

ACTIVITY REPORT 2016

LRCM

LEGAL
RESOURCES CENTRE
FROM MOLDOVA

Contents

About LRCM	5
The LRCM Team	6
The Management Board of the LRCM	6
LRCM Supporters and Donors	6
Message of the Executive Director	7
LRCM - UN Human Rights Award Winner	9
Increasing Efficiency and Accountability of Justice	10
Harmonizing the Legislation and Practices of the Republic of Moldova with International Human Rights Standards	13
2016 in Figures	19
Sources of Financing	20
Balance Sheet of the LRCM	22

About LRCM

Identity

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

Goal

LRCM **seeks** to achieve the following goals:

- A responsible and efficient justice system in the Republic of Moldova
- Effective application of the European Convention of Human Rights in the Republic of Moldova
- The legislation and practice in the Republic of Moldova comply with international standards regarding civil and political rights
- LRCM becomes a visible analytical centre and a sustainable organization

Vision

LRCM believes that adequate and sustainable respect of human rights in the Republic of Moldova can be ensured through systemic changes in the legislation, court system, prosecutors' office and legal profession. Many of these changes failed due to the lack of capacities of the authorities to generate required changes. We strive to address this deficit by promoting professional, methodology-grounded, high quality analysis in all our interventions and by remaining an independent and constructive partner for governmental and non-governmental stakeholders alike.

Values

LRCM **believes** in democracy, rule of law, respect of human rights, participation of civil society in decision-making process and open society values.

Principles

LRCM is **guided** by the following principles:

- Pro-active, constructive approach to inducing systemic changes
- Accountability
- Professionalism and quality of work
- Transparency
- Collegiality and respect for professional ethics

The LRCM Team

Vladislav GRIBINCEA, Executive Director

Nadejda HRIPTIEVSCHI, Programme Director

Ion GUZUN, Legal adviser

Sorina MACRINICI, Legal adviser

Pavel GRECU, Legal adviser

Ilie CHIRTOACĂ, Legal adviser

Olga BURUCENCO, Director of Administrative Service

Aurelia CELAC, Accounting and Financial Manager

Natalia ȘEREMET, Communication coordinator

The Management Board of the LRCM

Arcadie BARBĂROȘIE, the President

Elena PROHNITCHI

Corina CEPOI

Peter-Vlad IANUȘEVICI

Nicolae ROȘCA

LRCM Supporters and Donors

United States Agency for International Development (USAID)

Embassy of the United States of America

Embassy of the Kingdom of the Netherlands in Moldova

Council of Europe

Delegation of the European Union to Moldova

Open Society Foundation

Soros Foundation-Moldova

The USAID Rule of Law Institutional Strengthening Program in the Republic of Moldova (ROLISP)

USAID Programme Moldova Partnerships for a Sustainable Civil Society, implemented by the FHI 360

Message of the Executive Director



In 2016, the LRCM became more vocal and visible, our research efforts were reduced and more time was devoted to advocacy. The number of our public reactions double compared to 2015. Many of the initiatives previously promoted by the LRCM have been accepted and became laws. On the other hand, with the change of the ruling coalition, the climate of collaboration of the LRCM with public authorities has also changed. In 2016, we have successfully completed several projects, but some projects started with a delay of over 6 months, which has affected our activity.

In 2016, the Parliament adopted several important laws aimed at reforming of the justice system. A new Law on prosecution service was adopted in February. The law was drafted by a group of experts led by the undersigned. In the summer of 2016, a law that merged 44 courts into 15, with the aim of enhancing the quality of justice act, reducing the risks of corruption and public expenditures was adopted. The studies of the LRCM were at the heart of this reform. The LRCM has been successfully involved in the Parliamentary debates on the package of laws to improve the system of declaration of property and interests by state employees, a package adopted in July 2016. In the second half of 2016, the LRCM provided assistance to the Superior Council of Prosecutors to develop their regulations on the selection and performance evaluation of the prosecutors. Another reform steadfastly promoted by the LRCM resulted in the amendment of the Tax Code, also in 2016, allowing individuals to redirect 2% of their income tax to NGOs.

