

NEWSLETTER

NO. 17 | JANUARY-MARCH 2018

GOOD GOVERNANCE

PRIORITY REFORMS ACTION ROAD MAP - REFORMS TINKERING AT THE MARGINS

Between June and December 2017, [the LRCM](#), Independent Think Tank "[Expert-Grup](#)" and the Association for Participatory Democracy "[ADEPT](#)" monitored the implementation of actions undertaken by the Government and the Parliament through the [Priority Reform Action Roadmap II](#). The document includes the priorities of the Government and the Parliament in two areas: (i) good governance and the rule of law, with an emphasis on public administration reform, justice, fighting corruption and fundamental rights and freedoms; and (ii) economic development and ensuring a functioning market economy, with an emphasis on financial and banking sector governance, investment climate, business environment, agriculture and food safety, education, culture, science and social programs.

[The results of the monitoring](#) revealed that only 55% of the undertaken actions (28 out of 51 actions) were implemented. At the same time, 10 actions out of those implemented were appreciated as "implemented with great reserves". At the same time, 22 actions (or 43% of the total) were initiated, but not completed. The main reasons for exceeding the deadlines refer to the setting of too ambitious calendar targets, as well as to the reform of the Government, which has affected the pace of reforms in general and the implementation of the measures set out in the Roadmap in particular.

The domain of "Justice and fight against corruption" registered the most modest progress, with 9 actions out of those 10 planned being initiated, but not completed. This was caused by reduced institutional capacities, lack of political will and very ambitious implementation deadlines. The final monitoring report is available in [Romanian](#), [English](#) and [Russian](#).

THE VENICE COMMISSION AND OSCE/ODIHR: WHILE CHANGING THE ELECTORAL SYSTEM, THE AUTHORITIES OF THE REPUBLIC OF MOLDOVA HAVE NOT FOLLOWED OUR MAIN RECOMMENDATIONS

On 20 July 2017, the Parliament of the Republic of Moldova changed the way of electing the Members of the Parliament (details in the LRCM Newsletters [no. 13](#), [no. 14](#) and [no. 15](#)). At the beginning of 2018, the Venice Commission and the OSCE/ODIHR assessed the extent to which their [recommendations as of June 2017](#) were taken into account when changing the electoral system in the Republic of Moldova.

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[A joint opinion in this regard](#) was adopted on 19 March 2018. The Venice Commission and the OSCE/ODIHR have expressed regret that their main recommendation of June 2017, the lack of broad consensus on the subject, has not been taken into account. The electoral system in the Republic of Moldova has been changed even though there was no broad consensus and there is a risk of corruption in the single-member constituencies.

The opinion includes other concerns as well. The threshold of 6% of votes for parties and 8% for blocs to enter the Parliament is too high. Ensuring representation of women in case of mixed electoral systems is very difficult. The legislation was not clear enough to ensure the creation of an independent commission for the establishment of single-member constituencies, and in practice this allowed creating a commission composed mainly from persons favourable for the governing coalition. The delimitation of single-member constituencies was made in violation of the criteria set out in the Electoral Code. The Venice Commission and the OSCE/ODIHR have recommended that sensitive issues, such as voting in Transnistria and abroad, be stipulated directly by the Electoral Code and not by the Central Electoral Commission (CEC), as it is the case today. The opinion also indicates that

equal voting power must be ensured in the constituencies in the country and abroad and that additional criteria to those applied for the establishment of constituencies in the country should have been taken into account when establishing the number and boundaries of the constituencies abroad. The opinion also recommends reviewing the rules concerning the procedure for lodging and solving electoral complaints.

In September 2017, the parliamentary faction of the Liberal Party (LP) challenged to the Constitutional Court (CCM) the change the MPs are elected to the Parliament. On 15 December 2017, without organizing a public hearing, the CCM [declared the application inadmissible](#) because changing the electoral system is not contrary to the Constitution. The CCM published the decision regarding inadmissibility on 30 January 2018, 45 days since its adoption. During this time, neither the public nor the LP was aware of the decision regarding inadmissibility. The publication took place during the visit to the Republic of Moldova of the Venice Commission experts who evaluated the changes in the electoral system and one day after the LP representatives demanded to speed up the examination of the application. On the following day after the publication of this decision, for "personal reasons", [the President of the CCM, Tudor PANTARU, announced his resignation](#).

EU COUNCIL: THE AUTHORITIES OF THE REPUBLIC OF MOLDOVA HAVE TO BRING TO JUSTICE THOSE RESPONSIBLE FOR BANK FRAUD, IRRESPECTIVELY OF THEIR POLITICAL AFFILIATION

On 26 February 2018, [the Council of the European Union adopted its conclusions](#) on the relations between Moldova and the EU. The conclusions concern the implementation of the Association Agreement, the commitments made by the EU regarding Moldova, as well as the prospects that precede the parliamentary elections in the Republic of Moldova. The conclusions also cover such issues as respect for human rights, change of the electoral system, media freedom and pluralism, justice and the fight against corruption, fraud in the banking system and progress regarding the Transnistrian conflict.

The EU Council expressed regret that the Moldovan authorities did not implement some key recommendations of the Venice Commission on the change of the electoral system. The Council also noted the lack of broad consensus in society on this reform and the risk that candidates in single-member constituencies (majoritarian candidates) may be influenced by businesspeople or other actors who follow their own separate interest. The Deputy Prime Minister Iurie LEANCĂ, at the press briefing dedicated to these conclusions, did not address

this issue at all. The Council also highlighted the importance of following the recommendations of the Venice Commission on party financing and campaign financing.

