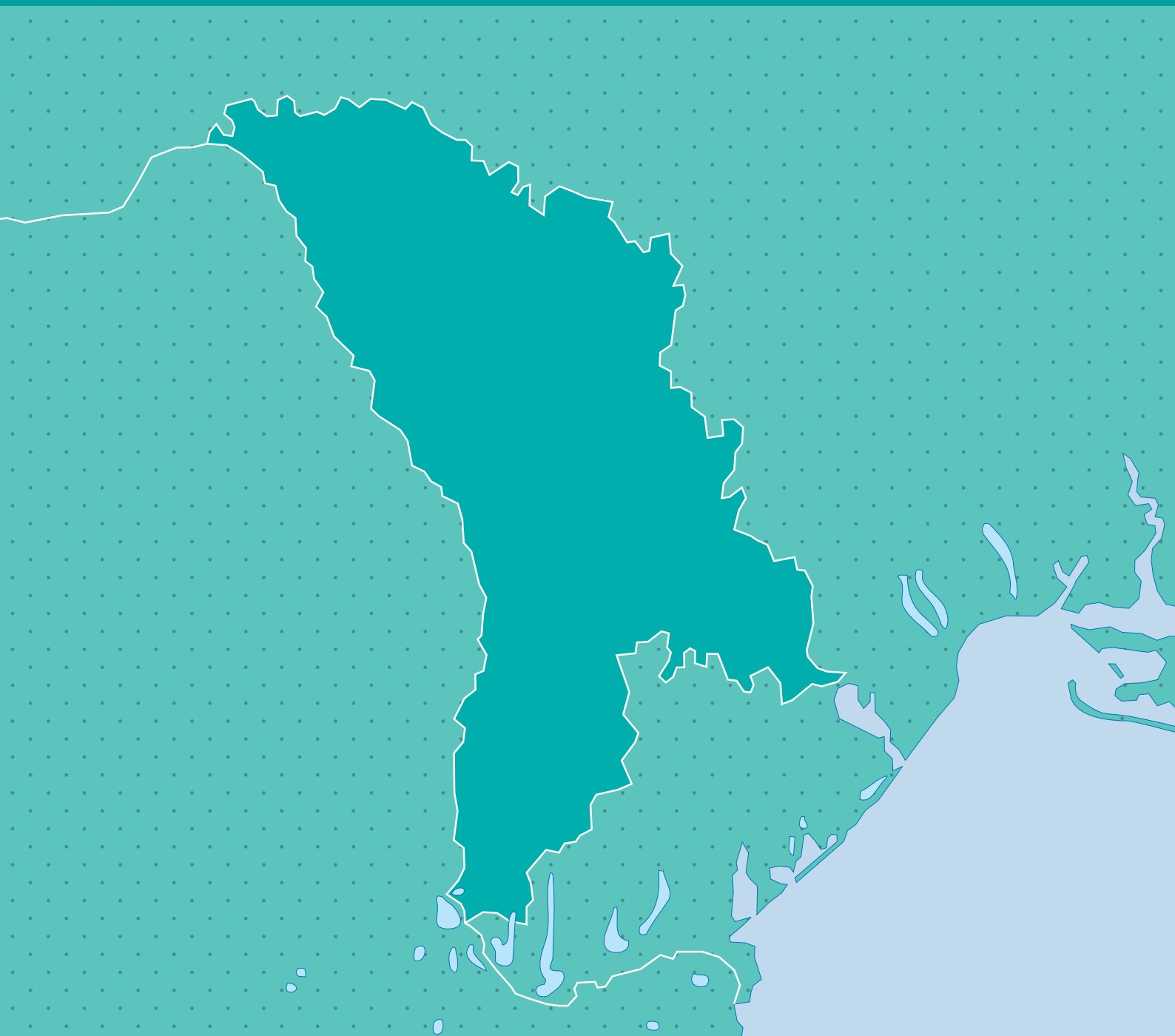


# ILLICIT FINANCIAL FLOWS AND ASSET RECOVERY In The Republic of Moldova

RESEARCH PAPER 2021





# Foreword

Illicit Financial Flows (IFFs) impact a country's economic and social development in a myriad of ways. Undocumented flights of wealth to and from - as well as within - a country have severe repercussions on government revenues, wealth that could otherwise be invested in public spending and other forms of economic and social reforms. Illicit financial flows, particularly those related to organised crime, also withdraw funds from the legitimate economy and may force the State to divert more resources to prevent and respond to criminal activity or to treat or compensate victims. The drain on resources and tax revenues caused by IFFs blocks the expansion of basic social services and infrastructure programs that are targeted at improving the wellbeing and capacities of all citizens, in particular, the very poor.

IFFs in many developing countries mean fewer hospitals, schools, police, roads and job opportunities, as well as lower pensions. It is for these reasons that States must place significantly higher priority on seizing and confiscating illicitly-obtained assets, and to channel such recovered assets to high-priority development needs.

New paradigms and policies to counter IFFs must be established to produce an unbroken chain of work from tracing, freezing, seizure, confiscation and recovery of illicitly-obtained assets, through transparent management and liquidation of such assets, to distribution of the proceeds to high-priority development needs. It is this mechanism and paradigm that will enable countries to capture billions in assets and to directly channel them into, for example, more schools, hospitals, community clinics and infrastructure, as well as the much-needed payment of salaries for teachers, nurses and doctors. Such policies also can enable States to significantly reduce youth unemployment. All of these are key factors to a country's development.

In light of the above, the European Union and the United Nations Interregional Crime and Justice Research Institute (UNICRI) are proud to launch a series of studies on Illicit Financial Flows and Asset Recovery. These studies shed light on the significant damage being caused to States as a result of unchecked IFFs, and on the significant value of prioritising the capture of illicitly-obtained assets linked to such IFFs. The EU and UNICRI are committed to providing key support and expertise needed by States to more effectively respond to IFFs. In creating and implementing more effective responses, many of which are identified in the recommendations of these reports, States will be able to weaken the influence of organised crime, as well as inject significantly greater funding into high-priority development needs.



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## ILLICIT FINANCIAL FLOWS AND ASSET RECOVERY In The Republic of Moldova

### Executive Summary:

Organised crime produces significant amounts of illicit revenue and proceeds globally and in Europe. Organised criminal activity in Moldova largely reflects and aligns with regional patterns involving the scope, nature, and impact of such activity. The principal criminal activities in Moldova are corruption, tax evasion, illicit drug trafficking, human trafficking, smuggling of arms and illicit goods, CBRN trafficking, cybercrime, tobacco smuggling and large-scale financial crimes. Moldova has seen significant levels of Illicit Financial Flows (IFFs) related to these criminal activities in recent years, such as two high-level financial crime schemes involving the banking sector and government corruption. One case alone resulted in over USD one billion of laundered money exiting the country, roughly 13% of Moldova's GDP.

Moldova has invested substantially in policy reform measures to combat the nexus of corruption, organised crime and IFFs. However, there are still significant opportunities to strengthen and streamline capacity (and results) in the seizure and confiscation assets linked to such illicit activity, as well as to channel such recovered assets to high-priority development needs such as those within the health, education and infrastructure sectors. Improving mechanisms to seize and confiscate illicitly-obtained assets will contribute to such development initiatives and can significantly improve the quality of life of Moldovans.

### Key Findings:

- The seizure and confiscation of only 10% of the estimated USD one billion in annual IFFs in Moldova, would allow the country to supplement (or entirely cover) the salaries for more than 20,000 teachers for an entire year. Alternatively, the recovered assets could cover the costs to fully subsidise minimum wage costs for over 55,000 citizens for an entire year.
- Similarly, this would allow the country to cover the salary costs for more than 2,250 doctors for an entire year, at a rate of approximately USD 3,675 per month. Alternatively, the recovered assets would cover the salary costs for more than 6,800 nurses in the country for an entire year at a rate of USD 1,217 per month.
- The seizure and confiscation of only 10% of the estimated USD one billion in annual IFFs in Moldova would cover some 40% of the annual cost to maintain and repair all national and local roads throughout Moldova.
- The Government of Moldova should consider bolstering transparent mechanisms for the seizure, confiscation, management and distribution (ideally to high-priority development needs) of illicitly-obtained assets, and ensure that its Criminal Asset Recovery Agency (CARA) is enabled to act as a key entity facilitating this role.
- Consideration should be given to establishing the use of Extended Confiscation and Confiscation of Equivalent Value as a norm, and not the exception, within the criminal justice system.
- Moldova should consider strengthening non-penal mechanisms, or civil mechanisms, for the seizure and confiscation of assets. Criminal proceedings often take years to adjudicate, delaying the issuing of final orders for the confiscation of assets linked to organised crime and corruption. While maintaining due process, the implementation of civil mechanisms can help reduce the time to confiscate assets from a period of several years to a period of several months.
- Consideration should be given to bolstering mechanisms which ensure regular face-to-face dialogue with police and prosecutorial focal points in other key countries regarding the seizure, confiscation and recovery of assets linked to organised crime and corruption.

# Acronyms/List of Abbreviations

AML	Anti-Money Laundering
ARO	Asset Recovery Office
BO	Beneficial Owner
CARA	The Criminal Asset Recovery Agency
CBRN	Chemical, Biological, Radiological, and Nuclear
CCCC	Center for Combating Cyber Crime
CCM	Criminal Code of the Republic of Moldova
CCTIP	Center for Combating Trafficking in Persons
CFT	Combating the Financing of Terrorism
CoE	Council of Europe
CPCM	Criminal Procedure Code of the Republic of Moldova
CS	Customs Services
DCFTA	Deep and Comprehensive Free Trade Area
EaP	The Eastern Partnership
EBRD	European Bank for Reconstruction and Development
ENI	European Neighbourhood Instrument
EU	European Union
EUBAM	European Union Border Assistance Mission to Moldova and Ukraine
EUR	European Union Euro
Europol	The European Union Agency for Law Enforcement Cooperation
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
GDP	Gross Domestic Product
GPO	General Prosecutor's Office
GRECO	The Group of States against Corruption (the Council of Europe)
IFF	Illicit Financial Flow
IMF	International Monetary Fund
MDL	Moldovan MDL (plural LEI)
Moneyval	The Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
MP	Member of Parliament
MVTS	Money or Value Transfer Services
NAC	National Anticorruption Center
NRA	National Risk Assessment

OCCRP	Organised Crime and Corruption Reporting Project
PCCOCS	Prosecutor's Office for Combating Organised Crime and Special Causes
PEP	Politically Exposed Persons
PG	Prosecutor General
PPS	Public Prosecution Service
PSA	Public Service Authority
SDG	Sustainable Development Goal
SPCML	Service for Prevention and Fight of Money Laundering
StAR	Stolen Asset Recovery Initiative
STS	State Tax Service
UN	United Nations
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNICRI	United Nations Interregional Crime and Justice Research Institute
USD	United States Dollar
USSR	Union of Soviet Socialist Republics

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# 1. Overview of Illicit Financial Flows and the Recovery of Illicitly-Obtained Assets





## 1.1 Introduction

This study examines illicit financial flows (IFFs) generated from organised criminal activity in the Republic of Moldova (Moldova). It provides an overview of organised crime and assets linked to organised crime in the country, and outlines the legislative and operational frameworks in place to combat IFFs and to recover illicitly-obtained assets. Effective asset recovery policy is a fundamental component of combating IFFs and mitigating the harm produced by IFFs.

This study's main objective is to provide targeted recommendations to national authorities, as well as other key stakeholders, in order to create and strengthen mechanisms for the effective and efficient seizure and confiscation of assets linked to organised crime (and, where appropriate, high-level corruption). The study also provides recommendations to strengthen the effective and transparent management of any recovered assets, including recommendations with respect to directing such assets to high-priority development needs. High-priority needs in Moldova include the employment, health, and infrastructure sectors.