The challenges of previous years, such as overloading of the team and the reluctance of justice to fully implement structural reforms, have remained topical. On the other hand, 2016 was marked by the launch of a number of initiatives that could worsen the state of democracy and respect for human rights. The authorities proposed reintroduction of the integrity test, which was previously declared unconstitutional. It has also been proposed to adopt a law to increase the possibilities for authorities to supervise and even block electronic communications and Internet. At the end of 2016, the draft law on the legalization of illegally obtained capital by paying a minor fee was registered in the Parliament. The LRCM has publicly opposed to these initiatives.

We continued to monitor the activity of the Superior Council of Magistracy (SCM), periodically informing the society about the issues discussed by the SCM, especially regarding the selection, promotion and appointment of judges. The enforcement of the new law on the disciplinary liability of judges was also analysed. We established that the number of sanctions applied to judges in 2016 decreased by four times as compared to 2015. Likewise, in 2016, the Government made a commitment to the European Union to adopt more than 70 important reforms. The LRCM, together with the Expert-Group and Adept, evaluated the extent to which the reforms were implemented.

Following the tradition of the previous years, the LRCM has analyzed and systematized the case-law of the European Court of Human Rights (ECtHR) concerning the Republic of Moldova.

The measures undertaken by Moldovan authorities to enforce the ECtHR rulings concerning poor detention conditions and interception of communications were also analysed and the Committee of Ministers of the Council of Europe was informed. The lawyers benefitted of advanced training in the field of the European Convention on Human Rights.

Strengthening the institutional capacities of the Association remained a priority for us. In 2016, the visibility of the Association, especially among the general public, was improved by means of movie screenings, meetings in the regions and increased activity on social networks. At the same time, a considerable part of our efforts has been successfully directed towards ensuring the financial sustainability of the LRCM. Our efforts were appreciated by the UNDP Moldova the LRCM was one of the six winners of the 2016 UN Human Rights Award.

Using this opportunity, on behalf of the LRCM team, I want to thank once again all partners, supporters and donors of the LRCM for our good collaboration and efforts undertaken to support our activities and promote common goals. We are also deeply grateful to members of the LRCM Board for their devotion and engagement.

Vladislav GRIBINCEA

Executive Director

The Legal Resources Centre from Moldova



United Nations
MOLDOVA



Vladislav Gribincea, LRCM Executive Director, at the UN Gala of Human Rights Awards

LRCM - UN Human Rights Award Winner

On 8 December 2016, [UNDP Moldova awarded UN Human Rights Awards](#). One of the six awards for 2016 was offered to the Legal Resources Centre from Moldova (LRCM) "for substantial contribution in reforming the justice sector and for improvement of domestic legislation on public funding of non-governmental organizations". „We see this award as an encouragement, in a system where there is less room for hope. We understand that, following the results in the justice system of the Republic of Moldova, it is rather a credit of trust, than an appreciation of the results of our work. We assure you that we will be even more proactive“, said at the award ceremony Mr. Vladislav GRIBINCEA, the executive director of the LRCM. The UN Human Rights Award is awarded in Moldova annually since 2004 and aims to highlight the most valuable, innovative, effective and participatory initiatives and actions to protect and promote human rights.

Increasing Efficiency and Accountability of Justice

I. The Judicial System

Some 380 judges were acting in 44 first instance courts in the Republic of Moldova in 2016. 64% of these courts had less than six judges, which affected their effectiveness and represented a risk of corruption. Merging of courts, one of the most important activities under the Justice Sector Reform Strategy for 2011-2016 (JSRS) preoccupied LRCM in 2016 as well. Our efforts were mainly focused on the promotion of [the Law on Reorganization of the Courts](#), based on our study by [on the optimization of the judicial map](#). The law was adopted in July 2016 and entered into force on 1 January 2017. Under the law, the 44 district courts were administratively merged into 15 courts. They have to merge physically upon the construction/adjustment of the court buildings of the remaining courts .

