

# Moldova: Competition Council



**Viorica Carare**  
President

Moldova is a small country that started its way to a market economy about 25 years ago. The country's competition environment is determined by its being drawn from a past with a planned economy, and the fact that it is a small economy. It has all the characteristics specific to low-income countries. The economies of new and small countries have emerging markets with small dimensions, monopolies, dominance of markets influence, high entry barriers, etc. The small internal market generates the amplification of several shortcomings in the competition area, especially if the small country comes from the break-up of a totalitarian state, such as the Soviet Union.

Achieving a dominant position in a small market is easier, especially if the dominant position in the sector is inherited from the previous economic system. The act of the dominant position, and the authorities' justification of the dominant position (including dominant structures) may hinder the development of a competitive culture. The monopolistic market criteria – such as those for electricity, fixed telephony, gas and water, etc – are maintained because of the relatively high expenses, which do not allow the establishment of new units on the market. For new supplier to enter the market, it would have to create its own service delivery infrastructure. Hence it is complicated – impossible, even – for the service to be delivered by several entities due to high barriers to entry on the market, as well as natural barriers already formed on the market by services or goods. It is difficult to enter an existing market when the relationships are already formed between players.

In addition, in a small market, bulk-buying from a small number of suppliers limits the number of players on this market. Also, barriers to entry on the market may be artificially created by the government. In many cases, entry is limited to an area in which competition would be possible but would reduce the added value which is attributed to the companies. In this case, the nature or procedure of service licensing may limit the number of players on the market, as happens in the operation of pharmaceutical services.

In Moldova the principles of the EU's Third Energy Package have been transposed in national legislation. Since the entry into force of this law, the gas and electricity market has been declared open and each potential end-user will have the right to choose or change the supplier. Until 2018, the regulatory base will be brought into line with the new law. At the same time, the opening of the market will allow the construction of new cross-border connections with Romania and Ukraine, which will make the offer more diverse; increase energy security; and reduce the price of electricity. Moldova's economy is determined by a broad intervention of the state in market relations, especially by capping the prices of important social products. Although the petroleum products market in Moldova is generally open to competition, retail prices for petrol and diesel are regulated by capping. At the same time, the state imposes artificial barriers to market entry. The petroleum products market requires petroleum importers to have their own deposits for preservation of the main petroleum products in a minimum volume of 5,000m<sup>3</sup>, and capital of at least 8 million lei. Both price-capping

and market entry barriers present clear regulatory features and shall be liberalised.

Deregulation and liberalisation of the national economy is a challenge in the process of promoting competition policy. Liberalisation requires expansion of the national economy, which is exposed to the rules of free competition and the gradual abolition of exclusive or special rights granted by the state to undertakings, thereby eliminating or distorting competition. In Moldova, the 2016 value of the product market regulation indicator was 2.48 points, which is 1.7 times higher than average among OECD countries. By implementing the national programme in the field of competition and state aid, the indicator will fall to 1.55 points by 2020, ensuring an increase in the annual growth of GDP per capita by 0.56%.

In this way, Moldova's economy is characterised by excessive regulation in many markets, but considerable efforts are being made to open these sectors to competition. The change to the market economy has encouraged implementation of certain mechanisms and instruments one of which is the Competition Council of Moldova. This year marks a decade of activity at the Council, during which we have managed to form a functional institution with a team of professionals, all working to adapt the EU's legislative framework in competition law and state aid law. We are now at the most complicated stage: the implementation of the legislative framework in the field of competition and state aid.

Between 2007 and 2017, over 400 violations of competition law have been established. The majority of these (40%) are attributed to unfair competition and advertising, while 18% are attributed to abuse of a dominant position. In the period between 2013 and 2017 – ie, since the new competition law came into force – there have been 27 cartel cases: a record. In 2016 there were more than 60 cases, including unnotified economic mergers and anticompetitive actions by public authorities. Obviously, it is very important to look at the statistics of the Competition Council's decisions, as maintained by the courts; these have continued to grow over the past few years, reaching 75% in 2016. In order to increase the Competition Council's efficiency in fulfilling and providing public services, a performance indicators system was developed. This system allows the Council to examine how its resources have been expended in relation to both the results it has obtained and goals it has set. The system shows that in 2015 and 2016, the positive impact on consumer welfare exceeded public resources used by the authority by five times.

The Competition Council has implemented the state aid legislation: a first for Moldova, as well as for the Eastern Partnership, as until this point state aid was not regulated. Currently, the Competition Council is implementing and improving the state aid legislation. Unlike the competition authorities of other EU member states, the Council has extended powers in the field of state aid, namely the authorisation, monitoring, reporting and control of state aid.

In order to increase transparency in the granting, authorisation and monitoring of state aid operations, the digital information system – the State Aid Registry – was developed and implemented.

This contributes to the creation of an efficient state aid control mechanism, and to the fulfilment of conditions for achieving the main objective: making the use of public money in Moldova more efficient.

For its implementation of the State Aid Registry, the Competition Council was highly commended in the World Bank's Competition Advocacy Contest, winning in the category of "promoting cooperation with relevant public bodies to balance competition goals with other public interests".

The existence of the legal framework and an authority empowered with applying competition law represents a necessary state of affairs, but this is insufficient for implementing an effective competition policy. Consequently, a national programme in the field of competition and state aid has been developed, which includes the tasks of each state authority in promoting a competitive environment, over a strategic period, in Moldova. Also, in recent years we have launched a discussion platform named Competition CaFE, through which we promote discussions with interested parties including judges, small and medium-sized enterprises, lawyers, academic representatives and others.

I consider 10 years to be a relatively a short period for a competition authority. Even though we have already achieved many positive results in this area, there is more to be accomplished in the future.

### About the author

Viorica Carare was born on 30 July 1966. Between 1983 and 1988 she studied at the State University of Moldova, graduating as a qualified economist with specialisation in the planning industry. She continued her studies at the Academy of Economic Studies of Moldova, where she obtained a PhD degree in economics (1991) and a habilitated doctorate degree in economics (2001). Since 2003, she has held the academic rank of professor.

After graduation she worked at the State University of Moldova as an economist in the payroll planning department. From 1992 she worked at the Academy of Economic Studies of Moldova, initially as a lecturer and later as a senior lecturer in the department of management. In 1995 she became dean of the Academy, and in 1996 she co-founded its department of international economic relations, serving as the head until 2006.

In 2006, Viorica Carare was appointed as general director of the National Institute of Economics, Finance and Statistics.

From 2007 to 2012 she was the director general of the National Agency for the Protection of Competition, during which, for the first time in Moldova, actions to protect and promote fair competition in the market of goods and services were undertaken.

Since 2013 she has been the president of Moldova's Competition Council, and the chair of the Council's plenum.

In 1997, 2003 and 2006 she acted as a local consultant at the World Bank's Moldovan office. She has acted as associated professor at the Alexandru Ioan Cuza University and the Lucian Blaga University of Sibiu, both in Romania; and at the Pierre Mendès-France University in Grenoble. She is the author of more than 90 scientific publications, including four monographs. She has been the scientific adviser for one habilitated doctorate degree and six PhD degrees.