

# *Chapter III*

## ***INSTITUTIONAL FRAMEWORK***

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### ***Introduction***

The change from a planned economy to a market economy requires great adaptability, not only on the part of the State, which has to enact new legislation, but also in society, where the changes must be anchored. Many existing institutions will receive new tasks, others will be abolished. New institutions will be established to help ensure a successful transition. Finally, every citizen will have to adjust to the new circumstances.

Housing management takes the form of a hierarchical pyramid, which includes parliament (some committees), Government (some ministries), public agencies, public local administrations (different levels), non-governmental organizations and, finally, individual householders. This chapter will explain the relations between central and local public authorities, between central and local public authorities and non-governmental organizations, and how the institutional framework established in the Republic of Moldova influences housing management and householders.

Figure XVII shows the public sector's institutional structure.

It is quite a challenge for each citizen to assume responsibility for his dwelling as a result of the privatization of the housing stock. Every owner must accept responsibility for the poor condition of his dwelling due to a lack of maintenance over many years. A new institutional framework is needed to create the tools necessary for a better standard of housing and improved living conditions.

Moldova's transition may last a long time. During that time the institutions will be learning their new roles, for they cannot be expected to be effective immediately.

For example, a new mechanism for the maintenance of newly privatized housing stock is only gradually developing from the former system based on municipal maintenance

companies. Householders are apparently not yet ready to exercise their power as property owners in association with their neighbours in a way that will improve their housing conditions.

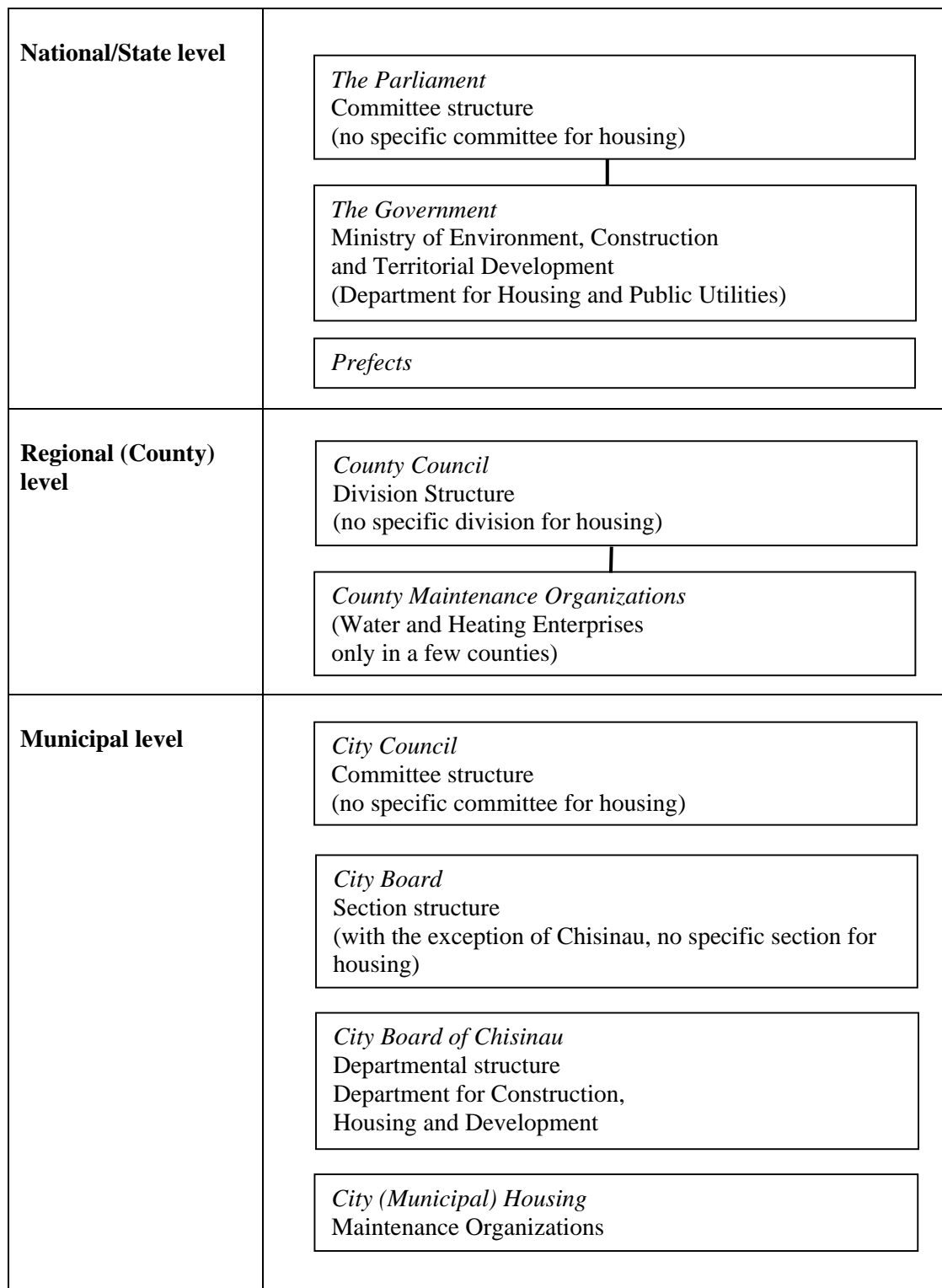
This chapter analyses the current institutional framework and identifies the key changes needed to improve housing conditions.

