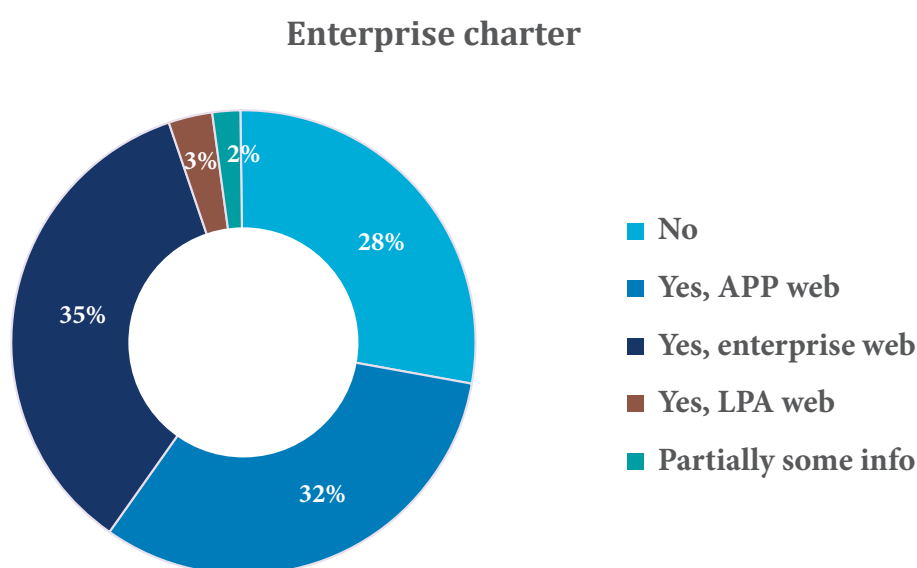
<sup>1</sup> Judgement of the Supreme Court of Justice of 4.10.2017

**A matter favouring the undertakings' refusal in bad faith to deliver the information to applicants is the insignificant penalty charged for rejecting the requests of access to information.** Hence, as per Article 71 of the Contravention Code No. 218/2008, the breach of the legislation on access to information shall be punished by a fine of 9 – 15 conventional units applied to a natural person (i.e. from 450 MDL to 750 MDL), by a fine of 18 – 30 conventional units applied to the person in charge (i.e. from 900 MDL to 1500 MDL). There is a similar article in the Criminal Code (No. 985/2002), providing a fine of 500 – 650 conventional units (from 25 000 MDL to 32 500 MDL), but it is more difficult to prove the intention of the perpetrator and the significant damage caused to the rights and interests protected by law of the person who requested data on public health, public security, environmental protection.

From all undertakings subject to monitoring, **47 have got web pages (78%), but not all of them are used as instruments to raise public awareness** on enterprise activity. Many web pages are non-functional or comprise limited useful information. The contact data of Administrator and of people in charge of 48 enterprises are available on the web portals, which enable the public to require information/send requests, while two web pages contain some partial information to this end, with the mention that some enterprises publish their contact information of the founder's web page or on the web pages of certain public entities carrying out activities, which are similar to the enterprise concerned.

Circa 82% of enterprises subject to monitoring have published the information regarding their founders/owners/shareholders and the percentage of their shares/holdings. Such information is available both on the enterprise web page and on the founder (Public Property Agency and Local Public Authorities) website.

**As many as 42 enterprises subject to monitoring (70%) made public their Charter** – a basic document upon the enterprise establishment, which defines the types of activity, share capital, assets transferred to the enterprise, management bodies, the distribution and use of net profit, the way of covering the losses, the way of enterprise reorganisation and dissolution, and other important provisions related to the enterprise activity. There are 19 such charters published on the Public Services Agency web page, while two charters are published on the web pages of relevant LPAs.



*Diagram 5. Publishing the Charters of public capital undertakings on websites*



**All those five 2020 annual reports of enterprises subject to monitoring published on the web page have a format enabling the public to search and copy text from the report.** This indicator is important from the perspective that access to information implies also the possibility to use the information in an accessible and friendly manner.

The monitored undertakings do not publish on the web page the outcomes of meetings held by the enterprise board/General Meeting (decisions, minutes). In this respect, only six **enterprises have published limited information about the outcomes of meetings held by their Management Boards, namely JSC “Termoelectrica”, JSC “Moldtelecom”, JSC “Metalferos”, JSC “Energocom”, SoE “Chisinau Printing Plant” and JSC “Tracom”.**

Concerning the enterprise Board and disclosure of meeting outcomes held by the Management Bodies, a number of objections were put forward in the questionnaires filled by enterprises, bringing into discussion some issues.

As for state-owned enterprises, Law No. 246/2017 does not provide expressly the obligation to publish the decisions/minutes of the Management Board. Regarding the municipally-owned enterprises, there is a similar issue, plus the fact that part of enterprises failed to set up a Management Board as a governing body, which is in breach of Law No. 246/2017.

The general meeting of shareholders and the Board/Council are the management bodies of joint stock companies. The disclosure of information by joint stock companies is governed by Law No. 171/2012 on capital market, Law No. 1134/1997 on Joint Stock Companies and the Regulation of information disclosure by the Issuers of securities, approved by Decision No. 7/1 of 18.02.2019 of the National Commission of Financial Markets. Hence, along with the obligation to publish the annual/semi-annual reports, the acts of incorporation, other important documents, a joint stock company has the responsibility to publish the events, which affect its economic and financial activity, including the decisions passed by the General Meeting of shareholders and the decisions taken by the joint stock company Board/Council on important issues mentioned by the Law on Joint Stock Company.

## 4. Public procurement and property

So far, the Law on public procurement No. 131/2015 is construed that publicly-owned undertakings are not contracting entities and shall have no obligation to carry out the procurement procedures as per the legislation on public procurement. This fact leads to non- transparency, vulnerabilities to corruption and, by default, inefficient spending of public money.

Up until 10.07.2020, all publicly-owned undertakings procurement was carried out mainly pursuant to their in-house regulations regarding the procurement of assets, works and services, approved by their management bodies. As a rule, the provisions of such in-house regulations do not comply with the ones covered by the Law on public procurement and by the regulatory documents related to procurement, vary from one enterprise to another, and define procedures for planning, initiating, carrying out and awarding contracts specific for each enterprise.

Once the Regulation on the procurement of assets, works and services by state-owned enterprises was approved by Government Decision No. 351/2020, the public procurement process within such public entities found its reflection in the national regulatory framework.