The data collection for this study was undertaken from May through October of 2020. Data collection was undertaken through open source desk research, as well as feedback from public officials, members of civil society and other key stakeholders.

### Definition of Illicit Financial Flows

There is no consensus regarding the definition of IFFs, as it covers a diverse set of activities and behaviours, reflecting the complex and multifaceted nature of illicit international trade and finance.<sup>1</sup> The absence of a comprehensible and universally adopted definition explains the difficulty in analysing it and, therefore, producing targeted responses. The United Nations Economic Commission for Africa (UNECA) stated that this lack of terminological clarity limits the emergence of effective policy measures.<sup>2</sup> Another reason for this struggle concerns the statistical feasibility of quantifying IFFs, which is extremely challenging. This is because IFFs, and related crimes, are purposefully hidden or disguised by criminals who are seeking to protect themselves from the interventions of law enforcement agencies. Consequently, attempting to gather reliable information to model criminal actions and the requisite

data through which to produce accurate responses is also challenging.<sup>3</sup>

Notwithstanding these limitations, for purposes of this study and assisting States in developing holistic and useful responses to the threat, IFFs are defined broadly as the revenue, proceeds and any other assets generated by the following activities:

- **Corruption**, including the proceeds of theft, bribery, graft and embezzlement of national wealth by government officials;
- **Illicit Commerce**, including the proceeds of tax evasion, misrepresentation, misreporting and mis-invoicing related to trade activities, and money laundering through commercial transactions; and
- **Other Serious Crime**, including the proceeds of criminal activities, including human and drug trafficking, smuggling, counterfeiting, racketeering (also known as criminal protection or extortion) and terrorist financing.<sup>4</sup>

This classification, which is a slight alteration from that used by UNECA in 2013, highlights not only the diverse and evolving nature of illicit financial flows, but also the need for multifaceted (holistic) responses that tackle the threat from various angles – e.g., not just a criminal justice response.<sup>5</sup> The classification also disregards the characterization that IFFs should only be international in nature – significant losses and harms can occur to national economies, healthcare and education systems, and to employment opportunities, even if IFFs occur within a specific country. The dynamic of the forms of IFFs differs from country to country, depending on the illicit flows transiting into, through and out of the country. Still, higher-value illicit flows, such as the trade of narcotics, tend to correlate with higher levels of other criminality, such as corruption.<sup>6</sup>

This study concentrates on the revenue, proceeds and other assets generated from criminal activities in Moldova. Due to the interdependent nature of IFFs, this study also examines assets generated from corruption and commerce to provide a useful framework on IFFs in Moldova. Money laundering is a crucial tool used by organised criminal groups to move illicitly-obtained revenue and to fund criminal activity. There is also a strong link between corruption and organised crime as both are propelled by the same limitations of governance and the law.

## Recovery of Illicitly-Obtained Assets

The recovery of illicitly-obtained assets is essential to combating organised crime and IFFs as it deprives criminals of their financial gains and can act as a deterrent against future crimes (by removing the financial motivation of crimes). The recovery of illicitly-obtained assets can also help mitigate the harmful impact of IFFs through the liquidation and reinvestment of those assets into public welfare and high-priority development needs. For the purposes of this study, the asset recovery process includes the tracing, freezing, seizure, confiscation, and management of illicitly-obtained assets.

Worldwide progress in the recovery of illicitly-obtained assets has been, at best, modest. In 2012, the OECD launched a survey measuring assets frozen and returned between 2010 and June 2012. In this time period, a total of approximately USD 1.4 billion of corruption-related assets had been frozen. In terms of returned assets, a total of USD 147 million were returned to a foreign jurisdiction in the 2010-June 2012 period. These figures pale in comparison to the widely quoted estimate that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world's GDP. In 2009 alone, criminal proceeds were estimated to be at 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered.<sup>7</sup>

European Union (EU) progress in the recovery of illicitly-obtained assets has also been modest. Europol estimates organised criminal groups have a profit of EUR 110 billion annually in the EU.<sup>8</sup> Corruption is estimated to cost the EU economy some EUR 120 billion per year.<sup>9</sup> Europol estimates that about EUR 1.2 billion is confiscated each year in the EU, which represents 0.009% of EU GDP. For a country with a GDP of EUR 200 billion (e.g. Finland in 2014), this amounts to about EUR 17.7 million; for a country with a GDP of EUR one trillion (e.g. Spain in 2014), the figure is about EUR 88.7 million; for a country with a GDP of about EUR 2.2 trillion (e.g. France in 2014), it is about EUR 195.2 million.

For bribery alone, the most widely accepted estimate of global bribery puts the total at around USD 1.5 to 2 trillion each year.<sup>10</sup>

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*Corruption, bribery, theft and tax evasion, and other illicit financial flows cost developing countries USD 1.26 trillion per*

*year. That is roughly the combined size of the economies of Switzerland, South Africa and Belgium, and enough money to lift the 1.4 billion people who get by on less than USD 1.25 a day above the poverty threshold and keep them there for at least six years.<sup>11</sup>*

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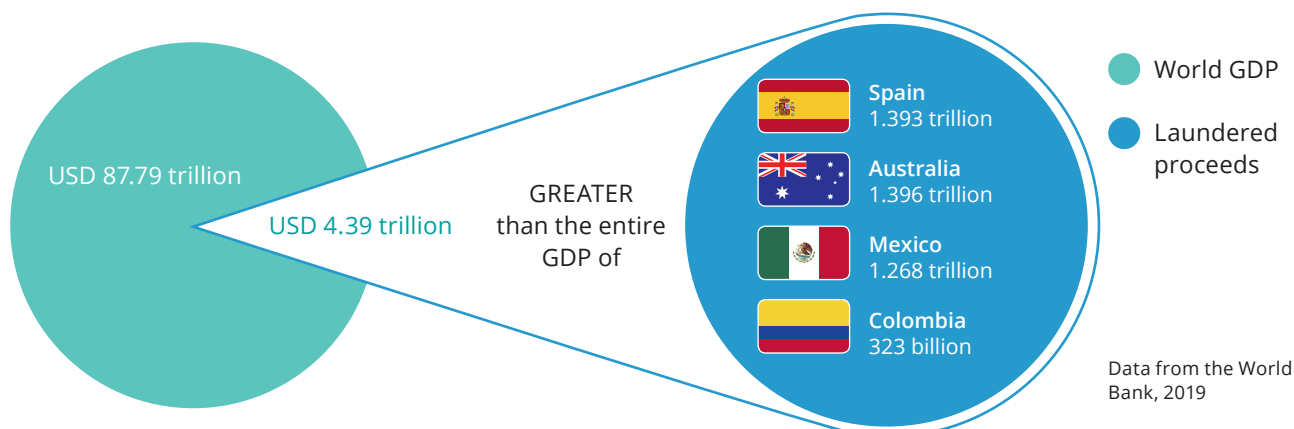
A USD one million bribe can quickly amount to a USD 100 million loss to a poor country through derailed projects and inappropriate investment decisions which undermine development.<sup>12</sup>

Notwithstanding the above, such estimates should be treated with caution. They are intended to give an idea of the magnitude of money laundering, which represent only a portion of IFFs. Due to the illegal nature of the transactions, precise statistics are not, nor likely ever will be, available and it is therefore impossible to produce a definitive estimate of the amount of money that is globally laundered every year. The Financial Action Task Force (FATF) therefore does not publish any figures in this regard. Still, there is near universal consensus that money laundering and IFFs worldwide undermine most economies as well as development.

Just as IFFs weaken development, the recovery of assets linked to IFFs can enhance development. The recovery of only a small portion of illicitly-obtained assets linked to serious criminal activity – both from abroad and from within a country – can provide developing countries with much-needed additional resources. In this context, prioritising the tracing, seizure, confiscation and recovery of illicitly-obtained assets can, aside from providing a useful deterrent to criminality, fund high-priority development needs, such as those in the health, education or infrastructure sectors.

Many obstacles, particularly in cross-border cooperation to recover assets, have allowed criminal organisations and corrupt officials to take advantage of such weaknesses. Proving that assets are linked to criminal conduct can be a complex and lengthy process, ultimately producing a lack of public confidence in state institutions. Nevertheless, countries that have had the most success in the tracing, freezing, seizure and confiscation of illicitly-obtained assets (whether located abroad or within that particular country) are those that have adopted mechanisms that can accelerate criminal justice processes for confiscation,<sup>13</sup> as

## Estimated annual amount of global laundered proceeds is greater than the entire GDP (2019) of the following countries combined



well as mechanisms for non-conviction-based forfeiture of assets.<sup>14</sup>

An increasing number of jurisdictions have adopted mechanisms for initiating proceedings for unexplained wealth, or illicit enrichment.<sup>15</sup> Many countries now recognise the value of establishing dedicated Asset Recovery Offices (AROs), essentially offices that house officials with access to multiple databases (e.g., vehicle registry, business registry, tax information, customs database, criminal records). Such AROs, once in place, can take a cross-institutional view of one's assets, as well as the assets held by family members or associates of those

suspected of being involved in serious criminal activity – more often than not, when one launders illicitly-obtained assets, he or she does not place them in his or her own name.

Additionally, the establishment and training of specialised forensic financial analysts, who support the role of prosecutors in proving financial crimes, have proven to be beneficial in both criminal proceedings as well as in civil confiscation proceedings. States that have developed strong inter-institutional cooperation mechanisms also have shown greater success in the recovery of illicitly-obtained assets.<sup>16</sup>

### Mechanisms for Accelerated Conviction and Non-Conviction-Based Forfeiture

- Plea bargaining, reconciliation or other expedited settlement of criminal proceedings requiring the defendant to return illicitly-obtained assets in exchange for a reduced sentence (or information regarding assets illicitly-obtained by others);
- Mechanisms that allow courts to impose orders for extended confiscation  
*Example: issuing an order stating that all assets acquired, say, over the past five years by a defendant convicted of a serious crime, are presumed to have been illicitly-acquired, unless the defendant can rebut this presumption;*
- Orders for the confiscation of legally-acquired assets of the defendant, where the State demonstrates that it has taken every reasonable measure to locate the illicitly-acquired assets, but has been unable to do so.

Additional valuable mechanisms may include a separate civil confiscation proceeding against assets that are considered to be illegally-acquired – such proceedings still place the initial burden on the State to prove that certain assets are the product of illicit activities, albeit at a lower burden of proof; civil confiscation proceedings, while they do not adjudicate the criminal culpability of any particular individual, or allow the judge to deprive anyone of their liberty, have the advantage of being able to be adjudicated over a span of months, and to recover assets more quickly, in stark contrast to, say, a criminal money laundering case, which typically takes several years. The initiation and adjudication of a civil confiscation case (against illicitly-acquired assets) does not necessarily preclude the initiation and adjudication of a parallel criminal case (against an individual).

## 1.2. International Regulations and Recommendations

A broad set of international conventions, standards, and bodies have been developed in order to combat IFFs. These include UN conventions which establish standards that all countries are expected to meet in order to avoid providing a safe haven for various kinds of IFFs. They also include treaties or organisations with narrower membership, but which set out more detailed measures; a number of these treaties allow for critical and useful peer reviews to ensure compliance.

