

## Summary

The survey among judges, prosecutors and lawyers was conducted during October-December 2015. The document aims to find out the opinion of the main actors in the justice sector on reforming the judiciary and fighting corruption. The survey was carried out by the Centre of Sociological Investigations and Marketing Research „CBS-AXA", at the request of the Legal Resources Centre from Moldova (LRCM).

The survey was conducted in order to assess perceptions of judges, prosecutors and lawyers. They were asked about the implementation of the Justice Sector Reform Strategy (JSRS); the recent initiatives of the Centre for Reform in the Judicial System; self-administration of the judiciary, prosecution and legal profession; prosecution reform; as well as about the perception of corruption in the justice sector. The questions formulated in the questionnaire tended to identify areas of intervention in legislation, public policies and law enforcement practices. This research is the first of a kind exercise carried out at national level in the Republic of Moldova.

945 persons filled in questionnaires for the survey, which represents about 32% of the total number of judges, prosecutors and active lawyers in the country. The questionnaires were completed by 273 judges, 509 prosecutors and 163 lawyers. The survey was conducted using self-administrated questionnaires, being ensured confidentiality of responses.

**Block no. 1 of questions refers to the organization and regulation of the judiciary:** 75% of respondent judges, 50% of respondent prosecutors and 42% of respondent lawyers believe that *the justice reform launched in 2011* had a positive impact on the judiciary. These results confirm that the perception of the reform impact in the justice sector is very different among legal professions.

One of the key provisions of the JSRS refers to the *amendment of the judicial map*. The Ministry of Justice has drawn up a draft law for these purposes. This draft law proposes merging the courts to get a number of at least 9 judges per court. Asked about this draft law, 39% of judges agreed, 45% were against, 14% were neutral and 2% have no opinion. This position could be explained by lack of support for this initiative by judges from small courts that are to merge if optimization occurs. Thus, only 18% of judges working in courts with less than 5 judges opted for optimization of the judicial map, compared to 51% of judges in courts with 6-9 judges and 38% of judges in the courts with more than 9 judges. In turn, 29% of prosecutors support the draft law, 50% are against, 19% are neutral and 2% have no opinion. Among respondent lawyers, 37% support the draft law, 37% are against, 21% are neutral and 5% have no opinion.

**Block no. 2 of questions refers to the legislative amendments to improve the activity of the judiciary:** As for the *immunity of judges in contravention cases*, 42% of judges consider contravention sanctions to be applied only with the SCM's consent compared with 33% of judges who consider that judges are to be applied similar rules as to any other litigant. Only 13% of prosecutors believe that judges are to be applied contravention sanctions only with the SCM's consent compared with 75% of prosecutors who believe that judges are to be applied similar rules as to any other litigant. 9% of lawyers favour contravention sanctioning of judges only with the SCM's

consent compared with 82% of lawyers who believe that judges are to be applied similar rules as to any other litigant. These data reveal that judges want more legal protection compared to other people, and prosecutors and lawyers consider that judges are to be applied general rules for contravention liability.

For 86% of respondent judges, the *increase of judges' salary* in 2014 is very important or important to ensure the independence, accountability and efficiency of the judiciary. 79% of prosecutors and 53% of lawyers agree with it.

When asked about the *quality of justice* in 2015 compared to 2011, 82% of judges, 46% of prosecutors and 37% of lawyers believe that it has improved. On the other hand, 4% of judges, 29% of prosecutors and 43% of lawyers disagree with this statement. 12% of judges, 23% of prosecutors and 20% of lawyers have expressed a neutral option. These figures confirm that even if the vast majority of judges see a clear improvement of justice, prosecutors and lawyers are more reserved in this regard.

Legal professions seem to have divided opinions regarding the *obligation of civil judgments reasoning in the first instance* excluded since 2012. When asked to what extent they agree with this change, 84% of judges agreed with the initiative, while only 36% of prosecutors and 55% of lawyers share this view. 26% of judges working in first instance courts consider that the legislative amendments decreased their workload with 30% and 21% of first instance court judges mentioned that the workload has not lessened at all.

When asked about the SCJ's *uniform practice*, 62% of Supreme Court judges consider that the practice of the Supreme Court is uniform, compared with 47% of prosecutors and 35% of lawyers. 37% of judges, 50% of prosecutors and 64% of lawyers disagree with it. In the same line, 79% of judges consider that since 2012, the SCJ has taken sufficient measures to unify the judicial practice, compared with 54% of prosecutors and 34% of the questioned lawyers. These figures confirm that expectation of legal professions regarding the uniformity of judicial practice is different, the most demanding in this respect being the lawyers.