There is a category of enterprises, holders of licences in the electricity, heating, natural gas sectors and operators rendering water supply and sewerage services, which shall act in compliance with the Regulation approved by Decision No. 24/2017 of 26.01.2017 issued by the Management Board of the National Agency for Energy Regulation (ANRE). Here we shall note that public procurement in the energy, water, transport and post services sectors will be governed by Law No. 74/2020 to enter in force as of 26.06.2021, and its provisions will be binding for all state-/municipally-owned enterprises working in the aforementioned sectors.

The monitoring has found that **eleven enterprises (18%) failed to carry out public procurement procedures in 2020 pursuant to the provisions of relevant legislation**, while 49 enterprises (82%) either were enterprises belonging to electricity, heating, natural gas sectors and operators rendering water supply and sewerage services or were guided by the provisions of Government Decision No. 351/2020 in the second half of the year, which governed the procurement of assets, works and services of state-owned enterprise, or were located in Chisinau municipality, which were guided by CMC Decision No. 2/2 of 06.02.2020 on using MTender and, by default, the legislation on public procurement.

The monitoring shows that **23 enterprises out of 60 or 38% have published the annual public procurement plans on the web page**. Only three enterprises subject to monitoring made public the acts setting the working groups on procurement and their composition.

Circa 57% (34 enterprises) failed to publish notices of invitation to public procurement on the web page, while three enterprises have partially published such notices.

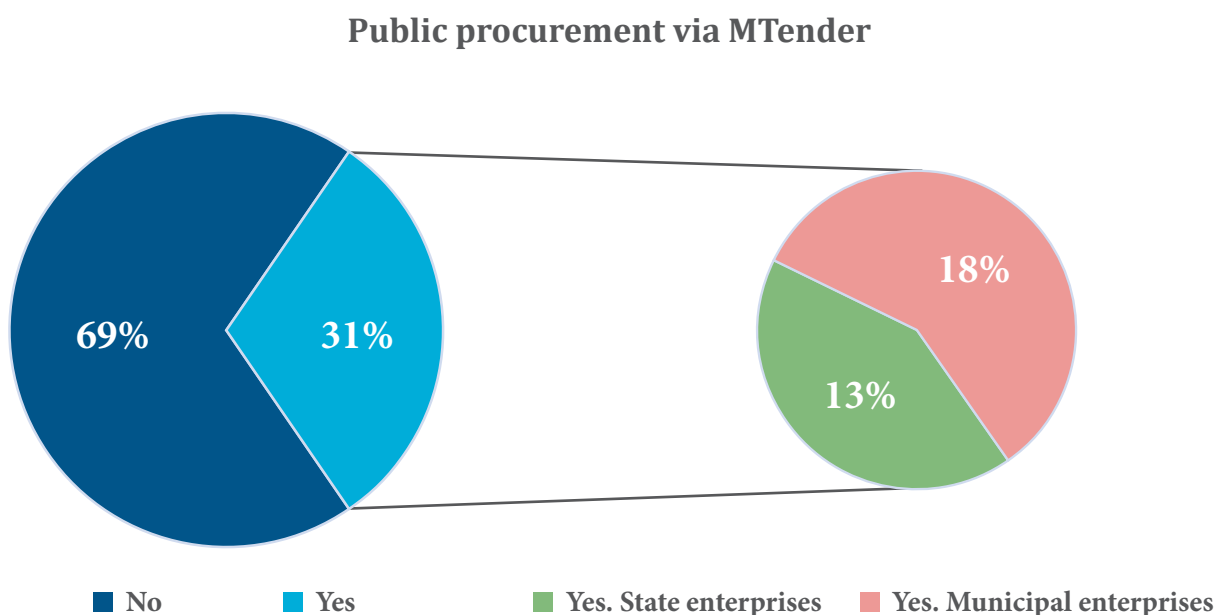
The issue of procurement conducted by publicly-owned undertakings is a complex one, but it is not governed so far. On the one hand, there is the Law on public procurement, which may be construed, that covers a number of exemptions related directly to publicly-owned undertakings. In this case, the Law does not apply to public procurement contracts awarded by the contracting authorities operating in the energy, water, transport and post services sectors, and which fall within the scope of such activities. They shall be governed by Law on procurement in the energy, water, transport and post services sectors (transposing Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014), to be enacted in the middle of 2021.

On the other hand, there is the Law on state-owned enterprise and municipally-owned enterprise, which stipulates the Government obligation to approve the Regulation on procurement of assets, works and services by state-owned enterprises, and also the obligation of the founder of municipally-owned enterprises to approve the Regulation on procurement of assets, works and services by municipally-owned enterprises. The Government approved the aforementioned Regulation, applicable to state-owned enterprises, but it goes not govern all procurement carried out by joint stock companies owned or controlled by state. In terms of municipally-owned enterprises, Government Decision No. 351/2020 is not binding for them, bearing advisory features. Essentially, one shall understand that these enterprises will be guided by their in-house documents rather than by the regulatory framework on public procurement.

At the same time, Law on joint stock companies No. 1134/1997 and Law on capital market No. 171/2012, as core regulatory acts governing the activity of joint stock companies, including the ones owned or controlled by state, but it does not comprise regulations regarding public procurement performed by them. Such regulations are absent in the local regulatory framework.

In addition to that, as per the final and transitory provisions of Law No. 246/2017, the Government should have initiated, by 22.12.2019, the reorganisation of state-owned enterprises into other legal forms of organisation covered by the legislation (on joint stock companies in this case). Likewise, LPAs were recommended to consider the opportunity to reorganise the municipally-owned enterprises in other legal forms covered by the legislation, having ensured more efficient administration of property conveyed under their management. Although the reorganisation process has been started, there is a long way to go in order to complete it. However, following the reorganisation of state-owned enterprises into joint stock companies (or other types), there would be again a regulatory vacuum regarding public procurement carried out by those legal entities. There are some regulations following the adoption of Law on procurement in the energy, water, transport and postal services sectors and of Regulation on procurement of assets, works and services by state-owned enterprise (to be amended in the context of vanishing state-owned enterprises). Even in this case, the situation of emerging joint stock companies would remain uncertain following the reorganisation of municipally-owned enterprises, as the latter would not be governed by the aforementioned Regulation.

