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ANALYTICAL NOTE:

CONFIDENCE IN THE JUSTICE SYSTEM OF THE REPUBLIC OF MOLDOVA IN 2001 – 2018.

Trends and determinants

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Governance of PCRM



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SUMMARY

This analytical note analyzes the trends of the public confidence in the justice system of the Republic of Moldova from 2001 through 2018 and explains some of the factors that might influence it. The analysis includes the data from the Public Opinion Barometer and a series of studies on the justice system from 2009 through 2018. The year 2001 was selected as the baseline for measuring the level of confidence in the Moldovan institutions.

The analysis of public confidence in the justice system from 2001 through 2018 reveals a strong correlation between public perception on the central institutions of the state (the Parliament, the Government, and the President of the country) and public perception on the justice system. The public perception on the central institutions of the state reveals the decisive influence the major political events in the country have on the public. Thus, confidence was low in the proximity of the February 2001 parliamentary elections (below 20% for the three state institutions), after which it increased significantly after coming to power of the Party of Communists of the Republic of Moldova (PCRM) (varying between 40% and 59% from 2001 until the lead-up to the elections of 2005). After that, the general trend was downward, with short periods of recovery shortly before or after the parliamentary elections of 2005, 2010, and 2014, the presidential elections of 2012 and 2016, and after the shift of power in 2009. The lowest confidence levels were observed in the context of the political crises of 2015–2016 and the billion theft in the banking sector, publicly revealed in 2014. On the other hand, the increase in the confidence level, driven by current political events, was ephemeral and quickly reversed to the previous downward trends.

The confidence in the justice system mirrored rather closely the variation of confidence in other institutions, with some particularities. During the political crises of 2000 and 2001, and in the lead-up to the elections of February 2001, confidence in the justice system was much higher than in the other three institutions. The “soaring” in the level of confidence registered after PCRM came to power, however, was absent in the case of the justice system, the population confidence in it remaining at approximately 30%—lower than in the case of the other state institutions—during the rule of the PCRM. After 2009, the levels of confidence for all four institutions equalized. Overall, confidence in the justice system dropped by half in 2018 in comparison with 2001. It is worth mentioning that in 2002, the confidence in the justice system was higher among elderly people and people with lower social-economic status. In 2018, this trend ceased, confidence in the justice system decreasing across all demographic groups.

Confidence in the justice system is determined by a very complex set of factors, which can be roughly systematized in several groups. The factors from the first group are related to the interdependence of confidence in the justice system and confidence in other institutions of the state. The factors from the second group are related to the media coverage of the justice system. The third group of factors is related to personal experience or the experience of the narrow social circle of the individual coming into contact with the court system.

Since 2011, the justice sector, including the courts system, has undergone a series of reforms to improve justice administration and public confidence in the justice system. The persistently low level of public confidence in the justice system should determine the judiciary and other relevant decision makers to take urgent actions to improve the quality and fairness of justice delivery.

THE TRENDS IN CONFIDENCE IN THE MOLDOVAN JUSTICE SYSTEM: 2001 – 2018

The Public Opinion Barometer (POB)¹ has been measuring the level of public confidence in the state institutions and the main social-economic institutions of the Republic of Moldova for almost two decades as part of its sociological research. Figure 1 shows the trend of public confidence in four core institutions of the state — the Government, the President of the country, the Parliament, and the justice system— from 2001 through 2018.

During the analyzed period, public perception of the state institutions had two general characteristics:

1. With a few exceptions, the net ratio of confidence was negative, with a prevailing number of individuals not trusting state institutions.
2. Starting from 2002, public confidence in the state institutions was generally declining.

The variation of the indicators over time was determined primarily by major political events. The first measurements taken in the lead-up to the February 2001 parliamentary elections recorded one of the lowest levels in the confidence trend. After those elections and the coming to power of the Party of Communists of the Republic of Moldova (PCRM), the level of confidence in all state institutions increased considerably.

