



Twinning Project MD 13 ENPI OT 01 16 (MD/26)
*Support to promote cultural heritage in the Republic of Moldova
through its preservation and protection*

Component 2

The administrative and management capacity of the Agency for Inspection and Restoration of Monuments and of the National Archaeological Agency, as well as Ministry of Culture's cultural offices and other relevant stakeholders are increased

Activity 2.1

Assessment of the current situation of the implementation agencies

REPORT ON ASSESSMENT OF THE CURRENT SITUATION OF THE IMPLEMENTATION AGENCIES

DETAILED IDENTIFICATION OF NEEDS

June 2018

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LIST OF ABBREVIATIONS

AA	EU-Moldova Association Agreement
AAP	Agency of Public Tenders (Agenția Achiziții Publice)
AIRM	Agency of Inspection and Restoration of Monument
ALRC	Agency for Land Relations and Cadastre
AST	Agency for Technical Supervision (Agenția pentru Supraveghere Tehnică)
BA	Beneficiary Administration
BC	Beneficiary Country
EU	European Union
EUD	European Union Delegation
GDA	General Directorate for Architecture, Urban Planning and Land Authorizations Chisinau Municipality
GIS	Geographic Information System
ICH	Institute of Cultural Heritage
LIS	Land Information System activities
LPA	Local Public Authority
MECR	Ministry of Education, Culture and Research
MEI	Ministry of Economy and Infrastructure
MF	Ministry of Finances
MS	Member State
NAA	National Archaeological Agency
NAC	National Archaeological Commission
NAR	National Archaeological Repertory
NAMSI	National Agency for Monuments and Sites Inspection
NCHM	National Council of Historical Monuments
NCMC	National Committee of Museums and Collections
NCMPS	National Council for Monuments in the public space
NDS	National Development Strategy Moldova 2020
NGO	Non-Governmental Organizations
NICH	National Institute of Cultural Heritage
NMSIA	National Monuments & Sites Inspection Agency
PCA	Partnership and Cooperation Agreement
STE	Short-Term Expert

T.O.R. OF THE DOCUMENT

The present document has been elaborated for the **EU Twinning Project** between Italy and Moldova **MD 13 ENPI OT 01 16 (MD/26)** *“Support to promote cultural heritage in the Republic of Moldova through its preservation and protection”* within **Component 2** *“The administrative and management capacity of the Agency for Inspection and Restoration of Monuments and of the National Archaeological Agency, as well as Ministry of Culture’s cultural offices and other relevant stakeholders are increased”*, as the due deliverable of **Activity 2.1** *“Assessment of the current situation of the implementation agencies”*, according to what is set out in Annex A1 – Description of the Action of Contract Ref.Ares(2017)4121713/ 22.08.2017 – 2017/ 387-025.

This activity has been carried out :in parallel with activities 1.1 and 1.2 The report includes an analysis of the organizational asset, working processes, activities and current practices, level of coordination and cooperation with other bodies, administrations, NGOs and private sector of the offices of the Ministry of Education, Culture and Research (hereinafter MECR) and of its main related institutions, that is to say the National Council of Historic Monuments (hereinafter NCHM), the Agency for Inspection and Restoration of Monuments (hereinafter AIRM), the National Agency for Archaeology (hereinafter NAA), the Institute of Cultural Heritage (hereinafter ICH). A preliminary analysis of the Museum sector has also been initiated.

The present analysis identifies the needs of the institutions and forms the basis for the strategic work plan envisaged by activity 2.2, which outlines the timeframe for actions to be undertaken and, in turn, represents the basis for the deliverables envisaged under activity 2.3.

EXECUTIVE SUMMARY

The analysis of the cultural heritage sector in Moldova, is addressed at identifying and describing roles, functions and organizational structures of different actors acting in whole culture policy cycle at the different management levels. The activity has been developed by examining the legal and regulatory framework in force as well as the outlined draft reforms and has been complemented by interviews to the staff of the MECR and its related institutions.

Under Component 1, activity 1.1, a comparative review of Moldovan **legislation** concerning the cultural heritage sector has been elaborated: it represents the reference with regard to the current and draft legislation for the cultural heritage sector. The present report, on the other hand, focuses specifically on the organisational factor and examines therefore the sections of the laws that deal directly with the organisation and functions of the management and implementing institutions, as well as the relevant secondary legislation (decisions, regulations, orders, etc.) that specify the functions, duties and rights of the public institutions bearing responsibilities on cultural heritage.

The Laws that have been analysed to formulate this report includes: the Law on the protection of monuments n. 1530/1993 – as well as the draft law on Historical Monuments made available by the representatives of the beneficiary Country at the outset of the Twinning - the Law n. 218/2010 on the protection or archaeological heritage and the draft amendments elaborated in 2017, the Law n. 192/2011 on the monuments in public space, the Law n. 280/2011 on the protection of movable cultural heritage and Law n. 262/2017 on Museums.

the secondary legislation taken into consideration in the present report includes:

- Governmental Decision n. 691 of 30.08.2017 "on the organization and functioning of the Ministry of Education, Culture and Research";
- Governmental Decision n.1114 of 25.09.2006 "on the creation of the Agency for the Inspection and Restoration of Monuments";
- Governmental Decision n. 232 of 02.08.2010 "on the approval of the Regulation of the Agency for Inspection and Restoration of Monuments";
- Governmental Decision n. 230 of 12.04.2012 "on the creation of the National Archaeological Agency";
- Governmental Decision n. 73 of 31.01.2014 "on the organization and functioning of the National Council of Historical Monuments";
- Governmental Decision n. 1326 of 14.12.2005 "on the optimizations of infrastructure and innovation in the scientific sphere";
- Governmental Decision n. 886 of 01.11.2017 "on the creation of the Technical Supervision Agency";
- Governmental Decision n. 1088 of 18.12.2017 "with regard to the organization and functioning of the Technical Supervision Agency";
- GDA Regulation and organizational chart n. 54/14 of 03.08.2006.

Since the legal framework for the cultural heritage sector in the Republic of Moldova envisages responsibilities also for local authorities, the present review also deals with the current **administrative organization** of the country.

The analysis of the organisational framework of public administration in the cultural heritage sector and of its working methods cannot ignore the more general framework of public administration and related procedures, therefore the report also addresses briefly the current situation of administrative procedures.

The desk analysis has been complemented by structured interviews to members of the staff of the MECR, its related institutions and of other ministries and institutions the functions of which may have an impact on cultural heritage. Interviews sought information on: the exact role of the interviewee in the sector; the functions performed and the related processes; the way these functions are formally regulated; the quantity and profile of the employed human resources; the interaction with other actors in order to perform envisaged functions; main criticalities and positive aspects. The interviews were mainly aimed at understanding the actual tasks performed by each institution and the modalities of interaction with other relevant actors in the cultural heritage sector.

As the lead institution of the cultural heritage sector in the Country, the *Ministry Of Education, Culture and Research* and its related Agencies were the first central level actors analysed:

1. Ministry of Culture, Education and Research (MECR);
2. Cultural Heritage Directorate at MECR;
3. National Council of Historical Monuments (NCHM);
4. Agency of Inspection and Restoration of Monuments (AIRM);
5. National Archaeological Commission (NAC);
6. National Archaeological Agency (NAA);
7. Institute of Cultural Heritage (ICH);
8. National Institute of Cultural Heritage (NICH);

Some other institutions the core competence of which is not cultural heritage but do perform functions and activities that may have an impact on the cultural heritage have also been considered. They are:

9. Agency for Technical Supervision (Agenția pentru Supraveghere Tehnică - AST);
10. Agency of Public Tenders (Agenția Achiziții Publice – AAP)
11. Ministry of Regional Development – Special Planning Department;
12. Ministry of Economy and Infrastructure - Section Policies and Technical Regulation in Construction;
13. General Directorate for Architecture, Urban Planning and Land Authorizations (GDA) Chisinau Municipality);

At the end of each chapter of the report, after the description of the functioning of each organizational unit, a section “Emerging Issues”, has been included: it summarises the most important issues emerged from the analysis. The analytical work highlighted cross-cutting, structural issues which are presented dedicated section: they represent serious concerns to be aware of when addressing the cultural heritage sector in Moldova.

Finally, the last section of the report presents the main issues and needs emerged from the desk analysis laws, regulations, orders and procedures and from the interviews. The report also identifies preliminary recommendations aimed at overcoming the identified shortcomings.

Major issues and needs to strengthen the capacity and effectiveness of the system

The analysis evidenced some crosscutting issues hindering the correct overall functioning of the Cultural system as a whole, namely the structural **lack of human resources**, the absence or in the relevant legislation of a clear reference to the **individual administrative responsibility** of the **staff of public administration** (civil servants as well as employees in public agencies) in the implementation of their functions, the difficulties in finding adequately **prepared professionals** willing to engage themselves in the public administration, the not always adequate educational background of the staff and its **insufficient training** to get prepared for their job and their tasks, resulting in the often limited knowledge of the legal provisions of the sector and of those related to administrative procedures, the **lack of secondary legislation**, regulations, criteria and clearly defined procedures with an adequate level of specifications, steps, timeframes, the **fragmentation of the responsibilities** among different branches of the administration.

Specific weaknesses in the cultural heritage sector can be regrouped under a few major areas:

- poorly expressed vision on the role and function of cultural heritage in Moldovan society and on the long- term sustainability of the system
- severe Lack of sufficient human resources and frequent turn-over of staff;
- weak or insufficiently detailed regulatory framework stemming from the primary legislation;
- insufficient organizational /procedural effectiveness and efficiency and fragmentation of responsibilities;
- difficulties in implementing projects and ensuring timely expenditure of the financial resources.

One structural problem in the culture and cultural heritage sector is the **lack of a shared vision of the role and function of culture and cultural heritage in the Republic of Moldova**. The Strategy “Culture 2020” identifies important issues that affect the sectors but set out a fully developed vision for the cultural sector and particularly for cultural heritage. Although a Vision is included in the document, this is not adequately elaborated in terms of implications, cross- sectoral objectives to be achieved and accompanying actions. While the document identifies an active role to be played in the socio-economic field by culture in general, cultural industries and creativity, when referring to cultural heritage it mentions the need for the preservation of cultural heritage, without providing a sufficiently argued explanation of the reasons for which cultural heritage has to be preserved. No ‘living’ function seems to be assigned to cultural heritage, whilst much is said about the importance of ‘culture’, ‘folk’ culture as opposed to ‘elite’ culture, cultural products, etc. Therefore, the message that the Strategy Culture 2020 seems to pass is that cultural heritage must be preserved, and this is crucial, however it does not suggest with sufficiently motivated arguments what might or should be its function for society and what contribution the private and social sectors can provide in sustaining cultural heritage. The outlined objectives in the document are crucial, however more strategic and general ones are not presented and this limits the capacity of the Strategy to respond to the challenges the cultural heritage sector is currently facing in the Republic of Moldova and to ensure the long- term sustainability of the cultural heritage system. For instance, the strategy does not envisage other objectives and measures that would support the whole sustainability of the Strategy, namely the involvement of the social economical actors and of the private sector into the system for protection, conservation and promotion of cultural heritage, through the diversification of the sources of funding through fiscal incentives and measures supporting the input of private funds into the cultural heritage system. The

action plan, on the other hand, does not appear fully consistent with the well-grounded analysis presented before nor does it fully respond to the outlined objectives. Indeed, it contains important objectives and activities to be fulfilled for cultural heritage, namely the need to develop a modern system for the documentation of cultural heritage, develop a system for the conservation of cultural heritage, enhance and insert cultural heritage in the public policies, in the educational sector and in sustainable development practices but it lacks more strategic and complex actions to be undertaken.

The **lack of staff** appears as a structural and trans-sectorial weakness in the public administration of the Republic of Moldova that, in the cultural sector, appears even more acute. At the moment the number of employees at the unified Ministry of Education, Culture and Research is 103 units and cannot exceed, by law, the 110 units. However, the matters related to cultural heritage, including museums, are dealt with by the Directorate of Cultural Heritage, where one director and three civil servants ('consultant') are employed, one position is vacant for an amount of five theoretical posts and four actually covered. The matters related to culture, creativity and cultural industries are managed by the Directorate of Arts and Creative industries.

At the moment this report is being prepared (July 2018), AIRM cannot be considered operational with regard to the key function, that is to say inspection of monuments and building sites of protected monuments or within protected zones: the only architect employed at AIRM quitted in June and no other technical staff is currently employed by the Agency, the other employees having different educational background and tasks.

The current envisaged number of employees responsible for cultural heritage at the Ministry is absolutely insufficient to implement the basic functions and tasks still assigned to the structures of the Ministry, additionally the current impossibility of the Agency to implement its key functions (inspection of monuments) severely undermines the capacity of the Republic of Moldova to fulfil the obligations deriving from the ratified international conventions. It is of utmost urgency that the Ministry addresses promptly these problems, by taking over temporarily the Inspection function from the Agency, in order to ensure the implementation of heritage protection as set out in the legislation.

The **structural deficiency in the number of the staff working in public administration sector** depends on many factors. Based on the results of the interviews, the primary reason largely relates to the insufficient salaries, the lack of career prospects, preoccupations (expressed by individuals in different interviews) to be subject to possible external interferences and pressures in the implementation of duties as civil servants, an overall weak identity and perception of the public administration among young and mid-career professionals and more interesting options and prospects in the private sector (this is particularly true for architects).

A structural, comprehensive approach towards the reform of public employment so as to achieve prepared and motivated staff, who is also better perceived by the citizens, seems necessary and urgent. Some recommendations are set out in the present report and summarised below, they concern cross-cutting issues as well as those specific to the cultural heritage sector.

The **limited implementation of the legal framework** depends on various factors, among which key appear to be the lack of sufficient resources – both human and financial – but also on the insufficient regulatory framework, clearly defined procedures and sometimes contradictory provisions, some of which are reportedly related also to the different law traditions to which post-independence

Moldovan legislation is prone. The insufficiency of the regulations also produces an impact in terms of limited efficiency and effectiveness in law enforcement. The analysis contained in the “Development Strategy Moldova 2020” on the availability of adequately prepared and motivated human resources for the labour market can be considered confirmed.

A number of key procedures that would need to be developed, in some cases simplified, and more precisely regulated have been identified through the analysis of the current organization and procedures.

These include:

- a) the procedure to update the registry and list new ‘cultural heritage’ properties under the provisions of the relevant laws up to the registration of the status of the protected monuments into the cadastral system;
- b) the procedures for the approval of projects on protected monuments and within areas that are subject to the provisions of the laws protecting cultural heritage and the related procedures for the issuing of the legal opinion (*aviz*) of the National Council of Historic Monuments;
- c) the definition of procedures for exercising the pre-emption right of the MECR, for the concessions in use of publicly owned protected monuments/ immovables and for any other form for the transfer from the State property to Local administration’s or private ownership.
- d) the refinement and normalization of the inspection procedures and related instruments of the Agency for Inspection and restoration of Monuments
- e) the definition of criteria for the listing of new immovable objects under the provisions of the legislation.

The analysis of the current organization has also brought into light the need for reforming the profile and working methods of the NCHM, in order to strengthen the effectiveness of its action, as well as the need to implement the provisions of the Law n. 1530/1993 with regard to the approval of the projects.

The MECR has envisaged the reform of the organization of its subordinated bodies responsible for cultural heritage: in this regard the MS STEs have envisaged and preliminarily discussed potential options to be considered in terms of distribution of functions and tasks among the ministerial institutions with the BC’s representatives. Basically, the recommendations from the MS STEs can be summarised as follows:

- reinforce the coordination and guiding role of the MECR towards its subordinated institutions
- reconsider the level of autonomy of the subordinated institutions in order to achieve a balance between flexibility and accountability
- balance the distribution of tasks/ duties among its subordinated institutions and avoid the distinction of functions that might interrupt the ‘heritage cycle’ (e.g. by separating the inspection function from documenting, conserving functions)
- use the occasion of the reform to strengthen the role of the MECR and its related institutions in heritage protection and to reinforce the status of the legal opinion of the Council of Monuments
- reform the NCHM

- reinforce the cooperation and dialogue among subordinated institutions and between them and MECR.

The most urgent, in the MS STEs view, is the reform of the profile and of the functioning of the NCHM and of the status of its opinion.

The problems of limited efficiency and effectiveness in implementing the legal framework and the tasks of the relevant institutions have triggered an analysis of the larger legal framework concerning the administrative procedure, the role of the civil servant, the laws on the conflict of interest and transparency in decision making, with the identification of potential improvements for the relevant provisions that can have a positive impact also on the cultural heritage sector. This aspect is addressed in more detail in the reports concerning Component 1.

The most urgent cross-cutting issues to be addressed at a more general level, and are therefore outside the scope of the present Twinning project, are represented by the need to strengthen the administrative procedures, to reduce the fragmentation of the responsibilities among different actors, to guarantee adequate and explicit motivations in administrative decisions, to provide for individual administrative responsibility of civil servants and employees in public bodies, in order to ensure their accountability, adherence to the mission of the administration/ body they work in and reduce external or internal pressures.

The ministerial reform implemented in 2017, which has brought to the reduction of the number of ministries and the aggregation of the Ministry of Culture with the Ministry of Education and Research, has also led to a change in the nature of the ministry, which has seen its role confined to policy making, likewise other ministries, i.e. MEI, whilst the implementation of its tasks, particularly for what it concerns cultural heritage protection, is almost entirely delegated to its Agencies – the NAA and the AIRM, the ICH – through secondary legislation.

The MECR expenditure capacity other than in running costs appears limited and this has an impact on the budget assigned yearly to the Ministry by the MF. Unfortunately, the 2017 reform of the MECR is conceived to reduce the role of MECR in concrete activities, therefore there is need for reflecting how to guarantee that, if not MECR, subordinated institutions are prepared to take over the role of direct engagement in conservation and maintenance works, in order to ensure active conservation of state-owned protected monuments and sites and to offer concrete examples of good practice in conservation to other public or private actors.

Finally, the present mapping took place in a period of changes within the MECR and related institutions, therefore it is likely that some of the recommendations included in the present report might be outdated or need to be revised, according to the progressive modifications and reforms put forward and implemented by the MECR. The analysis must be considered as a working document and a reference guide whose added value consists in synthesising and exposing through a rationalised approach the vast amount of information collected on the subject during the mapping phase. The present analysis will feed into Activity 2.3 but also in activities 1.3 and 1.4, as the reorganisation of the institutions will require to act upon and to revise the normative and regulatory texts.

ASSESSMENT OF THE NEEDS AND OF ACTIONS TO BE UNDERTAKEN

Below are summarised the needs to be addressed / actions to be undertaken in order to tackle with the issues emerged through the analysis.

Cultural heritage sector

Urgent needs to be addressed / actions to be undertaken without delay:

- *Ensure that the key functions and tasks of the AIRM are performed despite the current lack of technical staff at the Agency*
- *amend the Order of the Ministry n. 232/2010 in order to empower the Agency staff and its director and vice – director to implement art. 27 of the Law n. 1530/1993*
- *select and hire new technical staff units, able to perform the key tasks of the Agency, in order to bring it back to operationality;*
- *increase the technical staff at the Agency through revision of its regulations and the restructuring of the Staff pertaining the bodies responsible for cultural heritage and depending on the MECR*
- *adopt inspection forms to document the monitoring activity carried out by the AIRM;*
- *develop a simple database (even an excel file would suffice for the tasks), in which to record the carried-out activities, first of all the inspections, their outcomes and the subsequent steps undertaken (e.g. information to the MECR and to the police in case of detected infringement of the law or of the opinion of the NCHM, etc.), as a support for the reporting activity;*
- *Strengthen the interdepartmental cooperation at MECR in order to support the directorate for cultural heritage, which at the moment is severely understaffed*
- *With the support of MECR Human Resources department, verify the availability and competences of existing staff, within the MECR, to cover the unfilled position, and envisage an ad hoc training to transfer the competences which are necessary to perform the requested tasks*
- *Strengthen the cooperation with the ALRC to achieve the registration of the status as protected assets in the cadastral data (sheets, parcels, etc.) as basis for effective protection*
- *with the scientific advice of the State Archives, reorder and store the historical files of the passport, according to acknowledged standards, in parallel to the digitisation of the files, to ensure their proper conservation and accessibility;*
- *update the Register of Historic Monuments, through direct surveys and by establishing links between the cartography and the cadastral data (inter-Agency working group to be established)*

Increase Human resources

Short term

- *increase the number of staff units at the Directorate for Cultural Heritage in order to be able to cope with the tasks by rationalising the staff needs of the reformed NICH*
- *increase staff of AIRM by rationalising the staff needs of the reformed National Institute of Cultural Heritage*

Reinforce the Vision and overall policy approach for cultural heritage

- *Develop a shared and strong vision at the government level depicting the role of cultural heritage in Moldovan society supported by the different sectors of the Government as well as by society at large*
- *Raise awareness about cultural heritage targeting different audiences – e.g. decision -makers, public administration actors, investors - and using different types of media and instruments*
- *Elaborate jointly with the Ministry of Finances a strategy and fiscal measures designed to facilitate the involvement of the private sector in the conservation and promotion of cultural heritage*
- *Update the Strategy Culture 2020 and its action plan accordingly*

Improve Communication/coordination within MECR institutions and between them and relevant Actors in other sectors

- *strengthen the communication and cooperation in the inter-ministerial committee sitting in the State Chancellery*
- *institutionalise cooperation and coordination within institutions at the level of technical staff*
- *establish inter-sectorial working groups for specific topics (e.g. registration in Cadaster system of protected monuments and sites, elaboration of technical norms for construction sector or planning, development programmes, etc.)*
- *MECR to propose amendments to the Law n. 163/2010 on the authorisation to the execution of construction works, in order to ensure that also the Agency of Inspection and Restoration of Monuments is informed timely of issued building permits and of the beginning of the works on protected monuments or areas.*

Equip implementing institutions with adequate and sufficiently detailed regulatory framework

- *identify and elaborate the missing regulations as they emerge from primary legislation*
- *Through reforms of the primary legislation, reduce the number of regulations to be elaborated*
- *Develop in detail administrative procedures, steps, timeframes, tasks, templates and clarify the role and responsibility of each involved actor*

Organizational and procedural effectiveness and efficiency and fragmentation of responsibilities

- *Revise/ reformulate the regulations concerning the organisation, functions and competences for the new Agency resulting from the merging of NAA and AIRM;*
- *formulate the regulations for the organisation, functions and tasks of the reformed ICH;*
- *revise the profile and working methods of the NCHM and its regulation*
- *revise the procedure to issue the approval of the Ministry*
- *revise the procedure to issue the Council's legal opinion (aviz)*
- *revise the technical documentation required for project on protected historic monuments and areas (at the two stages of development: schita de proiect, proiect de executie).*
- *define and harmonise the structure and content of the documentation fiches (fisa de clasare, dosar de inventariere) for historic monuments and archaeological sites (under activity 4.1, see corresponding report);*
- *revise the procedure for updating and adding new items in the Register of historic monuments.*

Conservation works design and implementation / timely expenditure of allocated financial resources.

- *create a small pool of experts at the MECR dedicated to support, follow and monitor project implementation after their approval*
- *establish cooperation with the Agency of Public Procurement at the MF to strengthen capacity of MECR staff in the sector and to carry out jointly tenders in the cultural heritage sector*
- *envisage training for the cultural institutions to improve their planning, implementing and monitoring capacities and related budget.*

Reforms of the MECR subordinated Institutions

- *redefine the tasks and functions of the Agencies and NICH through the revision of the draft law on historic monuments in order to maintain the integrity of the “heritage cycle”: identification, documentation, legal protection, conservation, monitoring/ inspection. The Institute to develop the principles, criteria and standards, the Agencies to implement the whole ‘heritage cycle’*
- *unify of the Agencies (NAA and AIRM) into one single Agency;*
- *proceed with the reform of the ICH and rationalisation of its staff;*
- *establish forms of cooperation with the Academy of Sciences*
- *promote the creation of a diagnostic centre for cultural heritage with the involvement of the Academy of Sciences*
- *reform the NCHM and, in parallel, of all other councils and commissions, with a view to reduce their number and the related functional costs;*
- *detail through ad-hoc technical regulation the content of the projects for protected monuments;*
- *define the documents and content of the projects for intervention on protected monuments and areas to be included into the revised draft law for historic monuments;*
- *revise the procedure and the requirements to issue the legal opinion (aviz) from the MECR – NCHM.*

Strengthening the role of LPAs in the cultural sector / reinforcing inter- institutional cooperation

- *clarify the competences of level 1 and 2 local public authorities on tangible and intangible cultural heritage. It is desirable to collect the description of competences in a coherent list of attribution given to the bodies of the different tiers of the local administration.*
- *ensure that the required institutional and financial capacities to carry out duties related to cultural heritage are present in the local authorities.*
- *ensure that each level of government has access, through possibility to raise own resources or transfers, to adequate funding for carrying out the attributions set by the law.*
- *Promote the association of municipalities for services related to culture and cultural heritage, in order to strengthen the capacity of the smallest ones and carefully monitor implementation to avoid that this association becomes a way to reduce the services*
- *Possibly set up a structured form of cooperation among the different levels of local administration and with the MECR, in order to ensure accessibility to the needed competences at the local level.*

- *Establish a more structured inter-institutional cooperation framework as a desirable development of the current Moldovan administrative framework for culture. In this sense, it would be necessary to develop appropriate and effective administrative and legislative tools to implement the cooperation envisaged by the Law on Decentralization.*

Cross – cutting issues

Strengthen the Human resources in the public administration of the sector –reduce turn-over of staff

Short – term actions

- *develop a campaign to improve the image of the civil servant and of the staff employed in public institutions by the population*

Mid-term actions

- *Increase the salaries for civil servants and staff of public agencies related to cultural heritage protection*
- *improve the selection process by developing open competitions to get access to the public administrations*
- *prohibit the cumulation of jobs in the public sector and prevent / discourage the use of retired staff to fill uncovered positions (prefer short term outsourcing)*
- *develop mechanisms for the training and permanent education of civil servants*
- *develop mechanisms that ensure career prospect/ development based on clearly defined criteria and professional merit*

Strengthen effectiveness of public administrations

- *reduce fragmentation of responsibilities (e.g. Identify one body responsible to ensure the finalisation of each procedure and within each body individual charged formally with the responsibility to finalise the assigned procedure within the requested timeframe)*
- *envisage the figure of the “official responsible for the procedure” in charge for managing the administrative process from its inception to its conclusion. Such a role is not envisaged at present in the legal framework for administrative procedure but it would be highly beneficial*
- *increase transparency and consistency with mission of each administration in administrative procedures by making compulsory adequate motivations for each administrative decision (not only for negative decisions but also for positive decisions)*
- *strengthen the individual administrative responsibility of the civil servant.*

BACKGROUND INFORMATION

In recent years the Ministry of Culture of Moldova has elaborated a series of normative-legislative documents with the aim of facilitating the development of cultural areas and safeguarding national heritage. Out of the 15.000 sites known only 5.206 are included in the Register of monuments protected by the state. The total of monuments includes about 8.000 archaeological sites, about 100 old and early medieval citadels, 3 medieval walled fortresses, 6 medieval towns (Orhei, Lăpușna, Tighina, Soroca, Căușeni, Chișinău), 788 churches, 129 manors and more historic towns from the 19th century (Bălți, Cahul, Chișinău, Orhei, Soroca, Tiraspol). In the same way, out of those 5.206 monuments included in the register, 4.485 monuments are considerate of national importance and 1.1210 of local importance. Most important national monuments are located in Chișinău – 419, and in Edineț district – 380. Thus, from the register of monuments protected by the state there are 2.696 archaeological sites, 1.284 historic monuments, 1.261 architectural and 225 art monuments¹. It should be noted however, that different sources of information provide for different data on the current state of the art with regard to what is currently protected and included in the Registry of the monuments protected by the State.

During the last 20 years, the EU has been an important development partner for the country and since 2009, EU support has been intensified. Nowadays, cooperation between the Republic of Moldova and the European Union (EU) is guided by the **EU-Moldova Association Agreement (AA)** which was signed in June 2014. Under article 132 of AA, the parties concentrated their cooperation on a number of fields such as cultural cooperation and cultural exchange, intercultural dialogue, policy dialogue on cultural policy, cooperation in international organizations such as UNESCO and the Council of Europe in order to preserve and develop cultural and historical heritage, promote the participation of cultural actors from the Republic of Moldova in cultural cooperation programmes.

In 2014, in view of the integration of the Republic of Moldova to the EU, a Cultural development strategy was elaborated by the Ministry of Culture and adopted by the Government² in the frame of the EU Strategy “**Culture 2020**”. The Strategy's mission is both to protect and value the country's cultural heritage as a national priority by providing the cultural heritage sector with a coherent, efficient and pragmatic policy framework, based on the priorities described in the document. for the cultural heritage component, the Strategy focuses on defining the national regulatory framework for the protection of cultural heritage, completing the national institutional framework for the protection of cultural heritage, creating a market for services of preservation/restoration of cultural heritage built, creating the cultural heritage protection system in the administrative-territorial units.

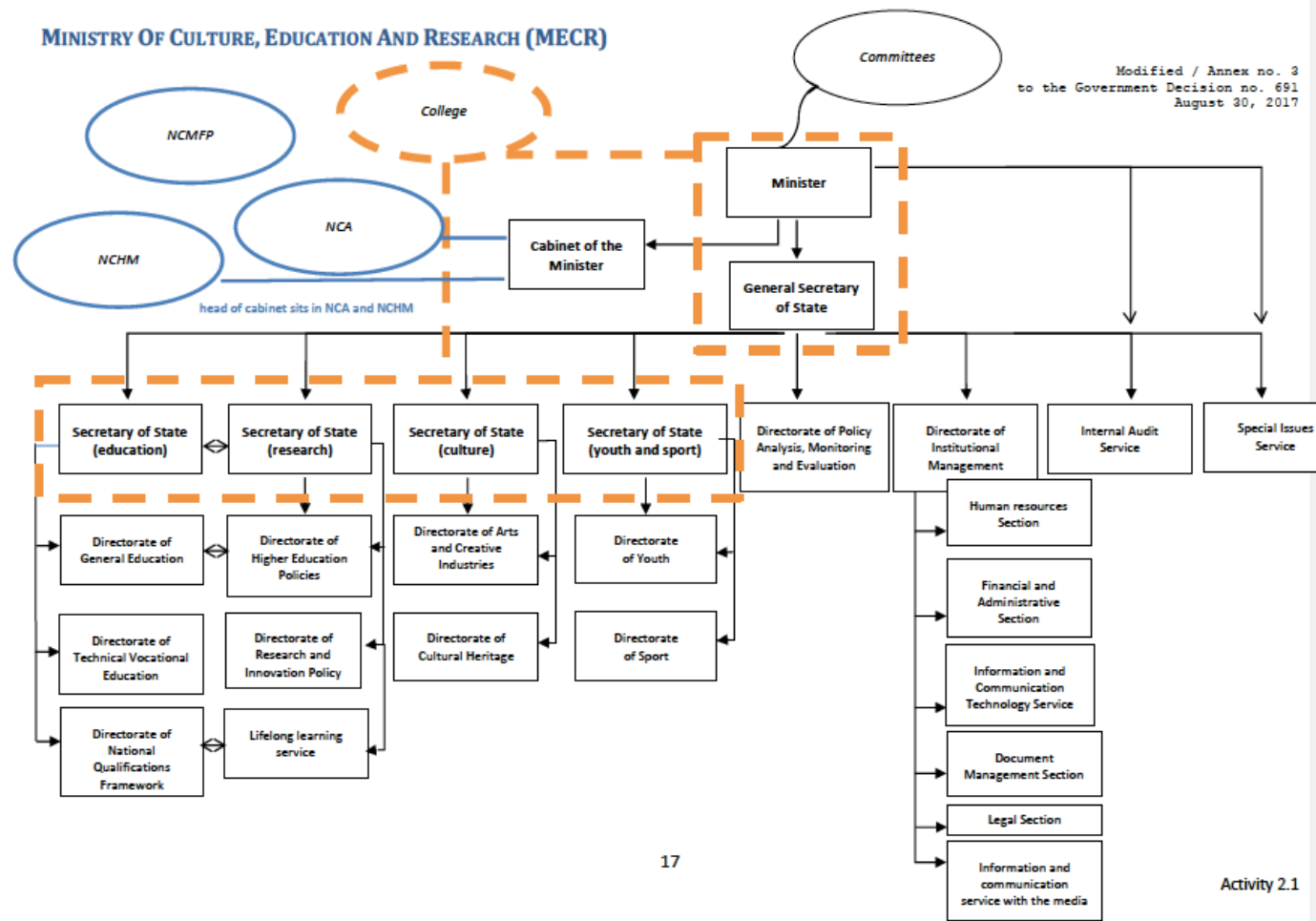
In March 2015, the Moldovan Minister of Culture signed an agreement on Moldovan participation in the EU programme for the cultural, creative and audiovisual sectors called “**Creative Europe**”. The Republic of Moldova was the second neighbourhood country to join the programme after Georgia and can participate in the activities and actions of the programme open to the neighbourhood countries. Hence, Moldovan cultural and creative organisations have the possibility to collaborate with

¹ HEREIN (*European Cultural Heritage Information Network*) country profile page on Moldova:
<http://www.herein-system.eu/moldova-country-profile>

²Decree of the Government n.271 of 09/04/2014

counterparts from all over Europe and access funding for cultural cooperation projects, subscribe to literary translation schemes, and join European cultural networks.

Lastly, the Republic of Moldova already benefits from various regional and thematic projects covering the Eastern partnership countries (e.g. COMUS) under the **Eastern Partner Culture Programme II**. The programme aims to support capacity development of state actors, cultural operators and civil society actors in the cultural and creative industries sector.



The structure of the **Ministry of Culture, Education, and Research** is set by **Governmental Decision (HG) n. 691** of 30.08.2017 on the organization and functioning of MECR. It is illustrated in the graphic in the previous page. In addition to the structures set out by the HG n. 691/2017, the ministry has created through primary legislation several other bodies with specific functions related to cultural heritage. Their composition is set out through secondary legislation and will be examined later. Here it suffices to say that their composition envisages in many cases the participation of staff of the Ministry. In the graphic above, only the key bodies for the purpose of the present analysis are visualised.

The Governmental Decision n. 691/2017 establishes:

- The Regulation on the organization and functioning Ministry of Education, Culture and Research (Annex 1);
- The Structure of the central apparatus of the Ministry of Education, Culture and Research (Annex 2);
- The Organization chart of the Ministry of Education, Culture and Research (Annex 3).

The decision sets out the mission, the fields of activity, functions and rights only of the ministry (in general) and defines in detail only the functions of the minister and of the State's Secretaries, which are further specified through Minister's orders, and of the College. On the other hand, the other structures that form the apparatus of the Ministry are only mentioned but their tasks and functions are not defined. The structure of the Ministry is given in Annex two of the Decision and includes:

<i>Central apparatus</i>	Directorate of Arts and Creative Industries
Minister	Directorate for Cultural Heritage
Minister's Cabinet (with service status)	Directorate for Youth
General Secretary of State	Directorate for Sport
State Secretaries	Service for life-long learning
Division for Policy Analysis, Monitoring and Evaluation	<i>Directorate for Institutional Management</i>
Service for Internal Audit	Human Resources Section
Service for Special Issues	Administrative and financial Section
	Service for information technology and communication
<i>Sector Policy divisions</i>	Section for the management of the document
Directorate for general education	Juridical Section
Directorate for Technical and Vocational Education	Service for information and communication with mass- media
Directorate for National Qualifications	
Directorate for Higher Education and Research	

The specification of the functions and tasks occurs through and the approval of the Statute of the Staff (*Statul de personal al aparatului central al Ministerului Educației, Culturii și Cercetării*), which is approved by the minister based on the advice of General Secretary of the Government. The Statute, however, does not define the functions and role of each structure rather of each profile and grade of civil servants forming part of the Staff, therefore, it can be said that the legislation does not set out clearly the tasks of the central articulations of the Ministry, which are therefore subject to internal procedures and decisions by the Minister. Basically, while the nominal structure of Ministry can be

changed only through Governmental decision, in fact the functions of each directorate and service can be modified by changing the Statute of the Personnel only.

It is noted that the Statute of the Staff of the Ministry is not made public and known to the citizens and other administrations. This does not seem in line with the policy of transparency adopted by the Moldovan Government.

STAFF

The decision sets out an overall staff limit set at 110 units. At the moment of the present document, the Ministry has been reported by the Beneficiary Country representatives to have a total of 103 active staff units (7 positions are currently vacant) distributed as below:

Leadership of the Ministry - 6 Units	
1	Minister
2	General Secretary of State
3	State Secretary for Culture
4	State Secretary for Research
5	State Secretary for Education
6	Secretary of State, Youth and Sports
Cabinet of the Minister - 3 Units	
7	Chief of Cabinet
8	Guidance counsellor
9	Assistant
Directorate of Policy Analysis, Monitoring and Evaluation - 7 Units	
10	Chief of Directorate
11	Chief deputy director
12	Main consultant
13	Main consultant
14	Senior consultant
15	Senior consultant
16	Consultant
Internal Audit Service - 2 Units	
17	Head of the Service
18	Principal internal auditor
Special issues Service - 1 Unit	
19	Senior Consultant
Directorate of General Education - 12 Units	
20	Chief of Directorate
21	Chief deputy director
22	Main consultant
23	Main consultant
24	Main consultant
25	Main consultant

26	Main consultant
27	Main consultant
28	Main consultant
29	Main consultant
30	Main consultant
31	Main consultant
Directorate of technical vocational education - 6 Units	
32	Chief of Directorate
33	Main consultant
34	Main consultant
35	Main consultant
36	Senior consultant
37	Consultant
Directorate of Higher Education Policies - 4 Units	
38	Chief of Directorate
39	Main consultant
40	Main consultant
41	Senior consultant
Directorate of Research and Innovation Policy - 6 Units	
42	Chief of Directorate
43	main consultant
44	main consultant
45	main consultant
46	main consultant
47	main consultant
Directorate of National Qualifications Framework - 4 Units	
48	Chief of Directorate
49	Main consultant
50	Main consultant
51	Senior consultant
Directorate of Arts and Creative Industries - 5 Units	

52	Chief of Directorate
53	Main consultant
54	Main consultant
55	Senior consultant
56	Senior consultant
Directorate of Cultural Heritage - 4 Units (five in total)	
57	Chief of Directorate
58	Main consultant
59	Senior consultant
60	Consultant
Directorate of Youth - 5 Units	
61	Chief of Directorate
62	Main consultant
63	Main consultant
64	Senior consultant
65	Consultant
Directorate of Sports - 5 Units	
66	Chief of Directorate
67	Main consultant
68	Main consultant
69	Senior consultant
70	Consultant
Lifelong Learning Service - 3 Units	
71	Head of the Service
72	Main consultant
73	Main consultant
Directorate of Institutional Management - 1 Unit	
74	Chief of General Directorate
Human resources Section - 4 Units	
75	Department head
76	main consultant
77	senior consultant
78	principal specialist
Financial and Administrative Section - 13 Units	
79	Chief Chief Accountant / Chief Accountant

80	Main consultant
81	Main consultant
82	Main consultant
83	Main consultant
84	Main consultant
85	Main consultant
86	Main consultant
87	Senior consultant
88	Senior consultant
89	Senior consultant
90	Senior consultant
91	Principal specialist
Information Technology and Communications Service - 2 Units	
92	Main consultant
93	Principal specialist
Document Management Section - 4 Units	
94	Department head
95	Higher Inspector Control over Execution of Judgments
96	Higher Inspector Control over Execution of Judgments
97	Inspector of enforcement of judgments
Legal Section - 3 Units	
98	Department head
99	Consultant
100	Consultant
Information and communication service with the media - 3 Units	
101	Head of the Service
102	Main consultant
103	Principal specialist

Source:

<http://mecc.gov.md/ro/content/informatii-de-contact-0>

The Decision also regulates the mission, functions, fields of activity and rights of the Ministry, as well as the organization of the activity.

FIELDS OF ACTIVITY OF THE MINISTRY

The Ministry has the mission to analyse the situation and the problems in its fields of activity, to elaborate effective public policies and perform the functions set out by this Regulation in the following **areas**:

- education;
- national culture and heritage;

- research and innovation;
- youth;
- physical culture and sport.

MINISTRY FUNCTIONS

Among the basic **functions** of the Ministry we find (art. 7, HG n.691/2017):

- elaborating the policy documents, draft normative acts in the fields stipulated in item 6 [...];
- Collaborating, according to the national legislation, with foreign institutions in the fields mentioned in item 6
- implementing the normative acts and of the international treaties of the Republic of Moldova in the areas stipulated under item 6, reporting on their execution
- examining and approving draft normative acts elaborated by other public administration authorities and sent for examination
- elaborating and presenting the budget proposals in the areas stipulated under item 6, elaborating the annual activity plan, the annual monitoring of the degree of implementation;
- organizing planning, execution, accounting and budgeting systems within the Ministry and, where appropriate, within the subordinated budget authorities / institutions;
- coordinating and monitoring the activity of the administrative authorities and of the public institutions in which he is the founder;
- exercising other specific functions.

The tasks indicated above suggest that the Ministry has mainly a policy making role although it is envisaged that it organises planning, execution, accounting and budgeting for the ministry and where appropriate for the subordinated institutions, additionally the ministry is entitled to exercise not better clarified 'specific functions'.

MINISTRY RIGHTS

The Ministry is also entrusted with the following **rights** (art. 8, HG n. 691/2017)):

- request and receive from other public authorities the information necessary for the exercise of its duties;
- create consultative councils, specialized commissions, working groups with the involvement of representatives of other ministries, central administrative authorities and public authorities, local public administration authorities, academics, representatives of civil society, business environment and specialists in the field of project development normative documents, public policy documents, expertise and consultation, as well as other matters related to their fields of activity;
- draft development projects in the fields of competence;
- cooperate with the local public administration authorities in order to implement at the local level the state policy;
- submit proposals to the Government for the establishment, reorganization or dissolution of some subordinate administrative authorities, as well as public institutions in which he is a founder;
- delegate, if necessary, in a discretionary manner, certain functions to the subordinated administrative authorities, as well as to the public institutions in which he is a founder;
- to abrogate acts contrary to the legislation of the administrative authorities, as well as of the public institutions in which he is the founder;

- to bring legal proceedings against civil servants and employees who have caused damage to public property and the state budget;
- require access and obtain, free of charge, statistical, financial, tax, economic, legal and other information through the Interoperability Platform;
- to conclude international treaties under the law;
- exercise control over the efficient use of budgetary and extra-budgetary means for its regular functioning;
- to elaborate and approve methodical instructions on matters within its competence;
- to submit to the Government any steps regarding the need to suspend the action of normative or administrative acts which contravene the legislation;

MINISTER'S RIGHTS

On the other hand, the **Minister** her/himself:

- determines the strategic objectives and directions of the Ministry and establishes the ways of their realization;
- ensures the execution of the laws and the fulfilment of the functions;
- approves the programs and plans of the Ministry, as well as the reports on their accomplishment;
- ensures the coordination, supervision and control of the activity of the public administration in the fields of competence;
- organizes the financial management and internal control system;
- participates, with deliberative voting rights, at Government meetings and vote on issues on the agenda of the sessions;
- submits to the Government for consideration draft normative acts related to the fields of competence;
- issues opinions on the drafts of normative acts elaborated by other public authorities;
- signs opinions on draft normative acts related to the fields of competence elaborated by other public authorities and countersigns the decisions adopted by the Government;
- negotiates and signs international treaties;
- issues orders on her/his own initiative, ensuring the control of their execution;
- establishes the fields of activity of the State Secretary General and State Secretaries;
- approves the regulations of the subdivisions of the Ministry;
- appoints in public positions, modifies, suspends and terminates the service relations of civil servants;
- engages and dismisses the contract staff;
- confers qualifications to civil servants, provides incentives and applies disciplinary sanctions;
- presents to the Government (for examination and approval) proposals for the establishment, reorganization or dissolution of the organizational structures within the competence of the Ministry;
- presents to the Government for consideration proposals regarding the regulation of organization and functioning, the structure and the limited number of administrative authorities subordinated to the Ministry;
- appoints, changes, suspends and terminates the service (labour) relations of the heads and deputies of the organizational structures within the competence of the Ministry;
- represents the Ministry, without a special mandate, in relations with public authorities, representatives of civil society, business environment and natural and legal persons from Moldova and abroad;
- approves or modifies the staffing status and the establishment plan of the Ministry, within the limits of the labour remuneration fund and the limit body set by the Government;

MINISTRY STRUCTURE

Within the Ministry, a **General Secretary of State** and four **Secretaries of State** are appointed as top senior civil servants, appointed according to professionalism according to the legislation.

The **General Secretary of State** ensures the establishment of the functional links between the Ministry's management and the body of civil servants, as well as between the subdivisions of the Ministry. He has the following attributions:

- assists the Minister in determining the Ministry's strategic objectives and directions;
- coordinates the elaboration of the programs and plans of the Ministry so as the reports on their achievement;
- ensures the qualitative elaboration of the programs and plans of the Ministry;
- coordinates the elaboration of the ways to achieve the Ministry's strategic objectives and directions;
- coordinates the activity of the subdivisions in order to achieve the Ministry's strategic objectives and directions;
- coordinates the activity of the organizational structures within the competence of the Ministry and ensure the operative cooperation between the minister and their leaders;
- establishes the functional link between the internal subdivisions of the Ministry and the organizational structures within the competence of the Ministry;
- exercises the powers of the Ministry in the absence of the minister;
- if delegated participates, without the right to vote, in the meetings of the Government;
- if delegated represents the Ministry in the relations with the other public authorities, representatives of the civil society and with the natural and legal persons from the Republic of Moldova and from abroad;
- ensures the monitoring and evaluation of the implementation of the objectives and strategic directions of the Ministry, as well as the reporting on their implementation;
- controls the execution of normative acts that have been initiated by the Ministry;
- proposes the initiation of draft normative acts in the fields of competence;
- ensures the drafting of normative acts and is responsible for their quality in terms of compliance with the legal requirements;
- ensures the approval of draft normative acts elaborated by other public authorities, if they are tangential to the areas of competence;
- ensures the organization of the financial management and internal control system;

The **Secretaries of State** are subordinated directly to the General Secretary of State. The fields of activity for which the Secretaries of State are responsible are established by order of the Minister, at the proposal of the General Secretary of State.

In case of lack or impossibility of the duties of the General Secretary of State and / or the Secretary of State, their powers shall be exercised by one of the state secretaries or, if they are absent or unable to carry out their duties, of to a senior civil servant within the Ministry, appointed in accordance with the Minister's Order on the replacement of the Minister, the Secretary-General of State and State Secretaries.

The Minister, the General Secretary of State, the Secretaries of State, the heads of the subdivisions of the Central Office of the Ministry are responsible for the decisions taken and for the activity of the Ministry.

Moreover, a **College** is also established within the Ministry, consisting of the Minister (as President of the College), the General Secretary of State, the Secretaries of State, the heads of the internal subdivisions of

the Central Office of the Ministry, as well as the leaders of the organizational structures within the competence of the body specialty and other people.

The numerical and nominal composition of the college is approved by the Minister and cannot exceed 15 persons. Representatives of other central public authorities, as well as representatives of the academic environment, business environment and civil society, may be included in the college at the proposal of the minister. As of July 2018, the College of the Ministry has not been established yet.

The former College of the Ministry of Culture, approved by Government Decision n. 325 dated 22 march 2016, included 19 members, among which four having political profile (minister, vice ministers, minister's councillor), five having technical administrative profile and belonging to the structure of the Ministry, three representing the unions of the professionals in the culture sector, six representing cultural institutions and one representing the autonomous region of Gagauzia (ATU – Gagauzia).

In its sessions, the College examines issues concerning the organization of the Ministry's activity in order to promote the policy in its field of activity, solving problems, elaborating short and long-term prognoses, discussing issues related to the activity of the administrative authorities subordinated to the Ministry, examining the draft normative acts and discussing the reports of the heads of the internal subdivisions of the Central Office of the Ministry.

In its activity, the College is governed by its own regulation, approved by order of the minister. At the moment this report is prepared, this regulation has not been drafted yet.

Finally, in the performance of its duties, the Minister is assisted by a **Cabinet**, whose activity is governed by law. Its function is not further specified in the HG n. 691/2017 but only by the Statute of the Staff.

According to the Statute, the Minister's Cabinet is formed by a Chief of the Cabinet, an Advisor and an assistant. They are appointed by the Minister.

The tasks of the Chief of the Cabinet are as follows:

- Carrying out the tasks of informing and advising the minister on issues specific to the field of activity of the institution;
- Ensure the conduct of the Minister's meetings, including through participation in the preparation of materials and coordination of protocol activities;
- Ensuring / participating in the drafting of normative and legislative acts, drafts of reports, required information notes;
- Monitoring the implementation of plans and programs commissioned;
- Ensure the activity of the Ministry's College and coordinate the preparation / elaboration of documents necessary for the conduct of its meetings;
- Ensure conditions for holding meetings with citizens / audiences and monitoring the resolution of the issues addressed.

The tasks of the Advisor are as follows:

- Elaboration / finalization of the reports, information notes requested by the minister;
- Monitoring the process of accomplishing the tasks / provisions and elaborating the required answers according to the Minister's resolutions;
- Participation in the audience of citizens and monitoring the solution of the problems addressed;
- Preparation of the package of documents regarding the activity of the College of the Ministry at the meeting: agenda, coordination / drafting of draft decisions, informative notes, minutes, collaboration with the persons responsible for finalizing the decisions of the College;

- Drawing up the minutes of the meetings convened by the Minister and monitoring the implementation of the decisions taken.

COMMITTEES

The Ministry cooperates with the Parliament in parliamentary committees and plenary meetings, including through the representative of the Government in Parliament, with other central and local public administration authorities, the business community and civil society. Moreover, committees and working groups may be set up within the Ministry and convened for the consideration and resolution of specific issues. Specialists from different fields may be trained in committee work.

INSTITUTIONS IN WHICH THE MECR IS FOUNDER

The Ministry may have administrative authorities under its subordination, be founder of public institutions or state enterprises, manager of the state share package in joint stock companies. The full list must be submitted to the Government within 3 months from the date of entry into force of the present decision and forms part of this normative act.