**Circa 1/3 of enterprises subject to monitoring (19 undertakings) had used in 2020 digital platforms to carry out public procurement procedures.** Only eight state-owned enterprises and 11 municipally-owned enterprises had used digital platforms, of which 10 are located in Chisinau municipality. As for the latter, according to the provisions of Decision No. 5/13 of 30.05.2013 issued by Chisinau Municipal Council (CMC), the former were required to organise and carry out procurement in compliance with the provisions of the legislation on public procurement (at that time it was the Law on public procurement No. 96/2007). Subsequently, once the new Law on public procurement (No. 131/2015) was adopted, the aforementioned decision was no longer in force. Then CMC Decision No. 15/8 of 22.12.2017 was adopted, binding the public entities under the subordination of Chisinau City Hall and to CMC to carry out public procurement of low value via the new digital system of public procurement, namely MTender. This Decision was repealed by CMC Decision No. 2/21 of 22 February



*Diagram 6. Using MTender for public procurement in 2020*

2019. Finally, as per Decision No. 2/2 of 06 February 2020, all municipally-owned enterprises and joint stock companies with CMC majority holdings are required to carry out all public procurement (worth > 80 000 MDL) via MTender, with some exemptions covered expressly by the Decision.

Regarding the municipally-owned enterprises (especially the ones located in Chisinau municipality) that resorted to MTender to carry out public procurement, one shall mention certain contradictory matters.

Therefore, the positive and transparent practice of using MTender shall be continued. However, it depends on the individual decision of their founder rather than on a binding obligation provided by law, on specific regulations developed for these enterprises. In addition to that, even if MTender is used to carry out public procurement, municipally-owned enterprises think that the acts/ outcomes of procurement procedures may not be the subject-matter of a complaint to be submitted to the National Agency for Appeal Resolution – a core element in the whole system of public procurement. Such interpretation and approach to municipally-owned enterprises emphasises once again the lack of express regulations in the legislation about the obligation of municipally-owned enterprises to comply with the general rules for conducting public procurement.

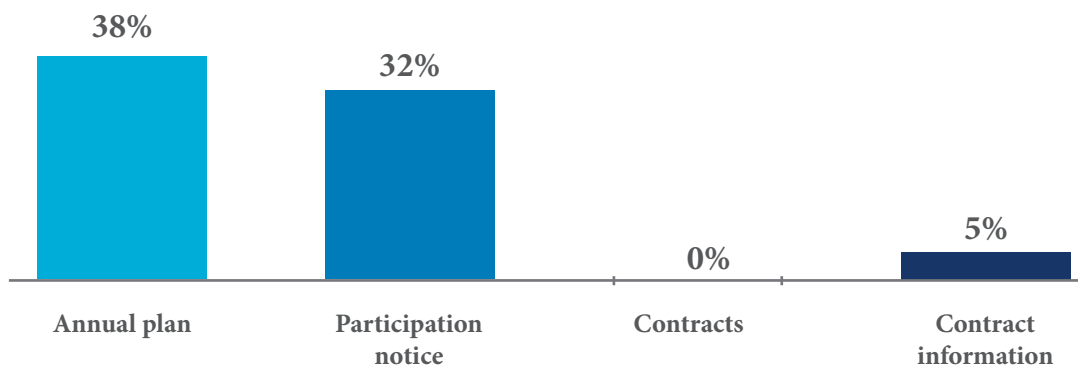
Nonetheless, a number of legal matters emerge in this case, because by using MTender, the municipally-owned enterprises use standard public procurement documentation, used by all contracting authorities, with reference to the provisions of Law No. 131/2015. The provisions of Article 13 (5) of the Law on public procurement seems to also be relevant, as, according to them, any entity [...] may qualify as contracting authority, upon the wish or decision of competent Management Bodies, provided that procurement is carried out in strict conformity with Law No. 131/2015.

There is a non-uniform and obscure practice in terms of lodged complaints/appeals as the National Agency for Appeal Resolution returns them without consideration, while in other cases it accepts and considers the complaints/appeals lodged in relation to procedures carried out by municipally-owned enterprises via MTender. The Agency argument is that it is possible to appeal only public procurement carried out directly at the expense of municipal budget resources provided to municipal enterprises. These are vague arguments, and it is difficult to identify if all resources have been provided by the municipal budget or by the municipal enterprise budget. In this particular case, regardless of source, **municipally-owned enterprises are required to carry out all procurement under the provisions of the legislation on public procurement, in a transparent manner, under public scrutiny and with the possibility to appeal them as per the general principles and rules in place.**

**None of the monitored enterprises published public procurement contracts, but three enterprises made public limited information from public procurement contracts concluded in 2020 (procurement subject-matter and value, economic operator, date of conclusion and duration).** They have published such information on their web pages in the annual reports or statements.

Administration of assets (real estate, land) is one of the most vulnerable areas for publicly-owned undertakings. This is due to the lack of accurate records of enterprise assets, failure to enter all real estate with the cadastre body, attempts to lower the value of these assets, increased interest for such assets and confusing, contradictory, deficient, superficial legal framework; allowing for abusive interpretation.

### Public procurement phases

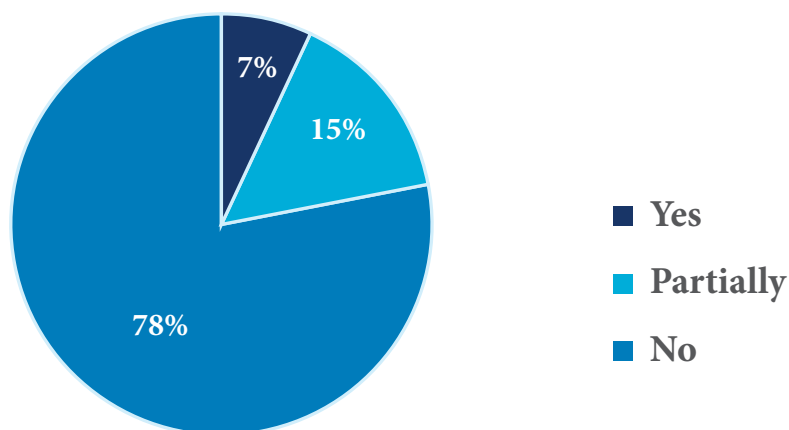


*Diagram 7. Transparency of public procurement stages conducted by public capital enterprises*

The monitoring shows that **no undertaking published any information from the Register of enterprise property and records on the web page**, which was supposed to include the assets transferred as contribution to share capital by founders/owners/shareholders, assets transferred in administration by founders/owners/shareholders and assets owned by the enterprise, derived by the latter as a result of its economic and financial activity.

Out of 60 enterprises subject to monitoring, only **13 (four in full and nine in part) have published information (offers, outcomes, other information) on transferring, marketing, renting/leasing the enterprise assets on the web page**. As a rule, such information is published by the enterprises dealing with space renting/leasing (JSC “Tracom”, ZAL “Expo Business Chisinau” and SoE “Athletics Arena”).

