

EMPLOYMENT, SOCIAL POLICY AND EQUAL OPPORTUNITIES:

REPUBLIC OF MOLDOVA- EUROPEAN UNION ASSOCIATION AGREEMENT

- Up to-date, the progress in implementing the EU-Moldova Association Agreement (AA) is rather limited, which is influenced by a number of factors i.e. insufficient political will for the AA implementation process, lack of a systemic approach to implementation of the AA on behalf of the responsible authorities as well as the slowing of the EU-Moldova political dialogue and equally so the suspension of financial assistance from the European Union.
- Authorities report on the transposition of 27 out of 39 social sector Directives of the AA. In the same time, they modify the legislative framework in the field of labour and social guaranties, which, in many cases, do not comply with the provisions of art. 371 of the AA, according to which the parties recognize that it is inappropriate to encourage trade or investment by reducing the levels of protection provided by the national environmental and labour laws.
- The liberalization of labour relations through the amendment of the Labour Code, the reform of the institutions with control functions in the field of safety and health at work are in direct contradiction with the International Conventions of the ILO ratified by the Republic of Moldova and which are mentioned in the AA as the necessary recommendations to follow. It directly contributes to diminishing employees' social rights and guarantees and therefore, jeopardizes the implementation of the AA.

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List of Abbreviations

AA	Association Agreement	GD	Government Decision
AA NAP	National Action Plan on the Implementation of the Moldova-European Union Association Agreement	ILO	International Labour Organisation
ANOFM	National Employment Agency	ISM	State Labour Inspectorate
EC	European Council	MSMPS	Ministry of Health, Labour and Social Protection
EEC	European Economic Community	RM-EU	Republic of Moldova-European Union
CEEP	European Centre for Public Enterprises	UNICE	Union of Industrial and Employer Confederations of Europe
ETUC	European Trade Union Confederation		

EXECUTIVE SUMMARY

The evaluation of the implementation of the Moldova-EU Association Agreement is important in order to give an appreciation to the efforts of the authorities in the realization of the commitments in the area of European integration. According to the assessment made by the national institutions, out of a total of 698 EU acts provided for by the Association Agreement, 236 acts (33.81%) have been fully transposed, while 114 (16.33%) have been partially transposed by the end of the first half of 2018¹.

The results of a quantitative alternative assessment made by the Institute for European Policies and Reforms (IPRE) show that during the first semester of 2018, the National Action Plan on the Implementation of the Moldova-EU Association Agreement (AA NAP II) was achieved at rates of 41,2%, while the overall achievement rate relative to all measures planned by the end of 2019 accounts for 20.7%².

These figures, no matter which way they come from, show little progress in the implementation of the commitments set out in the EU-Moldova Association Agreement, influenced by a range of internal and external factors, including insufficient political will in the AA implementation process, lack of a systemic approach by the responsible authorities in their efforts to implement the AA, as well as the crisis in the EU-Moldova political dialogue and the suspension of the EU financial assistance.

The purpose of this report is to provide a quantitative and qualitative assessment of the implementation of Chapter 4 "Employment, Social Policy and Equal Opportunities" of Title IV "Economic and Other Sectoral Cooperation" (Articles 31-37) of the Association Agreement. The report analyses also the extent of the harmonization of the national legislation with the EU normative acts and international instruments as set out in Annex III to this Agreement.

The report is structured in 3 chapters. *Chapter I* includes a synthesis of the actions taken by the authorities responsible for the implementation of the AA NAP during 2017-2019, based on the provisions of art. 31-37 of the Association Agreement.

Chapter II presents the situation concerning the implementation of the European Directives on the three areas set out in Annex III, Chapter IV, Title IV of the AA: *Labour Law, Anti-discrimination and gender equality and the Health and safety at work (occupational safety and health)*.

Chapter III deals with the problems and challenges of implementing and transposing the EU Directives and the AA provisions as well as the International Conventions of the International Labour Organization to which the Republic of Moldova is a party.

This Report is based on the analysis of the AA's provisions, the actions stipulated in the AA NAP during 2017-2019 for implementation and transposition, as well as based on the public information available on the web-pages of the public administration authorities responsible for the implementation of AA. The comparative analysis of the documents on the evaluation and monitoring of the AA implementation process produced by experts and specialized institutions has been an important milestone in the development of this Report.

¹ Report on the implementation of the National Action Plan for the implementation of the Moldova-EU Association Agreement 2017-2019, <http://www.mfa.gov.md/img/docs/Raport-Sem-I-2018-impl-PNAAA-2017-2019.pdf>

² The Third Alternative Report on the Implementation of the Association Agreement with the EU (Semester I 2018), <http://ipre.md/2018/09/11/al-iii-lea-raport-alternativ-privind-implementarea-acordului-de-asociere-cu-ue-trimestrul-i-2018/>

Introduction

The implementation of the social provisions of the Association Agreement (AA) between the Republic of Moldova and the European Union (AA RM-EU) is of crucial importance for the modernization and development of the social assistance sector of the Republic of Moldova. The main aspects in this area are covered by Chapter 4 “Employment, Social Policy and Equal Opportunities” of Title IV “Economic and Other Sectoral Cooperation” of the AA.

According to art. 31 of the Association Agreement, the Parties undertook to strengthen their dialogue and cooperation on promoting the International Labour Organization (ILO) Decent Work Agenda, employment policy, health and safety at work, social dialogue, social protection, social inclusion, gender equality and anti-discrimination, and social rights, and thereby contribute to the promotion of more and better jobs, poverty reduction, enhanced social cohesion, sustainable development and improved quality of life.

Also, according to art. 32 of the AA, the cooperation, based on exchange of information and best practices, may cover a selected number of issues to be identified among the following areas:

- (a) poverty reduction and the enhancement of social cohesion;
- (b) employment policy, aiming at more and better jobs with decent working conditions, including with a view to reducing the informal economy and informal employment;
- (c) promoting active labour market measures and efficient employment services to modernise the labour markets and to adapt to labour market needs;
- (d) fostering more inclusive labour markets and social safety systems that integrate disadvantaged people, including people with disabilities and people from minority groups;
- (e) efficient management of labour migration, aiming at strengthening its positive impact on development;
- (f) equal opportunities, aiming at enhancing gender equality and ensuring equal opportunities between women and men, as well as combating discrimina-

tion on all grounds;

- (g) social policy, aiming at enhancing the level of social protection, including social assistance and social insurance, and modernising social protection systems, in terms of quality, accessibility and financial sustainability;
- (h) enhancing the participation of social partners and promoting social dialogue, including through strengthening the capacity of all relevant stakeholders; and
- (i) promoting health and safety at work standards.