The Council reiterated the importance of enhancing relations with civil society, encouraging authorities to involve civil society as much as possible in the decision-making process. The Council also urged the Republic of Moldova to pursue the reform of the audiovisual code that would enhance transparency and competition in the sector, with a view to avoid the concentration of media ownership in the hands of one single person. Regarding anti-propaganda measures, the EU Council acknowledged that disinformation and propaganda can have considerable negative effects, but it also noted that the measures adopted should be proportionate and in conformity with the relevant international law provisions, in order not to curtail media freedom or hinder access to information.

The fight against corruption remains a key objective for the Republic of Moldova, and in this regard the Council believes that Moldova should undertake more efforts. The fight

against corruption must bring tangible results that should be also accompanied by a thorough reform of the judiciary and the prosecution service. An independent, impartial and accountable justice system, a series of convictions for corruption, in particular high-level corruption, and respect for the rule of law can restore the trust of citizens in state institutions. The EU Council also expressed its concern that

law enforcement bodies and the justice system can be used as tools to intimidate political opponents.

As regards the bank theft, the EU Council welcomed the publication of the synthesis of the second Kroll report and recommended that the authorities bring to justice those responsible, irrespectively of their political affiliation.

A MAYOR ARRESTED AFTER REFUSAL TO JOIN THE DPM

On 19 March 2018, the Mayor of Ghelauza, Straseni district, Nicoleta MALAI, was detained by the National Anti-corruption Center (NAC) within the framework of a criminal case initiated on 20 November 2017 for the alleged abuse of office and passive corruption related to the construction of the village aqueduct. [According to Ms. Malai](#), on 17 November 2017, she was invited to the headquarters of the Democratic Party of Moldova (DPM) and directly told to leave the Liberal Party and join the DPM together with the entire local council. She refused and within a few days the criminal case was initiated, she was detained and placed under house arrest. On 12 March 2018, the preventive measure was changed for pre-trial arrest on the grounds that she did not appear before the prosecutor. Nicoleta MALAI claims that at the time she had to appear before the prosecutor she was in court. The mayor has been placed in custody even though she has a 9 year old child and her husband is working abroad. On 19 March 2018,

being brought before a judge, she lost consciousness and was taken by an ambulance being unconscious. Subsequently, on the same day, Mrs. Malai was taken to the pre-trial detention centre of the NAC. On 23 March 2018, she [was again placed](#) under house arrest.

According to an [investigation](#) carried out by the Centre for Investigative Journalism, within five years, from 2013 to 2017, prosecutors started more than 100 criminal cases against mayors and presidents of raions (district) chairpersons, most of whom were from opposition (see details in [LRCM Newsletter no. 16](#)). After the local elections of 2015, at least 107 mayors joined the DPM, after being independent or affiliated to other parties. In an [interview](#), Mr. Viorel FURDUI, Executive Director of the Congress of Local Authorities from Moldova, said that at least 600 mayors out of 898 at the moment represent the DPM.

JUSTICE

PRIORITIES IN REFORMING JUSTICE FOR 2018 - PROMISES OF THE LAST THREE MINISTERS OF JUSTICE

On 31 December 2017, [the deadline for implementing](#) of the Justice Sector Reform Strategy for 2011-2016 (JSRS) has expired. Although [the authorities have previously stated](#), that drafting of a new document for justice reform "is a normal process", the appearance of a new strategy is delayed. In November 2017, the Minister of Justice Vladimir CEBOTARI presented a [new concept of the Justice Sector Development Strategy 2019-2022](#), but soon he was discharged from his office and the work on the new concept seems to have been abandoned.

On 30 January 2018, the new Minister of Justice, Alexandru TĂNASE, announced the new [strategic directions and priority actions in judicial reform](#). Qualifying the implementation of the JSRS a failure, Tănase presented a set of priorities

of the Ministry for 2018. Reform priorities include, among others: reform of the judiciary staff and integrity assessment of all judges, restructuring of the judiciary (finalizing the reform concerning the judicial map), and strengthening of the mechanisms for accountability of judges and the independence of the judiciary. Although the proposed actions are ambitious and largely reflect the reform needs of the sector, the priorities assumed by the minister were suspended with the resignation of Mr. Tănase on 11 March 2018, just two months after his appointment. On 19 March 2018, Mrs. Victoria IFTODI was appointed the Minister of Justice. She [declared that the priorities announced by Mr. Tănase will be continued](#) by the new leadership of the Ministry of Justice. However, firm actions in this regard have not yet been observed.

ACTIVITY OF THE JUDICIARY IN 2017 IN FIGURES

At the beginning of the year, the most important institutions in the domain of justice published the results for 2017. According to [the activity report of the Superior Council of Magistracy \(SCM\)](#), presented by the SCM President, Victor MICU, within the framework of the [General Assembly of Judges of Moldova](#), the SCM met in 37 meetings, examining over 850 issues related to the career of judges and the activity of the courts. The SCM appointed 61 new judges (compared to 13 in 2016), while 70 were transferred, appointed to administrative positions or promoted to higher courts (26 in 2016). In 2017, 20 judges left the system (compared with 36 in 2016).

Among the most important achievements highlighted in the SCM report are the consolidation of the professional conduct (approval [of the Regulations on the activity of the Commission for Ethics and Professional Conduct of Judges](#)), drafting of the SCM communication strategy, strengthening the transparency of the institution through the live broadcasting of the SCM sessions, as well as the amendment of several regulations governing the career of judges. The challenges for the judiciary reflected in the report remain the implementation of the JSRS, in particular the reorganization of the judicial map, the big number of vacant positions within the judiciary (380 positions, including non-judicial staff) and heavy workload of judges in office. The average monthly workload per judge in 2017 constituted 71.9 cases at the first instance courts (66.8 in 2016); 43.1 cases at the courts of appeal (44.1 in 2016) and 32.7 cases at the Supreme Court of Justice (SCJ) (40.1 in 2016).