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### Key International Parameters Regarding Illicit Financial Flows

- 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
  - 1999 UN International Convention for the Suppression of the Financing of Terrorism
  - 2000 UN Convention against Transnational Organised Crime
  - 2003 UN Convention against Corruption
  - FATF 40 Recommendations
- 

In 2015, the General Assembly of the UN adopted the Addis Ababa Action Agenda which invites “appropriate international institutions and regional organisations to publish estimates of the volume and composition of illicit financial flows”.<sup>17</sup> Similarly, the [2030 Agenda for Sustainable Development](#) and the Sustainable Development Goals (SDG) call on countries to:

- significantly reduce illicit financial and arms flows by 2030;
- substantially reduce corruption and bribery in all their forms;

- develop effective, accountable and transparent institutions;
- strengthen domestic resource mobilisation, also by supporting developing countries;
- enhance global macroeconomic stability;
- strengthen the recovery and return of stolen assets and combat organised crime.<sup>18</sup>

The UN also highlights the need for a methodology to estimate IFFs in order to comply with the data requirements stemming from the global SDG indicator framework.<sup>19</sup>

The EU and the OECD also play key roles in defining priorities that countries need to consider to better address the threats of money laundering and IFFs, as well as the need to strengthen mechanisms for the seizure and confiscation of assets, and the need to tackle tax evasion.<sup>20</sup> Additional mechanisms such the Camden Asset Recovery Inter-Agency Network (and similar networks) provide much-valued support and cross-border dialogue for police and prosecutors to better capture assets linked to organised crime and high-level corruption.<sup>21</sup>

## 2. Overview of Illicit Financial Flows and Organised Crime in Moldova



## 2.1 Overview of the Republic of Moldova



- Population: four million people, of which 75% ethnic Moldovans and 90% Orthodox Christian<sup>22</sup>
- Official language: Romanian
- Currency: Moldovan MDL<sup>23</sup>
- Member of: UN, WTO, CoE, Commonwealth of Independent States, EaP and OSCE.<sup>24</sup>
- 1991: Independence from USSR
- Association agreement with EU (including visa-free access to EU)
- Appealing transit corridor for organised crime because of ties with both Russia and EU.

### Geographical and Regional Context

The most prominent organised criminal activities in Europe centre around five key geographical hubs, with the Southeast viewed as an entry point into the EU.<sup>25</sup> Sharing a border with an EU member state, Moldova is viewed as one such entry point. Furthermore, its association agreement with the EU, while highly useful for multiple reasons, does create vulnerabilities in controlling cross-border movement and creates potential opportunities for traffickers and smugglers.

### Transnistria

Moldova's vulnerabilities related to criminal activities are amplified by the autonomous separatist region of Transnistria, which is located East and borders Ukraine.<sup>26</sup> It declared independence from Moldova in 1992, and after a brief armed conflict with Moldovan authorities, the region has largely acted autonomously. Transnistria is not recognised domestically or internationally as an independent state, but it has its own parliament, president, economic system and currency. There are an estimated 469,000 people living in Transnistria.<sup>27</sup> The region is largely defined by its porous border, and an unstable and unregulated political and economic environment. This creates opportunity and incentive for traffickers and smugglers. Weak border and customs control in the region make smuggling relatively low risk. Although the region has reported as having a history of serving as a transit point for illegal weapons and a training ground for terror groups,<sup>28</sup> there is little qualitative or credible information indicating that there have been any significant seizures of weapons. Key illicit income generators in Transnistria include (1) huge reported electricity fraud by which Transnistrians do not pay for the raw material, but then sell electricity through a middleman, thus creating large windfalls; (2) cigarette smuggling, which also represent huge illegal cash-flows and are considered to be a corrupting influence on the Moldovan economy and on the Moldovan political system; and (3) the so-called "banking clearing system" – a relic of the 1990s – that allows for the proliferation of money laundering schemes into the legal transactions of the Moldovan economy.<sup>29</sup> While the region remains principally outside Moldovan government regulation, Moldova and Ukraine have both taken substantial steps in recent years to establish greater control over the border region.<sup>30</sup>

### Socio-Economic Context

Moldova is considered a "middle income economy" by the UN Development Programme.<sup>31</sup> It is among the poorest countries in Europe with a current GDP of USD 12 billion and a GDP per capita of USD 3,395.<sup>32</sup> The country experienced considerable economic difficulty in the aftermath of independence and in the 1990s.<sup>33</sup> Today, the economy is largely cash based, heavily reliant on a few exports, and vulnerable to external macro-economic shocks. Its main export sectors are agriculture, viticulture, and construction equipment. Its chief trading partner is Romania.<sup>34</sup> The country's economy has also been heavily

reliant on remittances,<sup>35</sup> which accounted for 16% of GDP in 2019.<sup>36</sup> This in part has led to high labour emigration, an aging population, and negative population growth.<sup>37</sup> For its energy needs, the country is also largely dependent on imports, particularly from Russia and Ukraine.<sup>38</sup>

Recent growth in the country has been driven largely by remittances, wage increases, heightened private consumption, and a rise in public spending.<sup>39</sup> Trade dependency has decreased as a result of diversification of Moldova's export product base and destination countries.<sup>40</sup> While the country has seen rapid economic growth (roughly 4.6% annually since the year 2000),<sup>41</sup> substantial development challenges such as poverty, unemployment, low income, and inequality persist.<sup>42</sup> There is large social disparity and uneven economic development between urban (high) and rural (low) areas. Marginalisation of groups and individuals is a problem, and social inclusion and social safety need to be strengthened.<sup>43</sup> Policies should be introduced to decrease discrepancies in population access to key public services such as education, employment opportunities and health care.

As with many countries, the COVID-19 crisis caused a sudden slowdown in economic activity, straining public finances.<sup>44</sup> A drop in exports and remittances has had a negative impact and the 2020 budget foresaw a deficit of 3% GDP.<sup>45</sup> Remittances are expected to decrease by up to 27%, which could lead to an estimated 20% of households falling below the poverty line.<sup>46</sup>

## Political and Governance Context

- Parliamentary republic governed by a 1994 Constitution. Head of States is directly elected by the public and he/she then appoints the Prime Minister
- Civil law judiciary system, which consists of the Supreme Court of Justice, the Constitutional Court, the Court of Appeal, the Court of Business Audit, and municipal courts.<sup>47</sup>

Moldova has faced large-scale political disorder and polarisation in recent years, and there is high concentration of political power among a small group of individuals.<sup>48</sup> The large majority of Moldovan residents have a negative view of national institutions.<sup>49</sup> Moldova suffers from weak administrative capacity and vested bureaucratic interests.<sup>50</sup> A leading political issue is the tension between pro-EU and pro-Russian factions.<sup>51</sup> In 2009, Moldova joined the EaP, deepening its ties to the EU.<sup>52</sup> Also, the Moldova-European Union Association Agreement (2014) established a Deep and Comprehensive

Free Trade Area (DCFTA) between Moldova and the EU, which has increased trade between the partners.<sup>53</sup>

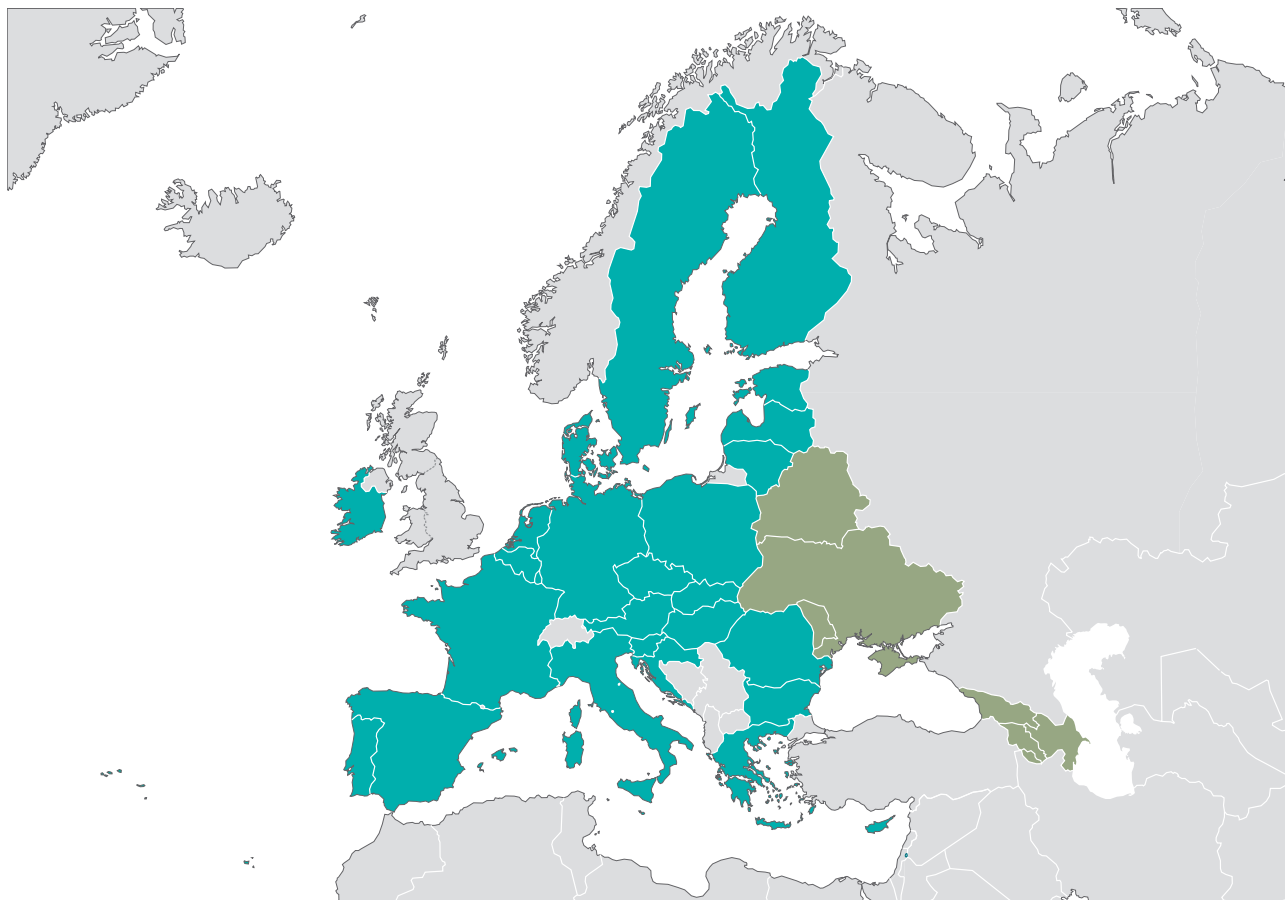
Corruption is a prevalent issue in Moldova. The Moldovan National Strategy for Integrity and Anticorruption (2017-2020) acknowledged the risk of corruption in Moldova and its impact on social welfare. Networks built around patronage, nepotism, and elite influence are common. The judiciary has little independence from political elites, and there is an environment of bribery among judges and prosecutors.<sup>54</sup> A 2017 public opinion survey revealed that corruption is considered one of the most important problems for Moldovan residents, with lack of government oversight viewed as the leading cause of corruption.<sup>55</sup> There is also significant public mistrust in the judiciary and law enforcement, with transparency declining in recent years.<sup>56</sup> The Council of Europe's anti-corruption body (GRECO) has highlighted the inconsistent application of anti-corruption policies and the lack of independence of major government institutions as key issues.<sup>57</sup> A 2017 European Commission report highlights the concern over lack of political will for the full implementation of reform measures in the country.<sup>58</sup>

Moldova has had two high-level financial criminal schemes in recent years – the 2014 “Global Laundromat Case” and the 2014 “Bank Fraud Case.” The 2014 “Global Laundromat Case” was a high-level international money laundering scheme involving at least USD 23 billion, which was moved from Russia through Moldova and Latvia into Europe. The 2014 “Bank Fraud Case” was a high-level financial fraud and money laundering scheme involving the Moldovan banking system and public officials. The case involved the laundering of roughly USD one billion, which accounted for 13% of Moldova's GDP. Both cases implicated the judiciary system and high-ranking public officials. These scandals and the pervasive nature of government corruption have led to considerable domestic and international demand for political accountability and policy reform. Significant reform measures have been implemented since 2014, with the country outlining anti-corruption policy as a top priority.<sup>59</sup>

Still, Moldova has made significant progress in recent years to address corruption at all levels of governance. Its Freedom House and ratings marginally improved in 2019.<sup>60</sup> There has been an increase in criminal charges against high and medium-level officials, including in the Global Laundromat Case and Bank Fraud Case. However, these reform efforts have also led to the politicisation of anti-corruption policy, with some political actors seeking to exploit reform policies for personal interest. This has created a reform environment that risks curtailing real progress and reinforcing corruption and distrust in the government.