The Annex III to Chapter 4 “Employment, social policy and equal opportunities” of Title IV “Economic and Other Sectoral Cooperation” of the AA determines the legal framework of the EU and the international instruments to which the Republic of Moldova undertakes to progressively approximate its legislation in the stipulated terms.

At the same time, the process of promoting these objectives has to take into account the provisions of Article 371 of the Association Agreement, which establishes the obligation to maintain the current levels of social and environment protection.

The transposition and implementation of the AA provisions, the legislative amendments have to take into account the ILO *Decent Work Agenda* regarding the occupational health and safety policies since the Republic of Moldova does not have a national strategy on health and safety at work.

The effects of transposing the European provisions, directives and conventions depend on the process of implementing the *acquis communautaire*. Carrying out reforms in the social field entails significant financial costs. The stimulation of economic development determines the government to adopt a pro-business position, which, in some cases, can lead to the worsening of the employees’ social protection.

It is necessary to observe an important principle in the legislative regulation aimed at ensuring the proportionality between the extent of the intervention and the importance of the interests protected by the legislator.

The Moldovan authorities report the transposition of 27 out of the 39 Directives in the social area of the Association Agreement. At the same time, the social and labour legal framework is being modified and adjusted, which, in some cases, violates the art. 371 of the Moldova-EU Association Agreement, according to which the Parties recognise that it is inappropriate to encourage trade or investment by lowering the levels of protection approved in domestic environmental and/or labour law.

Following the approval of the new Association Agenda with the EU on 4 August 2017, the *National Action Plan for the implementation of the EU-Moldova Association Agreement for 2017-2019* has been updated by the *Government Decision 1472 of 30.12.2016*³ setting the priorities of the new Association Agenda and clearly establishing the tasks of the institutions responsible for implementing the actions under the AA. On 23.06.2018, the AA NAP was revised based on the necessary terms and actions to be implemented under the AA⁴.

I. Implementation of the National Action Plan for the implementation of the RM-EU Association Agreement during 2017-2019

(Title IV, Chapter 4: Employment, Social Policy and Equal Opportunities)

In the field of employment, the Republic of Moldova has to align its legislation with the European Directives aimed at improving the protection of employees against possible violations of their rights in parallel with ensuring the transparency of the labour market. For this purpose, the normative framework for fixed-term work contracts, fixed-term and part-time work, and working time arrangements are addressed. Defining and ensuring a non-discriminatory framework for the application of social protection measures to collective redundancies in all sectors of activity, regardless of the form of ownership and the way in which the work is organized, is another important component of the AA. It is necessary to standardize the rules on the maintenance of workers' rights in the event of the transfer of the enterprise or one of its units or parts, in line with the EU standards in this field.

Employment and labour remuneration are two indispensable indicators of the quality of life. The state policies should focus on stimulating job creation

and motivating people to engage in work to boost the socio-economic development of the Republic of Moldova. A series of fundamental policy papers⁵ for the socio-economic development of the Republic of Moldova foresee the need to improve the regulatory framework in the field so as to stimulate the development of the labour market, facilitate employment, and motivate employers to participate in the employment process.

Promoting effective employment measures on the labour market with a view to modernizing and adapting to labour market needs is one of AA's priorities. In this context, there has been approved the *Law no.105 of 14.06.2018 on promotion of employment and unemployment insurance*⁶, which aims at preventing and reducing unemployment and its social effects, reducing the risk of unemployment and ensuring a high level of employment and labour adaptation to the labour market requirements in order to ensure better employment. The implementation mechanism that is delayed relative to the deadline

³ National Action Plan for the implementation of the EU-Moldova Association Agreement for 2017-2019, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=369730>

⁴ Revised AA NAP, approved through GD no.592 of 23.06.2018, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=376151>

⁵ National Action Plan for the Implementation of the Moldova-EU Association Agreement for 2017-2019 approved by the Government Decision no. 1472 of 30.12.2016; Government Programme of Activity for 2016-2018; The National Employment Strategy for the years 2017-2021, approved by the Government Decision no. 1473 of 30.12.2016

⁶ Law no.105 of 14.06.2018 on promotion of employment and unemployment insurance, <http://lex.justice.md/md/376758/>

foreseen in the AA NAP has to be approved until the entry into force of the *Law (10.02.2019)*. Development and implementation of employment promotion policies must take place with the participation of trade unions, employers in the tripartite councils. The National Employment Agency has to approve the composition of the tripartite councils and the regulatory framework of their activity within 6 months since the date of publication of the present law.

The promotion of active labour market measures and effective employment services envisage modernization of the National Employment Agency and its territorial structures, which should be carried out between 2018 and 2019, requiring significant expenditures. The Labour Market Observatory, which is in the process of creation and which will be part of the National Employment Agency, is going to make analyses in the areas of economy, employment, demography, human resources and labour market forecasts. The creation of the Observatory will allow for unification of efforts, human resources, financial resources, analytical capacities that will help collect labour market information and develop policy-driven proposals. Mention should be made that these actions are delayed relative to the AA NAP calendar.

In order to stimulate the creation of new jobs, by *Decision no. 1145 of 20.12.2017*⁷, the Government approved the *Regulation on subsidizing job creation*. For each new job created 40,000 MDL of subsidies is allocated. These subsidies will benefit the economic agents that are going to have an increase in the number of employees of at least 100 persons. The application for the subsidy reservation shall be sent to the competent authority no later than 31 July of the management year. Since the Order of the Minister of Finance approving the requests for the subsidy reservation and payment was signed only on 26 June 2018, the eligible economic agents had limited time for elaborating and submitting applications to the Ministry of Finance. In this context, the deadline for submission of the subsidy reservation applications has been extended by 31 calendar days. Extending the deadline for submitting applications for subsidy reservation only by 31 calendar days is explained by the fact that the deadline for the submission of the annual draft law on the state budget to the Government is September 15. The Government approved

the *Draft Law on the State Budget* only at the meeting of 08.11.2018. The Draft Law does not contain comprehensive information on the amount of means allocated for subsidizing job creation. This can also be a proof that this incentive mechanism will not work, because the condition of increasing the number of employees by at least 100 persons is inappropriate for the business environment of the Republic of Moldova, where the share of small and medium enterprises is quite large and there is no mechanism to stimulate the creation of new jobs for this category of enterprises.

