

Recommendations for the MAI Reform in 2014

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After a series of unsuccessful attempts to reform the Ministry of Internal Affairs (MAI) in the context of various strategic initiatives and foreign or domestic policies, in 2013, the Republic of Moldova has made a decisive step towards the creation of a new police system, adjusted to the European requirements, when the functions of the MAI were separated from those of the police. Thus, the MAI is no longer a Ministry of the Police. It develops, evaluates and coordinates the implementation of the police policies. Policing, which is to maintain the public order, to prevent and combat criminal activity lies solely with the police. This separation of the police from the political sphere was made by a new Law on the Policing and Police Officer Status that was passed in 2012 and entered into force in 2013. Only after more than 20 years of independence and the creation of a state subject to the rule of law, the police gets rid of the status of "the armed body" and the substantive and formal elements that are deeply rooted in the legacy left by the Soviet militia. The new law is considered as the guarantee of the transparency and efficiency of the Ministry of Internal Affairs and Police, which has yet to be proved by tangible actions and results, the change of attitudes and gain of the public confidence.

Activities undertaken and results achieved

The constant concern of the MAI is to change its image as a militarized institution, remove the duplication of skills and increase the police responsiveness to the community needs. Judging by the content of the conceptual documents and following the police actions, we conclude that the MAI undertakes coherent efforts to change the image of the police and to operationally separate it from the MAI.

Structures have been identified to develop policy documents, which is dealt by the MAI central apparatus, and those that are responsible for their implementation, which is dealt by the General Police Inspectorate.

The reform process included the regulatory framework, all the structures, procedures, uniforms, police priorities and approaches. The new Law on Policing governs the police work and powers, as well as the police officer status and functionally separates police from the MAI. It removes the character of armed body of the Government, establishes the General Police Inspectorate (IGP) as the central unit of the administration and control of the Police.

IGP chief powers are clearly separate and distinct from those of the Minister.

It is important that the Minister does not approve of the police operations, does not sanction and does not promote police officers, does not lead directly the police subdivisions. All these tasks were delegated to the Chief of the General Police Inspectorate, who is appointed by the Government for a period of five years, on the recommendation of the Minister, from among the police professionals with an experience of at least five years. At present, the IGP is in charge

over 9,000 policemen, divided into the public order police and the crime fighting police. In terms of the structure, the IGP is divided into specialized subdivisions and regional subdivisions:

- *The specialized subdivisions* consists of the National Patrol Inspectorate; the National Investigation Inspectorate; the General Directorate of Criminal Investigation; the "Fulger" Special Police Task Force; the Centre for Technical-Forensic and Judicial Expertise; Kennel Centre;
- The list of *the territorial subdivisions* consists of the Chisinau and UTA Gagauzia Police Directions and Police Inspectorates of the districts and municipalities. Locally, each territorial subdivision of the Republic of Moldova was divided into sectors where rapid intervention teams work. Each district has 3-6 sectors. The distribution of the police forces was carried out based on 20 criteria, taking into account the population amount, migration, transit, risks, the criminal situation and other factors.

The number of the police leading positions and the office policemen were also reduced from 40% to below 18%.

The police do not consist of policemen any more. There are civil servants, civil employees and technical service personnel who have no special status and, therefore, do not benefit from the amenities and benefits it offers. The policemen are public servants with a special status, for whom special police ranks are established, which are not equivalent to the military ranks. The law provides for hiring policemen only through competition and their integrity testing, monitoring their behaviour outside the working hours too. Under the law, the policemen were entitled to special protection on the part of the state, including housing ensured by the state.

One of the notable achievements is marked by the creation of the National Patrol Inspectorate.

Its creation led to the liquidation of the Traffic Police Direction of the MAI, the "Scut" Patrol and Sentinel Regiment of the Chisinau General Police Station and the Transport Police. The patrol police took over their functions, reviewing them completely. It combines a range of functions: provide and maintain public order, road safety, ensure police presence in public places and at public events, as well as increase the safety climate in the society. The territorial patrol inspectorates operate in cities, towns and district centers where the amount of the population exceeds 20 thousand people, as well as on the national routes.