### Enterprise assets



*Diagram 8. Transparency of administration of assets of publicly owned undertakings*

## 5. Human resources

It is important that publicly-owned undertakings carry out transparent policy aimed to select and recruit staff members, while the information on Management Body members, their salaries and bonuses are made public.

Management of human resources remains a non-transparent area for publicly-owned undertakings, which are not inclined to reveal such information to the public. Hence, the number of staff members was published on web pages only by eight enterprises subject to monitoring (SoE “MoldATSA”, SoE “Moldelectrica”, SoE “Bus Stations and Units”, JSC “Roads Ialoveni”, SoE “Athletics Arena”, SoE “Radiocommunications”, MoE “Liftservice” and MoE “Urban Bus Fleet”), while nine enterprises delivered such information in part.

**Circa 40% of enterprises subject to monitoring publish job vacancies on their web page (24 undertakings), and no undertaking published the outcomes of selection procedures to fill the vacancies in 2020.**

No Moldovan enterprise subject to monitoring made public the rules for selecting and recruiting the staff, and only **eight enterprises disclosed the rules on organising and conducting the competition to fill the vacancy of Administrator, namely SoE “Railway of Moldova”, SoE “MoldATSA”, JSC “Delivery of electricity Nord”, SoE “Post of Moldova”, SoE “Moldaeroservice”, JSC International Exposition Centre “Moldexpo”, JSC “Tracom” and SoE “Ungheni Fluvial Port”.**

Against this background, one shall mention a template Regulation on organising and conducting competitions to fill the vacancy of Administrator of state-owned enterprise according to Annex 3 to Government Decision No. 484/2019 approving some regulatory acts on the enforcement of Law No. 246/2017 on state-owned enterprise and municipally-owned enterprise.

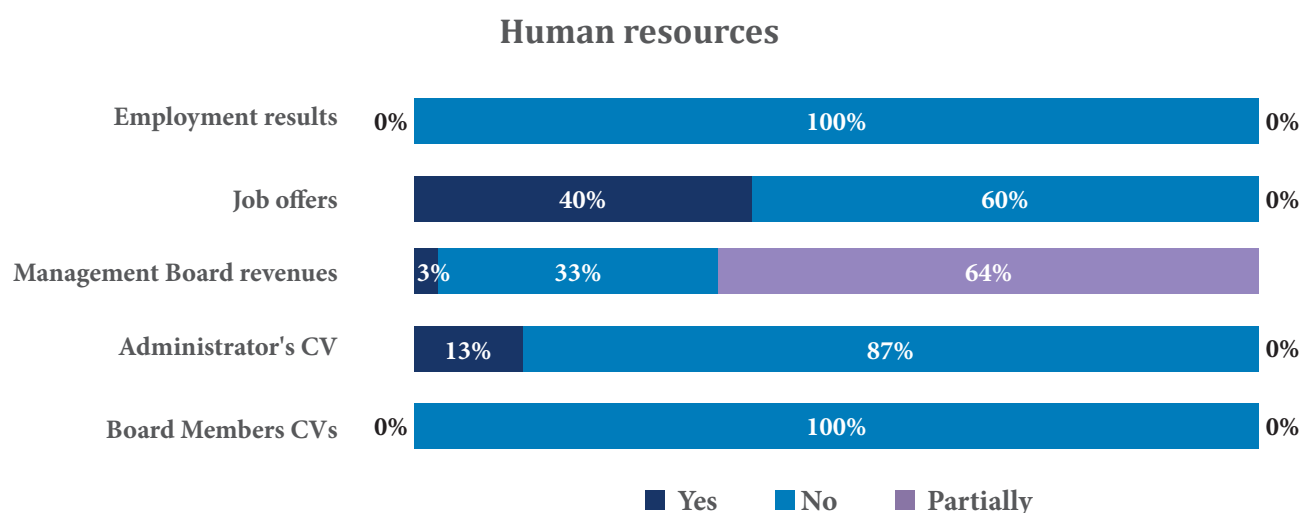
The issue of enterprise management body members also lacks transparency. Hence, **only eight enterprises subject to monitoring made public Administrator CV, containing information on education background (higher education) and work experience, namely SoE “MoldATSA”, JSC “Metalferos”, SoE “Real Estate Operation Division”, ZAL “Expo Business Chisinau”, SoE “Radiocommunications”, MoE “Apa-Canal Straseni”, JSC “Apa-Canal Cahul”, JSC “Apa-Canal Chisinau”.** However, **no undertaking published CVs of their Management Board members**, while circa 1/3 of them (19 undertakings) revealed only the member names without attaching any CV.

Remuneration of Management Body members remains to be a hidden information for the public at large, despite the fact that Law No. 246/2017 requires the enterprises to disclose the salaries of their management (founders, members of management boards, administrators, members of censor committees) in separate lines in the annual report, to be posted on the enterprise and Founder’s official web page.

**Only two enterprises subject to monitoring provided information on Administrator’s remuneration and allowances paid to Management Board members, namely SoE “Athletics Arena” and SoE “MoldATSA”.**

With respect to 38 enterprises subject to monitoring, we revealed the declarations on wealth and personal interests of Administrators, published on the portal [www.declaratii.ani.md](http://www.declaratii.ani.md). This portal hosts over

700 thousand declarations, including more than 60 thousand declarations on wealth and personal interests per year. The portal search filters do not allow selecting the declarations submitted directly by administrators and Management Board members of publicly-owned undertakings. The special heading for selecting the “organisation” does not include publicly-owned undertakings. The only way of identifying the declarations is by the surname and first name of the person sought, but, as it has been stated in this report, 2/3 of enterprises do not publish the names of Management Board members, while circa 1/5 of enterprises have no web pages. In this respect, **it is necessary to publish the information on remuneration of Management Body members on the enterprise web pages aiming to enhance their transparency and ensure easier access for interested citizens.**



*Diagram 9. Transparency of human resources and income of Management bodies*

None of the country publicly owned enterprises subject to monitoring made public the decision issued by the enterprise Board/Council on specific ceiling set for Administrator’s remuneration in 2020, which could be capped depending on the enterprise economic and financial outcomes during the previous year, in compliance with Government Decision No. 743/2002 on remuneration of employees working for units enjoying financial autonomy.

## 6. Ethics and conflict of interests

The undertakings subject to monitoring failed to develop and implement corporate governance, anti-corruption, integrity and business ethics rules and standards.