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## Organised crime and the Eastern Partnership



Moldova is a member of the Eastern Partnership (EaP), a joint policy initiative between the EU, its member states, and six eastern neighbouring countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

During the 2017 EaP Summit, the partnership countries reiterated their commitment to the establishment and further development of sustainable structures to prevent and fight corruption, strengthen transparency, and combat money laundering. A Joint Declaration from the Summit established as key priorities 'effective systems of declaration of assets and of conflict of interest with easily searchable databases' and 'development of a legal framework and mechanisms for the recovery and management of assets and effective tools for financial investigations'.

Often serving as transit points for trafficking and smuggling, all six EaP countries are threatened by organised criminal groups in the region. These criminal groups and the illicit revenue generated from their crimes have a detrimental impact on the development and stability of the EaP region, the EU, and the Europe generally. It is imperative to implement a common strategy and operational responses between the EU and EaP countries, particularly on the issues of tracing, freezing, seizure, confiscation and return of illicitly-obtained assets.

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## 2.2. Illicit Financial Flows and Organised Crime in Moldova

Organised crime destabilises and negatively impacts entire regions and produces significant amounts of illicit revenue and proceeds. It also has a considerable negative human impact on society, such as through sexual exploitation and drug abuse. Europol estimates organised criminal groups have a profit of EUR 110 billion annually in the EU.<sup>61</sup> A 2011 Europol Organised Crime Threat Assessment highlights the increasingly multi-commodity nature of criminal activity, and the transnational, highly mobile, and flexible nature of organised crime groups.<sup>62</sup> Different organised criminal activities are often interrelated and interconnected; organisations will use illicitly-obtained revenue generated from one crime to fund and sponsor another crime. A cycle is thus created utilising illicitly-obtained assets, further demonstrating the crucial importance of policies and operational structures that target revenue streams and the confiscation of assets in a holistic, comprehensive manner.

Organised crime is a significant issue for Moldova. In 2017, the World Bank ranked Moldova 94<sup>th</sup> out of 137 countries with respect to combating organised crime.<sup>63</sup> Eastern and southern Europe have seen a considerable expansion in organised crime in recent years, especially in the proliferation of Black Sea and Balkan trafficking and smuggling routes.<sup>64</sup> Organised criminal activity in Moldova largely reflects and aligns with regional patterns involving the scope, nature, and impact of such activity. The principal criminal activities in Moldova are corruption, tax evasion, illicit drug trafficking, human trafficking, tobacco smuggling and the smuggling of illicit goods. Other organised criminal offences in recent years include counterfeiting, environmental crime, murder and kidnapping.<sup>65</sup>

Most illicit proceeds are generated from trafficking and smuggling offences, along with proceeds from corruption.<sup>66</sup> This study regards both terrorism financing and corruption as separate from organised criminal activity, while recognising the often-interconnected nature of both with organised crime. For the purposes of this study, the impact of organised crime in Moldova is examined through illicit revenue and assets generated from Illicit Drug Trafficking, Human Trafficking, Smuggling of Small Arms and Illicit Goods, CBRN Trafficking, Cybercrime and Financial Crimes.

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### Profit from Illicit Drug Trafficking

In 2019, Europol dismantled a transnational criminal group trafficking cocaine from South America to Europe through a company from Moldova. Some 400 kg of cocaine was seized in South America and 20 individuals were arrested in Belgium, the Netherlands, and Moldova. In total, an estimated EUR 1.5 million in assets linked to this criminal activity were confiscated.

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### Illicit Drug Trafficking

The trade in illicit drugs is the largest criminal market in the EU, estimated at a minimum retail value of EUR 30 billion per year.<sup>67</sup> A 2020 European Commission report states that more than one third of organised criminal groups active in the EU are involved in the production, trafficking, or distribution of illicit drugs.<sup>68</sup>

Moldova is a primary trans-shipment location for heroin traffickers into Europe from Turkey, which is the dominant heroin supplier to Europe.<sup>69</sup> There has been an increase in drug trafficking across the Moldova-Ukraine border in recent years. Joint Europol operations in recent years have dismantled organised criminal groups involving either Moldovan territory or nationals trafficking cocaine, heroin, and hashish.<sup>70</sup> While Moldova is not a major drug producing country, the use of its territory (and its financial system) by drug traffickers makes it a concern for Moldova in terms of the need to create effective policies and mechanisms for the seizure and confiscation of assets linked to drug trafficking rings. Moldovan e-money providers identify the misuse of their services by the drug trade as their biggest IFFs risk.<sup>71</sup>

### Human Trafficking

Human trafficking is significant problem for Moldova. Human trafficking has an estimated annual global profit of almost EUR 30 billion, and Europe is a large source of both perpetrators and victims.<sup>72</sup> For the purposes of this study, human trafficking encompasses both domestic and cross-border trafficking for sexual and labour exploitation. This study considers migrant smuggling as separate from human trafficking. Independently, migrant smuggling is a notable criminal enterprise regionally with significant economic and human consequences.

Traffickers traffic Moldovan citizens within Moldova and abroad for purposes of exploitation. Traffickers also traffic non-Moldovan citizens, using Moldova as a transit point or base for the criminal network. The Balkans provide a common transit route, and Italy is a common dispatch point into Western Europe.<sup>73</sup>

A 2019 US State Department report suggests that Moldova has not yet met minimum standards for eliminating human trafficking but has made significant efforts to bring the country framework up to compliance.<sup>74</sup> The US State Department identified 364 trafficking victims related to Moldova in 2018. There were 153 trafficking investigations, with 83 prosecutions and 59 convictions of traffickers. Victims were from Moldova, Russia, Ukraine, Romania, Spain, Lithuania, Italy, and the United Arab Emirates. Additionally, according to official statistics, the number of identified victims of trafficking was 154 in 2011, 290 in 2012, 262 in 2013, 264 in 2014, and 310 in 2015.<sup>75</sup>

Most victims are from rural areas with few economic or educational opportunities, highlighting the importance of investment in the educational and employment sectors in Moldova.<sup>76</sup> Corruption in counter human trafficking operations is a significant problem in Moldova (e.g., reports of law enforcement accepting bribes in trafficking-related cases).<sup>77</sup> This illustrates the detrimental and mutually reinforcing nature of the relationship between corruption and organised crime.

## Smuggling of Small Arms, Tobacco and Illicit Goods and Cash

The smuggling of illicit goods, in particular tobacco, is especially profitable through Transnistria. The European Anti-Fraud Office estimates that tobacco smuggling costs the EU an annual EUR 10 billion.<sup>78</sup> The European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) estimates that tobacco smuggling across the Moldova-Ukraine border costs each country millions per year.<sup>79</sup> EUBAM also highlights it as a key security risk. Cash smuggling is an area of concern, especially because it can be directly linked to money laundering. Currently, there is little achieved in cross-border cash control and confiscation related to cash smuggling.<sup>80</sup> This is a major gap in the effort to combat transnational cash-based IFFs related to organised crime.

Additionally, Transnistria has a history of being a major transit point for illicit arms smuggling, and for illicit arms dealing.<sup>81</sup> Small arms trafficking is often a large contributor

to other criminal enterprises and strengthens criminal organisations. Recent Europol joint operations along the Moldova-Ukraine border involving the seizure of illicit arms demonstrate the prevalence of small arms smuggling in the region.<sup>82</sup>

## CBRN Trafficking and Terrorism Financing

CBRN trafficking poses a serious security risk to Europe, with former USSR republics having to deal with heightened risks and vulnerabilities.<sup>83</sup> The EU Non-Proliferation Consortium argues that there is strong evidence to suggest that Moldova has been used as a transit country for nuclear materials. Furthermore, it highlighted that the uncontrolled territory of Transnistria makes combating nuclear trafficking even more challenging.<sup>84</sup> Issues related to the management of radioactive waste are also of increasing concern. The National Agency for Regulation of Nuclear and Radiological Activities considers Moldova to provide insufficient funds in this regard, which highlights the need for highly trained staff and an improved legislative framework.<sup>85</sup> According to a BBC news report from 2015, Moldovan authorities in a joint operation with the FBI reportedly stopped four attempts by traffickers to sell nuclear material to extremists groups along the Moldova-Ukraine border.<sup>86</sup> In 2019, a joint operation between Moldova, Europol and Austria led to the arrest of members of an organised group suspected of trafficking nuclear material.<sup>87</sup> While CBRN trafficking is often connected to terrorist-related activity, terrorism financing is still considered a low to medium risk in Moldova.<sup>88</sup> While Moldova is not considered a country of origin for foreign fighters, it has served as a transit corridor for foreign fighters. This risk is largely due to its geographical location and activity associated with neighbouring areas.<sup>89</sup>

## Cybercrime

Cybercrime is estimated to cost the world almost USD 600 billion annually, or 0.8% of global GDP.<sup>90</sup> For Europe and Central Asia, the estimated cost is USD 160 billion annually.<sup>91</sup> Europol's 2020 Internet Organised Crime Threat Assessment report highlights cybercrime as a fundamental feature of the European crime landscape, and as one of the most dynamic forms of crime in the EU.<sup>92</sup> Transnational cybercriminal groups are increasingly complex, adaptable, and bold in their criminal behaviour.<sup>93</sup> This has led to an increase in profitability of cybercrimes such as ransomware attacks.<sup>94</sup> Cybercrimes such as phishing and malware

schemes are very common and costly, both for public institutions and private enterprises (including banks), in Europe.

Moldova is a major regional source of malware attacks (along with Romania and Russia).<sup>95</sup> Europol's 2019 "Goznym Malware" operation dismantled a complex network attempting to steal an estimated USD 100 million from financial institutions.<sup>96</sup> Other similar operations include a 2016 ATM Malware operation and a 2016 Money Mule operation, both of which led to criminal investigations in Moldova.<sup>97</sup>

*DarkMarket, the world's largest illegal marketplace on the dark web, has been taken offline in an international operation*

*involving Germany, Australia, Denmark, Moldova, Ukraine, the United Kingdom (the National Crime Agency), and the USA (DEA, FBI, and IRS). Europol supported the takedown with specialist operational analysis and coordinated the cross-border collaborative effort of the countries involved.*

*At the current rate, this corresponds to a sum of more than **€140 million**. The vendors on the marketplace mainly traded all kinds of drugs and sold counterfeit*



*money, stolen or counterfeit credit card details, anonymous SIM cards and malware.*

<https://www.europol.europa.eu/newsroom/news/darkmarket-worlds-largest-illegal-dark-web-marketplace-taken-down>

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Technology is also used to facilitate other criminal activities such as human trafficking recruitment and criminal network communication.