After that, the general trend was downward, with short periods of recovery shortly before or after the parliamentary elections of 2005, 2010, and 2014, the presidential elections of 2012 and 2016, and after the shift of power in 2009.

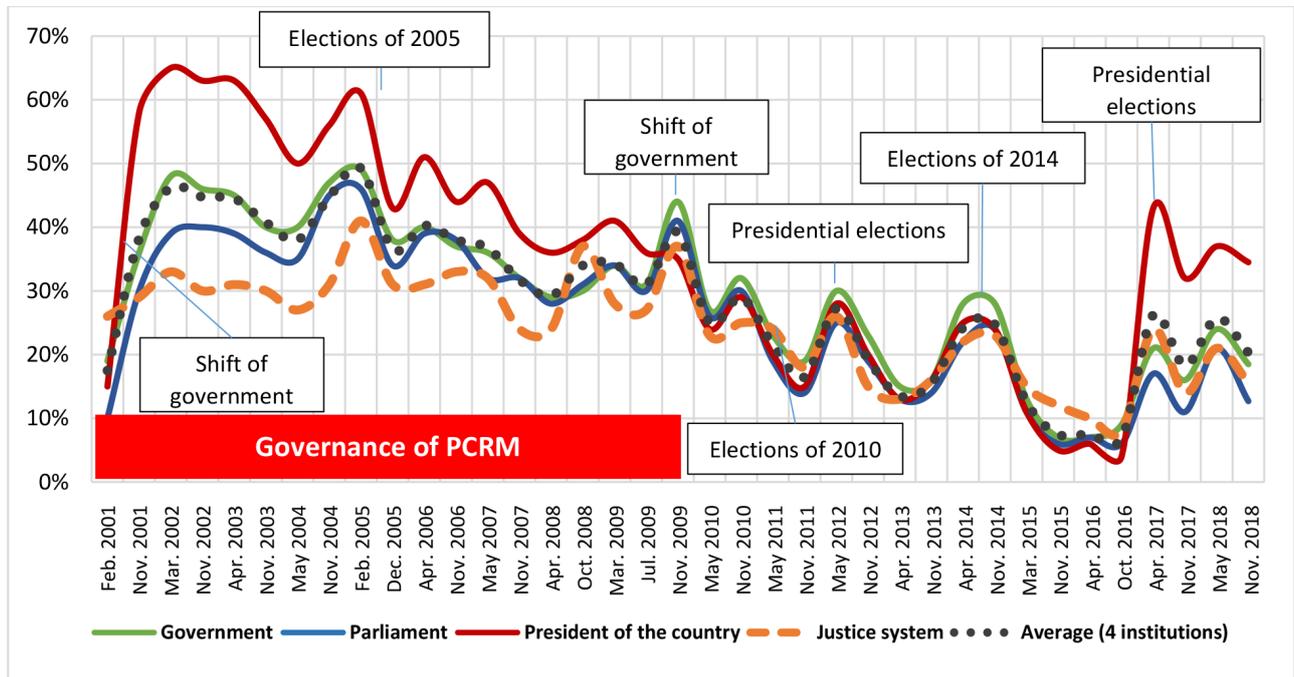
The lowest level of the public confidence in state institutions was observed in the context of the political crises of 2015 and 2016, and the Billion Theft in the banking sector, made public in 2014. On the other hand, the increase in the confidence level, driven by the current political events, was ephemeral and quickly reversed to the previous downward trends.

Confidence in the justice system mirrored rather closely the variations in confidence in other institutions, with some particularities. During the political crises of 2000 and 2001, and in the lead-up to the elections of February 2001, confidence in the justice system was much higher than in the other three institutions. The “soaring” in the level of confidence after PCRM came to power, however, was absent in the case of the justice system, the population confident in it staying at approximately 30%—lower than in the case of the other state institutions during the entire period of power of the PCRM. After 2009, the levels of confidence for all four institutions equalized.