The officially annexed list of public law organizations in the field of research and innovation where the MECR is the founder includes:

- Scientific Library "Andrei Lupan" (Institute);
- Botanical Garden (Institute);
- Institute of Legal Research and Policy;
- Institute of Chemistry;
- Institute of Ecology and Geography;
- Institute of Power Engineering;
- Institute of Philology;
- Institute of Applied Physics;
- Institute of Physiology and Sanocreatology;
- Institute of Genetics, Physiology and Protection of the Plant;
- Institute of Geology and Seismology;
- Institute of Electronic Engineering and Nanotechnologies "D.Ghițu";
- Institute of History;
- Institute of Mathematics and Computer Science;
- Institute of Microbiology and Biotechnology;
- Institute of Zoology;
- National Institute of Economic Research;
- Institute for Information Society Development;
- *Agency of Inspection and Restoration of Monuments;*
- *National Council of Historical Monuments;*
- *National Archaeological Agency.*

For the purpose of the present report, only the AIRM, the NAA and the NCHM will be analysed among the above – mentioned institutions.

However, other institutions and commissions have been created through ad – hoc legislation or by the Ministry and these include:

- Council of experts to assess, approval and purchase plastic art works
- National Committee for Safeguarding National Intangible Heritage
- Experts Council for Evaluation of Programs, Projects or Cultural Actions
- National Library Council
- *National Council for Monuments in the public space*
- *National Council for Historical Monuments*
- *National Archaeological Committee*
- *National Committee of Museums and Collections*

For the purpose of this report only the last four bodies will be examined.

EMERGING ISSUES

The recent reform of the Ministry of Culture to become the Ministry of Education, Culture and Research has aggregated three sectors that can be complementary to one another and can build fruitful synergies to achieve a more robust comprehensive strategy for the protection, conservation and promotion of cultural heritage. Therefore, from this perspective, this reform could be regarded as a positive step.

However, the merging of three ministries into one has also reduced of one unit the number of personnel dedicated to cultural heritage at the Ministry, bringing it from six to five units. The number of employees for the sector was already dramatically low and this further reduction makes it even more difficult for the cultural heritage sector of the Ministry to implement its functions.

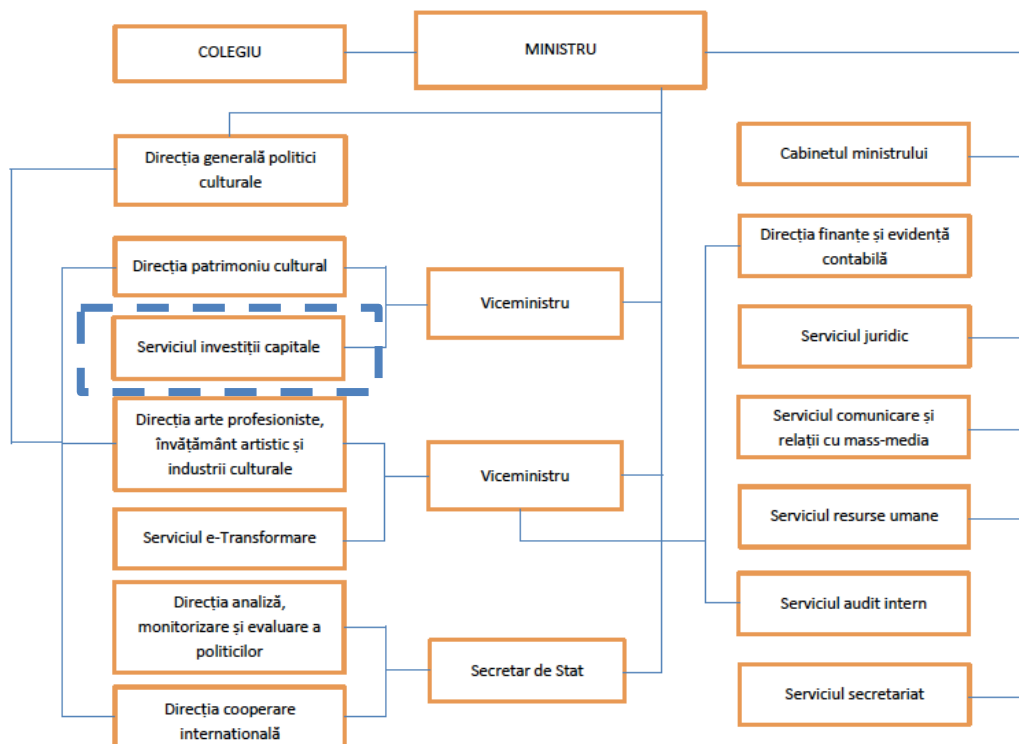
A more general issue concerns the fact that the Governmental Decision establishing the organisation of the Ministry only defines the function of the ministry and of the political level, that is to say, the minister, the general Secretary of State, the sectors' State Secretaries and the College, whilst the functions, tasks duties and rights of the main administrative structure of the ministry, that is to say the different directorates and subdivisions are not regulated in the Governmental Decision n. 691/2017 or in any other regulatory document. Only the functions of the staff units envisaged for the functioning of the directorates are defined in the Statute of the Staff of the Ministry which is approved by order of the Minister's upon advice by the General Secretary of the Government. This means that the existence of the directorates and subdivisions is established by law, their functions are not defined. Only the individual tasks of the staff units assigned to each directorate is regulated internally through orders, which are not made public.

This means that the actual functions of the directorates are not set out and can change according to the modifications of the Statute of the Staff, which can be proposed and approved by the Minister whenever this is considered necessary. This makes uncertain the real tasks to be performed by each body and thereby affecting the administrative stability of the organisation. Additionally, in this way, citizens and other administrations have no knowledge of what should be the functions and duties of each of these directorate, nor do they know what are the specific functions and duties of each staff unit, contrary to the principles of transparency and accountability that Moldova has endorsed through its legislation.

It is suggested to make public the Statute of the Staff of the Ministry, so as to make aware the public of the functions and duties incumbent on the staff and, in the short- term, to amend the Government decision n. 691/2017 introducing the tasks, duties and rights of each directorate and of any other structure of the Ministry, in order to ensure transparency, accountability and stability.

Additionally, the restructuring has modified substantially the articulation of the directorates and of the services. As it can be inferred from the previous organigramme of the Ministry of Culture.

ORGANIGRAMA MINISTERULUI CULTURII
(conform Hotărârii Guvernului nr. 696 din 19.11.2009)



In particular, the service for capital investments, which was dedicated to manage the conservation works carried out directly by the Ministry of Culture on properties in its ownership or availability and which before had an autonomous dignity, being under the direct supervision of one of the two vice-ministers, has now disappeared and its (residual) functions are absorbed by the administrative and financial section under the Directorate of Institutional management.

CULTURAL HERITAGE DIRECTORATE AT MECR

As explained above, the functions of the Directorates of the MECR are not set out in the legislation but can be inferred through the analysis of the Statute of the Staff (Statutul de personal) approved in September 2017.

The staff envisaged for the Directorate of Cultural Heritage includes the Head of the Department, one two Principal Officers (Consultant Principal), one Superior Officer (Consultant superior), one Officer (Consultant), for a total of five persons.

The head of the Directorate is responsible for the following:

- 1. Coordination and participation in the elaboration, promotion and implementation of policy documents, draft legislative and normative acts in the field of protection and valorisation of the national cultural heritage, mechanisms for their implementation;

- 2. Ensure the coordination of the joint activities of the central and local public administration authorities in the field of protection and valorisation of the national cultural heritage, the training of the specialized cadres for the respective domains, the mediatization and promotion of the cultural and historical values at national and international level;
- 3. Organization of the activity of the subdivision and, as the case may be, of the specialized institutions in the field, including the planning, monitoring, reporting and evaluation of the activities in the field;
- 4. Coordination and promotion, according to national and international standards, of the activities of preservation / restoration of the national cultural heritage;
- 5. Coordination and monitoring of the activities of the ministry's methodological and scientific councils and committees in the field of cultural heritage;
- 6. Coordination of the national implementation and monitoring process of the UNESCO and the Council of Europe Conventions as well as international agreements in the field of cultural heritage protection.

The principal officer n.1 is entrusted the following tasks:

- 1. Elaboration and examination of policy documents, draft legislative and normative acts in the field of protection and exploitation of historical monuments;
- 2. Monitoring the observance of the legislation in the field of the protection of the built cultural heritage, the activity of the councils and the specialized institutions;
- 3. *Elaboration of specialized documents and information on the state of the built cultural heritage, granting specialized assistance to public authorities, individuals and legal entities;*
- 4. *Elaboration of design themes and specifications for the restoration of historical monuments, monitoring of the restoration of historical monuments on a national level;*
- 5. Coordinating the activities of promoting and capitalizing on the national and international cultural heritage;
- 6. Monitoring the national implementation process of the UNESCO and the Council of Europe Conventions as well as the international agreements on the protection of the cultural heritage, to which the Republic of Moldova is a party, and the elaboration of the corresponding national reports.

The principal officer n.2 is entrusted the following tasks:

- 1. Elaboration of policy documents, draft legislative and normative acts in the field of setting up, protection and valorisation of monuments in the public space;
- 2. Monitoring compliance with legislation in the field of setting up, protecting and capitalizing on monuments in the public space, the activity of the councils and the relevant institutions;
- 3. Managing (updating) the database on the activity of specialized institutions in the field, as well as elaborating analytical reports, synthesis, informative notes on the status of public monuments, granting specialized assistance to public authorities, individuals and legal entities;
- 4. Elaboration of the design themes and the specifications for the restoration of monuments in the public space, the monitoring of the activities for building and capitalizing the public monuments at the national level;
- 5. Monitor the process of national implementation of international agreements in the field of protection of monuments in the public space, elaboration of appropriate reports.

The superior officer is given the following tasks:

- 1. Elaboration of policy documents, draft laws and normative acts, in the field of *museography, protection and valorization of the mobile and immaterial cultural heritage;*
- 2. Expertise of the draft legislative and normative acts related to the national cultural heritage elaborated within the ministry and other authorities;
- 3. Monitor the observance of the legislation in the field of protection and valorization of the mobile and immaterial national cultural heritage, the activities of the councils and the specialized institutions;

- 4. Managing (supplementing / updating) the database on the activity of specialized institutions in the field, as well as elaborating on them the analytical reports, synthesis reports, informative notes on the status of the mobile and immaterial cultural patrimony, the national and local museum institutions, the granting of the assistance specialized in public authorities, natural and legal persons;
- 5. Coordination of activities promoting and capitalizing on the national and international material and non-material patrimony;
- 6. Monitoring the implementation of the UNESCO and the Council of Europe Conventions, as well as international agreements in the field of the protection of the mobile and immaterial cultural heritage, and the elaboration of the corresponding national reports.

The officer is entrusted the following tasks:

- 1. Elaboration and examination of policy documents, draft legislative and normative acts in the field of protection and valorisation of archaeological heritage and cultural landscapes;
- 2. Monitoring the observance of the legislation in the field of archaeological heritage protection, cultural landscapes, the activity of councils and archaeological institutions;
- 3. *Elaboration of specialized documents and information regarding the state of archaeological heritage, cultural landscapes*, the granting of specialized assistance to public authorities, natural and legal persons;
- 4. Coordination of the activities of promoting and capitalizing on the national and international archaeological heritage;
- 5. Monitoring the national implementation process of the UNESCO and the Council of Europe Conventions as well as international agreements on the protection of archaeological heritage, cultural landscapes to which the Republic of Moldova is a party and the elaboration of the corresponding national reports.

Below the objectives for 2017 of the Staff of the Directorate are presented (source: MECR)

APROB					
Monica BABUC Ministrul Culturii					
PLANUL de activitate al Direcției Patrimoniului Cultural pentru anul 2017					
Nr.	Obiective/acțiuni	Subiecți	Termen de realizare	Indicatori	Responsabil
Obiectiv nr.1: Asigurarea cadrului legislativ, normativ și de politici pentru dezvoltarea culturii					
1.1	Elaborarea și promovarea spre aprobare a cadrului legislativ național privind domeniul patrimoniului cultural	1.1.1	Promovarea proiectului de Lege privind monumentele și operele consemnate de război.	Tr. I	S.Ciocanu
		1.1.5	Promovarea proiectului de Lege privind completarea legilor privind autoritatea publică locală și privind descentralizarea administrativă (componenta patrimoniului cultural)	Tr. II	S.Ciocanu
		1.1.6	Definiția și promovarea proiectului de Lege privind completarea și modificarea legislației naționale de for public.	Tr. II	S.Ciocanu
		1.1.2	Definiția și promovarea proiectului de Lege privind protejerea monumentelor istorice.	Tr. IV	S.Ciocanu
1.2	Elaborarea și promovarea spre aprobare a cadrului normativ național privind domeniul patrimoniului cultural	1.2.1	Elaborarea Metodologiei de conservare a monumentelor de război și a fostelor câmpuri de luptă.	Tr. IV	M.Hutan
		1.2.2	Elaborarea indicațiilor metodice privind procedura de înființare a monumentelor de for public și a principiilor de intervenție asupra monumentelor istorice.	Tr. II	R. Gărcița
		1.2.3	Elaborarea Regulamentului privind principiile de intervenție asupra monumentelor istorice.	Tr. IV	C. Andreșcu
		1.2.4	Elaborarea proiectului de hotărâre ale Guvernului privind edificarea unor monumente de for public.	Precursul anului	R. Gărcița
1.3	Crearea și perfecționarea sistemului	1.3.1	Modificarea și completarea Regulamentului de organizare și funcționare a	Tr. IV	S. Ciocanu
			instituțiilor de protecție, evidență, documentare a patrimoniului cultural		
1.4	Elaborarea perfecționarea instrumentelor sistemului de evidență a patrimoniului cultural național	1.4.1	Finalizarea și promovarea proiectului Regulamentului privind importul și exportul bunurilor culturale mobile	Tr. IV	Spec. muzeu
		1.4.2	Elaborarea Regulamentului privind Registrul Muzeelor.	Tr. III	Spec. muzeu
		1.4.3	Elaborarea Regulamentului privind Registrul de patrimoniul cultural mobil și imaterial și a monumentelor de for public	Tr. III	Spec. muzeu
		1.4.4	Elaborarea Regulamentului de organizare și funcționare a Centrului Național de Cercetare și Promovare a Patrimoniului Cultural Imaterial (Ungh. Legea nr. 58 din 29.03.2017)	Tr. II	Spec. imaterial
Obiectiv nr.2: Subzgardarea și integrarea patrimoniului cultural în politici publice naționale și locale					
2.1	Formarea și dezvoltarea sistemului de documentare, protejere și digitare a patrimoniului cultural național	2.1.1	Elaborarea actualizării Registrului patrimoniului cultural național: - Registrul Arheologic Național (istoric arheologic) - Registrul Național al Monumentelor de for public - Registrul muzeu. IMI acordat de noi instituții componente (Municipal Chișinău)	Tr. IV	M.Hutan
		2.1.2	Investetarea și documentarea patrimoniului cultural național	Precursul anului	M.Hutan
2.2	Asigurarea expertizei de specialitate în domeniul protejării patrimoniului cultural național	2.2.1	Comisia Națională Arheologică; Comisia Națională pentru subzgardarea patrimoniului cultural național imaterial; Comisia Națională a Muzeelor și Colecțiilor	Precursul anului	M.Hutan
		2.2.2	Comisia Națională al Monumentelor Istoric; Comisia Națională pentru Monumente de for Public; Comisia pentru estimare, omologare și înființarea operelor de artă plastică	Precursul anului	M.Hutan
2.3	Monitorizarea calității activității instituțiilor din domeniul patrimoniului cultural național	2.3.1	Monitorizarea activității instituțiilor muzeale subordonate (MNAP, MNIM, MNIN, MNL, "M.Kogălniceanu", CM, "A.S. Popkin", RCN "Vladimir Veleț")	Precursul anului	Spec. muzeu
		2.3.2	Activitatea instituțiilor subordonate de protejere a patrimoniului cultural mobil și imaterial coordonată (ANA, AIRM, CNCPIC)	Precursul anului	M.Hutan
2.5	Promovarea patrimoniului cultural național pe plan european și internațional	2.5.1	Promovarea Patrimoniului Arheologic Orbelul Feclei pe Lista UNESCO a Patrimoniului Mondial	Precursul anului	M.Hutan
		2.5.2	Promovarea în Lista Reprezentativă a patrimoniului mondial UNESCO a schimbării "Practici culturale asociate Zilei de / Marie" (gricet România - Republica Moldova)	Tr. IV	Spec. imaterial
		2.5.3	Elaborarea documentației Căminuș cu alipă pentru Lista Reprezentativă a patrimoniului mondial UNESCO (gricet România - Republica Moldova)	Tr. IV	Spec. imaterial
		2.5.4	Implementarea acordurilor inter-municipale interdepartamentale încheiate cu MC pe segmentele unde EPC a fost stabilită (nu este responsabilitate)	Precursul anului	Spec. imaterial

Obiectiv nr.4: Promovarea educației artistice, creativității și valorilor naționale

4.1	Susținerea, promovarea și dezvoltarea artelor plastice contemporane	4.1.1	Salonul de primăvară: expoziție de artă contemporană, Saloarea Moldovei, Autonomă 2017: expoziție de artă contemporană, Biennale Internațională de Patrimoniul RPP 2017 (Muzeei Naționali de Artă a Moldovei)	ianuarie	4 expoziții organizate (IAF, C.E. Brăneanu)	Spec. muzeu
4.2	Promovarea culturii și asigurarea accesului cetățenilor la valorile culturale	4.2.1	Acțiunea opera de artă plastică pentru completarea colecțiilor de artă	18 Aprilie	5 opere achiziționate	Spec. muzeu
		4.2.2	Elaborarea proiectului de artă plastică și realizarea acțiunilor dedicate Zilei Internaționale a Monumentelor și a Zilei Muzeelor 2017	17-18 Mai	programe de acțiune elaborate și coordonate	C. Andreșcu Spec. muzeu M.Hănan
		4.2.3	Elaborarea proiectului de artă plastică și realizarea acțiunilor dedicate Zilei Europei ale Patrimoniului	19-25 Septembrie	programe de acțiune elaborate și coordonate	Spec. muzeu
		4.2.4	Organizarea ediției III a "Targului Național al Covoarelor, Covoarelor Dacice"	Decembrie	programe de acțiune elaborate și coordonate	Spec. muzeu Spec. imaterial M.Hănan
4.3	Creșterea colecțiilor de patrimoniul cultural și prin sistemul de achiziții		Acțiunile humanitäre mobile pentru completarea colecțiilor de stat ale muzeelor naționale	Precursul anului	10 bunuri culturale achiziționate	Spec. muzeu
Obiectiv nr. 5: Asigurarea unui sistem eficient de management și de finanțare a culturii naționale						
5.1	Asigurarea populației cu servicii de calitate în domeniul patrimoniului cultural	5.1.1	Actualizarea computerizării "Patrimoniul cultural" al Web-pag	Precursul anului	Web-pag actualizat	Tej. colaboratori
		5.1.2	Elaborarea certificatelor de expert pt bunuri culturale mobile	Permanent	10 certificate elaborate	Spec. muzeu
5.2	Evaluarea, analiza și propunerea privind realizarea și dezvoltarea politicilor de patrimoniul cultural național	5.2.1	Recepționarea și evaluarea rapoartelor anuale ale colaboratorilor Direcției pentru anul 2016	4 ianuarie	4 rapoarte recepționate și aprobate	Tej. colaboratori
		5.2.2	Elaborarea și aprobarea raportului anual al Direcției Patrimoniul cultural pentru anul 2016	16 ianuarie	1 raport elaborat și aprobat	S.Ciocanu
		5.2.3	Recepționarea datelor de scut și rapoartelor instituțiilor din subordine pentru anul 2016	6 februarie	7 rapoarte recepționate și aprobate	C. Andreșcu Spec. muzeu M.Hănan
		5.2.4	Recepționarea și evaluarea Rapoartelor de scut și rapoartelor instituțiilor din subordine pentru anul 2016	28 februarie	10 rapoarte recepționate	Spec. muzeu
		5.2.5	Elaborarea și aprobarea planurilor anuale ale colaboratorilor Direcției pentru anul 2017	10 decembrie	9 planuri elaborate	Tej. colaboratori
		5.2.6	Elaborarea și aprobarea planului anual al Direcției Patrimoniul cultural pentru anul 2017	15 decembrie	1 plan elaborat și aprobat	S.Ciocanu
		5.2.7	Coordonarea planurilor de activitate a muzeelor din subordine pentru anul 2017, precum și a Acțiunilor și Controlul subordonate pt anul 2017	20 decembrie	9 planuri înaintate spre aprobare	Spec. imaterial Spec. muzeu

Sef Direcție Patrimoniul cultural

Sergiu CIOCANU

And the performance objectives for one staff member:

Anexa nr.1
la Regulamentul cu privire la evaluarea
performanțelor profesionale ale
funcționarului public

APROBAT:
(conducătorul autorității)

(nume, prenume)

(semnătură)

OBIECTIVE INDIVIDUALE DE ACTIVITATE ȘI INDICATORII DE PERFORMANȚĂ
ai funcționarului public

(nume, prenume)		consultant (funcția deținută)	Direcția patrimoniu cultural (subdiviziunea)	în anul 2017
Nr. crt.	Obiective individuale de activitate		Indicatori de performanță	
1.	Elaborarea Indicațiilor metodice privind procedura de înființare a monumentelor de for public și a Indicațiilor metodice privind principiile de intervenție la monumentele de for public.		2 proiecte de Indicații metodice aprobate	
2.	Elaborarea proiectelor de hotărâri ale Guvernului privind edificarea unor monumente de for public		5 proiecte HG elaborate	
3.	Elaborarea Registrului Național al Monumentelor de for public		1 Registru elaborat	
4.	Coordonarea activității Consiliului Național al Monumentelor Istorice și a Consiliului Național pentru Monumente de For Public.		15 ședințe organizate (CNMI) și 5 ședințe organizate (CNMFP)	
5.	Definitivarea și promovarea proiectului de Lege privind completarea și modificarea Legii monumentelor de for public nr. 192 din 30.09.2011.		1 proiect de lege aprobat	

Conducătorul direct _____ Ciocanu Sergius _____
(nume, prenume) (semnătură) (data)

Funcționarul public _____ Garconita Rita _____
(nume, prenume) (semnătură) (data)

Subdiviziunea resurse umane _____
(nume, prenume) (semnătură) (data)

The updating of the Register of the Historic Monuments and of the Monuments of For Public is approved by the Parliament, on the basis of the preparatory documentation elaborated by the Ministry. Although not explicitly stated anywhere, this activity is likely to fall under the responsibility of the Directorate of Cultural Heritage. In 2017 – 2018, the Directorate has coordinated the creation and updating of the Register of the Monuments of For Public, on the basis of the documentation standards issued with Order n. 380/2016.

One can note that, although it is established in the relevant regulations that the Secretarial duties for the NCHM and the Monuments in the public space (for public) are borne by one officer of the Ministry from the relevant department, that is to say, the Directorate of Cultural Heritage, the Statute of the Staff does not record them among the tasks of any of the officers. Therefore, it is not recorded anywhere that the burdensome obligations deriving from the activity of these two national councils are to be carried out by one of the Officers at the Directorate, which seems therefore to be considered an additional task. However, acting as Secretary of the National Councils represents a considerably demanding daily tasks and, currently one of the most relevant function performed by the Directorate, which is currently implemented by one single Officer with no assistance, thus absorbing much of her/his working time.

From interviews with the staff of the Directorate, it emerged that the major impact of the recent reform is that the Ministry now has more tasks, a heavier workload, but less staff to manage them. Additionally, there is a lack of specialized staff, the call for a post to be covered at the Directorate of Cultural Heritage went deserted and it was only recently that the position could be covered by hiring one person, who, however, has not a background in the cultural heritage field.

On the other hand, an increased level of collaboration between the three main branches of the MECR - education, culture and research – can be expected as the staff previously working in previously separate ministries now work under the same ministry. An example of this kind of initiatives will be the inclusion of the subject of museums within scholarly curricula - excursions and lectures for pupils in museums or the joint development of raising – awareness campaigns by the two directorates for cultural heritage and creative industries.

It is therefore to be expected that further joint initiatives, which could not be implemented before due to the separation of the ministries, now will have the chance to be put into practice. Trans-sectorial aspects are dealt with by the Directorate for Analysis, Monitoring and Evaluation, which operates under the General Secretary of State, and by the Directorate for Institutional management.

EMERGING ISSUES

From the Statute of the Staff, it emerges that the tasks of the staff of the Directorate for Cultural Heritage is varied, ranging from policy-making, reporting and monitoring the activities of subordinated institutions, to more concrete and complex activities such as elaborating reports on the state of the built cultural heritage, granting specialized assistance to public authorities, individuals and legal entities, as well as elaborating design themes and specifications for the restoration of historical monuments, monitoring of the restoration of historical monuments and of the monuments in public space on a national level, or elaborating specialized documents and information regarding the state of archaeological heritage, cultural landscapes. These are all tasks that would need a specialized section in the department and could not be effectively carried out by one single Officer. It is therefore improbable that the current staff units employed at MECR, in the Directorate of Cultural Heritage can realistically carry out certain functions which they have been tasked with. The lack of staff at the Directorate for Cultural heritage, jointly with the suppression of the Service for capital investments, let envisage that the Ministry will no longer manage directly conservation works of State owned or publicly owned monuments, losing one of the key functions of a Ministry of Culture, in the absence of other fully functioning subordinated institutions, and the opportunity to demonstrate through actual interventions, good practice in cultural heritage restoration/conservation.

The urgent tasks to be performed by the Ministry of Culture in the finalization of the reform process of the cultural heritage sector, including the updating of the Register of the Historic Monuments, the adoption of documentation standards for the historic monuments, the implementation of the reform in the Museum sector, require a substantial increase of the staff of the Directorate for Cultural heritage in order to ensure the finalization of the necessary reforms.

The recommendations stemming from the analysis carried out by the Twinning Project under Component 2 will also require to be supported in their implementation by prepared and motivated personnel in sufficient number, at least temporarily.

NATIONAL COUNCIL OF HISTORICAL MONUMENTS (NCHM)

The structure and regulation of the is set by the **Governmental Decision n. 73** of 31.01.2014” on the organization and functioning of the National Council of Historical Monuments”.

The Decision regulates its mission, its basic duties, functions and rights as well as the organization of its activity. According to the Decision, the National Council of Historical Monuments:

- is a specialized body representing the scientific-methodological authority in the field of state protection of historical monuments and operates under the Ministry of Culture;
- the independence and scientific and technical opinion of its member is to be guaranteed, in adopting decisions which fall within the competence of the Council.

COMPOSITION

The Council consists of 14 members - persons with scientific, theoretical and methodological expertise in the field of historical monuments’ protection:

- representative of the **Agency for Inspection and Restoration of Monuments**;
- representative of the **National Archaeological Agency**;
- representatives of the **Ministry of Regional Development and Constructions**;
- representatives of the **ICOMOS Moldovan Committee**;
- representatives of other **non-governmental organizations** specializing in the protection of monuments and statutory concerns in the field for at least three years;
- civil servants within the specialized subdivision of the **Ministry of Culture**, appointed by order of the Minister of Culture for a term of three years whose mandate may be renewed consecutively.

The number of Council members within the specialized subdivision of the Ministry of Culture cannot exceed four persons. The number of members of the Council from non-governmental organizations cannot exceed four people. Representatives of non-governmental organizations other than the ICOMOS Moldovan Committee are selected on the basis of the proposals submitted in this respect to the ministry and displayed on the ministry's website if it meets the criteria of scientific, theoretical and methodological expertise in the field of historical monuments’ protection.

The nominal composition of the Council (including the President, the Vice-President and the Secretary of the Council) is approved by order of the Minister of Culture at the proposal of the specialized subdivision of the Ministry of Culture.

The position of **President of the Council** is occupied by persons who do not hold the title of civil servant within the Ministry of Culture. The President represents the Council at national and international level.

The **Vice-President of the Council** is appointed from among the members of the Council representatives of the specialized subdivision of the Ministry of Culture.

The **Council Secretariat** is assured by a public official within the specialized subdivision of the Ministry of Culture, member of the Council.

For the smooth running of the activities of the Council, besides the members referred above, **Other Personalities**, specialists or experts in the field of monuments’ protection (upon proposal of the specialized subdivision of the Ministry of Culture) may be invited at its meetings, without the right to participate in the voting process.

The Council may choose, as its **Honorary Members**, personalities who are internationally recognized specialists in the field of the protection of historical monuments or have scientific and practical experience/expertise at international level in this field. Honorary members are proposed by the specialized subdivision of the Ministry of Culture, their appointing being validated by a simple majority vote of the Council and appointed by order of the Minister of Culture. Honorary members may participate in the work of the Council, including with the right to vote.

The composition of the National Council of Historic Monuments published on the website of the MECR is as follows:

POSTICĂ Gheorghe - professor, PhD in History, Deputy Minister of Culture, president

CIOCANU Sergius - Architect, Doctor of Architecture, Vice-President

GARCONIȚA Rita - architect, consultant Cultural Heritage Directorate, Ministry of Culture, secretary

ȘTEFĂNIȚĂ Ion - General Director, Agency for Inspection and Restoration of Monuments

VERSTIUC Valeriu - Engineer, Head of Service for Expertise and Verification of Construction Projects, Ministry of Regional Development and Construction

ȚURCAN Alexei - Architect, Chief of Construction Section in Protected Areas, General Directorate of Architecture, Urban Planning and Land Relations Chisinau municipality

BOȘNEAGA Alexei - Architect, Deputy Chief, Construction, Building Materials and Modern Technologies, Ministry of Regional Development and Construction

BRIHUNEȚ Manole - Head of the Department of Construction, Restoration, Church Painting, Metropolitan Church of Chisinau and All Moldova

URSU Mihail - historian, principal specialist, National Museum of Ethnography and Natural History

VORNIC Vladimir - PhD in History, General Director, National Archaeological Agency

GANGAL Boris - architect, director of the "Sit" Center, Chisinau

NESTEROV Tamara - Architect, PhD in Arts Studies, Scientific Coordinator in Architecture, Institute of Cultural Heritage

CARPOV Ivan - architect

It includes therefore also representatives from the Institute of Cultural Heritage, from the national Museum of Ethnography and natural history, from the Municipality of Chisinau, and from the Metropolitan Church of Moldova. The members explicitly related to the cultural heritage sector are seven out of twelve.

Three members of this council sit also in the NCMPs.

Membership of the Council shall cease in the following circumstances:

- violation of legal provisions in the field of cultural heritage protection and of this Regulation;
- unjustified absence at 4 consecutive meetings or 8 absences per year;
- the impossibility to exercise his duties for a period of at least 4 months;
- termination of the mandate.

The Secretary of the Council is responsible for reporting on these situations, while the revocation of the members is done by order of the Minister of Culture.

If one of the members of the Council loses his/her capacity, a new member is appointed, by order of the Minister of Culture. The appointment of a new member of the Council is made at the proposal of the specialized subdivision of the Ministry of Culture.

The new membership of the Council, designated by the Minister of Culture's mandate upon expiration of the mandate, will have no more than 4 new members.

The remuneration of the members of the Board is made on a unit of time, based on the normative acts in force, according to the actual time used, recorded in the minutes of the meetings.

COUNCIL FUNCTIONS

The Council has the following duties:

- examines the draft national strategy for the protection of historical monuments and proposes its approval;
- proposes the approval of the methodologies, norms and regulations in the field of the protection of historical monuments;
- approves the section "Monuments and Built Protected Areas" of the draft National, Regional and Territorial Development Plans;
- approves the sections of the general, zonal and detailed urban plans, which deal with historical monuments of national category or built areas with status of national category monument;
- approves the proposals for the classification, in the National Register of Historical Monuments, of buildings, assemblies of buildings and built areas;
- approves the scientific / historical background documentation for the delimitation of protected areas of historical monuments or built protected areas with status of national category monument or proposed for classification in the national category;
- approves the documentation with proposals for interventions (preservation, consolidation, restoration, rehabilitation, systematization / landscaping, etc.) on the immovable properties with a status of a protected national category monument (construction and related land) and their protection areas;
- approves the documentation with proposals for interventions on the existing buildings located in built areas with status of protected national category monument or in their protection areas;
- approves the documentation with new construction proposals within the limits of the built areas with status of protected national category monument, or in their protection areas;
- proposes historical monuments to be included in the UNESCO World Heritage List, as well as on the UNESCO List of World Heritage in Danger;
- approves training programs for specialists, as well as framework plans for education, training and specialization in the field of protection of historical monuments.

The Council shall examine and endorse the documents and documentation referred to the above points, in accordance with the provisions of the legislation in force in the field of the protection of cultural heritage and the provisions of relevant Council of Europe and UNESCO / ICOMOS documents, aiming at preserving and / or strengthening the authenticity and integrity of the property/ built areas with status of protected monument.

However, the major function of the National Council of Historic Monuments is to provide advice on the project proposals for listed properties as individual monuments or protected areas. For this purpose, it meets every 15 days.

PRESIDENT FUNCTIONS

The President of the Council has the following main tasks:

- chair the meetings of the Council;
- verifies, at the opening of the meetings, their validity, so that decisions can be made by meeting the appropriate quorum;
- brings to the attention of the interested public the decisions of the Council.

In the absence of the President, his duties are exercised by the Vice-President, who is elected by the Council members

SECRETARY FUNCTIONS

The duties of the Council Secretary are as follows:

- receives, records and keeps / archives the documentation submitted for approval, according to the execution phases;
- verifies the content of the submitted documentation for approval, asks for possible completions of the documentation and puts the documentation in the approval circuit;
- draws up the agenda of the Council and places it together with the information on the date of the meeting on the website of the Ministry;
- convenes, on the basis of the prior agreement with the president or, in his absence, with the vice-president, the members of the Council;
- prepares the minutes of the Council sessions within maximum 2 weeks, fill in the respective fact sheets and place the decisions regarding the examined subjects on the Ministry's website;
- analyzes the submitted appeals and proposes them to the Council for consideration;
- prepares at the beginning of each year the annual activity report of the Council for the previous year and places it on the Ministry's website.

FUNCTIONING OF THE COUNCIL

The Council carries out its work in plenary on the basis of an **agenda** made known to its members by the Secretary of the Council at least one day before the meeting. The Council is usually convened no more than once every two weeks, in the case of submitting for approval of at least one set of documentation.

Meetings are legal if a quorum of half plus one of the total number of Council members is met. If the **quorum** is not met, sessions are to be rescheduled. The Secretary finds and mentions in the minutes the quorum. In the absence of a quorum, the session shall be suspended and the items on the agenda shall be rescheduled for another session. Decisions shall be taken by a vote of at least half plus one of the total number of members present.

For the cases where the authors, co-authors or collaborators in the elaboration of the documents subject to the approval are members of the Council, at any of the stages of the endorsement, the vote is secret, based on a ballot, the result of the vote being recorded by the president and the secretary in the minutes of the hearing. The authors, co-authors or collaborators in the elaboration of the documentation, who are members of the Council, do not participate in the deliberations and the voting process, after supporting their own views, and they leave the meeting.

The debates during the Council's meetings shall be recorded in the **minutes** signed on each page by the secretary and by the chairperson of the meeting, which shall be approved by the signature of the deputy minister of culture responsible for cultural heritage and shall be stamped in original on each page, by the specialized subdivision of the Ministry of Culture. Minutes may only be made available to members of the Council, the management of the Ministry of Culture and officials of its specialized subdivision, as well as the bodies and institutions empowered by law.

The **opinion** of the Council, taken by decision via voting, shall be recorded, for each subject in part, in the minutes of the meeting and in the endorsement fiche. The endorsement fiche is signed by the secretary and the chair of the meeting. In the case of a negative opinion, this should include explanations of the

deficiencies of the proposed solutions and, where appropriate, propose the conditions and / or the recommendations, respectively. The Opinion is adopted by the Council and the Ministry of Culture shall approve it and issue it to the applicant.

In the case that the **applicant contests/appeals** the opinion, the Secretary may propose that the Council discuss the appellant, if it finds its inadequacy, may recommend to the Council to deliver the opinion in the form initially proposed. The petitioner may contest/appeal the opinion only once. After the Council has repeatedly expressed its opinion, the Ministry of Culture issued its final opinion.

Requests for opinions, as well as appeals, are filed with the Ministry of Culture.

Adopted opinions, which contain **recommendations** that are only applicable through modifications / completions to the documentation subject to the notification, shall be communicated by the specialized subdivision of the Ministry of Culture to the beneficiary, in order to introduce the requested elements. The Ministry of Culture may issue the opinion only after the operation/execution of all requested modifications / completions.

PHASES OF APPROVAL AND PROJECT PHASES³

Project documentation shall be examined and endorsed/approved by the Council in two phases:

- Phase 1. Project outline (prior to obtaining the Urbanism Certificate)
- Phase 2. Technical / execution project (prior to obtaining the Construction Authorization and initiation of the procedure for checking the conformity of the project with the norms in construction).

The documentation requested for Phase 1 includes:

- The historical note of the object, if appropriate (projects on existing objects)
- The plan of the object's in the territory of the object
- General plan of the object with indication of adjacent buildings
- Survey of immovable under legal protection (including decorative elements, exterior and interior carpentry, constructive elements, domestic fixed furniture, etc.)
- Full photographic documentation
- Draft conservation /restoration project, rehabilitation/ adaptation, consolidation or new construction;
- The chromatic solution of the façades on the public and private spaces

The project shall be prepared by an architect with practical experience in designing conservation/ restoration works at monuments, authorised/ certified in the field of architectural heritage.

At the stage of project of execution, the relevant project documentation (General Plan compartment, Architecture compartment, Resistance compartment, etc.) will be submitted for review by the Council. The documentation must correspond to the parameters adopted in the draft project outline phase. Also,

³ See full approval procedure and forms at: <https://mecc.gov.md/ro/content/avizarea-documentatiilor-de-proiect-privind-interventiile-la-imobilele-cu-statut-de-monument>

the copy of the Approval Fiche of the draft project outline and the copy of the urbanism certificate shall be presented.

The documentation must be submitted by the beneficiary for approval in electronic format file format (pdf) and in two identical originals on paper (A4 format or A3 foldable format), one of which, after examination and endorsement, is submitted to the archives of the Ministry of Culture.

The Approval Fiche (as per the annex) issued by the Ministry of Culture is considered valid only when it is accompanied by the appropriate documentation. The approval of the documentation is done by the signature of the responsible person in the specialized subdivision of the Ministry of Culture empowered with this right (indicating the number of the respective Council meeting as well as the day, the month and the year in which the meeting took place). The signature is confirmed by the stamp.

The opinion is valid for three years from the date of its issue by the Ministry of Education, Culture and Research.

The authors/designers of the documentation shall participate at the meetings of the Council, in order to support the projects subject to the approval. In case of necessity, the beneficiaries of the design works may also be invited to the Council meetings. In such cases, designers and beneficiaries do not participate in the deliberations and the voting process: after presenting the documentation and supporting their own views, and they will leave the meeting.

The documents of the approval sessions are, in the order of archiving, the following:

- the minutes of the meeting with the agenda and the attendance list;
- a copy of the document submitted for approval, accompanied by a copy of the approval fiche.

While the archiving of the original documents is done at the Ministry of Culture.

In summary the steps necessary to conduct the works on a protected monument or in a protected area (e.g. the historic Centre of Chisinau), First, a feasibility study is produced, then a town planning certificate, then an executive project and then again submitted by NCHM. The necessary steps for restoration works on a monument are the following:

- The owner of the monument chooses an A4 architect;
- The A4 architect elaborates the preliminary project;
- The preliminary project is presented to NCHM for approval;
- NCHM issues its legal opinion (aviz)" and delivers it to the owner or its representative;
- The preliminary project approved and the corresponding legal opinion is presented to the Municipality to request the Certificate of Urbanism;
- Following its procedure, the municipality issues the Certificate of Urbanism;
- Once collected all the documentation, the owner of the monument asks to a A4 architect to prepare the execution project;
- The execution project is presented to the NCHM for its legal opinion;
- The municipality issues the Authorization for Construction which is sent only to the owner.

The legal opinion of the NCHM is issued in the form below (year 2017):

<p>Subiectul 14 Schiță de proiect</p> <p>Examinări anterioare: –</p> <p>Obiectiv: Bloc locativ cu spații de menire cultural-socială la parter (D+P+7E+PH) din str. Bălți, nr. 2/1, mun. Chișinău.</p> <p>Utilizare actuală:</p> <p>Regim de protecție: - parte componentă a <i>Nucleului Istoric al Chișinăului</i> (nr. 308 în Registrul monumentelor Republicii Moldova ocrotite de stat).</p> <p>Beneficiar: I.C.S. „ITALCASA TA” S.R.L.</p> <p>Proiectant: “VIGRO PROIECT” S.R.L., asp Grozavu Victor</p> <p>Proiectul propune: construirea unui bloc locativ cu spații de menire cultural-socială la parter. Regim de înălțime proiectat - D+P+7E+PH.</p> <p>Decizia CNMI: În urma examinării schiței de proiect prezentate, Consiliul a aprobat următoarea decizie: <i>Se returnează Schița de proiect. Se va elabora o altă schiță de proiect conform următoarelor obiecții:</i></p> <ul style="list-style-type: none"> - clădirea proiectată se va amplasa pe aliniamentul istoric stradal; - se acceptă proiectarea volumului clădirii cu un regim de înălțime de maxim 5 niveluri supraterrane (P+3E+M); - se va exclude ieșirea în consolă a volumului clădirii; - se vor exclude ferestrele de la fațadele laterale.
<p>Subiectul 18 – Proiect de execuție</p> <p>Examinări anterioare: SP05/04-01.04.2016 (aprobat); SP04/06-17.03.2016 (neaprobat); SP20/06-20.11.2014</p> <p>Certificat de urbanism pentru proiectare nr. 532/17 din 23.08.2017</p> <p>Obiectiv: Restaurarea clădirii cu nr. cadastral 010052017401 (monument de arhitectură), cu reconstruirea anexei lit. „A1”, din str. A. Lăpușneanu, nr. 3, mun. Chișinău.</p> <p>Utilizare actuală:</p> <p>Regim de protecție: - parte componentă a <i>Nucleului Istoric al Chișinăului</i> (nr. 308 în Registrul monumentelor Republicii Moldova ocrotite de stat); - statut de monument (nr. 262 în Registrul monumentelor istorice de categorie locală din mun. Chișinău).</p> <p>Beneficiar: Derbențev Alexandr</p> <p>Proiectant: „ARHINTERIOR” S.R.L., asp Sava Victor</p> <p>Proiectul propune: Restaurarea clădirii cu nr. cadastral 010052017401 (monument de arhitectură), cu reconstruirea anexei lit. „A1”</p> <p>Decizia CNMI: În urma examinării proiectului de execuție prezentat, Consiliul a aprobat următoarea decizie: <i>Se aprobă proiectul de execuție.</i></p>
<p>Subiectul 3 – Proiect de execuție</p> <p>Examinări anterioare: SP17/10-16.11.2017 (neaprobat); PD08/21-19.05.2017 (aprobat); SP01/17-19.01.2017 (aprobat); SP19/15-01.12.2016 (neaprobat); SP18/13-10.11.2016 (neaprobat)</p> <p>Certificat de urbanism pentru proiectare nr.268/17 din 11.04.2017</p> <p>Obiectiv: Construirea unui bloc de locuințe cu spații comerciale și parcare auto subterană, în limitele terenului cu nr. cadastral 0100419028, din str. A. Pușkin, nr. 49, mun. Chișinău.</p> <p>Utilizare actuală: teren</p> <p>Regim de protecție: - parte componentă a <i>Nucleului Istoric al Chișinăului</i> (nr. 308 în Registrul monumentelor Republicii Moldova ocrotite de stat).</p> <p>Beneficiar: S.R.L. „FIDES”</p> <p>Proiectant: „ART-CONS-STUDIO” S.R.L., asp Dimitrov Dmitrii</p> <p>Proiectul propune: Construirea unui bloc de locuințe cu spații comerciale și parcare auto subterană, în limitele terenului cu nr. cadastral 0100419028. Regimul de înălțime S+P+7E+PH.</p> <p>Decizia CNMI: În urma examinării proiectului de execuție prezentat, Consiliul a aprobat următoarea decizie: <i>Decizia privind aprobarea proiectului nu a acumulat numărul minim necesar de voturi. Proiectul de execuție se reprogamează pentru examinare la ședința următoare.</i></p>

Fig. n. xxx - Example of decisions and opinions expressed by the Council (Source: https://mecc.gov.md/sites/default/files/site_-_word_sedinta_cnmi_nr._19_din_30.11.2017.pdf)

Based on the information published on the website of the ministry, in 2017, the NCHM held 21 sessions and the number of projects examined by the NCHM was 313. It is noted that no sessions are recorded in December 2017.

The results of the sessions of the NCHM held in 2018 are published only until March 2018. In 2018, only the lists of the examined projects with the synthetic result of the examination has been published, as exemplified below.

ȘEDINȚA CONSILIULUI NAȚIONAL al MONUMENTELOR ISTORICE nr. 1 din 19 ianuarie 2018			
Nr. ord	faza	subiectul	decizia CNMI
1	PE	Reconstrucția ap. 1 cu edificarea unei mansarde amplasată la nivelul acoperișului în restaurarea fațadei principale a imobilului existent (monument istoric) din str. București, nr. 16, mun. Chișinău. <i>Beneficiar: Igor Teniotchin</i> <i>Proiectant: Centrul SITE, asp Gangal Boris.</i>	avizat
2	PE	Reconstrucția și modernizarea clădirii cu nr. cadastral 010041760401 (construcție de învățământ și educație), bloc „D” (trasa II), din str. Constantin Stamati, nr. 10, mun. Chișinău. <i>Beneficiar: PPP S.R.L. „Guzun V.E.”;</i> <i>Proiectant: S.R.L. „I.G.C. Construct”, asp Bulat Maria</i>	avizat
3	SP	Instalarea unei copertine la intrarea în demisolul existent cu iluminare nocturnă, din bd. Grigore Vieru, nr. 25, mun. Chișinău. <i>Beneficiar: Vasile Bostan,</i> <i>Proiectant: asp Sava Victor</i>	avizat
4	SP	„Infrastructura de comunicații” EN-(Communication Infrastructure) COMINF, str. A. Șciusev, nr. 12, mun. Chișinău. <i>Beneficiar: Serviciul Tehnologii Informaționale al Ministerului Afacerilor Interne al Republicii Moldova.</i> <i>Proiectant: IL, SECRII VICTOR”, asp Ciubotaru Carolina</i>	avizat
5	SP	Reconstrucția edificiului din str. 31 August 1989, nr. 105b, mun. Chișinău. <i>Beneficiar: „PRIM PROF CONSTRUCT” SRL</i> <i>Proiectant: S.R.L. „ARHIION STUDIO”, asp Niță Ion</i>	avizat
6	SP	Proiect de locuit pentru două familii din str. Marea Basie, nr. 30 și 41, mun. Chișinău (nr. cadastral 01004176051)	avizat

Fig. n. xxx – List of opinions expressed by the Council (Source: https://mecc.gov.md/sites/default/files/sedinta_cnmi_nr_3_din_22.02.2018.pdf)

- full photographic documentation of the existing real estate / buildings (including architectural, technical and interior details, etc.), of the architectural surveys carried out;

EMERGING ISSUES

The establishment of the National Council of Historic Monuments (NCHM) should be regarded as a positive step to ensure collegiality of decisions in a matter so important as the protection of cultural heritage, and to reduce pressures on individual officers that may find themselves in difficulty making decision in a social environment which is not yet prepared to accept limitations of rights for the community benefits.

However, the functions, composition and working methods of the National Council for Historic Monuments raise several issues that deserved being considered by the Beneficiary Country representatives, in order to ensure that their good intentions when the NCHM was established are effectively fulfilled.

First of all, the nature of this body appears to be ambiguous as it may be placed in between of an advisory body to the Ministry for technical and scientific matters and a collegial body representing different interests than the ones of cultural heritage and called to express themselves on matters pertaining cultural heritage, and more particularly on the advice on projects concerning protected monuments or protected areas.

A second element of concern is the selection method of the components, who are all appointed by order of the Minister at the proposal of one single subdivision of the Ministry. Based on the text of the regulation, also the members representing other ministries or institutions are proposed by the directorate of cultural heritage and not by the institutions of origin.

This selection method may risk to reduce the independence of the members who are all selected on the basis of the preferences of the structures of the Ministry, none seems to be member in her/his own institutional capacity in that all are appointed nominally. It is not clear therefore what happens in the case one of the members loses her/his function, e.g. if the Director of the relevant Directorate or of one of the Agencies changes, who is going to sit in the Council? The new director or the former appointed one? This

ambiguity does not seem resolved.

Additionally, the regulation seems to envisage an indefinite renewal of the mandate, with no clearly stated limit of the number of mandates, thus establishing potential conditions of privilege and exposure to external pressures to members sitting in the NCHM for several mandates.

The major bulk of activity of the NCHM is represented by providing its advice on projects on protected monuments or areas. For this purpose, NCHM sessions are held every 15 days and the Council may have to examine up to 30 projects in a few hours, based on the preliminary analysis prepared by the Secretary of the NCHM, in the Department of Cultural Heritage at MECR. Therefore, the time available to the NCHM members is very limited to assess properly each project, as usually none of them has carried out a preliminary examination of the projects. The final legal opinion of the NCHM does not contain the explicit opinion of each member and does not appear sufficiently motivated. It is assumed that the opinion of each member is recorded in the minutes of the NCHM sessions however these are not made available to the public.

