

OPTIMIZATION OF THE JUDICIAL MAP AND PROSECUTION SERVICE

How to ensure a balanced workload for judges?

Nadejda HRIPTIEVSCHI

Courts with a low number of judges are expensive in their maintenance and do not ensure an adequate environment for professional development of judges. Out of the 44 district courts of the Republic of Moldova, 29 have less than 7 judges. The workload of judges in different courts varies by several times. For instance, in 2012 the annual number of cases per judge varied between 24 and 1,145.

In February 2014, LRCM launched the [Study on Optimization of the Judicial Map in the Republic of Moldova](#). This study does not recommend a reduction or increase of the number of judge positions, but rather reallocation of the existing 504 positions. It recommends to rethink the judicial map by merging and liquidating a number of district courts and appeal courts in order to increase the quality of justice and efficient administration of public funds.

The study suggests three scenarios of merging district courts, based on the minimum number of judges per court: 5, 7 or 9. Depending on the chosen scenario, between 10 and 25 district courts are to be merged. Due to a reduced workload, it is recommended to liquidate specialized courts (military and commercial courts). The study also recommends to create 3 appeal courts for the southern, central and northern regions or to modify the territorial competence of the five appeal courts existing as of February 2014.

Liquidation of the Bender Court of Appeal – the first step in optimization of the judicial map?

Nadejda HRIPTIEVSCHI

By the [Law no. 177, of 25 July 2014](#), adopted under the responsibility of the Government, Bender Court of Appeals was liquidated, with the transfer of its territorial competence to Chişinău Court of Appeals. The main argument for the liquidation invoked by the authorities was the reduced workload of that court. Mass media mentioned also other [reasons for the liquidation](#).

Although the liquidation of Bender Court of Appeals is justified from the point of view of the workload, the Law no. 177 contains certain drawbacks that could negatively affect the process of examination of cases received by this court before its liquidation, as well as the independence of justice. The draft does not provide for the transfer of judges from the liquidated court to the Chişinău Court of Appeals, leaving it up to the Superior Council of Magistracy (SCM). This omission creates the impression that,

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in fact, the liquidation of the Bender Court of Appeals basically aimed at exclusion from the system of the judges of this court.

Another problematic aspect is related to the moment of liquidation of Bender Court of Appeals, which, according to the Law no. 177, is the date of the publishing of the said law. The sudden transfer of cases will require starting their new examination by Chişinău Court of Appeals. This could create a state of uncertainty and chaos among the parties involved in these cases, inconveniences

Should judges specialize?

Nadejda HRIPTIEVSCHI

Specialization of judges may result in better quality of court decisions. Yet, it may lead to sectionalism and corruption. Previous attempts of specialization of judges in the Republic of Moldova have not been particularly successful.

In February 2014, LRCM launched the [Study on specialization of judges in the Republic of Moldova](#). It suggests specialization of judges of district courts in criminal and civil panels, similar to the specialization in appeal courts and the Supreme Court of Justice (SCJ). In order to ensure random distribution of cases, such specialization may be introduced only if the number of judges in the court exceeds 6. The study also recommends specialization of judicial assistants and informal specialization of judges.

Reform the prosecution service

Vladislav GRIBINCEA

The prosecution service of the Republic of Moldova strongly resembles a soviet-type prosecution, having large competence and vaguely described in the law and a significant hierarchic subordination. Previous attempts to reform the prosecution service have not led to a considerable improvement of its reputation or the quality of prosecutors' work. On the other hand, there are many prosecution offices in the country with a low number of prosecutors and staff assisting the prosecutors, which does not ensure an adequate environment for professional development of prosecutors.

In June 2014, LRCM launched [The Study on Optimization of the Structure of the Prosecution Service and Workload of Prosecutors in the Republic of Moldova](#). The Study recommends to reduce the hierarchical subordination within the prosecution service and to radically change the role and structure of the General Prosecutor's Office by focusing its activity on administration of the system and setting policies for the prosecution service. It is recommended to strengthen the capacity of the Anti-corruption Prosecution Office, liquidation or radical revision of the powers of the Prosecution Office of the Municipality of Chişinău and liquidation of the military and transport prosecution offices, as

that would only reduce the popularity of the justice reform and the trust in judges and politicians.

Liquidation of Bender Court of Appeals represents only an initial step in order to solve the uneven workload among appeal courts. Judges of Chişinău Court of Appeals will continue having a much greater workload in comparison to judges of other courts of appeal, which may negatively affect the quality of the work of that court.