The variation of confidence in the main institutions of the state and its reference to specific political events is indicative of the fact that the population lacks distinct vision and appraisal of the state institutions, being rather inclined to appraise each institution through their general perception of the state. Confi-

¹ The data on the Public Opinion Barometers, used in this policy brief is available at <http://ipp.md/sectiuni/barometrul-opinieii-publice/>.

Figure 1. The trend in confidence in the core institutions of the state*

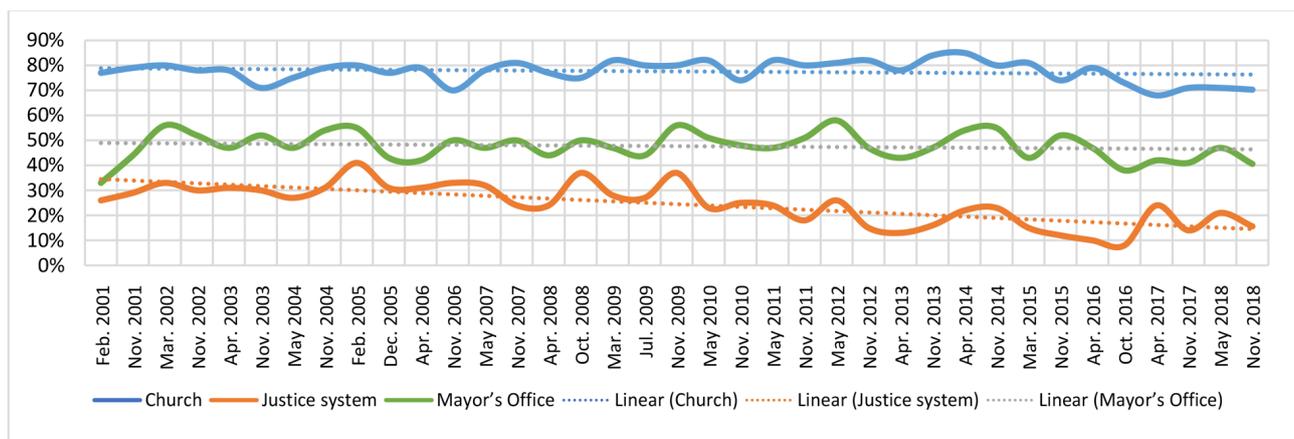


** The share of the appraisals “very much confidence” and “much confidence”
 Source: POB

dence in the justice system in particular does not seem to be influenced by the reform statements regarding this specific sector, because population did not feel the real effects of the reforms implemented over time.

Furthermore, the decrease, along with covariation, in confidence in the core institutions of the state was not accompanied by similar trends for other institutions. The POB of November 2018 found that church and the mayor’s office enjoyed the highest levels of confidence. From 2001 through 2018, the confidence in these institutions remained stable (below 50% for the mayor’s office and below 80% for the church).