The surveys show that the population's confidence in courts from the Republic of Moldova does not exceed 15%, which is insufficient. The low level of trust is largely determined by the lack of transparency of the system and of the predictability of the jurisprudence. In 2016, the LRCM continued to monitor the activity of the Superior Council of Magistracy (SCM), the self-administration body of judges, [and published a report](#) providing analysis of the transparency and efficiency of the SCM. The document states that the appointment and promotion of judges is not based on clear criteria, and that the SCM adopts its decisions in a non-transparent manner, behind the closed doors. The document recommends, inter alia, giving up the practice of adopting decisions behind the closed doors, as well as appointment and promotion of judges on the basis of clear and merit-based criteria.

Launching of the report on transparency and efficiency of SCM



On 1 January 2015, a new [law on the Disciplinary Liability of Judges](#) entered into force. In 2016, [the LRCM analysed the practice](#) of enforcing it and found that, although it had brought some improvements, it created a sophisticated mechanism of holding judges disciplinary liable, which led to a fourfold reduction in the number of disciplinary sanctions applied. Currently, a disciplinary case can be examined by five bodies. The LRCM has recommended granting the Judicial Inspection a wider functional autonomy from the SCM and reducing the number of bodies involved in the examination of disciplinary cases.

Presentation of the final monitoring report on the Roadmap



In 2016, the Government committed toward the European Union to adopt more than 70 important reforms. The LRCM, together with [Expert-Grup](#) and [Adept](#), have [evaluated the extent to which reforms were put in place](#). According to the evaluation, only half (55%) of the actions were implemented without deficiencies, 28% were implemented with deficiencies and about 17% were not implemented. The main reforms that remained unaccomplished concern the reform of the National Anti-corruption Centre (NAC), failure to adopt a new Audiovisual Code, slow investigation process concerning the frauds in the banking system and slow reform of the National Bank of Moldova.

II. Reform of the prosecution office and Fight against Corruption

More than three years of law-drafting, in February 2016, [a new Law on the Prosecution Office](#) was adopted. It was [positively appreciated by the Venice Commission](#). In November 2016, the constitutional provisions on the organization and activity of the Prosecution Office were also amended. The expert group that drafted the laws on reforming the Prosecution Office was led by the Executive Director of the LRCM. In order to improve the activity of self-administration bodies of prosecutors, in 2016, the LRCM was a part of the group of experts that drafted the Regulations on the activity of the Superior

Council of Prosecutors (SCP) and Rules for selection and professional evaluation of prosecutors. These rules have been adopted by the SCP in 2016.

In June 2016, the LRCM was involved in the debates of the Parliament concerning the package of laws designed to improve the way citizens and civil servants declare their assets and interests. Due to our efforts, the alteration of the draft law in the Parliament was prevented. In the summer of 2016, the package was adopted without major changes, but even 12 months after the adoption of the [Law on the National Integrity Authority](#), the leadership of this body, which is responsible of verification of the civil servants' declarations, has not yet been elected.

In December 2016, a group of the MPs from the parliamentary majority registered in the Parliament a draft law authorizing the legalization of undeclared capital by paying a 2% tax on legalized capital and forbidding public authorities to verify its origin. If adopted, the efforts to eradicate corruption in the public sector would be deprived of any effect. The LRCM, alongside with other NGOs, [objected to that initiative](#), as it increased the risk of tax evasion and allowed legalization of illegally acquired goods, including through corruption. Finally, due to the reaction of the civil society and development partners, the draft law was withdrawn.

The legislation of the Republic of Moldova allows the provocation of state employees, including judges, by undercover agents, in order to check their integrity (integrity testing). The failure of the test is a ground for dismissal from office. This verification mechanism has been criticized by the Venice Commission and [declared unconstitutional](#), as it leaves room for abuse. In 2016, the National Anti-Corruption Centre (NAC) drafted a project similar to the one declared unconstitutional, which was voted by the Parliament. The LRCM, alongside with other non-governmental organizations, [requested the President of the Republic of Moldova not to promulgate this draft law](#), but unsuccessfully. [The law](#) does not solve the essential issues raised by the Venice Commission and by the Constitutional Court: the absence of adequate judicial control of integrity testing, absence of requirement of existence of reasonable suspicion for stating the test, and absence of guarantees that undercover agents will not have a proactive role, determining people to take bribes.