While in case of an advisory body to the ministry, the opinion of which had only a technical / scientific value and not specific administrative consequences, as in the case of the 'aviz', not releasing the opinion of each member may be acceptable. But the legal opinion of the NCHM has indeed administrative consequences in that, according to the provisions of the law, it preconditions the issuance of the certificate of urbanism and of the authorization by the municipality and by any other body entitled to issue an authorisation. Therefore, it would be advisable that the legal opinion of the NCHM be based on explicitly motivated arguments and the opinion of each member explicitly expressed, in order to ensure transparency and accountability. This even more important in that the provision in the law n. 1530/1993 stating that the Ministry issue an approval of the projects upon release of the opinion of the NCHM does not seem to be implemented, as the direct publication of the opinions expressed by NCHM on the MECR website would suggest. At the moment, only simple majority is envisaged to decide on projects proposals, however, in case project proposals imply the demolition of a monument or its substantial transformations (e.g. addition of floors, substantial modifications to the facades or to major architectural elements) it is recommended to adopt a more cautious decision-making process based on qualified majority, in order to ensure that drastic decisions are adopted with a larger consensus.

The law n. 1530/1993 does not contain general principles or criteria to orient the work of the Council, nor secondary legislation has been produced in this regard. Ideally, the motivations for which a monument has been inserted in the Register might and should guide the assessment of the impacts on the monuments of the proposed conservation, rehabilitation or development works, however the Register approved in 1993 only include a list of assets, imprecisely identified through their address, and the Passports containing the information of these documents have been mostly lost. Therefore, the Council appears to be left with insufficient explicit guidance to express its advice in a consistent and accountable manner.

At the moment, the Ministry transmits the approved projects and the opinion of the NCHM only to the owner/ beneficiary and not to the municipality where the object of the intervention is located nor to the relevant Agency, to ensure the necessary follow up. This causes disconnections and disfunctions among the concerned parties and, in some cases, has facilitated misbehaviours, in that falsifications of the NCHM opinion by the proponents have been reported. The direct transmission of the approved project to all parties concerned (municipality, AIRM, NAA where relevant) would simplify the work and would prevent attempts of falsification.

Cases are reported of incomplete projects not specifying all the restoration works planned or the lacking description, being approved and the „AVIZ” issued.

According to law No.163/09.07.2010 on the authorization of construction works, a communication between public institutions to inform about the beginning of the construction works should be done however MECR or its agencies are not included in the list of offices to be informed (see art. 12, paragraphs from 6 to 11) of the commencement of the works: in the absence of the respect of the time limit for the issuance of the authorization, the beneficiary can begin the works informing the administration that is entitled to issue the authorization and the Agency for Technical Supervision, on the other hand, if the building permit is issued regularly, then the issuer is obliged to inform the Agency of Technical Supervision within three days and, in case the project had been subject to EIA, the Environment Agency, within ten days. On the other hand, there is no mention that also the Agency of Inspection and Restoration of Monuments must be informed of the issuance of the building permit and of beginning of the works, if the project had been advised by the NCHM. This gap causes several problems as the AIRM is not timely informed about the beginning of building sites and therefore cannot implement its inspection tasks.

Apart from the process-related shortcomings, also technical issues are evident: many preliminary and executive projects seem to be lacking of adequate technical documentation. A closer examination of some conservation projects has highlighted the lack of substantial necessary documentation for any conservation project. Very rarely projects contain graphic charts / tables with indicated the demolitions and new constructions (marked in yellow and red) the description of existing materials and building components and of their problems, no graphic description of the planned interventions and of their extent and location is provided or the technical specifications of the works. No description of the interventions and of the works and of the methodologies of treatments is generally presented. The photographic documentation is very limited, no captions are provided, no mapping of construction material and decay phenomena is included, no post- treatment / intervention illustration is provided. The absence of standardized legends=key symbols/colours makes the project analysis even more difficult so that a norm forcing the use of the same legend (hatch marks, colours, symbols etc.) for all the projects should be introduced.

PRELIMINARY RECOMMENDATIONS FOR IMPROVEMENT

The regulations envisage the remuneration of all members: it would be more appropriate to envisage that only the members who are not employed in public institutions and the secretary – who has to carry out the major part of the work - be remunerated, for the other ones only a symbolic reimbursement of expenses should be envisaged, also with a view to reduce the costs of operation of this and other bodies.

It is also suggested to reduce the number of members of the Council to a ceiling of maximum seven persons and to include only representatives from the cultural heritage realm, in order to ensure that the interests of cultural heritage protection are represented in the NCHM rather than other interests, that, although legitimate, may find expression in other authorisation or approval procedures.

Representatives of other ministries or of the municipalities may be invited to explain specific aspects of projects for which they act as beneficiary or promoters but should not be entitled to vote in favour or against any project, in that the NCHM should be called to provide its advice in the utmost interests of heritage protection, enhancement and promotion.

The mandate of each member should be renewable consecutively only once and any member sitting for

two consecutive mandates should not be appointed before three years have passed since he/ she ceased her/his function, in order to ensure rotation and avoid the generation of privileges linked to the position. Only some of the members should be proposed by the MECR, other should be proposed by other cultural institutions, e.g. Academy of Science, Institute of Cultural heritage, University, provided that the candidate has the relevant technical and scientific preparation and adequate experience in the practice of conservation/ restoration.

The working methods also should be improved, first by strengthening the preliminary analysis of the projects, that should be accompanied by a written assessment of the project, its pros and cons, possible further documentation to be requested and a draft proposal for the NCHM to be discussed, then by reducing the number of projects to be examined at each session to a ceiling of five- six, if the sessions are to last half day (4 – 5 hours), 10 -12 if each sessions last one full day (say 8-9 hours each), in order to allocate sufficient time for the examination of all aspects of the project, by asking each member of the council to express a motivated opinion on the project in relation to the draft proposed decision submitted by the secretary of the NCHM. Finally, the Secretariat of the NCHM at MECR should work jointly with the technical staff of the relevant Agency, in order to facilitate the assessment work and involve the Agency, which is responsible for the inspections, since the inception of the work.

Furthermore, to ensure the necessary circulation of information among all concerned parties and facilitate all administrations in the implementation of their tasks, it is recommended that the projects approved by the ministry following the issuance of the opinion by the NCHM, be transmitted by the Secretariat of the NCHM at MECR to the relevant Municipality, to the Agency for Inspection and Restoration of Monuments, in addition to the owner/ beneficiary.

Finally, it is necessary to reinstate the correct procedure for the approval of the projects set out in art. 16, para 2 of the Law n. 1530/1993, which provides for the approval by the Ministry upon the opinion issued by the NCHM.

With regard to the required project documentation, this needs to be increased substantially for both the preliminary phase (schita de proiect) and the executive phase (proiect de executie).

In this regard a good opportunity is represented by the current development of the Code of practice in construction on “the way and principles of designing the restoration of the Monuments of history and culture”. An alignment of the Code of Practice to the needs of adequate documentation for the two phases of the projects would be advisable. Proposals in this regard are made by the Twinning Project in the reports under Component 1, concerning the legislation.

NATIONAL COUNCIL FOR THE MONUMENTS IN THE PUBLIC SPACE (NCMPS)

The National Council for the monuments in the Public Space (hereinafter referred to as the Council) is an independent specialized scientific body in the field of public monuments, which functions alongside the MECR. The Council was established by the Law on Monuments in Public Space n.192 of September 30, 2011 and its functioning is regulated by the Government Decision n. 851 of 13 November 2012.

Its composition and functions are similar to those of the NCHM, which was created in 2014.

COMPOSITION

The Council consists of 14 members and includes plastic artists, architects, visual arts specialists, art researchers and / or critics, recognized for professional competence, as well as public officials from the Ministry of Culture's specialized department appointed by order Minister of Culture for a three-year term. The number of members of the Expert Council within the Ministry of Culture Specialty Directorate may not exceed four persons. The mandate may be renewed consecutively.

The nominal composition of the Council is approved by order of the Minister of Culture, at the proposal of the specialized directorate of the Ministry of Culture.

The Council is headed by a Chair and a Vice-President. The President of the Council is appointed by order of the Minister of Culture and represents the Council at national and international level. The position of President of the Council is occupied by persons who are not public servants within the Ministry of Culture. Vice-president of the Council is appointed by order of the Minister of Culture, among the members of the Council representatives of the specialized department of the Ministry of Culture.

The Council Secretariat is assured by a public official within the Ministry of Culture's specialized department, appointed by order of the Minister of Culture.

The current National Council for Monuments of Public Space includes the following members:

- ZBÂRNEA Tudor, director general of the National Museum of Moldovan Fine Arts , President
- CIOCANU Sergius, vice - president
- GARCONIȚA Rita, architect, officer at the Directorate of Cultural Heritage, secretary
- STĂVILĂ Tudor, Institute of Cultural Heritage
- JALOBĂ Ghenadie, president of Union of Plastic Artists (UAP)
- BOLBOCEANU Dumitru, artist, vice- president of UAP
- EREMCIUC Vasil, architect, vice president of the Association of Architects of Republica Moldova
- ZDERCIUC Ion, sculptor, member of UAP (sculpture section)
- GRECU Ioan, sculptor, member of UAP (sculpture section)
- DAMIAN Mihail, sculptor, member of UAP (sculpture section)
- BOLOCAN Ion, sculptor, member of UAP (sculpture section))
- MUSTEAȚĂ Victor, plastic artist, member al UAP (painting section)
- BREAZU Florina, plastic artist, member al UAP (painting section)

It can be immediately noted that, in this case, the Council is indeed composed by representatives of the relevant disciplinary and cultural fields, differently from the Council of Historic Monuments, which is formed by representatives of various administrations rather than by representatives of relevant disciplines.

FUNCTIONS OF THE COUNCIL

The Council has the following functions:

- examines the conception of the projects for public monuments and the project of their location and approves the projects according to the phases of execution
- examines and endorses in the execution phase 2 the project drawings of the public monuments, the demarcation of the public monument protection area, as well as the landscaping;
- approves the classification, declassification and change of the group for public monuments classification;
- approves the projects concerning the interventions on the existing public monuments, as well as in their protection area;
- advises on the re-location in public spaces of monumental sculptures resulting from the organization of plastic creation complexes;
- proposes to the Ministry the approval of specific methodologies, norms, norms and regulations for the realization and protection of public monuments whose projects are elaborated by the specialized directorate of the Ministry of Culture.
- may request the local public administration authorities to provide information on monuments installed contrary to the provisions of the legislation, without the Council's opinion, with the submission of documentation.

The Council carries out any other duties provided by the legal provisions in force in order to achieve the purpose for which it was established.

PRESIDENT FUNCTIONS

The President of the Council has the following main tasks:

- chairs meetings of the Council;
- verifies, at the opening of the sittings, their validity, so that decisions can be made by meeting the appropriate quorum;
- orders that the Council's decisions be brought to the attention of the public concerned.

In the absence of the President, his duties are exercised by the Vice-President, who is elected by the Council members.

SECRETARY FUNCTIONS

The duties of the Council Secretary are as follows:

- receives, records and keeps / archives the documentation submitted by the applicants according to the execution phases;
- verifies the content of the documentation required for obtaining the Council's opinion and requests its possible completion;
- ensures the submission of the necessary documentation and documentation, according to the execution phases, to the Council;
- draw up the minutes of each meeting within deadlines not exceeding two weeks from the date of such endorsement;
- convene, on the basis of the prior agreement with the president or, in the absence thereof, the vice-president, the members of the Council;
- ensure the smooth running of the Council.

For the purpose of keeping records, the documents of the Council sessions include the following:

- a) the agenda and attendance list;
- b) minutes of the meeting;
- c) a copy of the draft / project documentation and / or any other document examined, together with a copy of the appropriate endorsement

The Secretary of the Council has also the task to ascertain the conditions under which members of the Council may cease from their functions. These include the violation of the legal provisions in the field; the unjustified absences at 3 consecutive meetings or 6 absences per year and resignation. The revocation of their appointment is made by the Minister.

FUNCTIONING OF THE COUNCIL

The Council carries out its work in ordinary working sessions, which are held every two weeks. The working session is legally constituted at the presence of at least 8 (eight) members of the total number of Council members, which are formally invited individually by the secretariat. The Secretary of the Council shall note and quote the fulfilment of the quorum in the minutes. In the absence of a quorum, the hearing is suspended as non-statutory, and the items on the agenda are rescheduled for another meeting. In the event of quorum failure, sessions may be rescheduled for the same week or for the following week. The date, agenda and venue of the working sessions shall be announced by the secretariat at least 2 calendar days before the meetings are held. The sessions of the Council shall be chaired by the President or, in his/her absence, by the Vice-President.

Each member of the Council shall be entitled to one vote.

Decisions shall be taken by a vote of at least half plus one of the total number of members present.

The debates of the Council meetings and the decisions adopted are recorded in minutes which are signed by the president of the meeting and by the secretary, stamped in original on each sheet by the specialized directorate of the Ministry of Culture. The minutes of the sessions are approved by the Deputy Minister of Culture, responsible for the field of fine arts, empowered in this respect by the Order of the Minister of Culture. The minutes are confidential and can only be made available to members of the Council, the Ministry of Culture, and the staff of its specialized department, as well as to bodies and institutions empowered by law.

The decisions of the Council shall be recorded, on a case-by-case basis, in endorsement sheets. The endorsement sheet is part of the minutes of the hearing, signed by the President of the meeting and by the secretary.

The opinion is valid for three years from the date of its issue by the Ministry of Culture.

In the work of the Council, the author / authors of the documentation, with their delegation by the beneficiary, participate to support their submitted projects. If necessary, representatives of the beneficiary local public authority may be invited to the Council's work.

Other categories of guests, with the approval of the meeting chair and the secretary, may participate in the work of the Council without the right to vote and without the right to attend the voting process. Invitees non-members of the Council, express their own views and then leave the meeting.

PHASES OF APPROVAL AND PROJECT PHASES⁴

According to the Government decision, the phases of development of a project for a monument in the public space are four, as follows:

- Phase 1 - Project-Concept / Draft outline opinion (based on the decision to build the monument issued by the local competent local authority);
- Phase 2 - Intermediate drafting of the monument's design (at size 100 (one hundred) cm);
- Phase 3 - Intermediate drafting of the monument project (in natural size, before transposition of the work into final material);
- Phase 4 - Final Opinion (after transposition of the paper into final material (after the sketching process).

The workload of NCMPs is much less, for obvious reasons, than the workload of the NCHM.

The website of the MECC lists for 2018 only four meetings of the Council, last meeting being published being held on 20 March 2018.

<p>Subiectul 4 Schiță - concept Examinări anterioare: - Obiectiv: Edificarea unui monument comemorativ „Mitropolitul Gurie Grosu”. Amplasament: (propunere) Scurul Catedralei „Nașterea Domnului”, mun. Chișinău. Beneficiar: Institutul Cultural Român „M. Eminescu” la Chișinău. Proiectant: asp Andrieș Mihai Se propune: schița-concept a monumentului, care se propune a fi amplasat în Scurul Catedralei „Nașterea Domnului”, mun. Chișinău (monument istoric, nr. 2 (compartiment – municipiul Chișinău) în Registrul monumentelor Republicii Moldova ocrotite de stat). Decizia Consiliului: Urmare a prezentării și examinării schiței-concept privind locul amplasării monumentului și conceptul spațial-volumetric al acestuia, Consiliul a aprobat următoarea decizie: Urmare a analizei situației și discuțiilor pe marginea subiectului respectiv, Consiliul a respins ideea instalării în Scurul Catedralei (monument istoric de categorie națională) a monumentului „Mitropolit Gurie Grosu”. Se recomandă de a analiza alte situații (locuri) pentru edificarea unui monument comemorativ înaltului prelat. Referitor la conceptul spațial-volumetric/tinuta artistică al acestuia, poate fi examinată de Consiliu, în temeiul hotărârii de Guvern pe acest subiect.</p>
<p>Subiectul 5 Schiță-concept. Model (sc. 1:1, material moale) Examinări anterioare: - Obiectiv: Placa comemorativă „Nicon Zaporozan”. Amplasament: fațada casei unde a locuit arhitectul emerit Nicon Zaporozan, din str. Dokucaev, 2, mun. Chișinău. Beneficiar: Primăria municipiului Chișinău. Autor: arhitect Dimitrov Dimitrii, sculptor Grigori Sultan. Proiectul propune: schița concept a plăcii comemorative: placă de granit negru pe care se va aplica portretul în relief, executat din bronz și se va grava inscripția comemorativă; modelul portretului în scara 1:1 (în material moale). Decizia Consiliului: Urmare a examinării lucrării, Consiliul a aprobat următoarea decizie: Se aprobă schița-concept și modelul portretului plăcii comemorative cu condiția modificării textului care urmează a fi gravat pe placă (conținut: se vor exclude datele de naștere și deces, lăsând doar anii de viață, inscripția va fi cu același caracter, micșorare dimensiuni, de coborât locul plasării).</p>

Fig. n. xxx - Example of decisions and opinions expressed by the Council (source: https://mecc.gov.md/sites/default/files/sedinta_cnmfp_nr._1_din_05.02.2018.pdf)

EMERGING ISSUES

The NCMPs has a composition which is much more coherent with its advisory role to the Ministry in matters concerning the creation and conservation of commemorative monuments in the public space. A comparison between this Council and the Council of the Historic Monuments corroborates the idea that the Council of Historic Monuments needs revision in its composition in order to include only prominent representatives of the relevant disciplinary fields.

Due to the nature of the activity for which the Council provide its advice – namely the creation of new commemorative monuments – the Council is called to express its views in four different phases, which should ensure a comprehensive assessment of the proposal – on the other hand the assessment of

⁴ See full approval procedure and forms at: <https://mecc.gov.md/ro/content/avizarea-documentatiilor-de-proiect-privind-interventiile-la-imobilele-cu-statut-de-monument>

projects for the restoration of monuments follow the same phasing – preliminary project and executive project – as those for historic monuments or areas.

The current regulations establish that the minutes of the Council are approved by the Vice Minister of Culture, purposely appointed by the Minister: this provision seem to be related to the specific circumstances when this council was established and need to be contextualized in that particular institutional setting, however, after a few years of activity of the council, this provision needs to be modified: decisions of the council should be expert based and should be independent from the political level. The minister level should take into consideration the opinion and the discussions of the Council but the only signatures on it should be those of the President and those of the Secretary.

The motivations supporting the Opinion of the Council are, also in this case, very limited and would need to be more substantiated.

It is hoped that the issuing of the Administrative Code (Planned to be adopted by the Parliament in July 2018) will improve the situation with regard to the administrative procedures and will call for the strengthening of the arguments supporting administrative decisions.

AGENCY OF INSPECTION AND RESTORATION OF MONUMENTS (AIRM)

The **Agency of Inspection and Restoration of Monuments** was established on the basis of the **Government Decision no.1114** of 25.09.2006 “on the creation of the Agency for the Inspection and Restoration of Monuments” as a specialized public institution, subordinated to the Ministry of Culture of the Republic of Moldova, in order to “establish effective control in the field of restoration and inspection of historical and cultural monuments, bringing their documents in line with UNESCO's requirements, creating a digital public database of monuments and under art. 11 of Law no. 1530-XII of 22 June 1993 on the Protection of Monuments”. The Agency was therefore created with the aim of developing a digital database of the Register of the monuments and of establishing conditions for the effective control

It is the central state institution for monument protection of the Republic of Moldova and operates in accordance with its regulation and the documents of UNESCO and the Council of Europe on the protection, preservation and enhancement of historical monuments, assemblies of monuments and sites.

The Decision fixes at 7 the number of staff units of the Agency and determines that the salaries of the staff of the Agency is defined on the basis of the Government Decision n. 381/2006 It possesses the status of a legal entity that disposes of its own balance sheet and bank accounts (it is between the 2800 lei per month for the director and 1900 lei per month for the staff – the only exception being the accountant and the jurist (2300 lei per month). The Agency may also represent the Republic of Moldova in the international bodies within its fields of competence. As set in the regulation, it may be reorganized or liquidated by Governmental decision.

The structure of the Agency was set instead by **Governmental Decision n. 232** of 02.08.2010” on the approval of the Regulation of the Agency for Inspection and Restoration of Monuments”. The Regulation established:

- the organizational-legal status, the powers and rights of the Agency;
- the way of exercising control over the observance of the legislation in the field of protection, conservation and restoration of monuments, historical sites and their protection areas.

STAFF

The agency is headed by a **Director General**, appointed by order of the Minister of Culture. The Director General manages and is responsible for the work of the Agency, represents it in relation with other agencies, central and local public authorities, institutions and organizations, as well as with physical and legal persons from the country and abroad and is personally responsible for the Agency's tasks.

The Director of the Agency has the following main tasks:

- organizes and bears responsibility for the entire activity of the Agency;
- appoints and dismiss the staff of the Agency, apply disciplinary sanctions and incentive measures;
- acts without proxy on behalf of the Agency, representing it in all relations with the physical and legal persons both home and abroad;
- is responsible for and manages the assets of the Agency;
- concludes, on behalf of the Agency, agreements and contracts and draws up other legal acts both home and abroad;
- issues orders, provisions and enforcement instructions for Agency employees;
- signs decisions, contracts and provisions for the fulfilment of the attributions and rights of the Agency;
- advises and submits to the Ministry of Culture for approval:

- the draft Regulation of the Agency;
- proposals on staffing and salary fund for Agency staff;
- the annual activity plan of the Agency;
- the Agency's annual activity report;
- proposals on budgeting and additional funding for the Agency.
- Approves the structure and staffing of the Agency within the limits of the salary fund and the number of employees set by the Government.

In the absence of the Director General, the Agency is headed by the **Deputy Director**, appointed by the Director General on the basis of a written order.

The **Agency staff** is approved by the Ministry of Culture on a proposal from the Director General. The Staff of the Agency is employed according the provisions of the Labour Code (Codul Muncii, n. 154, 28.3.2003) and its selection is made through vacancy notices and interviews. According to the Director of the Agency, the interview of candidates focuses on the qualifications declared in the CV.

Currently the units working at the Agency include the following:

- Victor Popovici specialist responsible for projects and communication,
- Dabija Ana, specialist responsible for projects, and digitization of the archive,
- Rosca Nadejda - secretariat
- Rotaru Nicolai - Jurist
- Musteata Valentina - accountant,
- Stefanita Ion, Director general (since November 2009)
- Free post since June 2018 (until then occupied by Ion Budeci, architect).

However, apparently, only three of these positions can be considered permanent staff of the Agency: the Director, Victor Popovici and Rosca Nadejda, the secretary. The accountant is shared with the Museum of Ethnography and Natural History, Mrs Dabija works for a specific digitisation project funded by an external donor, the jurist is paid by the Agency but he does not work in the agency headquarters. Which means that at least three out of seven posts are vacant and no technical staff unit is currently employed at the AIRM.

AIRM FUNCTIONS

The Agency for Inspection and Restoration of Monuments performs a huge set of functions:

- Coordinates and controls the application of UNESCO and Council of Europe documents on the protection, preservation and enhancement of historical monuments under the legislation of the Republic of Moldova, controls the activities related to the protection, preservation, restoration and valorisation of the immovable cultural heritage property, establishes the priority directions of activity in the field, determines the relations of collaboration with the specialized creation/professional unions.
- *Performs the inspection of monuments under the official protection of central and local public authorities, including the protection areas associated with them.*
- Carries out its activity in collaboration with other state bodies, local public administration authorities, national and international public organizations in the field of monument protection.
- *Performs on-site inspection of historical monuments, sites of intervention on them, draws up reports on detected contraventions, draws up service reports, submits to the Ministry of Culture proposals for solving the problems that have arisen.*

- Oversees the observance of the legislation of the Republic of Moldova in the field of protection, preservation, restoration and valorisation of the monuments registered in the Register of State-Protected Monuments, approved by the **Decision of the Parliament of the Republic of Moldova no. 1531-XII** of June 22, 1993, as well as in the registers of monuments of local importance, approved by acts of the local public administration authorities.
- Oversees the execution of the preservation, restoration and rehabilitation works of the historical buildings with monument status, managed by the institutions subordinated to the Ministry of Culture.
- Supervises the achievement by the local public administration authorities of the attributions established by the legislation in force in the field of recording, protection, preservation, restoration and valorisation of historical monuments of national and local importance, establishing their protection zones.
- Analyses the causes of the violations of the attributions established by the legislation in the field of historical monuments, committed by the owners with any real rights of ownership over the monuments, and takes the necessary measures for the liquidation of the detected violations.
- Performs jointly with the central and local public administration authorities in the field of construction emergency measures to save historic or degraded historical monuments.
- Submits to the Ministry of Culture proposals on:
 - removal of the violations discovered during monuments' inspecting (damage, inappropriate maintenance, partial or total destruction / demolition of historical monuments, alteration of the exterior and interior aspect and their internal planimetry, application of materials or technologies inappropriate to the status of a protected historical monument);
 - financing of construction sites, maintenance works, preservation, restoration and valorisation of historical monuments, as well as scientific research works for state needs in the established field of activity;
 - financing the preservation and restoration of historical monuments of state property and annually sends to the Ministry of Culture the lists of monuments requiring conservation, restoration and rehabilitation interventions.
- Identifies historical edifices with special patrimonial value and submits to the Ministry of Culture proposals for their registration in the Register of State-Protected Monuments.
- Ensures the professional education of the Agency's employees, their training and improvement, including through their internships in domestic and foreign institutions.
- Fills in, maintains and keeps track of archive documents generated by the Agency's activity.
- Performs the control on observance of the exploitation conditions and of the provisions concerning the monument protection obligations issued by the central and local public administration authorities to the administrators and owners of the historical edifices with status of monument of national and local importance.
- Issues mandatory prescriptions concerning the cessation of excavation, construction, reconstruction, conservation, restoration, landscaping, etc., the carrying out of which may prejudice the stability, authenticity, integrity of buildings and monumental constructions and, where appropriate, the cessation of new construction works and excavation in the protected area of monuments and protected historic cities.
- Releases permissions to resume the ceased works.
- *Reports to the competent law enforcement authorities on civil, administrative or criminal liability for the destruction / demolition of the monument, for impairment of its stability, authenticity, integrity and protection area, as well as for any alteration of the exterior or interiors of the monument occurred without the approval of the public authority.*
- Organizes competitions and auctions, concludes contracts for the preservation and restoration works, rendering services related to the exercise of the Agency's attributions and needs, as well as for carrying out scientific research work for state needs in the field of activity of the Agency.
- *Represents the authorizing officer and the main beneficiary of the funds from the state budget and from other sources of financing, for the maintenance and fulfilment of its attributions.*

- Holds citizens' hearings, examines petitions and requests in writing, adopts decisions in its fields of competence and sends out replies to petitioners within the time limits set by Moldovan legislation.
- Provides consultancy services on issues related to the cultural heritage to the individuals in charge from the central and local public administration bodies.
- *Supervises the observance of the legislation in force in the field of monuments regarding the execution of the excavation, construction, landscaping works in the legally established historical centres of the urban and rural localities and their protection areas.*
- *Collaborates with foreign state authorities and international organizations in the established field of activity.*
- In coordination with the Ministry of Culture:
 - participates in certifying the qualification level of specialists working in the field of conservation and restoration of monuments - design architects, design engineers, restorers, chiefs of restoring sites, heads of teams of restorative workers and of restoration workers;
 - requests the modification of the project documentation, of the current repair, consolidation, preservation, restoration works of the historical monuments elaborated / executed with violations of the monuments legislation and norms;
 - identifies and then proposes the purchase by the state of land with archaeological heritage assets of special importance for the purpose of their protection and exhibition, their inclusion in the national or international circuit of cultural values;
 - *proposes the establishing and award of awards and distinctions to prominent personalities in the field of the protection, preservation, restoration and consolidation of historical monuments.*

Interviews to the Staff and the Director have allowed to clarify that only a very limited number of the Agency's functions can be performed, due to the lack of staff and demotivation deriving from the negative perceptions of the Agency's role among citizens, professionals and building enterprises. This applies especially to the inspection and supervision role of the Agency. With regard to inspections, it has been reported that only those for which some irregularities are identified are recorded in specific forms, whilst the ones that ends with positive result are not recorded at all. It has not been possible to consult the annual reports of the AIRM to have an idea of the reporting system and of their reported activity. It is therefore difficult to develop an idea of the bulk of work performed by AIRM.

For some of the functions indicated in the regulations, no clear procedure is established yet, e.g. in the participation in the procedures for the qualification levels of specialists in the field of conservation/restoration; in other cases, the activity cannot be performed due to the lack of sufficient staff.

In synthesis, only the functions highlighted in italics in the list above have been more or less regularly performed. Not all activity is documented (e.g. not all inspections made end with an inspection report) and records of the yearly activity of the agency could not be accessed, therefore it is not possible to make a thorough assessment of the type and amount of activity performed each year by the Agency and therefore understand the workload.

The Agency, on the other hand, is active in organising sensitisation events, such as conferences, meetings, campaigns by using the media and through its facebook page, in which historical information about the history and the heritage of Moldova are regularly published as well as news concerning cultural heritage in Moldova or abroad.

AIRM'S RIGHTS

For the purpose of attaining the powers provided in the Regulation, the Agency is entitled to:

- carry out on-site inspection of historical monuments, sites of intervention on them, to draw up reports on detected contraventions and submit proposals for solving problems to the Ministry of Culture.
- carry out the control of observance of the exploitation conditions and the provisions of the obligations of use of the monuments issued by the local public administration authorities to the administrators and owners of the buildings having the status of a monument of national and local importance and submitting, as appropriate, actions to the courts.
- issue binding prescriptions for the suspension and withdrawal of licenses and building permits for the carrying out the design, consolidation, preservation, restoration, repair works on historical monuments, in case of non-observance of the legislation in force.
- notify the competent law enforcement bodies those responsible for destruction / demolition, damage to the authenticity, integrity of the historical monument or its protection area.
- act as authorizing officer and the main beneficiary of the financial means.
- organize scientific conferences, seminars and symposiums in the field of protection, conservation, restoration and enhancement of historic monuments and their protection areas.
- organize contests in the field of preservation, restoration and enhancement of historic monuments and their protection areas.
- provide consultations for payment to physical and legal persons in matters pertaining to the Agency's field of activity.
- set up and publish magazines, collections and other publications relating to the preservation, restoration and enhancement of historic monuments and their protection areas.
- employ qualified self-management staff within the established sources according to the cost estimates (1.4%) of breakdowns for conservation, restoration and redevelopment of historical monuments, reconstruction or new construction in protected areas of historic sites or in areas for the protection of historical monuments, as well as from extra-budgetary sources from grants and subsidies of national or international foundations.
- propose the establishment of historical monument protection areas.
- issue circulars to the local public administration authorities on the inventory and release of the obligations to use historical monuments of local importance regarding the measures necessary to ensure the authenticity and integrity of the historical monuments according to the national legislation and international conventions in the field of cultural heritage protection.
- elaborate normative and legislative acts in the field of activity and to submit them for examination to the Ministry of Culture.
- form councils, committees and working groups made up of experts and specialists, including interdepartmental, in the field of activity.
- request and receive from public institutions and from physical or legal persons with activities in its area of competence, the information and data necessary for decision making.
- organize research, laboratory experiments, expertise, analyses and evaluations, as well as necessary scientific research.
- approve models of service cards.

The Agency is entitled to undertake a variety of initiatives to be able to perform its functions. Due to the difficulty for the Agency to implement all its currently identified functions, it is advisable to reduce them and, in consequence, also the activities it is entitled to develop: these are indicated in grey. The point is further discussed in the paragraph emerging issues.

SOURCES OF FUNDING

The patrimony of the Agency is state property and is formed from the fixed and circulating assets, transmitted to the Agency in management and reflected in its balance.

In accordance with the legislation in force, the revenue of the Agency is formed from the following sources:

- allocations from the state budget;
- means obtained from the provision of services against payment, the tariffs of which shall be approved in the established order;
- other sources (including donations and sponsorships) not obstructed by the legislation in force.

The budget of the Agency comprises a fixed amount to cover the wages of the staff, which cannot be modified, and an amount – average each year 15.000,00 euros – to cover heating, electricity, telephone, car insurance and other running costs. The remaining amount is articulated in budget lines based on decisions of the Director with the accountant (source: Director of the Agency).

ANALYSIS OF PROCEDURES AND INSTITUTIONS INVOLVED IN THE PROTECTION OF HISTORIC MONUMENTS

The major aim of Component 2 is that *“the administrative and management capacity of the Agency for Inspection and Restoration of Monuments and of the National Archaeological Agency as well as Ministry of Culture’s cultural offices and other relevant stakeholders are increased”*.

The Beneficiary Country has disclosed the intention to merge the two above mentioned Agencies into one single Agency named National Monuments & Sites Inspection Agency (NMSIA).

The proposed institutional reform of the bodies responsible for the immovable cultural heritage and subordinated to the Ministry is pending since November 2017, due to the fact that it was linked to the modification of the Law on the protection of the monuments to become the Law on the protection of historic monuments and areas. As soon as the process of approval of this law is resumed and the law eventually approved by the Parliament, the two Agencies will become one.

The unification of the two agencies could be considered one response from the beneficiary Country to see the capacity of the Agencies – particularly of the Agency for Inspection and Restoration of Monuments- increased. This institutional change will have a slight impact on the activities to be carried out within the Project but it has to be taken account of, if the institutional change will occur during the lifetime of the project.

The present analysis tries to link the provisions of the legislation in force for the protection of the monuments with the functions/ tasks of the different bodies that have been established at State level. This analysis aims at:

- clarifying the distribution of these tasks,
- identifying any overlapping or gap in the functions of the institutions,
- understanding the interrelationships among the different institutions to carry out the procedures envisaged by the legislation
- preparing proposals for improvement of the functioning of the different bodies and of the procedures.

PRELIMINARY ANALYSIS OF ORGANISATION OF MECR - RELATED AND OTHER INSTITUTIONS BEARING RESPONSIBILITIES ON HISTORIC MONUMENTS AND AREAS

Analysing the functions/ tasks of institutions responsible for the historic monuments, as they emerge from the Law n. 1530/1993 on the protection of monuments, offers useful insights on the interlinkages among different actors, on the procedures envisaged by the law, on their level of detail, on the needs for further specifications and /or simplification.

The dendrogram chart (n.1) in the following page illustrates how the tasks for protection of historic monuments are distributed among the different main institutions that are engaged in its implementation.

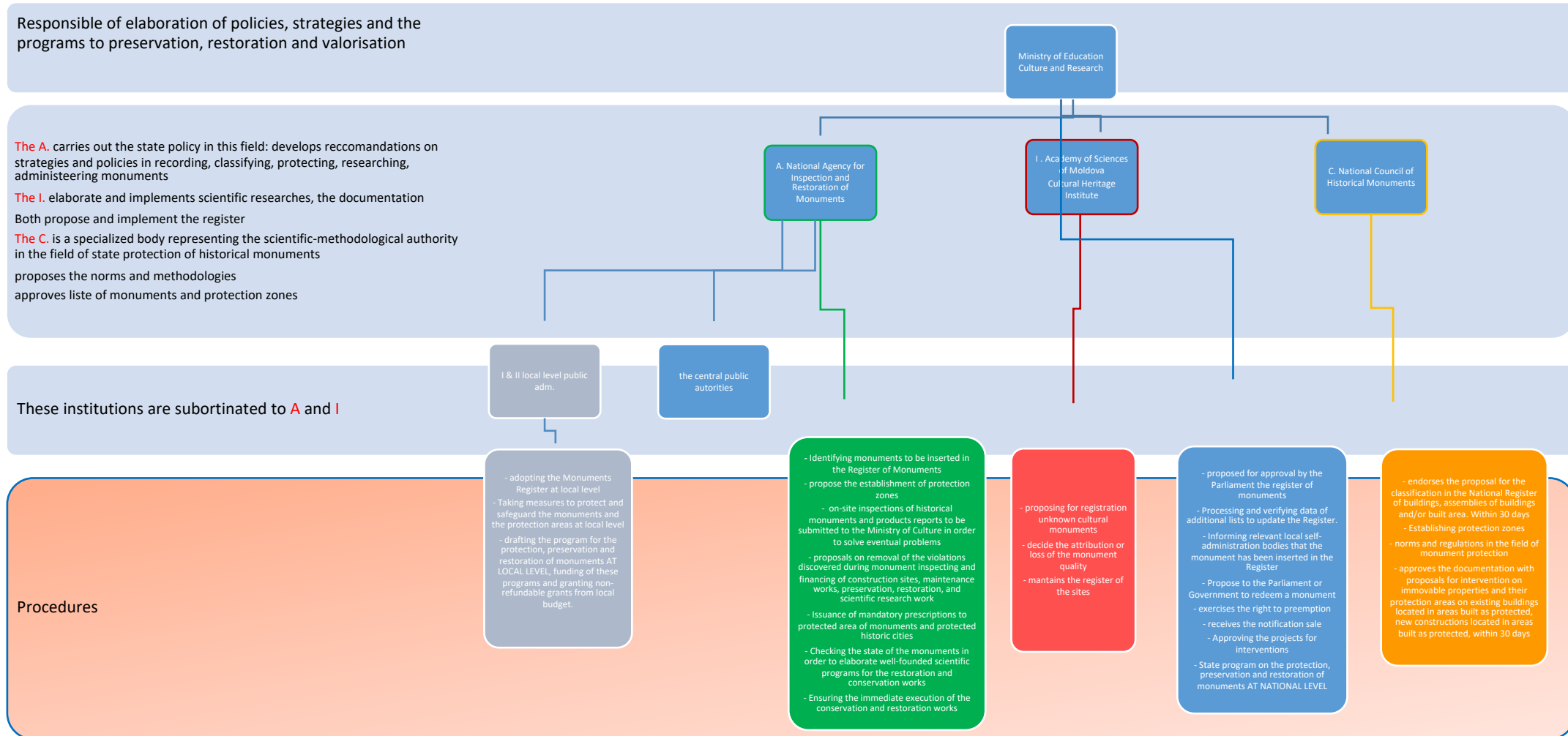


Chart 1 - Dendrogramme with functions and structures of Cultural Heritage institution involved in protection of monuments law (1530/1993

The dendrogram of chart 1, shows that there are three institutions subordinated to the MECR: one is labelled A (indicating the Agency), one is labelled I (indicating the Institute for Cultural Heritage) and finally one is labelled C (indicating the National Council of Historical Monuments).

- **A (National Agency for Inspection and Restoration of Monuments)** is tasked with several functions (see previous paragraph in the present report), however the main activity is represented by performing inspections of monuments under the official protection of central and local public authorities, including the protection areas associated with them;
- **I (Academy of Sciences of Moldova: Cultural Heritage Institute)** elaborates and implements scientific research on different topics; in the future, it is expected that the Institute will play a central role in what it concerns the development of methodologies, guidelines, principles for documentation, protection and conservation activity;

Both **A** and **I** are tasked with responsibilities to propose and to implement state measures and programmes on protection restoration and valorisation.

- **C (National Council of Historical Monuments)**; proposes the norms and methodologies and issues its opinion on different aspects, including project proposals for protected monuments or areas.

THE FUNCTIONS OF THE DIFFERENT INSTITUTIONS AS INDICATED IN THE LAW AND IN THE REGULATIONS OF THESE INSTITUTIONS

Institution A is expected to play a major role in the protection of monuments as emerged in the analysis of the tasks of the Agency contained in the Ministerial Order n. 232/2010 establishing duties and rights of the AIRM (see previous relevant paragraph). It is encouraged to cooperate with other state bodies and local administrations for the purpose of the protection of the monuments. these in turn are encouraged to cooperate with A, for the development of programmes for protection, conservation and restoration of monuments. A number of procedures can be identified in which the Agency (A) is involved.

Inspection activity is under the Agency's responsibility; however, its implementation depends on the work performed by the Council and by its efficiency in transmitting the necessary information (e.g. lists of decisions, documentation of projects), see in this regard the subsequent diagrams. On the other hand, several other functions are in the Agency's full capacity whilst some depend on the joint cooperation with other administrations (e.g. perform emergency measures, submit proposal for listing in the Register or for conservation works) and the effectiveness of some other depends on the follow up by other bodies (e.g. law enforcement).

The institution C (Council of Historic Monuments) is independent, and is charged with several tasks which give rise to specific procedures, the most important of which being the approval of projects on protected monuments and within protected areas.

According to the law n. 1530/1993 as amended and the Government Decision N. 73/2014 regulating the attributions and working methods of the Council of Historic Monuments, the NCHM scope of activity would include:

- examination of national strategies
- proposal of methodologies and policies;

- endorsement of proposals for updating the register of historic monuments;
- issuing of its opinion (aviz) on proposals for detailed plans of protected areas as well as projects on protected monuments and within protected areas
- approvals of proposals for nominations for World heritage Listing
- approvals of training programmes for specialists.

The table below highlights the interconnections among the different bodies having responsibilities upon historic monuments in Moldova with regard to functions and procedures, according to the comparative reading of the law and of the regulations of each body.

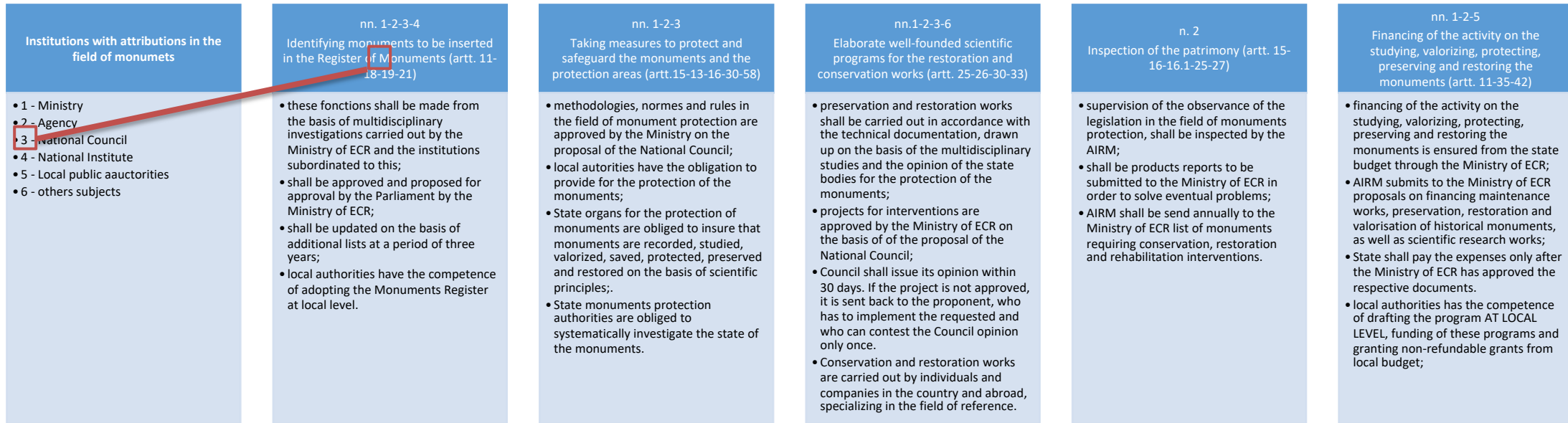


Figure 2: Functions: General juridical regime to ensure the identification, inventory, preservation, restoration, maintenance, valorisation of the monuments

ANALYSIS OF THE REGULATION OF AIRM CROSS- REFERENCED WITH THE PROVISIONS OF THE LAW N. 1530/1993

The Order of the Minister n. 232/2010⁵ regulates specifically the activity of AIRM, which is expected to be replaced by the new National Agency for Monuments and Sites Inspection (NAMSI). Its analysis has highlighted the need to modify the regulation in order to make it consistent with the provisions of the envisaged amendments to the Law on the protection of monuments, if they are expected to be approved.

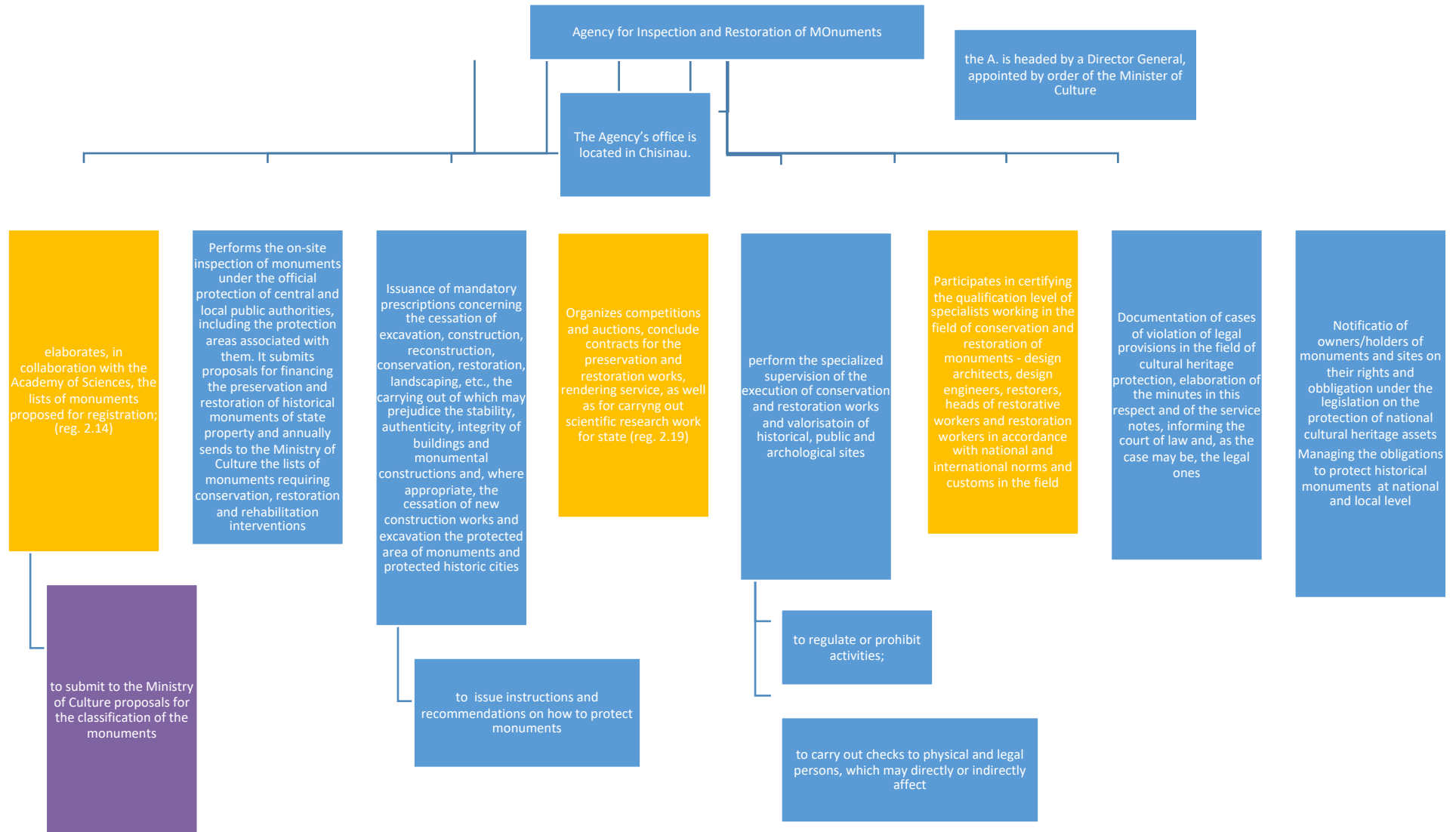
The table below compares the functions provided for in the 2010 regulation with those envisaged by the law on the protection of monuments n. 1530/1993, including the draft amendments 2018: highlighted in blue are the functions envisaged by the draft amendments to the law (January 2018 Art. 28 e 29) and in yellow the functions that must be transferred to another institution.

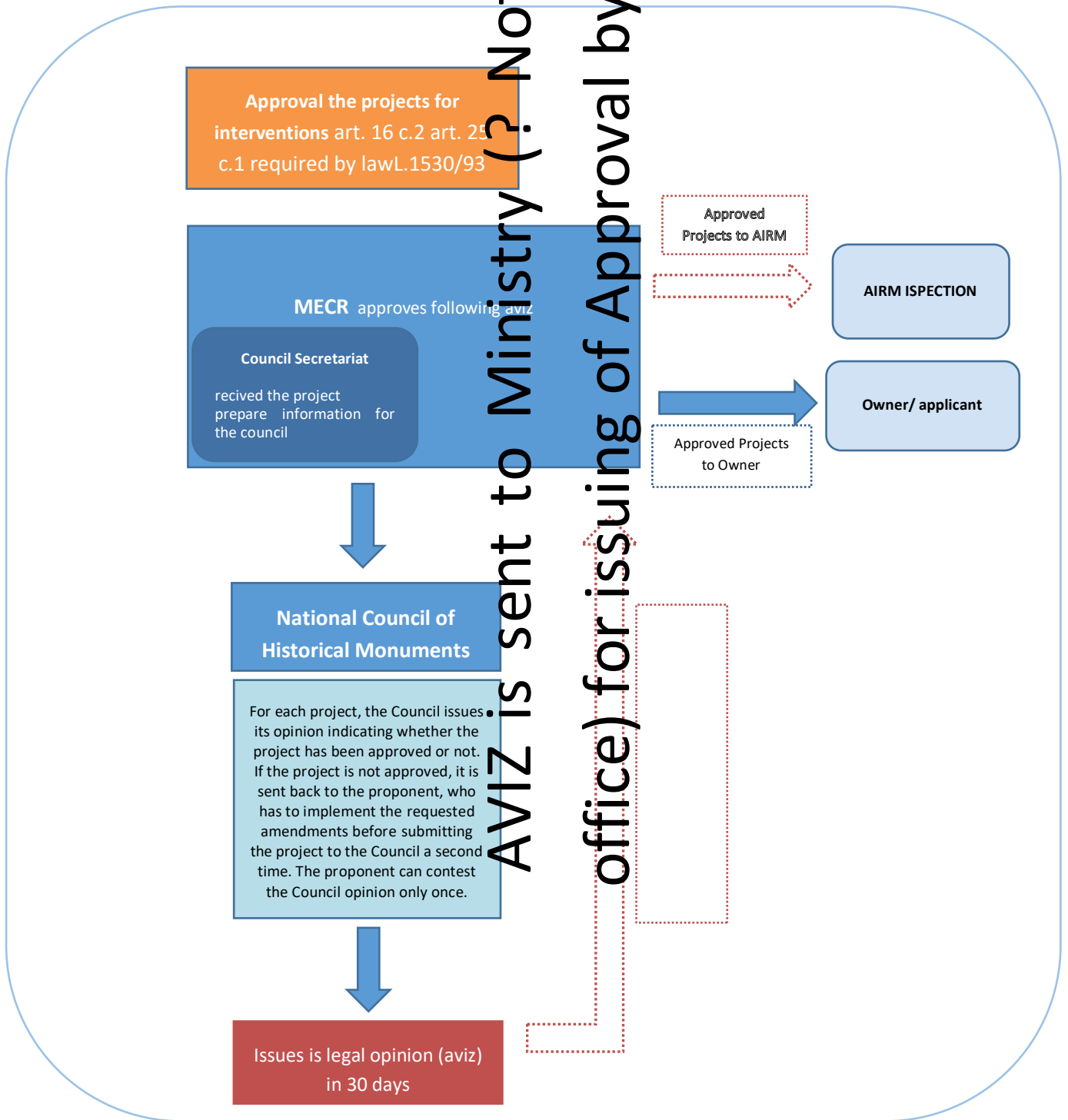
Further reflections exposed in the Emerging issue section below suggest that further modifications to the tasks and to the level of autonomy of the future reformed Agency.