## Financial Crimes

The main financial crime risk in Moldova is illicitly-obtained revenue related to criminal activity and corruption.<sup>98</sup> Moldova has a substantial problem with wealthy individuals utilising money laundering and other organised criminal apparatuses to commit large-scale financial crimes. The Moldovan banking

sector, which accounts for the majority of the financial industry in Moldova, has played a significant role in many of these crimes. Various judges and influential politicians were implicated in the 2014 Bank Fraud Case and the 2014 Global Laundromat Case, including former members of parliament (MPs) and a former Prime Minister. Shell companies in various jurisdictions (e.g. Cyprus and Hong Kong) are widely used in Moldova.<sup>99</sup> Additionally, Transnistria is highly susceptible to money laundering schemes, with its banking and financial regulation not compliant with international norms.<sup>100</sup> Moldova's banking system has dealt with wide-scale corruption, and has subsequently been used by criminal groups to launder money. The real estate and construction industries are also regularly used to launder illicit assets.<sup>101</sup> Supervision procedures and practices of financial institutions are limited, lacking effective responses to money laundering risks.<sup>102</sup> Foreign organised criminal networks rely heavily on Moldovan banks to facilitate money laundering activity.<sup>103</sup>

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### A Case Study: 2014 Moldovan Bank Fraud Case

The 2014 "Bank Fraud Case" was a high-level financial fraud and money laundering scheme involving the Moldovan banking system. From 2012 to 2014, at least USD one billion of illicitly obtained money (roughly 13% of Moldova's GDP) was laundered through Moldovan banks. The case demonstrates the significant negative socio-economic and political impact of IFFs in Moldova. The case also demonstrates the importance of effective asset tracing and recovery mechanisms.

The financial criminal scheme defrauded Moldovan commercial banks by obtaining loans through fraudulent business pretenses (e.g. construction projects) and fictitious guarantors. Revenue from these illicitly-obtained loans was transferred through non-resident offshore companies to resident companies in Moldova. A carousel borrowing scheme was applied, with loans at one bank used to pay off loans from another. The financial and political sectors were widely implicated, with high ranking government officials, businessmen, and public figures implicated in the scheme. Three of Moldova's largest banks were involved and liquidated – Banca de Economii, Banca Sociala, and Unibank.

The Bank Fraud scheme has caused long-term socio-economic and political harm for Moldova, severely impacting national growth and stability. The scheme depreciated the Moldovan MDL and decreased the average standard of living. After the discovery of the fraud, the Moldovan government faced a considerable deficit. The government used public funds to fill out the deficit, negatively affecting the national budget. The fraud also demonstrated the pervasiveness of corruption in the country, fueling public distrust.

The SPCML was the initial primary investigator for Moldova. The SPCML utilised key legal and investigatory instruments in the investigation, demonstrating the effectiveness of such instruments. Demonstrating the effectiveness of beneficial owner requests, the SPCML utilised this tool during its investigation. Strong transnational cooperation was also established with information exchanges on customers and transactions related to the fraudulent loans.

As of 2019, the National Bank of Moldova had recovered EUR 24.6 million and aimed to recover an additional EUR 110 million. Court procedures involving the case have identified EUR 398.6 million for asset recovery. The APO and the CARA have targeted EUR 551 million to be recovered. One notable asset recovery mechanism utilised in the case is special confiscation. Approximately eight percent of the total identified damage has been subject to special confiscation in the absence of a conviction. Another notable mechanism that has been used is confiscation of equivalent value.

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### 3. Combating Illicit Financial Flows and Organised Crime in Moldova



### 3.1 Moldova's Policy Assessment and Reform Landscape

In recent years, Moldova has invested substantially in policy reform measures to combat the nexus of corruption, organised crime, and IFFs. Anti-corruption and anti-money laundering (AML) measures became fundamental priorities following the 2014 Global Laundromat and Bank Fraud cases. Demonstrating its commitment to reform and international standards, Moldova participated in its Fifth Round Mutual Evaluation Report with Moneyval, allowing on-site visits in October 2018 to assess the effectiveness of Moldova's AML and CFT systems.<sup>104</sup> Moldova also conducted a National Risk Assessment in 2017.<sup>105</sup> In regard to its asset recovery framework, the country has issued various normative assessments and acts, including the General instructions on the application on freezing and confiscation of illegal goods (2018), Strategy for Recovering Financial Assets Stolen from BEM, *Banca Sociala* and Unibank (2018) and the Government Decision on approving the Regulation on Evaluation, Administration and Valorisation of Criminal Assets (2018).<sup>106</sup>

These assessments highlighted the progress made in combating corruption and IFFs. One such area of progress was the strengthening of asset recovery mechanisms to which Moldova has remained committed. However, both assessments also outline key areas for improvement. Moldova's legislative and operational frameworks on both combating IFFs and recovering illicitly-obtained assets have significant areas for improvement.

### 3.2 Moldova's Legislative Framework on Illicit Financial Flows

#### Legislative Framework on Combating Organised Crime and IFFs

Moldova has a generally comprehensive legal system for the application of effective anti-organised crime and IFF measures. In recent years the country has revised its framework to more closely align with European standards and practices. Moldova is not on the FATF list of countries with strategic AML deficiencies. The regime is outlined in the Criminal Code of the Republic of Moldova (CCM).

Article 243 CCM outlines the legal punishments for money laundering offences<sup>107</sup> and Article 244 CCM outlines legal punishments for tax evasion by enterprises;<sup>108</sup> and Article 248 CCM addresses smuggling.<sup>109</sup> There are at least 14 authorities involved in combating organised crime, money laundering, and IFFs in Moldova.<sup>110</sup> Many authorities have an obligation to share information between themselves, an aspect that is particularly important as it increases efficiency with regards to combating organised crime and IFFs. Below are some key institutions and units.<sup>111</sup>

Moldova has made significant progress in recent years on combating organised criminal activity and dismantling criminal organisations. For example, Moldova has invested in bolstering its framework and capacity to combat human trafficking.<sup>113</sup>

As well, with recent amendments to the Criminal Code, CPC and Contravention Code (law adopted on customs/ tax policy for 2021), and starting from January 2021, Moldova has strengthened penalties and enforcement on smuggling, and has vested the Customs Service with criminal investigation and prosecutorial powers.<sup>114</sup>

At the same time, STS was also empowered to conduct criminal investigation/prosecution on tax evasion and illegal trade activity.

However, additional measures should be taken to address the impact of external influences and internal corruption on the investigation and prosecution of cases involving organised crime.

#### Legislative Framework on the Recovery of Illicitly-Obtained Assets

The confiscation regime is set out in the Criminal Code of the Republic of Moldova (CCM)<sup>115</sup> and the Criminal Procedure Code of the Republic of Moldova (CPCM).<sup>116</sup> Article 106 CCM provides the relevant regulations on asset management and the disposal of confiscated assets. Article 229 CPCM identifies that criminal assets should be preserved by a court's decision to seize or a preservation order issued according to Law No. 28/2017 on the Agency for the Recovery of Criminal Assets.

In 2017, Parliament established the Criminal Asset Recovery Agency (CARA),<sup>117</sup> which is an autonomous subdivision of the NAC. It is responsible for the valuation, management, and recovery of criminal assets. Its scope

## Moldova's key institutions for combating Organised Crime and IFFs: <sup>112</sup>



includes the comprehensive confiscation of 54 proceeds-generating crimes listed in total.<sup>118</sup> With support of the EU, CARA is working on a strategy to “ensure the recovery of goods obtained as a result of committing income-generating offences” and “to strengthen the capacities of CARA.”<sup>119</sup>

Moldova has a two-tier confiscation system that allows for Special and Extended Confiscation, which applies to natural and legal entities.<sup>120</sup> Both confiscation mechanisms are crucial tools for increasing the effectiveness of asset recovery.<sup>121</sup>

Law no. 48/2017 on the Criminal Assets Recovery Agency, as well as the Criminal Procedure Code, approved by Law no. 122-XV/2003 presume the performance of parallel financial investigations and the accumulation of evidence regarding individuals as well as their assets, held in name or as a beneficial owner. It is unclear whether this law is being fully implemented or whether the CARA and other key entities have been enabled to implement the law.

A draft law (No. 340, July 2020), aimed at preventing and combating money laundering and terrorist financing, as well as the recovery of criminal assets, received input from international experts, and it was ultimately determined that the draft law should be removed from the agenda of the Parliament, as it did not effectively impact issues regarding “beneficial owners.”<sup>122</sup>

## Framework on Regional and International Cooperation

Moldova is committed to international and regional cooperation in the fight against organised crime, IFFs and for the effective recovery of illicitly-obtained assets. Moldova has a sound legal and procedural framework for exchanging information with foreign partners in a comprehensive, proactive and timely manner.<sup>123</sup> Moldova’s legal system does not present any significant impediments to seizure and confiscation of assets located abroad.<sup>124</sup> Moldova’s participation in Moneyval is a key example of its commitment to international and regional standards. Moldova has had an operational agreement with Europol since 2014, demonstrating its commitment to regional initiatives. It is one of 12 non-EU countries with a liaison office at Europol. Moldova also has a cooperation agreement with Eurojust, the EU’s Judicial Cooperation Unit.<sup>125</sup>

Additionally, the Republic of Moldova became a member of the OECD Anti-Corruption Network in 2020 and will

participates in the 5th monitoring round under Istanbul Anti-Corruption Action Plan.<sup>126</sup>

The country signed an agreement in 2014 with the EU (“Association Agreement”) that facilitates cooperation with the European Anti-Fraud Office (OLAF) and a protocol on international cooperation on customs matters.<sup>127</sup>

Bilateral cooperation is also important in combating organised crime and IFFs. The Moldova-Ukraine border is a high-priority area, and investment and cooperation between the countries is paramount. The joint Moldovan-Ukrainian EUBAM mission demonstrates both countries’ commitment to improving and strengthening cross-border cooperation. Furthermore, joint operations with neighbouring Romania have revealed significant cross-border criminal activity for the two countries. Additionally, dual citizenship with Romania has been legal since 2003.<sup>128</sup> The two countries have a cross-border cooperation framework aligned with the principles of the European Neighbourhood Instrument (ENI).<sup>129</sup>

## 3.3 Moldovan Utilisation of Legislative Framework

### Utilisation of Framework on Combating Organised Crime and IFFs

The country has prioritised a community-based approach to enhance law enforcement efforts related to human trafficking. Moldova has prioritised joint investigations and operations with other governments and multilateral organisations. However, even Moldovan authorities recognise that there is still much progress to be made on countering human trafficking.

Moldova has also seen significant improvement on its combating of CBRN trafficking, which is a key security priority. The US and Moldova have partnered to address CBRN trafficking risks, having a bilateral action plan since 2011.<sup>130</sup> Moldova has particularly strengthened its material and border security for CBRN materials and radiation detection.

Another area of progress has been EUBAM (and its Drugs Task Force), which emphasizes an intelligence-led approach and cooperation with other law enforcement. Europol has had successful joint operations against organised criminal drug trafficking in recent years involving Moldova



or Moldovan citizens. Moldova has also participated in multiple large-scale international operations aimed at investigating and dismantling international cybercriminal networks.

Still, Moldova can more fully and effectively use its legislative framework to combat organised crime and IFFs. A critical obstacle on the successful utilisation of laws targeting organised crime is corruption in the judiciary and law enforcement. For example, a 2019 US State Department report on human trafficking in Moldova outlined the role of corrupt judges and law enforcement officials in impeding prosecutions and influencing case outcomes.<sup>131</sup> Measures should be taken to address the impact of external influences and internal corruption on the investigation of organised crimes and prosecution of criminals, as well as efforts to seize and confiscate assets linked to such criminality.