The authors of the study have established that in the Republic of Moldova there is no sufficient number of cases to justify creation of administrative courts. At the same time, the study recommends specialization of judges in the administrative law in courts that have a large number of such cases.

The study recommends measures for increasing the efficiency of courts, such as: exclusion from the competence of courts of several types of cases that can be conveyed to other authorities; establishing a uniform practice at the level of appeal courts; stricter measures for ensuring due conduct of the parties; summoning via electronic mail or simplification of the manner of keeping minutes of court hearings.

well as the prosecution offices at the level of appeal courts. It is also absolutely necessary to increase the number of personnel who assist prosecutors. The study does not contain exact recommendations in this sense, although a 50% increase seems to be reasonable.

On 3 July 2014, following several attempts, the Parliament adopted the Concept of Reform of the Prosecution Service drafted back in the autumn of 2013 which contains many proposals from the [Study by LRCM](#). The Concept suggests limiting the powers of the prosecution service, consolidating the independence of prosecutors, strengthening the role of the bodies of self-administration of prosecutors, improving the procedures of appointing, evaluation and accountability of prosecutors etc.

The Concept adopted by the Parliament does not amend the legislation, it is rather a road map for the amendment of the legal framework. The draft of the new legislation prepared in 2013 for purposes of implementation of the Concept is still pending discussions in the Parliament. It is highly unlikely that the Parliament can manage to adopt the legislation on the prosecution service reform until the end of 2014.

ACCOUNTABILITY OF JUDGES

The new Law on the disciplinary liability of judges – progress or regress?

Nadejda HRIPTIEVSCHI

On 21 July 2014, the Government has assumed the responsibility for the [Law on the Disciplinary Liability of Judges](#), which will enter into force as of 1 January 2015. The Law contains provisions meant to improve the mechanism of judges' accountability, such as: the list of disciplinary violations has been improved and the effects of disciplinary sanctions have been clearer regulated; the limitation period for disciplinary accountability has been extended from 1 year/6 months to 2 years. The composition of the Disciplinary Board has been changed, reducing the number of its members from 10 to 9, with 5 judges and 4 representatives of civil society, the latter being elected on the basis of a public competition. Moreover, the procedure of validating the decisions of the Disciplinary Board by the SCM has been abolished. This will strengthen the role of the Disciplinary Board and will introduce a better clarity in the disciplinary procedure.

At the same time, the new law has certain drawbacks that could substantially reduce the efficiency of the system of disciplinary liability of judges. The law reserves a minimal role for the Judicial Inspection, which is only competent to examine complaints and to

return or reject the ones that do not meet the formal requirements. Initiation of disciplinary procedure is put in charge of a panel of three members of the Disciplinary Board. Later, the same members will examine the disciplinary case. The disciplinary case is not presented before the Board by the Judicial Inspection, but by a member of the Disciplinary Board. This affects the adversarial nature of the proceedings before the Board and casts doubt on the impartiality of the entire Board. The decisions of the Disciplinary Board can be challenged before the SCM, while the decisions of the latter can be challenged directly before the SCJ, but only regarding the procedure of their adoption and issuing. The impossibility of the SCJ to examine the essence of the disciplinary case raises questions when it comes to the access to justice.

In January 2014, the Minister of Justice requested the opinion of the Venice Commission on this law. In March 2014, [The Venice Commission and ODIHR formulated recommendations](#) for improvement of this law, yet none of those recommendations was accepted.

Reduction of the immunity of judges

Pavel GRECU

Judges in the Republic of Moldova cannot be criminally prosecuted, apprehended, arrested or searched without the consent of the SCM. According to prosecutors and the Ministry of Justice, this hinders the fight against corruption among judges. On 5 July 2012, the Parliament adopted legislation which allowed criminal prosecution and criminal accountability of judges without the consent of the SCM, but only at the initiative of the General Prosecutor and only on the suspicion of passive corruption and traffic of influence. The SCJ challenged this legislation in the Constitutional Court.