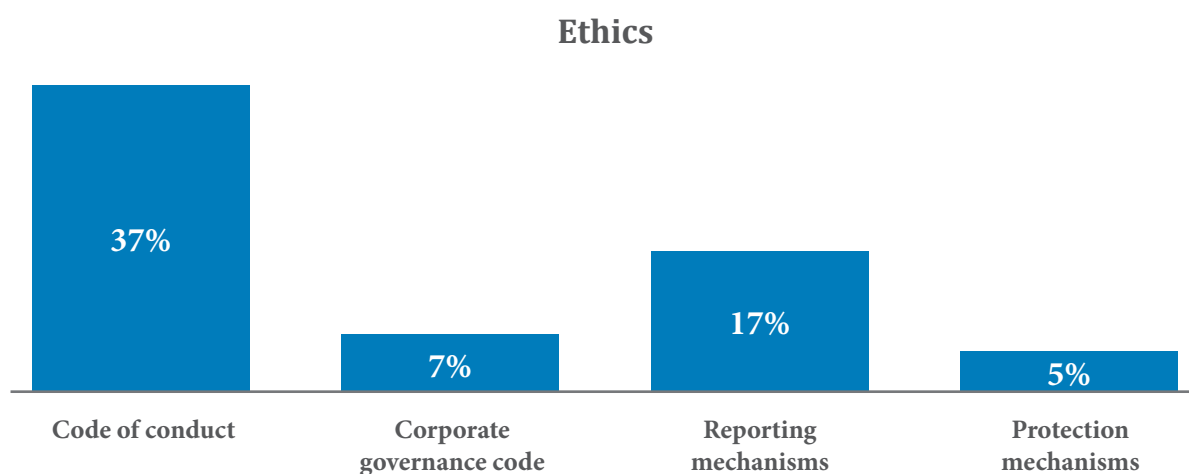
The current monitoring identified **22 enterprises that developed and published Ethics Codes** for their employees, and only **four enterprises developed Corporate Governance Codes (standards), namely JSC “Franzeluta”, JSC “Termoelectrica”, JSC “Metalferos” and JSC “Energocom”**. Concerning anti-corruption programmes, comprising provisions related to bribes, conflicts of interests,



gifts, other risks and procedures to be followed in each case, eleven enterprises have got a number of integrity documents, foreseen by regulatory framework, while other eleven enterprises have got components of such programmes, as a rule, covered by the Code of Conduct or the Corporate Governance Code.

**Only ten publicly-owned undertakings subject to monitoring have set up and made public, on their web page, a mechanism to report unethical behaviour and corruption acts** (hotline, e-mail). Only eleven enterprises (three in full and eight in part) have provisions related to the protection of whistle-blowers, included in the Code of Conduct/Corporate Governance Code or in other distinct in-house acts to consider and report the disclosures of unlawful practices by employees and ensure protection guarantees to whistle-blowers.

The web pages of enterprises subject to monitoring comprise no information about training courses for employees or managers covering anti-corruption matters, organised by the enterprise, and only one enterprise mentioned in its answer that it organised such training throughout 2020 attended by its staff.



*Diagram 10. Documents and tools to prevent corruption*

Once the Law on integrity No. 82/2017 was adopted and enacted, the state- and municipally-owned enterprises, joint stock companies controlled by the State have the obligation to carry out a series of measures to ensure institutional integrity provided by law (non-admission, denunciation of corruption acts and protection of whistle-blowers, observance of the rules of ethics and conduct, observance of the regime of conflicts of interests, gifts, etc). Paragraph 6, Pillar VII of the Action Plan under the National Integrity and Anti-corruption Strategy for 2017–2020, approved by Parliament Decision No. 56/2017, stipulates the approval of Register of risks of corruption and/or Integrity Plans of state-/municipally-owned enterprises. Likewise, it mentions the responsibility to publish on their web pages reports on the extent to which they implemented the measures outlined in the Registers of risks and/or in Integrity Plans. The National Anti-corruption Centre developed a template Integrity Plan for enterprises, comprising recommendations/minimum requirements to remove the risks of corruption.



## 7. Grants and charity

Transparency of philanthropy and sponsorship carried out by publicly-owned undertakings may reduce the risk of using the enterprise financial resources for other purposes or their spending when the enterprise encounters financial difficulties.

The monitoring finds that the web pages of such enterprises lack the information on:

- rules and procedures for providing grants, donations, sponsorship;
- list of financial support requests rejected throughout 2020 and the reason of their rejection;
- amounts and beneficiaries of grants, donations and sponsorship in 2020, as well as different events and social, cultural, educational, sports activities or of other nature, supported by the undertaking (only five enterprises have published limited information in this regard), namely SoE “MoldATSA”, SoE “Chisinau Printing Plant”, SoE “Editura Stiinta”, JSC “Tracom” and SoE “Radio-communications”.

### III. General conclusions

1. The overall transparency average level accomplished by 60 of country largest and most important enterprises subject to monitoring shows a disincentive picture in terms of transparency, and such results may be extrapolated to all publicly-owned undertakings of the Republic of Moldova. With an overall average of 26% out of 100%, the enterprises have gaps for all transparency indicators, both for the binding legal rules and for those representing good transparency and corporate governance standards. Nonetheless, some progress has been attested regarding the overall average relative to the measurements carried out over the previous years.
2. The national legal framework still contains imperfect, interpretable rules or has no rules at all in terms of publicly-owned undertakings activity and transparency.
3. Law on access to information does not cover expressly state-/municipally-owned enterprises and companies controlled by the state/municipality as providers of information; therefore, the latter refuse to respond to requests seeking information. The questionnaire addressed by IDIS “Viitorul”, which may be treated as a request of information, was not filled by circa 2/3 of enterprises subject to monitoring, while the request of a natural person was neglected by 87% of enterprises.
4. The regulatory acts on public procurement adopted and enacted recently or which would be enacted soon, shall enhance transparency of some publicly-owned undertakings. Although this is a step forward, the procurement procedures carried out by municipally-owned enterprises are still beyond the regulatory framework scope, which leads to non-transparency, and contravene the EU Directives (2014/23/EU, 2014/24/EU, 2014/25/EU) to be transposed into the national legislation according to the arrangements of the Association Agreement of the Republic of Moldova and European Union.

At the same time, the process of developing and improving the public policy not always takes into account the outcomes of reorganising the undertakings in other legal forms covered by the legislation, as provided in the final and transitory provisions of the Law on state-owned enterprise and municipally-owned enterprise. This is an important matter as they are reorganised in joint stock companies, which are complex entities governed by distinct regulatory acts, such as the Law on Joint Stock Companies, Law on capital market or decisions issued by the National Commission for Financial Markets.