Harmonizing the Legislation and Practices of the Republic of Moldova with International Human Rights Standards

I. European Convention on Human Rights

Continuing the tradition of the last five years, [the LRCM analysed the official statistical data for 2016](#) on the situation of the Republic of Moldova at the ECtHR. The purpose of the drawn up documents is to increase the level of awareness of the society. In 2016, the ECtHR registered by 17% less applications than in 2015, a decrease which can be determined by the diminished popularity of the ECtHR after rejecting in 2011-2016 about 8,500 Moldovan applications without an explicit reasoning. In any event, in 2016, Moldovans applied to the ECtHR four times more often than an average European. Under the judgements and decisions delivered by 31 December 2016, the Republic of Moldova was obliged to pay over 16,200,000 EUR, which is more than the entire budget of the courts for 2015.

Public debates on the detention conditions in Penitentiary no.13



Detention in bad conditions in Penitentiary no. 13 from Chisinau led to more than 15 convictions of the Republic of Moldova at the ECtHR, due to extreme overpopulation, anti-sanitary conditions and insufficient quantity and quality of food served to detainees. The Government of the Republic of Moldova has undertaken not to admit similar situations any more. In 2016, [the LRCM analysed the extent to which this commitment was implemented](#) and found that, contrary to the Government's commitments, the allowances for prisoners' food decreased, overpopulation in Penitentiary 13 did not diminish, while the hygiene did not change significantly. The findings of the LRCM were presented

on 8 November 2016 [at a public debate](#), attended by the representatives of public institutions, donor community and civil society, and were sent to the Committee of Ministers of the Council of Europe, which supervises the execution of the ECtHR judgments.

In 2009, the ECtHR found that the legislation of the Republic of Moldova on interception of conversations did not contain sufficient safeguards against abuse and that the number of authorisations for interception of conversations was very high. In 2012, the legislation on interception of conversations was improved. In 2016, [the LRCM analyzed the judicial practice on interception of telephone conversations](#) and found that, despite additional legal safeguards against abusive interceptions, the number of requests for authorization of interceptions has steadily increased in recent years, while the rate of authorizations granted by judges remained at the same level - 98%. This information was also communicated to the Committee of Ministers of the Council of Europe.

Extract from infographic on Moldova at the European Court of Human Rights in 2016

REPUBLICA MOLDOVA LA CURTEA EUROPEANĂ PENTRU DREPTURILE OMULUI – 2016



Din cele **47** de țări membre ale
Consiliului European, Moldova se afla:



Since 2005, the ECtHR has found that cases of ill-treatment were not adequately investigated in more than 45 judgments. In 2016, [the LRCM analyzed the statistical data on the cases of ill-treatment](#), in order to evaluate measures undertaken by the Government to prevent ill-treatment. Official statistical data confirm that the number of complaints of ill-treatment is decreasing. However, the rate of initiated criminal proceedings and those submitted to the court has not changed significantly, the duration of the examination of the ill-treatment cases is equally lengthy, and prosecutors still do not sufficiently involve victims in the investigation.

In March 2016, the LRCM organized an advanced training seminar on the European Convention on Human Rights (ECHR) for lawyers and trainee lawyers. The seminar was aimed at training about the new rules concerning the format of the application to the ECtHR and the rights to a fair trial, privacy and family life. The seminar was organized in the form of simulation of the ECtHR procedure. Lawyers from the ECtHR Registry and the Executive Director of the LRCM were the trainers.

Participants at the training on European Convention on Human Rights (ECHR)



In December 2016, the LRCM representatives participated in the biennial meeting of the ECtHR with NGOs and lawyers in Strasbourg. During the meeting, the novelties of the ECtHR procedure were discussed, such as powers of attorney, the need to provide reasoning for the decisions on inadmissibility issued by the single judge, the shortcomings and difficulties of filling in the template application, the application of interim measures and pilot procedure.