The territorial police inspectorates were reorganized.

Thus, each district, instead of an intervention team, has (at least in the organizational charts) 4-6 intervention teams, located in sectors, to adequately respond to the security needs of citizens. The requirements for placing the policemen were developed under a separate methodology consisting of 12 criteria, such as the amount of the population, the incidence of crime, length of the roads, number of the registered means of transportation, the unemployment rate etc. According to these criteria, 230 policemen have to serve 100.000 citizens.

The Border Guard Service was reorganized into the Border Police subordinated to the MAI, pursuant to Law No. 283 on the Border Police of December 28, 2011.

The new Law puts special emphasis on preventing and combating cross-border crime, trafficking in human beings, illegal migration, illegal crossing of the state border, smuggling (outside the territory of the state border crossing points), forgery and fraudulent use of the documents. The Law attributed to the Border Police new powers in the field of criminal prosecution, offence review, travel documents expertise, cross-border crime investigation, issuing visas at the state border crossing points in exceptional cases and other powers in the specific area of operation. Similarly, a subdivision specialized in the field of prosecution and travel documents expertise was created within the Border Police. The attribution of the prosecution functions was also ensured by the criminal procedure law, which makes this rule perfectly functional. A range of structural reforms, such as reduce the total number of positions, reduce the number of the management positions at the central level by about 30% in favour of the executive positions at the local and regional levels and decentralization of the decision-making process at the operational level as regards the fields of the human resources, finance, logistics etc., have been also undertaken. Besides, it is important to remember that the border police reform was not designed within the MAI or just by the MAI and it benefited from unprecedented foreign assistance. To conclude, the Border Police is a good example of the benefits of diluting the monopoly of the MAI on the reform by getting multiple decision-makers and institutions involved, as well as by involving a complex and professional foreign assistance.

Identifying the reform challenges

1) From the management point of view, the new structure has yet to prove its functionality.

Important reforms were undertaken at the structural and functional levels, a range of duplications of powers and functions being eliminated. The entire policing is now the responsibility of the General Police Inspectorate and its subordinated and decentralized subdivisions. However, despite the desire and the attempts to reduce bureaucracy and duplication, a simple attempt to understand the complexity, goal, size and usefulness of certain newly created administrative structures or that are to be created may discourage even those who have an advanced experience. The MAI structure, which is divided into apparatus and subordinated subdivisions, is replicated with more or less accuracy within the subdivisions subordinated to the IGP. If, at the MAI level, the creation of some separate units and sections, separated on relatively related fields, could be explained by the amount of work and complexity, it remains unclear the need to preserve this construction at the level of the most subdivisions subordinated to the IGP .

2) There is a discrepancy regarding the extent of the reform of various police structures, as well as substantial deviations from the strategic reform documents.

The visible success of the reform is registered at the level of operational reorganization of the police that ensures the real separation of the police functions, that of the implementation of policies within the police agencies, the function of development, evaluation and coordination, which belongs to the MAI. The structures subordinated to the MAI ensure the tactic management

of the system, determine the forms of activity, monitor the implementation of the legislation and policies at the political and strategic levels. There are several issues to be referred to in this chapter, primarily related to the discrepancy concerning the degree of reforming various police structures. It is obvious that their reforming occurs at a different speed, some on a clear upward trajectory, others on a confusing trajectory, where the terms and the sophisticated language in the policy documents are under no way reflected in the daily practice nor do they reflect the confusing and competing visions regarding the future of certain police structures. To all these, substantial deviations from the strategic reform documents add up (the concept of reform and the action plan), which is explained by the political developments and adjustments due to the realities on the ground. This would not be a problem if they would be adjusted and reviewed after two years they were developed. Otherwise, there is the impression of a false successful completion of the reform, which is reduced to passing the new law and to the functional or structural reorganization, as well as to the testing of several new models of a pilot character. Such a perspective would be catastrophic for the real success of the reform, not the imaginary one.