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[The SCJ Activity Report for 2017](#) mentions 9,780 cases reviewed by the SCJ judges in 2017, by 18% less than in 2016. Of the total number of cases examined, 26% of appeals were admitted and the rest were rejected, including 45% of them rejected as inadmissible. The majority of cases examined by the SCJ are civil cases (7,903 cases). The number of cases examined by the judges of the Civil Panel was twice as high as those examined by the judges of the Criminal Panel. A particular concern raised in the report was related to the decisions taken on criminal cases of corruption. Although the total number of examined cases was not given, the SCJ report mentions, among other things, that the lower courts impose too lenient sentences in corruption cases.

[The Report of the Agency for Courts Administration \(ACA\) for 2017](#) states a moderate increase in the number of cases brought before the courts. In 2017 there were registered 257,823 cases and materials, by 1.6% more than in 2016. The highest workload per judge was in the courts of Rezina (2,361 cases), Cantemir (1,550 cases), Dubăsari (1,431 cases), Comrat (1,224 cases) and Bălți (1,076 cases), and the lowest workload - in Nisporeni (444 cases), Cimișlia (461 cases) and in Botanica (501 cases) and Ciocana districts (519 cases) of Chișinău municipality. Among the best achievements the report lists the completion of the construction of the new building for Ungheni first instance court, implementation of other activities related to the new judicial map (including the identification of the land lots for the new court buildings) and the elaboration of the draft [Standard Requirements for a court in the Republic of Moldova](#).

A NEW OPINION SURVEY REGARDING THE JUDICIARY HAS BEEN LAUNCHED

On 7 February 2018, [the opinion survey regarding the judiciary of the Republic of Moldova](#), implemented by the Program "Open Justice" for the Superior Council of Magistracy (SCM) was launched. Both the general public and persons that have interacted with the judiciary were interviewed within the framework of the survey. The survey includes questions about the level of knowledge about the judiciary, access to the web pages of the courts, access to justice for women and people with special needs.

According to the survey, 16% of the general population and 18% of persons who have

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interacted with the courts trust in the judiciary of the Republic of Moldova. 81% of both groups have little or no trust in the judiciary of the Republic of Moldova. 19% of the general population and 20% of the persons who have interacted with the courts have a lot or very much trust in judges, and in prosecutors - 20% and 16%, respectively. Defence counsels have the highest rating of trust - 33% of the general population and 41% of the people who have interacted with the courts.

76% of respondents consider that judges are corrupt, and only politicians and policemen

have higher corruption perception rates. Citizens who have interacted with the courts tend to point out more than the general public (75%) that the phenomenon of corruption is present in the judiciary (83%). 24% of respondents said they were unofficially asked for gifts or money, and 13% said they offered gifts or money.

73% of the general population and 74% of those who interacted with the judiciary do not trust that the court will declare not guilty a simple person who has been falsely accused. Only

18% of respondents agreed that the court will convict a rich person, who has committed a crime.

Out of the respondents who interacted with the judiciary, 80% believe that the room in which the trial took place was adequate. 61% of respondents said that their rights were respected during the court proceedings. Although 38% of respondents believe that the judge was not impartial, and 43% do not consider the proceedings to be fair, only 13% intend to notify the Judicial Inspection.

THE CONSTITUTIONAL COURT HAS A NEW LEADERSHIP

On 6 March 2018, following a public contest, the Superior Council of Magistracy (SCM) selected Mihai POALELUNGI, the then president of the Supreme Court of Justice (SCJ), as Judge at the Constitutional Court. Only Mr. Poalelungi participated in the competition, another candidate had withdrawn from the contest shortly after submitting the application file. Mr. Poalelungi was voted by all SCM members present at the meeting. The Minister of Justice Alexandru TĂNASE and Judge Nina CERNAT were absent at that meeting. For comparison, in 2013, seven candidates were registered in the contest for the selection of two judges at the Constitutional Court (CCM), organized by the SCM. Also, 7 candidates competed in the contest of 2015 organized by the Government for a single vacant position of a judge at the CC.

On 16 March 2018, Mr Poalelungi took the oath before the Parliament, the President and the SCM. Also on 16 March, at the plenary session of the CCM that took place within a few hours since taking the oath, by the unanimous vote of the judges of the Constitutional Court, Mr. Mihai POALELUNGI was elected the President of the Court for a term of 3 years.

The appointment of Mr. Poalelungi to the CCM was preceded by the resignation, on 31 January 2018, of the former president of the CCM, Mr. Tudor PANTIRU, who invoked personal reasons. Just on the day of resignation [some representatives of civil society anticipated](#) that the resignation was announced namely for Mr. Poalelungi to be propelled to the CCM. The CCM judges did not elect the President of the CCM for about a month and a half until Mr. Poalelungi was appointed to the CCM.

Until becoming the judge of the CCM, Mihai POALELUNGI was the Vice-president of the SCJ between 2005 and 2008. Between 2008 and 2012, he was a judge at the European Court of Human Rights on behalf of Moldova, and in 2012 Mr. Poalelungi was a judge and the President of the SCJ.

The CCM is composed of six judges, appointed for a term of office of six years. They are appointed by the Parliament, the Government and the SCM (two each) and may hold office for two terms of office. The judges of the CCM elect the President of the CCM.

THE PROSECUTORS HAVE BEEN GRANTED BACK THE RIGHT TO REOPEN PREVIOUSLY CLOSED CRIMINAL CASES

On 22 December 2017, at the last session of the Parliament in the autumn-winter session, MPs adopted [some amendments to the Code of Penal Procedure](#) (CPP), and among them, granting back to the prosecutors the right to reopen criminal cases that had been previously closed. In the new wording, art. 287 of the CPP provides that the reopening of criminal prosecution may be carried out by the prosecutor within the limitation period of criminal liability for the respective action.