### **A. National institutions**

The constitution defines Moldova as an independent republic. It defines and limits the power of the State, since power belongs to parliament, the President, the Government and the courts.

The President is elected for a four-year term by parliament. He is assisted by an advisory staff.

The present Legislative has 101 deputies. Its members are elected for a four-year term by proportional representation. Parliament is considered legally constituted only after the mandates of two thirds of the elected members have been validated. The structure, organization and functioning of parliament are set out in its internal rules and regulations. Members of parliament have the right to nominate candidates for the appointment or election to the Standing Bureau, to committees and to other parliamentary working bodies. They can propose items for the agenda of meetings of the legislative forum and subsidiary bodies. They can propose the creation of ad hoc committees and can initiate and discuss draft laws, decisions and other legislative acts. Each committee includes representatives of all the parliamentary groups. The permanent committees approve draft laws and legislative proposals, undertake parliamentary enquiries, debate and take decisions on other problems moved for examination by the Chairman and vice-chairmen of parliament. The most important documents are debated in the parliamentary groups. At plenary sittings, draft laws are debated, as a rule, in two or three readings.

**Figure XVII. Institutional structure of the public sector**

*Parliamentary institutions*

Parliament has established a number of standing committees:

- The Legal Committee for Names and Immunities
- The Committee on Economy, Industry, Budget and Finance
- The Committee on State Security
- The Committee on Foreign Policy
- The Committee on Human Rights and National Minorities
- The Committee on Public Administration
- The Committee on Culture, Science, Education, Youth and the Mass Media
- The Committee on Agriculture and Food Industry
- The Committee on Social Protection, Health and Family
- The Committee on Environment and Territorial Development.

Housing matters do not have a separate committee and hence have a low priority in parliament. Most housing matters are discussed in the Committees on Economy, Industry, Budget and Finance, on Public Administration, on Social Protection, Health and Family, and on Environment and Territorial Development, making it a rather fragmented subject.

One way to increase the public and the political profile of housing would be to establish an advisory board which would meet twice a year to discuss the status of Moldovan housing, and make recommendations to parliament and the Government. The board should include a wide range of stakeholders (municipalities, ministries, private sector, homeowners' associations, academics, etc.).

Parliament has set up an administrative-territorial reform commission to look into possible local government changes.

The Government of Moldova consists of the Prime Minister and 15 other ministers and the following ministries:

- The Ministry of Economy,
- The Ministry of Agriculture and Food Industry,
- The Ministry of Industry,
- The Ministry of Transport and Communication,
- The Ministry of Energy,
- The Ministry of Finance,
- The Ministry of Education,
- The Ministry of Culture,
- The Ministry of Health Protection,
- **The Ministry of Environment, Construction and Territorial Development**
- The Ministry of Labour and Social Protection,
- The Ministry of Foreign Affairs,
- The Ministry of Justice,
- The Ministry of Internal Affairs,
- The Ministry of Defence.