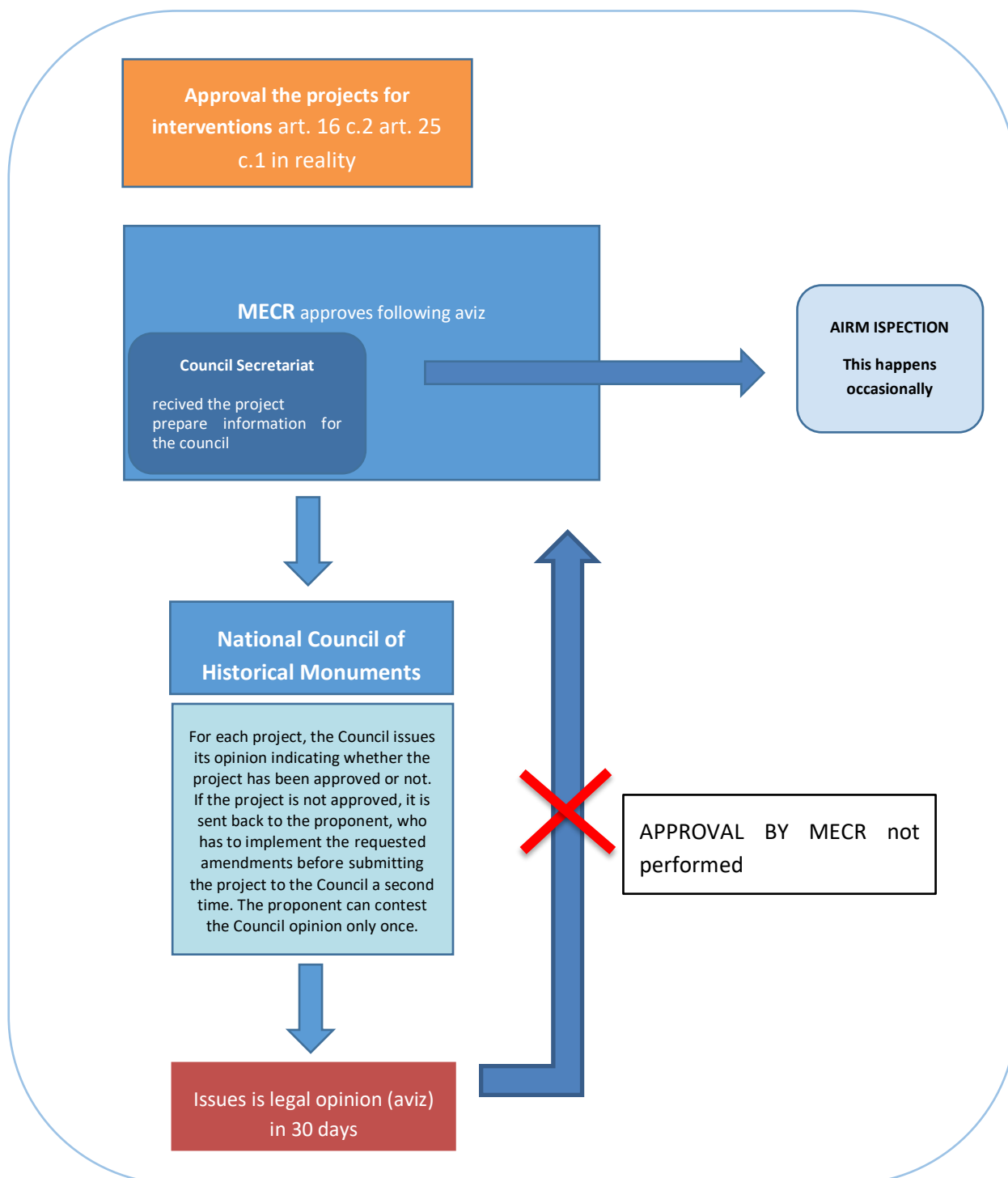
In the subsequent two diagrams, the steps of the procedure for approval of project on protected monuments or areas according to the law n. 1530/1993 is presented and the interaction between the MECR, the Council and the AIRM is visualised. The first diagram illustrates the procedure according to art. 25 the Law, the regulations of the Councils and of AIRM. However, in these regulations not all passages are expressed. The arrows and the box with a red dotted contour indicate the passages that are not detailed in the law but are necessary for the procedure to be concluded and the other bodies to implement their functions. According to the regulations of the Council, after the issuance of its opinion, the Ministry approves it and transmit it to the applicant.

⁵ (Published : 03.09.2010 in Official Gazette No. 155-158 art Nr : 563 This regulation GOVERNMENT DECISION No 232 of 02.08.2010)

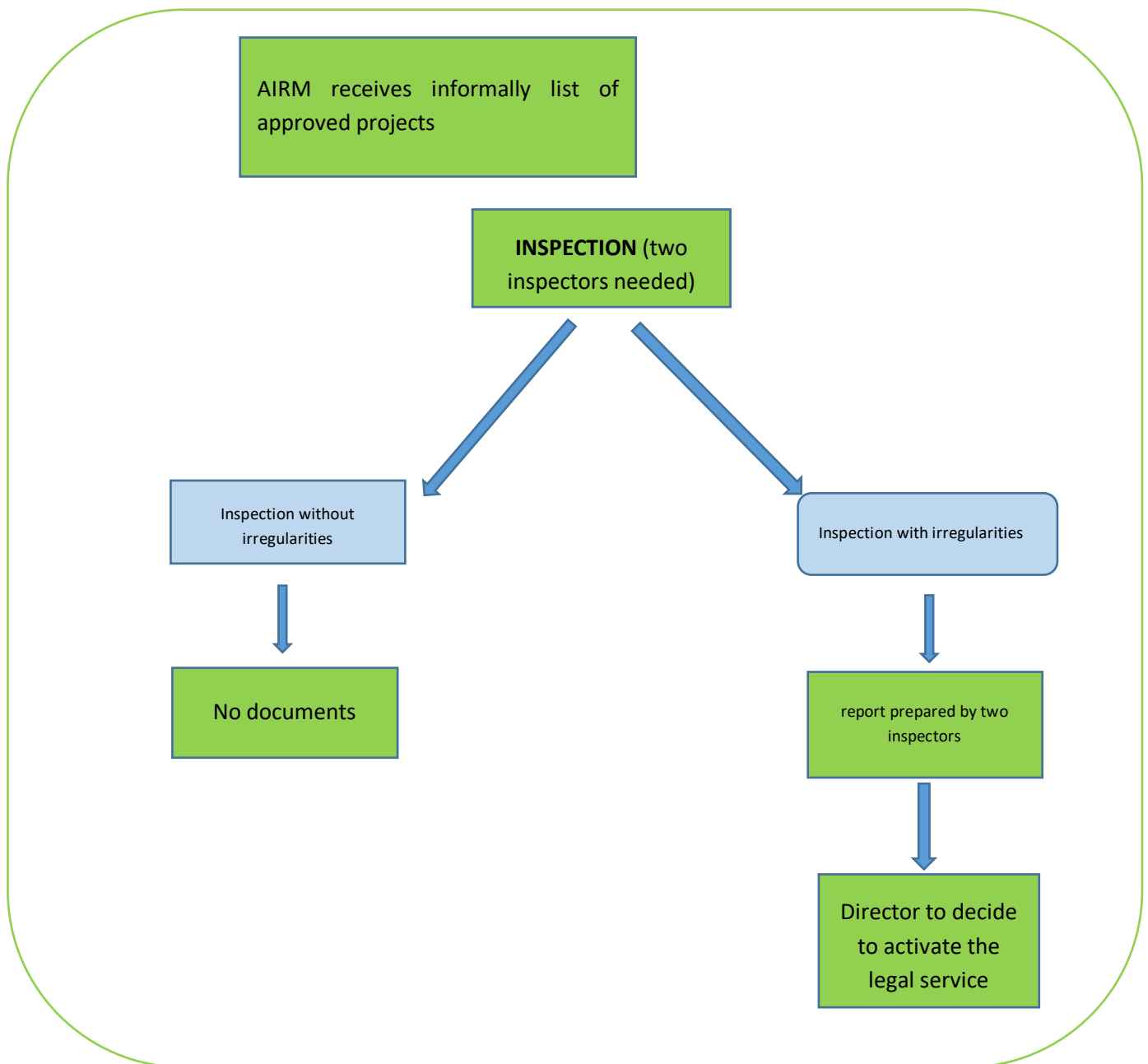
Twinning Project MD 13 ENPI OT 01 16 (MD/26)
 Support to promote cultural heritage in the Republic of Moldova through its preservation and protection







Inspection process



EMERGING ISSUES

The AIRM was created in 2006 but started operating only in 2010, following the appointment of its Director and the issuance of its regulation. It has been entrusted with several delicate tasks and, since it became operational, improvement in the situation have been reported, with a decrease of illegal demolitions (source: Director of the Agency). It is noted that differently from the Decision regulating the NAA, the Government Decision regulating AIRM does not envisage in advance an internal articulation according to different services. Additionally, the planned staff for AIRM is the half of the what is provided for NAA (14 staff units for NAA versus seven for AIRM). This may be seen as a limitation, especially because given the key tasks of the AIRM, most of its staff should be made of architects.

Among the main criticalities denounced by the Agency excessively low salaries were reported, a factor which causes a continuous turn-over of the technical staff. It has been explained that in Moldova architects have much more attractive prospects in the private sector rather than in the agency or in the public administration. In this regard, their situation is different from that of archaeologists at NAA, finding no market for private professional archaeologists outside the public institutions devoted to the sector.

As a matter of fact, architects, the main professionals that are supposed to be employed at the agency, are heavily underrepresented: at the beginning of the Twinning project (October 2017) only one architect was employed at the Agency, the extant part of the staff having different backgrounds. While this report is being compiled (July 2018) the only architect working at the Agency has quitted and no other technical staff unit seems to be employed at the Agency, as a consequence its main operational activity – inspection of monuments and works on protected objects – is severely hindered.

Another reported cause that undermines the effectiveness of the Agency in performing its duties is that its staff has not the status of civil servant according to the law, this not only has a consequence on the salaries and on the staff's selection process, which for civil servants is made according to a different legal provision (Government Decision n. 201/2009), but also on how AIRM's employees are perceived from outside, especially when they have to inspect protected items or building sites.

It has been reported by AIRM that there must be two Agency's employees to carry out jointly an inspection for it to be valid, the Director also explained that they are not entitled to stop works that may damage a protected monument. However, the AIRM regulation does explicitly mention in Section II, para 2.16 that "issuance of mandatory prescriptions concerning the cessation of excavation, construction, reconstruction, conservation, ... [that] may prejudice the stability, authenticity, integrity of buildings and monumental constructions" is part of the Agency's functions as well as the function to "release permission to resume the ceased works". These paragraphs could be read in conjunction with art. 27 of the Law n. 1530/1993 and subsequent amendments which reads "State monuments protection authorities designate special empowered persons, the only ones with the right to supervise and control the conservation and restoration works as well as to interrupt them in case of non-observance of the provisions of law."

At this stage, it is not clear what legal impediments prevent AIRM to exercise the functions set out in its regulation. Further clarifications are needed.

It seems that the only passage that might be missing is a clarification of the Ministerial Order n. 232/ 2010, clarifying the following:

- The technical staff units employed at the Agency are the persons performing supervision, control, reporting according to art. 27 of the law n. 1530/1993;
- the Director of the Agency and the Vice Director are the 'designated special empowered persons, pursuant art. 27 of the law n. 1520/1993, having the right to interrupt works in case of non-observance of the provisions of the law (and in case of potential damage to protected monuments).

The inspection work of the Agency is also hindered by the fragmentation of competences and missing links. For instance, the Agency staff gets informal update about the outcomes of each session from its Director, who is member of the NCHM, but does not receive formal communication about the projects that were granted positive or negative opinion from the NCHM for its inspection and monitoring follow up. More importantly, delays in receiving the documentation of projects approved or rejected by the National Council of Historical Monuments (NCHM) hinder the whole process of implementation of protection on the ground and the ability of AIRM to perform its tasks timely and based on the full extent of the information available. Additionally, the Agency is not involved in the preliminary assessment of the projects, which, according to the regulations of the NCHM, is carried out by Secretary of the NCHM who sits in the Department of Cultural Heritage at MECR.

Another considerable issue emerged during the discussion on the inspection duties concerns the fact that only portions of the projects are forwarded to the Agency, specifically those related to the Architectural part, but not the documentation on the structures, the technical installations, etc. Therefore, the Agency develop only a partial knowledge of the whole project and it is difficult for it to assess whether the approved project is being implemented according to the opinion of the NCHM, its recommendations or not. It is therefore crucial that the entire project complete with all its sections (structure, installations, safety, accessibility, etc.) is submitted first to the Directorate of Cultural heritage for evaluation by the NCHM and then transmitted in its entirety to AIRM (and/ or NAA if and where relevant) in order to ensure that all interventions are assessed with regard their impact on the cultural significance of the monument and of its physical fabric and ambiance.

The reports of the demolitions at national level are limited to the complaints of the citizens, while in Chisinau the technicians of the Agency ensure random control or upon notice – no systematic control is ensured so as no control of building sites. Any inspection results in a document that is sent to the police if irregularities are detected. The police intervene very rarely. However, since inspection reports are issued, the demolitions of heritage buildings have got significantly reduced. Although inspection seems to be one of the few activities among those envisaged by the Agency regulation to be performed, only inspections with negative outcomes and potential administrative or legal consequences are duly recorded, whilst there is no documentation or institutional memory of the building sites where things are running according to the law. This prevents the formation of a baseline repository of data against which to achieve a evidence-based assessment of the improvement in the application of the Law, the effectiveness and efficiency of the Agency action, the dynamics of conservation/ restoration activity, thus frustrating the possibility for MECR to assess the trends in the implementation of the laws of the cultural heritage sector.

A further factor is related to passport fiches compiling and storage. The Agency stores the hard copies of the passport fiches compiled in the soviet period as well as the most recent ones and it is currently implementing a digitization project, funded by the US Embassy, which aims at make accessible all monument fiches on AIRM website. However, the compilation is often non-standard and documents, if present, are hard to retrieve as the paper versions of these documents do not appear to be archived according relevant standards for archives.

The regulations envisage for AIRM several functions both strategic and operational and appear far too wide if one considers the staff that is assigned by law to the Agency (seven units) and the difficulties the Agency is struggling with, due to the frequent turn -over of its staff. It would be advisable to reduce them and to focus on the key tasks, namely implementation of protection tasks, including identification of built assets eligible for being protected under the law, inspection of the state of conservation of protected monuments, identification of monuments in need of conservation works, and transfer the strategic or methodological ones to the MECR and to the reformed Institute of Cultural Heritage, through the envisaged reform.

In the previous paragraphs concerning the functions and rights of the AIRM, some of them are suggested to be removed (text in grey): this is meant as a simplification of tasks to be performed. In order to reduce the burden and the multiplication of initiatives, scientific activities may be carried out jointly with the Institute of Cultural Heritage, dissemination may be organised jointly with the Directorates dedicated to Arts and Creative Industries and Cultural heritage at MECR. It should be clear that the main obligations of the agencies and of the reformed one should be implementation of legislation in the field of protection.

Actions to be undertaken immediately by the Agency in order to make more effective its action include:

- *amend the Order of the Ministry n. 232/2010 in order to empower the Agency staff and its director and vice – director to implement art. 27 of the Law n. 1530/1993*
- *select and hire new technical staff units, able to perform the key tasks of the Agency, in order to bring it back to operationality;*
- *adopt inspection forms to document the monitoring activity carried out by the agency;*
- *develop a simple database (even an excel file would suffice for the tasks), in which to record the carried-out activities, first of all the inspections, their outcomes and the subsequent steps undertaken (e.g. information to the MECR and to the police in case of detected infringement of the law or of the opinion of the NCHM, etc.), as a support for the reporting activity;*
- *with the scientific advice of the State Archives, reorder and store the historical files of the passport, according to acknowledged standards, in parallel to the digitisation of the files, to ensure their proper conservation and accessibility;*
- *in cooperation with the MECR and other public institutions, update the Register of Historic Monuments, through direct surveys and by establishing links between the cartography and the cadastral data,*
- *request MECR to propose amendments to the Law n. 163/2010 on the authorisation to the execution of construction works, in order to ensure that also the Agency of Inspection and Restoration of Monuments is informed timely of issued building permits and of the beginning of the works on protected monuments or areas.*

NATIONAL ARCHAEOLOGICAL COMMISSION (NAC)

The functions of the **National Archaeological Commission** are set by the Article 13 of **Law n. 218** of 17.09.2010 (and 2017 amendments) "on the protection of the archaeological heritage".

The Law establishes that the National Archaeological Commission:

- is an advisory body representing the scientific authority in the field of archaeological heritage protection and activates with the Ministry of Education, Culture and Research;
- elaborates and proposes to the Ministry of Education Culture and Research for approval plans of actions for the implementation of national strategies, policies and programs regarding the protection, research and valorisation of the archaeological heritage.

COMMISSION FUNCTIONS

The National Archaeological Commission has the following attributions:

- approves (through legal opinion) the recommendations on strategies and policies in the field of recording, classifying, protecting, researching, capitalizing and administering the national archaeological heritage;
- performs the expertise of archaeological field investigations and the quality of archaeological reports;
- decides and submits for approval to the Minister of Culture proposals for the issuance of nominal authorizations for systematic archaeological and rescue excavations on the territory of the Republic of Moldova;
- provides its binding opinion (aviz) on the norms and methodologies in the field of archaeological research;
- provide its binding opinion (aviz) on the Regulation on Archaeological Research and Expertise and the Code of Ethics of Archaeologists;
- approves the methodology for classification of archaeological sites in the National Archaeological Register, which is approved by order of the minister of culture;
- approves lists of archaeological sites proposed for classification;
- approves the methodology of elaboration and administration of the National Archaeological Repertory and the National Register of Archaeological Sites;
- approves the updating of the National Register of Archaeological Sites;
- approves and proposes for approval to the Minister of Culture the Regulation on the Register of Archaeologists of the Republic of Moldova;
- performs the certification of the specialists to be registered with the Archaeologists' Register of the Republic of Moldova and proposes the respective decisions for approval to the Minister of Culture;
- endorses substantive studies for the definition, establishment and delimitation of protected areas that contain archaeological heritage;
- approves the establishment and delimitation of the protected areas containing archaeological heritage and proposes them for approval to the Minister of Culture;
- proposes to the central public authorities the acquisition of land with archaeological heritage assets;
- represents the Republic of Moldova within similar international specialized bodies;
- examines appeals in its area of competence;

NATIONAL ARCHAEOLOGICAL AGENCY (NAA)

The structure and regulation of the **National Archeological Agency** is set by the **Governmental Decision n. 230** of 12.04.2012 "on the creation of the National Archaeological Agency".

The Regulation of the National Archaeological Agency (NAA hereinafter) is provided at Annex 1 of the Decision and sets the organization and functioning of the Agency. It regulates the mission, basic duties, functions and rights as well as the organization of its activity.

Among other, it establishes that the NAA:

- is a specialized public institution, created by the Government in accordance with the provisions of **Law no. 218 of September 17, 2010** on the protection of the archaeological heritage, in order to implement the state policy in the field of protection and valorisation of the archaeological heritage;
- is a public institution subordinated to the Ministry of Culture which acts as founder, with distinct legal status, separate budget and bank accounts;
- exercises its powers in close cooperation with the central and local public administration authorities, archaeological research institutes, design institutions in the field of construction and landscaping, with legal or physical persons whose activities cause soil damage in depth, international organizations and civil society;
- funds its activities on the basis of the budgetary allocations and special means held by the institution.
- keeps accounting records and reports;
- provides statistical reports;
- receives control over its economic and financial activity;
- may be terminated by reorganization or dissolution, based on a Government decision.

The Agency is articulated in different services: the Leadership, the Service for the documentation and record of archaeological heritage, Service for the management of archaeological heritage, the Service for preventive archaeology, the Finance and Accounting Service, the Service for legal affairs and internal audit and the Service for human resources and Secretariat.

FIELDS OF ACTIVITY

The mission of the Agency is to implement the state policy in the field of protection and valorisation of archaeological heritage, organization and exercise of the control and supervision, on behalf of the state, of the observance of the legislation in the field of archaeological heritage protection.

NATIONAL ARCHAEOLOGICAL AGENCY FUNCTIONS

For the fulfilment of its mission, the Agency has the following basic duties and functions:

- implements national strategies, policies and programs for the protection and valorisation of archaeological heritage;
- develops substantive studies for the definition, establishment and delimitation of the state-protected areas comprising the archaeological heritage;
- develops management plans for archaeological sites;
- administers archaeological sites;
- performs archaeological inspection at national level;

- coordinates the activities aimed at valorisation of archaeological sites, with archaeological institutions and local public administration authorities;
- carries out, in collaboration with research institutions, the activities of safeguarding archaeological sites;
- in collaboration with the Academy of Sciences, elaborates the methodology of drawing up and administering the National Archaeological Register and Repertory;
- in collaboration with the Academy of Sciences, elaborates the lists of archaeological sites proposed for classification;
- in collaboration with the Academy of Sciences, elaborates, administrates, holds and supplements, on the basis of the information provided by the specialized institutions, the following documents:
 - National Archaeological Repertory;
 - National Archaeological Register;
 - National database of archaeological sites;
 - National register of Archaeologists.
- elaborates the Regulation on the National register of Archaeologists;
- elaborates the methodology for classification of archaeological sites in the National Archaeological Register;
- in coordination with the Ministry of Culture, organizes and performs on a contractual basis preventive, rescue and surveillance archaeological research;
- in coordination with the Ministry of Culture, approves the documentation of urbanism and landscaping in order to establish the presence / absence of archaeological sites;
- in coordination with the Ministry of Culture, on the basis of specialized reports, approves the works to be carried out in areas with archaeological heritage;
- performs the specialized supervision of the works in which random archaeological discoveries were recorded, triggering the classification procedures provided by law;
- draws up and submits to the Ministry of Culture proposals for the issue of the archaeological discharge certificate for archaeological sites destroyed or in danger of being destroyed;
- provides the local public administration authorities with complete data on the archaeological sites within the respective localities and trains the local public administration authorities in matters related to the protection and valorisation of the archaeological heritage;
- establishes, manages, develops and proposes the National Archaeological Cadastre to the Ministry of Culture, to be presented to the Government for review;
- performs inventory of the national immovable archaeological heritage;
- collaborates with local public administration authorities and public associations to protect and promote archaeological heritage, including by receiving up-to-date information on applications for building projects' approval in archaeological heritage areas;
- elaborates and publishes the "White Book" (list of saved and redeemed archaeological monuments), the "Red Book" (list of archaeological monuments in danger), the "Gray Book" (list of archaeological monuments destroyed by research) and the "Black Book" (list of archaeological monuments destroyed without investigation).

The text in grey indicates the functions which the MS Twinning experts suggest to remove from the responsibility of the Agency and to give to either the reformed Institute of Cultural Heritage or the Directorate of Cultural Heritage.

AGENCY RIGHTS

In order to carry out its tasks, the Agency is entitled with the following rights:

- to inspect any land with archaeological potential on the territory of the Republic of Moldova, irrespective of its ownership, and to dispose in writing the measures necessary for preserving, protecting, researching and valorisation on the appropriate archaeological cultural objects;
- to issue and apply mandatory prescriptions for physical and legal persons guilty of violating the archaeological heritage protection regime;
- to notify the law enforcement bodies for contravention or penal sanctioning of persons liable for violating the protection of the archaeological heritage, deterioration or destruction;
- to adopt administrative and technical-scientific measures for the protection and valorisation of the archaeological heritage;
- to submit to the Ministry of Culture proposals for the classification of the archaeological heritage;
- to establish obligations for the protection of the archaeological heritage for the owners, administrators or holders of real rights over archaeological heritage lands;
- to regulate or prohibit anthropogenic activities in archaeological heritage sites;
- to carry out checks for, in order to determine the existence of the archaeological heritage, to physical and legal persons, beneficiaries, design institutions which, through their actions, may directly or indirectly affect archaeological sites or areas with archaeological potential and verify any type of a project that requires interventions on the soil and subsoil in order to avoid damage to or destruction of the archaeological heritage;
- after the coordination with the Ministry of Culture, to conclude with physical or legal persons contracts for the rental of archaeological sites, to monitor the use of the archaeological heritage and the conditions for its protection and valorisation;
- to issue instructions and recommendations on how to protect archaeological sites;
- to publish informative bulletins on the status of monuments, as well as other methodological and scientific publications, including monographs, on the results of the archaeological investigations carried out in the framework of the preventive and rescue works for the archaeological monuments;
- to organize methodological meetings in the field of archaeological heritage management, as well as scientific events for the evaluation of archaeological research, preservation, restoration, protection and valorisation of immovable and mobile archaeological assets.

AGENCY STRUCTURE

The Structure of the Agency is provided at Annex 2 of the Decision. From a structural point of view, the Agency consists of:

- Leadership;
- Archaeological Heritage Documentation and Record Service;
- Archaeological Heritage Management Service;
- Preventive Archaeology Service;
- Finance and Accounting Service;
- Legal and Internal Audit Service;
- Secretarial and Human Resources Service.

STAFF

The decision sets for the Agency the limit of 16 units of staff, recruited and remunerated according to the provisions of the Government Decision no. 381 of April 13, 2006 "On the conditions of remuneration of staff in budgetary units".

The Agency is led and managed by the **Director General**, assisted by a **Deputy Director**. The appointment, modification, suspension and termination of service relations of the Director General and the Deputy Director of the Agency shall be carried out by the Minister of Culture.

The Leadership administers the Agency's activity and coordinates all types of work related to the implementation in practice of state policies in the field of recording, protecting, inspecting and saving the archaeological heritage.

The Director-General:

- ensures the execution and the observance of the legal and normative acts in force, the orders and the provisions of the Ministry of Culture, of the tasks arising from the present Regulation and bear personal responsibility for realization of the rights and obligations of the Agency;
- represents the Agency in relations with public authorities, physical and legal persons from the country and abroad, and may delegate this task to other persons;
- appoints and dismisses the employees of the Agency, modify, suspend and terminate the employment relations with them;
- determines and assigns the tasks of the subdivisions, as well as the tasks, duties and responsibilities of the Agency's employees;
- manages the development of the draft budget for that year in the part related to the allocations necessary to ensure the activity of the Agency, draft plans on the activity, financing, technical-material assurance of the Agency, other plans and presents them to the Minister of Culture for approval. He also controls the implementation of the approved plans;
- presents to the Ministry of Culture reports on the activity results, as well as on the economic and financial activity of the Agency;
- has the right to manage the financial and material resources of the Agency within the limits of the approved budget;
- after coordination with the Department of the Ministry of Culture responsible for the protection of the archaeological heritage, concludes contracts with legal and physical persons for carrying out archaeological research works and activities aimed at archaeological sites' rescue;
- undertakes, in accordance with the legislation in force, measures to solve problems related to the Agency's activity, technical-material assurance, maintenance of its premises, solve and co-ordinate other issues related to the functioning of the Agency;
- bears personal responsibility for the intended use of the financial and material resources available to the Agency;
- signs the decisions and prescriptions issued by the Agency, as well as the control missions;
- issues orders and enforceable provisions for all employees of the Agency and controls their execution.

In the absence of the Director General, his duties are exercised by the **Deputy Director**.

The Agency's **internal subdivisions** operate on the basis of their own regulations, approved by the Director General.

The classification scheme, within the limits of the established staff, is approved by the Minister of Culture in accordance with the structure of the Agency.

The staff of the Agency, consisting of specialists in the relevant fields, operates on the basis of personal records, approved in the manner established by the Director General of the Agency. From available special financial funds, the Director General of the Agency may contract additional personnel to carry out activities related to the Agency's competencies.

SOURCES OF FUNDING

The activity of the Agency is financed from the funds allocated from the state budget, as well as from the special means obtained in compliance with the legislation in force.

The sources of the Agency's patrimony are:

- state patrimony transferred to the Agency in order to ensure the carrying out of its own activity;
- budget allocations;
- revenues from the provision of services and the conclusion of contracts;
- donations, grants, sponsorship and other income.

The main revenues for the Agency derive from the contracts with investors for carrying out preventive archaeology investigations. While these represent an opportunity for the Agency in terms of scientific and technical development of its staff, it should be noted that this activity also absorbs much time and energy which are subtracted from other activities, namely the implementation of protection measures, the inspection of building sites to ascertain that possible archaeological findings are not destroyed without documentation and the update of the GIS on the archaeological heritage potential. The Staff of the Agency agrees that the monopoly of the public institutions with regard to preventive archaeology should end, although this reform would also require the training of archaeologists to carry out this activity.

COMMITTEES

Committees and working groups may be set up within the Agency to examine and address specific issues and make decisions in the areas of reference. In the work of committees and working groups can be involved specialists from various fields.

ANALYSIS OF PROCEDURES AND INSTITUTIONS INVOLVED IN ARCHAEOLOGICAL HERITAGE SECTOR

Among the goals of Component 2 is that *“the administrative and management capacity of the Agency for Inspection and Restoration of Monuments and of the National Archaeological Agency as well as Ministry of Culture’s cultural offices and other relevant stakeholders are increased”*.

In reality this goal was defined before the reform assembles the two agencies into a single structure named National Agency for Monuments & Sites Inspection (NAMSİ).

The unification of the two agencies would need the reformulation of this objective and the redefinition of this goal requires several changes in the next goals and required and adjustment on the activities that were carried out as preliminary analysis of the current law and his regulation.

According with the mandatory of Assessment of the current situation of the implementation agencies, the strategy adopted in this special focus on archaeology is:

1. **preliminary analysis of organisation of Ministry of Culture** in order to evaluate the application paths of the regulations usable to prepare what is required in the mandatories for the component 2;
2. **analysis of the regulation** cross-referenced with the current law;
3. **analysis of the procedures**;
4. to propose strategies and paths to increase quality and comparability of inspection reports followed by concrete actions as output of this component.

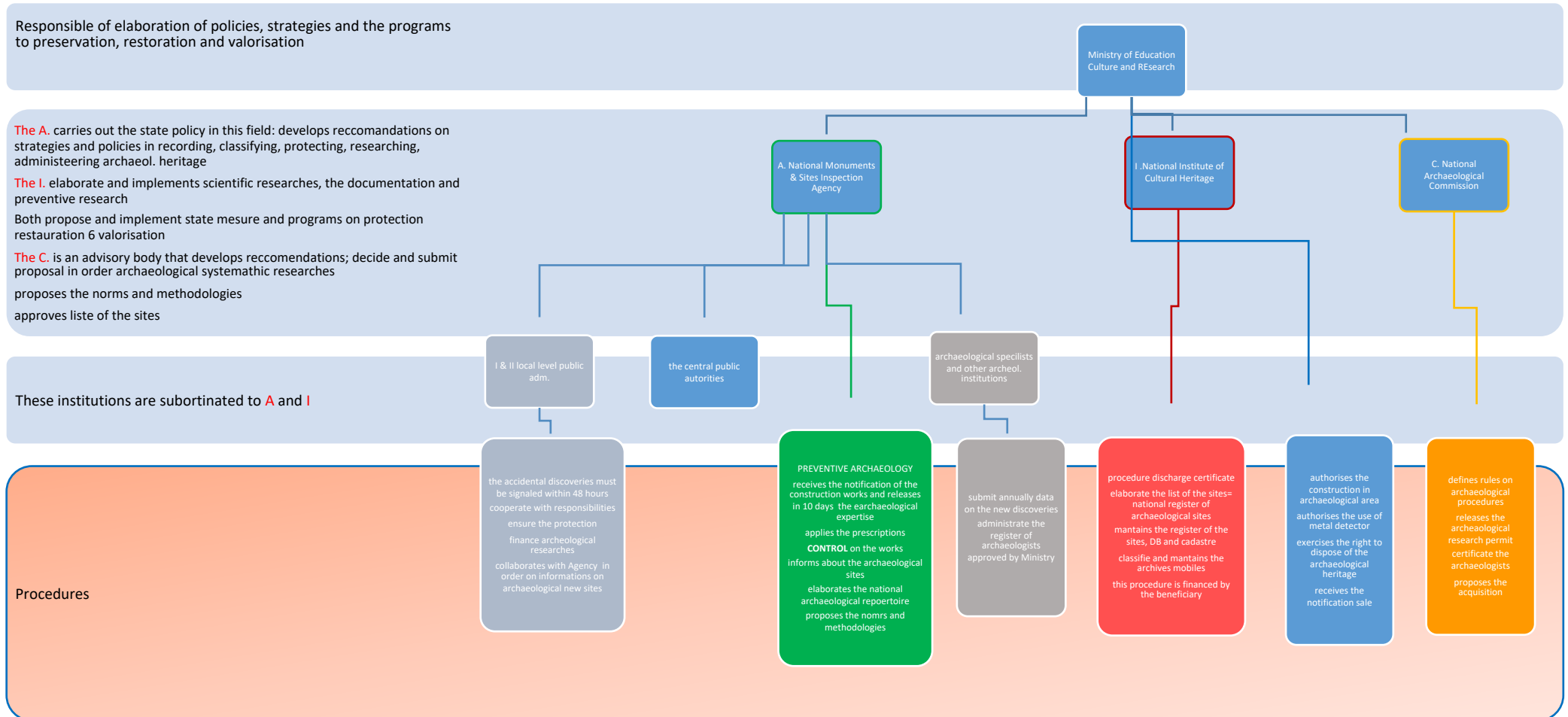
1. PRELIMINARY ANALYSIS OF ORGANISATION OF MECR - RELATED AND OTHER INSTITUTIONS BEARING RESPONSIBILITIES ON ARCHAEOLOGICAL HERITAGE

A preliminary analysis of the interrelations and functions/ tasks of institutions responsible for archaeological heritage, as they emerge from the Law n. 218/2010 on the protection of archaeological heritage, as defined by the draft revision of the law (December 2017). Despite this amendment still awaits approval, it has been decided to take into consideration as it clearly set out the hierarchy of the actions⁶ and it is therefore useful for an analysis that should serve the purpose of improving future working methods.

The dendrogram chart (n.1) in the following page illustrates the main pillars of the revised law for the protection of the archaeological heritage and the different main institutions that are engaged in its implementation.

⁶ references: PARLIAMENT LAWS Nr. 218 from 17.09.2010 on the protection of the archaeological heritage

Chart 1 - Dendrogramme with functions and structures of Cultural Heritage institution involved in Archaeological law



The dendrogram of chart 1, shows that there are three institutions subordinated to the MECR: one is labelled A (indicating the Agencies), one is labelled I (indicating the Institute for Cultural Heritage) and finally one is labelled C (indicating the National Archaeological Commission).

- **A (Agency for Monuments and Sites Inspection)** carries out the state policy in this field: develops recommendations on strategies and policies in recording, classifying, protecting, researching, administering archaeological heritage;
- **I (National Institute of Cultural Heritage)** elaborates and implements scientific researches, the documentation and preventive research;

Both propose and implement state measure and programs on protection restauration and valorisation.

- **C (National Archaeological Commission)** is an advisory body that set out recommendations; decide and submit proposals in relation to archaeological systematic researches; proposes norms and methodologies.

Institution A plays a major role in the protection of archaeological heritage local administrations are encouraged to cooperate with A, for the development of programmes for protection, conservation and restoration of archaeological heritage. For this purpose, transfer from state budget to local administrations is envisaged.

The institutions I and C are independent and they are responsible for several procedures.

The picture 1 shows several difficulties on the functions assigned to the different institutions.

- The institution A (Agency) administers the register of archaeologists approved by Ministry and the institution C (Commission) certificates the archaeologists: it is not clearly set out what is it the level of interaction between the two institutions.
- The institution C (commission) releases the archaeological research permit while directly the Ministry authorises the use of metal detector. There are two different forms of authorisation in archaeological research field. Perhaps it would be more functional if the authorization tasks were assigned to the same institution.

Below other suggestions are listed in more detail articulated according to the sequence of the different articles:

- (Art. 2) It is not completely clear who defines and elaborates the principles and standards of prospecting, identification, excavation, inventory, protection and restoration, and finally valorisation. And most in general what administrative office follows that the process achieves its goal;
- it is not clear which administrative structure shall ensure law enforcement and compliance with restrictive and legal punitive actions. The Agency shall perform surveys investigations but it is not clarified who shall apply the penalties in case of infringement of the rules;
- either it is not clear who can do archaeological survey and who cannot.
- It is not clear who applies the penalties for violations concerning national archaeological sites and who shall control the buffer zone

- It is not clearly stated who is entitled to initiate the procedure to list an archaeological item in the Register of the archaeological heritage: is it the local authority, the owner of the land, the Agency?
- how shall be the information from the discoverer delivered at the local public administration authority be transmitted to Ministry directly? At present there is no clear procedure and it appears therefore necessary to define the path (procedures and act) by MECR or by the National Cultural Heritage Institute;
- (Art. 3) The state policy in the field of protection and enhancement of the archaeological heritage is carried out by MECR through the National Cultural Heritage Institute and the Agency National Monuments and Sites Inspection. Clarification of the functions of each and who is entitled to initiate certain procedures would be useful.

THE PROTECTION SYSTEM OF ARCHAEOLOGICAL HERITAGE

The Law on the protection of archaeological Heritage envisages several tasks to be accomplished however not always they are clearly assigned to one institution or another.

For instance, it is necessary to define which institution is entitled to develop long-term archaeological projects. If authorization procedure begins at the National Agency, it is important that they receive information on when works are expected to begin and how they can be controlled. There is a need for further specifications in this regard.

- Art. 6 concerns the procedure for preventive Archaeology and it provides for the issuer of the urban planning certificate to notify within 2 working days the Agency, enclosing the land plan and information about the type of works. The Agency shall issue the archaeological expertise within 10 working days and send it to the issuer of the planning certificate. The issuer is obliged to inform the applicant about the obligations deriving from the archaeological potential. It is important to define the procedures to choose the archaeologist who is going to be charged with the documentation. Ten days is a far too tight timeframe for issuing an archaeological expertise which needs as a basis some documentation to be compiled.
- According to Art. 8, the Archaeological Cadastre is competence of NICH (National Institute Cultural Heritage). It is noted that it is crucial to link the cartography of archaeological heritage with the cadastral maps and annotate in the cadastral data the protected status of the land. It is necessary to program the pluriennial budget and to define the procedures to develop the 'Cadastre of archaeological heritage'. It is strongly suggested, while developing the cartographic system of the archaeological heritage, to use the same basis and to link the protected land parcels with the cadastral sheets and parcels, to ensure that the information about the status of the site remains embedded in the cadastral and ownership information registered by the Cadastral system.

The MECR must issue the Authorisation to dispose the archaeological heritage i.e. to local public authorities. the details and timeframe of the procedure need to be defined and set out in a regulation or in an order.

- With regard to the provisions set out in Art.9, paragraph 2, it is necessary to identify which office establishes the price to be paid to the owner, according to what methodology, and in

the case of the archaeological research led by the National Cultural Heritage institute on which budget line; additionally, it is necessary to identify which institution or office deals to exercise the right of pre-emption.

- with regard to the provisions of Art. 10, paragraph 2, it is necessary to identify which office shall define the methodology for the calculation of the compensation and in who shall develop this methodology; on which budget line the compensation will be paid and what institution/office will be responsible to manage the procedure.

THE FUNCTIONS OF THE INVOLVED INSTITUTIONS

According to the law n. 218/2010 as amended and according to the 2017 draft amendments, the National Archaeological Commission proposes to the MECR the following:

- Action for the implementation of national strategies;
- Policies and programs about the protection; authorisations to:
 - archaeological research, preventive and systematic excavations;
 - archaeological surveillance;
 - decide and submit issue of authorisations for systematic researches;
 - elaborate and purposes the Code of Ethics of Archaeologists;
 - approves list of sites;
 - approved the archaeological register;
 - performs the certification of the specialists.

While the protection tasks are the competence of two different institutions:

- National Cultural Heritage Institute;
- National Agency for Monuments and Sites Inspection

Particularly the control and monitoring are functions entrusted to the National Agency articulated as follows:

- Inspection;
- Control;
- Monitoring;
- Documentation of violation;
- Annual report on sites;
- Relationship with local authorities.

For this specific reason the control on proceeding of preventive Archaeology is granted to Agency.

However, the principle could be reversed, as is the case in the French legislation which is inspired by the main international norms on preventive archaeology.

In fact the application of the basic norm should not be the objective, therefore the simple concept of freeing the area from the archaeological evidence in order to make it usable should not prevail, rather an opposite point of view should be given equal weight, that is to say, what should be the outcome which the procedure leads to; it is therefore necessary to reflect from the result and therefore to

hypothesize that in the different gradation of the results the preventive intervention may lead to the valorisation of a site and therefore to its protection and not to its discharge.

(Art. 16) National Register of Archaeological Sites

A possible collaboration between the different institutions could be a periodic report in order to implement jointly the National Register.

The comparative sheet (figure 2) highlights the relationship between the provisions of the different articles summarized in the dendrogram of chart 1 and the functions assigned to the various institutions.

From the analysis of the archaeological protection law (including the draft amendments elaborated in 2017), we can infer that provisions defined by the law can be grouped under the following areas of activity:

1. prospecting and identification with inventory;
2. preservation and restoration;
3. guarding and maintenance;
4. valorisation (function partially shared with museums);
5. Administrative, legal and technical control;
6. Technical periodic control;
7. Scientific admittance and control.

However, it should be noted that the provisions are not set out consistently with the areas of activity which they belong to, as the diagram below clearly shows and are rather randomly distributed in the articles. They would benefit from a reordering of the matter in order to facilitate the understanding of the provisions and of the responsible institutions.

Institutions with attributions in the field of archaeological heritage	n.n. 2 and 4 sustainable development of area with priority archaeological interest (art. 24 e art. 34)	n . 3 priority and obligations on the areas of archaeol. interest (art. 25)	nn. 1 and 2 principles of research, conservation, restoration (artt. 27-30)	nn. 6 and. 7 inspection of the patrimony (art. 32)	nn. 3 and 5 temporary export and import (artt. 37-38) or rental (art 42-43)
<ul style="list-style-type: none"> •Ministry •Agency •National Commission •National Institute •Local public aauctorities •others subjects 	<ul style="list-style-type: none"> •these functions (preservation, restoration and valorisation of the archaeol. sites) shall be made from the state budget •these functions can be ensured by co financing or by means of the local public administrations •state and privae institutions shall pay the costs after approval of Ministry of ECR 	<ul style="list-style-type: none"> •the local authorities have the obligation to provide for the protection of the archaeological heritage •They can provide or request the special regulations or planning documentation 	<ul style="list-style-type: none"> •any sistematic research without conservation program shall be stopped •the rules and norms shall be carried out on the basis of opinion of Ministry of ECR •the activities are performed by specialized person, certified by Ministry of ECR 	<ul style="list-style-type: none"> •the institutions responsible are obliged periodically to inspect and monitor and it is the National Agency •c) ensures the protection and protection of the archaeological heritage, urgently indicating the competent institutions within the Ministry of Culture about any violation of the law 	<ul style="list-style-type: none"> •the Ministry of ECR autorizes the temporary export and import •the Ministry of ECR provides concrete obbligations to ensure rprotection on a rental site and the payment is deposited on a special account of the Ministry ECR

Figure 2: Functions: General juridical regime to ensure the prospecting, identification, discovery, inventory, preservation, restoration, guardian, maintenance, valorisation

Figure 2 shows the different functions aggregated by macro themes. However, as emerges from the boxes that recall the different functions, in the case, for example, of function 2 (preservation and restoration), in particular for "zones with priority archaeological interest" these functions are regulated by provisions divided into different articles of the law. of the law and not collected in a specific chapter. Arti. 24, for example, regulates the preservation criteria by local authorities that are anticipated in articles. 18 and 19 in the chapter on the functions of local authorities (see box nos.6 and 7) and then recalled by the 25 that is located in the chapter on areas of archaeological interest. Furthermore, the inspection and monitoring functions is entrusted, according to art. 32, to the Agency but the relationship between the Agency and Local Authorities is not described, although it would be appropriate this were regulated by law and not by secondary legislation.

To summarize: the function of protection of archaeological sites is described in art. 19 paragraph c, defined as a principle in art. 24 and regulated in 25. Furthermore, the art. 32 could be redundant if the Agency should, as envisaged here, monitor it. The Agency could have the function of inspection only and not monitoring, also for the simple fact that it is not foreseen that it has the tools to guarantee periodicity on the territory.

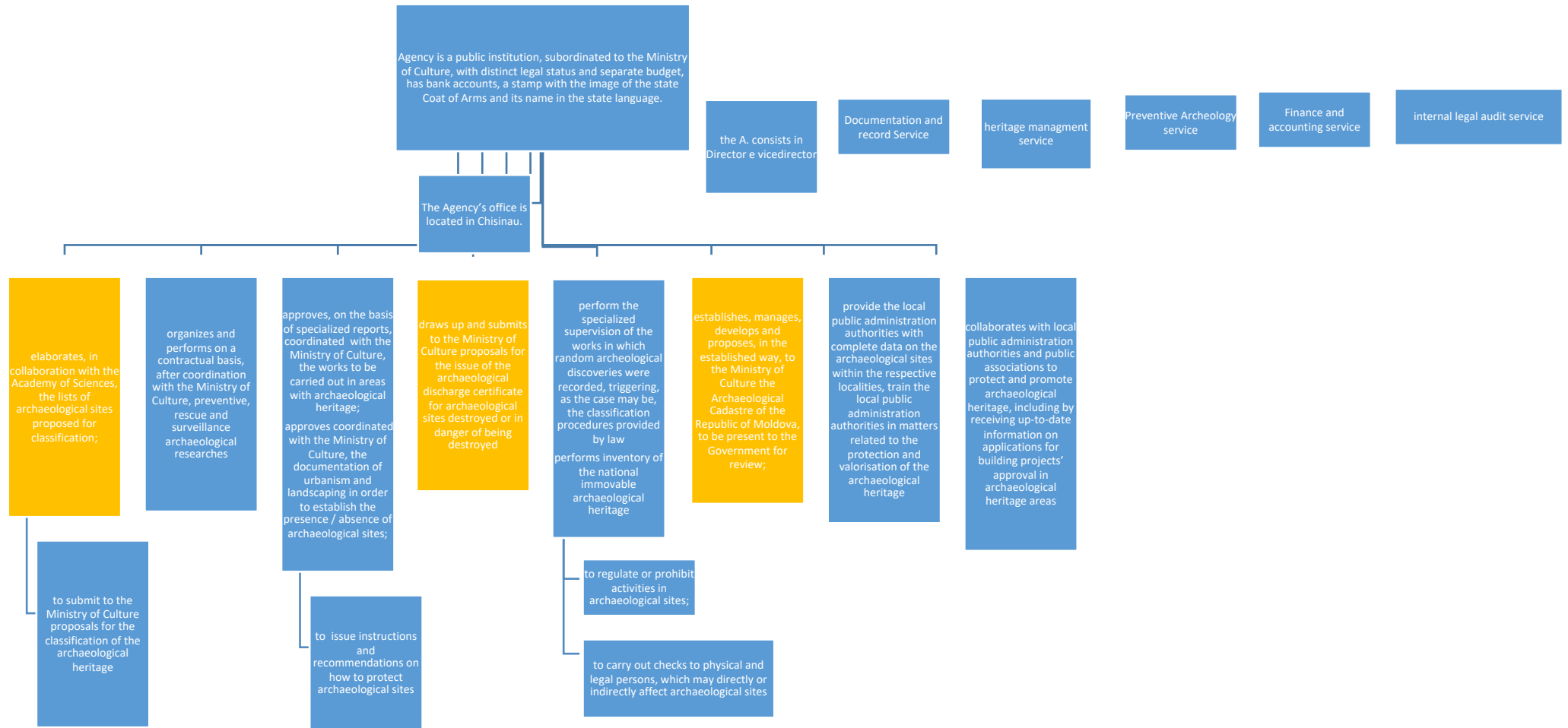
ANALYSIS OF THE REGULATION OF NAA CROSS- REFERENCED WITH THE PROVISIONS OF THE LAW N. 218/2010

The Government Decision n. .../2012⁷ regulates specifically the activity of NAA, which is expected to be replaced by the new NAMSI (see chart 1). Its analysis has highlighted the need to modify the regulation in order to make it consistent with the provisions of the envisaged amendments to the Law on the protection of archaeological heritage, if they are expected to be approved.