5. The monitoring results show that 55% of enterprises do not publish their annual public procurement plans on the web page, 57% do not publish notices of invitation to public procurement, 95% failed to disclose the information about the procurement outcomes in 2020, and no undertaking published public procurement contracts for 2020.
6. The use of MTender is optional for publicly-owned undertakings. Only 31% of enterprises subject to monitoring had used in 2020 digital platforms for public procurement procedures, but this was done only upon the intention and decision of Founders, not as a binding obligation covered by law. These results refer mostly to municipally-owned enterprises located in Chisinau, which have been bound by the Decision of the Municipal Council to carry out all procurement via MTender.

7. Although the Law on state-owned enterprise and municipally-owned enterprise provides expressly the obligation to disclose a series of information (charter, in-house regulations, annual reports and audit reports), the enterprises do not comply with the legal requirements as there are no sanctions and instruments to hold accountable those entities that fail to comply with the law.
8. Transparency of economic indicators is low due to the failure to publish information about the undertakings economic and financial activity. Only five enterprises subject to monitoring (8%) have published their 2020 annual reports on their web page, and only six enterprises (10%) have published economic and financial reviews, with such indicators as net profit, revenue from sales and other indicators related to the enterprise activity. Bearing on the context that the enterprises have the obligation to publish these reports and reviews by the end of April, it is probable that these negative outcomes have been caused by the state of emergency in the country and worldwide, which halted the activity of so many entities.
9. Amongst other important findings revealed as a result to measuring transparency of Moldovan publicly-owned undertakings, one could mention:
- 13 enterprises have no web pages (22%), while those that do, fail to publish the needed information, or the web pages are non-functional;
  - 42 enterprise charters are published on the web page or on their Founders' website (70%);
  - only 13 enterprises (four in full and nine in part) have posted, on the Web page, information (offers, outcomes, other information) on conveying, marketing, renting/leasing their assets (22%);
  - 35 enterprises do not publish job vacancies on their web page (58%), and no undertaking published the outcomes of selection procedures to fill the job vacancies in 2020;
  - 52 enterprises failed to make public the Administrator's CV (87%), and no undertaking published the CVs of Management Board members;
  - 41 enterprises failed to disclose the names of their Management Board members (68%);
  - only two enterprises provided information on Administrator's remuneration and allowances paid to Management Board members (3%);
  - only 22 enterprises have published the Ethics Code for their employees (37%) and only four enterprises have published the Code of Corporate Governance (7%);
  - only 11 enterprises have got some components of anti-corruption programmes (18%), and other 11 enterprises inserted general provisions in the Ethics/Corporate Governance Code;
  - only ten enterprises (17%) established and made public the mechanism to report unethical behaviour and corruption acts (hotline, e-mail) on the web page;
  - only five enterprises have published limited information concerning prior donations and sponsorship on the web page;

## IV. Recommendations

Based on the monitoring outcomes of public undertaking transparency, a number of recommendations has been laid down to help the undertakings enhance their transparency. The recommendations concern many public entities. Moreover, some recommendations mentioned in the previous report and intended for public undertakings have been reiterated in this paper as they are still topical.

### *Parliament/Government*

1. Amend the Law on access to information No. 982/2000 to include the publicly owned enterprises and companies with state full or majority ownership as providers of information, imposing the obligation to respond to the applicants' requests and provide public information, eventually specifying what kind of public information they hold.
2. Establish some viable mechanisms to hold accountable those subjects who infringe the Law on state-owned enterprise and municipally-owned enterprise and the Law on access to information, after their status as providers of information has been clarified.

### *Government/Ministry of Economy and Infrastructure*

3. Govern the public procurement procedures within municipally-owned enterprises and joint stock companies owned or controlled by municipality or consider the possibility for these enterprises to apply the Regulation on procurement of assets, works and services by state-owned enterprise (Government Decision No. 351/2020).
4. Include the obligation for public undertakings to carry out public procurement procedures via MTender into a legal framework governing public procurement procedures.
5. Include the obligation to publish the Management Board decisions/minutes into the Law on state-owned enterprise and municipally-owned enterprise.

### *Public Property Agency/Local Public Authorities*

6. Post on the Public Services Agency and LPAs web pages which are the founders and shareholders (shareholdings) the mandatory information stated in:
  - A. Law No. 246/2017 on state-owned enterprise and municipally-owned enterprise:
    - enterprise charter;
    - in-house regulations;
    - enterprise annual report;
    - auditor's report.

**B.** Law No. 171/2012 on Joint-Stock Companies and the Regulation on the disclosure of information by the issuers of securities approved by Decision No. 7/1 of 18.02.2019 of the National Commission for Financial Markets:

- annual reports of the issuer;
- half-yearly reports of the issuer;
- intermediary statements of the issuer's management body;
- information about events affecting the issuer's economic and financial activity;
- issuer's instruments of incorporation;
- information on important holdings of shares.

**8.** In addition, publish and update the information on SoEs and JSCs as per the existing headings and subheadings of the Public Property Agency website (this can be implemented also by the Local Public Authorities):

- charter;
- management bodies;
- annual financial statements;
- Administrator's annual reports;
- audit reports;
- business plans;
- events/other information.

It is suggested to devise additional headings intended for integrity instruments developed and implemented within the undertakings, such as:

- register of risks of corruption;
- integrity plan;
- other documents on integrity.

### ***National Integrity Authority***

**9.** Improve the search filters of [www.declaratii.ani.md](http://www.declaratii.ani.md) portal to enable selecting the wealth and interest statements submitted directly by public undertakings' administrators and Management Board members.

### ***Publicly owned enterprises (as per the areas of transparency)***

#### ***Economic indicators***

**10.** The undertaking annual activity report is one of the important documents, which needs to be made public, while its layout shall be aligned with the mandatory requirements referred to in Article 18 (2) of Law No. 246/2017, on the one hand, and with the national and international best practices, on the other hand. This action implies presenting analytical information and detailed description of undertaking core activities, having appraised the achieved results.

11. The undertaking Performance Indicators are of public interest, and the undertakings shall publish that information, as well as the economic and financial outcomes, having described the profits derived, losses incurred and other activity-related indicators.
12. It is appropriate to publish and update, on an annual basis, the information on enterprise borrowing/lending activity (if any) on its website. This information shall be clear and detailed, avoiding the simple display of figures in the annual economic and financial reviews.
13. Make public the outcomes of inspections and economic and financial audits the Moldovan public undertakings were subject to.