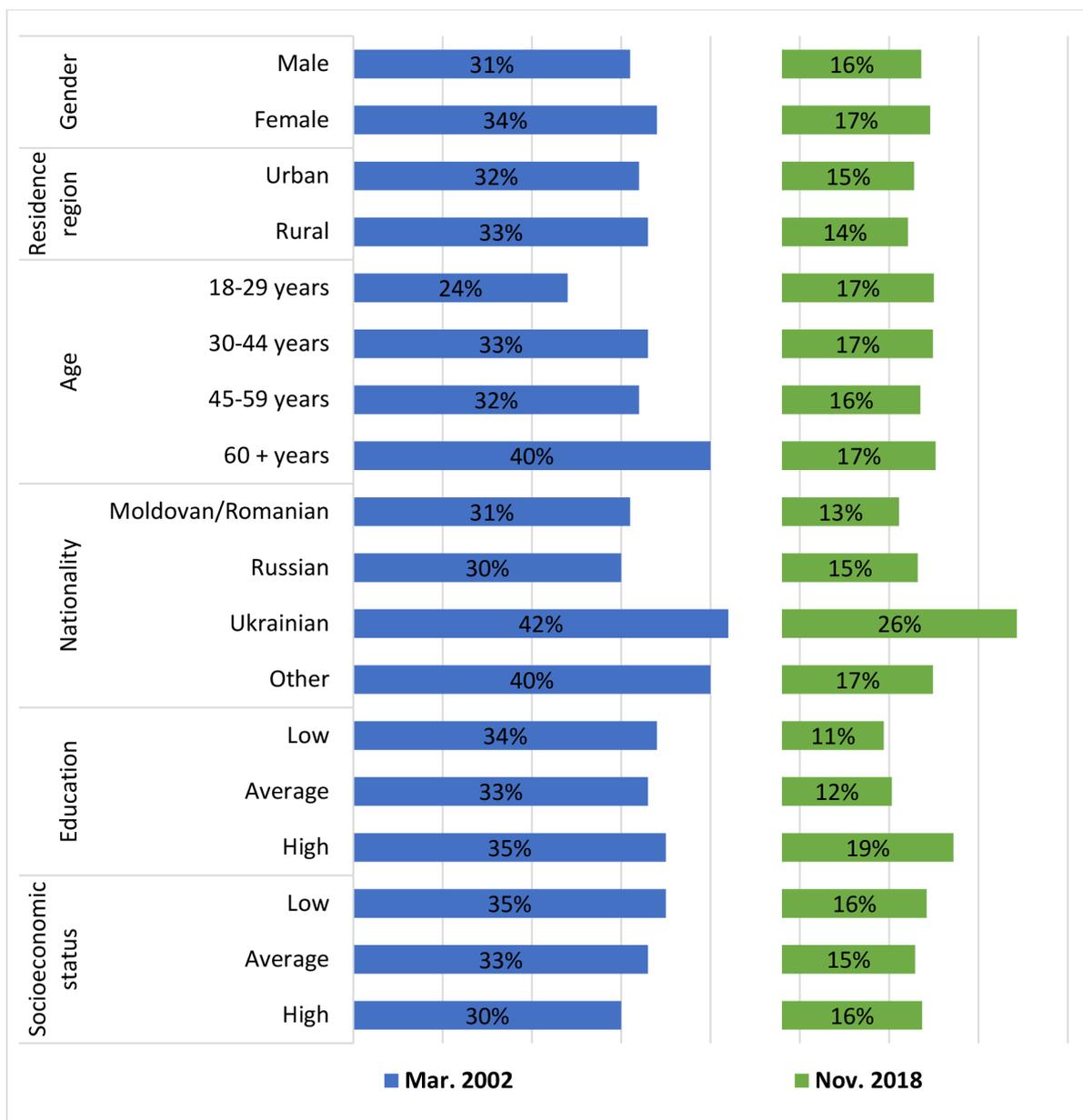
Figure 2. The trend in confidence in the justice system, Church, and the mayor’s office*



* The share of the appraisals “very much confidence” and “much confidence”
 Source: POB

The level of confidence in the justice system decreased across all population groups. Figure 3 shows the levels of confidence in the justice system recorded in March 2002 and November 2018. On the whole, confidence dropped by half in 2018 compared with 2002. It is worth mentioning, in 2002, confidence in the justice system was higher among elderly people and people with lower social-economic status. In 2018, this trend ceased, confidence in the justice system decreasing across all demographic groups.

Figure 3. Confidence in the justice system by social demographics*



** The share of the appraisals “very much confidence” and “much confidence”
 Source: POB

CONFIDENCE DETERMINANTS

Confidence in the justice system is determined by a very complex set of factors, which can be roughly systematized in several groups.

The factors from the first group are related to the interdependence of confidence in the justice system and confidence in other institutions of the state. In particular, there is a strong covariation between confidence in the justice system and confidence in other state institutions (Figure 1). Thus, beyond the judicial performance as a factor of confidence, if public confidence in all that a state means decreases, confidence in the justice system will inevitably decrease as well.

The factors from the second group are related to the media coverage about the justice system. The way and amount of media coverage of justice-related events shape public perception in the short run, and an abundance of stories about this topic over longer periods can bring long-term effects.