*The Ministry of Environment, Construction and Territorial Development*

The Ministry of Environment, Construction and Territorial Development is responsible for the housing sector, although other ministries are also involved. The Ministries of Economy, of Finance, of Labour and Social Protection, of Justice, as well as the Departments of Privatization, and of Statistics and Sociology, the National Agency for Geodesy, Cartography and Cadastre and the

National Bank of Moldova are also involved in national housing matters. The organizational structure of the Ministry of Environment, Construction and Territorial Development is shown in figure XVI. Housing activities are dealt with in the **General Division for Housing**. This Division is responsible mainly for the implementation of the “National Housing Concept” and the “Housing and Real Estate Market Strategy”, and the development and implementation of State housing programmes.

The current priorities in the implementation of State programmes are:

- Maintenance of the housing stock;
- Modernization of the housing stock, where possible;
- New housing construction by attracting funding from the general population.

In accordance with these priorities, the key tasks are:

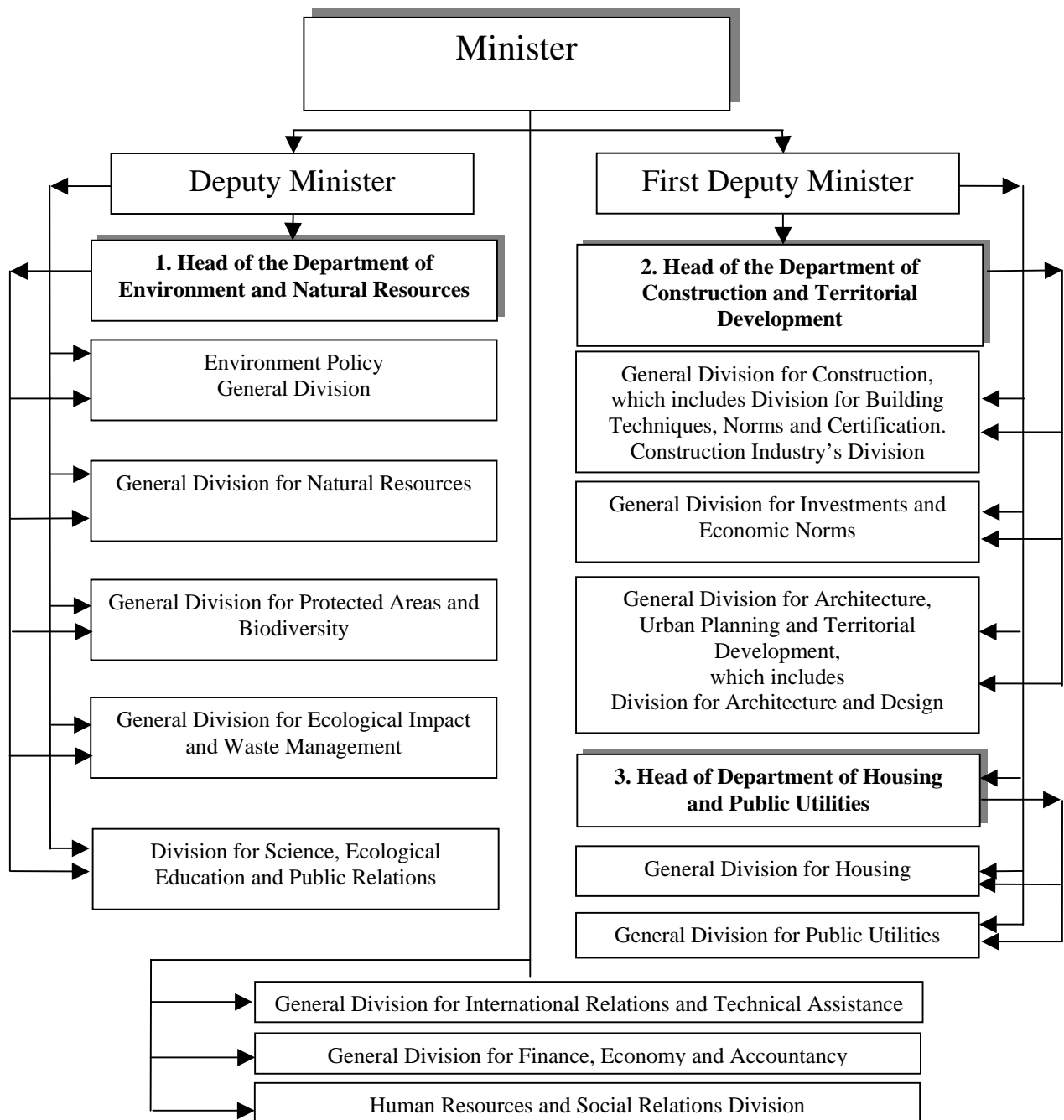
- Developing and implementing State policy and strategy in the housing sector;
- Implementing economic and organizational reforms in the housing sector;
- Developing and implementing State policy in the administration of housing;
- Participating in the development of an investment policy for the housing sector;
- Creating the institutional framework for the housing sector;
- Drawing up draft legislation for the housing sector;
- Creating the environment for a flourishing real-estate market;

