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Implementation of the third pillar: REPUBLIC OF MOLDOVA VS QUESTIONNAIRE on costs, access and timeles.



Current situation

- The Administrative Code of the Republic of Moldova states that for carrying out an administrative procedure and issuing an act or carrying out a procedure, fees may be charged, if they are provided for by law. No fees may be collected for the fulfilment of the duties of public authorities that must be performed ex officio or compulsorily.
- According to the art. 4, (1) State tax Law no 1216/1998, the plaintiffs are exempted from paying the court tax for the following cases:
 - *a) plaintiffs - in the cases of collection of damage caused by environmental pollution and irrational use of natural resources.*
 - *b) plaintiffs – in cases arising from administrative litigation reports – any person who claims a right damaged by a public authority, or by an environmental administrative act or by not resolving a claim within the legal term can address the competent court to defend his right.*

Current situation

- *Also, the State Tax Law establish that in the cases provided by law, upon request, the judge, or the court, depending on the material situation and the evidence presented in this regard, is entitled to exempt individuals and legal persons, completely or partially, from paying the state tax, as well as to stagger or postpone the payment of the state tax.*
- *The payment of which the plaintiff was exempted, is collected from the defendant in proportion of the satisfied claims.*

Current situation :facilitate access to legal aid and other assistance mechanisms

- *The Administrative Code, art. 19, stipulates that the preliminary request is the institution that offers a way of prejudicial resolution of administrative disputes. So, the Environmental Authorities apply the amicable resolution of the dispute through preliminary request procedure.*

What is promoted and will constitute a financial barrier?

- The Parliament of Moldova voted in first reading a draft Law of the state tax. It proposes a series of measures that will significantly increase the costs borne by citizens when they go to court.
- One of the main provisions of the draft law is the introduction of a stamp duty, in the amount of 200 lei (10 euro), charged to the court account from individuals and legal entities, for the examination of all civil cases, administrative litigation and appeals against protocols with regarding the contraventions and the decisions of the investigating agents in the contravention processes. These fees are intended to cover the costs incurred by the court in preparing the case for trial and to prevent the abusive filing of claims in court.

Example of the financial barrier

- This means that, if until now citizens could challenge an administrative act for free - for example, the refusal to provide information of public interest - now for this it will be necessary to pay the stamp duty.
- For example, in the case of filing a lawsuit regarding the collection of the debt in the amount of 500 euro, the plaintiff will pay the stamp duty of 10 euro, and if he does not agree with the court's decision, he will repeatedly pay another 10 euro for appeal and, as the case may be, another 10 eur for the recourse. At the same time, if the person does not have the skills to represent himself in court, he will contract a lawyer, whose services are according to the recommendations of the Lawyers Union, between 70 and 170 euros per hour. Thus, the legal expenses end up costing more than the debt.

How will the adoption of the draft Law limit citizens' access to justice?

- It unduly limits citizens' procedural rights.
- It does not prevent, but legalizes the abusive delay of cases.
- It does not take into account the socio-economic situation of the citizens

Crowdfunding/Projects/Fundraising?

- Crowdfunding introduced in Law in 2016 in Moldova.
- Investigation in 2019 showed the main part of proposed initiatives are connected with charity or are social oriented.
- Diaspora started to invest more in small projects (like Parks, small initiatives in local development)
- 2% mechanism – 2016 approved the Law gave the possibility for CSOs and religious groups to receive support from Moldovan taxpayers. In 2022, more than 486 thousand euros from the income tax of natural persons were redirected to civil society organizations.
- Challenge?: To convince the taxpayer that Environmental Activities are important and worth to be supported.
- Projects? : Not all projects are supporting directly Lawyers, Court expenses, etc. The activities need to be mixed up with some other area of interest in order to be financed.

How Aarhus Center/EcoContact supports?

- *Public Association EcoContact provide free legal assistance for the individuals, NGOs, and local public authorities in environmental matters. Annually, EcoContact provides around 50 legal assistance to different beneficiaries.*

2 situation of representation in Court

- *Provides opinion to laws and draft Laws on both aspects*
 - *if limits the access to justice, information and participation*
 - *If the provisions are damaging the environment and not vice versa*

Q&A

Thank you

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