LRCM team at the biannual meeting at the ECtHR



II. The „Big Brother” Law

On 30 March 2016, the Government approved [a draft law elaborated by the Ministry of Internal Affairs](#) (MIA), granting extremely wide powers to the law enforcement agencies to access information concerning privacy and broadens the possibilities of authorities to supervise online activity (Big Brother Law). In April 2016, [the LRCM, alongside with other civil society organizations, requested](#) to obtain the opinion of the Venice Commission on the draft law. Later, the LRCM, in collaboration with Bogdan MANOLEA, issued [an opinion](#), finding that several provisions of the draft law go far beyond the stated objectives of the act (combating crimes of sexual abuse against children and terrorism) and leave room for abuse. The opinion was presented at a public debate attended by the MPs, representatives of the Parliament, Ministry of Justice, MIA, Prosecution Office, business community and civil society.

Public debate on the “Big Brother” Law lacunas and internet censorship



III. Promoting Human Rights through Movies

Within 23 and 27 May 2016, the LRCM and Expert-Forum Romania (EFOR) organized in the Republic of Moldova the screening of four successful Romanian and domestic cinematographic works. Movie screening aimed at promoting human rights and raising the general awareness of the values of a state governed by the rule of law. Those four full-length movies, [„De ce eu?”](#) (Why me?), [„Aferim!”](#) (Well done!), [„După dealuri”](#) (Beyond the hills), [„Ce lume minunată”](#) (What a wonderful world), were screened in three main cities of the country - Chisinau, Balti and Cahul, and were followed by discussion sessions/debates.

IV. Promoting a favorable environment for civil society organisations

In 2015, [the LRCM launched a project](#) aimed at improving the legal environment for civil society organizations. The LRCM aimed to contribute to drafting of amendments to the Law on Public

Launching the analysis of the Law on the public associations



Associations, the Tax Code, Regulations on the designation by taxpayers of a part of their income tax in favour of civil society organizations, etc. In March 2016, the LRCM launched [a policy document](#) that analyses the Law on Public Associations and comes with proposals to improve the provisions of the law. As a result of these findings, the Minister of Justice set up a working group that included two representatives of the LRCM to draft a document to improve the legislation regarding the activity of NGOs. The working group has elaborated a draft of the new law on non-profit organizations, in line with the best international practices.

On 21 July 2016, the Parliament adopted Law no. 177, which allows individuals to designate 2% of the income tax in favour of civil society organizations (the 2% Law). The law was drafted with plenary involvement of the LRCM. On 30 November 2016, the Government approved [the mechanism to enforce](#) the 2% Law. The LRCM was a part of the working group that drafted this mechanism. In order to facilitate the registration process for the beneficiaries of the 2% mechanism, the LRCM drew up a [Guide](#) and an [Infographic](#). Subsequently, the LRCM has developed [a guide](#) and [an infographic](#) for taxpayers, answering the main questions people ask when designating 2% of their income tax.



Launching of the document "Analysis of the tax regime for the non-commercial organizations"



On 22 November 2016, the LRCM launched the document "[Analysis of the tax regime of non-profit organizations](#)". The document identifies the main problems of the current tax regime affecting the financial sustainability of NGOs and provides solutions to overcome them.