- In conjunction with local authorities, coordinating and monitoring the establishment of homeowners' associations;
- Developing proposals for improving housing sector organizations;
- Cooperating with local authorities in developing local housing programmes;
- Cooperating with the Ministry of Economy in developing subsidy instruments for vulnerable categories of the population especially with regard to housing maintenance;
- Creating a housing statistics database of information not included in current official statistics;
- Organizing national and regional workshops, seminars, conferences on the problems of the housing sector;
- International cooperation.

The General Division for Housing is responsible for overall policy-making, while cities, counties and municipalities have a duty to implement Government policy.

The Division for Housing has a staff of six persons, including the head of the Division. There is a disparity between the size of the staff and the volume of the tasks. There is therefore also a gap between approved policies and their implementation, for example, legislation provides for mandatory membership of homeowners' associations but only 600 associations have been established.

**Figure XVIII. Organizational Structure of the Ministry of Environment and Territorial Development, 2001 (after reorganization)**



**List of institutions and enterprises which are subordinated to the Ministry of Environment, Construction and Territorial Development**

- 6 State inspection and control institutes
- 9 Research and design institutes
- 7 Enterprises
- 2 Teaching centres
- 7 Service enterprises
- 21 Joint-stock companies (with shares in State hands)

The Division has to be strengthened if more comprehensive improvements in the housing stock and in the housing sector are to be made. The Division needs:

- A planning section
- A legal section
- A social housing and renting section
- A private ownership section
- A maintenance section.

The staff needs to be increased accordingly.

Because of the slow implementation of national housing policies, the General Division for Housing should take over responsibility for implementation, and establish an implementation body to ensure that government policy is delivered on the ground. The body may be organized as a national housing agency or as local divisions in the county administration. In either case both local operating units and a central planning office will be essential. The initial tasks of this body should be to:

- Organize the establishment of homeowners' associations
- Set up a social housing safety net
- Work with the financial sector to create new market funding mechanisms.

Given the savings that can be achieved by energy-efficiency measures in the building stock, it would be useful to combine the above-mentioned implementation bodies with regional or local energy advice centres.

A new national housing agency should take over some of the functions of the Department of Privatization. This transfer of responsibility and tasks is a natural part of the transition. The General Division for Housing

should be responsible for the entire housing stock after privatization. The national housing agency should work very closely with local authorities.

Within the Ministry a satisfactory housing policy cannot be developed or implemented without close cooperation between the General Division for Housing and the Department of Construction and Territorial Development. The Division of Architecture and Design is particularly relevant. Rigorous building norms and regulations are essential to deal with the housing that is in very poor condition. Moldova's 80 construction inspectors will play an important role in achieving this and in completing the unfinished apartment blocks.

The long-term housing perspective demands that both the General Division for Housing and the Division for Urban Planning and Territorial Development should contribute to the sustainable development of new settlements.

In the transition process, the Ministry has gained from the analysis and the research of State research institutes. Often foreign capital has been involved. The National Centre for Research and Building Norms (CERCON), and the National Research and Design Institute (Urbanproject) have been influential. It is important for such research to continue even though State funding is very limited. Research institutes can be important participants in the evaluation of pilot projects to determine the most efficient technologies. These institutes will also be central to the collection of experience from similar projects in other countries in transition.

#### ***Other State institutions***

The activities of other ministries play an important role in the development of the housing sector and of housing policy:

**The Ministry of Economy**, which is responsible for examining and presenting investment proposals (including for housing construction), for analysing the different sectors of the national economy (including housing construction and public utilities), for developing State strategies and programmes on energy conservation and subsidies to vulnerable groups of people and to producers of heating and hot water;

**The Ministry of Finance**, which is responsible for the State budget, for taxation and for financial policy instruments;

**The Ministry of Labour and Social Protection**, which is responsible for the benefit system;

**The Department of Privatization**, which is responsible for privatizing the housing stock and enabling homeowners' associations to be formed;

**The National Agency for Energy Management**, which is responsible for preparing a methodology for setting tariffs for water, heating and energy consumption and then for controlling its implementation.