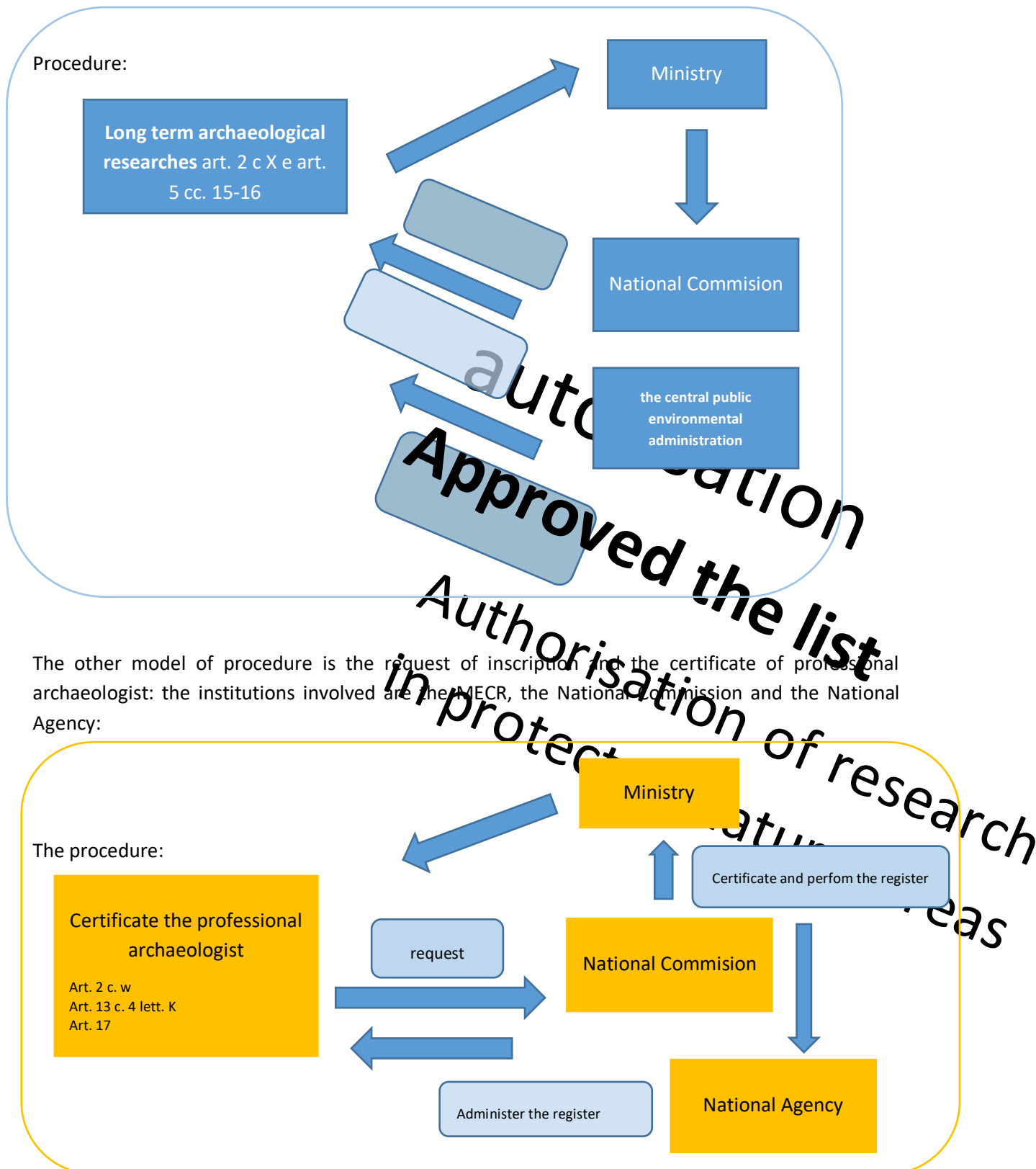
The table below compares the functions provided for in the 2012 regulation with those envisaged by the law on the protection of archaeological heritage n. 218/2010, including the draft amendments 2017: highlighted in blue are the functions envisaged by the draft amendments to the law (2017) and in yellow the functions that must be transferred to another institution.

⁷ (Published : 20.04.2012 in Official Gazette No. 76-80 art Nr : 265 This regulation GOVERNMENT DECISION No 230 of 12.04.2012)

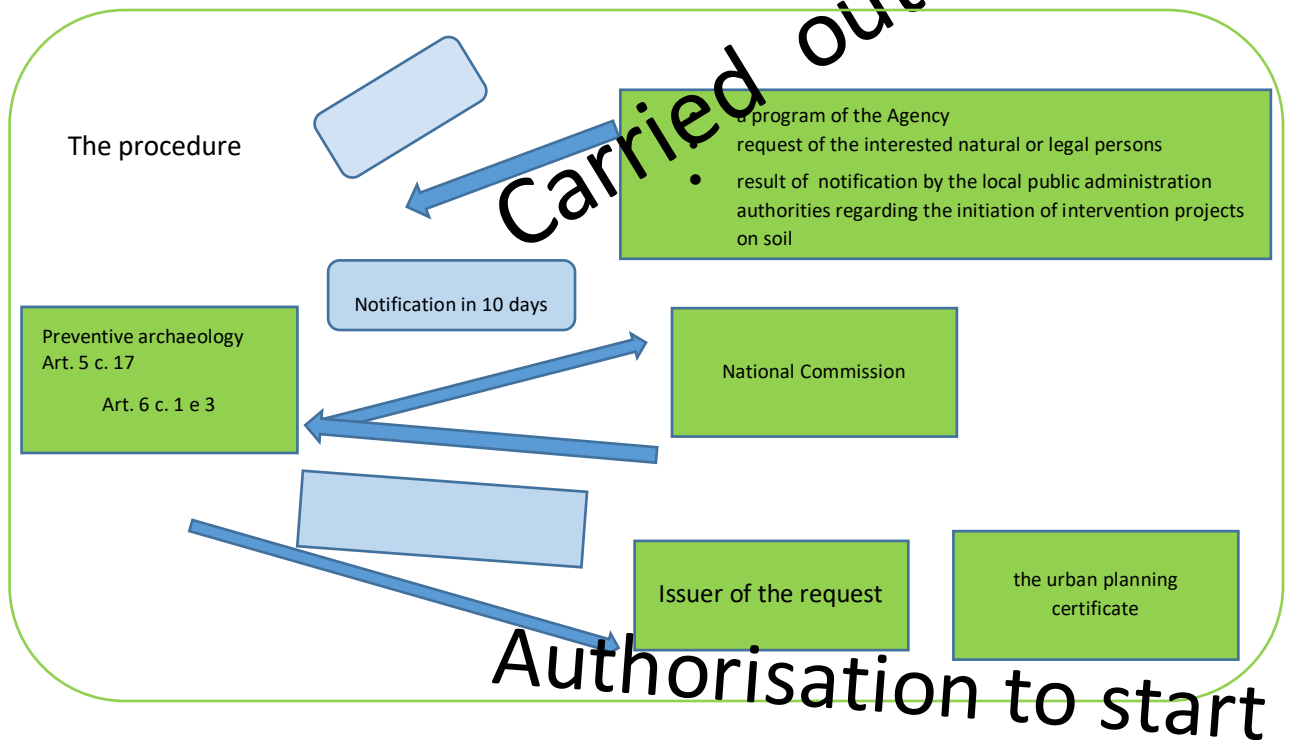
Twinning Project MD 13 ENPI OT 01 16 (MD/26)
 Support to promote cultural heritage in the Republic of Moldova through its preservation and protection



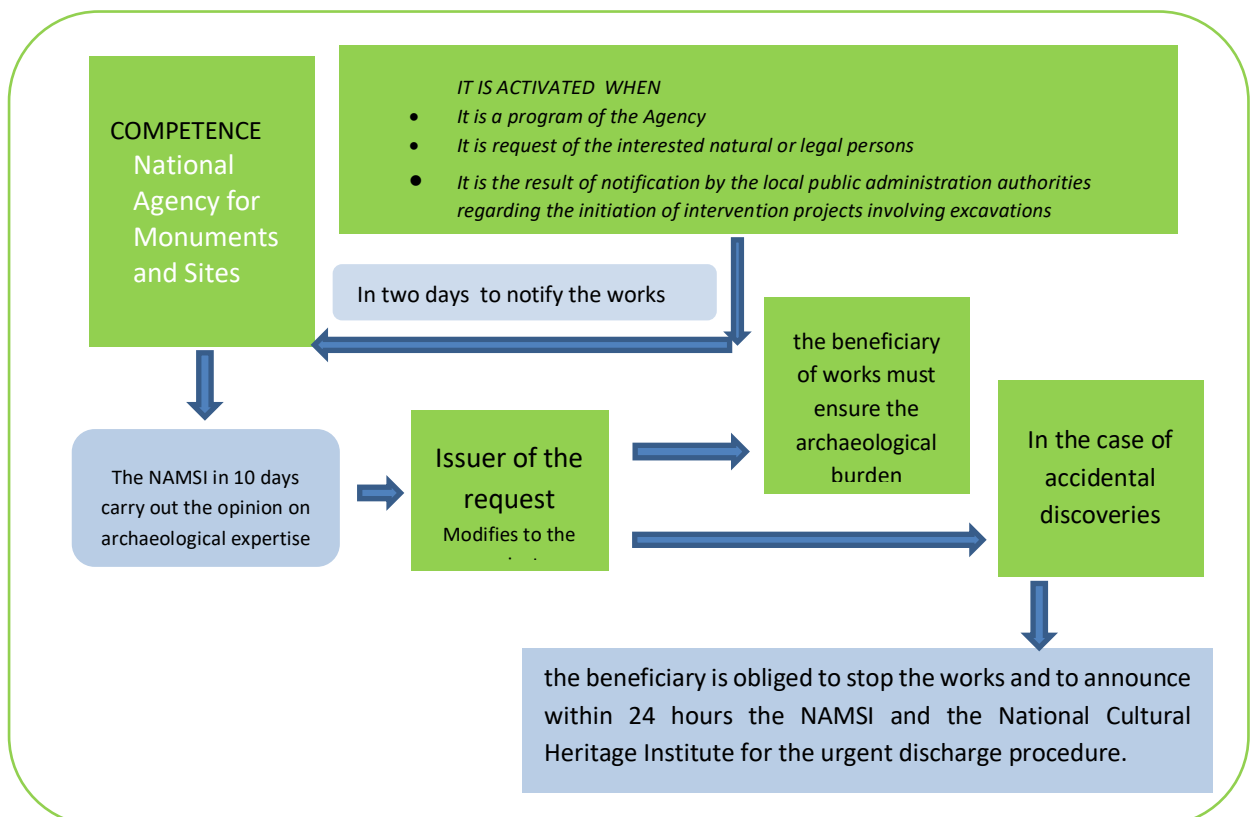
Below some key procedures related to the protection of the archaeological heritage are visualised for ease of understanding of the interrelations among the different institutions and their reciprocal tasks and responsibilities.



The third example of procedure is the request of intervention in order to preventive archaeology; the institutions involved are the National Commission and the Agency.



procedure for issuing opinion on works involving excavation and archaeological discharge procedure:



INSTITUTE OF CULTURAL HERITAGE (ICH)

The Institute of Cultural Heritage (ICH) is the main research institution which organizes and conducts investigations in the domains of Archaeology, Ethnology and Art Studies.

It was created in 2006 as a result of the reorganization of the research institutes of the Academy of Sciences of the Republic of Moldova, in conformity with the **Governmental Decision nr. 1326** of 14.12.2005 “on the optimizations of infrastructure and innovation in the scientific sphere”.

The Institute was formed through the integration of three earlier existing institutions:

- the Institute of Archaeology and Ethnography;
- the Institute of Interethnic Studies;
- the Institute of Art Studies.

In the same year of 2006, ICH was accredited by the National Council for Accreditation and Attestations before being reaccruited in 2013 by the National Council for Accreditation and Attestations.

The Institute has the status of a public institution, financed entirely from the state budget, and carries out its activities in accordance with the provisions of the Constitution of the Republic of Moldova, the Code of Science and Innovation of the Republic of Moldova and other legislative and normative acts of the Partnership Agreement concluded between the Government of the Republic of Moldova and the Academy of Sciences (ASM).

STRUCTURE OF THE INSTITUTE

According to the peculiarity of the research domain, the Institute of Cultural Heritage consist of three scientific Centres:

- Archaeological Centre (Prehistoric Archaeology and Ancient and Medieval Archaeology);
- Ethnological Centre (General Ethnology and Ethnic Minorities);
- Art Studies Centre (Visual Arts and Audio-visual Arts).

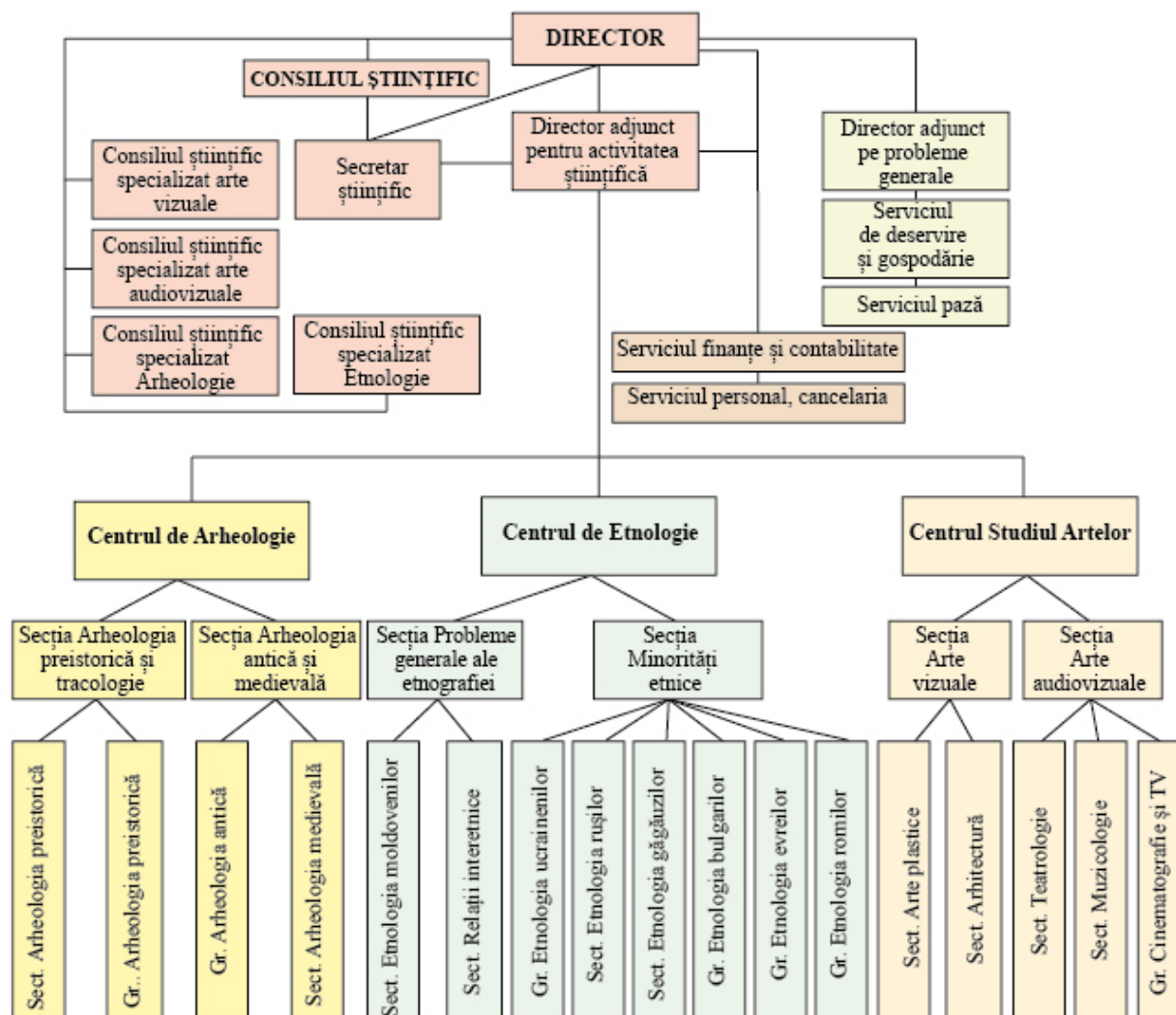
Each of these Centres includes two sections, which consist of a certain number of Sectors or Thematic Groups.

The Institute of Cultural Heritage has a Doctoral School: currently 25 PhD students are enrolled.

Within the Institute of Cultural Heritage four scientific seminars and Specialized Scientific Councils for Doctoral Theses are approved:

- the Scientific Seminar and the Specialized Scientific Council for Supporting Doctoral Theses and Doctorate in *Archaeology*;
- the Scientific Seminar and the Specialized Scientific Council for Supporting Doctoral Theses and Doctorate in *Ethnology*;
- the Scientific Seminar and the Specialized Scientific Council for Supporting Doctoral Theses and Doctorate in *Audio-visuals arts*;
- the Scientific Seminar and the Specialized Scientific Council for Supporting Doctoral Theses and Doctorate in *Visuals arts and Architecture*.

Below the organogramme of the Institute is presented.



Source: <http://patrimoniul.asm.md/en/despre-institut-2>

INSTITUTE FUNCTIONS

Having at its disposal high qualified personnel, the Institute performs:

- field surveys regarding the detection, registration and investigation of the archaeological, ethno-cultural and artistic heritage;
- analytical and generalizing research in all the fields connected to archaeology and ancient history, ethnography and ethnology, folk and modern arts;
- preparation of studies, which popularize historical, archaeological, ethno-cultural and artistic heritage, of educational books and special courses;
- publication of archaeological, ethnographical, cultural and artistic materials, comprehensive, popularizing and didactic studies;

- training young specialists (competitors, post-graduates, expertise and conduction of academic theses) in the fields of Archaeology and Ancient History, Ethnology and Cultural Anthropology, Plastic Arts and Audio-visuals;
- organization of national and international scientific conferences and symposia;
- TV and radio documentary series, special courses, expertise of archaeological, cultural, historical, modern and historical art sites and items, presentations of books and thematic expositions.

All the above-mentioned activities can be executed, in part or completely, and by the initiative of institutions and particular persons from the country and abroad, on the basis of cooperation contracts.

FIELDS OF ACTIVITY

The mission of the Institute of Cultural Heritage is to organize and carry out fundamental scientific and applicative investigations in the field of archaeological, ethno-cultural and artistic heritage of the Republic of Moldova, having as main task the sustainable development of the country based on the results of the research and development activity, the promotion and implementation of the scientific and cultural values, national and international.

The Institute represents an important academic organization, with the main goal of studying and fostering the revival of the cultural heritage, which is incorporated in the three independent scientific domains of Archaeology, Ethnology and Art Studies.

ICH activity falls within the strategic direction *Cultural Heritage and social development*, approved for the years 2013-2020 and relates to the overall theme *Genesis, evolution and specific ethno-cultural and artistic Moldova*.

- Three lines of fundamental research have been approved for the triennium 2015 – 2018: 15.817.06.02F "Cultural Structures and Interferences in the Eastern Carpathian Space from the Early Ages to the Modern Age"
- 15.817.06.01F "European Cultural Interferences in the Art of the Republic of Moldova. Studies of History and Art Theory"
- 14.06.199F "Multi-dimensional use of ethnocultural heritage as a factor for the harmonization and development of the society of the Republic of Moldova"

In addition, one project for young research has been approved:

- the project of young researchers 16.819.06.13F "The valorisation of the ethnocultural patrimony of the Republic of Moldova in the education of the young generation"

As well as one international and one interstate project:

- International Project 16: 80013 16.06.01 / ERA.Net: "Perception of Russia over Eurasia: Memory, Identity, Conflicts";
- the interstate project U1-1 / 1171 / 12.05.2016 "Historical and cultural heritage of Crihana Veche commune: research, preservation, valorisation and promotion".

The main objectives of the projects are the reconstruction of the overall image of the evolution of the material and spiritual culture of the human communities on the territory of Moldova in pre- and proto-history, antiquity and the Middle Ages, in the multimillennial complexity of the European historical and cultural evolutionary process; archaeological heritage repertoire according to the Action Plan on

the implementation of the "Culture 2020" Strategy and its scientific valorisation; the continuous fundamental research of ethno-cultural phenomena and processes, the multi-dimensional capitalization of ethnocultural heritage as a factor for the harmonization of the development of society; the reporting of the visual and audio-visual arts to the evolution of the national arts and their fitting into the regional, European context, corroborating the results of similar scientific investigations in the European space, etc.

The ICH annually organizes a scientific conference dealing with research issues in archaeology, ethnology and arts studies, valorisation and protection of the country's cultural heritage. Moreover, are also organized various national scientific events with international and international participation as conferences, round tables, seminars, book presentations.

The ICH is also founder and regularly publishes, in accordance with the activities of its three Centres, two scientific series "*Archaeological Journal*" and "*Ethnology and Culturology Journal*", plus the magazine "*Revue Art: Visual Arts and Audio-visuals*". Since 2012 it also publishes the "*Summaries of Conference Communications*" and in 2013 its journals were reviewed and included in the National Register of scientific journals, under B category.

BENEFICIARIES OF THE ACTIVITIES

Its researches on the archaeological heritage repertoire are developed according to the Action Plan on the implementation of the "Culture 2020" Strategy. The main beneficiaries of the research results are the Ministry of Culture of the Republic of Moldova, the National History Museum of Moldova, the National Art Museum of Moldova, the pre-university and university education institutions, the Department of Tourism, the National Archaeological Agency, the Monumental Inspection and Restoration Agency, the public administration local unions, creation unions, NGOs, working with different levels to protect the country's heritage.

STAFF

The Institute of Cultural heritage includes a staff of 125 officers. The scientific potential of the Institute consists of 95 researches, of which 55 hold a PhD degree and 11 hold the scientific degree of dr. hab. (including two members of the academy). More than 26 researchers are performing their doctoral research of the Institute. Their research topics are structured conforming to the following branches:

- Archaeology;
- Ethnology;
- Studies in universal and comparative literature;
- Visual arts;
- Musicology;
- Audio-visual arts.

EMERGING ISSUES

According to the representatives of the MECR, which has become the supervising body of the ICH, following the ministerial reforms adopted by the Government in 2017, the current structure and activity of the ICH does not meet the needs of the contemporary cultural heritage sector and does not

respond adequately to the challenges that the MECR and its subordinated institutions have to face. A thorough reform of the ICH has been envisaged by the MECR, aiming at transforming the Institute into an institution that can aptly respond to the exigencies of new vision for cultural heritage within society.

The MS STEs fully concur with this vision of the BC representatives and underline the need of a comprehensive reform that rationalise the whole of the human resources currently employed in the cultural heritage sector under State responsibility, in order to achieve a more effective and efficient response to the current needs and challenges.

The MS STEs in particular consider that the envisaged reform and restructuring of the ICH to become the NICH offers a unique opportunity to rethink the staffing needs of the Institute to be created and to reinforce the staff dedicated to cultural heritage at the MECR, currently severely understaffed, and to increase the staff of the AIRM and NAA, also expected to be reformed and unified.

This reform is urgent and needs to be adopted as a matter of priority in order to replenish the staff of the Directorate of Cultural Heritage at MECR as well as of the agencies and to implement the activities related to the ministerial reforms.

In this regard, the MS STEs have provided suggestions to the BC representatives on the envisaged reform: these are outlined in the following chapter.

OUTLINED REFORM OF THE INSTITUTIONS OF CULTURAL HERITAGE SECTOR

The reform of the institutions of the Ministry envisages the establishment of a NICH with substantially different functions than those of the ICH inherited by the MECR from the Academy of Sciences of Moldova. The planned reform also envisages the unification of the AIRM and the NAA into one National Agency for Monuments and Sites Inspection (NAMSI).

MINISTRY OF EDUCATION, CULTURE AND RESEARCH

The reform envisaged by the draft Law on Historic Monuments addresses also the role and functions/duties of the Ministry, which have been previously regulated by the Government Decision n. 691/2017.

Below a comparative table between the provisions of the GD 691/2017 and of the draft Law on Historic Monuments (version Jan 2018). The different colours of the text identify the spheres of activities.

GD 691/2017	Draft Law Historic Monuments (ver. 11 Jan 2018)
<p>STATUS</p> <p>The Ministry of Education, Culture and Research (hereinafter referred to as the "Ministry") is the central specialized body of the public administration which ensures the implementation of governmental policy in the areas of activity entrusted to it.</p> <p>The Ministry is a legal person of public law, based in Chisinau, and has a stamp with the State Army of the Republic of Moldova, treasury accounts, as well as other attributes specific to the public authorities, established in the legislation.</p> <p>In its activity, the Ministry is governed by the Constitution of the Republic of Moldova, by Law no. 136 of 7 July 2017 on the Government and other normative acts, the decrees of the President of the Republic of Moldova, the ordinances, the decisions and the provisions of the Government, as well as the present Regulation.</p> <p>The headquarters of the Ministry of Education, Culture and Research is set at 100 units, with an annual remuneration fund according to the legislation in force.</p>	<p>STATUS</p> <p>MECR is the central public authority responsible for the protection of national cultural heritage.</p>
<p>MISSION/ FUNCTIONS/DUTIES</p> <p>to analyze the situation /problems in its fields of activity, to elaborate public policies, to monitor the quality of the policies and normative acts and to propose justified interventions of the state for effective solutions in the areas of competence, best ratio between expected results and expected costs.</p> <p>to perform the functions set out in this Regulation in education; national culture and heritage; research; youth; physical culture and sport.</p> <p>FUNCTIONS/ DUTIES</p> <ul style="list-style-type: none"> • Submit to government the list of institutions of which the Ministry is founder. • elaboration of the policy documents, draft normative acts in the fields stipulated in education; national culture and heritage; research; youth; physical culture and sport,; • implementation of the normative acts and the implementation of the international treaties by the 	<p>FUNCTIONS/DUTIES</p> <p>For the protection and enhancement of historical monuments as a major element of the state's culture policies, the MECR promotes the following:</p> <ul style="list-style-type: none"> a) elaborates and ensures the policy of the state, of the national strategy, follows the observance of the legal provisions, the norms and methodologies for the protection of historical monuments. b) ensures the fulfillment of the obligations of the state assumed by the international conventions related to the protection of the built cultural heritage to which the Republic of Moldova is a party. c) represents the state vis à vis the owners of historical monuments and the holders of other real rights over them. d) organizes the specialized subdivision in its own apparatus, manages subordinated public institutions, responsible for research, inventory, approval, inspection and control,

<p>Republic of Moldova in the areas stipulated under item 6, the elaboration of the reports on their execution;</p> <ul style="list-style-type: none"> • examination and approval of draft normative acts elaborated by other public administration authorities and sent for examination; • coordination and monitoring of the activity of the administrative authorities and of the public institutions in which he is the founder; • elaborating and presenting the budget proposals, elaborating and publishing the reports on annual activity plan, and the annual monitoring of the degree of implementation; • organizing planning, execution, accounting and budgeting systems within the Ministry and, where appropriate, within the subordinated budget authorities / institutions • the exercise of other specific functions. 	<p>preservation/ restoration, rehabilitation and valorisation of historical monuments.</p> <ul style="list-style-type: none"> • Establish the general and specific principles for the protection of historical monuments in accordance with the provisions of the relevant UNESCO, ICOMOS and Council of Europe documents; • Organizes the national system of research, inventory, classification of historical monuments, regulations/ methodologies in the field, inspection and control of historical monuments; • Develop, monitor and evaluate the implementation of the National Heritage Strategy; • Manages the Real Estate Cultural Heritage Fund; • Prepares and submits to the Government for examination: <ul style="list-style-type: none"> a) Parliament's draft resolutions for conferring the status of historical monument group A; b) Parliament's draft decision approving the National Register of Historical Monuments; c) National Plan for Preservation / Restoration of Historical Monuments; d) the proposals of the Republic of Moldova for the inclusion of historical monuments in the UNESCO World Heritage List; • Issues opinions: <ul style="list-style-type: none"> a) on urban planning documents containing historical monuments of Group A, including built sites; b) for project documentation of intervention on historical monuments of group A, on the protection areas of these monuments, including the sites built from group A. c) regarding the land borders of the historical monuments; Issues an opinion on historical and scientific background studies for the delimitation of historical monuments protection areas or built sites; d) for the section "Monuments and built sites " of the National, Regional and Administrative Territorial Territory Planning Plan for the special sections of the general, zonal and detailed urban planning plans of the localities; e) on the reconstruction of the demolished historical monuments or demolished historic buildings on the historical monument grounds; • Instigates or requests level 2 local authorities to expel historical monuments for public utility purposes in order to save them from destruction and degradation; • Ensure its own inspection and control of the historical monuments classified in Group A regarding their conservation status and the observance of the issued expert opinions, regardless of the ownership status, the nature of the interventions and their source of funding; • Establishes the general principles for the maintenance of historical monuments, the operation of interventions on the site of historical monuments and their area of protection; • Endorses the regulations, rules and methodologies developed by the competent public authorities and institutions regarding: <ul style="list-style-type: none"> a) organizing and functioning of the national education, training, specialization and training system of specialists in the field of historical monuments protection; b) preventing and extinguishing fires in historical monuments; c) special measures for the protection of historical
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	<p>monuments in the event of armed conflict, protection against terrorist acts or in emergency situations;</p> <p>d) establishing plans and measures to prevent destruction caused by calamities or natural disasters at historical monuments;</p> <p>e) removing or diminishing the polluting factors at historical monuments and their protection areas;</p> <ul style="list-style-type: none"> • Support programs and projects to revitalize and capitalize on historical monuments, decide strategies and co-finance programs and publications for cultural animation and stimulate public interest in historical monuments; • Coordinates the location of the distinguishing sign attesting the status of historical monument of Group A; • Ensures the functioning of the National Historical Monuments Council, as well as its secretariat and headquarters, including from a logistical point of view; • Elaborates and approves rules for the classification, preservation and restoration of historical monuments, for the accreditation of experts, conservators, restorers, economic operators specializing in the operation of historical monuments interventions; Institution Register of accredited Conservators and Restorers in the field of Historical Monuments and Registry of Accredited Experts in the Field of Historical Monuments Protection; • Collaborates with non-governmental organizations, to carry out programs and projects for the protection of historical monuments; • Collaborates with the international bodies concerned and, in cooperation with them, participates in the financing of programs for the protection of historical monuments, including those included in the World Heritage List; • Concludes international agreements in the field of the protection of historical monuments and ensures the realization of their provisions; • Exercise, on behalf of the State, the pre-emption right on historical monuments classified in Group A; • Initiates, at the proposal of the National Council for Historical Monuments and, as the case may be, of the National Archaeological Commission, drafts of Parliament's decision on granting the status of historical locality. • Organize and ensure the functioning of the national system of education, training, specialization and training of specialists in the field of historical monuments protection. • Provides for educational and raising awareness programmes. • Provides didactic or recreational programs in primary and secondary education that allow organized visits of representative places and historical monuments of the Republic of Moldova.
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The colour code for the text is as follows:

- **Blue:** legal framework and policy making
- **Violet:** coordination function and control of subordinated institutions
- **Green:** budgeting, financial programming
- **Brown:** other functions.

One can see that the draft law for historic monuments assigns to the Ministry several functions that can be ascribed to the line “other functions” in the Governmental Decision n. 691/2017 regulating the new Ministry of Education, Culture and Research. Therefore, it is evident that the functioning of the Ministry has to rely on internal departments able to implement the above, also considering that the MECR functions are intertwined with those of the other bodies but do not overlap with them. In other words, it is clear that there is a need for sufficient technical staff at MECR in the relevant directorate to carry out the functions that the Ministry rightly envisages to reserve for itself. At the moment the staff units are well below the minimum threshold to guarantee the performance of the envisaged functions.

Below the draft vision developed by MECR for this reform as of March 2018 is presented:

Proiect

Viziune
privind organizarea domeniului de protejare a patrimoniului cultural al Republicii Moldova

I. Instituții și personal existent:

Nr.	Instituții și personal existent	Unități	Note
1.	Institutul Patrimoniului Cultural al Academiei de Științe a Moldovei	121	16 administrație și personal auxiliar, 25 arheologie, 48 etnografie și 32 studiul arte
2.	Agencia Națională Arheologică	15	
3.	Agencia de Inspectare și Restaurare a Monumentelor Istorice	7	
4.	Centrul Național privind Conservarea și Promovarea Patrimoniului Cultural Imaterial	32	
	Total	175	

II. Propunere de reformare:

INSERT GENERAL DIRECTORATE CH -MECR

Nr.	Instituții nou create	Unități	IPC	CCPPCI	ANA	AIRMI
1.	Institutul Național al Patrimoniului Cultural	89	57	32	0	0
2.	Agencia de Inspectare a Patrimoniului Cultural	26	4	0	15	7
3.	Total:	115	61	32	15	7
4.	Centrul Studiul Artelor (fuziune cu Institutul Filologie ?)	21	21	0	0	0
5.	Centrul Etnografie/Istorie (fuziune cu Institutul Filologie ? / Istorie)	27	27	0	0	0
6.	Centrul Arheologie (fuziune cu Institutul Istorie ?)	12	12	0	0	0
7.	Total:	60	60	0	0	0
	Total	175	121	32	15	7

Therefore, the rationale for the rationalisation of the staff currently employed at the Institute of Cultural Heritage would benefit from a revision that considers also the staffing needs of the Directorate of Cultural Heritage at MECR and not only those of the NANSI, originating from the unification of NAA and AIRM. For this reform, it is suggested to apply the same procedure that was applied to the reorganisation of the staff of Ministry of Culture to become staff of MECR in 2017, as this procedure – cessation of the institution and immediate activation of recruitment process in the reformed one - guarantees the necessary efficiency in the rationalisation process.

NATIONAL INSTITUTE OF CULTURAL HERITAGE (NICH)

The functions of the **National Institute of Cultural Heritage** are set out in the draft law for historic monuments (2017 and 2018) and in the draft amendment to **Law n. 218** of 17.09.2010 “on the

protection of the archaeological heritage”, which has been submitted for examination in 2017 but has not been approved yet.

The draft law on historic monuments (art. 26), elaborated by the Beneficiary Country and shared with MS STEs in November 2017, envisages that the newly created National Institute of Cultural Heritage shall have following status:

- [it] is a public institution subordinated to the Ministry of Education, Culture and Research, financed from the state budget, including from collected revenues.
- has the mission to manage at national, scientific, practical and methodological level the whole spectrum of issues related to the safeguarding of the national real estate cultural heritage (historical monuments, archaeological sites), the intangible cultural heritage and the monuments of force public.
- shall operate on the basis of a regulation of organization and functioning approved by Government Decision.
- organizes and performs against payment activities specific to its attributions, including by concluding contracts with specialized legal or physical persons. The amount of service tariffs is set by the Government.
- takes over the entire documentation of the institutions that have previously functioned in the field of historical monuments, including the specialized archive of the Ministry of Education, Culture and Research.
- The public institutions with attributions in the field collaborate with the National Institute of Cultural Heritage for updating the inventory and documentary fund of the historical monuments and upon request they transmit copies of the documents, studies, researches and publications regarding their historical monuments.

The envisaged functions of the NICH are the following:

- (1) Documentation of national cultural heritage:
 - a) elaboration of the inventory files of the national cultural heritage assets, including the documentation necessary for the building of the Cadastre of the national real estate cultural patrimony;
 - b) elaboration of the national cultural heritage classification lists;
 - c) development or supervision of the process of elaboration of files of immovable and immaterial cultural heritage assets proposed for nomination in the UNESCO cultural heritage lists.
- (2) Evidence of national cultural heritage:
 - a) keeping the real and immaterial national cultural heritage registers;
 - b) maintaining the National Cultural Heritage Database;
 - c) keeping records of cultural heritage records;
 - d) keep records of the cultural heritage classification sheets;
 - e) keeping the national cultural heritage archive;
 - f) Keeping records of destroyed or missing national cultural patrimony assets.
- (3) Applied Rescue and Rescue of National Cultural Heritage:
 - a) applied research of the national cultural heritage assets and revealing the scientific and social importance of the cultural heritage;
 - b) drafting the proposals regarding the content of the National Conservation-Restoration Program of the Real Estate Cultural Heritage;
 - c) research on the preservation of the real estate cultural heritage;
 - d) identifying the conservation / restoration of the real estate cultural heritage;
 - d) editing the national cultural heritage magazine as well as other specialized publications;

- e) Rescue research for cultural heritage assets;
- f) identification of immovable assets likely to be classified and submitting proposals for their registration in the National Register of Historical Monuments and in the National Archaeological Register.
- (4) Developing regulations for the national cultural heritage domain:
 - a) development of methodologies, norms and regulations specific to the field of cultural heritage protection and management;
 - b) expertise of methodologies and technologies specific to the field of cultural heritage protection.
- (5) Development of conservation and restoration projects for real estate cultural heritage assets:
 - a) elaboration of projects / estimates for conservation and restoration works of immovable cultural heritage assets;
 - b) verification of conservation / restoration projects / designs.
- (6) Management of conservation-restoration projects:
 - a) keeping records of accredited designers in the field of immaterial and immaterial cultural heritage;
 - b) keeping records of technical experts and inspectors in the field of built cultural heritage and public monuments;
 - c) management of financial means for research of immovable and immaterial cultural heritage assets, examination of the state of historical monuments, execution of intervention works on historical monuments allocated from the state budget to the Ministry of Education, Culture and Research, as well as other collected revenues;
 - d) management of allowances for inventory, elaboration of norms, methodologies and regulations for historical monuments, investigations, pilot projects, technical expertise, research and specific studies.

The 2017 amendments to the Law n. 218/2010 “on the protection of archaeological heritage” establish that:

- the domain of the protection of the national archaeological heritage belongs to the competence of the National Institute of Cultural Heritage and of the National Agency for Monuments and Sites Inspection;
- the provisions regarding the implementation of the state strategies and policies in the field of archaeological heritage, and especially the documentation, evidence, preventive research and rescue of archaeological sites, are within the competence of the National Institute of Cultural Heritage.

FUNCTIONS OF THE REFORMED INSTITUTE

In the field of the protection of the archaeological heritage the National Institute of Cultural Heritage receives attributions over the following sectors:

- scientific research and rescue programs for archaeological sites;
- state measures and programs on the protection, conservation, restoration and valorisation of archaeological sites, in cooperation with the local public administration authorities and other research institutions;
- annual reporting to the Ministry of Education, Culture and Research on data regarding newly discovered archaeological sites that are taken to state records
- archaeological discharge procedure and archaeological discharge certificate
- establishment, administration and development of the archaeological Cadastre are within the competence of the National Institute of Cultural Heritage and are financed from the state budget

- archaeological standards and procedures, Regulation on Archaeological Research and Expertise, the Code of Ethics of Archaeologists of the Republic of Moldova

Elaboration of the documentation of the archaeological heritage building, and in particular:

- inventory files of the archaeological sites, including the documentation necessary for the formation of the archaeological cadastre;
- archaeological site classification lists;
- archaeological site files proposed for nomination in international lists or registers.

Recording and maintaining evidence of the immovable archaeological heritage, and in particular:

- maintaining the National Register of Archaeological Sites;
- maintaining the archaeological sites database;
- records of the archaeological cadastre;
- keep records of archaeological sites' files;
- keep records of archaeological sites classification;
- keeping records of destroyed or missing archaeological sites;
- keeping the record of the Register of Archaeologists;
- keeping the archive of archaeological sites.

Performing applied research of the immovable archaeological heritage through the:

- elaboration of the National Repository of archaeological sites, in cooperation with the National Agency for Monuments and Sites Inspection and other archaeological institutions;
- invasive and non-invasive research of archaeological sites;
- preventive archaeological research, rescue and surveillance of archaeological sites;
- elaboration of substantiation studies for defining, establishing and delimiting protected areas comprising archaeological heritage;
- elaboration of conservation and restoration projects of archaeological sites;
- substantiate the scientific and social importance of the archaeological heritage;
- research on the conservation status of archaeological sites and the development of conservation / restoration solutions;
- elaboration of lists of archaeological sites proposed for classification;
- elaboration of the management plans of the archaeological sites;
- publishing of the Preventive Archaeology Magazine, as well as other specialized publications on any type of support;
- to issue the archaeological discharge certificate;
- providing the local public administration authorities with complete data on the archaeological sites located on its administrative territory;
- training of the local public administration authority on issues related to the protection and valorisation of archaeological heritage;
- approval of urban and spatial planning documentation, including archaeological sites.

Elaborating regulations for archaeological heritage through the:

- development of methodologies, norms and regulations specific to the field of protection and management of archaeological heritage;
- provision of expertise on methodologies and technologies specific to the field of archaeological heritage protection.

Below is presented the draft framework of functions for the reformed NICH (draft shared by BC in March 2018):

(propunere de reformare)

INSTITUTUL NAȚIONAL AL PATRIMONIULUI CULTURAL

Obiectul de activitate: Patrimoniul cultural național imobil și imaterial.

- Patrimoniul arheologic imobil: c. 10000 situri
- Patrimoniul cultural construit: c. 3000 monumente
- Patrimoniul monumental: c. 2000 monumente de for public
- Patrimoniul cultural imaterial: c. 1000 elemente

Scop/atribuții: Documentarea, evidența, cercetarea aplicată a patrimoniului cultural național imobil și imaterial, elaborarea normelor și reglementărilor pe domeniu și proiectarea restaurării.

Instrumente de implementare: Dosare de evidență și Dosare de clasare; Baza de date, Registrul și Cadastrul patrimoniului cultural imobil; Cercetări aplicative, inclusiv de salvare; Metodologii, norme și reglementări; Proiecte și devize restaurare.

Nr	Subdiviziuni INP	Unități	State	Atribuții
1.	Administrația	3	Dir.gen.-1, Dir.adj.-1, Dir.tehnic -1.	Administrare
2.	Direcția evidență patrimoniul cultural	6	Șef dir.-1, Sit.arh.-2, Mon.ist./for.pub.-2, Patr.imatr.-1	Administrare Bază de date națională, Registrul și Cadastrul patrimoniului cultural
3.	Direcția documentare patrimoniul cultural	18	Șef dir.-1, Sit.arh.-8, Mon.ist./for.pub.-6, Patr.cult.imat.-3	Documentare patrimoniul cultural național; Elaborare Dosare de evidență PC și Dosare de clasare PC
4.	Direcția cercetare patrimoniul cultural	24	Șef dir.-1, Sit.arh.-15, Mon.ist./for.pub.-4, Patr.cult.imat.-4	Fundamentarea importanței științifice și sociale a patrimoniului cultural; Cercetarea gradului de conservare și elaborarea soluțiilor de conservare/restaurare a patrimoniului cultural; Cercetarea arheologică preventivă și de salvare
5.	Direcția proiectare restaurare monumente istorice	8	Șef dir.-1, Proiectare-3, Elaborare devize-2, Verificare proiecte-1, Verificare devize-1	Elaborare/verificare proiecte și devize restaurare monumente istorice și de for public
6.	Direcția protejare patrimoniul cultural	8	Șef dir.-1, Sit.arh.-1 mon.ist./for.pub.-2, patr.imatr.-4	Asigurarea implementării politicilor de protecție a patrimoniului cultural; Coordonarea măsurilor de protecție a patrimoniului cultural cu autoritățile locale; Asigurarea măsurilor de protejare și promovare a patrimoniului cultural național înscris în Lista UNESCO
7.	Direcția metodologii, norme și reglementări	6	Șef dir.-1, patr.arheol.-1, mon.ist./for.pub.-2, patr.imatr.-2	Elaborare metodologii, norme și reglementări în domeniul conservării/protejării și managementului patrimoniului cultural
8.	Serviciul formare profesională	4	Șef dir.-1, patr.arheol.-1, mon.ist./for.pub.-1, patr.imatr.-1	Formarea specialiștilor responsabili de managementul patrimoniului cultural și conservatorilor/restauratorilor
9.	Serviciul economico-financiar	4	Șef.serv.-1, Contabil șef-1, Economist-1, Contabil-1,	
10.	Serviciul arhivă și editare	1	Arhiva-1, Editare-1	
11.	Serviciul resurse umane, relații cu publicul și secretariat	1	Șef.serv.-1, Rel.pub.-1, secret.-1	
12.	Serviciul juridic	1	Jurist-1	
13.	Serviciul secretariat Consiliu metodic-științifice	1	Specialist superior-1	Asigurarea activității Consiliilor metodic-științifice ale Ministerului de profil (recepționare documentații, elaborare procese verbale și arhive)
14.	Serviciul logistică și suport	4	Șef serv.-1, Tehnicienii-3	
	Total	89		

EMERGING ISSUES

The envisaged reform for the ICH represents an unprecedented step towards the modernisation of this institution and must be supported. The current institute conducts research according to a vision of heritage, of its problems and its challenges which appears outdated and able to respond to the needs of the MECR in performing its duties to comply with international treaties, conventions and national obligations for the protection and enhancement of heritage for the benefit and enjoyment of the citizens of Moldova, Europe and the World.

However, there are a number of weaknesses in the envisaged reform that need to be identified and acted upon in order to ensure that the reform will really improve the performance of public institutions in the sector. They are the following:

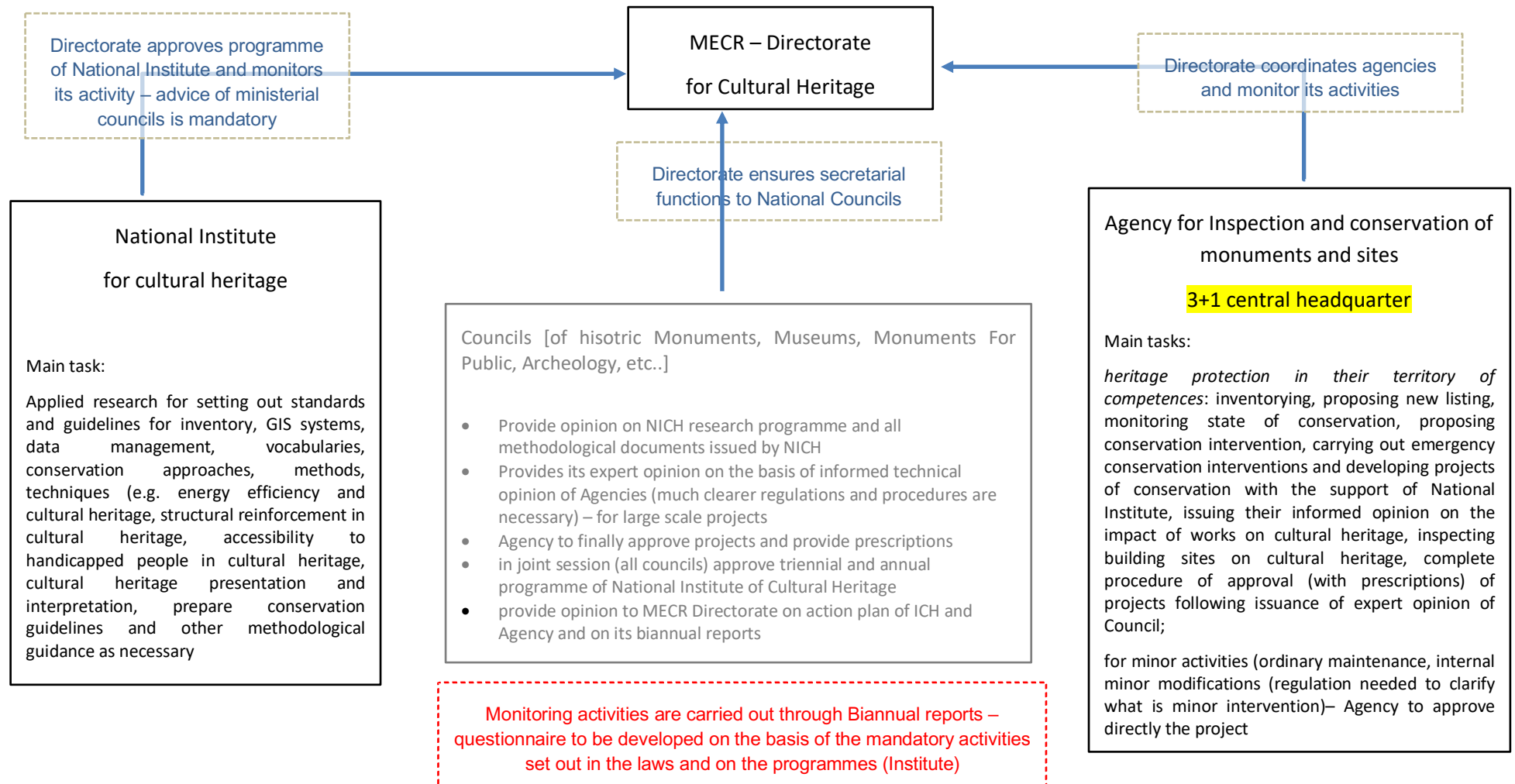
- lack of clarity on how MECR will exercise its coordination and control functions over subordinated institutions

- apparent excessive autonomy of the NICH and NAMSI
- too many functions assigned to NICH at the expenses of NAMSI
- Still excessive central role of the Councils in the project approval process

To ensure full coordination and cooperation among the different subordinated entities of MECR and of these with its Councils, it is crucial that a balance is established between the flexibility of operation of the above-mentioned newly created institutions, their accountability and their capacity to act as functional operational arm to MECR. This only can occur if clear coordination of and control over functions and performances of the sub-ordinated institutions is entrusted to the relevant directorate of MECR and if the interrelationships among the different institutions are clearly set out.

Below a graphic representation of the suggested functions and interrelations among MECR Directorate for Cultural Heritage and the other bodies and institutions created by MECR is presented.

This represent a preliminary proposal to be further discussed with MECR representatives.



It is also noted that too many functions are concentrated in the newly created NICH at the expenses of the new Agency to be created. While this is understandable considering the high number of staff units currently employed at ICH, the reform should seek first the benefits of the cultural heritage sector and, where necessary, adapt the institutions, their structure and functions to this end. As a matter of fact, the Staff of the newly created NICH might be modified/reduced according to the needs and the tasks to be assigned to the Institute in order to make it efficient and functional to the need of the cultural heritage sector.

It is suggested to reduce the tasks of the Institute to the elaboration of principles, criteria, methodologies and specifications with regard to the different phases of the heritage cycle, that is to say, documentation, protection, conservation, enhancement and promotion and to leave the implementation to the National Agency for Inspection of Monuments and Sites.

The update of the Register of historic monuments and of monuments of public space and the inclusion of new entries should be a shared responsibility: proposals for inclusion in the Registry can be made by the NICH or the new Agency; the Directorate of MECR may request any of the two institutions to prepare the necessary documentation to include a new entry into the register. It is likely that the proposals from the Agency will be the outcome of inspection activity and therefore may end up in 'emergency listing procedures', whilst the proposals from the NICH are more likely the outcome of inventory campaigns.