Effective management of labour migration and mitigation of the negative effects of migration⁸ involves negotiating and signing agreements on circular/ seasonal labour migration and social protection with the main destination countries for Moldovan emigrants.

In the field of labour migration, the Ministry of Health, Labour and Social Protection, acting on behalf of the Government, has concluded 7 intergovernmental agreements with the following countries: Russia-1993, Ukraine – 1994, Belarus – 1994, Azerbaijan – 2005, Italy-2011, Israel – 2012. In the field of re-integration, in 2017, the Partnership Agreement with the French Office for Immigration and Integration was signed. In the first half of 2018, negotiations with other countries continued with a view to concluding bilateral labour migration agreements. On June 18, the “Agreement between the Government of the Republic of Moldova and the Government of the Republic of Bulgaria on the Labour Migration Regulation” was signed. On 16 May, in Rome, the first round of negotiations on the draft agreement on social security between the Republic of Moldova and the Italian Republic took place. At the Government meeting on 5 June, the Government Decision “On the initiation of negotiations on the draft Protocol amending the Arrangement for the Application of the Agreement on Social Insurance between the Republic of Moldova and the Republic of Estonia”, concluded in Tallinn on 10 October 2011, was approved.

Despite the measures taken, the Moldovan labour market faces a number of problems such as: low labour market competitiveness, high share of unskilled workers (about 70% of all unemployed have prima-

⁷ Government of the Republic of Moldova. Decision no. 1145 of 20.12.2017 for the approval of the Regulation on subsidizing the creation of jobs, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=373501>

⁸ GD nr. 1473 of 30.12.2016 National Employment Strategy for years 2017-2021, Annex Nr.1, p.2.2. “External Migration of the Moldovan Labour Force” and Priority 4 “Exploiting the potential of migration for sustainable development” <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=369765>

ry or secondary education), low wage levels (40.8% and 42.6%), the imbalance on the labour market in terms of urban/ rural areas, which generates internal migration and imbalance between the demand and supply, labour migration and a high youth unemployment rate (12%)⁹. All these leads to increased unemployment and emigration level of the labour force, posing a heavy burden on the public social insurance system.

As far as the official unemployment is concerned, it has fallen to 4.2%, reflecting a decline in the labour market participation, the informal work and migration. Employment in the Republic of Moldova is largely based on agriculture, the low-productivity sectors and trades. Approximately one third of the active population are engaged in the informal economy (36.3%), and about one-fifth are working abroad (approximately 800,000 citizens)¹⁰.

The low level of employee pay is one of the most serious problems for employment and motivation. The low wages offered by employers represent one of the main reasons for emigration of the Moldovan citizens. The efforts made by the Government in this area are important, but far from being able to overcome the difficult situation in the labour market.

In the first three years of the Association Agreement implementation, the average nominal wage increased by 36.6 percent, representing 5697 lei in 2017, or the equivalent of 273 Euro, including in the real sector of the economy – 6000 lei, or 288 Euro and in the public sector – 4950 lei or 234 Euro. At the same time, the average real wage increased by 9.8% over the same period¹¹.

Mention should be made that both the average and the minimum salary levels in the Republic of Moldova are not enough to ensure a decent living standard for the population, which is a major impediment to employment, stimulating also the emigration of the population.

In the framework of the central public administration reform, the attributions for the development of employee' pay policies have been divided among various institutions. Thus, the tasks related to the development of pay policies in the real sector of the economy remained with the Ministry of Health, Labour and Social Protection, while the attributions

related to the elaboration of the pay policies in the public sector have been transmitted to the Ministry of Finance. The function of policy-making in the field of labour remuneration is in direct contradiction with the functions of accumulating revenues to the national public budget and managing public finances. In the process of attributing and exercising competences in the public administration structures of a single level, the principle of delimiting competencies and avoiding conflicts of interest in their realization is very important, representing a rule to be followed in order to exercise the public function fairly and in a transparent manner.

Despite the fact that the country's minimum wage of 1000 lei hasn't been re-examined since 1 October 2014, by *Law no. 270 of 23.11.2018 on the unitary pay system in the public sector*, a minimum salary of 2000 lei was set for the public sector employees which is equal to the current minimum subsistence amount. In the private sector, as of 1 May 2018, the guaranteed minimum wage is 2610 lei including taxes.

The social policies aimed at increasing the social protection level as well as the modernization of social protection and social security systems are processes under permanent and continuous development, requiring permanent adaptation to the social-economic realities of the state. This implies a periodic analysis of the legal regulations in terms of effects and impact on the social insurance and social protection system. AA provisions are suggestive and, at the same time, exhaustive in this regard. The legislative changes to *the public pension system* through *Law no.290 of 16.12.2016* are important and welcome. However, there is a number of unresolved issues largely related to ensuring balanced and fair retirement conditions and financial sustainability.

Strengthening the social partners' participation and promoting social dialogue is a very important issue for the authorities when it comes to ensuring a consensus and a compromise for the successful implementation of flexibility and security measures in the labour market, social protection and promotion of decent work. AA NAP clearly sets out the importance of the active use of tripartite consultations between social partners on labour issues and socio-economic issues of national interest, coordination with trade unions and employers at national level of all normative acts in the field of labour relations.

⁹ Youth on the labour market in Moldova, UNDP Moldova, 2017 http://www.md.undp.org/content/dam/moldova/docs/tinerii_pe_piata_muncii_final.pdf

¹⁰ AA Implementation Report on Moldova 2018, p. 3. Economic development and market opportunities (page 10) <https://eeas.europa.eu/diplomatic-network/eastern-partnership/42497/2018-association-implementation-report-moldova>

¹¹ <http://www.statistica.md/category.php?l=ro&idc=452&> The monthly average nominal wage of an employee in economy, by economic activities (2017-2018), quarterly, monthly series.

The replacement of the National Commission for Collective Bargaining and Consultation with the Working Group under the aegis of the Economic Council to the Prime Minister in the process of amending the Labour Code by *Law No.188 on completion and modification of the labour code* is a clear example of the violation of the AA provisions. Moreover, we can even speak of violating the provisions of certain laws, such as *Law No. 245 of 21 July 2006 On the organization and functioning of the National Commission for Collective Bargaining and Consultation, of the Collective Bargaining and Consultation Committees at branch and territorial levels*, which clearly stipulates the role of the Commission in harmonizing the interests of the Government, employers and trade unions in the process of development of the basis for regulating the labour relations and socio-economic relations in general.