**Recent proposals to reform the judiciary:** On 20 May 2015 the Centre for Reform in the Judicial System launched several initiatives to amend the legislation. They refer to court fees, fixed term for examination of cases in courts, changing the composition of the SCJ, introduction of mandatory mediation of civil cases, etc.

Reference to the payment of the *court fee* after the judgment becomes final, 20% of respondent judges answered favorably, compared with 62% of prosecutors and 63% of the questioned lawyers.

In favor of *introducing fixed terms for examining civil and criminal cases in courts* were 13% of judges, 40% of prosecutors and 52% of the questioned lawyers. 82% of judges, 38% of prosecutors and 38% of lawyers disagree with this initiative.

When it comes to changing the composition of the SCJ, so that 16 out of 33 judges are selected from among academics, civil society and lawyers and 17 are career judges, it is supported by 11% of

judges, 31% of prosecutors and 55 % of lawyers. 64% of judges, 41% of prosecutors and 24% of lawyers disagree with this initiative.

**Block no. 3, 4 and 5 of the questions refer to the self-administration bodies:** To the question regarding the SCM's transparency, 72% of judges consider that the SCM's activity is transparent and only 20% of lawyers share this view. 66% of prosecutors consider that the SCP's activity is transparent and 52% of lawyers believe that the Council of the Bar Union's activity over the last 6 months is transparent. At the same time, 30% of judges do not consider that the SCM's decisions are clear and well-reasoned, 22% of prosecutors do not consider that the SCP's decisions are well-reasoned and clear.

As to the selection of judges, 62% of judges agree and 34% disagree with the statement that the *mechanism for initial appointment of judges* is fair and based on merits. At the same time, 54% of judges agree and 43% disagree with the statement that the *manner of promoting judges* is correct and based on merits. Such a high percentage of judges who do not consider that the appointment and promotion of judges takes place on the basis of merit may suggest shortcomings in the appointment and promotion of judges.

Regarding the *mechanism of disciplinary liability of judges*, 27% of judges consider the mechanism introduced in 2015 by the new Law on disciplinary liability of judges appropriate and 38% of judges consider the mechanism to be inappropriate. Answering the same question, 24% of lawyers consider the disciplinary mechanism for judges as adequate, and 26% of lawyers consider this mechanism to be inappropriate.

Regarding the *need to reform the prosecution service*, 84% of prosecutors are in favor of such changes. 63% of prosecutors agree with the approach of the new draft Law on prosecution, and 33% of prosecutors do not support it.

In favor of *the opportunity of having specialized prosecutions*, 83% of prosecutors support the Anticorruption Prosecutor's Office, 60% of prosecutors support the creation of Prosecutor's Office for Organized Crime and 53% of prosecutors are for the existence of the military prosecutor's office. However, only 30% of prosecutors support the existence of transport prosecutor's office and 19% of prosecutors argue the need to create environmental prosecutor's office.

Regarding the Chişinău municipality Prosecutor's Office, 43% of prosecutors believe that it must be kept only if the district prosecutor's offices in Chişinău are liquidated, and 39% are against this option. 33% of prosecutors consider that the Chişinău municipality Prosecutor's Office is necessary, and 50% of prosecutors disagree with this statement.

When asked about the *activity of the General Prosecutor's Office*, 61% of prosecutors consider it effective, and 54% of prosecutors consider that the practice of the General Prosecutor's Office is uniform. 69% of prosecutors believe that the instructions of the General Prosecutor are well-reasoned and suggest the right solutions. Meanwhile, only 41% of prosecutors agree with the statement that the General Prosecutor's Office does not affect the independence of prosecutors, while 53% think the opposite.

About the *mechanism of initial appointment of prosecutors*, 59% of prosecutors consider that it is fair and based on merits, and 39% of prosecutors disagree with this statement. At the same time, 44% of prosecutors support the statement that the manner of promotion of prosecutors is fair and based on merits, compared with 54% of prosecutors who disagree with this statement. Such a large percentage of prosecutors who do not consider that appointment and promotion is based on merits may suggest about weaknesses in the process of appointment and promotion of prosecutors.

Being asked about the *transparency of the Council of the Union of Lawyers* over the last months of its activity, 52% of lawyers believe that the activity is transparent and 47% of lawyers disagree with this statement. 35% of questioned lawyers believe that the *activity of the Licensing Commission of the legal profession* was fair in the past four years, and 64% of lawyers disagree with this statement. When asked whether in the past four years, the Commission for ethics and discipline for lawyers adopted fair and well-reasoned judgments, 57% of lawyers agreed with this statement, while 35% did not agree.