3) *The gradual and too slow implementation, the lack of human and financial resources, the lack of an initial and continuous training of the employees of the General Patrol Inspectorate*

The patrol police is the proof of a real and tangible reform. It was equipped with transport and modern equipment, with uniforms that bring to the policemen a more civilian look and character. It is obvious that certain initial professional training courses for the purpose of cooperation and communication with the community took place and that they brought good results. The systems of the video surveillance of the road traffic, coordinated with the process of adjusting the conventional legislation for the video recordings to be used as evidence for the application of sanctions are also likely to cement the growing positive image of the Patrol Police. The employment in the National Patrol Inspectorate occurred as a result of a capacity exam of the former road policemen and their integrity testing. However, these processes are not sufficiently visible and are far too slow. It is namely the gradual and too slow implementation, the lack of human and financial resources, the lack of an initial and continuous training of the employees of the General Patrol Inspectorate, performance assessment that takes into account the public opinion as a priority - are likely to jeopardize the reform or even to make it reversible.

The Georgian police patrol model, for example, requires a true reflection of the name: patrolling means no stationing. The cars of the patrol police are always in motion, always with the beacon on and they focus on the most problematic areas in terms of traffic, of the crime or offence activity hazard. In the Republic of Moldova, the general feeling is that the patrol police is short of or saves spare parts, fuel, which is not the case. The philosophy of the patrol police work derives even from their own name and should be understood as such. The creation of this police service has also taken into account the new legal framework on the public meetings, so that the citizens' rights to the freedom of assembly coexist successfully with the peace and public order. The situation is radically changed if we compare it with that of 2007-2008. Unfortunately, the area of coverage of the General Patrol Inspectorate includes only cities, towns and district centers, the population of which exceeds 20 thousand people, as well as the national routes. This

has explanations of an economic and human resource character, of course. Thus, while the new police model fights for image and performance in the urban and semi-urban areas (the reform is not completed), in the rural area, the patrol police has no discernible continuity.

- 4) *The re-location of the Criminal Investigation Department and the law enforcement investigation work (DUP) from the subordination of the MAI to that of the IGP is controversial and hasty*

The re-location of the Criminal Investigation Department and the law enforcement investigation work (DUP) from the subordination of the MAI to that of the IGP is controversial and hasty, because certain complications of a criminal procedure complications and the risk of the double administrative subordination with possible negative repercussions on the quality of the criminal prosecution, have not been taken into consideration. However, this reorganization is not a final one because it will result in serious changes arising from the reform of the prosecutor's office system, which has barely begun. It appears that by the effect of the Law on Police, the employees of the department become policemen or are assimilated by them. But the police is a finding body, while the criminal prosecution body, under the procedural aspect, is independent from the police and, respectively, is hierarchically superior, including towards the finding officer. In this situation, it is necessary to make a clear delimitation of the police competences from the criminal prosecution and the prosecutor's office.

In countries with a developed democracy, it is widely accepted that the prosecutor leads the criminal prosecution, has broad powers and gets involved in carrying out the criminal prosecution. However, in the Republic of Moldova the criminal prosecution is carried out by the DUP, the prosecutor intervenes especially at the end of the criminal prosecution. The situation is even more unclear since the MAI has not entirely given up the criminal prosecution structures within itself, creating the criminal prosecution service within the Department of Internal Security and Combating Corruption too, though without criminal a competence of criminal prosecution, the latter belonging to the Anti-Corruption Prosecutor's Office. The direction of criminal prosecution within the Border Police Department of the MAI adds up to this. It is not clear to what extent do the criminal prosecution officers of these structures are hierarchically subordinated to the DUP and the kind of relationship they have with it. The situation is even more confusing at the level of the district Police Inspectorates: while from the procedural point of view the criminal prosecution officers are not hierarchically subordinated to the Chiefs of Police Inspectorates, from the administrative point of view they are their subordinates. The same is the case with the investigation officers. They are not subordinates to the Department of Criminal Prosecution, thus, neither to the criminal prosecution officer. It is difficult to understand the way the Criminal Prosecution Department coordinates the work of the criminal prosecution officers on the ground since they are subordinated to the district chief inspectors and the way the investigation officers carry out their duties. It would be logical that the criminal prosecution officers in the districts are direct subordinates to the Department of Criminal Prosecution, thus, ensuring their independence and avoid any influence. However, it is more than likely that along with the emerging reform of the Prosecutor's Office, this issue and the problems caused by doubling the subordination and the procedural skills are to be re-discussed.