On 5 September 2013, [the Constitutional Court declared the constitutionality](#) of these provisions, except for the legislation

that allowed apprehension, forced bringing, arrest and search of a judge without the implication of the General Prosecutor. For purposes of observing the decision of the Constitutional Court, on 16 July 2014, the [Government suggested to the Parliament](#) that the coercive measures against judges be applied only upon the consent of the General Prosecutor or the First Deputy of the General Prosecutor. Moreover, the list of crimes for which there is no need for the consent of the SCM has been supplemented with money laundering and illicit enrichment. As a result of assuming of the responsibility by the Government, on 21 July 2014, this initiative became law, which entered into force on 8 August 2014.

First judges convicted for corruption

Pavel GRECU

After more than 10 years, during which no judge has been convicted for corruption, in 2014, two judges were found guilty of corruption. On 8 April 2014, the judge [Gheorghe POPA](#) was convicted by the district court to seven years of imprisonment and a fine of MDL 160,000 for a bribe of 200 dollars. On 26 June 2014, the judge [Elena ROIBU](#) was convicted by the district court to eight years of imprisonment and a fine of MDL 40,000 for a

bribe of EUR 2,000. Before the judgment was pronounced, Mrs. Roibu had disappeared from the courtroom and is currently on a wanted list.

In contrast to the two cases mentioned above, on 9 April 2014, the judge [Nicolae NOGAI](#), accused of delivering a judgment that did not comply with the law which led to alienation of shares

of the biggest Moldovan bank, has been acquitted by the district court. The case of Mr. Nogai – a judge at the Bender Court of Appeals – was tried at the Căușeni Court, which is under the jurisdiction of the Bender Court of Appeals.

The cases of two other judges have been conveyed to courts for examination. In May 2014, a second case against the judge

[Dorin COVALI](#) was conveyed to court. In the first case which was conveyed to court in 2013, this judge is charged with passive corruption and in the second case he is charged with knowingly delivering an illegal judgment. On 8 August 2014, a criminal case against the Chairman of the Glodeni Court [Ion CAZACU](#) was conveyed to court. This judge is accused of having received a bribe in the amount of 10 thousand lei in April 2014.

SCM and SCJ – institutions with divergent opinions or a tandem?

Pavel GRECU

Since August 2012, SCJ has been examining appeals against decisions of the SCM, yet only regarding the procedure of their issuance/adoption. Up until present, the SCJ has delivered 17 judgments on such appeals, out of which only on one occasion it annulled the decision of SCM.

On 12 June 2014, [the SCJ cancelled the decision](#) of the SCM by which the latter consented on initiation of criminal investigation against the judges Eugeniu CLIM, Aureliu COLENCU, Valeriu HARMANIUC and Ala NOGAI. These judges are suspected of knowingly delivering an illegal judgment, tolerating illegal actions of a first instance court and dubious application of several sequestrators. The SCJ cancelled the decision of the SCM on the grounds that in the minutes of the SCM meeting it was

not indicated that the General Prosecutor had not participated in adoption of the decision and that another member of SCM had participated at the adoption of the judgment, as well as on the ground that the SCM did not audio record its meeting, although was obliged to do so according to the law.

In other cases the SCJ did not accept the annulment of the SCM decisions when the procedure of their issuance/adoption seemed to be deficient. In the cases of judges [Svetlana GARȘTEA-BRIA](#) and [Viorica PUICA](#) the SCJ did not react at all to the argument of the appellants regarding the inadmissibility of participation, due to partiality, of a SCM member in adoption of decisions. The SCJ has qualified the impartiality as a matter of opportunity, although it is an integral part of a fair trial.

SOCIAL GUARANTEES OF JUDGES

New salaries for judges

Sorina MACRINICI

Prior to 1 January 2014, salaries of Moldovan judges were the lowest among member states of the Council of Europe. On 23 December 2013, the [Law on Remuneration of Judges](#) was adopted, in force as of 1 January 2014. It radically changes the manner of calculation of judges' salaries.

The new law provides that the salaries of judges are correlated to the amount of average salary in economy which is annually established by the Government (MDL 4,225 in 2014). According to the new law, salaries of judges in district courts vary between 3 and 3.5 average salaries in economy established by the Government, salaries of judges in Appeal Courts – between 4 and 4.3 average salaries in economy, salaries of judges in the Supreme Court of Justice – between 4.8 and 5 average salaries in economy, salaries of judges in the Constitutional Court – 5 average salaries in economy. The law also provides for a supplement for chairpersons of courts and their deputies.