The World Economic Forum ranked Moldova 132 out of 137 countries on judicial independence in 2017.<sup>132</sup> Salaries for judges and prosecutors are among the lowest in Europe, and low salaries are often correlated with higher levels of corruption.<sup>133</sup>

## Effective Utilisation of Framework to Recover Illicitly-Obtained Assets

Statistics on recovered assets suggest that Moldova is not taking full advantage of the policy reform measures implemented in the country. Overall, the proportion of the number and value of seized and confiscated assets is unbalanced in comparison to the scale of organised crime and corruption in the country.<sup>134</sup> As Moneyval outlines, “the actual number and value of confiscated assets remain low and do not appear to correspond to the scale of proceeds-generating crime in the country.”<sup>135</sup> Furthermore, the 2017 NRA identified the overall asset confiscation regime as ineffective.<sup>136</sup> Exposure to political influence and politicisation have weakened CARA's independence and therefore capacity to act efficiently. Some systemic factors create this weakening, including elements of the NAC and of the judicial system that are politicised.

However, progress has been made and there is a positive trend for property confiscation in the country.<sup>137</sup> Several strategic documents have been adopted and implemented that demonstrate that depriving criminals of the proceeds of crime is a policy objective.<sup>138</sup> With support of the EU and Council of Europe, CARA has been developing a strategy to “ensure the recovery of goods

obtained as a result of committing income-generating offences” and “to strengthen the capacities of CARA in terms of human resources, technical endowment, and access to necessary databases”.<sup>139</sup> Additionally, as Moneyval outlines, “the LEA (especially APO, NAC and PCCOCS) have sufficient awareness of the importance of financial analysis in identifying, tracing and recovery of criminal assets and – to a certain extent – do make use of financial intelligence and other relevant information to identify investigative leads and develop evidence in support of investigations related to ML, FT and associated predicate offences.”<sup>140</sup>

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## Annual Salary of a Moldovan Judge

In 2016, the gross annual entry-level salary (before taxation) of a Moldovan judge was EUR 7,648. In the 45 member-states reviewed by CEPEJ, the average salary of a judge at the beginning of a career was EUR 50,529, and the median, EUR 34,538. In December 2018, the annual entry-level salary of a judge from Moldova increased to EUR 10,794. Even with this increase, salaries of Moldovan judges are still among the lowest in the 45 reviewed countries, outranking only neighbouring Ukraine.

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## Effective Utilisation of International Cooperation

Moldova actively seeks international cooperation with other states and multilateral organisations. This has resulted in positive investigatory outcomes and the seizure and confiscation of proceeds of crime.<sup>141</sup> The legal system does not present any impediments to seize or confiscate proceeds located abroad, although success in this area can often depend on a foreign jurisdiction's willingness to accept and enforce Moldova's requests. Repatriation mechanisms have to be further developed and country-risk and context factors need to be more fully considered.<sup>142</sup> Requests to seize and confiscate illicitly-obtained assets located abroad (and bilateral relations with foreign counterparts) should be further developed. As is true with any country, the value and amount of criminal proceeds located abroad can be, if targeted, a significant source of revenue for that country.

## 4. Impact and Cost of Illicit Financial Flows in Moldova



## 4.1 Estimates of Direct Cost of IFFs on and in Moldova

A Global Financial Integrity report on IFFs from developing countries estimates the total cumulative IFFs from Moldova between 2004 to 2013 to be USD nine billion.<sup>143</sup> In 2013, total IFFs was estimated at USD one billion.<sup>144</sup> CIFAR has indicated that the Moldova Bank Fraud (2014) has deprived the country of at least USD one billion.<sup>145</sup> A German Marshall Fund of the United States analysis on National Bank of Moldova (NBM) statistics estimates up to USD 70 billion in potential IFFs entered Moldova from the Commonwealth of Independent States (CIS) during the period of 2010 to 2014.<sup>146</sup>

## 4.2 Harm Assessment of Illicit Financial Flows in Moldova

Moldova suffers considerable harm from IFFs beyond direct monetary cost. It is imperative to understand and address the extensive and multidimensional nature of the harm generated by IFFs. When impact beyond loss of tax revenue is taken into account, the cross-sectional and mutually damaging nature of IFFs is evident. The harm generated from IFFs, and correlated crime, has severe socio-economic, political, and developmental impact, and negatively effects the overall functioning of a state. IFFs strip country resources that can be used to finance much-needed public services, from security and justice to basic social services. IFFs can also have a direct impact on a country's ability to raise, retain, and mobilise resources to finance sustainable development.<sup>147</sup> A country with pervasive IFFs risks reduces its capacity for effective and sustainable development. It also risks

weakening state capacity to combat organised crime and prevent future IFFs, thus creating a negative cycle of reinforcing criminal activity and IFFs in the country. Socio-economic consequences such as high unemployment, disenfranchisement, and political distrust can also increase participation in illicit behaviour and organised crime, again creating a negative cycle and reinforcing IFFs. Additionally, while IFFs occur in most countries, the societal and economic impact on developing countries is more severe given their smaller resource base and markets.<sup>148</sup>

Overall, IFFs create substantial economic, political, societal, and development costs in Moldova. The negative impact of these costs is severe, especially as the country has prioritised socio-economic and political development in recent years. Progress made by the government to increase country growth and stability is diminished by the allowance of substantial IFFs into and within the country. Combating IFFs, and related crimes, should therefore be a crucial component of Moldova's development strategy. Reducing IFFs and strengthening asset recovery mechanisms are key target goals highlighted by the United Nations Development Programme (UNDP), for the achievement of SDGs by 2030 (under SDG Goal 16.4).<sup>149</sup> The recovery of illicitly-obtained assets can provide critical financial resources for Moldova to invest in the achievement of SDGs and general country development.

Due to the pervasive and cross-sectional nature of the impact of IFFs, harm can be assessed utilising various frameworks. As harm is mutually reinforcing, the impact of IFFs on one sector of a country cannot be separated from its impact on another sector (e.g. economic and political harm are interdependent). For the purposes of this study, the harm assessment of IFFs is briefly examined through Economic Harm, Political and Governance Harm and Societal and Developmental Harm.

## ECONOMIC HARM

- Direct impact through the deprivation of tax revenue and withdrawing of funds from the legitimate economy
- Potential diversion of financial resources towards mitigating costs of IFFs and criminal activities (creating or increasing budget deficit). IFFs can also create more dependency on external sources of funding (e.g. after the 2014 financial criminal schemes).<sup>150</sup>
- Indirect destabilisation of national markets and economic investment
- Significant damage to businesses.<sup>151</sup>
- COVID-19 poses a risk for heightened criminal activity and influence, as criminals with significant amounts of illicitly-obtained cash can have a major influence over businesses and politics during economic instability. Small and medium businesses are especially vulnerable.<sup>152</sup>

## IFFs and Organised Crime in Moldova

## POLITICAL AND GOVERNANCE HARM

- Enhance mistrust in public officials, government institutions and the rule of law
- Impede development and further bolster organised criminal groups<sup>161</sup>
- Harmful cycle that increases political instability and weakens governance
- The cost of corruption to developing countries is estimated by the World Economic Forum at an annual USD 1.26 trillion.<sup>162</sup>
- Corruption directly generates IFFs and creates an environment in which organised criminal activity can flourish; the two are mutually reinforcing.<sup>163</sup>
- Organised criminal groups exploit the fragility of public authorities caused by corruption, often gaining benefits and access to political power.<sup>164</sup>
- Corruption can weaken the threat of judicial and legal consequences for criminal activity, mitigating any real deterrence effect of the legal system.

## SOCIETAL AND DEVELOPMENT HARM

- Increase inequality and economic and social polarization.<sup>153</sup> Inequality can create a cycle of unfair competition between affluent groups and citizens and these groups can continue to take advantage of weak governance at the expense of the public.<sup>154</sup>
- IFFs related to tax avoidance can also shift the tax burden towards middle and low-income individuals.<sup>155</sup>
- Social marginalisation and criminal economies are often inextricable issues.<sup>156</sup> Lack of employment opportunities in the formal economy can incentivize illicit behaviour, such as smuggling.<sup>157</sup>
- Physical and psychological harm to individuals (e.g. drug abuse and violence – cost on the healthcare system)
- IFFs can reinforce illegal behaviour that is already present in various development sectors.<sup>158</sup> Corruption, political clientelism, and bribery among local authorities and state enterprises fuel IFFs and negatively impact development efforts.<sup>159</sup>
- Damage to civil society, regional and international partnership and the private sector. International partnerships and lenders may be hesitant to provide funding on development projects due to lack of trust in Moldova's ability to transparently and effectively implement those projects (e.g. IMF suspending programs after the 2014 Bank Fraud case). International actors in effect made development support contingent on policy reform.<sup>160</sup> It is the same for private sector investment.

### 4.3 Investment of Recovered Assets into Moldovan Development

IFFs in developing countries, such as Moldova, mean fewer hospitals, schools, police, roads and pensions, as well as fewer job opportunities.<sup>165</sup> The UN has indicated that there is clear “collateral damage” of outflows produced by embezzlement, the diversion of public property, and the plundering of the public treasury.<sup>166</sup>

Increased focus on the seizure and confiscation of only a portion of assets linked to IFFs would have a significant impact on accelerating development within Moldova, assuming that recovered assets are liquidated and effectively distributed to high-priority development needs. The following presents the development challenges for key sectors, as well as the development opportunities in Moldova if the government were to prioritise the recovery of only 10% of assets lost through IFFs in the country.

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#### Moldova’s National Development Strategy 2030

In 2018, the government approved a National Development Strategy “Moldova 2030,” which focuses on long-term sectoral development priorities to improve the quality of life for citizens. The four basic pillars are a sustainable and inclusive economy, strong human and social capital, fair and efficient institutions, and a healthy environment. Ten sustainable development objectives were set up, including improving quality of education and improving access to infrastructure.

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In 2015, the UN adopted the SDGs to assist governments and civil society in achieving critical development objectives. The organic incorporation of SDGs into national policies is an important component of international and national development. Key to these goals is the assurance of social inclusion and equality, and the full participation of all people in economic, social, and political life.<sup>167</sup> Access to public services and social welfare is critical to the development and strengthening of Moldova. UNDP has evaluated Moldova as being well-positioned to advance multiple national development goals. Combating IFFs and improving asset recovery mechanisms will further enhance Moldova’s ability to achieve development goals.

For the purposes of this study, the potential benefit of reinvesting recovered assets into development sectors is briefly examined through three key sectors:

- Economic Opportunity and Education
- Health Care
- Infrastructure and Roads

## Economic Opportunity and Education

Around 25% of Moldovan families receive remittances, and many are heavily reliant on these remittances for income. In 2019, remittances sent back to Moldova reached 16% of GDP (USD 1.9 billion).<sup>168</sup> Remittances also demonstrate the prevalence of both formal and informal money transfer systems in Moldova, with an estimated one third of all money from abroad usually transferred to Moldova through informal mechanisms.<sup>169</sup> While the large majority of these informal transfers are from legal financial activity, having an economic system with large amounts of informal money transfers can pose a considerable regulatory risk for the country's financial system. It is therefore important for Moldova to encourage and incentivise formal remittances, both to allow for better regulation and for more direct economic benefit.