### ***Transparency and access to information***

14. It is worth mentioning the importance and the need to have websites in place to be filled and updated on a regular basis, as they are an efficient tool-kit for public undertakings to disseminate public information.
15. The undertaking websites shall comprise such mandatory information as contact data of Administrator and responsible people, enabling the public to solicit information/submit requests.
16. It is necessary to post the undertaking's Charter on the website. This is a core document developed upon the undertaking establishment, defining the types of activity, the share capital, the transferred assets, the managing bodies, the way of sharing and using the net profit, the way of covering the losses, the way of reorganising and winding-up the undertaking, and other relevant activity-relating provisions.
17. The undertaking website shall contain information on its founders/owners/shareholders and the percentage of shares/holdings they hold.
18. It is important the websites to cover the topics tackled during the meetings held by the Management Board/General Assembly and entered into decisions and minutes.
19. The enterprises are advised to publish documents on their website, especially their annual reports, in a format enabling the public to search for and copy texts from those documents, having facilitated in this way the use of public information.
20. Public undertakings should be open, comply with the legislation on access to information, respond to the submitted requests and provide the information requested by individuals, legal entities, media and other stakeholders.

### ***Public procurement and property***

21. It is recommended to make public the annual public procurement plans (notices of invitation to tender) and publish all tender notices on websites.
22. It is advisable to make public the acts by which working groups were established in the area of procurement (Procurement Committees) and their composition.

23. The trend of using the digital platform for public procurement procedures by all public entities should be fostered. Even though it was not used largely by the undertakings throughout 2020, it might be the case in the years to come.
24. It is recommended that the enterprises disclose the concluded public procurement contracts, having published such binding information as: the procurement subject-matter and value, the economic operator, the date of conclusion and duration, the information about contract revision/prolongation. It is important that citizens are able to easily find a certain contract on the enterprise website based on certain criteria, such as: the date of contract conclusion, the name of the economic operator, the contract amount/value, the type of goods, works, services, etc.
25. In order to enhance assets management transparency, the undertakings are advised to publish the information on the assets they manage or own (land plots and real estate) on their website, as well as the information related to asset alienation and transfer to third parties.

### ***Human resources***

26. It is appropriate to post the number of employees and the monthly average salary per undertaking on the website.
27. The undertakings shall ensure public access to all information related to staff recruiting and employment, having published the job vacancies, the organised recruiting competitions to fill the vacancies, as well as the recruiting procedure outcomes on their website.
28. It would be appropriate to publish the rules for staff recruiting and employment, as well as the rules for organising and conducting the competition for filling the Administrator's vacancy on the website.
29. It would be appropriate to publish under a distinct website heading the names and CVs of Management Board members and of the Administrator, containing data on their education background, work experience and other relevant data.
30. The undertakings shall provide the information on the earned income, allowances, premiums, bonuses, other material aids and benefits enjoyed by the Administrator and Management Board members.
31. The undertakings shall develop and make public the decisions regarding specific ceilings set for Administrator's remuneration, capped depending on the undertaking performance indicators.

### ***Ethics and conflict of interests***

32. The undertakings shall have and make public instruments aiming to report misconducts and corruption acts (hotline, online forms, etc.). In order to make the reporting instruments more efficient, it is advised to have protection procedures and guarantees in place for whistle-blowers.
33. In order to prevent any conflicts of interests and corruption acts, strengthen integrity and set up certain professional standards, it seems necessary the undertakings to develop and publish Ethics



Codes for their employees and anti-corruption programmes, containing provisions regarding bribery, conflicts of interests, gifts, other risks and procedures to be followed in each specific case by the employees and management. Likewise, it is appropriate for the undertakings to develop and implement Integrity Plans and Registers of Corruption Risks.

- 34.** The undertakings shall conduct and make public information about anti-corruption training courses organised for their employees or managers.

### ***Grants and charity***

- 35.** The enterprise should publish all the information related to philanthropic actions and sponsorships it was engaged in under a separate heading on its website, namely:
- a) the rules and procedures for assigning grants, donations, sponsorships;
  - b) the list of financial support requests that were rejected throughout the year and the reason for their rejection;
  - c) the amounts and beneficiaries of grants, donations, sponsorships throughout the year for different events and social, cultural, educational, sports or other types of activities funded by the undertaking.

## V. Transparency ranking

CLASAMENT	Enterprise	I. Economic Indicators	II. Transparency and Access to Information	III. Public Procurement and Property	IV. Human Resources	V. Ethics and Conflict of Interests	VI. Grants and Charity	TOTAL	CATEGORY
1	SoE “Moldelectrica”	100%	83%	30%	32%	38%	0%	58%	B-
2	SoE “MoldATSA”	95%	67%	26%	64%	46%	29%	58%	B-
3	JSC “Energocom”	84%	75%	0%	23%	54%	0%	56%	B-
4	SoE “Athletics Arena”	47%	46%	58%	50%	77%	0%	52%	C+
5	JSC “Tracom”	42%	65%	50%	25%	62%	29%	48%	C
6	SoE “Radiocommunications”	74%	83%	17%	39%	15%	29%	48%	C
7	SoE Editorial and Printing Enterprise “Stiinta”	41%	79%	32%	25%	50%	29%	47%	C
8	SoE “State Road Administration”	42%	63%	48%	14%	54%	0%	45%	C
9	JSC “Metalferos”	74%	58%	0%	29%	62%	0%	40%	C-
10	SoE Institute of Geodesy, Technical Surveys and Cadastre “INGEOCAD”	37%	63%	39%	18%	46%	0%	40%	D+
11	MoE “Exdrupo”	18%	60%	48%	21%	46%	0%	39%	D+
12	SoE “Moldova Railway”	21%	63%	22%	36%	54%	0%	38%	D+
13	SoE “Printing Plant”	24%	71%	17%	14%	46%	29%	38%	D+
14	JSC “Apa-Canal Chisinau”	42%	50%	35%	18%	54%	0%	38%	D+
15	MoE “Chisinau Power Transport Service”	8%	80%	30%	21%	62%	0%	37%	D+
16	SoE “Ungheni Fluvial Port”	24%	63%	22%	14%	46%	0%	34%	D
17	JSC “Moldtelecom”	39%	54%	17%	25%	46%	0%	34%	D
18	JSC “Termoelectrica”	63%	54%	22%	11%	15%	0%	34%	D
19	JSC “Franzeluta”	63%	48%	17%	25%	15%	0%	33%	D
20	SoE “Centre of Applied Metrology and Certification”	37%	46%	22%	14%	62%	0%	33%	D
21	SoE “Moldaeroservice”	39%	46%	43%	25%	0%	0%	32%	D
22	SoE “Post of Moldova”	21%	46%	35%	32%	31%	0%	32%	D
23	SoE “Guard Services “	26%	63%	22%	18%	8%	0%	29%	D-
24	MoE “Association of Green Space Management”	0%	80%	37%	21%	0%	0%	28%	D-
25	JSC “Delivery of Electricity Nord”	21%	63%	17%	25%	0%	0%	28%	D-