The Parliament has established a gradual increase of salaries, these being payable in the amount of 80% between 1 January 2014 and 1 April 2015; and in the amount of 90% – between 1 April 2015 and 1

April 2016. Starting with 1 April 2016, the salaries will be paid in full amount. As a result, on 1 January 2014, salaries of judges increased with more than 100%. Thus, on 1 January 2014, the salary of a beginner judge exceeded the salary of the President of the country.

Between 1 January 2014 and 1 April 2015 the judges will have the following salaries:

- (1) judges in district courts – between MDL 10,140 and MDL 11,830 + a supplement of 5% for deputy chairpersons and 10% for chairpersons of district courts;
- (2) judges in Appeal Courts – between MDL 13,520 and MDL 14,534 + a supplement of 10% for deputy chairpersons and 15% for chairpersons of Appeal Courts;
- (3) judges in the SCJ – between MDL 16,224 and MDL 16,900 + a supplement of 10% for deputy chairpersons of boards, 15% for deputy chairpersons of the SCJ, and 20% for the chairperson of the SCJ;
- (4) chairperson of the SCM – MDL 16,900 + a supplement of 20%;
- (5) judges in the Constitutional Court – MDL 16,900;

(6) the chairperson of the Constitutional Court – MDL 16,900 + a supplement of 20%.

The increase of judges' salaries is welcomed. At the same time, the right to receive other payments than the salary, such as material assistance and bonuses, seems to be excessive. Besides

salaries, judges annually obligatorily receive a material assistance in the amount of one monthly salary. Judges may also receive bonuses. The total amount of such bonuses cannot exceed the amount of one monthly salary of the respective judge. Judges who were submitted to disciplinary sanctions cannot receive bonuses during the respective year.

What happened to pensions and allowances of judges?

Sorina MACRINICI

Until 2013, judges had small salaries, but benefited from considerable pensions and allowances. Upon reaching the age of 50 the judge used to be entitled to receive a special pension of an amount between 55% to 80% of a monthly medium salary of an in office judge, which was to be paid regardless of whether the judge retired or not. Moreover, the mentioned pension was to be re-calculated in case of increase of judges' salaries. At the same time, the [Law on the Status of Judge](#) also provided for the right of judges to a lump sum equal to their monthly medium salary multiplied by the number of years worked as a judge.

The [Law on the Remuneration of Judges](#) considerably increased the salaries of judges starting with 1 January 2014, but it did not amend the norms regarding judges' pensions and lump sums.

On 4 April 2014, the Parliament adopted the [Law no. 60](#), in force as of 16 May 2014. This law had the purpose of adjusting the social guarantees of judges in the light of a considerable increase of their salaries. The law maintains many of the benefits for judges and reduces others. In office judges who were already receiving pensions at the date of entry into force of the law, shall continue to receive both the salary and the pension, unlike judges who will reach the retirement age after the entry into force of the law. The latter will receive the pension only upon release from their position of judge. On 1 May 2014 a SCJ judge with a general length of service of 30 years and at least 12.5 in the position of judge earned a monthly salary and a pension of over MDL 29,000.

The Law no. 60 maintains automatic recalculation of the pension along with the increase of judges' salaries. The draft law which

proposed the indexation of judges' pensions similarly to the rest of the pensioners, as established by Law no. 156 on State social insurance pensions, 14 October 1998, was dismissed by the Parliament. Taking into account the fact that the judges' salary is being calculated depending on the country's forecasted salary, annually set by the Government, the pensions will also have to be recalculated annually. After the substantial increase of judges' salaries at the beginning of 2014, the pension of the judges increased substantially, representing a major burden for the social insurance budget. Thus, in 2014 the amount needed to cover judges' pensions is of MDL 35.6 million, compared to MDL 18.5 million in 2013.

By the Law no. 60 judges' lump sum (equal to a monthly medium salary multiplied by the number of years worked as a judge) has been reduced by 50%. Judges knew about the initiative of reducing their lump sums. The reduction of the lump sums on 16 May 2014, after 5.5 months after the substantial increase of judges' salaries led to many judges' leaving the system prompted by the high resignation benefits, and the lump sums calculated for them exceed MDL 10 mln. Massive resignation of judges endangered the functioning of some small courts from which 2-3 judges left (ex. Briceni and Rezina courts). In this way, the activity of the Comrat Court of Appeal has been totally blocked.

It seems that the entry into force of the Law no. 60 has been delayed in order to allow all the judges who wanted to leave the system to benefit from the severance pay calculated according to the old legislation. Thus, although the law was adopted on 4 April 2014, it was promulgated by the President, former judge himself, only on 8 May 2014, and it was published in the Official Monitor on 16 May 2014.