The development of conservation projects should be entrusted to the Agency, which is responsible for the protection and inspection tasks: inspections may result in the identification of properties in need of conservation works and it is important that the technicians who have inspections responsibility are involved directly in the recovery. Agency and NICH may cooperate in the development of conservation works.

The task of keeping the Register and an information system related to it has to remain a function of the NICH, although coordination and cooperation mechanisms with the Agency of Land Relations and Cadastre, Geoportal Service has to be envisaged.

It has to be noted that it is unlikely that the current staff of the Institute of Cultural Heritage possesses the adequate competences to perform the functions envisaged by the reform of the sector. Therefore, it is indispensable to plan training and capacity building courses for the staff of the newly created Institute, be it the current or newly recruited staff.

NATIONAL AGENCY FOR MONUMENTS AND SITES INSPECTION (NAMSI)

The reform of the institutions related to the MECR and responsible for cultural heritage includes also the creation of the National Agency for Monuments and Site Inspection from the merging of the existing Agency for Inspection and Restoration of Monuments.

The draft Law on Historic Monuments (version January 2018) envisages that the unified Agency will be a subordinated to MECR, is funded by the State Budget but can obtain revenues from technical services provided to third parties, e.g. to other public bodies or entities or to private sector, under the control of the State and based on tariffs issued by the State. It is envisaged that the Agency will be articulated in three territorial subdivisions, in which each branch will exercise its attributions. It will operate on the basis of a regulation approved by Government Decision

The draft law on historic monuments (version 11 Jan 2018) envisages the following tasks for the National Agency for Monuments and Site Inspection (NAMSI)

- inspection, surveillance and monitoring tasks (state of conservation, conservation works, construction works) of Group A historical monuments, archaeological sites, category A public monuments, and their protection areas.
- Supervise compliance with and uniform application of legislation in the field of the protection of historical monuments and archaeological sites by public administrations and private sector alike for protected monuments and areas
- Documentation of cases of violation of legal provisions in the field of cultural heritage protection, elaboration of the minutes in this respect and of the service marks with the information of the court of law, and, as the case may be, of the lawful ones.
- annual and, where appropriate, interim analytical reports on the status of Group A historical monuments, archaeological sites and public monuments of category A.
- Notification of owners / holders of monuments and sites on their rights and obligations under the legislation on the protection of national cultural heritage assets.
- Managing the Obligations to Protect Historical Monuments of Group A.
- Issuing of prescriptions and submitting, as appropriate, proposals to the competent authorities for the suspension or withdrawal of the activity registration and building permits for the carrying out of any type of works on the monuments in the event of non-observance by the legal and physical persons of the prescriptions of the approvals and of the approved design documents
- Proposals of a list of historical group A monuments requiring conservation / restoration interventions, with funding priorities for the nominated works.
- Referral to the competent law enforcement authorities of civil, contraventional or criminal liability for any damage caused to protected historic monuments, and for modifications without advice or in violation of the specialty of the exterior or interior of historical monuments.
- Surveillance of compliance with existing legislation in the field of historical and public monuments, including excavation, construction, landscaping in built-up sites in urban and rural areas and their protection areas.
- Issuance of the archaeological expertise for the design of the new constructions upon request of the urbanism certificate, subject to payment.

Below the draft organisation for the reformed NAMSI, with outlined distribution of staff in the decentralised offices (draft shared by BC representatives with MS RTA in March 2018):

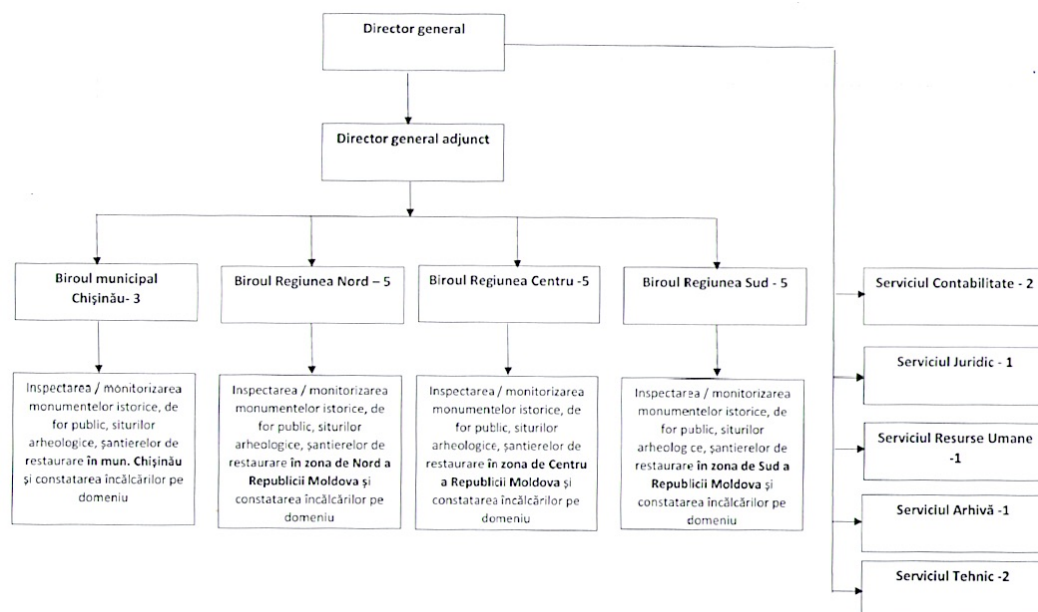


Fig.xx organigramme of the reformed NANSI (source: MECR)

AGENȚIA NAȚIONALĂ DE INSPECTARE A MONUMENTELOR ȘI SITURILOR*(propunere de reformare)***Obiectul de activitate:** Monumente istorice, de for public și situri arheologice.

- Patrimoniu arheologic imobil: c.10000 situri
- Patrimoniu cultural construit: c. 3000 monumente
- Patrimoniu monumental: c. 2000 monumente de for public

Atribuții: inspectarea / monitorizarea monumentelor istorice, de for public, siturilor arheologice, şantiierelor de restaurare și constatarea încălcărilor pe domeniu.

Nr	Subdiviziuni ANP	Unități	State	Atribuții
1.	Direcția generală	8	Dir.genr.(arhitect/arheolog)-1, Dir. adj. (arhitect/arheolog)- 1 , contabil – 2, jurist – 1, Resurse umane -1, Arhivar – 1, Administrator -1	Administrarea generală a activității Agenției
2.	Biroul municipal Chişinău	3	Şef birou (arhitect) -1, Inspector (arhitect) – 1, Inspector (arheolog) -1.	Inspectarea / monitorizarea monumentelor istorice, de for public, siturilor arheologice, şantiierelor de restaurare în mun. Chişinău şi constatarea încălcărilor pe domeniu
3.	Biroul Regiunea Nord	5	Şef birou (arhitect/arheolog) -1, Inspector (arhitect) – 2, Inspector (arheolog) -2.	Inspectarea / monitorizarea monumentelor istorice, de for public, siturilor arheologice, şantiierelor de restaurare în zona de Nord a republicii Moldova şi constatarea încălcărilor pe domeniu
4.	Biroul Regiunea Centru	5	Şef birou (arhitect/arheolog) -1, Inspector (arhitect) – 2, Inspector (arheolog) -2.	Inspectarea / monitorizarea monumentelor istorice, de for public, siturilor arheologice, şantiierelor de restaurare în zona de Centru a Republicii Moldova şi constatarea încălcărilor pe domeniu
5.	Biroul Regiunea Sud	5	Şef birou (arhitect/arheolog) -1, Inspector (arhitect) – 2, Inspector (arheolog) -2.	Inspectarea / monitorizarea monumentelor istorice, de for public, siturilor arheologice, şantiierelor de restaurare în zona de Sud a Republicii Moldova şi constatarea încălcărilor pe domeniu
6.	Total	26		

Fig.xy – framework of functions of the reformed NANSI (source: MECR)

EMERGING ISSUES

It has been already anticipated in the previous paragraph on the NICH that the functions of the Agency would need to be expanded and not limited to the inspection tasks. This may require to increase the staff units at the Agency, especially in the decentralised offices.

In particular it is considered that the Agency should be entrusted with the right to propose new entries in the registry and prepare the necessary supporting documentation and with the obligations to carry out urgent safeguard/ protection and preventive conservation interventions on protected monuments under threat or highly damaged, in order to prolong their existence. The power to stop the works as included in the law n. 1530/1993 should be confirmed – currently the text of the draft law does not envisage this power any longer. This measure is considered crucial for the effective protection of the cultural heritage in Moldova.

One of the branches of the Agency should be given the role of coordinator of all branches, in order to ensure commonality of approach in all different regions.

The overall coordination and monitoring of the activities of the Agency has to be entrusted to the Directorate of Cultural heritage. In general, it is recommended to give the Directorate a strong mandate in the monitoring of the activity of the Agency.

It is equally recommended that the budget lines of the Agency be established in the Government Decision regulating its activity – the scope of the budget lines should be described clearly precisely, to avoid confusion, and percentage of allocations of funds to each budget line has to be defined on the ground of the prevalence of functions. Separate budget lines for conservations works are to be envisaged in order to allow the agency to receive funds for the emergency works that may be needed each year.

For the new organigram of the NAMSI, the Ministry can find inspiration in the organigramme of the Agency for Technical Supervision as well as of the Agency Moldsilva.

To ensure an unambiguous repartition of the tasks among the various institutions, which is fundamental to achieve a reform of the Ministry's institutions for cultural heritage effective and efficient, it is suggested that a graph of the functions assigned to each institution is prepared, including the type of relationships that should exist among the different bodies in implementing their functions/ tasks. This will allow the Ministry to have a clear understanding of the repartition of functions and of the linkages and relationships that are to be established among the different institutions to implement effectively their tasks in relation the tasks of other related institutions.

OTHER RELEVANT STAKEHOLDERS

PUBLIC PROCUREMENT AGENCY (MINISTRY OF FINANCE OF REPUBLIC OF MOLDOVA)

The Agency was created on December 31, 1997, in accordance with the Government Decision no. 1217 of 31 December 1997 on the National Agency for Public Procurement.

According to the Law no. 131 of 03.07.2015 on public procurement, the Public Procurement Agency is an administrative authority subordinated to the Ministry of Finance, empowered to carry out the supervision, ex-post control and inter-sectorial coordination in the field of public procurement.

The mission of the Public Procurement Agency consists in the coherent implementation of state policy in the field of public procurement and the process of gradual harmonization of national legislation with Community law.

As a result of the amendments to the Public Procurement Law, beginning with 01.01.2017 the institutional system in the field has undergone major changes, particularly concerning the **attributions of the Public Procurement Agency**. Thus, they **were excluded the tasks** of examination and registration of the award documents and public procurement contracts, of control of the proceedings' results and the right to review or cancel the results of public procurement proceedings. All these tasks have been replaced by the task of performing the **ex-post control** of the procedures of public procurement, executed after the signing of public procurement contracts.

The maximum number of the staff was diminished from 64 units to 51 units, including the technical servicing personnel.

The Government Decision n. 134 of 09.03.2017 sets out the regulations of the organization and functioning of the Public Procurement Agency, establishing its legal status, mission, basic functions, duties, rights and organization of its activity.

The priorities of the Public Procurement Agency include the following:

- Automating the procurement process and implementing e-procurement;
- Harmonization of national legislation with EU requirements and the WTO Agreement on Public Procurement;
- Simplification of the public procurement system, increasing the transparency and efficiency of public procurement procedures;
- Increasing the responsibility of the persons involved in the implementation of the public procurement procedures;
- Attracting and interested economic operators in the process of public procurement.

According the Decision, the Agency's mission is to ensure the coherent implementation of state policy in the field of public procurement and the process of gradual harmonization of national legislation with the Community law.

AGENCY FUNCTIONS, TASKS AND RIGHTS

Its basic functions include:

- to implement normative acts in the field of public procurement and to draft proposals for amending and completing the legislation on public procurement;
- to participate within the process of gradual harmonization of national legislation with Community Law;
- to monitor and evaluate the efficient functioning of the public procurement system;
- to carry out the ex-post control on the application, by contracting authorities, of legal and procedural provisions in the field of public procurement.

To implement its functions, the Agency is assigned the following **tasks**:

- implements the normative acts in the field of public procurement and elaborates proposals for amending and completing the legislation on public procurement;
- to develop and implement standard documentation on public procurement procedures;
- to provide for contracting authorities methodological assistance and consultations in the field of public procurement;
- to ensure the training of the personnel of the contracting authorities involved in organizing and carrying out the procurement procedures;
- coordinates, monitors and evaluates how contracting authorities comply with public procurement and procurement procedures;
- grants methodological assistance and consultations to public authorities in the field of public procurement;
- to draw up, update and maintain the List of Qualified Economic Operators and the List of Ban on Economic Operators;
- to publish the "Public Procurement Bulletin";
- to maintain the "Public Procurement of the Republic of Moldova" website;
- to manage the Automated Information System for Public Procurement;
- to examine reports on procurement procedures in order to analyse and monitor the effectiveness of the procurement system;
- requests and obtains from the competent bodies information about the economic operators participating in the public procurement procedures, as well as any information necessary for the exercise of the duties;
- to elaborate, update and maintain the list of qualified economic operators and the prohibition list of economic operators;
- to approve the draft normative acts that have an impact on the activities regulated by the public procurement legislation;
- to elaborate quarterly and annual reports and statistical analyses on public procurement;
- to exercise other attributions established by the legislation.
- Collaborates with international institutions and analogous foreign agencies in the field of public procurement;
- coordinate the use of foreign technical assistance in the field of public procurement;
- perform other functions provided by this law and by other legislative and normative acts.

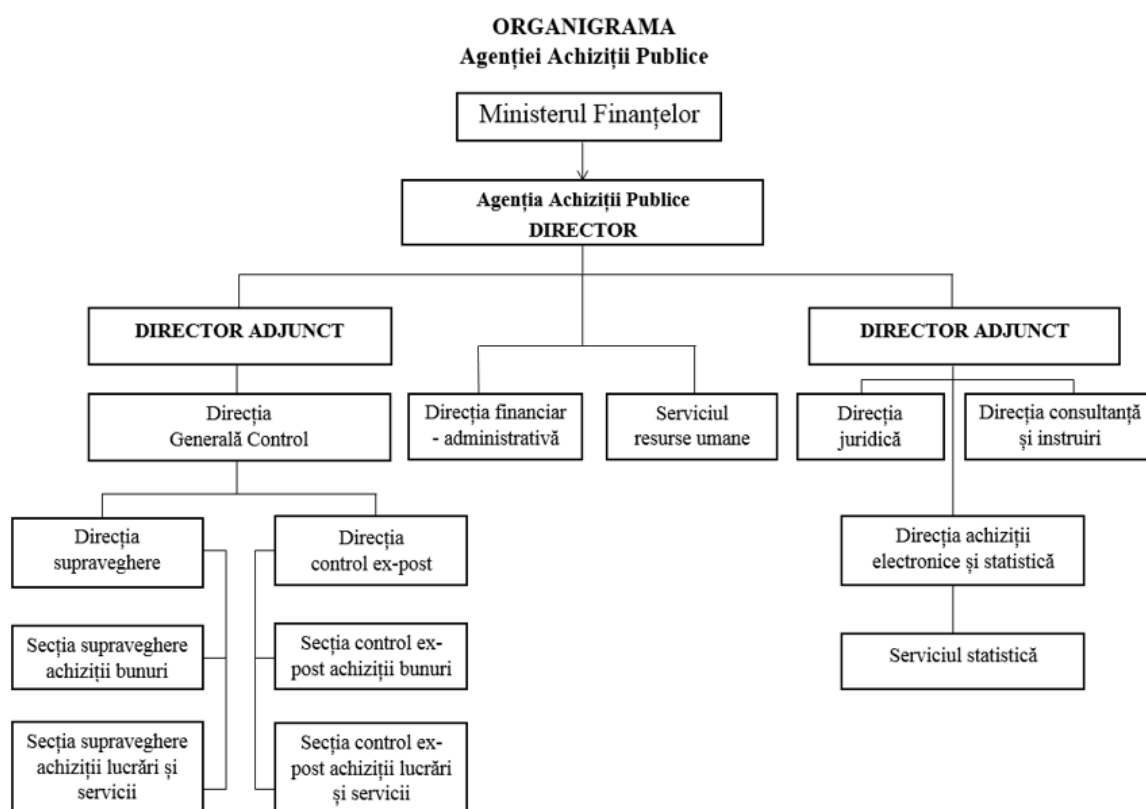
For the purposes of ex-post control, the Agency shall have the following specific tasks:

- selectively performs ex-post control based on the data analysed and according to the risk indicators set out in the Ex-post Control Methodology;
- verifies the manner in which public procurement contracts have been awarded by contracting authorities, as a result of signals and / or notifications submitted by the National Agency for Settlement of Claims and other public institutions, by establishing the acts by which the legal provisions are violated or ignored in the field of public procurement;
- notes the contraventions, concludes reports on contraventions and applies, as the case may be, sanctions.

In order to carry out its duties, the Agency shall have the **rights**:

- to submit proposals for improvement of normative acts in the field of public procurement;
- to participate in the elaboration and implementation of projects and programs in the field of public procurement;
- to establish relationships and to collaborate with similar agencies in other countries and international organizations;
- to convene republican meetings or conferences on public procurement topics;
- to organize working sessions in the field of procurement, with the participation of representatives of contracting authorities, economic operators and other specialized bodies;
- to request, argued in written form, and to obtain from the competent bodies information about the economic operators participating in the public procurement procedures, as well as any other information necessary for the performance of the duties;
- to require documents from the procurement dossier for ex-post control for identifying how the contracting authority complies with procurement procedures and public procurement legislation.

STRUCTURE OF THE AGENCY



STAFF

The Agency is headed by the Director. Appointment in function, modification, suspension and termination of service are made under the terms of the Law on Public Function and Statute of civil servant, by the Minister of Finance.

The Director has two deputies. Appointment, modification, suspension and termination of service are made under the terms of the Law on Public Function and Statute of civil servant, by the Minister of Finance. The Deputy Directors are directly subordinated to the Director and organize the activity within the Agency, within the limits of the competences assigned to them.

The Director shall perform the following duties:

- implements and manages the quality management system and manages the activity of the Agency;
- assures and bears personal responsibility for the performance of the tasks and duties of the Agency deriving from this Regulation;
- ensure the execution of the legal framework concerning the subject under his/ her competence;
- defines the obligations and determines the responsibilities of the deputy directors, heads of divisions and departments of the Agency;
- approves the regulations of the Agency's internal subdivisions, job descriptions for civil service positions, as well as individual activity objectives and performance indicators for civil servants;
- approves the Agency's status of staff;
- proposes [...] the changes imposed by the necessity to implement new organizational forms, modern methods and techniques of management;
- is responsible for the appointment and dismissal of the staff;
- issues orders and decides on matters within the competence of the Agency and controls their execution;
- approves the Ex-post control methodology, including the Methodology for the selection of procurement procedures which are included in the sample - subject to ex-post control;
- approves the annual activity plans of the Agency's internal subdivisions;
- represents [...] the interests of the Agency in all the bodies of public administration and the republic and other countries entities and sign documents within his attribution;
- organizes and implements the system of financial management and internal control is accountable for the results, the quality of external reporting, including the administration of the budget allocations and the public patrimony under management;
- performs other functions established by the legislation.

OPPORTUNITIES

The Agency represents an important partner for the MECR, in what it concerns public procurement. In particular, partnerships might be envisaged with regard to building capacity in the MECR and the Agencies' technical and administrative staff for managing tenders and procurements in the field of conservation/ restoration works. At present neither MECR nor its agencies have sufficient technical and administrative staff units to run contracts for conservation/ restoration works: establishing cooperation with the Agency for Public Procurement would allow to develop the necessary capacities to manage implementation of projects and works according to the law in force and ensure expeditious expenditure of funds allocated to the Ministry.

TECHNICAL SUPERVISION AGENCY (MINISTRY OF ECONOMY AND INFRASTRUCTURE)

The Technical Supervision Agency was created on the basis of the former State Inspection in Construction which was set up in 1996 with the Governmental Decision n.360 “on State Quality Control in Construction”.

On November 2017, with **Governmental Decision n. 886** of 01.11.2017 “on the creation of the Technical Supervision Agency”, upon a proposal of the Ministry of Economy and Infrastructure, the new **Technical Supervision Agency** was created in order to “optimize the authorities with control and supervision functions in the field of industrial safety, construction and urbanism, geodesy and cartography, fire safety and civil protection”. The new Agency resulted from the merging of the three existing Agencies whose functions were redundant and potentially interfering:

- State Inspection in Construction with its territorial inspectorates (*subordinated to the Ministry of Regional Development and Construction*);
- State Inspectorate for Technical Supervision of Dangerous Industrial Objects (*subordinated to the Ministry of Economy and Infrastructure*);
- State Inspectorate for Surveying Geodesy, Technique and Regime (*subordinated to the Agency of Land Relations and Cadastre*);

A fourth state-run Agency was also dismissed from its role even though not absorbed:

- State Inspectorate for Technical Supervision "Intehagro" (*subordinated to the Agricultural Information Centre*).

In accordance with labour law, the staff of the merged institutions was transferred to the new Agency while the employees who refused the transfer were dismissed. The creation of the agency was meant to grant a uniform application of the rules governing the state control procedure making it fair, coherent and consistent with the law, also reducing the burden on business environments. Analogously, the patrimony and budget of the three Agencies were also transferred to the new one.

The Regulation and structure of the Technical Supervision Agency was set one month after by **Governmental Decision n. 1088** of 18.12.2017 “with regard to the organization and functioning of the Technical Supervision Agency”. The decision establishes:

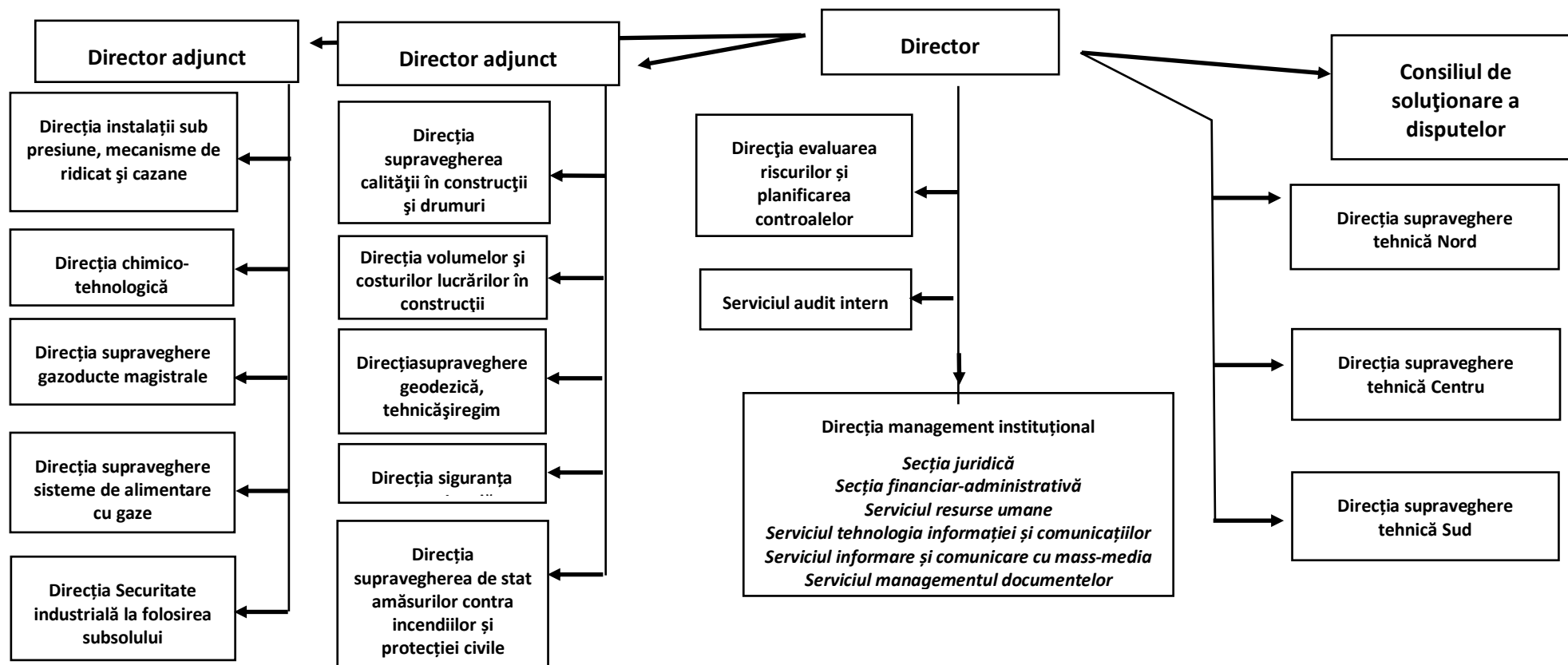
- the Regulation on the Organization and Functioning of the Technical Supervision Agency (Annex 1);
- the structure of the Technical Supervision Agency (Annex 2);
- the organization chart of the Technical Supervision Agency (Annex 3).

Among other, it also establishes that the Agency:

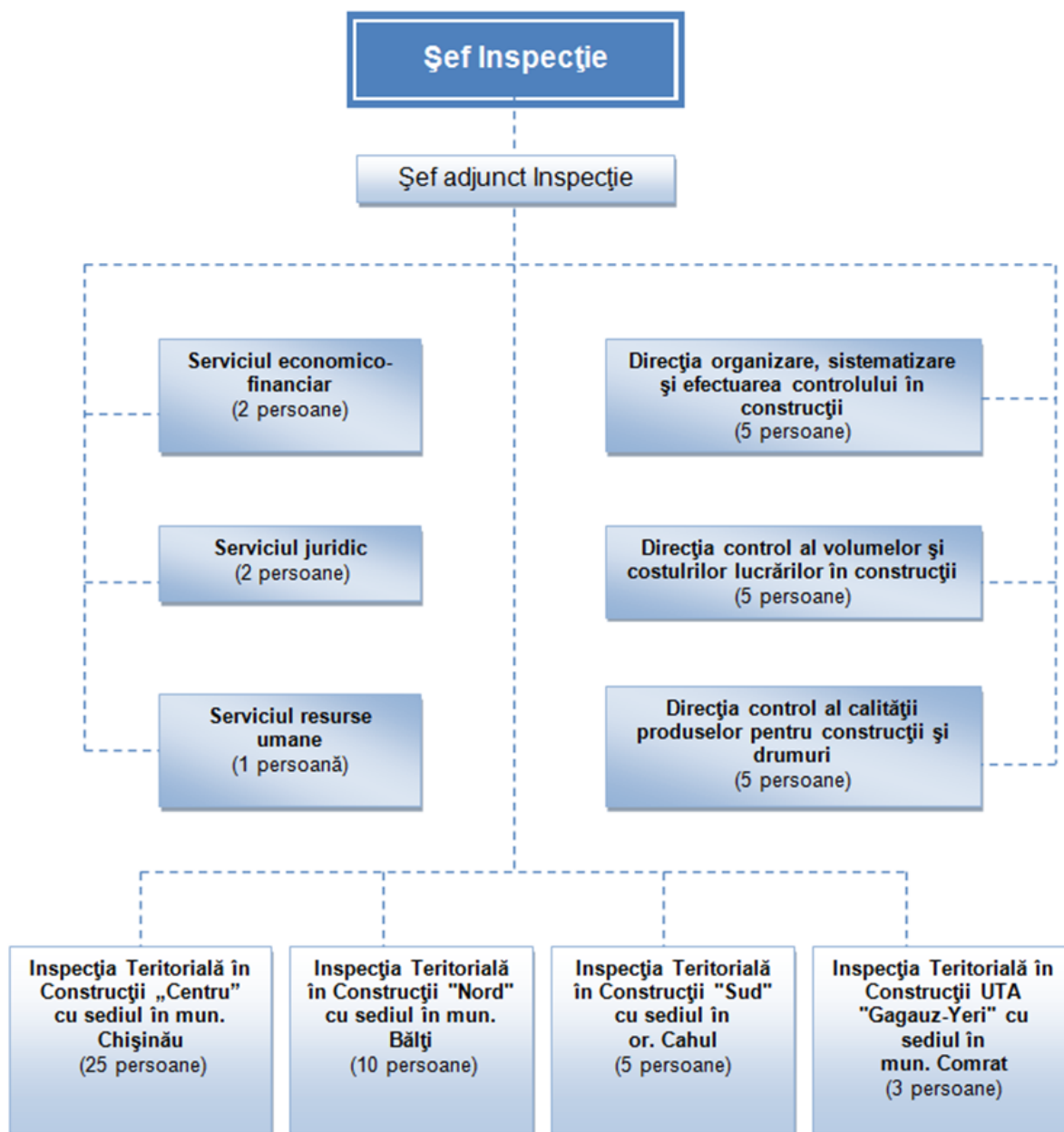
- is an administrative authority subordinated to the Ministry of Economy and Infrastructure;
- is a legal entity governed by public law, has treasury accounts, financial and material assets;
- includes decentralized territorial structures without legal personality;
- is funded from the state budget and other means not prohibited by law;
- cooperates with ministries, other central administrative authorities and local public administration authorities.

Structure of the Agency

Anexa nr. 3
la Hotărîrea Guvernului nr.
1088 din 18 decembrie 2017





INSPECTING SECTION STAFFSource: <http://isc.gov.md/pageview.php?l=ro&idc=135&>

Territorial Inspection in Construction "Center" - mun. Chişinău - 23 Units	
1	Chief Inspector
2	Deputy Chief Inspector
3	Senior Inspector /Botanica
4	Senior Inspector /Buiucani
5	Senior Inspector /Centru
6	Senior Inspector /Ciocana
7	Senior Inspector /Buiucani
8	Senior Inspector /Botanica
9	Senior Inspector /Rîşcani
10	Senior Inspector /Centru
11	Senior Inspector /Ciocana
12	Senior Inspector /Riscani
13	Deputy Chief Inspector / Călăraşi
14	Senior Inspector / Cimislia, Basarabeasca
15	Senior Inspector /Hînceşti
16	Senior Specialist /Anenii Noi, Ialoveni
17	Senior Inspector /Străşeni
18	Senior Inspector/Criuleni, Dubasari
19	Senior Inspector /Ştefan Vodă, Căuşeni
20	Senior Inspector /Orhei
21	Senior Inspector /Nisporeni, Ungheni
22	Senior Inspector /Rezina, Şoldăneşti
23	Engineer

Territorial Inspection in Construction "North" - 10 Units	
24	Chief Inspector
25	Deputy Chief / Făleşti, Bălţi
26	Drochia, Bălţi
27	Bălţi, Glodeni
28	Soroca
29	Sângerei, Teleneşti
30	Edineţ, Râşcani
31	Briceni
32	Donduşeni,Ocniţa
33	Bălţi
Territorial Inspection in Construction "South" - 4 Units	
34	Chief Inspector
35	Cahul
36	Deputy Chief /Cahul
37	Taraclia / Leova
Territorial Inspection in Construction UTA "Gagauz Yeri" - 3 Units	
38	Chief Inspector /Comrat, Vulcăneşti
39	Comrat
40	Senior Inspector

Source:

<http://isc.gov.md/tabview.php?l=ro&idc=136&>

The number of staff of the entire Technical Supervision Agency is set by law n.1088 at 185 units, including 12 auxiliary and technical assistance units, with an annual labour remuneration fund in compliance with the normative framework in force.

As from the above table, the inspectorate section can count on a workforce of 40 elements.

FIELDS OF COMPETENCE

The Agency performs the functions set out in this Regulation in the following areas:

- safety of dangerous industrial objects;

- construction and urban planning;
- market surveillance of construction materials and hazardous industrial equipment / articles;
- fire safety and civil protection;
- occupational safety;
- geodesy and cartography;
- consumer protection in the field of industrial safety and construction;
- compliance with licensing conditions according to the relevant field.

AGENCY FUNCTIONS

In accordance with its fields of activity, the Agency performs the following functions:

- organizing and exercising state control over compliance with the provisions of the normative acts and the regulations in force regarding the discipline in urbanism, the spatial planning and the quality in construction;
- collaboration with other bodies in order to respect the discipline in urban planning and spatial planning and the quality system in construction, to elaborate technical regulations in order to protecting the population;
- inspection of all construction objects in all phases of the production of materials and articles for construction;
- issuance of the enforcement provisions for the legal and physical persons in case of violation of the legislation in construction;
- discontinuation of construction works that are executed without a license or in violations of the issued licence,;
- establishing the degree of construction damage and, if the construction poses danger, prohibiting its exploitation;
- requesting and obtaining data on the architectural-urban situation, the existence of the construction authorization, the legality of the execution of the works, production in construction and its volume (cost), other data necessary for the examination of the problems addressed;
- requesting from the executors the restoration of the project documentation and of the construction-assembly works, executed with violations of the normative documents

performing the laboratory tests of some building elements, carrying out the additional investigations if this is grounded;

- cessation of production and delivery of construction products without certificate of conformity;
- rejection of the reception of objects executed in violation of rules and regulations in construction;
- adopting the decisions regarding the collection to the state budget of the amounts obtained unlawfully by the entrepreneur from the exaggeration of the volumes and the value of the executed works;
- application of the sanctions provided for by the Code of Administrative Offenses;
- notifying the prosecuting bodies about works realised in violation of or without licence and project and if this can affect the strength and stability of the construction;
- submitting the proposals for suspending the licenses issued to the legal and physical persons who carried out works in case of violation of the building legislation, normative documents or ignoring Inspection prescriptions;
- submitting proposals for the termination of validity or cancellation of certificates of technical and professional attestation of specialists who have violated the legislation in force;
- cessation of the validity of building / demolition permits issued by the local public administration authorities in case of violation of the law;

- ensuring the specialists with inspection functions of the Inspection with labour protection equipment, according to the norms in force;
- proposing the operation of modifications and additions to the components of the quality system in construction;
- elaboration and updating of the methodologies, internal instructions and inspection procedures, participation in the elaboration of the draft legislative and normative acts related to the field of urban planning, spatial planning and construction quality;
- to carry out analyses, syntheses and reports in the field, with proposals for preventive measures and improvement of discipline in urbanism, landscaping and quality of construction works, efficiency of the activity of structures;
- organizing seminars and conferences on issues related to the Inspection activity, participation in international symposiums, organizing training of cadres in the construction field;
- conducting the work of the commissions for the attestation of technical officers and site supervisors, designers, project verifiers and other specialists involved in the construction process;
- participation in the work of accreditation commissions of laboratories and certification bodies in the construction field;
- participation in the actions related to the quality of publicity in construction, familiarization of the public with the issues of quality in constructions through radio-broadcasting, mass-media, publishing of specialized publications and technical information specific to its fields of activity.

AGENCY RIGHTS

- to find contraventions, to conclude reports on offenses and to apply sanctions in accordance with the Code of Convention of the Republic of Moldova;
- to provide, on a contractual basis, in its fields of competence, services for consideration, according to the service fee nomenclature;
- to issue prescriptions and to apply sanctions under the control report, according to the provisions of Law no. 131 of 8 June 2012 on state control over entrepreneurial activity;
- to discontinue construction works initiated in violation of the provisions of law in the sector;
- to stop the production and delivery of materials and articles for construction whose conformity is not assessed according to the law
- to suspend, in whole or in part, the activity of the economic unit (a separate work), to prohibit the exploitation of buildings, constructions, separate rooms, production sectors or aggregates in case of detecting violations of the fire protection regulations;
- to suspend, in whole or in part, the construction and reconstruction of the objects in case of deviations from the project and if fire safety requirements are not complied with;
- to request the withdrawal of the permissive act by the competent public administration authorities, the authorization of activity for non-fulfilment of the prescriptions for the removal of the violations s, established following repeated inspections;
- require institutions and enterprises holding cadastral, geodetic and cartographic data to access the data base (database) free of charge, as well as access to the monitoring of the work of permanent stations and GNSS (Global Navigation Satellite Systems) the territory of the Republic of Moldova.

AGENCY STRUCTURE

The Structure of the Agency is provided at Annex 2 of the Decision. From a structural point of view, the Agency consists of:

- 1 Director;
- 2 Deputy Directors;
- 3 Directorates for Technical Supervision (North, Center, South);
- 1 Council for the settlement of disputes;
- 1 Directorate for pressure installations, lifting mechanisms and boilers;
- 1 Directorate for Chemistry and Technology;
- 1 Directorate for the supervision of main gas pipelines;
- 1 Directorate for the supervision of gas supply systems;
- 1 Directorate for Industrial Safety of subsoil;
- 1 Directorate for Quality Supervision Division in Construction and Roads;
- 1 Directorate for Volumes and Costs of construction works;
- 1 Directorate for the supervision of Geodetic, technical and regime;
- 1 Directorate for Civil Protection and Measures against Fire;
- 1 Directorate for Occupational Safety;
- 1 Directorate for Risk Assessment and Planning of Controls;
- 1 Internal Audit Service;
- 1 Directorate for Institutional Management composed of 6 Sections:
 - *Legal;*
 - *Finance and Administration;*
 - *Human Resources;*
 - *IT and Communications;*
 - *Media Information and Communication;*
 - *Document Management;*

The Agency is headed by a **Director**, appointed in public office by the Minister of Economy and Infrastructure, performing the following functions:

- organizes and manages the activity of the Agency;
- bears personal responsibility before the minister for the performance of the mission and the performance of the Agency's functions;
- organizes and implements the financial management and control system and carries managerial responsibility for the administration of the Agency's budget and the public patrimony it manages;
- ensure the functionality of the Dispute Resolution Board;
- establishes the duties of the deputy directors and managers of the structural subdivisions of the Agency;
- sign the acts on the subjects within the competence of the Agency;
- appoints in public positions, modifies, suspends and terminates the service relations of civil servants of the Agency;
- engages and releases the contract staff;
- confers qualifications to civil servants, give incentives and disciplinary sanctions to the staff of the Agency;

- approves or modifies the staffing status and the establishment plan of the Agency within the limits of the labor remuneration fund and of the structure and staff limit set by the Government;
- approves the regulations and annual activity plans of the Agency's internal subdivisions;
- issues executive orders and orders for Agency employees and verify their execution.

The Director is assisted by two **Deputy Directors**, appointed in public office by the Minister of Economy and Infrastructure, upon proposal by the Director of the Agency.

SOURCES OF FUNDING

The Agency is an administrative authority subordinated to the Ministry of Economy and Infrastructure. As such, it is a legal entity governed by public law, has treasury accounts, financial and material assets. Within the Agency there are decentralized territorial structures without legal personality. Funding and technical and material insurance of the Agency is made from the state budget and other means not prohibited by law.

RESPONSIBILITY

The Director, the Deputy Directors, the heads of the structural and territorial subdivisions, within the limits of the assigned powers, are responsible for the decisions taken and for the activity of the subdivision.

EMERGING ISSUES

In the process of reform of this Agency, an attempt was made to include within the competences of the new Agency also the inspection and supervision tasks for projects and works on protected monuments. The approved Governmental Decision does not contain provisions in this regard, however, it is not excluded that tasks on the building sites of protected monuments or areas may be again attempted to be put under the competence of the newly created Agency for Technical Supervision, particularly if the AIRM continues to remain non - operational. While it is unfortunate that the AIRM is not currently in condition to perform its key inspection tasks, due to the lack of staff with adequate technical background, the potential absorption of the AIRM's tasks into the AST would not solve the problems of adequate monitoring on historic monuments, because the staff of AST has no specific training in the sector or cultural heritage and of historic monuments and therefore are not prepared to tackle with the specific risks posed by the violations of the legislation for the protection of historic monuments or of the monuments in public space. These risks include the loss of cultural value, integrity and authenticity as an historic monument and not as a simple construction. Assessing this type of risks and impacts requires specific expertise that need to be developed and imparted. Additionally, AST is an agency subordinated to the Ministry of Economy and Infrastructure, the mission of which is not the protection and promotion of cultural heritage.

On the other hand, AIRM – and future NAMS – can establish forms of collaboration/ cooperation with AST particularly in establishing mechanisms for joint inspections so as to address in a coordinated manner the violations to the licence, to the opinion of the relevant Council and the deviations from the approved projects.

MINISTRY OF AGRICULTURE, REGIONAL DEVELOPMENT AND ENVIRONMENT- SPATIAL PLANNING DEPARTMENT

The *Spatial Planning Department* is a Department of the Ministry of Regional Development in charge of Territorial planning at national, regional and local level and responsible for the examination of the documentation set out by law n. 835 (on concerning the principles of urban planning and spatial planning) to be annexed to the urban plans. In 2017 there was a separation of competences between the MRD and the Ministry of Economy.

The Spatial Planning Directorate (hereinafter the Directorate) is subordinated to the Secretary of State with responsibilities in the field of regional and rural development.

The overall objective of the Directorate is to develop public policies and legislative and regulatory acts in the field of spatial planning (spatial planning), to monitor the quality of policies and normative acts, and to propose state interventions to provide effective solutions in its area of competence and insurance the best ratio between the expected results and the expected costs.

The general spatial planning is structured on three levels, one national plan and two levels of local plans. The national plan is elaborated and also approved by the government, while local plans are approved according to their level:

- *Level 1* is the district level with the availability of working group, composed by architects and engineers, which elaborate the district plan;
- *Level 2* is the small towns and villages level, based on the planning elaborated at level 1. The major and the communal council approve the plan at level 2. At this level, the urbanistic certificate and the building authorization must be requested at level 1 authorities.

All the planning activities for the above-mentioned levels are funded upon own resources of the involved administrations. Control on level 1 plans (i.e. change of destination of land) can be authorized by the major, but requires verification from the central government converted with a specific regulation.

DEPARTMENT FUNCTIONS

The activity of the department consists in the elaboration of politics and projects on territorial planning, urbanism and construction. They are also in charge of the issue of the related *Aviz* that, in case of positive opinion, is then submitted to the parliament to be formally converted into law.

- Implementation of state policy in the sphere of spatial planning (spatial planning);
- Participation in the reform of the legislative and normative framework in the area of spatial planning, urbanization and regional development in order to ensure a unitary, coherent, hierarchical and operational system of normative acts;
- Monitoring the application of legislation by endorsement of spatial planning documentation as well as through permanent cooperation with specialized departments of the central and local public administration;
- Initiating and coordinating the elaboration of the National Territorial Planning Plan (PATN), the Regional Territorial Planning Plans (PATR);

- Ensuring the quality in carrying out the professional activities in its area of competence by implementing the policies and acts of the European Union, to which the Republic of Moldova is a party, in the national policies and in the legislative and normative acts;
- Ensure the functionality of the National Council for Territorial Planning.

The Spatial Planning Department verifies the respect of the EU conventions and the prescriptions set out by the national regulations before giving its opinion (aviz) to the requesting Minister. This applies also to plans proposed by the Ministry of Culture. The plans are submitted from the proponent to Spatial Planning Department according to their level. National and Regional plans are submitted by the Government while local plans are prepared and sent for advice by local administrations. At the end of the authorizing process, the plan has to be submitted to the government for formal approval by the parliament.

INSTITUTIONAL RELATIONSHIPS

Spatial Planning Department deals with all the Ministries and Agencies involved in the field of planning, including inter-ministerial groups. In the private sector, it cooperates with the sectorial professional associations at national level. They have neither international relationships (differently from the other ministries) nor with NGOs.

EMERGING ISSUES

With regard to the activity in the relevant sector, the Staff of Spatial Planning Department considers that control procedures should be simplified since many are reported as useless for they were transposed into the new system directly from those in force during the USSR era and only partially updated with EU regulations. The current regulation, for example, still bears this kind of fault even if it was issued on 2016.

In some cases, at national and regional level, the process brings to an approval a plan which cannot be implemented due to a lack of funds. Currently only seven national/regional plans are active while there are several active plans at local level.

Because of the inefficient approval process, the deadline shifts from the envisaged three years up to eight years. The process is always longer than envisaged and even in case of approval, the time spent in evaluation is so long that laws and needs become outdated.

Spatial Planning Department would prefer to have the possibility to approve single sections of the plan (as happens in Romania) instead of having to approve it all at once.

Spatial Planning Department proposed such modification to be integrated in the new code on urbanism and it will be probably part of the final text. Spatial Planning Department deems also necessary to integrate the strong point and good practices adopted in the EU countries, among which France, Italy and Romania were cited.

The Spatial Planning Department may be an important actor to cooperate with, in order to strengthen capacities in the Ministry and related institutions in the field of planning and to sensitize spatial

planning agencies on the importance of including cultural heritage considerations in the planning process.

MINISTRY OF ECONOMY AND INFRASTRUCTURE - SECTION POLICIES AND TECHNICAL REGULATION IN CONSTRUCTION

The Section Policies and Technical Regulation In Construction of MEI is in charge of the elaboration of technical regulations and policies. Before the October 2017 reform, the Ministry of Regional Development and Ministry of Construction were one institution, but the reform has merged the Ministry of Regional Development with that of Agriculture and of Environment, on the one side, and on the other, the construction sector was attached to the Ministry of Economy and Infrastructures. Both of them have responsibilities, at different level, in the territorial planning and this may cause conflicts since they are two central bodies with some overlapping areas. There is an ongoing negotiation for separating their competencies or transfer them to the ministry of constructions but the imminent national elections to be held in November 2018 will probably change the policy framework.

EMERGING ISSUES

Since 2008 there is no a general national urban plan available and neither for the local districts. This is due mainly to a lack of funding at both levels deeply undermining the entire planning sector. It was reported that Chisinau has no implementable urban plan, so the urbanistic certificate has to be released for every single intervention.

Important areas of cooperation between the Ministry of Culture and the Ministry of Economy and Infrastructure, construction section, concerns the formulations of criteria and regulations for design documentation and works related to protected monuments and historic buildings, for qualifications of enterprises and professionals in the field of conservation. In this regard, joint working groups should be envisaged and made operational, so as to see involved MEI in the elaboration of technical norms relevant in its domain of competence.

ROLE OF LOCAL AUTHORITIES IN THE CULTURE AND CULTURAL HERITAGE SECTOR

OVERALL TERRITORIAL ADMINISTRATIVE STRUCTURE OF THE REPUBLIC OF MOLDOVA

The Republic of Moldova is a unitary state composed of two levels of local government:

- The first tier is composed by 898 Local authorities, comprising villages (**sate**) and communes (**comune**), cities (**orașe**) and municipalities (**municipii**)⁸.
- The second tier is formed by 32 districts (**raioane**), the **Gagauzia Autonomous Territorial Administrative Unit** and the municipalities of **Chisinau** and **Balti and Bender**⁹

The territory of Moldova also includes a region not controlled by the central authorities, which is known as Trans-Nistria.

The governing bodies of these local and regional authorities are as follows:

- Villages, communes, cities, and municipalities comprise a legislative body, the local council, and an executive authority, the mayor.

The **local council** (*consiliu local*) is the deliberative body of the local authorities. Its members are elected by direct universal suffrage for a period of four years, either on the basis of political party lists or independent candidates. Budget setting, local policies and territorial planning are the main competences. The executive body is represented by the **mayor** (*primar*), who is elected by direct universal suffrage for a period of four years, and by the **mayor's office** (*primarie*)

- The districts (*raions*) are composed by several villages, communes and/or municipalities.

The **district council** (*Consiliul raional*) is a representative body of local government, elected through free and universal elections. The district council sets up a permanent board as a working body and executive authority comprised of the chair of the district, vice chairs and their executive apparatus.

The **president** (*presedinte*) of the district is elected by the regional council for 4 years. He/she is at the head of the region's executive branch or apparatus. The executive body at the regional level is called the district chair's office (*Aparatul Presedintelui raionului*).

The municipalities of **Chisinau** and **Balti** enjoy a specific status in which they combine the functions of both the first and second level of local administration. Furthermore, they enjoy a much more significant financial autonomy.

⁸ Chișinău, Bălți, Bender, Comrat, Tiraspol and, since 2017, Cahul, Ceadâr-Lunga, Edineț, Hîncești, Orhei, Soroca, Strășeni, and Ungheni. The main difference between municipalities and other types of tier 1 governments is that municipalities can keep up to 40% of the collected income tax.

It is worth noting that Chișinău and Bălți are recognized also as tier 2 local authorities, while Tiraspol and Bender are located in the territory de facto controlled by the unrecognized Pridnestrovian Moldavian Republic (Transnistria). Therefore there currently are 9 municipalities that are effectively tier 1 administrations.

⁹ Bender is located in the territory de facto controlled by the unrecognized Pridnestrovian Moldavian Republic (Transnistria) and is therefore outside the scope of the present report.

LEGAL BASIS

The overall architecture of the territorial administration in the republic of Moldova is given by a package of laws, adopted in 2006, comprising:

- **Law No 435 on administrative decentralization** sets specific domains of activity for local public authorities of both levels. The law defines the principles that must rule the decentralisation process: local autonomy, subsidiarity, equity, integrity of competences, adequate resourcing, financial solidarity, institutional dialogue, public-private, public-public, public-civil partnership, principle of the responsibility of the local public administration authorities; this law is held to have contributed to a real competence transfer or to decentralization of public services (<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=321387>).
- **Law No. 436 of 28.12.2006 on local public administration** regulates the organization and functioning of local, town and rayon public authorities. The law relates the LGs' competences of level 1 and 2 with activity fields of these authorities established by the Law on administrative decentralization (http://lex.justice.md/document_rom.php?id=C8E304A4:037190E8).
- **Law No. 438 of 28.12.2006 on regional development** defines the functional development regions in Moldova, the way of interregional cooperation, the institutional framework for the specific regional development policy, and the creation and operation of development regions. It establishes the regional development objectives objective, six development regions, institutional framework, funding sources for development programs and the basis for Regional Development Strategy (<http://lex.justice.md/index.php?action=view&view=doc&id=320885>). (source: PAMFIL & REISTER, 2015)

FUNCTIONS AND COMPETENCES OF LOCAL AUTHORITIES

The functions of local authorities in Moldova are identified by law, in particular, Law No 435 on administrative decentralization sets out the distribution of competences between Tier 1 and Tier 2 local administration (Monteanu, 2017).