**The National Agency for Geodesy, Cartography and Cadastre** is the key institution for the implementation of the cadastre project with financial assistance from the World Bank. Its work is crucial to the drive to regularize the housing market by registering secure title for property owners. Most agricultural registrations are completed and the registration of urban properties is under way. All changes of ownership are registered. The Agency has 26 local branches. The next phases of its programme should include the computerization and mandatory recording of transaction values.

### *The prefects*

The prefects are the local representatives of the Government and administrators of the decentralized public services of the ministries, departments and other specialized central authorities. The Government appoints a prefect for each county, for each autonomous territorial unit and for the Municipality of Chisinau. The prefect resigns when the government that appointed him resigns.

The prefect's main responsibilities are:

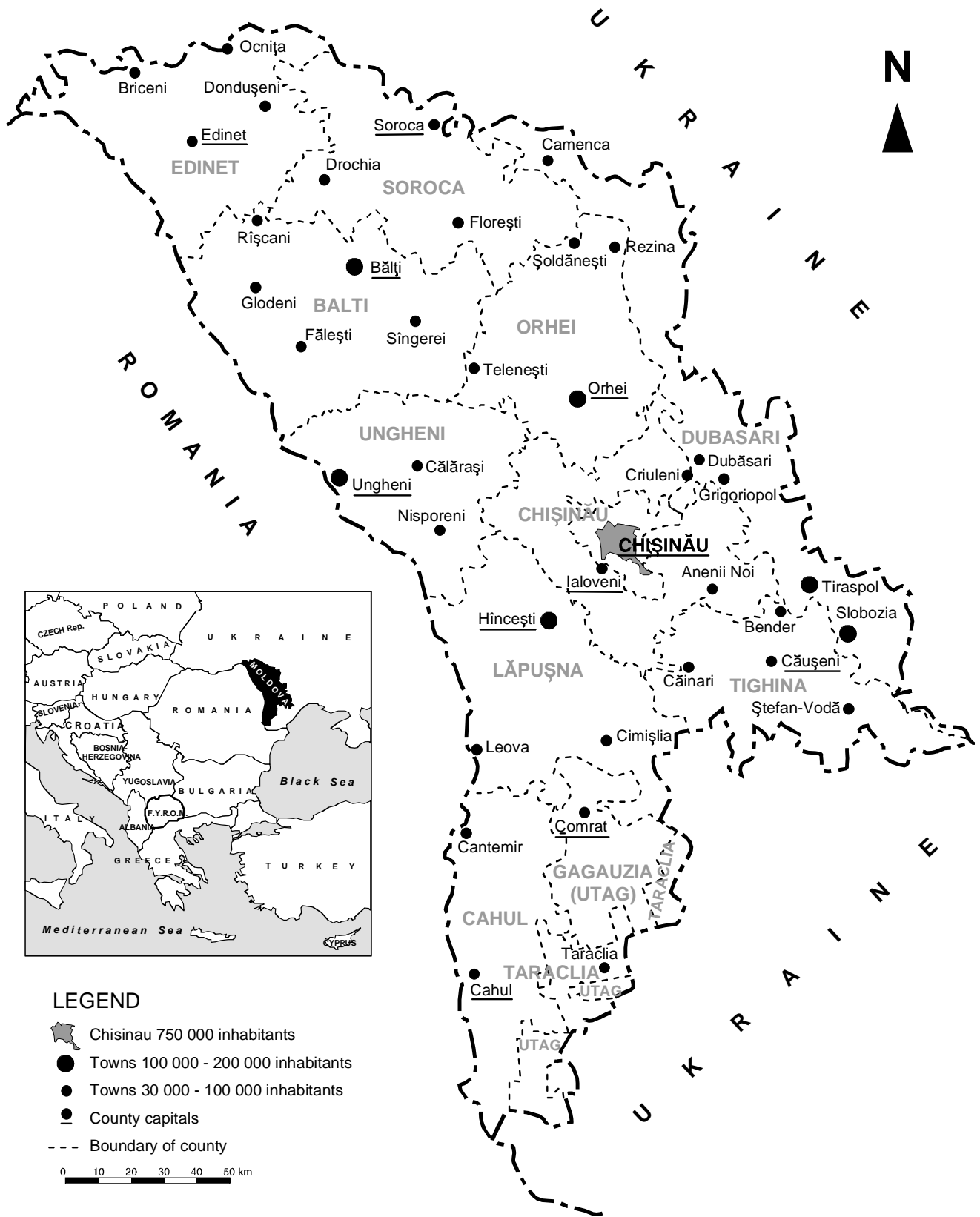
- To ensure that local authorities operate within the law;
- To act as principal loans accountant (in accordance with Law no. 298-XV from 22 June 2001);
- To prepare a budget forecast and present it to the county council for adoption (in accordance with the above-mentioned law);
- To check the legality of decisions adopted by local authorities;
- To present reports on the economic, cultural, social and administrative situation of the county to the Government.