2016

IN FIGURES



PUBLIC EVENTS

22

2015
30

PUBLICATIONS

11

2015
21

APPEALS / DECLARATIONS

30

2015
14

LEGAL OPINIONS

15

2015
8

INFOGRAPHICS

2

2015
-

SEMINARS, TRAININGS, WORKSHOPS

6

2015
22

MASS MEDIA HITS

368

2015
320

FILM SCREENINGS

11

2015
4

Facebook / LIKES



3088

1959 / 2015

Twitter / FOLLOWERS



81

49 / 2015

Web / VISITORS



16860

13804 / 2015

Sources of Financing

FINANCING SOURCES

Council of Europe – grant contract no. 509749 (CoE)
Foundation Open Society Institute (Human Rights Initiative) – grant contract no. OR2015-20623 (HRI 2015)
Checchi and Company Consulting Inc, grant contract no.08 (Rolisp2)
US Agency for International Development, grant contract no. AID-117-A-16-00003 (USAID RoL)
Soros Foundation- Moldova – grant contract no. G14403 (FSM FtF2)
Delegation of the European Union to the RM – grant contract no. EIDHR 2013/334-003 (EIDHR)
Netherlands Embassy - grant agreement no. BKR/15/HR/13 (De ce eu 1)
Netherlands Embassy - grant agreement no. BKR/2016/237 (De ce eu 2)
MPSCS FHI 360 – grant contract no.4572-CRJ-01 (FHI 360)
Swedish International Development Cooperation Agency - grant contract no. 202100-4789 (SIDA Pre-core)
Soros Foundation - Moldova - contract for the provision of services no.12 BG 2016 (FSM BG)
Association for Participatory Democracy ADEPT - contract for the provision of services no.1-AID-117-O-16-00004 (USAID/PRAR)
Self-financing fund LRCM

Sources of financing USD

Sources of financing EUR

Sources of financing MDL

Total sources of financing, MDL equivalent

Note: **Total financing 2016** – equivalent of **USD 344,391**.

Total cumulative financing – equivalent of **USD 1,231,354**.

Total uses of funds 2016 – equivalent of **USD 347,416**.

Total cumulative uses of funds – equivalent of **USD 1,139,308**.

The official average exchange rate for 2016 – 19.9238 MDL/USD.

Currency	Year 2016		Cumulative		Budget
	MDL	USD/EUR	MDL	USD/EUR	
EUR	211,279	9,736	211,279	9,736	14,979
USD	489,237	24,798	975,530	49,596	49,596
USD	217,140	11,000	1,805,767	92,913	92,913
USD	1,411,288	70,438	1,411,288	70,438	1,200,000
USD	1,155,555	58,000	1,661,681	84,000	84,000
EUR	230,564	9,554*	4,816,514	238,979	270,000
EUR	-	-	536,342	24,965	24,990
EUR	917,404	41,262	917,404	41,262	41,302
MDL	583,336	-	1,133,361	-	1,890,000
EUR	347,680	16,644	347,680	16,644	16,337
MDL	17,938	-	17,938	-	17,938
MDL	349,376	-	349,376	-	349,376
MDL	928,670	-	-	-	-
	3,273,220	164,236			
	1,706,927	77,196			
	1,879,320				
	6,859,467				

Balance Sheet of the LRCM

	31 December 2016	31 December 2015
Non-current assets	<i>MDL</i>	<i>MDL</i>
<i>Intangible assets</i>	24,310	41,901
Property, plant and equipment	238,161	325,938
TOTAL NON-CURRENT ASSETS	262,471	367,839
Current assets		
Accounts receivable	57,171	5,398
Receivables related to special purpose funds	-	944,661
Receivables on settlements with the budget	2,065	-
Cash and cash equivalents	1,155,008	1,759,409
Current financial investments	500,682	-
Low value items	37,694	21,522
TOTAL CURRENT ASSETS	1,752,620	2,730,990
TOTAL ASSETS	2,015,091	3,098,829
Equity and liabilities		
Equity		
Net surplus	44,078	48,851
Fixed assets fund	262,470	367,839
Self-financing fund	890,619	289,422
TOTAL EQUITY	1,197,167	706,112
Current liabilities		
Special purpose financing and receipts	716,205	1,419,258
Commercial liabilities and advances received	4,789	4,266
Payables on settlements with the budget	2,065	-
Due to employees	-	2,534
Deferred income	94,865	27,795
Other current liabilities	-	938,864
TOTAL CURRENT LIABILITIES	817,924	2,392,717
TOTAL EQUITY AND LIABILITIES	2,015,091	3,098,829

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