Competences may be either **decentralized** or **delegated**. It is worth highlighting that functions are differentiated between the first and second level of local government but, for 10 important cities, these functions are combined in a single level of municipal administration.

Decentralized competences are entirely transferred to local governments. Central administration cannot intervene in decision-making for what relates to these matters. Nevertheless, the central government authorities retain the possibility of influencing service delivery indirectly, through policy-making, mandatory quality standards, incentives and penalties, monitoring, control, law enforcement and evaluation.

According to the Law on Local Public Finance, and the Law on Administrative Decentralization, the decentralized competences of tier 1 authorities (municipalities, cities, communes and villages) include:

- socio-economic and *territorial and urban development*;

- Infrastructure: *construction and maintenance of roads, streets, local bridges and traffic management; maintenance and operation of water supply systems, sewerage, water treatment, sanitation and domestic waste;*
- *social housing*; social assistance to the population, including protection of families with multiple children, mothers' and children's rights, older people and soldiers; managing the municipal housing fund;
- passenger transport; urban electric transport; bus and train stations;
- pre-school and extra-curricular institutions; primary, general and secondary education; other educational institutions serving the population;
- ***public cultural institutions, establishments and activities; maintenance of libraries and museums; sports; sports facilities;***
- ***contribute to the protection of immovable, movable, intangible cultural heritage, monuments in public spaces and natural – cultural reserves located within their territory of competence (2017)***
- *organization of markets and other public places*; protection of consumer rights; organization of retail trade; registration and maintenance of households; managing local property assets;
- fire protection and fighting
 - *maintenance of parks and green spaces; soil, plant, animal and other environmental protection measures; management of land relations; allocation of land for the construction of housing and other purposes; maintenance of cemeteries.*

On the other hand, the decentralized competences of tier 2 authorities (*Raions*) are:

- Socio-economic development, territorial planning and urban development;
- *infrastructure construction and maintenance: construction, construction of interurban pipelines, construction of sanitary institutions and schools; administration and repair of district roads; maintenance of sanitary and social facilities; management of public property*
- management: oversight and management of higher education institutions
- social assistance, including coordination and development of sporting and other activities for youth;
- public transportation;
- *environmental protection, land relations under the law;*
- ***maintenance of exhibitions, theatres, public television and other socially relevant institutions, as well as financing of cultural activities*** organized and carried out by level II local public administration,
- ***contribute to the protection of immovable, movable, intangible cultural heritage, monuments in public spaces and natural – cultural reserves located within their territory of competence (2017)***
- fire protection,
- other duties under the law.

The law strives to delineate the competences of different levels of government, however, the provisions of law give rise to potentially high overlapping of functions and competences, which could be further clarified through amendments of the law but also through the full implementation of the guiding principles of the Law.

Highlighted in bold text are the functions directly related to the culture sector, in italics the ones that may result in interferences or offer opportunities for synergies and for which therefore it is necessary to develop coordination and cooperation mechanisms.

Delegated competences are those the implementation of which is transferred to local authorities but for which the State maintain full control and management in order to monitor the delivered services. The criteria guiding the delegation of functions are efficiency and economic rationality, may be specific for certain local authorities (belonging to both Level I and II) but not extended to all local authorities, must be accompanied by transfer of sufficient financial and material resources, without which the delegation is not legally effective. Delegation of functions is proposed by the Government and approved by the Parliament.

Examples of delegated functions for level I include:

- social protection of the population and of the unemployed
- public hygiene,
- management of protected zones and sanitary areas,
- nature reserves,
- maintaining public order,
- training for military mobilization/conscription and conscription process and, other activities provided by the legislation in the field of national defence and civil protection.

On the other hand, Level II local authorities have the following delegated functions:

- Social protection of the population, including the unemployed
- public health (i.e. maternal and child health);
- public order;
- coordination and supervision of administrative-military activities, mobilization and other activities in the field of national defence
- institutions and activities linked to secondary vocational education, boarding schools, schools for children with special needs, other institutions that serve the population of the administrative-territorial unit, methodological development activity in the field of education;
- protection of natural resources; and
- consumer and civil protection.

It is also worth mentioning the fact that many competences may be shared among different levels of government.

ATTRIBUTIONS IN THE CULTURE SECTOR

The competences of the local governments are set by the Law on Decentralization and comprise:

For level 1: managing public cultural institutions, establishments and activities; maintenance of libraries and museums; sports; sports facilities; contributing to the protection of immovable, movable, intangible cultural heritage, monuments in public spaces and natural – cultural reserves located within their territory of competence (2017).

For level 2: maintenance of exhibitions, theatres, public television and other institutions that serve the population, as well as financing of cultural activities organized and carried out by level II local public administration, contributing to the protection of immovable, movable, intangible cultural heritage, monuments in public spaces and natural – cultural reserves located within their territory of competence (2017).

Furthermore, 32 District Offices, the Municipal Department of Culture Chisinau and the Municipal Directorate of Culture of Balti Municipality were given the task to manage all local cultural institutions. Their main goals are:

- to ensure conditions necessary for the development of folk art and traditional handicrafts, as well as for entertainment and other cultural activities;
- to carry out programs on conservation and promotion of culture and art in the districts / municipalities by organizing various cultural events: festivals, competitions, activities aimed at conserving and promoting folk art, reviews of amateur groups, fine arts and handicraft exhibitions; and
- to submit to the Ministry of Culture and the district / municipal Council an annual report on its activity and on the operation of the institutions under their control. (Cultural Policies, 2015)”

The District offices depend on *Raions'* government and budget and are not part of the structure of the ministry of culture. This means that, despite limited institutional and financial resources, local authorities have been given important attributions in the field of cultural heritage protection.

This is true for both Raions (which must carry out tasks identified above) and for level 1 administrations.

The law on decentralisation defines in general terms the functions and competences of local authorities, however, more specifications can be identified in the sectoral laws for cultural heritage.

COMPETENCES IN THE FIELD OF ARCHAEOLOGY

Local authorities are tasked with a variety of functions related to the protection, promotion of archaeological heritage and specific tasks with regard to surveillance on archaeological sites on their territory, in the sense that they are required to plan specific activities to protect archaeological assets; they also act as the first contact point between the citizens and the state in regard to archaeological issues, despite the fact that they do not have any technical competence or capacity in this field.

Article 3, point 6 of the Law on protection of archaeological heritage (Law n. 218/2010 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=336857>) states that:

*The first and second level local public administration authorities shall **cooperate with the central specialized authorities**, in accordance with the law, **for the preparation of programs for the protection, preservation and restoration of the archaeological heritage**. To implement these programs, local public administration authorities may provide in their **annual budgets for funding or co-financing of archaeological heritage conservation activities**. At the same time, the local public administration authorities benefit to this purpose from special transfers from the state budget, according to the law.*

Further to this, art. 7 of the law identifies the **local authorities as the point of contact for anyone accidentally discovering archaeological materials**, as the official informant to the competent authority in protecting of heritage and as the guardian of the discovered object.

The person who accidentally discovered archaeological materials or the administrator of the field in which the accidental archaeological discovery was made is obliged[...]to inform the local public administration authority about this fact and to hand over the found material. The local public administration authority is obliged to ensure the discovery guard and to inform officially, within 24 hours, the Ministry of Culture.

Article 18 of the same Law further specifies the role of local authorities as follows:

In order to protect the archaeological heritage and the observance of the legal provisions in this field, the local public administration authorities have the following main attributions:

- a) cooperate with public bodies and institutions with responsibilities in the field of archaeological heritage protection for the implementation and follow-up of their decisions;*
- b) ensure the protection of archaeological heritage as a result of systematic or preventive archaeological researches and random archaeological discoveries on the public property lands of the respective administrative-territorial units and may participate in the co-financing of these activities, according to the law;*
- c) collaborate with natural or legal persons under public or private law to fund research and capitalize on archaeological discoveries;*
- d) finances the archaeological research for archaeological discharge of the lands on which public works are carried out, for which they are the principal creditors, stipulating separately the sums necessary for this purpose in the budgets of the works that they finance;*
- e) include specific objectives for the protection of the archaeological heritage in the economic, social and urban development programs, namely land-use planning; approves the urbanization and spatial planning documentation in accordance with the expert opinions issued by the institutions and subdivisions of the Ministry of Culture and develops or modifies such documentation in order to establish the measures for the protection of the archaeological heritage that are randomly identified according to the law;*
- f) collaborates with the National Archaeological Agency, transmitting to it updated information on the applications for the issuance of the building permit in the areas with archaeological patrimony;*

- g) *specify in the urbanism certificate the regime of the buildings located in areas with archaeological patrimony;*
- h) *undertake appropriate administrative measures and notify landowners with archaeological heritage as well as holders of the right to administer them their obligations to prevent the degradation of random archaeological discoveries.*

These attributions are numerous and not trivial. In consideration of the limited capacities described above, it is reasonable to assume that, in practice, these functions will seldom be carried out, at least for rural local authorities.

In particular, the provision concerning the financing of preventive archaeology in case of public works appears not feasible: this burden should be covered by the contractor/ developer or it should be clarified that the cost of preventive archaeology has to be included in the costs estimation of the work prepared by the contracting authority which holds the funds for the public work to be carried out, based on the careful estimation validated by NAA (e.g. in case of public works carried out a central authority holds ad-hoc budget, costs of preventive archaeology should be included within the breakdown of this budget and should not be put on the burden of the local administration in the territory of which the public work will be built. There will be the need for substantial coordination action on the MECR part, as well as a long-term capacity building strategy to support local authorities in their new task. In this regard the decentralised branches of the new national Agency for Inspection of Monuments and Sites will have a key role to play.

The specific tasks of the Mayors are even more detailed in art. 19 of Law n. 435/2006 and subsequent modifications:

In the field of the protection of the archaeological heritage located on the lands of the administrative-territorial unit, the mayor, within the limits of the administered territory, has the following specific attributions:

- a) ***orders the suspension of the building permit and the termination of any construction / construction works in the case of archaeological discoveries, notifies within 48 hours the institutions authorized by the Ministry of Culture about this, organizes the guarding of the random archaeological discoveries until the taking over by qualified specialists***
- b) ***issue, on the basis of and in accordance with the opinion of the National Archaeological Agency, the building / dismantling permit for the works in the areas with archaeological patrimony as well as for the works in the archaeological patrimony areas;***
- c) ***ensures the protection and protection of the archaeological heritage, urgently indicating the competent institutions within the Ministry of Culture about any violation of the law;***
- d) ***has up-to-date copies of the National Archaeological Register and of the Register of archaeological sites in the part referring to the archaeological sites within the area of the administered locality and periodically checks, on the basis of these documents, the conservation status of the sites;***
- e) *informs the local population about the archaeological sites within the area of the administered locality as well as about the measures for the protection of these cultural goods.*

It is reported that Mayors seldom have the required competences within their administrations in order to adequately assess archaeological discoveries and the potential impact of works. Therefore, works that can be damaging to archaeological assets are seldom blocked nor the permits for building/dismantling are denied.

COMPETENCES IN THE FIELD OF MONUMENTS

The competences in what regards monuments mirror the ones related to archaeology, in the sense that the Local authorities have significant attributions for what pertains the protection of monuments, on the basis of the Law on Public Monuments and of the Law on the protection of protected monuments.

First of all, Monuments can be of National and Local importance. In this sense, the central state and the local authorities have the mandate to establish registers at their respective field. The budgeting for the safeguard of monuments of local importance is also tasked to local authorities. Article 11 reads as follows:

(2) The Government has the competence to: draw up the Monuments Register; drafting the state program on the protection, preservation and restoration of monuments; financing this program from the state budget.

(3) The competence of the rayon, municipal, town and communal councils shall be: drawing up the Register of monuments of local importance; drafting programs for the preservation, conservation and restoration of monuments of local importance, funding of these programs and granting non-refundable grants from local budgets.

However, the competences of local authorities are not restricted to monuments of local importance.

In particular, the Law on Public Monuments mandates the establishment of a protection zone **for all monuments**. The exact definition of such zone is a task of local authorities, in accordance to article 8:

(1) Each public monument has a protection area, which is located around the perimeter of the grounds of the public monument, within a radius of 50 to 100 meters. For public monuments that do not have their own land such as commemorative plaques, the protection zone is established from the surface of the building on

*(2) The exact route of the protection zone shall be established through the **plan of the public monument protection area**. The delimitation is based on topographical, geographical or urban landmarks, taking into account the particularities of the existing urban and / or natural framework (property / cadastral units, relief etc.). The plan of the protection zone is part of the project documentation for the building of the public monument, as well as the inventory of the public monument. **The protection zone of the public monument should be reflected in the urban planning documentation of the locality.** The methodology for delimiting the route of the protection zone is **approved by order of the minister of education, culture and research.***

It is also worth noting that local authorities have a residual competence on monuments which are not managed by other bodies on the basis of article 13:

*Art.13. - In order to preserve the integrity of the monuments, their holders with any legal title are obliged: to take measures that ensure the protection and guarding of the monuments by sheltering and supervising them, to observe the usage contracts and the Regulation on the intervention in the protection areas of the monuments; their use. **Responsibility for the protection of monuments that have not been transferred to the possession, use or retention of specialized institutions is the responsibility of local self-administration bodies.***

This article is not fully clear in what it concerns the ownership, use/ retention of the monuments. It should be clarified that this provision applies to monuments in the ownership/ use/ retention of the local authorities, which are not transferred to specialised institutions. It would seem legally ill-grounded imposing on local administrations the burden to ensure the integrity of monuments belonging to the State or state administration.

Finally, the local administrations are tasked with budgeting adequate resources on the basis of proposals from the ministry of culture.

Art.42. - The local councils of the first and second level administrative and territorial units provide in the annual budgets the amounts necessary for the records, studies, valuation, rescue, protection, preservation and restoration of the monuments located in their territories on the basis of the proposals of the Ministry of Culture and Tourism.

Given the very limited financial capacities of the local administrations, it is reasonable to assume that, also in this case, this task will be seldom performed. It is also noted that Local authorities should be

COMPETENCES IN THE FIELD OF MUSEUMS

Competences of local authorities in the field of museums are related to their classification. The recently approved Law on Museums n. 262/2017 (<http://lex.justice.md/md/373716%20/>) establish, at article 5, four types of museums, on the basis of the administrative level to which they pertain:

- (1) According to the importance of the territorial coverage, the size and value of the museum heritage, the scientific and technical capacity, the museums are classified into:*
 - a) national museums;*
 - b) district and ATU Gagauzia museums;*
 - c) local museums;*
 - d) institutional museums.*
- (2) National museums are museum institutions that have a significant museum heritage, representing the whole territory of the country, have important scientific, technical and exhibition potential.*
- (3) The district museums and ATU Gagauzia are the museum institutions that have a significant museum heritage in the context of the territorial-administrative unit they represent.*
- (4) Local museums are the museum institutions which, through the museum heritage owned, are significant for the territory of a locality (village, commune, town or municipality).*

The local authorities are entirely responsible for the establishment and management of their museums, in accordance to article 6, and most importantly, are entirely responsible for their financing, in accordance to article 25, which provide for management and financing of the museum activities:

FINANCIAL AUTONOMY OF LOCAL AUTHORITIES

The degree of financial autonomy of local authorities is quite limited in Moldova. Revenues of local authorities are regulated by the 2003 Law No. 397-XV on Public finance, which has been deeply reviewed and updated in 2013, as well as by the Tax Code.

In particular the Law establishes the components of local governments' budgets as follows:

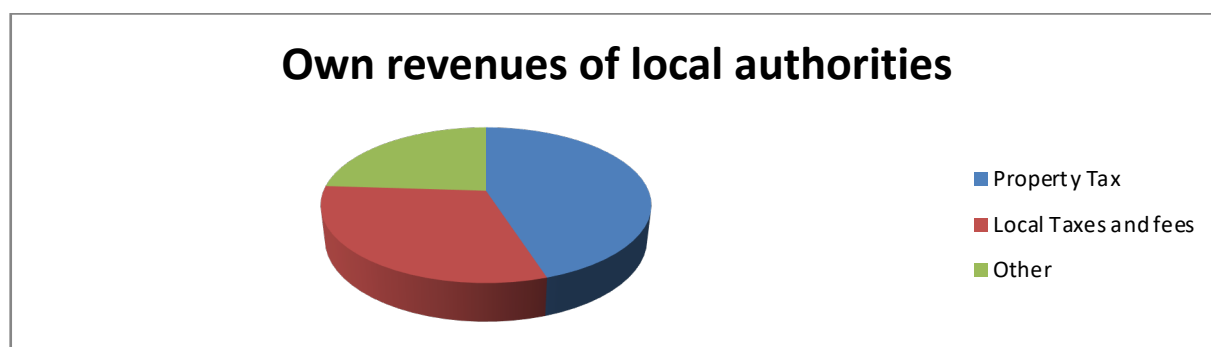
- Own budget revenues, including local taxes and fees, property tax and other fiscal and non-fiscal revenues;
- Shared tax and fees;
- Special sources of funding
- Transfers from the state and/or rayon budgets;
- Grants and loans.
- Revenues from property sale and privatization.

The **own budget revenues** are established by the Tax Code of Moldova, mainly in Chapters VI and VII of the code.

Own budget revenues are composed, mainly, by the Property Tax on real estate and by other municipal taxes and fees, such as land management fees, waste service fees, parking fees etc.

The property tax is the most relevant component of the own revenues of local authorities representing, as of 2014, and the 45% of own revenues:

Table 1: Own revenues of local authorities. Data from ROSCOVAN, 2015



It also appears clear that the “other” category is quite relevant. This category comprises a variety of sources of funding, such as payment of rent for land use, fines, administrative procedures charges etc.

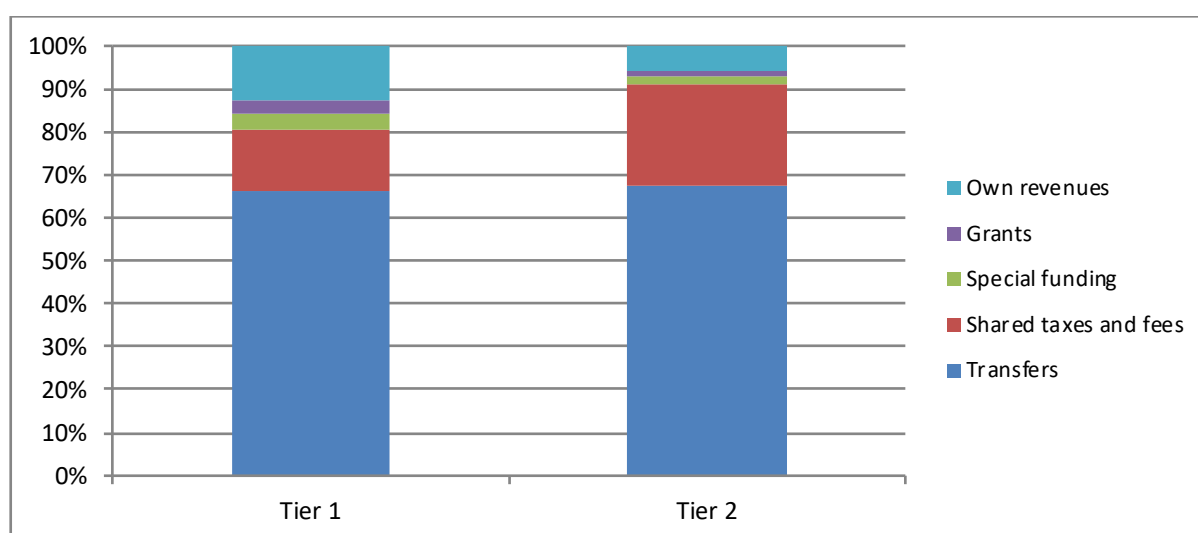
In regard to **shared revenues**, these are mainly represented by the Income Tax of the republic of Moldova, which is shared between the central government and the local authorities. The share of income tax collected by different levels of local authorities varies. Until 2013, also the corporate income tax, which is more relevant than personal income tax, was shared between the central government and the local authorities. However, the last financial reform removed the corporate income tax from the shared revenues of local authorities, replacing it with transfers. Therefore, the financial autonomy of local governments has been reduced in the recent years, despite the overall de-centralization strategy in Moldova.

Indeed, the Municipalities of Chisinau, Balti and other 8 municipalities, have access to a much higher share of the personal income tax, as they are allowed to keep for their function 40% of the collected income tax, allowing them a much more significant financial autonomy in respect to rural area.

However, it must be noted that, in practice, the predominant source of funding are by far transfers **from the central government**. The methods of calculation of these transfers have changed several times since the birth of the republic of Moldova. This issue has been, traditionally, hotly debated, since the discretionary power of central governments and *raions* in the distribution of these transfers allow them an effective political control of the local governments that are almost entirely reliant on these transfers for their functioning.

Indeed, as of 2014, the following were the share of revenues for local administrations:

Table 2: Share of revenues of local authorities. Data from ROSCOVAN, 2015



As of 2017, the largest part of transfers from the central state are calculated on the basis of a formula set by law, allowing local authorities to determine the amount of resources that they are entitled to.

Furthermore, in 2013, the review of the Law on local public finance regulated the so-called “special transfers”. These transfers are allocated on the basis of acts defining a final claim and conditioned amounts to ensure the exercise of public functions or for other special purposes delegated by the state.

CURRENT ISSUES IN THE DECENTRALIZATION PROCESS OF MOLDOVA

The brief analysis presented above highlights elements of concern in relation to the financial and institutional capacity of the local administrations, especially Level 1 (villages and small towns) which are likely to hinder the ability of Local Authorities to participate meaningfully to the implementation of a coherent and effective policy on culture.

These shortcomings have been thoroughly analysed within the recent “Global Study on Decentralization capabilities (including e-Governance potentialities) in the Republic of Moldova” (PAMFIL & REISTER, 2015) realized for the European Commission.

The most relevant issues in the field of cultural heritage appear to be:

- The unclear division of competences among the central state and local governments and among the two levels of local government (PAMFIL & REISTER, 2015)
- The extreme fragmentation of local authorities: the number of Moldovan local authorities is extremely high, with a small population for each local government, leading to limited capacities.
- The limited degree of financial capacity and autonomy, due to the fact that local authorities are mostly reliant on transfers from the state.
- The limited degree of inter-institutional cooperation, both between central government and local governments and among local governments.

UNCLEAR DIVISION OF COMPETENCES

The UNDP reports that even though competences and powers of different levels of government is described in detail in several relevant laws, such division is seldom implemented since “there is an unclear assignment of functions among different administrative levels (central, rayon and local/communal/city level authorities), due to high number of normative acts that conflict with the law on administrative decentralization and [...] the shared or fragmented responsibilities in many sub-functions lead to a lack of sufficient technical or financial resources to enable local government to fulfil these functions” (IONESCU et Al, 2015).

In particular, the distribution of competences among Level 1 and 2 is not sufficiently clear and, albeit it is contained within the same specific law, shows overlaps of functions and lacks a clear definition of the actual practical tasks to be performed by the different levels of administration.

The Law 435/2006 and most of the sectoral laws regulating competences of local authorities lack implementing instruments describing in detail the actual functions of different levels of government, leading to confusion and a large degree of discretion of public officers. A more detailed distribution of competences may be contained in implementing legal instrument which, however, does not currently exist.

At the same time, the competences of different administrative levels are contained in several different sectoral laws which are inconsistent among themselves. Furthermore, despite the fact that the law establishes that competences are to be attributed to local authorities only in correspondence with adequate financing, this financial obligation is seldom respected, due to lack of funds and to the fact that many laws predates the obligation of provision of financial resources.

In fact, the distribution of competences prescribed by many laws does not reflect the actual administrative and institutional capacities of the level 1 and 2 authorities.

Reportedly, the actual tasks carried out by local governments are not dictated by the provisions of the law, rather, by the actual availability of financial and material resources. In other words, the municipalities and villages implement the functions they can afford, irrespective of the actual competences assigned to them by the law.

FRAGMENTATION AND LIMITED INSTITUTIONAL CAPACITY

The extremely high number of local authorities (898 first level local authorities and 32 second level districts) for an official population of 3,5 million inhabitants (Statistical data bank of Moldova for 2017), of which a number spanning between 615,171 and 390,280 lives abroad (Migration Profile Moldova, 2013), with an average number of inhabitants per village/ town below 3.000 causes significant administration costs for the state, in order to coordinate and ensure effective management of such a vast number of small villages and communes.

Moreover, the small size of many villages is well beyond the threshold of economic viability leading to limited capacities of administrations in the delivery of basic public services. Indeed, while the law establishes that local authorities should cover administrative expenses with their own resources, only 17% of them are capable to do so. Most local administrations have to rely on state transfers to cover the basic costs of management of the local administration. 85% of the local administrations have very limited institutional capacities due to limited staff, restricted to fewer than six full-time staff members/local civil servants, with 24 having 4 staff members or less, typically a secretary, the tax collector, the cadastral engineer and an accountant (MONTEANU et al. 2017).

The budgetary constraints of local authorities prevent any expansion of this staff; therefore, their capacity to deliver effective public services remains extremely limited.

All local authorities are assigned analogous responsibilities, irrespective of the size and their fiscal or administrative capacities. Therefore, while local governments of cities or populous villages may have the capacity to effectively perform their duties and deliver public services, the same is often not true for the large amount of smaller villages

In this sense, it is reasonable to assume that with most municipalities unable to even perform basic functions (MONTEANU et AL. 2017); the capacity to implement effective policies for planning and cultural promotion and safeguard of cultural objects is almost absent.

Proposals to reform the current framework of local governments have been put forward. However, past experience proved that merging smaller municipalities does not ensure per se increased capacity and improved public services, rather, led to the reduction of basic services, such as closure of schools and service offices (MONTEANU et. AL. 2017).

LIMITED FINANCIAL CAPACITY AND AUTONOMY

It has been clearly shown above that own resources of local governments, especially level 1 governments, are insufficient to sustain even the basic administrative structures.

Therefore, Local authorities are highly reliant on transfers from the state budget in order to deliver public services. The system to calculate the amount of transfers was, till recently, based on extremely complex formulas and subject to political manipulations (IONESCU et al., 2015), especially by raions¹⁰.

A recent reform has introduced a more transparent and clear mechanism. However, Moldovan local governments remain in dire need of financial resources. The situation is aggravated by the fact that

¹⁰ The previous system assigned to raions the role of distributing funds to level 1 administrations on the basis of negotiations between the raion's administration and mayors.

reportedly the central government continues to transfer competences to local authorities without adequate consideration of their financial capacity.

As of now, local authorities have little to none financial autonomy. Most of their revenues come from transfers from the central government. Their own revenues cannot be set discretionally by mayors and district councils, rather, are to be set on the basis of limits imposed by national law. Therefore, it is reasonable to assume that no concrete new initiatives can be promoted by local governments since they lack financial resources to perform even the services currently assigned to them.

LIMITED INTER-INSTITUTIONAL COOPERATION

The law on decentralization (Law 435/2006) envisaged the possibility of establishing cooperation between different levels of government for specific objectives. Indeed, article five of the law states first and second level local public authorities and the central ones may cooperate in order to ensure the realization of public projects or services that call for joint efforts of these authorities. This cooperation is developed under agreements signed by all involved parties in strict accordance to the budgetary resources available, the functions identified by law and the responsibilities assumed with the signing of the agreement. The law also establishes basic criteria for these agreements: they must contain a clear breakdown of sources of funding pertaining to each partner, the limits of the decision-making power of each public authorities and the terms of the agreement. Also, cooperation with the private sector is fostered through public – private partnership contracts. However, no secondary legislation has been issued to specify more in detail the areas in which cooperation can be agreed upon, the requirements for these agreements, their structure, the warrants needed in public – private partnerships, etc.

Therefore, in the absence of regulations and of institutional capacity, the cooperation among municipalities remains very limited and actual cooperation with the central government is almost absent. Beyond institutional low capacity, the low trust of citizens and local authorities in higher levels of government is the main cause of this lack of cooperation.

On the other hand, given the small dimensions of local governments in Moldova, the potential for improving their services, through cooperation aimed at achieving economies of scale, is very high.

Reportedly, that merging of services among municipalities for improving efficiency in Moldova is mainly driven by international donors and rarely stays in place after the end of international funding.

Also, genuine cooperation between local governments and the central government remains limited. Relationships between these two levels of government appear to be characterized by a conception of a hierarchical structure, with the central state in a position above local governments, reminiscent of the centralized soviet system.

PRELIMINARY RECOMMENDATIONS

In consideration of the necessary contribution of local authorities in the protection, enhancement and promotion of tangible cultural assets, and of the positive outcomes that may derive from the decentralisation process, if accompanied by the State through coordination, cooperation and capacity building actions, it is recommended to foster the role of Tier 1 local authorities and districts (*raions*)

in the implementation of the objectives of the Strategy for Culture 2020, and of inventorying, protecting, enhancing and promoting cultural heritage of Moldova.

It is recommended to:

- Clarify competences of level 1 and 2 local authorities in regard to material and immaterial cultural heritage. It is desirable not to distribute the description of competences among sectoral legislation but, rather, collect it in a coherent list of attribution of mayors and local councils.
- Ensure that the required institutional and financial capacities to carry out duties related to cultural heritage are present in the local authorities.
- **In consideration of the small dimensions of local authorities and limited staffing, it may be desirable to set up a structured form of cooperation among levels of administration and with the Ministry of Culture and education, in order to ensure accessibility of the needed competences by official at the local level.**
- Ensure that **each** level of government has access, through own resources or transfers, to adequate funding for carrying out the attributions set by the law.

PRACTICES ON INTER-INSTITUTIONAL COOPERATION FOR CULTURAL HERITAGE IN EU MEMBER STATES

As highlighted in previous sections of this report, the establishment of a more structured cooperation framework would represent a desirable development of the current Moldovan administrative framework for culture. In this sense, it would be necessary to develop appropriate and effective tools to practically implement the cooperation envisaged by the Law on Decentralization n. 435/2006 and subsequent amendments (article 5).

Examples of cooperation instruments are presented below as a basis for developing secondary legislation supporting existing primary legislation and thereby favouring the use of cooperation instruments in the cultural heritage sector.

ITALIAN “ACCORDO DI PROGRAMMA”

A program agreement, in Italian administrative law, is a convention between local authorities (regions, provinces or municipalities) and other public administrations through which the parties coordinate their activities for the realization of works, interventions or intervention programs.

Introduced by the art. 27 of the law of 8 June 1990 n. 142, but with comparative precedents [1] and in some sectorial regulations of the 80s, the program agreement is now governed by art. 34 of the legislative decree of 18 August 2000, n. 267 (Consolidated text of the laws on the organization of local authorities).

According to the aforementioned art. 34 it is possible to use the program agreement for the definition and implementation of works, interventions or intervention programs that require, for their complete realization, the integrated and coordinated action of municipalities, provinces, regions, of state administrations and other public entities (for example, mountain communities) or in any case of two or more of the aforementioned subjects.

Through the program agreement, public works projects are approved, included in the administration programs and for which the relative financing can be immediately used. In this case, the approval of the program agreement involves the declaration of public utility, indivisibility and urgency of the works (which, moreover, ceases to be effective if the works have not begun within three years).

The program agreement may provide for arbitration proceedings, as well as subrogation interventions of possible non-fulfilment of the participants. Supervision of the implementation of the program agreement and any replacement interventions are the responsibility of a college (supervisory board) chaired by the president of the region or by the president of the province or by the mayor and composed of representatives of the local authorities concerned, as well as by the prefect of the capital of the region or the prefect of the province concerned if the state or national public sector bodies participate in the agreement.

When the intervention or the intervention program involves the competition of two or more regions, the conclusion of the program agreement is promoted by the Presidency of the Council of Ministers, which is responsible for convening the conference. The supervisory board is in this case chaired by a representative of the Presidency of the Council of Ministers and is made up of representatives of all the regions that have participated in the agreement. The Presidency of the Council of Ministers represents all the state administrations or participating national public bodies in the supervisory board.

The procedure for the conclusion of the agreement is promoted by the president of the region, by the president of the province or by the mayor, in relation to the primary or prevailing competence on the work or interventions or intervention programs, also at the request of one or more interested parties, to ensure the coordination of actions and to determine the timing, procedures, financing and any other related fulfilment. It follows that in a program agreement one of the parties must necessarily be a region, a province or a municipality (so-called necessary subjects).

To verify the possibility of agreeing the program agreement, the president of the region or the president of the province or the mayor convenes a conference among the representatives of all the administrations concerned.

The agreement, consisting of the unanimous consent of the president of the region, the president of the province, the mayors and other administrations concerned, is "approved" by formal act of the president of the region or the president of the province or mayor and is published in the bulletin official of the region. Notwithstanding the term used by the legislator, it is not a matter of approval in the proper sense, since the organ issuing the relevant act is not granted any discretion with regard to issuing: it is a due act of externalization, which confers external effectiveness to the agreement.

The agreement, if adopted by decree of the president of the region, determines the possible and consequent variations of the planning instruments and replaces the building permit, provided that there is the assent of the municipality concerned. In fact, where the agreement involves changes to the planning instruments, the mayor's adhesion must be ratified by the city council within thirty days under penalty of forfeiture.

FRENCH “CONFERENCES TERRITORIALES D’ACTION PUBLIQUE”

The law of 27 January 2014 on the modernization of territorial public action and the affirmation of metropolises institutes in each region a territorial conference of public action.

According to the article L1111-9-1 of the Code général des collectivités territoriales, this conference can debate and give opinions on all the subjects relating to the exercise of competences and the conduct of public policies requiring coordination or a delegation of competences between the territorial collectivities and their groupings. It may be seized with the coordination of cross-border relations with foreign territorial authorities located in the vicinity of the region.

After long discussions, the legislator preferred to entrust the presidency to the president of the regional council rather than the prefect.

The territorial conference includes:

- the president of the regional council,
- the presidents of the county councils,
- Presidents of public intercommunal cooperation institutions (EPCI) with more than 30,000 inhabitants,
- a representative of the EPCIs of less than 30 000 inhabitants having their headquarters in each department,
- one representative for each category of municipalities (more than 30,000 inhabitants, between 3,500 and 30,000 inhabitants, less than 3,500 inhabitants) in each department.

As for the prefect of the region, he is informed of the sittings of the territorial conference. It participates in law when the conference gives its opinion on a request from a local authority or a public institution of intercommunal co-operation with own taxation tending to obtain the delegation of the exercise of a competence of the State. He participates in other sessions at his request.

In addition, territorial agreements for the concerted exercise of jurisdiction are developed by the communities. They set the objectives of rationalization and the modalities of joint action by local authorities for the skills for which they are leaders. With regard to shared competences, each level of local government can issue rationalization proposals that are discussed in the territorial public action conference. The aim is to avoid cross-financing.

TERRITORIAL AGREEMENTS FOR THE CONCERTED EXERCISE OF A JURISDICTION

Law n° 2015-991 of 7 August 2015 (Nouvelle Organisation Territoriale de la République) on the new territorial organization of the Republic (known as the NOTRe law), thus removed the clause of general competence of the regions and departments which previously allowed them to intervene in all which they considered to be of local interest (decision confirmed by the Constitutional Council on 16 September 2016).

The possibility thus offered to associations to solicit the different communities and not to depend on a single financier is diminishing even if co-operation remains possible within the so-called shared competences (culture, sport, tourism, regional languages and popular education) and "leadership" skills.

The Territorial Agreements for Concerted Exercise thus allow the "lead" authorities of a jurisdiction to formalize the desired cooperation with the other communities.

The content of these agreements is specified by the law of 27 January 2014 on the modernization of territorial public action and the affirmation of metropolitan areas. They cannot exceed a period of 6 years but can be reviewed every 3 years, or even less depending on legislative changes. It is these agreements that determine the possibility of cross-financing between communities.

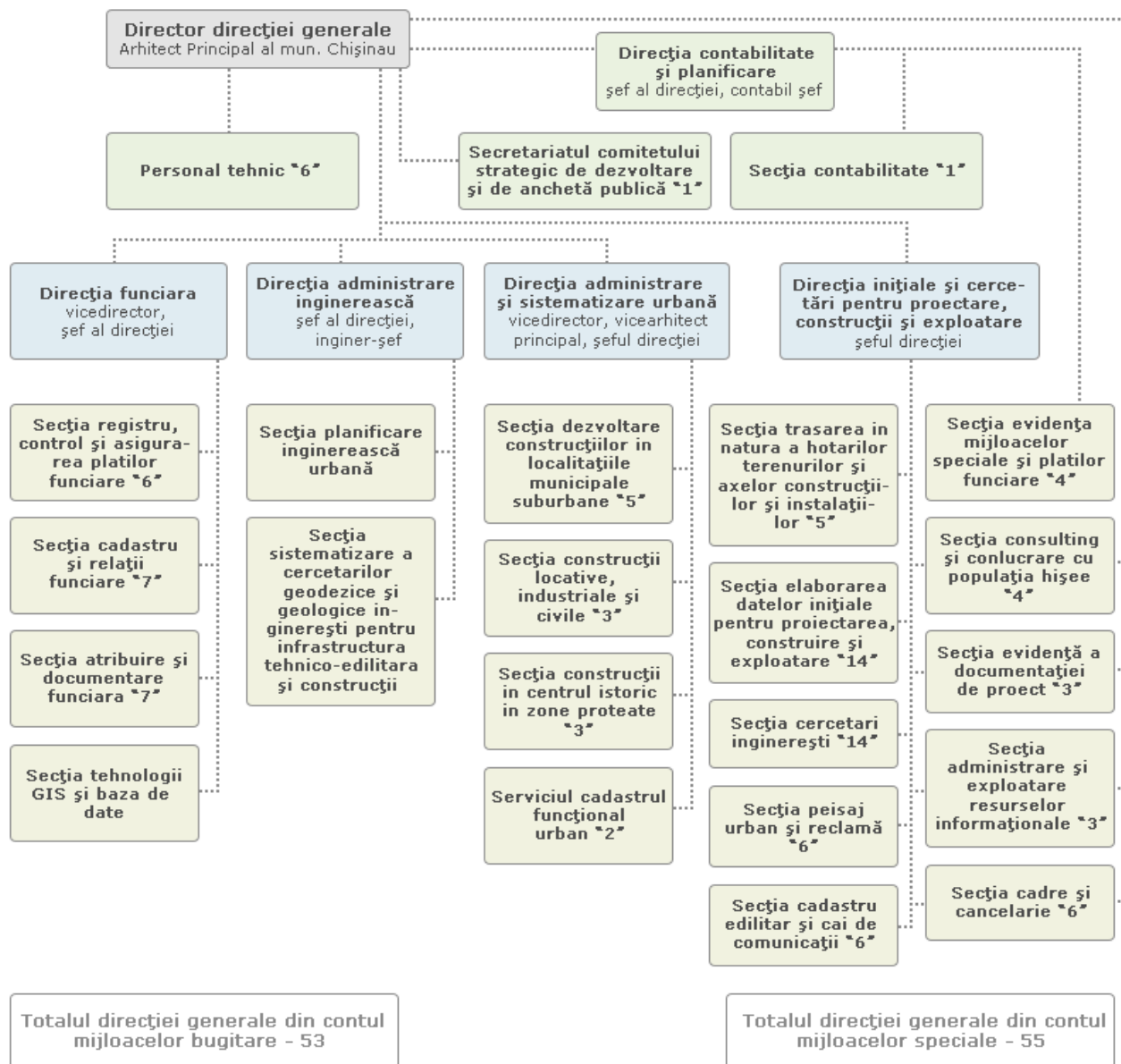
GENERAL DIRECTORATE FOR ARCHITECTURE, URBAN PLANNING AND LAND RELATIONS (CHISINAU MUNICIPALITY)

DIRECTORATE STRUCTURE

The General Directorate for Architecture, Urban Planning and Land Authorizations (GDA) is composed by four sub-directions, each one further divided into a variable number of smaller sections:

- *Direction for Land Estate* (27 units – 23 million MDL budget) dealing with: control and evidence of land payments; land relations with commercial and non-commercial sectors; land cadastre.
- *Direction for Urban Infrastructure* (19 units – 7 million MDL budget) dealing with: network tracing; topography; urban cadastre; municipal cadastre; red line calculation and coordinate service.
- *Direction for Urban Development* (20 units – 20 million MDL budget) dealing with: urban control in the territory; industrial buildings; construction in protected areas; street advertising.
- *Direction for Project Authorizations* (22 units – 22 million MDL budget) dealing with: individual construction authorizations; collective housing authorization and public utility objectives.

DIRECȚIA GENERALĂ ARHITECTURA URBANISM ȘI RELAȚII FUNCiare

Source: <https://www.chisinau.md/pageview.php?l=ro&idc=461>

STAFF

According to the above figures, GDA can rely on a maximum personnel consisting of 128 units, of which only 100 are currently on duty. The ordinary budget amounts to 80 million MDL (including a few more sections of non-technical or administrative nature) plus 37 million MDL more as special budget, for a total of 117 million MDL.

A specific GDA direction/section for cultural heritage is missing even though it can rely on a section dedicated to the construction in protected areas.

DIRECTORATE FUNCTIONS

Some of its tasks are strictly related to the local level of urban planning, as they are in charge of building authorizations and verifications, construction in protected areas, cadastre services and topography. Nevertheless, they do not deal with *planning* in the strict sense since planning activity is reserved for the political authority *e.g.* the Chisinau Municipal Council.

INSTITUTIONAL PARTNERS

In performing its tasks, the Directorate works with sectors of the public administration (such as the Urban Council and the Directions for Heritage, Culture, Transports, Public Works) but also with private citizens also (*e.g.* granting permissions for re-zoning and change of use for buildings or land plots) and associations like the *Union of Architects* even though it has neither relation with NGOs nor self-standing international relations that are not mediated by the municipality.

LEGISLATIVE FRAMEWORK

The legislative framework on the basis of which the Directorate operates is mainly composed by the national laws *concerning the protection of monuments* no. 1530-XII (22 June 1993) and *concerning the authorization of the execution of the construction works* no. 163 (09 July 2010) as well as on the provisions of the Urban General Plan. The historic centre of Chisinau – protected as a historic monument of national grade - still awaits its specific detailed plan. Very important are the local decisions of the Chisinau municipal council on *regulations and organizational chart for the General Directorate of Architecture, Urban Planning and Land Authorizations* no.54/14 (03 August 2006) and *establishment of the moratorium on the modification of the street tram and the location of the constructions in the historical center and in the green spaces of the Chisinau municipality* no. 978 (02 September 2004). Finally, the *Guidelines of the Architectural-Urbanistic Council of Chisinau municipality* no. 1545, (11 December 2006) are also in use.

EMERGING ISSUES

As a general consideration, it emerges the necessity of more specific regulations ruling and fine-tuning the aspects of the Directorate work without necessarily referring to the general and all-embracing laws (*e.g.* law 1530 on monuments protection).

A first planning-related issue on national scale emerged in connection to the lack of national and regional urban plans, even if explicitly established by law no. 835 on concerning the principles of urban planning and spatial planning. Only local urban plans are realized and most of them refer to Chisinau region only, where they cover the 90% of the area and account for the most part of all local plans realized in entire Moldova. Moreover, where a urban plan is missing (most of cases) law no. 835 does not apply and only the general law no. 163 concerning the authorization of the execution of the construction works and law no. 1530 on protection of monuments (if any) are applicable.

The lack of an approved detailed plan for the nationally protected Historic Centre of Chisinau – corresponding roughly to the area that was the object of the Sciusev's urban development plan – this prevents to have an overall vision for the historic centre of Chisinau and consistent orientation for the building activity within the historic district and facilitates a piecemeal approach, which unfortunately is prone to urban development pressures by private sectors.

This situation also brings along with it a complex relationship and tensions between the DGA Chisinau and the National Council for Historic Monuments.

The GDA staff reported difficulties in understanding the rationale for decision – making in the council as there is no guidance or criteria for them to take their decision, plus motivations of decisions are in most cases very limited and not always clear. The need for a double opinion to be issued by the Council is debated: some officials see this is an administrative overburden, others have pointed out the importance to obtain also the second opinion on the executive project because they are often very different from the concept approved in the preliminary phase. It has been reported that in 70% of cases, the executive phase substantially differs from the preliminary project on the contrary, therefore the second *opinion* of the Council is held necessary to avoid any fraudulent deviation from the approved project.

Another difficulty concerns the timely acquisition of the results of the decisions taken by the Council and of the documentation: this is generally not shared officially by the Council or by the Ministry, therefore the Municipality offices have to wait this documentation from the beneficiary. It would be beneficial for the work of the technical offices of the municipality if information of approved and non-approved project could be sent directly and timely by the Secretariat of the Council as soon as decisions are taken.

In this regard it would be fundamental that the detailed plan for Chisinau be finally approved. In this respect, it has been reported that the situation is pending because a modification would be necessary to the General Urban Plan, which still contains a provision for the construction of a communication infrastructure that would destroy part of the historic centre.

Apparently, the situation is stuck and this has negative repercussions on the protection of the Historic Centre, which is exposed to arbitrary decisions due to the lack of adequate urban regulations.

Other issues emerged include:

- the DGA lacks planning powers since planning is reserved for municipal authority;
- the lack of a buffer zone around the main monuments;
- the only buffer zone is around the historical city centre but not around the monuments;
- the DGA is limited in its possibility of decision -making in the o intervene in the historical city centre because its protection is under the responsibility of MECR and it is implemented by the NCHM, through a piecemeal approach;
- the lack of a set of law and provisions of severe sanctions for those who intentionally or not damage the protected monuments, as envisaged fines in the legislation are modest and the capacity of AIRM to perform inspections is also limited.

MAIN ISSUES EMERGED IN THE ANALYSIS OF THE INSTITUTIONAL/ ORGANISATIONAL SYSTEM FOR CULTURAL HERITAGE

In this section the emerging issues described for each institution have been compiled for ease of reference and facilitation of reading.

MINISTERIAL REFORM: THE NEW MINISTRY OF EDUCATION, CULTURE AND RESEARCH

The recent reform of the Ministry of Culture to become the MECR has aggregated three sectors that can be complementary to one another and can build fruitful synergies to achieve a more robust comprehensive strategy for the protection, conservation and promotion of cultural heritage. Therefore, from this perspective, this reform could be regarded as a positive step.

However, the merging of three ministries into one has also reduced of one unit the number of personnel dedicated to cultural heritage at the Ministry, bringing it from six to five units. The number of employees for the sector was already dramatically low and this further reduction makes it even more difficult for the cultural heritage sector of the Ministry to implement its functions.

A more general issue concerns the fact that the Governmental Decision establishing the organisation of the Ministry only defines the function of the ministry and of the political level, that is to say, the minister, the general Secretary of State, the sectors' State Secretaries and the College, whilst the functions, tasks duties and rights of the main administrative structure of the ministry, that is to say the different directorates and subdivisions are not regulated in the Governmental Decision n. 691/2017 or in any other regulatory document. Only the functions of the staff units envisaged for the functioning of the directorates are defined in the Statute of the Staff of the Ministry which is approved by order of the Minister's upon advice by the General Secretary of the Government. This means that the existence of the directorates and subdivisions is established by law, their functions are not defined. Only the individual tasks of the staff units assigned to each directorate is regulated internally through orders, which are not made public.

This means that the actual functions of the directorates are not set out and can change according to the modifications of the Statute of the Staff, which can be proposed and approved by the Minister whenever this is considered necessary. This makes uncertain the real tasks to be performed by each body and thereby affecting the administrative stability of the organisation. Additionally, in this way, citizens and other administrations have no knowledge of what should be the functions and duties of each of these directorate, nor do they know what are the specific functions and duties of each staff unit, contrary to the principles of transparency and accountability that Moldova has endorsed through its legislation.

It is suggested to make public the Statute of the Staff of the Ministry, so as to make aware the public of the functions and duties incumbent on the staff and, in the short- term, to amend the Government decision n. 691/2017 introducing the tasks, duties and rights of each directorate and of any other structure of the Ministry, in order to ensure transparency, accountability and stability.

Additionally, the restructuring has modified substantially the articulation of the directorates and of the services. As it can be inferred from the previous organigramme of the Ministry of Culture.

In particular, the service for capital investments, which was dedicated to manage the conservation works carried out directly by the Ministry of Culture on properties in its ownership or availability and which before had an autonomous dignity, being under the direct supervision of one of the two vice-ministers, has now disappeared and its (residual) functions are absorbed by the administrative and financial section under the Directorate of Institutional management.

THE DIRECTORATE OF CULTURAL HERITAGE

From the Statute of the Staff, it emerges that the tasks of the staff of the Directorate for Cultural Heritage is varied, ranging from policy-making, reporting and monitoring the activities of subordinated institutions, to more concrete and complex activities such as elaborating reports on the state of the built cultural heritage, granting specialized assistance to public authorities, individuals and legal entities, as well as elaborating design themes and specifications for the restoration of historical monuments, monitoring of the restoration of historical monuments and of the monuments in public space on a national level, or elaborating specialized documents and information regarding the state of archaeological heritage, cultural landscapes. These are all tasks that would need a specialized section in the department and could not be effectively carried out by one single Officer. It is therefore improbable that the current staff units employed at MECR, in the Directorate of Cultural Heritage can realistically carry out certain functions which they have been tasked with. The lack of staff at the Directorate for Cultural heritage, jointly with the suppression of the Service for capital investments, let envisage that the Ministry will no longer manage directly conservation works of State owned or publicly owned monuments, losing one of the key functions of a Ministry of Culture, in the absence of other fully functioning subordinated institutions, and the opportunity to demonstrate through actual interventions, good practice in cultural heritage restoration/ conservation.

The urgent tasks to be performed by the Ministry of Culture in the finalization of the reform process of the cultural heritage sector, including the updating of the Register of the Historic Monuments, the adoption of documentation standards for the historic monuments, the implementation of the reform in the Museum sector, require a substantial increase of the staff of the Directorate for Cultural heritage in order to ensure the finalization of the necessary reforms.

The recommendations stemming from the analysis carried out by the Twinning Project under Component 2 will also require to be supported in their implementation by prepared and motivated personnel in sufficient number, at least temporarily.