In the field of **gender equality**, which stipulates for “improving gender equality and ensuring equal opportunities for men and women as well as combating all forms of discrimination”, the Ministry of Health, Labour and Social Protection has developed a Monitoring Report on the Implementation of the Action Plan on implementation of the *Strategy for ensuring equality between women and men in the Republic of Moldova for the years 2017-2021*¹², that was presented at a public event on 16 March 2018. At this stage it is difficult to qualify this goal as being achieved, as was declared. Implementation of the legislation aimed at improving gender equality and ensuring equal opportunities including the gender quota for women’s participation in decision-making, the elimination of all forms of wage discrimination, the eradication of domestic violence and gender violence and other issues, are areas in which the Republic of Moldova still needs to undertake complex actions and demonstrate political will to ensure and implement the true principles of gender equality in society.

Transposing the AA provisions in the area of **Health and safety at work** will substantially contribute to redefining relationships between employers and employees, who need to become conscious actors of activities aimed at preventing occupational diseases and workplace accidents. A number of occupational health and safety rules and requirements related to the equipment use, work at the monitor/PC, have to

be implemented on the temporary or mobile construction sites, in the mining industry or on-board of fishing vessels. Aligning the national legal framework with the *acquis communautaire* in the field of health and safety at work also involves some institutional adjustments necessary for the reform and development process.

The public administration reform is a complex process, which has to be addressed through sound and thorough analysis and calculations within the state institutions’ tasks of managing public affairs. By *Law No.185 of 21 September 2017 for completion and modification of some legislative acts*, the control and prevention functions in the field of health and safety at work, the examination of petitions related to working conditions and the investigation of workplace accidents have been transferred to 10 sectoral administrative authorities (later and only for one year, by way of derogation from the applicable laws, the duties were reattributed to ISM). At the same time, not all these authorities have sub-divisions in the territory and have not been staffed with qualified personnel with duties in the field of health and safety at work. At the moment, only five of them have Organization and Functioning Regulations and Methodologies of state control over the entrepreneurial activity based on risk analysis.

Reorganization through dismantling of the State Labour Inspectorate and diminishing of the occupational health and safety competencies in order to create a business-friendly environment is a short-term premise that can seriously affect social cohesion and stability.

The general concept of the health and safety at work is enshrined in the International Labour Organization (ILO) Conventions and requires creation of an integrated inspection system by the State Labour Inspectorate and the National Public Health Centre under the administrative supervision of the relevant central administrative authority. In the case of the Republic of Moldova this authority is the Ministry of Health, Labour and Social Protection. Failure to comply with the international labour conventions also jeopardizes the process of transposing and implementing the AA provisions in the area of health and safety at work.

¹² -<https://msmps.gov.md/ro/content/raportul-de-monitorizare-realizarii-planului-de-actiuni-privind-implementarea-strategiei>

II. Transposition of the European Union Directives into national legislation

According to art. 37 of the AA, the Republic of Moldova committed to harmonize the national legislation with that of the European Union, including to adopt the international instruments listed in Annex III of the AA. In accordance with Annex III to Chapter 4, Title IV of the AA, the Republic of Moldova has to transpose and implement 39 Directives of the European Union, of which:

- 8 Directives on labour law;
- 25 Directives on health and safety at work;
- 6 Directives on anti-discrimination and gender equality.

To date, the state authorities have transposed 27 EU Directives into the national legislation, including 7 in the field of labour law, 17 in the field of health and safety at work, and 3 in the field of anti-discrimination and gender equality. There are 6 Directives under the transposition process: one- in the field of labour law, two -in the field of health and safety at work and 3- in the field of anti-discrimination and gender equality.

According to the timetable set out in Annex III to Chapter 4, Title IV of AA, the provisions of the Directives have to be implemented within 3 to 10 years, and in some cases- for jobs already in use at the moment of entry into force of the AA- the provisions of the Directives, including the minimum requirements, have to be implemented within 6 years, in the case of the **Council Directive 89/654/EEC** of 30 November 1989 concerning the minimum safety and health requirements for the workplace and within 16 years, in the case of the **Council Directive 92/104/EEC** of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries.

In all cases, the implementation deadline for the provisions of the ratified directives shall be calculated from 1 September 2014, the date starting with which some parts, including Annex III to the AA, have been provisionally put into application in accordance with **EU Council Decision 2014/492 / EU**.

a) EU Directives on Labour Law

The Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, the **Council Directive 1999/70/EC** of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP as well as the **Council Directive 97/81/EC** of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC have been transposed by the **Law no. 52 of 1 April 2016** on the amendment and completion of the Labour Code. Those rules entered into force on 22 April 2016.

According to the transposition timetable, the provisions of the first two Directives have to be implemented within four years of the entry into force of the Association Agreement, while the provisions of the third Directive – within three years of the entry into force of the Association Agreement.

The **Council Directive 2001/23/EC** of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of businesses, units or parts of units or businesses and the **Directive 2002/14/EC** of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community- Joint declaration of the European Parliament, the Council and the Commission on employee representation have been transposed into the national legislation by the **Law No.155 of 20 July 2017** on the amendment and completion of the Labour Code. These laws entered into force on 25 August 2017. According to the timetable, the provisions of both Directives had to be implemented within 3 years of the entry into force of the Association Agreement.