THE REPUBLIC OF MOLDOVA AND THE EUROPEAN COURT OF HUMAN RIGHTS

The Republic of Moldova - leader in submitting applications to the ECtHR

Pavel GRECU

On 31 January 2014, LRCM made public the [analysis of the statistical data](#) on the activity of the European Court of Human Rights (ECtHR) for 2013. According to the analysis, in 2013, 1,356

applications against the Republic of Moldova were registered, which represents the highest number of Moldovan applications ever registered by ECtHR within a year. In 2013, Moldova was

on the fourth place in the top of the countries with the highest number of applications lodged per capita, with 3.81 applications per 10,000 inhabitants. In 2012, Moldova was on the sixth place.

In contrast with the previous years, Moldova is no longer among the top 10 countries at the number of pending applications (in 2012, Moldova was on the 9th place with 3,256 applications). In 2013, ECtHR examined 3,162 Moldovan applications, out of which 3,143 (99.4%) have been declared inadmissible or struck out and in 19 (0.6%) judgments have been delivered. Thus, the number of Moldovan applications declared inadmissible or struck out in 2013 increased by 65% compared with 2012, due to the ECtHR's prioritized examination of manifestly inadmissible applications.

One more filter for those wishing to complain to ECtHR?

Vladislav GRIBINCEA

On 23 April 2014, [the Ministry of Justice announced on its webpage](#) about the launching of the process of drafting the "normative framework for the creation of the national mechanism for filtering the volume of applications" filed with ECtHR. The announcement offers plenty of information on the mechanism. It mentions the development of a new normative framework while the desired mechanism should be "vested with authority of examining individual complaints which target the alleged violations of the Convention, before addressing the European Court".

LRCM tried to find out from the Governmental Agent and the Minister of Justice the models that are taken into account for the new mechanism. The received answers suggest that, for the moment, no models are being examined. The LRCM's request addressed to the Minister of Justice that the representatives of the organization be included in the working group which would draft a new mechanism received no reply, but the LRCM has been invited to "send suggestions".

The new mechanism for enforcing ECtHR judgments

Pavel GRECU

[The PACE resolution 1823\(2011\)](#) recommends the creation of parliamentary structures for monitoring the compliance of the national authorities with international commitments. According to the Strategy for the Justice Sector Reform, a mechanism for monitoring the enforcement of ECtHR judgments was to be created in the Republic of Moldova by the end of 2012. Although with delay, in the spring of 2013, a working group was created with the involvement of the Governmental Agent, Parliament, MFAEI and LRCM which aimed at working on the draft for adjusting the legislative framework according to the PACE resolution.

The working group decided to draft a new law on the Governmental Agent and a Parliament Regulation that would allow the Legal

In those 19 judgments issued in 2013 against Moldova, the ECtHR found 32 violations of the ECHR, 15 (46%) of which refer to a single article – Art. 3 (prohibition of torture). Out of those 15 violations, 3 refer to domestic violence. In 4 cases, violations of Art. 6 of the ECHR (right to a fair trial) have been found. ECtHR found 3 violations of Art. 2 of the ECHR (right to life) and 3 violations of Art. 8 of the ECHR (respect for private and family life).

Following the 273 ECtHR judgments issued against Moldova until 31 December 2013, the Government of the Republic of Moldova had to pay more than Euro 13,900,000, out of which 325,600 EURO – for those 19 judgments issued in 2013. The other about Euro 3,100,000 have been paid as a result of friendly settlements or unilateral declarations formulated by the Government.

Out of those 250 judgements issued in Moldovan cases by 31 December 2013 where the merits of the case have been definitively examined, only in 4 judgments (1.6%) the ECtHR found that the Republic of Moldova had not violated the ECHR. The majority of the ECHR violations are due to poor quality of the court judgments.

LRCM reminds that in 2004, the Parliament tried to amend the Constitution in order to introduce an individual appeal to the Constitutional Court as a filter for cases submitted before the ECtHR. On 16 December 2004, the Constitutional Court gave its consent for initiating the procedure of amending the Constitution. However, in December 2005, the initiative (no. 142, of 13 January 2005) did not accumulate the necessary number of MP's votes due to the fact that it did not clearly define the competences of the Constitutional Court in examining individual appeals.