On 14 May 2015, the Constitutional Court (CCM) acknowledged that reopening of criminal prosecution by the hierarchically superior prosecutor is [contrary to the provisions](#)

[of the Constitution](#). The CCM noted that such provisions give the prosecutor the right to reopen prosecution at any time and in the absence of clearly defined grounds, which could be considered problematic in each individual case. As a result of the CCM ruling, on 9 September 2016, art. 287 of the CPP was amended providing that criminal prosecution can be reopened only by the investigative judge's decision. The amendment as of 22 December 2017 reintroduces the prosecutor's right to reopen criminal prosecution. Moreover, if until 2015 the CPP provided for the reopening of criminal prosecution within the term of one year, after amendments of 2017, this term is practically non-existent, as well as the circumstances

that would justify the reopening of criminal prosecution are not clearly described, as it was stated in the CCM judgment. [Experts in the field consider](#) that in such a way the authorities have obtained a pressure tool against inconvenient persons and opposition.

[The initial version of the draft law](#), as well as the one adopted in the first reading, did not contain any provisions on the reopening of criminal prosecution. The draft referred to forensic

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expertise. The inclusion of the prosecutors' right to reopen criminal proceedings was added to the draft following the proposal by the MP of the Democratic Party Igor VREMEA, just before the voting of the draft in the second reading. Paradoxically, Mr. Vreimea claimed as justification for his initiative the need for compliance with the CCM ruling as of 14 May 2015, even though in 2016 art. 287 of the CPP had already been amended to comply with that ruling.

JUDGE AND PROSECUTOR DISMISSED FROM OFFICE FOR THE ARREST OF ANDREI BRĂGUȚĂ CHALLENGE THEIR DISMISSAL

On 19 January 2018, the prosecutor Ivan FILIMON was [dismissed from office](#), on the grounds of maladministration of Andrei BRĂGUȚĂ case, who, suffering from mental illness, died in the penitentiary after the prosecutor requested his arrest (details in [LRCM Newsletter no.16](#)). On 2 February 2018, Ivan FILIMON challenged his dismissal at the Supreme Court of Justice (SCJ). The former prosecutor requested the Constitutional Court (CCM) to verify the constitutionality of the [provisions of art. 79 of the Law on the Public Prosecutor's Service](#), which would limit the SCJ competence to examine the legality of the decision on the dismissal from office. On 26 March 2018, [the SCJ admitted this application](#). [On 19 April 2018, the CCM rejected the application](#) as inadmissible on the grounds that the text of Art. 79 of the Law on the Public

Prosecutor's Service does not in any way limit the SCJ competence to verify the legality of the decision on dismissal of Mr. Filimon from office.

On 16 January 2018, the Superior Council of Magistracy (SCM) [a adopted the decision](#) by which Judge Iurie OBADĂ, who ordered the arrest of Andrei BRĂGUȚĂ, was dismissed from office. Iurie OBADĂ challenged the SCM decision at the SCJ.

By the end of July 2018, the SCJ had not yet taken a decision regarding the applications of Mr. Filimon and Mr. Obadă. The examination of Mr. Filimon's case was postponed five times, and of Mr. Obadă's - eight times. Such frequent postponements of examination of cases by the SCJ are unusual.

ANTI-CORRUPTION AND INTEGRITY

"BUSINESS FACILITY PACKAGE" HAS BEEN ADOPTED

On 2 March 2018, the Ministry of Economy and Infrastructure (MEI) [submitted for public consultations](#) a new version of the draft law aimed at improving the investment climate. The draft amends the Criminal Code, the Code of Penal Procedure, the Misdemeanors Code and a series of legislative acts. In particular, the draft law allows the release from criminal liability if the convicted person committed one of the expressly stipulated economic crimes for the first time (illegal exercising of the entrepreneurial activity; illegal exercising of the financial activity; pseudo-entrepreneurial activity; tax evasion; transporting, storage or selling the goods that are subjects to excise tax, without marking them with control stamps or excise stamps). [The problematic issues previously mentioned by the LRCM](#), which could lead to the release from liability of persons guilty of bank fraud, were excluded from the draft law. On 30 March

2018, at [a working meeting](#), the representatives of the MEI and the Economic Council under the Prime Minister [declared](#) that the draft will be submitted to the Government for approval within a short period of time. However, this did not happen.

On 24 July 2018, [several MPs from the Democratic Party registered the draft in the Parliament](#) as a legislative initiative under no. 283. On 25 July 2018, the Government issued a positive opinion on the draft, and on 26 July 2018 it was adopted by the Parliament in two readings. The draft law was registered together with the initiative on [legalization of assets](#) and that of [the tax system reform](#). These three initiatives were voted in a package, even if no public consultations were organized to discuss them and no anti-corruption expertise provided. On 9 August 2018, the President of the country promulgated these draft laws.

LESS REQUIREMENTS FOR JUDGES SPECIALIZED IN CONTROL OF PROFESSIONAL INTEGRITY TESTING

In 2016, the Parliament amended [the Law on Assessment of Institutional Integrity](#) and introduced judicial control in the procedure of professional integrity testing. On the basis of this law, in November 2016, the Superior Council of Magistracy (SCM) adopted [the Regulation on the selection and designation of judges specialized in judicial control over the activity on professional integrity testing](#) (Regulation). In February 2017, the SCM [appointed](#) these judges for a one-year term of office.