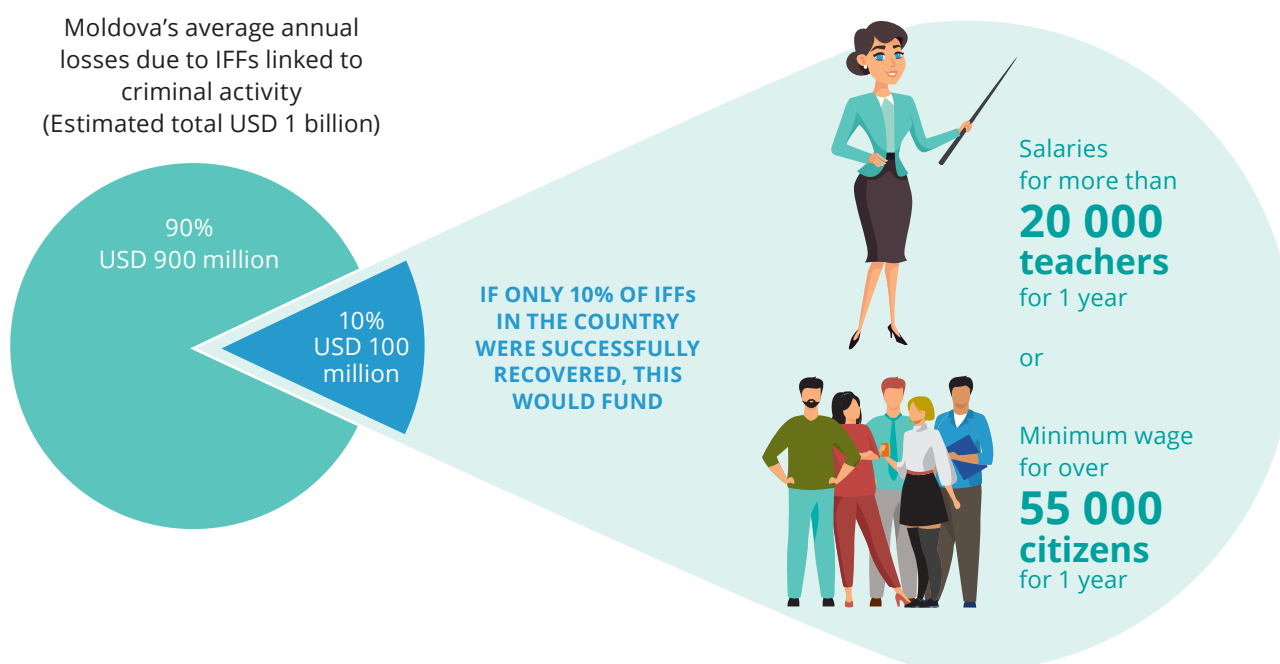
Development goals should prioritise the full and effective participation among all citizens in the education process and in economic opportunities. Investment in education and job creation are central to reaching these goals. In 2020, the World Bank invested USD 40 million into Moldova's higher education system through a joint project aimed at developing a better educated and highly skilled workforce to help raise the standard of living and decrease labour emigration.<sup>170</sup> Supporting education and

employment growth, and small and medium businesses, has only increased in importance with the negative impact from COVID-19.

One potential policy initiative is to focus on increasing access to the labour market at the local level, which can also help with social inclusion and equality. Investing in information, training, and counselling centres is another priority area. Another possible initiative is to promote entrepreneurship at the local, rural and household levels, such as harnessing local home-made products and healthy food products. This can help encourage employment among young people and utilise local goods and services.<sup>171</sup>

If Moldova were to prioritise the seizure and confiscation of only 10% of the estimated USD one billion in annual IFFs in the country, this would allow the country to supplement (or entirely cover) the salaries for more than 20,000 teachers for an entire year, at rates ranging from MDL 7,000 to MDL 20,200 (USD 404 to USD 1,165).<sup>172</sup> Alternatively, the recovered assets could cover the costs to fully subsidise minimum wage costs for over 55,000 citizens – such as youths seeking first-time employment – for an entire year (as per year 2018 minimum wage rates of MDL 2,610, or USD 151 per month).<sup>173</sup>

## How Recovered Assets Can Strengthen Education and Economic Opportunity in Moldova



## Health Care

Moldova has universal access to health care. It inherited an extensive Semashko-style health system (with the collapse of the USSR) with a large but outdated infrastructure system. Most hospitals have had little significant capital investment since independence.<sup>174</sup> Total health expenditure in 2014 was 10.3% of GDP.<sup>175</sup> With national budget as the main source of funding, various public agencies are also involved in the financing, regulation and administration of health services. Corruption is considered to be common within the medical and health care industry.

Updating physical infrastructure should be considered a priority as investment in infrastructure has lagged since independence. There is also large disparity in access between urban (high access) and rural areas (low access).<sup>176</sup> There is a shortage of health care personnel, with doctors often leaving the country for better pay, conditions, and opportunities. There is also a shortage of medical workers in rural areas, highlighting again regional inequality.<sup>177</sup> Population health has been improving in basic terms since 2000 but the country still has low relative life expectancy compared to other European countries, with mortality rates particularly high for working-age population.<sup>178</sup> Heart disease and cancer are main causes of death for both men and women, largely attributed to heavy alcohol and tobacco consumption.

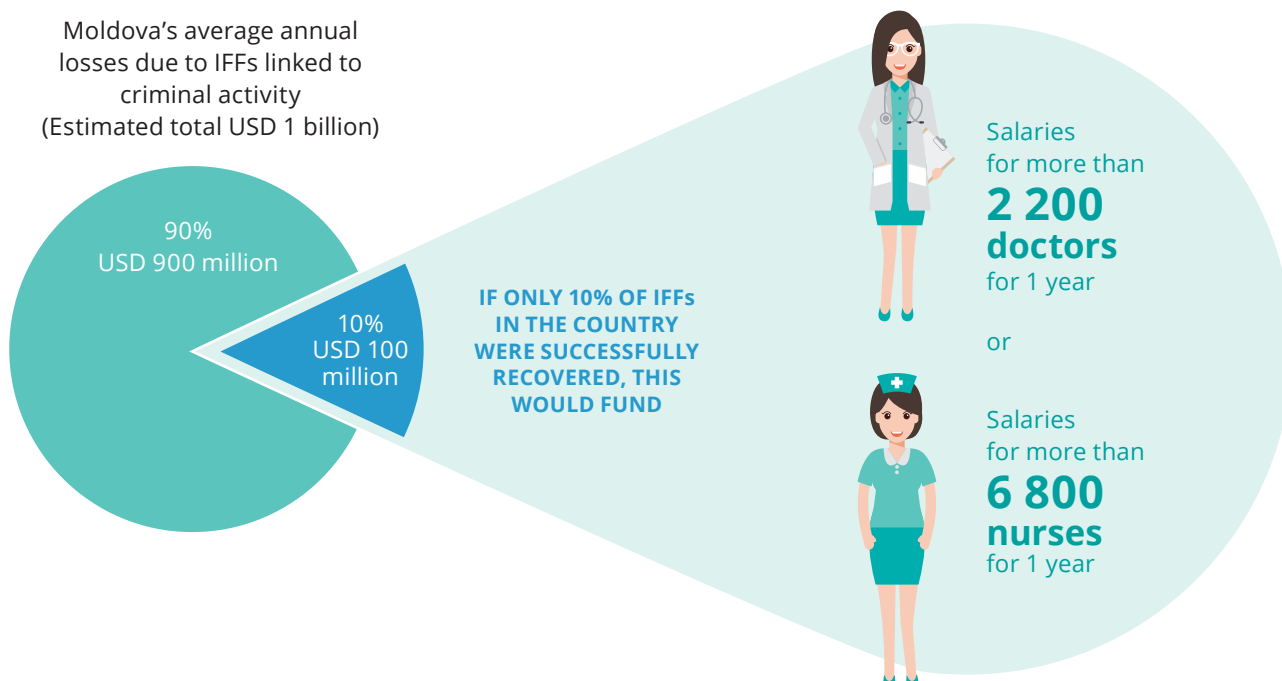
The National Health Policy (2007-2021) and Health System Development Strategy (2008-2017) serve as main guiding documents for reform initiatives in Moldova. The overall aim of these policy initiatives has been to reduce health inequalities and consolidate improvements in the health system.<sup>179</sup>

Another key policy concern is primary care and increasing efficiency of preventative and early diagnostic programs.

In 2010, radical reform of public health began, aimed at creating broader and better equipped public health services to deal with the epidemiological profile of the Moldovan population.<sup>180</sup> In 2018, and in coordination with the Ministry of Health, the World Bank provided support to develop the National Hospital Master Plan, aimed at strengthening the hospital sector. The plan focused on the regionalisation of hospital services at the local level and the consolidation of the hospital network in Chisinau. A World Bank project also provided financial support for the Republican Clinical Hospital. In addition, an EU-funded initiative provided support to assist in developing an integrated and automated information system for the health care sector. With COVID-19, investment in Moldova's health care system is as important as ever. In 2020, the World Bank also launched a EUR 52.5 million initiative designed to help Moldova's response to COVID-19. The project aims to strengthen the country's national health care system and help mitigate social risks.<sup>181</sup>

If Moldova were to prioritise the seizure and confiscation of only 10% of the estimated USD one billion in annual IFFs in the country, this would allow the country to cover the salary costs for more than 2,250 doctors for an entire year, at a rate of MDL 63,700 (approximately USD 3,675) per month.<sup>182</sup> Alternatively, the recovered assets would cover the salary costs for more than 6,800 nurses in the country for an entire year (at a rate of MDL 21,100, or USD 1,217 per month).<sup>183</sup>

### How Recovered Assets Can Strengthen the Healthcare Sector in Moldova



## Physical Infrastructure

Moldova's infrastructure framework requires investment in its roads, railroads, and electricity, and the procurement of investments for further development.<sup>184</sup> Moldova is one of the worst-ranked countries internationally in terms of quality of roads; some 45% of Moldovan residents reported roads as the most significant problem in their municipality.<sup>185</sup> The country hasn't updated its railroads since independence.<sup>186</sup> These conditions risk isolating rural communities from cities, which can heighten the rural and urban divide and increase inequality.

Moldova also has room for improvement on both domestic and cross-border interconnectivity in the energy sector. As Moldova is largely reliant on other countries such as Russia for its energy supply, emphasis has been made on investing in renewable energy development.<sup>187</sup> As Moldova implements new policies to strengthen its infrastructure, the sustainable and energy aspects of such development should be considered.

The infrastructure sector is harmed by inefficiency and widespread fraud; in April 2017, the Minister of Transportation and Road Infrastructure was arrested on passive corruption charges related to a defrauding scheme

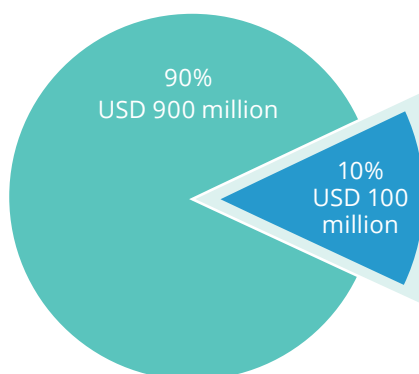
involving projects financed by the European Investment Bank.<sup>188</sup>

Despite corruption and insufficiencies, both Moldova and international partners have begun to invest in implementing important improvements to Moldova's infrastructure. In 2017, the European Bank for Reconstruction and Development (EBRD) announced work to create a sustainable infrastructure development plan in Moldova.<sup>189</sup> This plan included modernising the roads, promoting greater interconnectivity in the energy sector, and encouraging transparency in transportation policy.<sup>190</sup> Additionally, in 2020 the EBRD announced investment in railway improvements aimed to boost trade opportunities for local businesses and ensure safer and more efficient travel. The total project costs EUR 110 million, EUR five million of which is an investment grant from the EU's Neighbourhood Investment Facility and the remainder from the EBRD and the European Union's Bank.<sup>191</sup>

If Moldova were to prioritise the seizure and confiscation of only 10% of the estimated USD one billion in annual IFFs in the country, this would cover some 40% of the annual cost to maintain and repair all national and local roads throughout Moldova (at an average annual cost of MDL 4.2 billion, or USD 242.3 million).<sup>192</sup>

## How Recovered Assets Can Strengthen Infrastructure in Moldova

Moldova's average annual losses due to IFFs linked to criminal activity  
(Estimated total USD 1 billion)



**IF ONLY 10% OF IFFs IN THE COUNTRY WERE SUCCESSFULLY RECOVERED, THIS WOULD FUND**

**40%** of the annual cost to maintain and repair **all national and local roads** in Moldova





## 5. Conclusions and Recommendations



This study has examined the severe negative impact of IFFs and related crimes on Moldova, and has highlighted some of the sectoral needs that can be significantly addressed if the government prioritises the capture of IFFs and illicitly-obtained assets. Effective asset recovery policy is fundamental to mitigating and preventing future costs of IFFs on the country. In light of the above, this study provides the following recommendations to national authorities and other key stakeholders to help strengthen the effective and transparent recovery of illicitly-obtained assets, to inhibit IFFs and therefore to facilitate more accelerated development within the country.