### **B. Regional and municipal structure**

Under the central government, the Republic of Moldova is divided administratively into 10 counties, the capital Chisinau and two territorial units, Dubasari (Transnistria) and Gagauzia.

Each county is divided into cities, municipalities and villages. Table 16 shows the distribution and structure of the settlements and the number of administrative bodies.

Figure XIX. Administrative map of the Republic of Moldova



*The boundaries shown at this map do not imply the official endorsement or acceptance by the United Nations.*

**Table 15. Administrative units**

Counties	Municipalities	Towns	Villages	Total settlements
Balti	1	6	104	243
Cahul	1	1	70	119
Chisinau		5	103	155
Edinet	1	7	97	165
Lapusna	1	4	90	149
Orhei	1	3	96	174
Soroca	1	4	106	191
Ungheni	1	3	83	163
Taraclia	1	-	10	13
Tighina	2	2	60	93
Dubasari (Transnistria)	3	7	69	147
Administrative Territorial Unit Gagauzia	1	2	23	32
<i>Municipality of Chisinau</i>	<i>1</i>	<i>8</i>	<i>14</i>	<i>37</i>
<b>Total</b>	<b>15</b>	<b>52</b>	<b>925</b>	<b>1681</b>

The functions of municipalities and villages include:

- Territorial planning, urban planning, management of the settlement and its administrative territory;
- Building and maintaining roads, streets, bridges and public spaces;
- Constructing and operating water-supply, sewerage, water-treatment and sanitation systems, and sites for depositing and processing household waste;
- Building and maintaining housing stock.

Furthermore, the counties and the Municipality of Chisinau are responsible for:

- The socio-economic development of their territory;
- Environmental protection.
- 

The public administration in villages consists of the council, which takes decisions as a deliberative authority, and the mayor, who is the executive authority.

### ***Municipal enterprises***

One of the main tasks of local government is to ensure the proper functioning of public services such as water supply, sewerage, etc. Another important task is the management and maintenance of the remaining publicly owned housing stock. These functions are organized in public companies or enterprises. The municipal councils approve the tariffs, which are expected to cover the cost of these operations, including the maintenance of privately owned housing.

The major problem for the maintenance companies is their poor financial foundation. They do not receive payments from all their customers, which makes it impossible for them to carry out the planned and necessary activities. Secondly, the lack of payment is tantamount to a system of cross-subsidizing. The owners and the tenants who do pay their bills are paying for the services used by the non-paying group of owners and tenants. This system implies a lot of hidden and uncontrolled subsidies in the housing sector (non-government determined subsidies).

Another serious problem is that the fees charged are too low to provide effective maintenance and so preserve the building and avoid depreciation. The highest priority is given to emergency maintenance followed by minor repairs; the lowest priority to renovation programmes. Even though every building is a

separate property owned by the apartments owners, no separate accounts are kept. No reports specify whether or not each building has a surplus or a deficit, so there is another kind of cross-subsidy: residents in one building are paying for work carried out in other buildings.

The introduction in 2000 of nine specific social groups that are entitled to subsidies from the Government is one step towards reducing cross-subsidy. Nevertheless, many people outside the nine groups do not pay for utilities and services.

Consequently, there is a mix of maintenance and social security involved in the operation of municipal maintenance companies, which leads to ineffective management and maintenance. Herein lies "the prisoner's dilemma". People who can pay do not pay because others do not pay either. A vicious circle is created.