The **Council Directive 98/59/EC** of 20 July 1998 on the approximation of the laws of the Member States relating to collective dismissals was transposed by the

Table no 1. EU Directives on Labour Law transposed into national legislation

EU Directives	Transposition of Directives into national legislation	Date of entry into force	Deadline for transposition according to AA
Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship	Law no. 52 of 1 April 2016 On the amendment and completion of the Labour Code	22 April 2016	Within 4 years of the entry into force of the AA
Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP	Law no. 52 of 1 April 2016 On the amendment and completion of the Labour Code	22 April 2016	Within 4 years of the entry into force of the AA
Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex: Framework agreement on part-time work	Law no. 52 of 1 April 2016 On the amendment and completion of the Labour Code	22 April 2016	Within 3 years of the entry into force of the AA
Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses	Law no. 155 of 20 July 2017 On the amendment and completion of the Labour Code	25 August 2017	Within 3 years of the entry into force of the AA
Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community- Joint declaration of the European Parliament, the Council and the Commission on employee representation	Law no. 155 of 20 July 2017 On the amendment and completion of the Labour Code	25 August 2017	Within 3 years of the entry into force of the AA
Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies	Law no. 85 of 20 May 2018 On the amendment and completion of the Labour Code	22 June 2018	Within 4 years of the entry into force of the AA
Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the health and safety at work of workers with a fixed-duration employment relationship or a temporary employment relationship	Labour Code, Health and safety at work Law no. 186-XVI of 10 July 2008	29 March 2003, 5 August 2008	Within 3 years of the entry into force of the AA

Law no. 85 of 20 May 2018 on the amendment and completion of the Labour Code of the Republic of Moldova, which entered into force on 22 June 2018. According to the timetable, the provisions of the Directives have to be implemented within four years of the entry into force of the Association Agreement.

With regard to the **Council Directive 91/383/EEC** of 25 June 1991 supplementing the measures to encourage improvements in the health and safety at work of workers with a fixed-duration employment relationship or a temporary employment relationship, its provisions are already contained in the national labour

law (Labour Code, Law on Health and safety at work no.186-XVI of 10 July 2008). The rules of the Directive apply to all employees, irrespective of the duration of the employment relationship. According to the timetable, the provisions of the Directive have to be implemented within 3 years of the entry into force of the Association Agreement.

The Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (of the civic aviation mobile personnel), according to point 37 of the National Action Plan for the Implementation of the Moldova-EU Association Agreement in 2017-2019 (approved by the **Government Decision No. 1472 of 30 December 2016** on the Approval of the PNA for the implementation of the RM-EU AA, 2017-2019), has to be transposed in the 1st quarter of 2019 and thus exceeds the deadline set in the 4-year timetable of the entry into force of the Association Agreement. Currently, the institution responsible for implementing this Directive is the Ministry of Economy and Infrastructure.

Thus, we can conclude that 7 Directives in the field of labor law have been fully transposed into the national legislation by amending and completing the Labour Code, being implemented before the deadline set in Annex III to Chapter 4, Title IV of the AA. However, mention should be made that the deadline for transposition of the **Directive 2003/88/EC** of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time set out in the AA has been exceeded.

b)EU Directives on Anti-discrimination and Gender Equality

The Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the health and safety at work of pregnant workers and workers who have recently given birth or are breastfeeding (the 10th individual Directive within the meaning of Article 16(1) of the Directive 89/391/EEC) was transposed by the **Government Decision no. 1408 of December 27, 2016 "On the Minimum Requirements for Health and safety at work and the Protection of pregnant workers and workers who have recently given birth or are breastfeeding"**, which entered into force on 1 January 2017, and by the **Law no. 155 of 20 July 2017 on amendment and completion of the Labour Code** in force since 25 August 2017. According to the

timetable, the provisions of the Directive have to be implemented within 3 years of the entry into force of the Association Agreement.

The Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation and the **Council Directive 2004/113/EC** of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services have been partially transposed by **Law no. 305 of 22 December 2016** on the completion of some legislative acts (in force since 6 January 2017) and **Law no. 60 of 6 April 2017** on the amendment and completion of some legislative acts (in force since 12 May 2017, except for an amendment to the **Insurance Law No. 407/2006**, which entered into force on 1 January 2018). According to the timetable, the provisions of these Directives have to be implemented within 3 years of the entry into force of the Association Agreement.

The Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and the **Council Directive 2000/78/EC** of 27 November 2000 establishing a general framework for equal treatment in employment and occupation have been partially transposed by the adoption of **Law No.121 of 25.05.2012 on equality**, which sets up the necessary legal framework for enforcement. The Council Directive 2000/43/EC of 29 June 2000, the Council Directive 2000/78/EC of 27 November 2000 and the **Council Directive 79/7/EEC** of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security, according to point 37 of the National Action Plan for the implementation of the Moldova-EU Association Agreement for 2017-2019 (approved by the **Government Decision No. 1472 of 30 December 2016, on the approval of PNA AA**) had to be transposed by the end of 2018 by the Ministry of Health, Labor and Social Protection. The deadline, according to the implementation timetable, is 4 years of the entry into force of the Association Agreement.

Thus, in the field of anti-discrimination and gender equality, 3 of the 6 EU Directives have been transposed into the national legislation and implemented before the deadline set in Annex III to Chapter 4, Title IV of the AA. As to the other 3 Directives that had to be transposed into the national legislation within 4 years (by the end of 2018, according to the timetable established by the AA), the deadline was not met.

Table no 2. EU Directives on anti-discrimination and gender equality transposed into national legislation

<i>EU Directives</i>	<i>Transposition of Directives into national legislation</i>	<i>Date of entry into force</i>	<i>Deadline for transposition according to AA</i>
Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the health and safety at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 1408 of 27 December 2016 "On the Minimum Requirements for Health and safety at work and the Protection of pregnant workers and workers who have recently given birth or are breastfeeding" and by Law no. 155 of 20 July 2017 on the amendment and completion of the Labour Code.	1 January 2017; 25 August 2017.	Within 3 years of the entry into force of the AA
Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation	Law no. 305 of 22 December 2016 on the completion of some legislative acts	6 January 2017	Within 3 years of the entry into force of the AA
Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services	Law no. 60 of 6 April 2017 on the amendment and completion of some legislative acts	in force since 12 May 2017, except for an amendment to the Insurance Law No. 407/2006, which entered into force on 1 January 2018	Within 3 years of the entry into force of the AA

c) EU Directives on Health and Safety at Work

Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the health and safety at work of workers has been transposed by the **Law no. 186-XVI of 10 July 2008 on Health and safety at work**, which entered into force on 1 January 2009. Thus, the Framework Directive has been transposed into the national leg-

islation and entered into force five years before the Association Agreement was signed.

The other 16 EU Directives on health and safety at work have been transposed into the national legislation by the Government Decisions approving minimum safety and health requirements in the relevant fields (see Table 3).

Transposition into national legislation of 6 Directives on health and safety at work, according to the AA, has to be done within 7 to 10 years of the entry into force of the provisions of the EU-Moldova Association Agreement.