### **1. Implement Mechanisms to Improve Efficiency in Seizure of Assets**

Identify and implement mechanisms that improve efficiency in the seizure, confiscation, and liquidation of assets. Identify and implement mechanisms to ensure the distribution of funds in a highly transparent manner to high-priority development needs. These needs should be identified in close cooperation with civil society organisations and through regular feedback from citizens.

### **2. Build Capacity for Law Enforcement Agencies, Prosecutors, and Judges to Effectively Investigate and Recover Illicit Assets**

The Government of Moldova should consider in-depth and regular workshops for law enforcement personnel (including police and prosecutors), as well as members of the judiciary, to allow for a bolstered capacity to conduct in-depth investigations of assets, along with traditional criminal investigations, to ensure that financial investigations become the norm in any case involving significant income-generating crimes. Consideration should also be given to coordination with international partners to ensure regular exchange and dialogue on good practices (as well as resolution of pending cross-border cases) in the tracing, freezing, seizure and confiscation of assets linked to criminality.

### **3. Publish Clear and Unambiguous Policy Statements on IFFs and Asset Recovery**

Publish clear and unambiguous statements and policies with respect to combating IFFs, money laundering, and revenue linked to organised criminal activity. Additionally, reiterate the prioritisation of the seizure and confiscation of assets linked to organised criminal activity.

### **4. Implement Policy to Strengthen Sanctioning Power on Money Laundering Offences**

Implement policy to strengthen the sanctioning power on money laundering offences. Stronger sanctioning regimes can inhibit money laundering activity and bring in revenue to offset the impact of money laundering offenses. Under existing legislation, money laundering offenses committed by an organised criminal group shall be punishable by a fine of the equivalent of EUR 32,700 to 40,300.<sup>193</sup> Consideration should be given to increasing the maximum fine on money laundering offenses up to the equivalent of EUR 150,000.

### **5. Implement Policy to Identify and Mitigate Virtual Assets Risks**

Implement new policies to identify and mitigate risks deriving from the unregulated management of virtual assets and related technologies. Consideration should be given to the implementation of stronger regulatory frameworks for virtual asset service providers, where such providers register with the relevant authorities. Consideration should also be given to the implementation of policy that more fully regulates ownership and monitoring of virtual currency and requires financial institutions to pay special attention to money laundering threats linked to virtual assets. Virtual currency presents a significant challenge to the tracing, recovery and management of illicitly-obtained assets. However, when utilised correctly, blockchain technology can be a beneficial tool in the tracing of illicitly-obtained assets.

### **6. Implement Policy to Strengthen National Statistics on Seizures and Confiscations**

Maintain a centralised, comprehensive, and aggregated data system that can be used to combat organised crime, recover illicitly-obtained assets, and encourage remedial action. Currently there is inconsistency regarding national statistics on organised criminal activity and seized and recovered assets. While Law No. 48/2017 on the Criminal Asset Recovery Agency (CARA) vests this entity responsibility for keeping records and statistics regarding seized, confiscated and recovered criminal assets, the database currently in use (Automated Information System "Register of seized criminal assets") is not fully developed in accordance with the technical concept and specifications approved by the Decision of Government No. 34 of 22 January 2020<sup>194</sup>

## 7. Monitoring Sources of Wealth of Politically Exposed Persons (PEPs)

The Government of Moldova may wish to consider strengthened monitoring of implementation of Article 8, paragraph 5 of the AML/CFT law, in order to ensure effective identification of the source of wealth of PEPs.

## 8. Enforcement of Sanctions against Non-Compliant Financial Entities

Consideration should be given to strengthening sanctions against non-compliant financial entities. This may include fines as well as orders for temporary or permanent closure. Practical experience in multiple other foreign jurisdictions has shown that when such sanctions are imposed (particularly those involving suspension or revocation of licenses to operate), other entities within the financial sector often raise their compliance levels.

## 9. Strengthen Capacity of the National Integrity Authority

Consideration should be given to strengthening the institutional capacity of the National Integrity Authority (NIA) to improve overall efficiency of the integrity system and the identification of illicitly-obtained wealth. Particular attention should be given to enhancing results-oriented efficiency of integrity controls in the reporting and monitoring of asset declarations as an effective tool for corruption prevention.

## 10. Implement Policy to Strengthen Customs Service Regulatory Capacity

Consideration should be given to assisting the Customs Service and its ability to better elicit from travellers declarations regarding cash, to strengthen CS capacity on modern methodologies to identify suspicious packages, and to create mechanisms to more quickly seize and confiscate undeclared assets or otherwise illicit material.

## 11. Implement Policy to Enhance Effectiveness of Criminal Asset Recovery Agency

Ensure that transparent mechanisms are in place for the seizure, confiscation, management and distribution (ideally to high-priority development needs) of illicitly-obtained assets, and that CARA is enabled to act as a key entity facilitating this role. This should include enabling regulations to help ensure that CARA can fully implement Law no. 48/2017 on the Criminal Assets Recovery Agency, as well as amendments to the Criminal Procedure Code, approved by Law no. 122-XV/2003.

## 12. Implement Policy to Enhance Transnational Coordination of Asset Recovery

Implement legislation outlining arrangements for coordinating asset seizure and recovery with other countries, where appropriate with domestic and international law, in order to incentivise foreign jurisdiction cooperation. Implement regular face-to-face dialogue with police and prosecutorial focal points in other key countries regarding the tracing, freezing, seizure, confiscation, and recovery of assets linked to organised crime and corruption. Moldovan law does not specifically provide for the establishment of such arrangements.<sup>195</sup> These arrangements can be critical tools in protecting and increasing the efficiency of transnational relationships.

## 13. Harmonise Transnational Intelligence Sharing

Invest in the harmonisation of intelligence with neighbouring countries and the EU to strengthen the efficiency and speed of transnational IFFs investigations. One potential action area for Moldova would be to examine its current criteria for data collection on organised crime and IFFs, and aligning all future criteria with EU standards.

## 14. Establish the Use of Extended Confiscation as a Norm Within the Criminal Justice System

Establish the use of extended confiscation as the norm, and not the exception, within the criminal justice system for cases where a serious crime has been committed. The streamlining of extended confiscation can generate more seizures of illicitly-obtained assets, increasing the total monetary value of recovered assets. Moneyval assesses that "while prosecutors demonstrated sufficient awareness on application of extended confiscation, there have not been substantial results utilising such mechanisms."<sup>196</sup>

## 15. Establish the Use of Special Confiscation as a Norm Within the Criminal Justice System

Establish the use of special confiscation as the norm, and not the exception, within the criminal justice system for cases where a serious crime has been committed. The streamlining of special confiscation can generate more seizures of illicitly-obtained assets, increasing the total monetary value of recovered assets.

## **16. Establish the Use of Confiscation of Equivalent Value as a Norm Within the Criminal Justice System**

Establish the use of orders to confiscate legally-acquired assets of equivalent value as the norm, and not the exception, within the criminal justice system when the illicitly-obtained assets of a defendant cannot reasonably be located or have been depleted by the defendant. This is consistent with the principle that crime should not pay and can act as a dissuasive mechanism against criminal activity.

## **17. Establish the Use of Unjustified Enrichment Proceedings as a Norm Within the Criminal Justice System**

Adopt and implement as the norm, and not the exception, the initiation and prevalent use of proceedings against individuals for unjustified enrichment, or unexplained wealth, in criminal proceedings where Moldova can demonstrate to the court that an individual's assets significantly exceed his or her reported and reasonably possible income.

## **18. Implement Mechanisms for Increased Settlements of Criminal Cases**

Adopt where possible more agile mechanisms for the settlement of criminal cases, making the settlement contingent on the defendant returning assets reasonably believed by the State to be the product of serious crime in return for a proportionately lighter sentence. This is an important policy area as there are often heavy caseloads for prosecutors and the judiciary, slowing the asset recovery process down substantially. Mechanisms for the settlement of criminal cases include plea bargaining and reconciliation and may include a reduced sentence. Consideration should be given to not allowing such a mechanism for principals in organised criminal syndicates or high-level officials involved in corruption.

## **19. Implement Mechanisms to Increase Civil Confiscation of Illicitly-Obtained Assets**

Strengthen non-penal mechanisms, or civil mechanisms, for the seizure and confiscation of assets. Criminal proceedings often take years to adjudicate, delaying the issuing of final orders for the confiscation of assets linked to organised crime and corruption. While maintaining due process, the implementation of civil mechanisms can help reduce the time to confiscate assets from a period of several years to a period of several months. A speedier

process can help bolster public confidence in the judicial system and help facilitate the funding of high-priority development, law enforcement, and judiciary needs.

## **20. Increase Use of Partnerships with Civil Society**

Prioritise the increased utilisation of partnerships with civil society organisations and NGOs on asset recovery and crime prevention. Consideration should be given to mechanisms for obtaining (and effectively addressing) regular feedback from civil society and citizens. Forming new partnerships with civil society organisations and other similar organisations can provide new and innovative approaches to the asset recovery process and can tap into platforms and systems for the monitoring and investigation of IFFs. Additionally, these organisations are often cognizant of operational weaknesses of government programming on crime prevention and asset recovery, and thus can provide constructive feedback. These organisations can also provide important insight into country development needs, especially in disenfranchised communities, and therefore facilitate, for example, the identification of high-priority development needs to which recovered and liquidated assets should be distributed.

## **21. Strengthen Transnistria-Specific Policies with respect to Curbing the Impact of Illicit Income-Generating Activity Emanating from that Region, and Limiting their Impact within Moldova.**

The Government of Moldova may wish to consider further development or strengthening of policies and mechanisms, perhaps in coordination with international experts, that are Transnistria specific, so as to curb the significant impact of IFFs emanating from that region. This should include policies and result-oriented mechanisms that address: (1) reported electricity fraud by which Transnistrians do not pay for the raw material, but then sell electricity through a middleman, and which create large windfalls; (2) cigarette smuggling, which also represents huge illegal cash-flows and are considered to be a corrupting influence on the Moldovan economy and on the Moldovan political system; and (3) the so-called "banking clearing system" – a relic of the 1990s – that allows for the proliferation of money laundering schemes into the legal transactions of the Moldovan economy.

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- 14 These often include civil confiscation proceedings, which still place the initial burden on the State to prove that certain assets are the product of illicit activities, albeit at a lower burden of proof.
- 15 For example, Antigua and Barbuda, Austria, Canada, Colombia, France, Hong Kong, Italy, the Netherlands, New Zealand, the United Kingdom, Singapore and Switzerland.
- 16 For example, Colombia, Italy, the Netherlands and the United States. Notwithstanding this, while a number of jurisdictions have proven to be adept on seizing and confiscating assets, they remain quite weak in terms of actually returning seized and confiscated assets to the Requesting States (countries in which the illicit wealth was originally obtained, either through organised criminal activity or through corruption).
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- 194** As per international experts working closely with Moldovan counterparts. March 2021,
- 195** *Ibid.*
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