The municipal maintenance companies were established to undertake maintenance and servicing of the municipal (publicly owned) dwelling stock. Even though the dwelling stock has been privatized, the companies still provide services to the homeowners. The continuation of these unreformed companies presents certain distinct problems:

- There is no competition between the different municipal maintenance companies. Each company operates as a monopoly within its own municipality. Efficient companies cannot expand their business and inefficient companies have no incentive to improve.
- There is also a lack of competition inside the maintenance sector despite the fact that private owners have the right to establish associations. The development of private homeowners' associations is inhibited since any new ones are required to take over the debts owed to the municipal service companies from that block of apartments (see chap. II). This is one of the reasons why only 600-odd associations have been established and so few private maintenance companies are seen on the market. Without a significant number of truly autonomous PHOAs, private enterprises will not enter this business.

- There is a need for an independent inspection unit for the maintenance service provided to private homeowners.

As long as there is a link between the municipality and the municipal maintenance companies there is a great risk that the municipalities will continue to use the companies to discharge their social housing obligations. This is inappropriate in Moldova's circumstances where the top priority is to ensure that maintenance work is being properly undertaken.

- It is unlikely that significant public funds will be made available in the next few years to help improve the efficiency of municipal maintenance companies. It is therefore imperative that private funds and expertise be attracted into the maintenance sector.
- It appears that the operations of the maintenance companies are based on cash flow and not on traditional economic principles.

The key to resolving this complexity of problems is to separate municipal maintenance companies from municipal ownership. This can be achieved through whole or partial privatization. At the same time limitations on the operation and management of such companies should be removed so as to facilitate competition and the input of private finance.

### **C. Private-sector institutions**

The recent development of other real estate and market infrastructure elements has helped boost the number of housing transactions. Professional real-estate companies have started to offer their services to clients involved in housing transactions. At present the largest of such companies process some 10-12 housing deals per month. The National Real Estate Chamber was created in the form of an NGO and it has started to provide legal assistance for real-estate sales.

There are also licensed valuers and the law regulates their activity. The National Agency for Geodesy, Cartography and Cadastre is responsible for issuing licences for valuers. The valuation of a dwelling costs 100-200 lei and valuation should be done within a month of application. The National Association of Evaluation has been created to support the development of a real-estate valuation profession.

But there are various institutional gaps in the development of a sustainable housing

market. For example, there is no adequate and accepted basis for professional property valuation and the market value is rarely used in real-estate transactions. In addition, current licensing procedures for real-estate brokers do not extend to their activities outside privatization transactions. As for land, there is no systematic information base for recording, analysing and disseminating data on property prices, plot availability, building material choice and availability and other aspects of the property market.

**Figure XX. Main private-sector institutional structures influencing the housing sector**

<i>Employers' and producers' organizations</i>	<i>Professional organizations</i>	<i>Consumers' organizations</i>
National Managers' and Professionals' Association for Construction	National Society of Architects	National Union of Homeowners' Associations (60 members from different cities)
National Managers' and Professionals' Association for Public Utilities and Housing Maintenance	National Real Estate Chamber	The Chisinau Municipal Council (about 58 members) of Homeowners' Associations
1274 construction, designing and building materials companies (2001)	National Association of Evaluation	578 homeowners' associations and 243 individual housing cooperatives
National Association of Water Suppliers (Moldova Apa Canal) (35 members)		
127 enterprises for public utilities		

### ***Financial institutions and the construction industry***

For financial institutions see chapter V (Financial Framework).

For construction industry, see chapter II (Existing Housing Stock and New Housing Construction).

### **D. Private homeowners' organizational structure**

#### ***Private homeowners' associations***

In a country where more than 90% of the dwelling stock is privatized and 25% of the

housing stock is in apartment blocks, one of the most important organizations is the private homeowners' association (PHOA). All activities related to the management and maintenance of apartment blocks should be anchored in such organizations. Indeed, the new Law on Housing Condominiums requires a PHOA to be set up for each apartment block for this purpose.

In the free market economy, power rests with individual property owners. However, using that power effectively means working with neighbouring homeowners to:

- Organize effective management of the apartment block;

- Organize maintenance, major repairs and refurbishment when required;
- Arrange long-term finance for building works;
- Get the best value-for-money building contracts, and energy deals;
- Ensure quality maintenance and other services;
- Organize the management of common property in the building as well as the plot of land;
- Attract equity capital from the owners.