Table no. 3. EU Directives on health and safety at work

EU Directives	Transposition of Directives into national legislation	Date of entry into force	Deadline for transposition according to AA
Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work	Law on Health and safety at work no.186-XVI of 10 July 2008	1 January 2009	Transposed before signing and entry into force of the AA
Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 353 of 5 May 2010 "On the approval of minimum safety and health requirements at work"	8 June 2010	Transposed before signing and entry into force of the AA
Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 603 of 11 August 2011 "On minimum safety and health requirements for the use of work equipment by workers at work"	1 January 2013	Transposed before signing and entry into force of the AA
Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 80 of 9 February 2012 "On the minimum safety and health requirements at temporary or mobile construction sites"	17 February 2012	Transposed before signing and entry into force of the AA
Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work	Government Decision no. 244 of 8 April 2013 "On the approval of minimum requirements for the protection of workers from the risks related to exposure to asbestos at work"	1 January 2014	Transposed before signing and entry into force of the AA
Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 775 of 2 October 2017 "On the approval of the sanitary regulation for the protection of workers from the risks related to exposure to carcinogens or mutagens at work "	6 October 2017	Within 7 years

Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 819 of 1 July 2016 "On minimum safety and health requirements for work with display screen equipment "	1 January 2017	Within 7 years
Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 918 of 18 November 2013 "On minimum requirements for signal of health and safety at work"	1 January 2014	Transposed before signing and entry into force of the AA
Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 324 of 30 May 2013 "On the approval of the Sanitary Regulations on health and safety requirements for the protection of workers from the risks related to chemical agents at work"	14 June 2013	Transposed before signing and entry into force of the AA
Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (vibration) (sixteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 589 of 12 May 2016 "On the minimum safety and health requirements regarding the exposure of workers to the risks arising from mechanical vibrations"	1 January 2017	Within 10 years
Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (noise) (seventeenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 362 of 27 May 2014 "On the approval of minimum requirements for the protection of workers against risks to their health and safety arising or which can arise from noise, especially against hearing risks"	1 January 2015	Within 10 years
Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Government Decision no. 584 of 12 May 2016 "On the minimum safety and health requirements for the manual handling of loads where there is a risk particularly of back injury to workers "	20 May 2016)	Within 10 years

Commission Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work.	Government Decision no. 324 of 30 May 2013 "On the approval of the Sanitary Regulations on health and safety requirements for the protection of workers from the risks related to chemical agents at work"	14 June 2013	Transposed before signing and entry into force of the AA
Commission Directive 2000/39/EC of 8 June 2000 establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work.	Government Decision no. 324 of 30 May 2013 "On the approval of the Sanitary Regulations on health and safety requirements for the protection of workers from the risks related to chemical agents at work"	14 June 2013	Transposed before signing and entry into force of the AA
Commission Directive 2006/15/EC of 7 February 2006 establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC	Government Decision no. 324 of 30 May 2013 "On the approval of the Sanitary Regulations on health and safety requirements for the protection of workers from the risks related to chemical agents at work"	14 June 2013	Transposed before signing and entry into force of the AA
Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC	Government Decision no. 324 of 30 May 2013 "On the approval of the Sanitary Regulations on health and safety requirements for the protection of workers from the risks related to chemical agents at work"	14 June 2013	Transposed before signing and entry into force of the AA
Directive 2013/35/UE of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (electromagnetic fields) [the twelfth individual directive within the meaning of Article 16 (1) of Directive 89/391/CEE] and of abrogation of Directive 2004/40/CE, published in the Official Journal of the European Union no. 179 of 29 June 2013	Government Decision no. 697 of 11 July 2018 "On the approval of minimum safety and health requirements at work regarding the exposure of workers to the risks arising from electromagnetic fields"	17 August 2018	Within 10 years

III. Problems and challenges in transposing and implementing the provisions and directives of the AA and of the international organizations' conventions

Despite the transposition of the 27 EU Directives on labour law, anti-discrimination and gender equality, health and safety at work, and the alignment of the national legislation with the *acquis communautaire* in the field, the adjustment to the international labour standards through ratification of 40 ILO Conventions and other international treaties, the status of compliance with the relevant legislation raises concerns.

The transposition of the Directives, provisions and recommendations of the AA represents the quantitative expression of the AA's implementation. In terms of qualitative assessment, it involves, first of all, the degree and capacity of the authorities to implement these provisions, setting up of implementation mechanisms, monitoring of implementation and reporting, based on respecting several principles: action-impact, cost-benefit etc.

The qualitative regression attested in the implementation of the AA is directly influenced by the slowing down of the Moldova-EU political dialogue, but also by the suspension of the EU financial assistance.

Another factor, which decisively influences the degree of transposition and implementation of the AA provisions, is the content and character of the legislative changes.

The actions undertaken by the authorities with a view to achieving the provisions of the AA NAP for 2017-2019 stipulated in Chapter 4 "Employment, Social Policy and Equal Opportunities" of Title IV "Economic and Other Sectoral Cooperation" are characterised by problems with the implementation of both the AA provisions, but also the measures that are not contained in the Association Agreement, but which influence the progress in this important area.

These include:

a) Liberalisation of labour relations

On 21 September 2017, by the *Law no. 188 on modification and completion of the Labour Code of RM no. 154/2003*, the Labour Code of the Republic of Moldova was amended and supplemented (*entered into force on 20 October 2017*). According to the authors' argumentation, the amendments aimed at improving the business environment and the investment climate in the Republic of Moldova. The above-mentioned law foresees the modification and/ completion of about 40 articles of the Labour Code. As a result, the given law has exclusively promoted the business interests and diminished the rights and guarantees of employees. This way, this contradicts the provisions of art. 371 of the RM-EU Association Agreement, according to which the parties recognize that it is inappropriate to encourage trade or investment by lowering the levels of protection approved in domestic environmental or labour laws. Among the amendments challenged by the social partners are those that *create conditions for violation of labour law, including favouring of the informal work, wages 'in the envelope', diminishing of the labour market access opportunities, especially for the young specialists by applying the probation period and 'forced' retirement on the ground of age limit and others.*

b) Level of employees' protection at the workplace

According to the Activity Report of the State Labour Inspectorate, in 2017, there were carried out 3479 inspections regarding the observance of the legislation and other normative acts in the field of labour, health and safety at work at 3135 units with 111,5 thousand employees, out of which 55.2 thousand

are women. Of the total 3479 controls, 732 were in the field of health and safety at work and 2747 in the field of labour relations. As a result of the inspections, the labour inspectors found out 27420 violations, of which 7224 – in the field of health and safety at work and 20196 – in the field of labour relations. Out of a total of 417 reported accidents, the labour inspectors investigated 105 accidents, including 68 workplace accidents, of which 30 were fatal and 38 were serious ones. As a result of these accidents, 33 people died and 39 people were seriously injured. The controls revealed that 1597 people have had their rights restored.