26	MoE "Apa-Canal Balti"	29%	46%	17%	14%	38%	0%	28%	D-
27	JSC "Apa-Canal Cahul"	5%	46%	35%	32%	15%	0%	27%	D-
28	SoE "Division for Real Estate Operation"	18%	38%	48%	18%	0%	0%	26%	D-
28	SoE "Paramilitary Guarding Detachment"	13%	46%	17%	18%	46%	0%	26%	D-
30	MoE "Urban Bus Fleet"	26%	33%	39%	25%	0%	0%	26%	D-
31	JSC International Expositions Centre "Moldexpo"	13%	46%	35%	25%	0%	0%	25%	D-
32	MoE "Division of Capital Constructions"	8%	56%	35%	11%	0%	0%	25%	E+
33	SoE "Centre for Economic and Production Developments"	21%	54%	9%	11%	15%	0%	23%	E+
33	MoE "Liftservice"	8%	46%	26%	14%	15%	0%	23%	E+
35	SoE "Milestii Mici"	18%	46%	22%	18%	0%	0%	22%	E+
36	SoE Institute of Agricultural Machinery "Mecagro"	21%	42%	22%	18%	0%	0%	22%	E+
37	SoE "Palace of the Republic"	0%	50%	26%	11%	0%	0%	21%	E+
38	SoE "Urbanproiect"	15%	63%	9%	4%	0%	0%	20%	E+
39	SoE "Republican Centre for Breeding and Genetic Improvement"	13%	25%	26%	11%	31%	0%	20%	E+
40	MoE "Sanitation Service"	16%	33%	30%	7%	0%	0%	19%	E
41	SoE "Moldsuinhibrid"	13%	58%	9%	0%	0%	0%	19%	E
42	Free Economic Zone "Expo-Business-Chisinau"	0%	45%	26%	18%	0%	0%	18%	E
43	MoE "Power Lighting Network LUMTEH"	8%	33%	30%	11%	0%	0%	18%	E
44	MoE "Central Market"	0%	33%	30%	18%	0%	0%	18%	E
45	JSC "Cartus"	13%	46%	0%	11%	15%	0%	17%	E
46	SoE "Bus Stations and Units"	13%	46%	9%	7%	0%	0%	17%	E
47	MoE "Apa-Canal Strasenii"	21%	33%	9%	7%	0%	0%	15%	E
47	JSC "Moldova-gaz"	21%	21%	13%	7%	15%	0%	15%	E
49	SoE "Republican Plant of Drivers' Training"	13%	33%	9%	0%	0%	0%	13%	E-
50	SoE "Experimental Teaching Station Criuleni"	13%	25%	9%	11%	0%	0%	12%	E-
51	SoE "Indal Proiect"	13%	25%	9%	0%	0%	0%	11%	E-
52	SoE State Design Institute "Ruralproiect"	8%	25%	9%	0%	0%	0%	10%	F
53	SoE "Dumbrava-Vest"	5%	25%	9%	0%	0%	0%	9%	F
54	JSC "Ialoveni Roads"	13%	21%	0%	7%	0%	0%	9%	F
54	JSC "Cahul Roads"	18%	15%	0%	11%	0%	0%	9%	F
56	SoE "Central Printing House"	8%	0%	9%	11%	0%	0%	5%	F
57	SoE "State Station for Car Testing"	13%	0%	9%	0%	0%	0%	5%	F
58	JSC "Apa-Canal Soroca"	0%	8%	9%	0%	0%	0%	4%	F
59	SoE Railway Construction "Confercai"	0%	0%	9%	0%	0%	0%	2%	F
60	JSC "Bus Station Nord"	0%	0%	0%	0%	0%	0%	0%	F

# Bibliography

1. Republic of Moldova “Support to state-owned enterprises, preliminary diagnostics and reform assessment: Phase 1”, developed by the World Bank in co-operation with the Good Governance Fund of Great Britain, March 2017.
2. Constitution of the Republic of Moldova of 29.07.1994.
3. Law on access to information No. 982 of 11.05.2000.
4. Law on state-owned enterprise and municipally-owned enterprise No. 246 of 23.11.2017.
5. Law on capital market No. 171 of 11.07.2012.
6. Law on Joint-Stock Companies No. 1134 of 02.04.1997.
7. Law on integrity No. 82 of 25.05.2017.
8. Law on public procurement No. 131 of 3.07.2015.
9. Law on procurement in the energy, water, transport and postal services sectors No. 74 of 21.05.2020.
10. Civil Code No. 1107 of 6.06.2002.
11. Contravention Code No. 218 of 24.10.2008.
12. Criminal Code No. 985 of 18.04.2002.
13. National Integrity and Anti-corruption Strategy for 2017-2020, approved by Parliament Decision No. 56 of 30.03.2017.
14. Government Decision No. 351/2020 of 10.06.2020 approving the Regulation on procurement of assets, works and services by state-owned enterprise.
15. Government Decision No. 484/2019 approving certain regulatory acts aiming to implement Law No. 246/2017 on state-owned enterprise and municipally-owned enterprise.
16. Government Decision No. 743/2002 on the remuneration of employees working for the units enjoying financial autonomy.
17. Government Decision No. 902 of 06.11.2017 on the organisation and operation of the Public Property Agency.
18. Corporate Governance Code approved by Decision No. 67/10 of 24.12.2015 of the National Commission for Financial Markets.
19. Regulation on the disclosure of information by the issuers of securities approved by Decision No. 7/1 of 18.02.2019 of the National Commission for Financial Markets.
20. ANRE Management Board Decision No. 24 of 26.01.2017.
21. Chisinau Municipal Council Decision No. 5/13 of 30.05.2013.
22. Chisinau Municipal Council Decision No. 15/8 of 22.12.2017.
23. Chisinau Municipal Council Decision No. 2/21 of 22.02.2019.
24. Decision No. 2/2 of 06 February 2020 “Carrying out public procurement procedures via MTender”.
25. Corporate Governance Principles developed by the OECD.