The third group of factors is related to personal experience or the experience of the narrow social circle of the individual. Obviously, being a party in court proceedings (*court case*) strongly influences the opinion of a person about the judicial system.

COURT EXPERIENCE: THE VIEWS OF VARIOUS STAKEHOLDERS

This explains, for example, why the share of citizens believing that corruption in the judiciary is larger than the share of those who have had contact with courts or even encountered corruption in a court case personally.

For example, one of the first studies on the general population, targeting the criminal justice system of the Republic of Moldova² in 2009, showed that only 4% of men and less than 1% of women acknowledged that they had been arrested or retained by police, and 11% of the population said that they had been a victim of a crime over the preceding three years. This means that, in theory, only 15% of the population had personal court experience. During the same period, more than 70% of the respondents said that they did not trust the justice system.³

Another study,⁴ carried out in 2010, estimated that, in the course of three years, only 5% of the population visited a court and less than 1% of them admitted to having bribed a judge. Despite this modest level of court experience, in an opinion survey on the Moldovan judicial system in 2018,⁵ 76% of the population said that there was much or very much corruption in the judiciary, and 74% said the same about prosecutors.

Thus, the opinions of the major part of the population about the justice system are not based on their personal experience or direct observations. This, however, is not to say that public perception distorts the real state of affairs. In 2015,⁶ the survey “Perception of Judges, Prosecutors, and Lawyers on Justice Reform and Fight against Corruption” contained a similar question addressed to the groups that, by virtue of their profession, keep permanent contact with courts through court proceedings: judges, prosecutors and lawyers. In that survey, putting aside the cases where the respondents had to appraise themselves (for example, where judges had to express opinions about corruption in their ranks), the views of justice sector employees did not differ very much from those of the general population. Thus, 65.5% of the prosecutors and 76.8% of the lawyers said that corruption in the judiciary was very widespread or simply widespread, 51.8% of the judges and 63.4% of the prosecutors said the same about the bar, and 51.7% of the judges and 81.1% of the lawyers said the same about the prosecutors. These results are presented in Figure 4 below.

² Criminal Justice Performance from a Human Rights Perspective, Soros Foundation—Moldova, 2009, available at http://www.soros.md/publication/criminal_justice_performance.