These data are worrying and show a low level of protection not only for employees, but also for employers. The good international practices, including the ILO conventions to which Moldova is a party, have recommended the development and establishment of a single authority responsible for health and safety at work, which cooperates with the institutions responsible for labour relations. The amendments to the legal framework that, according to the authorities, are about to make the labour market more flexible, have actually deteriorated the legal framework on the health and safety at work, running contrary to the commitments assumed.

c) Optimization of the control bodies

As a result of the implementation of the reform of institutions with control responsibilities in 2017, the issues related to the health and safety at work were excluded from the scope of the State Labour Inspectorate. By the Law No.185 of 21 September 2017, the control and prevention tasks in the field of health and safety at work, the examination of petitions concerning working conditions and the investigation of workplace accidents have been transmitted to 10 sectoral administrative authorities.

At the same time, not all of the above-mentioned authorities have sub-divisions in the territory and have not been provided with qualified personnel with duties in the field of health and safety at work. At the moment, only five of them have Organization and Functioning Regulations and methodologies for state control over the entrepreneurial activity based on the risk analysis. Based on the new legislative provisions, ISM has to ensure the monitoring of the state control over the observance of the legislation on the health and safety at work by the labour inspectors

within the abovementioned administrative authorities that are part of the new competent administrative structures in the field of health and safety at work.

Given the lack of qualified personnel with duties in the field of health and safety at work, the competent authorities did not investigate the accidents according to *art. 232 (f) of the Law on Health and safety at work no. 186-XVI of 10 July 2008*. Thus, the deadlines for investigating the accidents at work were violated, while the rights and legal interests of the employees have been neglected. However, the immediate investigation of accidents involving employees in the workplace is necessary for the objective determination of the circumstances and the causes of their occurrence, being nothing more than provision of social protection to the injured.

In the given context, on 14 February 2018, the Government approved amendments and additions to the *Government Decision No.1361 of 22 December 2005 "On the approval of the Regulations on the method of investigating accidents at work"* and to the *Government Decision no. 788 of 7 October 2013 "Regarding the approval of the Regulations on the organization and functioning of the State Labour Inspectorate, its structure and its staff"*. As a result of the changes and additions, the investigation of the workplace accidents was placed under the temporary responsibility of the State Labour Inspectorate. At the same time, the Parliament adopted the *Law on the amendment and completion of certain legislative acts no. 79 of 24 May 2018*, which provides that, by way of derogation from the provisions of the *Law on health and safety at work no. 186/2008*, within one year since the date of publication of the law, the duties related to the investigation of the workplace accidents shall be exercised by the State Labour Inspectorate. With the publication in the Official Gazette of 15 June 2018 of the aforementioned law, the State Labour Inspectorate started to perform the workplace accidents' investigation function.

d) Legal Contradictions and Non-Compliance

In the national legislation there are multiple contradictions between several laws, such as the Law on state control over the entrepreneurial activity no. 131 of 8 June 2012, the Law on Health and safety at work no. 186 of 10 July 2008, and the International Labour Organization Conventions such as C (81) on the Labour Inspection, C (129) on Labour Inspection in

Agriculture, C (155) on Health and safety at work and the Working Environment. As a result of non-compliance with the international labour standards, at the 107th International Labour Conference (held on 31 May 2018), the ILO Committee of Experts on the Application of Conventions and Recommendations examined the situation regarding the non-compliance by the Republic of Moldova with the norms of

Convention No.81 on labour inspection in industry and trade and Convention no. 129 on labour inspection in agriculture and made recommendations to the Government to adapt the national legislation and practices to the above-mentioned Conventions and to inform the Committee by 1 September 2018 of the measures taken¹³.

Conclusions and recommendations

The AA implementation process has slowed down being directly influenced by the deterioration of the EU-Moldova political dialogue, which caused the suspension of the EU financial assistance.

The AA provisions imply implementation actions on a continuous basis, but also with specific implementation terms. In both cases, the actions taken by the authorities to implement the AA provisions cannot be exhaustive. The AA implementation process is a continuous one that calls on the authorities to make constant efforts to improve the regulatory framework, apply the best practices, upgrade and streamline the tools and mechanisms used in the implementation process. However, the regular updating of the Association Agenda has not brought about new legal regulations, actions, mechanisms or additional tools to implement the AA. On the contrary, there are sufficient examples when the actions of the state authorities have compromised the efforts to align the national legislation with the EU regulations (e.g. *Law 180/2018 on voluntary declaration and fiscal stimulation, reform of the institutions with control responsibilities, etc.*).

The central public administration reform had influenced negatively the efficiency of public authorities responsible for the AA implementation, while the modification of the AA NAP during 2018 has complicated even more the process of the AA implementation, monitoring and evaluation.

The state authorities, according to their commitments, report on the transposition into the national legislation, within the established terms, of 27 EU Directives, 7 of which are in the field of labour law, 17 -in the field of health and safety at work and 3-in the field of anti-discrimination and gender equality. There are six Directives under

the transposition process: 1 in the field of labour law, 2 in the field of health and safety at work and 3 in the field of anti-discrimination and gender equality.

Despite the measures taken, the Republic of Moldova faces serious problems regarding motivation and employment. Promoting employment measures, modernizing and adapting them to the labour market needs is one of the AA's priorities. Implementing proactive policies on the labour market, increasing the level of labour motivation and achieving the objectives of the new *Law on Employment Promotion and Unemployment Insurance* to be enforced in February 2019, could change and improve the situation on the labour market.

Despite the transposition of the 27 EU Directives in the social area, the level of compliance by enterprises with the relevant legislation and hence with the level of protection of employees at work raises concerns. When amending and supplementing the labour legislation, they did not take account the art. 371 of the AA and the obligation to maintain the current protection levels.

On the other hand, the central public administration reform was not preceded by a functional analysis of the reformed institutions, which led to administrative deficiencies in the exercise of public functions by the new structures of the central public administration.