1) Lack of interest in reforming the Carabinieri

Although the concept of reforming the MAI allocated a whole chapter to reforming the Carabinieri troops, while the creation of the patrol police does not appear there as an option, the result is the opposite: we notice a clear lack of interest of the MAI in reforming the Carabinieri, in contrast to the creation and operation of the INP described above. There is only one conclusion to be made - the creation of an efficient system of police patrol dramatically reduces the need to preserve the Carabinieri troops in their current form and could even bring into discussion the problem of the complete liquidation of this structure or its dissolution in the IGP and its subdivisions, especially the INP. The most complicated problem of the carabinieri is the lack of efficiency, the military structure that is inconsistent with the MAI demilitarization plans, the huge costs of their maintenance and the duplication of powers. The initial plans for the carabinieri to take over the public order service from the police were completely wrong from the very beginning. Therefore, the draft law on the carabinieri service developed by the MAI was rejected with the proposal to improve it in order to ensure the professionalization of the Carabinieri body and bringing them closer to the police to help restore and maintain the public order. The services provided by the carabinieri for security and escort are unreasonably expensive and an alternative may be identified for them.

The gradual transition of the Carabinieri troops to the contract-based service and the proportional reduction in the quota of recruits is no longer an option. The only explanation for maintaining the Carabinieri troops in one form or another is to restore and maintain public order in times of war or during mass protests that can get out of control or beyond the police capacity. This, however, is an argument that is insufficient, hypothetical and way too weak for the reform expenditures. So far, the MAI has simply renamed the Carabinieri troops into the Department and placed it under the authority of the IGP without making any changes regarding their form and structure.

Recommendations

Given the above findings, and the discrepancy between the policy documents underpinning the MAI and police reform, we believe it appropriate to make the following recommendations:

To the MAI:

- Conduct a comprehensive analysis of the results obtained until present and develop a new reform strategy document and a detailed action plan, with a well-documented analysis of the needs for the human and financial resources;
- Ensure a clear distinction between the structural-administrative reform undertaken through the legislative reforms that come to the end, except for a few structures, and will change the emphasis, focusing on the policies and actions related to the changes in behaviour and attitudes of police in the communication process and serving the population. In this regard, MAI will return to the concept of community police and will identify its practical applicability in the Moldovan society. This, the rhetoric of an already completed reform process will be replaced with that of a reform in two stages: structural-administrative or

functional and that of a reform of the mechanism of interaction and cooperation with the population;

- Full reassessment of the system of administrative subordination and development of proposals to ensure actual procedural independence of the criminal prosecution officer from their hierarchical superior police chiefs;
- Strengthen the positive results obtained within the National Patrol Inspectorate and accelerate the pace of its activity by reviewing the financial and human resource needs;
- Estimate the real needs for financial and human resources for the initial and continuous training of the employees of the General Police Inspectorate and its subordinate structures. Special emphasis will be placed on the Investigation Inspectorate, the National Patrol Inspectorate, Criminal Prosecution Unit and Police. The guiding principle is that a substantial and decisive reform cannot be done with compromised human resources;
- As for the police reform at the level of localities with a population of less than 20.000 inhabitants, the MAI is to reconsider the set up system, so that good practices of the INP would be taken over, while the reform, would be generally visible and discernible;
- As for the demilitarization, the MAI should recognize the performance of the partial demilitarization and proceed to the implementation of the second stage, that is the reduction in the number of the employees with a special rank and benefits resulted from its ownership, to be followed by the demilitarization itself, where the obligations, restrictions and relationship between the persons holding different ranks are different from those existing in the military, do not imitate them and tend to an employee - employer relationship. A difference shall be made between the control system and the standardization actions depending on the police type. For example, the organizational standards will be different in case of the special task-force police from those of the decentralized subdivisions of public order;
- As for the assessment of the institutional and individual professional performance, the MAI should develop clear assessment tools, tailored to the needs and peculiarity of the activity of the subdivision or the individual policeman within it. The evaluation mechanism should be transparent, informative, understandable by the evaluated person or subdivision. The assessment system should be periodically reviewed, while the performance indicators should also reflect the collaboration and the communication with the population;
- The new working and professional methods currently tested within the INP will be evaluated, by the help of the civil society too, while the best practices will be also implemented at the local level, that of the villages and communes;
- The MAI should develop along with the IGP new working protocols and mechanisms for the crime fighting police, with a particular emphasis on the compliance with the human rights in the work of the investigative officers, the criminal prosecution officers at the arrest stage. Special attention will be given to the right to information, to silence, to access to a lawyer's services. The MAI and IGP will ensure effective compliance with the human rights at the criminal prosecution stage and not a formal one;
- When appointing the city, district, sector police inspectorates chiefs, chiefs of the police stations in communes and villages, clear and transparent criteria that exclude political membership and partisanship shall be developed;
- Develop some functional mechanisms to counter complex corruption and criminal activity schemes involving police employees;