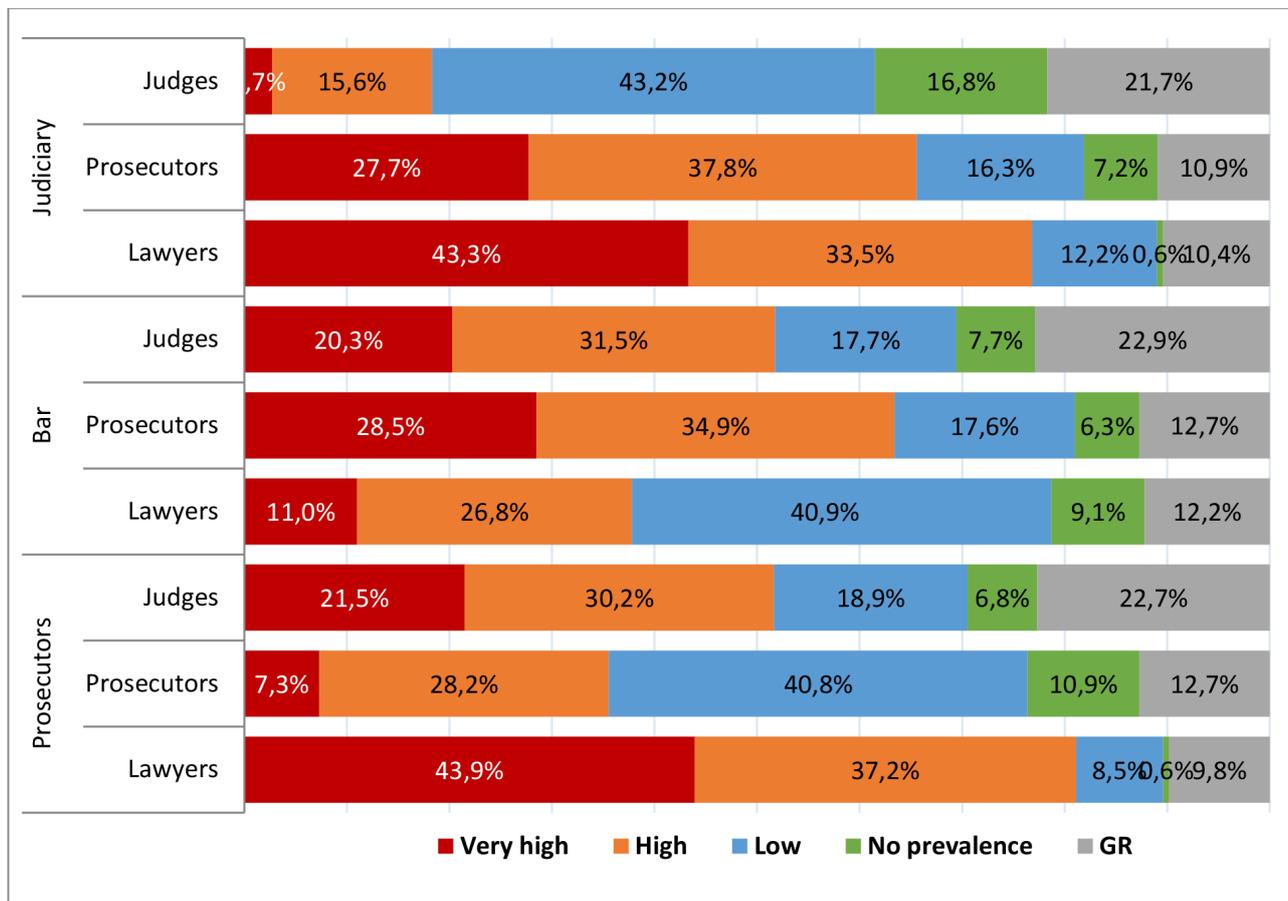
³ POB, July 2009.

⁴ Victimization and Public Confidence Survey, Jean Redpath, Soros Foundation—Moldova, 2010, available at <https://www.soros.md/publication/2011-01-04>.

⁵ The survey “Increased Efficiency, Accountability and Transparency of Courts in Moldova,” USAID Open Justice Project, 2018, available at https://crjm.org/wp-content/uploads/2018/02/Brosura_finala.compressed.pdf.

⁶ The survey “Perception of Judges, Prosecutors and Lawyers on Justice Reform and Fight against Corruption,” LRCM, 2015, available at https://crjm.org/wp-content/uploads/2016/01/CRJM_2016_SurveyJustice-ENG-1.pdf.

Figure 4. In your opinion, how high is the prevalence of corruption in the following structures?



Source: The survey “Perception of Judges, Prosecutors and Lawyers on Justice Reform and Fight against Corruption,” LRCM, 2015

In another survey on lawyers, carried out in November and December 2018,⁷ the opinions that corruption was very widespread also prevailed. Thus, 84% of the respondent lawyers said that corruption was widespread among prosecutors, 77.4% said the same about the judiciary, and 44% said this about the bar.