The legislative amendments to the Labour Code, the reform of the control bodies in the field of health and safety at work have not been based on a consultative process, including with the social partners of the Government, which should benefit from their legal role of participation in and influencing the legislative process, especially in the social field.

¹³ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_631799.pdf

The reform of the institutions with control functions, implemented by the Ministry of Economy and Infrastructure of the Republic of Moldova, has a populist character. Beyond the seemingly noble and necessary goal of diminishing the pressure of the control bodies on the business environment, the way this reform was carried out by transferring from ISM the control competencies regarding the health and safety at work to other 10 competent authorities, has seriously jeopardized the state control capabilities in the field of health and safety at work. As a result, the number of workplace accidents has increased, accompanied by a decrease in the employees' social guarantees.

The competent authorities (10 ISM agencies), besides the multiple fields of activity, having the mission to ensure the implementation of state policies in the field of health and safety at work, do not have all sub-divisions in the territory, have not been provided with qualified personnel, and don't have at the moment Organization and Functioning Regulations and Methodologies of State Control over the entrepreneurial activity based on risk analysis.

The reform of the control institutions is in direct contradiction to the ILO Conventions ratified by the Republic of Moldova, mentioned also in the AA in the chapter on the necessary provisions and recommendations to be followed. Therefore, it contributes substantially to the regression in the AA implementation.

The financial resources required to carry out all the actions stipulated in the AA NAP for 2017-2019 have to be provided in the National Budget and in the Medium-Term Expenditure Framework. However, the plan contains actions that do not have sufficient financial coverage. While the external funding from the EU and the development partners is uncertain, it is, in the same time, crucial for the AA implementation process.

The public authorities responsible for the implementation of the AA provisions do not have adequate internal instruments and mechanisms to monitor, evaluate and report on the transposition and implementation of the Agreement.

Recommendations

The progress analysis of the implementation of the social provisions of the Moldova-EU Association Agreement has revealed a number of drawbacks and a series of recommendations are proposed for their correction, as follows:

- Continue the process of transposing the EU Directives under the EU-Moldova Association Agreement into the national legislation, observing the timetable set for transposition;
- Develop a National Programme/ Strategy in the field of health and safety at work and an Implementation Plan of the policies and minimum requirements on the health and safety at work;
- Revise the existing legal framework in the field of state control over the entrepreneurial activity in the field of health and safety at work, and adjust it to the norms of the ratified international acts;
- Ensure observance, in the process of elaboration and improvement of the labour legislation, of the provisions of the international normative acts to which the Republic of Moldova is a party, as well as of the EU Directives under the EU-Moldova Association Agreement that have already been transposed or have to be transposed into the national legislation;
- Ensure observance, in the process of elaboration and improvement of the labour and other legislation, of the provisions of art. 371 of the EU-Moldova Association Agreement, according to which the parties recognize that it is inappropriate to encourage trade or investment by lowering the levels of protection approved in domestic environmental or labour laws. A Party shall not waive or derogate from, or offer to waive or derogate from, its environmental or labour laws as an encouragement for trade or the establishment, the acquisition, the expansion or the retention of an investment of an investor on its territory. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental and labour laws, as an encouragement for trade or investment;
- Conduct the ex-post functional analysis of the central public administration authorities,

which have been reformed, in order to identify the shortcomings and problems affecting the efficiency in the performance of public functions;

- Strengthen the institutional capacity of the State Labour Inspectorate (*human resources, information systems, etc.*) in order to improve the work of labour inspectors with duties in the field of health and safety at work, thus empowering them with the rights to investigate the workplace accidents;
 - Placing the work inspection system under the control of a single central authority responsible for the coordination of control actions in the field of health and safety at work;
 - Speed up approval of the Organization and Functioning Regulations and of the Methodology for state control over the entrepreneurial activity based on risk analysis for all control bodies; supplement the control bodies with staff and provide training to the staff in areas of their responsibility, including in the minimum requirements for health and safety at work and the most effective methods of preventing accidents
- at workplace and occupational diseases;
 - Organizing the training of staff in the economic units responsible for health and safety at work on the practical application of the minimum requirements approved by the government in the respective fields;
 - Together with the implementation of the National Employment Strategy for 2017-2021, the new Law on promotion of employment and unemployment insurance and creation of the Labour Market Observatory, the volume of work of the territorial employment agencies is not going to decrease, but, on the contrary, it is going to increase. In the process of reforming ANOFM, it is necessary to take this into account and not make large-scale staff redundancies;
 - Unify the duties in the area of pay policy both in the real economy and in the public sector and make it the responsibility of the specialized central authority in the labour area – Ministry of Health, Labour and Social Protection – in order to promote a unified pay policy.

Annex

EU Directives in the social area that have not been transposed/ have to be transposed

	<i>EU Directives to be transposed</i>	<i>Field</i>	<i>Deadline for transposition according to AA</i>
1.	Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (of the mobile civil aviation personnel), according to point 37 of the National Action Plan for the implementation of the Moldova-EU Association Agreement for 2017-2019 (approved by Government Decision No. 1472 of 30 December 2016).	Labour Law	Within 4 years of the entry into force of the AA
2.	Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin	Anti-discrimination and gender equality	Within 4 years of the entry into force of the AA
3.	Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation	Anti-discrimination and gender equality	Within 4 years of the entry into force of the AA
4.	Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security	Anti-discrimination and gender equality	Within 4 years of the entry into force of the AA
5.	Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Health and safety at work	According to the timetable, for new jobs, the provisions of the Directive are to be implemented within 7 years of the entry into force of the Association Agreement, while for jobs already in use at the time of the entry into force of the Association Agreement, the provisions of this Directive, including the minimum safety and health requirements set out in the Annex to this Directive, have to be implemented within 16 years of the entry into force of the Agreement

6.	Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels	Health and safety at work	Within 10 years
7.	Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Health and safety at work	Within 7 years
8.	Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Health and safety at work	Within 7 years
9.	Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Health and safety at work	According to the timetable, for new jobs, the provisions of the Directive are to be implemented within 7 years of the entry into force of the Association Agreement, while for jobs already in use at the time of the entry into force of the Association Agreement, the provisions of this Directive, including the minimum safety and health requirements set out in the Annex to this Directive, have to be implemented within 12 years of the entry into force of the Agreement.
10	Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Health and safety at work	Within 10 years

11	Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Health and safety at work	Within 10 years
12.	Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Health and safety at work	Within 10 years

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