- Develop, in an emergency regime, policy documents and mechanisms to reduce the staff turnover in the police, promote the best specialists on transparent merit criteria and rethink the whole process of continuous training, re-evaluating in the regard the ability of the "Stefan cel Mare" Academy Police. The newly hired workers will benefit from a complex professional induction programme, step by step, and based on some specialized protocols. Any employment should avoid the absolute discretion of the employer. Instead, selection committees with the involvement of specialists and consultants outside the police shall be created, the professional training and intellectual abilities shall be taken into consideration;
- To assess its activity and accurate measurement of the reform results, the MAI should resort to the systematic research and sociological studies.

Recommendations to the Government

- of the MAI and police, first of all by promoting a democratic political culture and encourage the police to act independently and solely within the legal framework;
- Externalize the reform process of the MAI and police by creating a new structure with large functions to monitor the pace of the reform, where the MAI and police representatives would represent the minority. The working groups on each pillar of the Justice Sector Reform Strategy can be used as an example;
- Synchronize the MAI reform and policy documents in this area with those in the justice, security, prosecution sectors;
- Re-estimate the total costs to reform the MAI and police and ensure a complex foreign financing combined with internal financing, following the model existing in the field of justice. In this respect, it is absolutely essential to undertake a comprehensive assessment of the needs of human and financial resources for the short and long term, based on the successes and failures of the reform to date.

Recommendations to the donors and foreign partners

- Current and future foreign assistance to reform the MAI and police should be based on the lessons already learned from the experience of other donors who have worked in this field in the Republic of Moldova. In this respect, the assessment of needs and the description of the *de facto* and *de jure* situation should be approached with great thoroughness and analyzed as such before proceeding to the development and promotion of partnership or assistance projects;
- Closer cooperation between the donors, while the information about the implementation, successes or concerns of certain projects will be mutually changed with more openness, clarity and, eventually, through the creation of a working group of donors in the field;
- The donors should coordinate their financial efforts and their, at least schematic, division by the sector, following the model existing in the justice sector;
- The donors are called to re-orient their attention from the structural, management and administrative reform of the MAI and the police, to the development and support of the policy documents and mechanisms to change the effective way of work of the police work and daily activity of the individual policeman.
- The donors should support the development of the sociological research and the victimization surveys to measure the success of the reform, to correctly condition the given support and to verify the impact of their own intellectual and financial efforts;

- The following fields require the immediate intervention of the donors:
- Very modest successes in reforming the Carabinieri troops;
 - The duplication of skills, multiple functional and subordination uncertainties related to the activity of the criminal prosecution officers and investigation officers, as well as to their professional training, provision with equipment;
 - The confusion about abandoning the concept of community police, accentuated by the growing gap between the patrol police work in the urban areas and police work in the rural areas;
 - The work of the patrol police faces a downward trend in the absence of an intensive exchange of experience and taking over of good practice at the level of the patrol inspectors, without an adequate financial support and equipment.

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