Commission for Appointments and Immunities to monitor the enforcement of ECtHR judgments at the national level. In November 2013, both draft laws were finalized and sent to the Ministry of Justice.

The draft Law on Governmental Agent provides for the strengthening of the Governmental Agent's institutional capacities and renders him/her responsible for drafting measures for enforcing ECtHR judgments. The draft law provides that the Governmental Agent keeps a registry of the measures meant to ensure the enforcement of ECtHR judgments. It also stipulates that the Governmental Agent shall draft an annual report on the enforcement of ECtHR judgments, which, upon the Government's approval shall be sent to the Parliament.

The draft of the Parliament Regulation provides for a complex mechanism for monitoring the enforcement process. Particularly, the Legal Commission for Appointments and Immunities shall be informed by the Governmental Agent about every newly adopted ECtHR judgments against Moldova and about the measures that are to be taken. The Parliament may suggest additional general measures. The Regulation also provides that the Legal Commission for Appointments and Immunities will organize annual public debates on the enforcement of the ECtHR

judgements. It will draft an annual report in this respect that will be publicly presented in the Plenum of the Parliament.

The adoption of both documents was planned for the spring of 2014. Unfortunately, the draft Law on the Governmental Agent is still in the Ministry of Justice and the Parliament prefers to adopt the Regulation on parliamentary supervision of the enforcement of the ECtHR judgments along with the new Law on Governmental Agent.

Domestic violence - new or ignored phenomenon in Moldova?

Pavel GRECU

Domestic violence has represented and still represents a serious problem for the Republic of Moldova. The lack of interest towards the phenomenon of domestic violence has brought this problem to the ECtHR. In less than one year, ECtHR has found in 4 judgments the failure of the Republic of Moldova to protect the victims against domestic violence. These cases are [Eremia](#) (28 May 2013), [Mudric](#) (16 July 2013), [B](#) (16 July 2013) and [T.M. and C.M.](#) (28 January 2014). The most stringent problems highlighted in these decisions have been the non-enforcement of protection orders issued by courts and the superficial attitude of the authorities responsible for these cases, especially the police officers that had to enforce the orders.

The Committee of Ministers of the Council of Europe has requested the national authorities to take measures that would prevent similar violations in future. The Government of the

Republic of Moldova has informed the Committee of Ministers that Moldova has a legal framework to protect victims of domestic violence and in one of the cases ([Mudric](#)), the local authorities have manifested a proactive attitude. The Committee of Ministers has welcomed the authorities' proactive attitude and recommended them to explore the same pattern in the rest of the cases. At the same time, the Committee of Ministers mentioned that, although in the Republic of Moldova there is a legal framework for protecting victims of domestic violence, in the disputed cases, more deficiencies have been found regarding the investigation and prevention of domestic violence cases. Therefore, the Committee of Ministers requested the authorities to present information about the adopted or planned measure to be taken for the implementation of the legislation by all the relevant authorities.

REFORM OF THE OMBUDSMAN'S INSTITUTION

The new Law on people's advocate (Ombudsman)

Ion GUZUN

In 2012, the Ministry of Justice created a working group that drafted a new Law on People's Advocate. The representatives of the LRCM have participated in the meetings of the working group and formulated recommendations for improving the draft law. The draft law presented by the working group and approved by the Government incorporated the majority of the LRCM's recommendations.

Subsequently, the draft has been substantially amended by the Parliament. Thus, the public contest procedure for appointing the ombudsman has been excluded, provisions which seriously affect the independence of the ombudsman have been introduced and the competences of the ombudsman to examine certain categories of requests have been limited. On 23 December 2013, the amended draft law was voted by the Parliament and submitted to the President for promulgation.

On 24 December 2013, upon LRCM's initiative, [more than 40 non-governmental organizations requested the President to decline the promulgation of the Law](#). On 20 February 2014, the President refused to promulgate the law and returned the document to the Parliament. On 3 April 2014, the Parliament adopted [a new Law on People's Advocate \(Ombudsman\)](#), which institutes two ombudsmen instead one. This law, in force as of 9 May 2014, has serious deficiencies, among which the interdiction of the Ombudsman to examine requests lodged by disabled or requests which "discredit the state authorities". On 18 June 2014, the limitation of the Ombudsman's competences to examine the requests of the disabled [has been contested in the Constitutional Court](#) by one of the current Ombudsmen.