In February 2018, [the SCM amended the Regulation](#), on the ground that in several courts there were no judges who met the eligibility conditions. Amendments include: lowering the minimum experience in the position of a judge from 5 to 2 years; cancelling of the requirement that the judge has to be evaluated by the Judges' Performance Evaluation Board with either "very good" or "excellent"; cancelling of the requirement regarding the possible involvement of the judge during the last 3 years in activities contrary to the interests of the public office, conflict of interests or risk factors. Also, the term of office of the

specialized judges has increased from 1 year to 3 years. On 6 March 2018, the SCM [appointed specialized judges](#) according to the new criteria.

In [its annual report for 2017](#), the National Anti-corruption Centre (NAC) noted that professional integrity testing did not take place in 2017 because «the procedure for designating specialized judges and granting them the right to access state secrets lasts for more than one year, and the referral notes of the NAC addressed to the Superior Council of Magistracy are still not solved».

In 2016, several NGOs [criticized the Law on Assessment of Institutional Integrity](#), because it does not provide for genuine judicial control, it generates risks of abuse on the part of institutions that assess institutional integrity - NAC and the Security and Intelligence Service. Once the SCM has reduced the requirements for the appointment of specialized judges, it may lead to a decrease in the quality of judicial control and, consequently, in arbitrary professional integrity testing.

ALTHOUGH CONVICTED FOR INFLUENCE PEDDLING, IGOR GAMREȚCHI REQUESTS REINSTATEMENT TO THE POSITION IN THE MAYOR'S OFFICE OF CHIȘINĂU

On 3 August 2017, [Chișinău District Court](#) sentenced Mr. Igor GAMREȚCHI, the former Head of General Directorate of Public Transport of Chișinău Mayor's Office (DGTPCC), for influence peddling during the selection of the company to deal [with the construction of chargeable parking facilities in the capital city](#). He was sentenced to imprisonment for a term of 2 years and deprivation of the right to hold public office for a term of 3 years. On 4 October 2017, [Chișinău Court of Appeal](#) suspended the imprisonment on the grounds that "it does not comply with the principle of proportionality, taking into account the committed deed, the consequences produced, the personality of the defendant and his family situation".

On 30 January 2018, [Supreme Court of Justice](#) (SCJ) found that the influence peddling committed by Mr. Gamrețchi "has nothing to do with the position he held at Chișinău

Mayor's Office" and refers only to his relationship with Dorin CHIRTOACĂ, who was his former classmate and a close person. For this reason, the SCJ considered that the prohibition of holding public office for a term of three years was "unfounded" and cancelled it.

Igor GAMREȚCHI requested to be reinstated to the previously held position, but on 13 December 2017, the mayor rejected his request. The former appealed to the court to request reinstatement to the position. On 22 March 2018, [Chișinău Court](#) cancelled the mayor's refusal of 13 December 2017 and reinstated Mr. Gamrețchi to the position of the Head of the DGTPCC, ordering the immediate execution of the court judgement. On 23 March 2018, the judgement in question [was appealed against](#) by the mayor's office. On 31 July 2018 [the appeal was admitted by Chișinău Court of Appeal](#), and the case was submitted for retrial.

HOW DID NAC JUSTIFIED APPARENT LACK OF INTEGRITY OF SOME EMPLOYEES OF THE INSTITUTION?

On [9 November 2017](#) and [17 November 2017](#), Ziarul de Gardă (ZdG) published two investigative reports regarding several employees of the National Anti-Corruption Centre

(NAC). These, having monthly salaries of about 20,000 lei, drive luxury cars and live in houses or apartments valuable of millions of lei. Many of these assets are not registered on

their names and some that are registered are not included in the declarations of assets and interests.

The majority of NAC employees targeted in the investigations said that the assets [shown in the short film](#) produced by ZdG are not owned by them, are owned by their spouse, parents or relatives living outside the Republic of Moldova. Some cars are used by them "on the basis of a letter of authority, and some real estate assets were built due to the help and support of the relatives".

The NAC has announced about the start of internal investigations. At the end of February, the NAC informed ZdG

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ASSETS DECLARATION

that the NAC employees did not violate the law, and the assets they own are justified and have been declared in strict compliance with the legislation. The NAC also found the absence of grounds for disciplinary liability of the employees targeted in the ZDG investigation. However, eleven NAC employees [resigned within the past two months](#). These include the Deputy Director of NAC Vadim COJOCARU and Heads of Subdivisions - Stefan TULBURE, Head of the Internal Security Directorate, Igor CARLASUC, Head of the General Directorate of Operational Support, and Vasile SARCO, Head of the Anti-Money Laundering Service (who left the NAC for Anti-Money Laundering Service). The last three were directly targeted in ZDG investigations.

HUMAN RIGHTS

THE COUNCIL OF EUROPE RECOMMENDS AVOIDING CONCENTRATIONS OF MEDIA OWNERSHIP

On 7 March 2018, the Committee of Ministers of the Council of Europe adopted the [Recommendation on media pluralism and transparency of media ownership](#). The recommendation highlights the fact that media freedom and pluralism are crucial corollaries of the right to freedom of expression, as guaranteed by Article 10 of the ECHR, but also for safeguarding public debate in democratic societies. The recommendation also notes the deep impact that modern technologies have on media and its pluralism. It provides framework regulations for creating a pluralistic, transparent and participatory media environment, both on-line and off-line.

States are encouraged to adopt documents to increase the sustainability of all media categories, from public service press to local, minority, community and cross-border media. States are also encouraged to support independent quality journalism and investigative journalism, fully respecting the editorial and operational autonomy of the media. The Recommendation also provides for the need to establish educational and training programs. States are also encouraged to develop legislation to promote media ownership transparency and avoid concentration in this regard.