**Block no. 6 of questions refers to the perception of corruption in the justice sector:** Being questioned about the *evolution of corruption in the justice sector since 2011*, 49% of judges consider that this phenomenon has decreased, 10% of judges consider that corruption is at the same level, 8% of judges consider that this phenomenon has increased. Answering the same question, 21% of prosecutors think that corruption has decreased, 33% of prosecutors think that corruption remained at the same level, and 35% of prosecutors believe that corruption has increased. At the same time, 15% of lawyers believe that corruption has decreased, 28% of lawyers believe that corruption remained at the same level, and 52% of lawyers consider that this phenomenon has increased. 20% of judges believe that corruption does not exist in the justice sector, compared with 6% of prosecutors and 2% of lawyers. The above figures show a different perception among lawyers, prosecutors and judges on corruption in the justice sector. While most judges think that corruption in the justice sector decreased compared to 2011 or it does not exist, 68% of prosecutors and 81% of lawyers believe that corruption has remained at the same level or increased.

Regarding the *stratification of corruption in the justice sector* (judiciary, prosecution, legal profession and police), 42% of judges consider that corruption is widespread at all levels, and 15% of judges consider that corruption is especially widespread in the management level. 53% of prosecutors consider that corruption is widespread at all levels, and 22% of prosecutors consider that corruption is especially widespread in the management level. 59% of lawyers consider that corruption is widespread at all levels, and 18% of lawyers consider that corruption is especially widespread in the management level.

Being questioned about the *courts with the highest level of corruption*, 18% of judges consider that the highest level of corruption is in the SCJ, 30% of judges consider that the highest level of corruption is in the courts of appeal, 18% of judges consider that the highest level of corruption is in the first instance courts, 23% believe there is no corruption in the system, while 28% of respondents could not answer this question. Answering the same question, 27% of prosecutors consider that the highest level of corruption is in the SCJ, 56% of prosecutors consider that the highest level of corruption is in the courts of appeal, 40% of prosecutors consider that the highest level of corruption is in the first instance courts, 7% claimed that there is no corruption in the judiciary and 11% of respondent prosecutors could not answer this question. At the same time, 32% of lawyers believe

that the highest level of corruption is in the SCJ, 55% - the highest level of corruption is in the courts of appeal and 35% believe that the highest level of corruption is in the first instance courts. 4% of respondent lawyers argued that there is no corruption in the judiciary, and 7% could not answer this question. 11% of judges, 19% of prosecutors and 21% of lawyers argued that the highest level of corruption is in the CSM. The above figures suggest that prosecutors and lawyers perceive that there is a higher level of corruption in the judiciary than the judges admit. However, both judges and prosecutors and lawyers argue that in most cases the highest level of corruption is met in courts of appeal.

Being questioned about *prosecutor's offices with the highest level of corruption*, 32% of judges have indicated the Anticorruption Prosecutor's Office, 29% - the General Prosecutor's Office, 22% - the rayon and sector prosecutor's offices, and 15% - Chişinău municipality Prosecutor's Office. Answering the same question, 48% of prosecutors indicated the Anticorruption Prosecutor's Office, 21% - the General Prosecutor's Office and 19% - the rayon and sector prosecutor's offices and 24% - Chişinău municipality Prosecutor's Office. At the same time, 48% of lawyers indicated the Anticorruption Prosecutor's Office, 45% - the General Prosecutor's Office, 37% - the rayon and sector prosecutor's offices and 25% - Chişinău municipality Prosecutor's Office. The above figures suggest that both judges and prosecutors and lawyers most frequently argued that the highest level of corruption is in the Anticorruption Prosecutor's Office, followed by the General Prosecutor's Office.

Being questioned about the *existence of corruption at the highest level in legal profession*, 38% of judges have indicated the Commission for ethics and discipline, 36% - the Council of the Union of Lawyers, 10% - Licensing Commission of the legal profession. Answering the same question, 60% of prosecutors indicated Licensing Commission, 13% - the Council of the Union of Lawyers, 9% - the Commission for ethics and discipline, and 40% of prosecutors indicate ordinary lawyers. At the same time, 60% of lawyers believe that the highest level of corruption is in the Licensing Commission, 4% indicated the Council of the Union of Lawyers, 7% - the Commission for ethics and discipline, and 19% - ordinary lawyers.