Election of Ombudsmen

Ion GUZUN

The mandate of 3 out of 4 current Ombudsmen expired in 2013. After the adoption of the new Law on People's Advocate, the Parliament announced a public contest for filling two positions of ombudsman.

LRCM and other more than 50 organizations [have openly supported the candidature of Mr. Ion MANOLE](#) for the position of ombudsman. The Parliamentary commission responsible for selecting the candidates advanced to the Plenum of the Parliament 4 candidates, 2 for each vacancy, including Ion

MANOLE. Following the vote in the Plenum of the Parliament on 21 July 2014, none of the candidates accumulated the necessary 52 MPs' votes in order to be appointed.

According to the law, for the next election round there shall be proposed only the candidate who has accumulated the highest number of votes in the first round. Ion MANOLE has accumulated fewer votes than his counter-candidate, Mihail COTOROBAI. By 1 September 2014, the Parliament has not organized the second election round for electing ombudsmen.

COMBATING TORTURE

Sanctions for ill-treatment and recent legislative amendments

ion GUZUN

Before 2012, the provisions of the Criminal Code on sanctioning for ill-treatment were ambiguous. By the [Law no. 252, of 8 November 2012](#), in force as of 21 December 2012, this shortcoming has been removed and the sanctions for ill-treatment have been increased. At the same time, the limitation period for prosecuting ill-treatment has been excluded. However, given the principle of non-retroactive application of the criminal law, the Law no. 252 is not applicable to the April 2009 events.

By the [Law no. 56 of 4 April 2014](#), due to populist reasons, the Parliament excluded the limitation period for prosecuting the abuses committed by state representatives during the 7 April 2009 events. On 11 April 2014, three communist MPs [contested this law at the Constitutional Court](#). The Constitutional Court admitted the complaint on 27 May 2014. The Constitutional Court judgment

has not yet been published. According to the Criminal Code, the limitation period for the actions committed in April 2009, which could have been sanctioned with the maximum imprisonment term of 5 years according to the 2009 legislation, expired in April 2014.

According to the [General Prosecutor's Office](#), following the April 2009 events, 71 criminal cases have been initiated on abuses of protesters. 28 criminal cases have been finalized and sent to court. 29 police officers have been convicted by court decisions, 34 police officers have been acquitted and against 4 police officers the cases have been dropped. Currently, 4 criminal cases involving 6 police officers are pending in first instance courts, 7 cases regarding 12 persons are pending in courts of appeals and 5 criminal cases involving 9 police officers are pending in the Supreme Court of Justice.

OTHER INFORMATION ABOUT LRCM

1. LRCM has published its Activity report for 2013. It is available in [Romanian](#) and [English](#).
2. [LRCM has launched a new web page](#), which contains easily accessible information in Romanian and English and an impressive collection of resources.
3. LRCM has drafted chapters III and XII of the Promo-LEX Report "[Human Rights in the Republic of Moldova/2012-2013 retrospective](#)".
4. In February 2014, LRCM started the implementation of the project "[Promoting equality – Strengthening the agents of change](#)", financed by the European Union Delegation in the Republic of Moldova. The timeframe of the project is two years and is being implemented in cooperation with [ECPI](#).
5. In February 2014, LRCM started the implementation of the project "[Promoting effective judicial accountability mechanisms in Moldova](#)", funded by Soros Foundation-Moldova. The timeframe of the project is one year, but is a part of a three year cooperation plan between LRCM and Soros Foundation-Moldova.
6. LRCM expanded. We are already 10. You can get familiarized with the [LRCM team](#) on our web page.

FUTURE EVENTS

1. On **18 September 2014**, LRCM will make public the Policy document on the efficiency of the mechanism of compensating the damage for violating the reasonable term.
2. On **22 September 2014** LRCM will launch the Study "Achievements and faults in reforming the Moldovan justice: 2012- July 2014".
3. On **3 October 2014** the General Assembly of Judges will take place to elect one member of the SCM, which is currently vacant.
4. The Parliament shall organize the second round for electing the ombudsmen.
5. In **October 2014** the mandate of the Constitutional Court judge Petru RAILEAN expires. The Government should fill this vacancy.

The Legal Resources Centre from Moldova is a not-for profit non-governmental organization based in Chişinău, Republic of Moldova. LRCM strives to ensure a qualitative, prompt and transparent delivery of justice and effective observance of civil and political rights in Moldova. In achieving these aims, LRCM combines policy research and advocacy in an independent and non-partisan manner.

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