In the Republic of Moldova, media concentration and the

transparency of its owners are particularly important issues. This is confirmed by foreign ambassadors to the Republic of Moldova. The US Ambassador to Chişinău, [James PETTIT, is of the opinion](#) that media holdings of the Republic of Moldova remain concentrated in the hands of some political leaders. The respective media institutions reflect the interests of the owners and do not inform the population about the most important events. His Excellency also stated at the Media Policy Forum 2018 that ["the current situation in the Republic of Moldova preserves internal propaganda and deprives the free press of financial resources for survival"](#). At the same forum, the EU Ambassador to Chişinău Peter MICHALCO stressed that the monopolization of the advertising market in the Republic of Moldova is a major issue that the Chişinău authorities must solve. Within the framework of the forum, the Germany Ambassador to Moldova, Julia MONAR, said that a special role in the destruction of monopolies lies with the Broadcasting Coordinating Council and the Competition Council, which should not be politically influenced.

The recommendation of the Committee of Ministers of the Council of Europe is very timely, given the election year for the Republic of Moldova, and it remains to be seen whether the authorities will respect it or not.

FIVE YEARS HAVE PASSED SINCE THE ENTRY INTO FORCE OF THE LAW ON ENSURING EQUALITY

On 1 March 2018, [the international conference](#) dedicated to the 5th anniversary of the entry into force of the Law on Ensuring Equality was held. The conference was organized by the Council for Preventing and Eliminating Discrimination and Ensuring Equality (the Equality Council), in collaboration with the Council of Europe and the European Union. The EU Ambassador to Chişinău Peter MICHALKO welcomed the work of the Equality Council and highlighted its role in combating discrimination in the Republic of Moldova. The Head of the Council of Europe office in Chişinău, Eva GUTJAHR, appreciated the efforts of the Republic of Moldova to include the fight against discrimination in its main policy documents and ensured the broad support of the Council of Europe with the view to strengthen the Council.

The activity report of the Equality Council for 2017 was also presented at the conference. In 2017, discrimination at workplace increased by 50%, the increase being generated by the lack of awareness of the employers regarding the diversity at work, legislative adjustments made without an analysis of their impact, and lack of incentives for employers to integrate discriminated groups into the labour work. In their turn, these factors have generated such problems as placing discriminatory employment announcements, unequal payment for the same type of work or refusal to hire disabled people.

LRCM INFORMED THE COUNCIL OF EUROPE ON DETENTION CONDITIONS IN THE REPUBLIC OF MOLDOVA

On 19 February 2018, the LRCM submitted to the Committee of Ministers of the Council of Europe [an updated communication](#) on the execution of judgements for [the group of cases Ciorap and others](#), which refers to the conditions of detention, mainly in Penitentiary no. 13 from Chişinău. The communication provides an analysis of the impact of measures undertaken by the authorities to improve the conditions of detention in Penitentiary no. 13. The LRCM found that the level of overcrowding in this penitentiary has increased and food allowances for inmates have decreased as compared to 2013, when the Government pledged to improve the conditions in this penitentiary.

The LRCM has recommended to the national authorities to speed up the construction of a new penitentiary in Chişinău. Until then, however, authorities have to undertake necessary measures to reduce overcrowding in this penitentiary. This can be done by extending the practice of application of non-custodial preventive measures and transfer of convicted

Another major problem registered by the Council and which can be increasingly found in the media is the spread of discriminatory speech. The situation becomes more alarming when such speeches come from senior officials, which leads to perpetuation of stereotypes and prejudices rooted in the society. One of the protagonists of discriminatory statements is the President Igor DODON, regarding whom the Equality Council issued three decisions in 2017, in which it found incitement to discrimination on the grounds of ethnicity, sexual orientation, sex and age. In 2018, he has already placed himself on record through a Facebook post in which he calls tolerance and gender equality as false teachings. The spokesperson of the Presidency said the message was not placed by Igor DODON and that it was not even coordinated with him. The President himself did not issue any public reaction or public excuse regarding this incident.

The main challenges the Equality Council faces are caused by insufficient staff, limited financial autonomy and incoherence of the legislation regarding equality and non-discrimination. Another challenge the Council is facing is lack of sanctioning powers and the competence of complaining directly to the Constitutional Court. In this respect, a draft law is under discussion at the Ministry of Justice.

detainees from Penitentiary no. 13 to other penitentiaries. Also, the authorities have to increase substantially the funds allocated for detainees' food and provide training for the responsible persons on application of a [new compensatory remedy](#) for detention in bad conditions.

On 5 March 2018, the recommendations in question were presented by the LRCM representative, Nadejda HRIPTIEVSCHI, at [a quarterly informative meeting](#) of the Member States delegates to the Committee of Ministers of the Council of Europe. Between 13 and 15 March 2018, [the meeting of the Committee of Ministers of the Council of Europe at which the issue in question was discussed](#) took place. The Committee of Ministers has recommended, in particular, to step up efforts on elimination of overcrowding in penitentiaries and continue efforts to build a new penitentiary for Chişinău. Until it becomes operational, Penitentiary no. 13 should provide acceptable detention conditions.

EXECUTION OF ECtHR JUDGEMENTS IN THE TRANSNISTRIAN REGION DISCUSSED IN CHIȘINĂU

On 19 February 2018, [the conference of the Promo-Lex Association on the execution of the judgments of the European Court of Human Rights \(ECtHR\) in the Transnistrian region](#) took place. In all 13 judgements adopted by February 2018 concerning the Transnistrian region, the ECtHR found that Russia is responsible for the conduct of the Transnistrian authorities, and Moldova must respond appropriately to human rights violations in the region. Representatives of authorities of the Republic of Moldova, of the civil society and of the Council of Europe attended the event. Representatives of the Russian Federation did not attend the event.