THE NATIONAL COUNCIL OF HISTORIC MONUMENTS

The establishment of the National Council of Historical Monuments (NCHM) should be regarded as a positive step to ensure collegiality of decisions in a matter so important as the protection of cultural heritage, and to reduce pressures on individual officers that may find themselves in difficulty making decision in a social environment which is not yet prepared to accept limitations of rights for the community benefits.

However, the functions, composition and working methods of the NCHM raise several issues that deserved being considered by the Beneficiary Country representatives, in order to ensure that their good intentions when the NCHM was established are effectively fulfilled.

First of all, the nature of this body appears to be ambiguous as it may be placed in between of an

advisory body to the Ministry for technical and scientific matters and a collegial body representing different interests than the ones of cultural heritage and called to express themselves on matters pertaining cultural heritage, and more particularly on the advice on projects concerning protected monuments or protected areas.

A second element of concern is the selection method of the components, who are all appointed by order of the Minister at the proposal of one single subdivision of the Ministry. Based on the text of the regulation, it seems that also the members representing other ministries or institutions are proposed by the directorate of cultural heritage and not by the institutions of origin.

This selection method might reduce the independence of the members, who are all selected on the basis of proposals by the internal structures of the Ministry, none seems to be member in her/his own institutional capacity, because all seem appointed nominally. It is not clear therefore what happens in the case one of the members loses her/his institutional function; for instance, if the Director of the relevant Directorate or of one of the Agencies changes what is the process to appoint the new director as member of the Council.

Additionally, the regulation seems to envisage an indefinite renewal of the mandate, with no clearly stated limit of the number of mandates, thus potentially leading to possible conditions of privilege and exposure to external pressures of members sitting in the NCHM for several mandates.

The major bulk of activity of the NCHM is represented by providing its advice on projects on protected monuments or areas. For this purpose, NCHM sessions are held every 15 days and the Council may have to examine up to 30 projects in a few hours, based on the preliminary analysis prepared by the Secretary of the NCHM, in the Department of Cultural Heritage at MECR. Therefore, the time available to the NCHM members is very limited to assess properly each project, as usually none of them has carried out a preliminary examination of the projects. The final legal opinion of the NCHM does not contain the explicit opinion of each member and does not appear sufficiently motivated. It is assumed that the opinion of each member is recorded in the minutes of the NCHM sessions however these are not made available to the public.

While in case of an advisory body to the ministry, the opinion of which had only a technical / scientific value and not specific administrative consequences, as in the case of the 'aviz', not releasing the opinion of each member may be acceptable. But the legal opinion of the NCHM has indeed administrative consequences in that, according to the provisions of the law, it preconditions the issuance of the certificate of urbanism and of the authorization by the municipality and by any other body entitled to issue an authorisation. Therefore, it would be advisable that the legal opinion of the NCHM be based on explicitly motivated arguments and the opinion of each member explicitly expressed, in order to ensure transparency and accountability. This even more important in that the provision in the law n. 1530/1993 stating that the Ministry issue an approval of the projects upon release of the opinion of the NCHM does not seem to be implemented, as the direct publication of the opinions expressed by NCHM on the MECR website would suggest. At the moment, only simple majority is envisaged to decide on projects proposals, however, in case project proposals imply the demolition of a monument or its substantial transformations (e.g. addition of floors, substantial modifications to the facades or to major architectural elements) it is recommended to adopt a more cautious decision-making process based on qualified majority, in order to ensure that drastic decisions are adopted with a larger consensus.

The law n. 1530/1993 does not contain general principles or criteria to orient the work of the Council, nor secondary legislation has been produced in this regard. Ideally, the motivations for which a monument has been inserted in the Register might and should guide the assessment of the impacts on the monuments of the proposed conservation, rehabilitation or development works, however the Register approved in 1993 only include a list of assets, imprecisely identified through their address, and the Passports containing the information of these documents have been mostly lost. Therefore, the Council appears to be left with insufficient explicit guidance to express its advice in a consistent and accountable manner.

At the moment, the Ministry transmits the approved projects and the opinion of the NCHM only to the owner/ beneficiary and not to the municipality where the object of the intervention is located nor to the relevant Agency, to ensure the necessary follow up. This causes disconnections and disfunctions among the concerned parties and, in some cases, has facilitated misbehaviours, in that falsifications of the NCHM opinion by the proponents have been reported. The direct transmission of the approved project to all parties concerned (municipality, AIRM, NAA where relevant) would simplify the work and would prevent attempts of falsification.

Cases are reported of incomplete projects not specifying all the restoration works planned or the lacking description, being approved and the „aviz” issued.

According to law No.163/09.07.2010 on the authorization of construction works, a communication between public institutions to inform about the beginning of the construction works should be done however MECR or its agencies are not included in the list of offices to be informed (see art. 12, paragraphs from 6 to 11) of the commencement of the works: in the absence of the respect of the time limit for the issuance of the authorization, the beneficiary can begin the works informing the administration that is entitled to issue the authorization and the Agency for Technical Supervision, on the other hand, if the building permit is issued regularly, then the issuer is obliged to inform the Agency of Technical Supervision within three days and, in case the project had been subject to Environment Agency, within ten days. On the other hand, there is no mention that also the AIRM must be informed of the issuance of the building permit and of beginning of the works, if the project had been advised by the NCHM. This gap causes several problems as the AIRM is not timely informed about the beginning of building sites and therefore cannot implement its inspection tasks.

Apart from the process-related shortcomings, also technical issues are evident: many preliminary and executive projects seem to be lacking of adequate technical documentation. A closer examination of some conservation projects has highlighted the lack of substantial necessary documentation for any conservation project. Very rarely projects contain graphic charts / tables with indicated the demolitions and new constructions (marked in yellow and red) the description of existing materials and building components and of their problems, no graphic description of the planned interventions and of their extent and location is provided or the technical specifications of the works. No description of the interventions and of the works and of the methodologies of treatments is generally presented. The photographic documentation is very limited, no captions are provided, no mapping of construction material and decay phenomena is included, no post- treatment / intervention illustration is provided. The absence of standardized legends=key symbols/colours makes the project analysis even more difficult so that a norm forcing the use of the same legend (hatch marks, colours, symbols etc.) for all the projects should be introduced.

NHCM: PRELIMINARY RECOMMENDATIONS FOR IMPROVEMENT

In line with the rationale of the composition of the other Councils, which are all formed by experts from the relevant field (see the respective regulations), it is also suggested to reduce the number of members of the Council to a ceiling of maximum seven persons and to include only representatives from the cultural heritage realm, in order to ensure that the interests of cultural heritage protection are represented in the NCHM rather than other interests, that, although legitimate, may find expression in other authorisation or approval procedures.

The regulations envisage the remuneration of all members: it would be advisable to envisage that only the members who are not employed in public institutions and the secretary – who has to carry out the major part of the work – be remunerated, for the other ones only a symbolic reimbursement of expenses should be envisaged, also with a view to reduce the costs of operation of this and other bodies, thus contributing to the reduction of expenses.

Representatives of other ministries or of the municipalities may be invited to explain specific aspects of projects for which they act as beneficiary or promoters but should not be entitled to vote in favour or against any project, in that the NCHM should be called to provide its advice in the utmost interests of heritage protection, enhancement and promotion.

The mandate of each member should be renewable consecutively only once and any member sitting for two consecutive mandates should not be appointed before three years have passed since he/ she ceased her/his function, in order to ensure rotation and avoid the generation of privileges linked to the position. Only some of the members should be proposed by the MECR, other should be proposed by other cultural institutions, e.g. Academy of Science, Institute of Cultural heritage, University, provided that the candidate has the relevant technical and scientific preparation and adequate experience in the practice of conservation/ restoration.

The working methods also should be improved, first by strengthening the preliminary analysis of the projects, that should be accompanied by a written assessment of the project, its pros and cons, possible further documentation to be requested and a draft proposal for the NCHM to be discussed, then by reducing the number of projects to be examined at each session to a ceiling of five- six, if the sessions are to last half day (4 – 5 hours), 10 -12 if each sessions last one full day (say 8-9 hours each), in order to allocate sufficient time for the examination of all aspects of the project, by asking each member of the council to express a motivated opinion on the project in relation to the draft proposed decision submitted by the secretary of the NCHM. Finally, the Secretariat of the NCHM at MECR should work jointly with the technical staff of the relevant Agency, in order to facilitate the assessment work and involve the Agency, which is responsible for the inspections, since the inception of the work.

Furthermore, to ensure the necessary circulation of information among all concerned parties and facilitate all administrations in the implementation of their tasks, it is recommended that the projects approved by the ministry following the issuance of the opinion by the NCHM, be transmitted by the Secretariat of the NCHM at MECR to the relevant Municipality, to the Agency for Inspection and Restoration of Monuments, in addition to the owner/ beneficiary.

Finally, it is necessary to reinstate the correct procedure for the approval of the projects set out in art. 16, para 2 of the Law n. 1530/1993, which provides for the approval by the Ministry upon the opinion issued by the NCHM.

With regard to the required project documentation, this needs to be increased substantially for both the preliminary phase (*schita de proiect*) and the executive phase (*proiect de executie*).

In this regard a good opportunity is represented by the current development of the Code of practice in construction on “the way and principles of designing the restoration of the Monuments of history and culture”. An alignment of the Code of Practice to the needs of adequate documentation for the two phases of the projects would be advisable. Proposals in this regard are made by the Twinning Project in the reports under Component 1, concerning the legislation.

AGENCY OF INSPECTION AND RESTORATION OF MONUMENTS

The Agency of Inspection and Restoration of Monuments was created in 2006 but started operating only in 2010, following the appointment of its Director and the issuance of its regulation. It has been entrusted with several delicate tasks and, since it became operational, improvement in the situation have been reported, with a decrease of illegal demolitions. It is noted that differently from the Decision regulating the National Archaeological Agency (NAA), the Government Decision regulating AIRM does not envisage in advance an internal articulation according to different services. Additionally, the planned staff for AIRM is the half of the what is provided for NAA (14 staff units for NAA versus seven for AIRM).

Among the main criticalities denounced by the Agency excessively low salaries were reported, a factor which causes a continuous turn-over of the technical staff. It has been explained that in Moldova architects have much more attractive prospects in the private sector rather than in the agency or in the public administration. In this regard, their situation is different from that of archaeologists at NAA, finding no market for private professional archaeologists outside the public institutions devoted to the sector.

As a matter of fact, architects, the main professionals that are supposed to be employed at the agency, are heavily underrepresented: at the beginning of the Twinning project (October 2017) only one architect was employed at the Agency, the extant part of the staff having different backgrounds. While this report is being compiled (July 2018) the only architect working at the Agency has quitted and no other technical staff unit seems to be employed at the Agency, as a consequence its main operational activity – inspection of monuments and works on protected objects – is severely hindered.

Another reported cause that undermines the effectiveness of the Agency in performing its duties is that its staff has not the status of civil servant according to the law, this not only has a consequence on the salaries and on the staff's selection process, which for civil servants is made according to a different legal provision (Government Decision n. 201/2009), but also on how AIRM's employees are perceived from outside, especially when they have to inspect protected items or building sites.

It has been reported by AIRM that there must be two Agency's employees to carry out jointly an inspection for it to be valid, the Director also explained that they are not entitled to stop works that may damage a protected monument. However, the AIRM regulation does explicitly mention in Section II, para 2.16 that “issuance of mandatory prescriptions concerning the cessation of excavation, construction, reconstruction, conservation, ... [that] may prejudice the stability, authenticity, integrity of buildings and monumental constructions” is part of the Agency's functions as well as the function to “release permission to resume the ceased works”. These paragraphs could be read in conjunction with art. 27 of the Law n. 1530/1993 and subsequent amendments which reads “State monuments

protection authorities designate special empowered persons, the only ones with the right to supervise and control the conservation and restoration works as well as to interrupt them in case of non-observance of the provisions of law.”

At this stage, it is not clear what legal impediments prevent AIRM to exercise the functions set out in its regulation. Further clarifications are needed.

It seems that the only passage that might be missing is a clarification of the Ministerial Order n. 232/ 2010, clarifying the following:

- The technical staff units employed at the Agency are the persons performing supervision, control, reporting according to art. 27 of the law n. 1530/1993;
- the Director of the Agency and the Vice Director are the ‘designated special empowered persons, pursuant art. 27 of the law n. 1520/1993, having the right to interrupt works in case of non-observance of the provisions of the law (and in case of potential damage to protected monuments).

The inspection work of the Agency is also hindered by the fragmentation of competences and missing links. For instance, the Agency staff gets informal update about the outcomes of each session from its Director, who is member of the NCHM, but does not receive formal communication about the projects that were granted positive or negative opinion from the NCHM for its inspection and monitoring follow up. More importantly, delays in receiving the documentation of projects approved or rejected by the National Council of Historical Monuments (NCHM) hinder the whole process of implementation of protection on the ground and the ability of AIRM to perform its tasks timely and based on the full extent of the information available. Additionally, the Agency is not involved in the preliminary assessment of the projects, which, according to the regulations of the NCHM, is carried out by Secretary of the NCHM who sits in the Department of Cultural Heritage at MECR.

Another considerable issue emerged during the discussion on the inspection duties concerns the fact that only portions of the projects are forwarded to the Agency, specifically those related to the Architectural part, but not the documentation on the structures, the technical installations, etc. Therefore, the Agency develop only a partial knowledge of the whole project and it is difficult for it to assess whether the approved project is being implemented according to the opinion of the NCHM, its recommendations or not. It is therefore crucial that the entire project complete with all its sections (structure, installations, safety, accessibility, etc.) is submitted first to the Directorate of Cultural heritage for evaluation by the NCHM and then transmitted in its entirety to AIRM (and/ or NAA if and where relevant) in order to ensure that all interventions are assessed with regard their impact on the cultural significance of the monument and of its physical fabric and ambiance.

The reports of the demolitions at national level are limited to the complaints of the citizens, while in Chisinau the technicians of the Agency ensure random control or upon notice – no systematic control is ensured so as no control of building sites. Any inspection results in a document that is sent to the police if irregularities are detected. The police intervene very rarely. However, since inspection reports are issued, the demolitions of heritage buildings have got significantly reduced. Although inspection seems to be one of the few activities among those envisaged by the Agency regulation to be performed, only inspections with negative outcomes and potential administrative or legal consequences are duly recorded, whilst there is no documentation or institutional memory of the

building sites where things are running according to the law. This prevents the formation of a baseline repository of data against which to achieve a evidence-based assessment of the improvement in the application of the Law, the effectiveness and efficiency of the Agency action, the dynamics of conservation/ restoration activity, thus frustrating the possibility for MECR to assess the trends in the implementation of the laws of the cultural heritage sector.

A further factor is related to passport fiches compiling and storage. The Agency stores the hard copies of the passport fiches compiled in the soviet period as well as the most recent ones and it is currently implementing a digitization project, funded by the US Embassy, which aims at make accessible all monument fiches on AIRM website. However, the compilation is often non-standard and documents, if present, are hard to retrieve as the paper versions of these documents do not appear to be archived according relevant standards for archives.

The regulations envisage for AIRM several functions both strategic and operational and appear far too wide if one considers the staff that is assigned by law to the Agency (seven units) and the difficulties the Agency is struggling with, due to the frequent turn -over of its staff. It would be advisable to reduce them and to focus on the key tasks, namely implementation of protection tasks, including identification of built assets eligible for being protected under the law, inspection of the state of conservation of protected monuments, identification of monuments in need of conservation works, and transfer the strategic or methodological ones to the MECR and to the reformed Institute of Cultural Heritage, through the envisaged reform.

In the previous paragraphs concerning the functions and rights of the AIRM, some of them are suggested to be removed (text in grey): this is meant as a simplification of tasks to be performed. In order to reduce the burden and the multiplication of initiatives, scientific activities may be carried out jointly with the Institute of Cultural Heritage, dissemination may be organised jointly with the Directorates dedicated to Arts and Creative Industries and Cultural heritage at MECR. It should be clear that the main obligations of the agencies and of the reformed one should be implementation of legislation in the field of protection.

Actions to be undertaken immediately in order to make the Agency more effective its action include:

- *amend the Order of the Ministry n. 232/2010 in order to empower the Agency staff and its director and vice – director to implement art. 27 of the Law n. 1530/1993*
- *select and hire new technical staff units, able to perform the key tasks of the Agency, in order to bring it back to operationality;*
- *adopt inspection forms to document the monitoring activity carried out by the agency;*
- *develop a simple database (even an excel file would suffice for the tasks), in which to record the carried-out activities, first of all the inspections, their outcomes and the subsequent steps undertaken (e.g. information to the MECR and to the police in case of detected infringement of the law or of the opinion of the NCHM, etc.), as a support for the reporting activity;*
- *with the scientific advice of the State Archives, reorder and store the historical files of the passport, according to acknowledged standards, in parallel to the digitisation of the files, to ensure their proper conservation and accessibility;*
- *in cooperation with the MECR and other public institutions, update the Register of Historic Monuments, through direct surveys and by establishing links between the cartography and the cadastral data,*
- *request MECR to propose amendments to the Law n. 163/2010 on the authorisation to the*

execution of construction works, in order to ensure that also the Agency of Inspection and Restoration of Monuments is informed timely of issued building permits and of the beginning of the works on protected monuments or areas.

INSTITUTE OF CULTURAL HERITAGE

According to the representatives of the MECR, which has become the supervising body of the ICH, following the ministerial reforms adopted by the Government in 2017, the current structure and activity of the ICH does not meet the needs of the contemporary cultural heritage sector and does not respond adequately to the challenges that the MECR and its subordinated institutions have to face. A thorough reform of the ICH has been envisaged by the MECR, aiming at transforming the Institute into an institution that can aptly respond to the exigencies of new vision for cultural heritage within society.

The MS STEs fully concur with this vision of the BC representatives and underline the need of a comprehensive reform that rationalise the whole of the human resources currently employed in the cultural heritage sector under State responsibility, in order to achieve a more effective and efficient response to the current needs and challenges.

The MS STEs in particular consider that the envisaged reform and restructuring of the ICH to become the NICH offers a unique opportunity to rethink the staffing needs of the Institute to be created and to reinforce the staff dedicated to cultural heritage at the MECR, currently severely understaffed, and to increase the staff of the AIRM and NAA, also expected to be reformed and unified.

This reform is urgent and needs to be adopted as a matter of priority in order to replenish the staff of the Directorate of cultural heritage at MECR as well as of the agencies and to implement the activities related to the ministerial reforms.

In this regard, the MS STEs have provided suggestions to the BC representatives on the envisaged reform: these are outlined in the following chapter.

OUTLINED REFORM OF THE MECR RELATED INSTITUTIONS FOR CULTURAL HERITAGE

The envisaged reform for the ICH represents an unprecedented step towards the modernisation of this institution and must be supported. The current institute conducts research according to a vision of heritage, of its problems and its challenges which appears outdated and unable to respond to the needs of the MECR in performing its duties to comply with international treaties, conventions and national obligations for the protection and enhancement of heritage for the benefit and enjoyment of the citizens of Moldova, Europe and the World.

However, there are a number of weaknesses in the envisaged reform, as of January 2018, that need to be identified and acted upon in order to ensure that the reform will really improve the performance of public institutions in the sector. They are the following:

- lack of clarity on how MECR will exercise its coordination and control functions over subordinated institutions
- apparent excessive autonomy of the NICH and National Agency for Monuments and Sites Inspection (NAMSI)
- too many functions assigned to NICH at the expenses of NAMSI

- Still excessive central role of the Councils in the project approval process

To ensure full coordination and cooperation among the different subordinated entities of MECR and of these with its Councils, it is crucial that a balance is established between the flexibility of operation of the above-mentioned newly created institutions, their accountability and their capacity to act as functional operational arm to MECR. This only can occur if clear coordination of and control over functions and performances of the sub-ordinated institutions is entrusted to the relevant directorate of MECR and if the interrelationships among the different institutions are clearly set out.

The MS STEs have outlined a preliminary proposal for the redistribution of the functions among the different institutions that has been already informally discussed in different occasion but has not had any opportunity for a collegial discussion with the key representatives of the Agencies and of the Ministry.

It is also noted that too many functions are concentrated in the newly created NICH at the expenses of the new Agency to be created. While this is understandable considering the high number of staff units currently employed at ICH, the reform should seek first the benefits of the cultural heritage sector and, where necessary, adapt the institutions, their structure and functions to this end. As a matter of fact, the Staff of the newly created NICH might be modified/reduced according to the needs and the tasks to be assigned to the Institute in order to make it efficient and functional to the need of the cultural heritage sector.

It is suggested to reduce the tasks of the Institute to the elaboration of principles, criteria, methodologies and specifications with regard to the different phases of the heritage cycle, that is to say, documentation, protection, conservation, enhancement and promotion and to leave the implementation to the NAMSI.

The update of the Register of historic monuments and of monuments of public space and the inclusion of new entries should be a shared responsibility: proposals for inclusion in the Registry can be made by the NICH or the new Agency; the Directorate of MECR may request any of the two institutions to prepare the necessary documentation to include a new entry into the register. It is likely that the proposals from the Agency will be the outcome of inspection activity and therefore may end up in 'emergency listing procedures', whilst the proposals from the NICH are more likely the outcome of inventory campaigns.

The development of conservation projects should be entrusted to the Agency, which is responsible for the protection and inspection tasks: inspections may result in the identification of properties in need of conservation works and it is important that the technicians who have inspections responsibility are involved directly in the recovery. Agency and NICH may cooperate in the development of conservation works.

The task of keeping the Register and an information system related to it has to remain a function of the NICH, although coordination and cooperation mechanisms with the Agency of Land Relations and Cadaster, Geoportal Service has to be envisaged.

It has to be noted that it is unlikely that the current staff of the Institute of Cultural Heritage possesses the adequate competences to perform the functions envisaged by the reform of the sector. Therefore,

it is indispensable to plan training and capacity building courses for the staff of the newly created Institute, be it the current or newly recruited staff.

OPPORTUNITIES FOR COOPERATION WITH OTHER AGENCIES AND MINISTRIES

Agency of Public Procurement

The Agency represents an important partner for the MECR, in what it concerns public procurement. In particular, partnerships might be envisaged with regard to building capacity in the MECR and the Agencies' technical and administrative staff for managing tenders and procurements in the field of conservation/ restoration works. At present neither MECR nor its agencies have sufficient technical and administrative staff units to run contracts for conservation/ restoration works: establishing cooperation with the Agency for Public Procurement would allow to develop the necessary capacities to manage implementation of projects and works according to the law in force and ensure expeditious expenditure of funds allocated to the Ministry.

Agency for Technical Supervision

In the process of reform of this Agency, an attempt was made to include within the competences of the new Agency also the inspection and supervision tasks for projects and works on protected monuments. The approved Governmental Decision does not contain provisions in this regard, however, it is not excluded that tasks on the building sites of protected monuments or areas may be again attempted to be put under the competence of the newly created Agency for Technical Supervision, particularly if the AIRM continues to remain non - operational. While it is unfortunate that the AIRM is not currently in condition to perform its key inspection tasks, due to the lack of staff with adequate technical background, the potential absorption of the AIRM's tasks into the AST would not solve the problems of adequate monitoring on historic monuments, because the staff of AST has no specific training in the sector or cultural heritage and of historic monuments and therefore are not prepared to tackle with the specific risks posed by the violations of the legislation for the protection of historic monuments or of the monuments in public space. These risks include the loss of cultural value, integrity and authenticity as an historic monument and not as a simple construction. Assessing this type of risks and impacts requires specific expertise that need to be developed and imparted. Additionally, AST is an agency subordinated to the Ministry of Economy and Infrastructure, the mission of which is not the protection and promotion of cultural heritage.

On the other hand, AIRM – and future NAMSI – can establish forms of collaboration/ cooperation with AST particularly in establishing mechanisms for joint inspections so as to address in a coordinated manner the violations to the licence, to the opinion of the relevant Council and the deviations from the approved projects.

Spatial Planning Department (Ministry of Agriculture, Regional Development and Environment)

The Spatial Planning Department may be an important actor to cooperate with, in order to strengthen capacities in the Ministry and related institutions in the field of planning and to sensitize spatial planning agencies on the importance of including cultural heritage considerations in the planning process.

They have developed a considerable experience in planning design and could therefore become useful interlocutors in what it concerns the elaboration of plans for protected zones but also with a view to modernize the concept of spatial planning as an instrument helping sustainable development but also a more strategic approach to the protection of historic monuments, areas and landscapes.

Directorate for Urban planning, construction and housing (Ministry of Economy and Infrastructure)

Important areas of cooperation between the Ministry of Culture and the Ministry of Economy and Infrastructure, construction section concern the formulations of criteria and regulations for design documentation and works related to protected monuments and historic buildings, for qualifications of enterprises and professionals in the field of conservation.

In this regard, joint working groups should be envisaged and made operational, so as to see involved MECR in the elaboration of technical norms relevant in its domain of competence.

More generally, with regard to the planning situation at the national scale, it has been reported the lack of national and regional urban plans, even if explicitly established by law no. 835 on concerning the principles of urban planning and spatial planning. Only local urban plans are realized and most of them refer to Chisinau region only, where they cover the 90% of the area and account for the most part of all local plans realized in entire Moldova. Moreover, where a urban plan is missing (most of cases) law no. 835 does not apply and only the general law no. 163 concerning the authorization of the execution of the construction works and law no. 1530 on protection of monuments (if any) are applicable.

CURRENT ISSUES IN THE DECENTRALIZATION PROCESS OF MOLDOVA

The brief analysis presented above highlights elements of concern in relation to the financial and institutional capacity of the local administrations, especially Level 1 (villages and small towns) which are likely to hinder the ability of Local Authorities to participate meaningfully to the implementation of a coherent and effective policy on culture.

These shortcomings have been thoroughly analysed within the recent “Global Study on Decentralization capabilities (including e-Governance potentialities) in the Republic of Moldova” (PAMFIL % REISTER, 2015) realized for the European Commission.

The most relevant issues in the field of cultural heritage appear to be:

- The unclear division of competences among the central state and local governments and among the two levels of local government (PAMFIL & REISTER, 2015)
- The extreme fragmentation of local authorities: the number of Moldovan local authorities is extremely high, with a small population for each local government, leading to limited capacities.
- The limited degree of financial capacity and autonomy, due to the fact that local authorities are mostly reliant on transfers from the state.
- The limited degree of inter-institutional cooperation, both between central government and local governments and among local governments.
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Unclear division of competences

The UNDP reports that even though competences and powers of different levels of government is described in detail in several relevant laws, such division is seldom implemented since “there is an unclear assignment of functions among different administrative levels (central, rayon and local/communal/city level authorities), due to high number of normative acts that conflict with the law on administrative decentralization and [...] the shared or fragmented responsibilities in many sub-functions lead to a lack of sufficient technical or financial resources to enable local government to fulfil these functions” (IONESCU et Al, 2015).

In particular, the distribution of competences among Level 1 and 2 is not sufficiently clear and, albeit it is contained within the same specific law, shows overlaps of functions and lacks a clear definition of the actual practical tasks to be performed by the different levels of administration.

The Law 435/2006 and most of the sectoral laws regulating competences of local authorities lack implementing instruments describing in detail the actual functions of different levels of government, leading to confusion and a large degree of discretion of public officers. A more detailed distribution of competences may be contained in implementing legal instrument which, however, does not currently exist.

At the same time, the competences of different administrative levels are contained in several different sectoral laws which are inconsistent among themselves. Furthermore, despite the fact that the law establishes that competences are to be attributed to local authorities only in correspondence with adequate financing, this financial obligation is seldom respected, due to lack of funds and to the fact that many laws predates the obligation of provision of financial resources.

In fact, the distribution of competences prescribed by many laws does not reflect the actual administrative and institutional capacities of the level 1 and 2 authorities.

Reportedly, the actual tasks carried out by local governments are not dictated by the provisions of the law, rather, by the actual availability of financial and material resources. In other words, the municipalities and villages implement the functions they can afford, irrespective of the actual competences assigned to them by the law.

Fragmentation and limited institutional capacity

Several analytical reports on the organisation of local administrations in the RM highlight the extremely high number of local authorities (898 first level local authorities and 32 second level districts) for an official population of 3,5 million inhabitants (Statistical data bank of Moldova for 2017), of which a number spanning between 615,171 and 390,280 lives abroad (Migration Profile Moldova, 2013), with an average number of inhabitants per village/ town below 3.000 causes significant administration costs for the state, in order to coordinate and ensure effective management of such a vast number of small villages and communes.

These reports also underline that the small size of many villages is well beyond the threshold of economic viability leading to limited capacities of administrations in the delivery of basic public services. Indeed, while the law establishes that local authorities should cover administrative expenses with their own resources, only 17% of them are capable to do so. Most local administrations have to rely on state transfers to cover the basic costs of management of the local administration. 85% of the local administrations have very limited institutional capacities due to limited staff, restricted to fewer

than six full-time staff members/local civil servants, with 24 having 4 staff members or less, typically a secretary, the tax collector, the cadastral engineer and an accountant (MONTEANU et al. 2017).

They also notice that the budgetary constraints of local authorities prevent any expansion of this staff; therefore, their capacity to deliver effective public services remains extremely limited.

All local authorities are assigned analogous responsibilities, irrespective of the size and their fiscal or administrative capacities. Therefore, while local governments of cities or populous villages may have the capacity to effectively perform their duties and deliver public services, the same is often not true for the large amount of smaller villages

In this sense, it is reasonable to assume that with most municipalities unable to even perform basic functions (MONTEANU et al. 2017); the capacity to implement effective policies for planning and cultural promotion and safeguard of cultural objects is almost absent.

Proposals to reform the current framework of local governments have been put forward. However, past experience proved that merging smaller municipalities does not ensure per se increased capacity and improved public services, rather, led to the reduction of basic services, such as closure of schools and service offices (MONTEANU et al. 2017).

Limited financial capacity and autonomy

It has been clearly shown above that own resources of local governments, especially level 1 governments, are insufficient to sustain even the basic administrative structures.

Therefore, Local authorities are highly reliant on transfers from the state budget in order to deliver public services. The system to calculate the amount of transfers was, till recently, based on extremely complex formulas and subject to political manipulations (IONESCU et al., 2015), especially by raions¹¹.

A recent reform has introduced a more transparent and clear mechanism. However, Moldovan local governments remain in dire need of financial resources. The situation is aggravated by the fact that reportedly the central government continues to transfer competences to local authorities without adequate consideration of their financial capacity.

As of now, local authorities have little to none financial autonomy. Most of their revenues come from transfers from the central government. Their own revenues cannot be set discretionally by mayors and district councils, rather, are to be set on the basis of limits imposed by national law. Therefore, it is reasonable to assume that no concrete new initiatives can be promoted by local governments since they lack financial resources to perform even the services currently assigned to them.

Limited Inter-institutional cooperation

The law on decentralization (Law 435/2006) envisaged the possibility of establishing cooperation between different levels of government for specific objectives. Indeed, article five of the law states first and second level local public authorities and the central ones may cooperate in order to ensure the realization of public projects or services that call for joint efforts of these authorities. This

¹¹ The previous system assigned to raions the role of distributing funds to level 1 administrations on the basis of negotiations between the raion's administration and mayors.

cooperation is developed under agreements signed by all involved parties in strict accordance to the budgetary resources available, the functions identified by law and the responsibilities assumed with the signing of the agreement. The law also establishes basic criteria for these agreements: they must contain a clear breakdown of sources of funding pertaining to each partner, the limits of the decision-making power of each public authorities and the terms of the agreement. Also, cooperation with the private sector is fostered through public – private partnership contracts. However, no secondary legislation has been issued to specify more in detail the areas in which cooperation can be agreed upon, the requirements for these agreements, their structure, the warrants needed in public – private partnerships, etc.

Therefore, in the absence of regulations and of institutional capacity, the cooperation among municipalities remains very limited and actual cooperation with the central government is almost absent. Beyond institutional low capacity, the low trust of citizens and local authorities in higher levels of government is the main cause of this lack of cooperation.

On the other hand, given the small dimensions of local governments in Moldova, the potential for improving their services, through cooperation aimed at achieving economies of scale, is very high.

Reportedly, that merging of services among municipalities for improving efficiency in Moldova is mainly driven by international donors and rarely stays in place after the end of international funding.

Also, genuine cooperation between local governments and the central government remains limited. Relationships between these two levels of government appear to be characterized by a conception of a hierarchical structure, with the central state in a position above local governments, reminiscent of the centralized soviet system.

PRELIMINARY RECOMMENDATIONS

In consideration of the necessary contribution of local authorities in the protection, enhancement and promotion of tangible cultural assets, and of the positive outcomes that may derive from the decentralisation process, if accompanied by the State through coordination, cooperation and capacity building actions, it is recommended to foster the role of Tier 1 local authorities and districts (*raions*) in the implementation of the objectives of the Strategy for Culture 2020, and of inventorying, protecting, enhancing and promoting cultural heritage of Moldova.

It is recommended to:

- Clarify competences of level 1 and 2 local authorities in regard to material and immaterial cultural heritage. It is desirable not to distribute the description of competences among sectoral legislation but, rather, collect it in a coherent list of attribution of mayors and local councils.
- Ensure that the required institutional and financial capacities to carry out duties related to cultural heritage are present in the local authorities.
- **In consideration of the small dimensions of local authorities and limited staffing, it may be desirable to set up a structured form of cooperation among levels of administration and with the Ministry of Culture and education, in order to ensure accessibility of the needed competences by official at the local level.**
- Ensure that **each** level of government has access, through own resources or transfers, to adequate funding for carrying out the attributions set by the law.

DIRECTORATE FOR ARCHITECTURE, URBAN PLANNING AND LAND RELATIONS – MUNICIPALITY OF CHISINAU

A specific section dedicated to the GDA is necessary, since Chisinau technical offices are the ones with which the implementing Agencies of MECR and the NCHM have almost a daily contact.

A closer and more cooperative dialogue between MECR and GDA appears indispensable to overcome structural problems related to the compliance with and control of application of the legal opinion of the NCHM or of the NCMPS.

The lack of an approved detailed plan for the nationally protected Historic Centre of Chisinau – corresponding roughly to the area that was the object of the Sciusev's urban development plan – prevents to have an overall vision for the historic centre of Chisinau and consistent orientation for the building activity within the historic district and facilitates a piecemeal approach, which unfortunately is prone to urban development pressures by private sectors. The remedy imagined by MECR to oblige all projects to be screened and approved by the NCHM as a way to guarantee the protection of the city scape and of the monuments cannot be considered sufficient, as the NCHM does not operate according to clear guidance and criteria and its often exposed to external pressures, resulting more than occasionally in debatable positive opinions. Reportedly, at times the opinion of the council is not held in due consideration by the Municipality itself, for a variety of reasons including, ambiguity of the reading of the opinion, lack of information or lack of compliance with opinion.

The Directorate staff reported difficulties in understanding the rationale for decision – making in the Council as there is no guidance or criteria for them to take their decision, plus motivations of decisions are in most cases very limited and not always clear. The need for a double opinion to be issued by the Council is debated: some officials see this is an administrative overburden, others have pointed out the importance to obtain also the second opinion on the executive project because they are often very different from the concept approved in the preliminary phase. It has been reported that in 70% of cases, the executive phase substantially differs from the preliminary project on the contrary, therefore the second *opinion* of the Council is held necessary to avoid any fraudulent deviation from the approved project.

Another difficulty concerns the timely acquisition of the results of the decisions taken by the Council and of the documentation: this is generally not shared officially by the Council or by the Ministry, therefore the Municipality offices have to wait this documentation from the beneficiary. It would be beneficial for the work of the technical offices of the municipality if information of approved and non-approved project could be sent directly and timely by the Secretariat of the Council as soon as decisions are taken.

In this regard it would be fundamental that the detailed plan for Chisinau be finally approved. In this respect, it has been reported that the situation is pending because a modification would be necessary to the General Urban Plan, which still contains a provision for the construction of a communication infrastructure that would destroy part of the historic centre.

Apparently, the situation is stuck and this has negative repercussions on the protection of the Historic Centre, which is exposed to arbitrary decisions due to the lack of adequate urban regulations.

Other issues reported by the Directorate include:

- the Directorate lacks planning powers since planning is reserved for municipal authority;
- the lack of a buffer zone around the main monuments;
- the only buffer zone is around the historical city centre but not around the monuments;
- the Directorate is limited in its possibility of decision -making in the o intervene in the historical city centre because its protection is under the responsibility of MECR and it is implemented by the NCHM, through a piecemeal approach;

The lack of a set of law and provisions of severe sanctions for those who intentionally or not damage the protected monuments, as envisaged fines in the legislation are modest and the capacity of AIRM to perform inspections is also limited.

IDENTIFICATION OF NEEDS TO ENSURE SUBSEQUENT IMPROVED IMPLEMENTATION

The analysis conducted throughout the first 10 months of the project has confirmed the findings of the and the conclusions of the Expert Mission of the Council of Europe in Moldova (5-7 June 2012), namely:

- essential and manifold culture heritage is under threat;
- ambitious, but sometimes constrained vision of culture heritage;
- existing legal basis whose implementation is poorly coordinated;
- motivated teams suffering from lack of personnel;
- active civil society with high expectations;
- professional training is necessary.

The results of the preliminary analysis contained in the Strategy “Culture 2020” have also been confirmed in terms of challenges to the cultural heritage and problems. In particular it has been found that the institutional basis for the protection of cultural heritage was missing due to **lack of coordination and cooperation among different bodies, regulatory system was missing or insufficient, capacity of the staff** of the existing institution was **limited** and **capacity building opportunities missing or insufficient, outdated or inexistent documentation of protected monuments** made very difficult the implementation tasks of relevant agencies. Additionally, the owners of the protected monuments are not included in the protection and preservation process.

However, the analysis on the organisational and institutional framework carried out by the project has highlighted further issues that need to be integrated into the picture portrayed by the Strategy Culture 2020 and to be addressed, including through a revision of the Strategy itself.

These issues include **cross-cutting weaknesses**, which affect also other sectors but have an even worse spin-off for the cultural heritage sector, which suffers more than other due to structural deficiencies and the low priority given to it within the national agenda.

They include the **lack of qualified human resources**, due to the difficulty in motivating adequately **prepared professionals** to engage themselves in the public administration, the **fragmentation of responsibilities** among different branches of the administration and the **uncertainty of legislation with regard to individual administrative responsibility of civil servants** in the implementation of their functions. the **insufficient training** of new staff to get prepared for their job and their tasks,

The main issues in the cultural heritage sector emerged from the analysis or confirmed from previous investigations can be regrouped under a few major areas:

- poorly understood and communicated vision on the role and function of cultural heritage for Moldovan society and for its long – term sustainable, equitable and inclusive development;
- outdated Register of protected monuments (no new entries are reported since its formulation in 1993) not in line with evolving understanding of cultural heritage
- insufficient human resources and frequent turn-over of the staff, lack of motivation and insufficient capacity of the staff and of the institutions (due to low salaries, fear of external

and internal pressures and lack of clear individual administrative responsibility of civil servants in the performance of their duties)

- malfunctioning of the Council of Historic Monuments
- insufficient regulatory framework for the implementation of the legislation and for the effective/ efficient functioning of the institutions
- insufficient organisational effectiveness and procedural specifications
- lack of communication and coordination within the MECR institutions and between these and other relevant institutions.

All the above-mentioned problems, combined with low awareness of the importance of cultural heritage and with pressures from ill -conceived development and clientelism, result overall in a poor implementation of the relevant laws in general and of the assigned functions by the implementing bodies.

The problems of limited efficiency and effectiveness in implementing the legal framework and the tasks of the relevant institutions have triggered an analysis of the larger legal framework concerning administrative procedure, the role of the civil servant, the conflict of interest, transparency, with the identification of potential improvements for the relevant provisions that can have a positive impact also on the cultural heritage sector.

The above-mentioned problems form the baseline for the assessment of the needs and of related actions to be undertaken to overcome the identified weaknesses.

Needs, as problems, can be regrouped accordingly:

Problems	Needs
1. poorly understood and communicated vision on the role and function of cultural heritage for Moldovan society and for its long – term sustainable, equitable and inclusive development	1. - Update VISION and popularise it among decision – makers
2. outdated Register of protected monuments (no new entries are reported since its formulation in 1993) not in line with evolving understanding of cultural heritage	2. - Simplify the rules for the updating of the Register (currently only every 3 years) - Promote understanding and appreciation of built heritage of the soviet era through research and dissemination (including TV programmes)
3. insufficient human resources and frequent turn-over of staff, lack of motivation of the	3. - Increase the salaries of civil servants and employees in the cultural heritage sector

<p>staff and insufficient capacity of the staff and of the institutions (due to low salaries, fear of external and internal pressures and lack of clear individual administrative responsibility of civil servants in the performance of their duties)</p>	<ul style="list-style-type: none"> - improve the selection process of the staff - modify perception of civil servants in the perception of the citizens - motivate the staff through: capacity building activities, optimizing use of human resources, combating clientelism, promoting merit - reform the public employment and define the principle of individual administrative responsibility in the performance of civil servant, make more stringent principles and norms related to conflict of interest
<p>4. malfunctioning of the Council of Historic Monuments</p>	<p>4.</p> <ul style="list-style-type: none"> - reform the status, composition and working methods of the Council
<p>5. insufficient regulatory framework for the implementation of the legislation and for the effective/ efficient functioning of the institutions</p>	<p>5.</p> <ul style="list-style-type: none"> - develop regulations and secondary legislation to support implementation and adequate institutional response - clarify roles, functions and tasks of each institution
<p>6. insufficient organisational effectiveness and procedural specifications</p>	<p>6.</p> <ul style="list-style-type: none"> - define clearly and meticulously the procedures in all their steps and timeframe and the institutional interactions among institutional stakeholders - prepare forms / template for each procedure
<p>7. lack of communication and coordination within the MECR institutions and between these and other relevant institutions.</p>	<p>7.</p> <ul style="list-style-type: none"> - institutionalise communication and coordination (via regulations and orders) - establish internal inter-institutional working groups - establish cooperation agreements with other entities for joint activities

The above-mentioned problems and respective needs suggest that, in the specific context of the organisation and improvement of the capacity of the MECR – Directorate of Cultural Heritage and related/ subordinated institutions, the following set of specific actions are to be considered.

Cultural heritage sector

Urgent needs to be addressed / actions to be undertaken without delay:

- *Ensure that the key functions and tasks of the AIRM are performed despite the current lack of technical staff at the Agency*
- *amend the Order of the Ministry n. 232/2010 in order to empower the Agency staff and its director and vice – director to implement art. 27 of the Law n. 1530/1993*
- *select and hire new technical staff units, able to perform the key tasks of the Agency, in order to bring it back to operability;*
- *adopt inspection forms to document the monitoring activity carried out by the AIRM;*
- *develop a simple database (even an excel file would suffice for the tasks), in which to record the carried-out activities, first of all the inspections, their outcomes and the subsequent steps undertaken (e.g. information to the MECR and to the police in case of detected infringement of the law or of the opinion of the NCHM, etc.), as a support for the reporting activity;*
- *Strengthen the interdepartmental cooperation at MECR in order to support the directorate for cultural heritage, which at the moment is severely understaffed*
- *With the support of MECR Human Resources department, verify the availability and competences of existing staff, within the MECR, to cover the unfilled position, and envisage an ad hoc training to transfer the competences which are necessary to perform the requested tasks*
- *Strengthen the cooperation with the Agency for Land Relations and Cadastre to achieve the registration of the status as protected assets in the cadastral data (sheets, parcels, etc.) as basis for effective protection*
- *with the scientific advice of the State Archives, reorder and store the historical files of the passport, according to acknowledged standards, in parallel to the digitisation of the files, to ensure their proper conservation and accessibility;*
- *update the Register of Historic Monuments, through direct surveys and by establishing links between the cartography and the cadastral data (inter-Agency working group to be established)*

Increase Human resources

Short term

- *increase the number of staff units at the Directorate for Cultural Heritage in order to be able to cope with the tasks by rationalising the staff needs of the reformed National Institute of Cultural Heritage*
- *increase staff of AIRM by rationalising the staff needs of the reformed National Institute of Cultural Heritage*

Reinforce the Vision and overall policy approach for cultural heritage

- *Develop a shared and strong vision at the government level depicting the role of cultural heritage in Moldovan society supported by the different sectors of the Government as well as by society at large*
- *Raise awareness about cultural heritage targeting different audiences – e.g. decision -makers, public administration actors, investors - and using different types of media and instruments*

- *Elaborate jointly with the Ministry of Finances a strategy and fiscal measures designed to facilitate the involvement of the private sector in the conservation and promotion of cultural heritage*
- *Update the Strategy Culture 2020 and its action plan accordingly*

Improve Communication/coordination within MECR institutions and between them and relevant Actors in other sectors

- *strengthen the communication and cooperation in the inter-ministerial committee sitting in the State Chancellery*
- *institutionalise cooperation and coordination within institutions at the level of technical staff*
- *establish inter-sectorial working groups for specific topics (e.g. registration in Cadaster system of protected monuments and sites, elaboration of technical norms for construction sector or planning, development programmes, etc.)*
- *MECR to propose amendments to the Law n. 163/2010 on the authorisation to the execution of construction works, in order to ensure that also the Agency of Inspection and Restoration of Monuments is informed timely of issued building permits and of the beginning of the works on protected monuments or areas.*

Equip implementing institutions with adequate and sufficiently detailed regulatory framework

- *identify and elaborate the missing regulations as they emerge from primary legislation*
- *Through reforms of the primary legislation, reduce the number of regulations to be elaborated*
- *Develop in detail administrative procedures, steps, timeframes, tasks, templates and clarify the role and responsibility of each involved actor*

Organizational and procedural effectiveness and efficiency and fragmentation of responsibilities

- *Revise/ reformulate the regulations concerning the organisation, functions and competences for the new Agency resulting from the merging of NAA and AIRM;*
- *formulate the regulations for the organisation, functions and tasks of the reformed Institute of Cultural Heritage;*
- *revise the profile and working methods of the Council of Historic Monuments and its regulation*
- *revise the procedure to issue the approval of the Ministry*
- *revise the procedure to issue the Council's legal opinion (aviz)*
- *revise the technical documentation required for project on protected historic monuments and areas (at the two stages of development: schita de proiect, proiect de executie).*
- *define and harmonise the structure and content of the documentation fiches (fisa de clasare, dosar de inventariere) for historic monuments and archaeological sites (under activity 4.1, see corresponding report);*
- *revise the procedure for updating and adding new items in the Register of historic monuments.*

Conservation works design and implementation / timely expenditure of allocated financial resources.

- *create a small pool of experts at the Ministry of Culture dedicated to support, follow and monitor project implementation after their approval*
- *establish cooperation with the Agency of Public Procurement at the Ministry of Finances to strengthen capacity of MECR staff in the sector and to carry out jointly tenders in the cultural heritage sector*
- *envisage training for the cultural institutions to improve their planning, implementing and monitoring capacities and related budget.*

Reforms of the MECR subordinated Institutions

- *redefine the tasks and functions of the Agencies and National Institute of Cultural Heritage through the revision of the draft law on historic monuments in order to maintain the integrity of the “heritage cycle”: identification, documentation, legal protection, conservation, monitoring/ inspection. The Institute to develop the principles, criteria and standards, the Agencies to implement the whole ‘heritage cycle’*
- *unify of the Agencies (NAA and AIRM) into one single Agency;*
- *proceed with the reform of the ICH and rationalisation of its staff;*
- *establish forms of cooperation with the Academy of Science*
- *promote the creation of a diagnostic centre for cultural heritage with the involvement of the Academy of Sciences*
- *reform the Council of Historic Monuments and, in parallel, of all other councils and commissions, with a view to reduce their number and the related functional costs;*
- *detail through ad-hoc technical regulation the content of the projects for protected monuments;*
- *define the documents and content of the projects for intervention on protected monuments and areas to be included into the revised draft law for historic monuments;*
- *revise the procedure and the requirements to issue the legal opinion (aviz) from the MECR – NCHM.*

Strengthening the role of Local Authorities in the cultural sector / reinforcing inter- institutional cooperation

- *clarify the competences of level 1 and 2 local authorities on tangible and intangible cultural heritage. It is desirable to collect the description of competences in a coherent list of attribution given to the bodies of the different tiers of the local administration.*
- *ensure that the required institutional and financial capacities to carry out duties related to cultural heritage are present in the local authorities.*
- *ensure that each level of government has access, through possibility to raise own resources or transfers, to adequate funding for carrying out the attributions set by the law.*
- *Promote the association of municipalities for services related to culture and cultural heritage, in order to strengthen the capacity of the smallest ones and carefully monitor implementation to avoid that this association becomes a way to reduce the services*
- *Possibly set up a structured form of cooperation among the different levels of local administration and with the Ministry of Culture and education, in order to ensure accessibility to the needed competences at the local level.*

- *Establish a more structured inter-institutional cooperation framework as a desirable development of the current Moldovan administrative framework for culture. In this sense, it would be necessary to develop appropriate and effective administrative and legislative tools to implement the cooperation envisaged by the Law on Decentralization.*

Cross – cutting issues

Strengthen the Human resources in the public administration of the sector –reduce turn-over of staff

Short – term actions

- *develop a campaign to improve the image of the civil servant and of the staff employed in public institutions by the population*

Mid-term actions

- *Increase the salaries for civil servants and staff of public agencies*
- *improve the selection process by developing open competitions to get access to the public administrations*
- *prohibit the cumulation of jobs in the public sector and prevent / discourage the use of retired staff to fill uncovered positions (prefer short term outsourcing)*
- *develop mechanisms for the training and permanent education of civil servants*
- *develop mechanisms that ensure career prospect/ development based on clearly defined criteria and professional merit*

Strengthen effectiveness of public administrations

- *reduce fragmentation of responsibilities (e.g. Identify one body responsible to ensure the finalisation of each procedure and within each body individual charged formally with the responsibility to finalise the assigned procedure within the requested timeframe)*
- *envisage the figure of the “official responsible for the procedure” in charge for managing the administrative process from its inception to its conclusion. Such a role is not envisaged at present in the legal framework for administrative procedure but it would be highly beneficial*
- *increase transparency and consistency with mission of each administration in administrative procedures by making compulsory adequate motivations for each administrative decision (not only for negative decisions but also for positive decisions)*
- *strengthen the individual administrative responsibility of the civil servant.*

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