A democratic way to set up an institution to take care of these tasks is to establish an association of the owners in the building. The owners are jointly responsible for the operation (and the safety) of the building and they must jointly bear the financial burden. In the case of partial municipal ownership, the municipality has to join the association. It is unlikely that much improvement in the standard of apartment blocks will be possible without PHOAs taking on this vital role.

It is therefore in the Government's interests to facilitate the establishment of PHOAs. So far only 1000 exist (including cooperatives). It will be necessary to remove the various obstacles to establishing and operating PHOAs, including finding more equitable ways to deal with existing debt. The local authorities, the municipality and the municipal supply and maintenance companies will benefit from the establishment of PHOAs because of the consequent clarification of responsibilities in each privatized multi-apartment building. Through cooperation with the associations and by providing the necessary information and data about the building, local authorities can contribute to a successful start-up for PHOA operations.

Transparency in the provision of condominium services requires one PHOA for each apartment block. Owners must be able to see how their money is being used to better their housing conditions. At present, some PHOAs have been established covering a number of apartment blocks and some of them have a membership of over 12,000. In these structures, little transparency is possible, owners feel disconnected from real decision-making and the

overall effect is largely to replicate the existing municipal maintenance company arrangements.

However, the management of large apartment blocks with significant technical problems requires skilled professionals. This may be achieved in a number of ways, for example by forming a "group" (or unions according to the Law on Housing Condominiums) with other PHOAs to share professional staff and encourage economies of scale, always remembering that authority rests with the owners in each block.

Alternatively, it is likely that private companies offering professional condominium management services will spring up in the market place. PHOAs will in effect have a choice in how they procure their management and maintenance services.

A number of PHOAs rely on self-help to undertake cost-effective maintenance. Others use the few new private building contractors and many still use the municipal maintenance companies. Choice in procuring building work is to be encouraged so long as the PHOA remains in control and is able to switch contractors in order to get better results. Today the associations and their boards do not have such experience and skills. Education in contracting for the board members and managers of the associations will facilitate sound decision-taking. The dissemination of best practice will also be helpful to fledgling PHOAs.

These modern institutional structures will gradually transfer responsibilities from local authorities and municipal maintenance companies to the homeowners. A considerable number of jobs will be created in condominium management and in private building and maintenance companies. The aggregate annual turnover of management and routine maintenance in multi-family buildings will be in excess of \$100 million.

Such a scale of enterprise, on which around a quarter of the population depends for the provision of satisfactory housing conditions, will require State regulation. Regulation should be aimed at providing individual homeowners with the right to decision-making in the PHOA, to information about the management of the condominium, and to redress should things go wrong. Of equal importance will be the development of good practice guidelines and training in the operation of a PHOA.

### ***National Union of Private Homeowners' Associations***

The National Union of Homeowners' Associations was established two years ago and today has fewer than 60 members. The activity level is very low because of the lack of funding, which is why the PHOAs from Chisinau associated with the Chisinau Municipal Council of Homeowners' Associations (58 members). A strong and powerful association could be an important participant in the further development of the housing sector. The National Union of PHOAs has to be strengthened if it is to fulfil its aims:

- Education
- Legal service
- Political lobbying
- Other advisory services

An increasing number of PHOAs will boost membership of the National Union of Private Homeowners' Associations.

### ***Association of cooperatives***

A small part of the privatized dwelling stock is organized as cooperatives. These represent 3% of the total dwelling stock. It means that close to 300 cooperatives manage approximately 40,000 dwellings and 2 million m<sup>2</sup>.

In the national context cooperatives play only a minor role in the development of the housing stock, even though more than 100,000 people live in those dwellings, but they could well become a target for pilot projects in maintenance and in reconstruction because of their clear ownership structure.

At present, there is no association of cooperatives. This could be recommended since conditions for cooperatives are different from those of conventional homeowners' associations.

### ***Tenants' organizations***

Tenants in Moldova are generally people who either cannot afford to buy their own apartment or do not want to own property. Many have a low income. There appear to be no organizations exclusively representing their interests. Tenants in apartment blocks with a mixture of homeowners and tenants should be represented in the PHOA by the local authority as owner, in accordance with the Law on Housing Condominiums. A separate tenants' organization is preferable.

In due course, some people will choose to rent instead of owning. This new tenant group will be a strong group of people living in new residential buildings owned by private landlords.

In general, it is likely that for the time being tenants' organizations will play but a minor role in the Republic of Moldova's housing sector.