Out of 13 judgements, Russia paid the awarded compensations only in three cases (*Ilașcu and others*, *Ivanțoc* and *Pisari*). As reported by [Europa Liberă](#), Russia refuses to pay other EUR

1,400,000, also not recognizing its guilt. Russia also denies any possibility of involvement to stop human rights violations committed in the Transnistrian region. The President of the Promo-Lex Association, [Ion MANOLE](#), pointed out that the ECtHR is often the only instrument for defending the rights of those living on the left bank of the Dniester River, and the non-execution of its judgements undermines confidence in the Strasbourg Court. The Deputy Prime Minister for Reintegration, Cristina LESNIC, said that Chișinău authorities undertake all necessary steps to solve the human rights issue in the Transnistrian region. The then Minister of Justice, Alexandru TĂNASE, said that "the issue of human rights is a drama that blocks us, and insufficient monitoring allows the Russian Federation to commit new abuses, such as closures of schools or expropriation of land lots".

CIVIL SOCIETY

RADIOGRAPHY OF ATTACKS AGAINST CIVIL SOCIETY PUBLISHED

17 non-governmental organizations have published a [joint paper that outlines discrediting and denigrating actions against civil society organizations \(CSOs\)](#) by public officials, civil servants, bloggers, and media affiliated to the government. The document refers to the period of September 2016 - December 2017. It was developed in the context of the worsening of the environment for CSOs activity in Moldova and the increase of the number of orchestrated attacks against them during the last two years. The authors want to draw attention to the fact that attacks against civil society are not only a threat to the operation of the CSOs, but also a threat to democracy.

Over 30 attacks are mentioned in the radiography. For the most part, these are media articles or public interventions/statements that present NGOs as organizations promoting the

interests of foreign countries or affiliated to political parties. At the same time, there have been cases of exclusion of the CSOs from the process of public policies elaboration or there have been launched legislative initiatives to deteriorate the operational environment of the CSOs and even to limit their activity. The purpose of attacks on CSOs seems to be the deterrence of the associative sector from active involvement in public affairs or criticizing the legislative initiatives of the Government.

The information included in the document was obtained from media resources available on-line and social networks as well as from its quantitative and qualitative analysis. The monitoring is not exhaustive. The document will be updated if new attacks against CSOs are registered. The publication of such documents could become periodic.

VENICE COMMISSION - RESTRICTION OF THE CSOs ACTIVITY IN ROMANIA IS CONTRARY TO THE INTERNATIONAL STANDARDS

On 16 March 2018, [the Venice Commission presented a joint opinion](#) on the proposed amendments to the legal framework concerning freedom of association in Romania (Law on Associations and Foundations). A group of MPs from the Senate of România [have proposed several amendments](#) introducing the restriction for associations and foundations of

public utility to carry out any kind of political activity. The draft law also introduced a new mechanism of financial reporting (publication of detailed financial reports every six months including the identity of all donors, regardless of amount), which will be applied to all associations and foundations, whether or not they are recognized as being of public utility.

The draft law provides for the possibility of suspending the activities of the NGO for a period of 30 days and, in case of continuous non-compliance, its dissolution. At present, the draft law [is examined by the specialized commissions](#) of the Chamber of Deputies of România.

The Venice Commission has checked the compatibility of the draft law with international standards on freedom of association. The Commission has expressed concerns about the possible effects of the draft law, underlining that the draft law does not sufficiently regulate the activities that can be considered political, for example those related to the protection of human rights or the fight against corruption. Another area of concern is the restriction imposed on public utility associations and foundations to carry out any kind of political activity. The Commission has underlined that it accepts that the state, as a neutral and impartial organizer of public affairs, may require that NGOs with a clear political profile be deprived of the

status of "public utility". However, this should not undermine the right of associations to engage in advocacy on matters of public interest.

Regarding the new financial reporting obligations, the Venice Commission has stated that the grounds included in the draft impose an excessive burden. Some general suspicions or public concerns are not sufficient to apply financial control or severe reporting obligations to all associations, especially if they are not based on a concrete risk analysis that indicates the involvement of a concrete organization in committing offences, such as money laundering, corruption or related crimes. The Commission concluded, *inter alia*, that in its present form, the proposed mechanism can create a chilling effect on freedom of association, but also on the right to privacy. The added value of the draft law is questionable given that there are already substantial reporting obligations stipulated by Romanian legislation.

THE NGOs ARE NOT ANYMORE REGISTERED BY THE MINISTRY OF JUSTICE

On 16 March 2018, the Parliament of the Republic of Moldova [adopted a new draft law](#) whereby the powers of the Ministry of Justice for the registration of non-commercial organizations (including political parties and religious cults) were given to the Public Services Agency. In addition, the draft stipulates the shortening of the deadline for the CSOs registration from 30 to 15 days. The registration procedure would take place in accordance with the Law on the State Registration of Legal Entities and Individual Entrepreneurs, insofar as it does not contradict the legislation on public associations and foundations. According to the [explanatory note to the draft law](#), the amendments are necessary in the context of the

Government reform. The Ministry of Justice has retained its powers related to supervising of the CSOs activity.

Although some provisions of the draft law such as the shortening of the registration deadline are salutary, the draft implies limitation of the current possibility for registration of civil society organizations at the local level (mayor's office, district council). This poses a risk for ensuring a favourable legal framework to ensure freedom of association. Registration at the local level would be taken over by the Territorial Offices of the Public Services Agency. The amendments entered into force on 20 April 2018.

THE MEETING OF THE CIVIL SOCIETY PLATFORM MOLDOVA-EU TOOK PLACE

On 6 March 2018, in Brussels, [the third meeting of the Civil Society Platform EU-Moldova](#) took place. Platform members discussed the current state of implementation of the Association Agreement and the Deep and Comprehensive Free Trade Area (DCFTA) and expressed their opinions on the transboundary water management of the Dniester River. The results of this meeting were formulated in a [joint declaration](#).

As regards the implementation of the Association Agreement, the platform members noted the low implementation rate of it and called on the EU to continue monitoring the implementation process and to impose strict conditionality on the authorities. The Platform expressed concerns with the ineffective way of investigation of the banking fraud of 2014 to hold accountable

those responsible and recover the stolen assets.

Concerns have also been expressed as the current anti-corruption mechanisms become less independent and efficient in fighting high-level corruption. The late adoption of the law on the prevention of money laundering and combating terrorist financing, as well as delays in ensuring efficient operation of the Agency for the Recovery of Criminal Assets (ARBI) were noted in this regard. The lack of transparency in choosing the new composition of the Superior Council of Magistracy and the Superior Council of Prosecutors were also highlighted. Increased tendencies of selective justice, especially after 2015, evidenced by using criminal justice as a means to silence some of the judges and undermine the independence of judges, were highlighted.

Concerns have also been voiced about the change in the electoral system, where less than one third of the Venice Commission recommendations have been taken into account, and the fact that the establishment of electoral constituencies has taken place with a low degree of transparency. Platform members regret the decision of the Central Electoral Commission to refuse to register the initiative group for a republican referendum to repeal the law by which the electoral system was changed.

Efforts to improve legislation regarding media are welcomed, however, concerns have been voiced regarding the

concentration of media ownership and cartel arrangements, as well as political influence on editorial policies.

As regards the transboundary management of the Dniester River, the members of the Platform highlighted the importance of the Dniester River for maintaining security in the region and for the sustainable development of the Republic of Moldova and Ukraine. The platform urges the authorities of the Republic of Moldova to refrain from signing the agreement on the operation of the Dniester hydroelectric complex until assessments on the environmental, social and economic impacts of this complex are conducted.

IN BRIEF

On **22 December 2017**, the Parliament adopted a law by which Ungheni Court was transferred under the jurisdiction of Chişinău Court of Appeal. The law entered into force on 12 January 2018. Before the amendments, the court was under the jurisdiction of Bălţi Court of Appeal. This amendment was done following the amendment [in the second reading of the draft that originally did include any provisions regarding the change of the territorial jurisdiction of the courts of appeal](#). According to the [BizLaw portal](#), the President of the Superior Council of Magistracy, Victor MICU, said the change was made because the Ungheni court 'is closer' to Chişinău than Bălţi. The territorial jurisdiction of Chişinău Court of Appeal has thus been widened, even though this court examines the highest number of cases of all courts of appeal, and experts have recommended reducing the territorial jurisdiction of this court and widening the territorial jurisdiction of the other courts of appeal.

Within the period of **12-14 February 2018**, the LRCM in collaboration with [Expert-Forum Romania](#), continued broadcasting of the Dutch documentary films «Looking into the Soul – about the profession of a judge» («Kijken in de ziel») based on interviews with 12 Dutch judges about what it means to be a judge. The films were shown to the students of the [State University "Alecru Russo"](#) from Bălţi, [State University "Bogdan Petriceicu Hasdeu"](#) from Cahul and [Academy of Economic Studies of Moldova](#). The films were followed by informal discussions between the participants and experts on the professional dilemmas of judges, the dose of subjectivism in court decisions and the technical issues related to court proceedings.

On **15 February 2018**, the Parliament [approved a draft law on amendments to the Code of Civil Procedure](#). The amendments aim to simplify the procedure of examining civil

cases. *Inter alia*, the draft law introduces a written procedure for adjudicating the cases valued up to 10 average salaries per economy (about MDL 50,000 at the moment), details the procedure for preparing the case for examination (on merits and appeal), clarifies the rules for the presentation of evidence and summoning of the trial participants, and introduces the possibility of submitting procedural documents in electronic format (e-file system). The objective of the new amendments is to reduce the duration of court trials and to streamline civil court proceedings. At present, even though the duration of a case examination is generally acceptable, frequent postponements of court hearings and submission of cases for re-trial prolong the examination of simple cases and lead to superficial examination of complicated cases. The amendments entered into force on 1 June 2018.

On **19 March 2018**, Mrs. Victoria IFTODI was appointed Minister of Justice. Previously, Mrs. Iftodi served as Ambassador, former member of the Council of National Integrity Authority and Judge of the Constitutional Court. Between 2004 and 2006, Mrs. Iftodi already held the office of the Minister of Justice during the Communist Party governance. Mrs. Iftodi is the first Minister in FILIP Cabinet of Ministers appointed by the President of the country voluntarily, without intervention of the Parliament through the procedure of [temporary suspension of the Presidents from office, as was the case with the appointment of the last ministers](#).

On **20 March 2018**, [at the meeting of the Superior Council of Magistracy](#) the request of the USAID Program "Open Justice" for the designation between 21 March and 13 April 2018 of Bălţi Court and Bălţi Court of Appeals as pilot courts, in order to implement the new functions of the [Integrated Case Management Program \(ICMP\)](#), was accepted.

For the second year in row, within the period of January-April, the LRCM runs the information campaign on the 2% mechanism. In 2018, the LRCM developed a series of [tutorials](#) dedicated to the communication campaign 2%, [a practical guide](#) on how to effectively run a 2% campaign and [a poster](#) explaining how to fill in the income tax declaration correctly in order to direct 2%. [The Ministry of Justice](#) and [the State Tax Service](#) decided to place a banner dedicated to the 2% mechanism on their official websites, facilitating access to information about the mechanism. The LRCM has organized [two training workshops](#) for 40 representatives of non-governmental organizations regarding the 2% mechanism.

ABOUT LRCM

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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