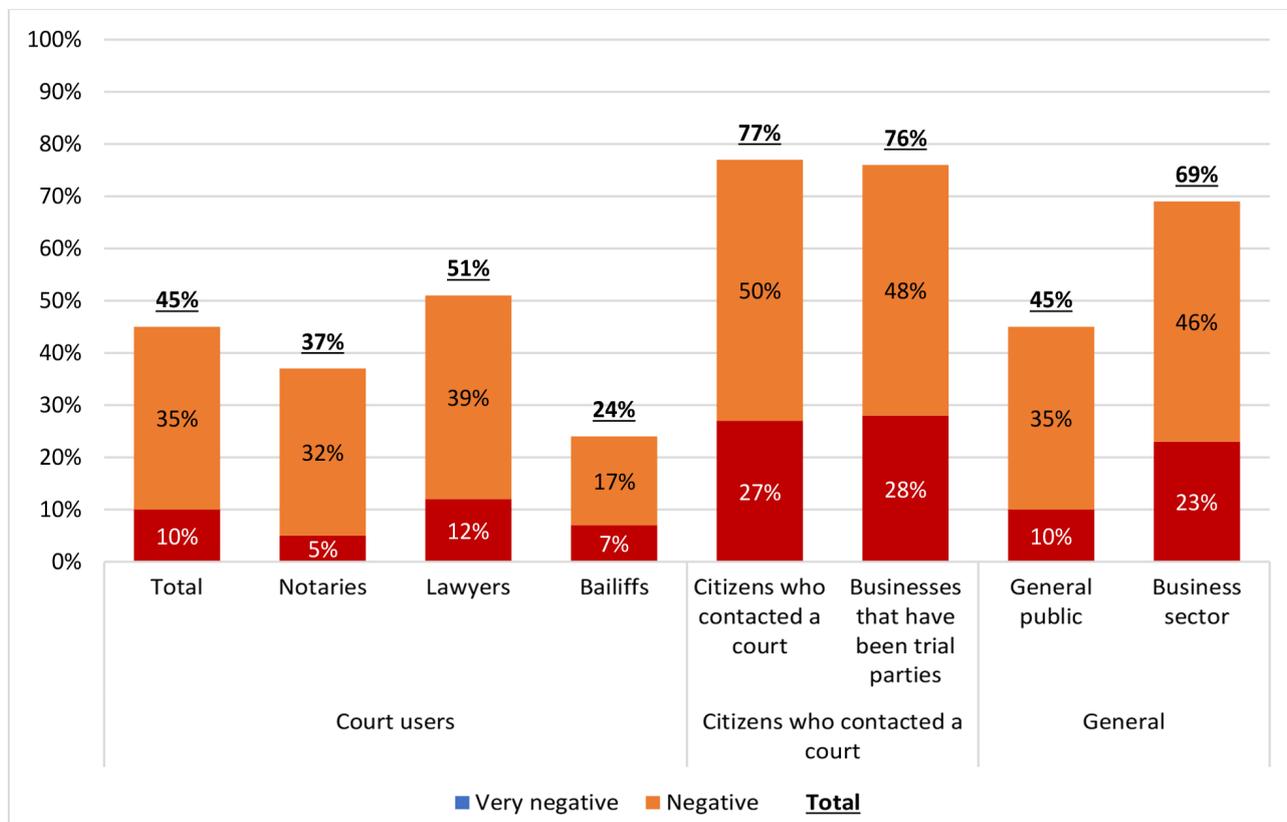
Another telling example of the correlation between the public perception of the justice system and the experience of court contact is presented in the analytical report “Republic of Moldova: The Assessment and Monitoring of Performance in the Justice Sector,” published in 2017.⁸

Forty-five percent of the general public and 45% of the so called “professional users” (notaries, lawyers, and bailiffs) said that they were not satisfied with the courts’ work. Business people were much more critical about this subject, 69% of them expressing critical opinions. In case of the general population and the businesses, the court contact experience increases considerably their dissatisfaction with the courts’ work. Thus, 77% of citizens who have used a court and 76% of the business people with such experience were dissatisfied. This data is presented in Figure 5 below.

⁷ The survey “The Lawyers’ Perception about the Independence, Efficiency, and Accountability in the Justice System of the Republic of Moldova,” LRCM, 2018, available at <http://crjm.org/wp-content/uploads/2019/01/2018-Sondaj-Perceptia-avocati-justitie.pdf>.

⁸ The analytical report “Republic of Moldova: the Assessment and Monitoring of Performance in the Justice Sector,” World Bank, 2017.

Figure 5. What is your general opinion about the work of the courts from the Republic of Moldova over the past two years?



Source: The analytical report “Republic of Moldova: The Assessment and Monitoring of Performance in the Justice Sector,” World Bank, 2017.

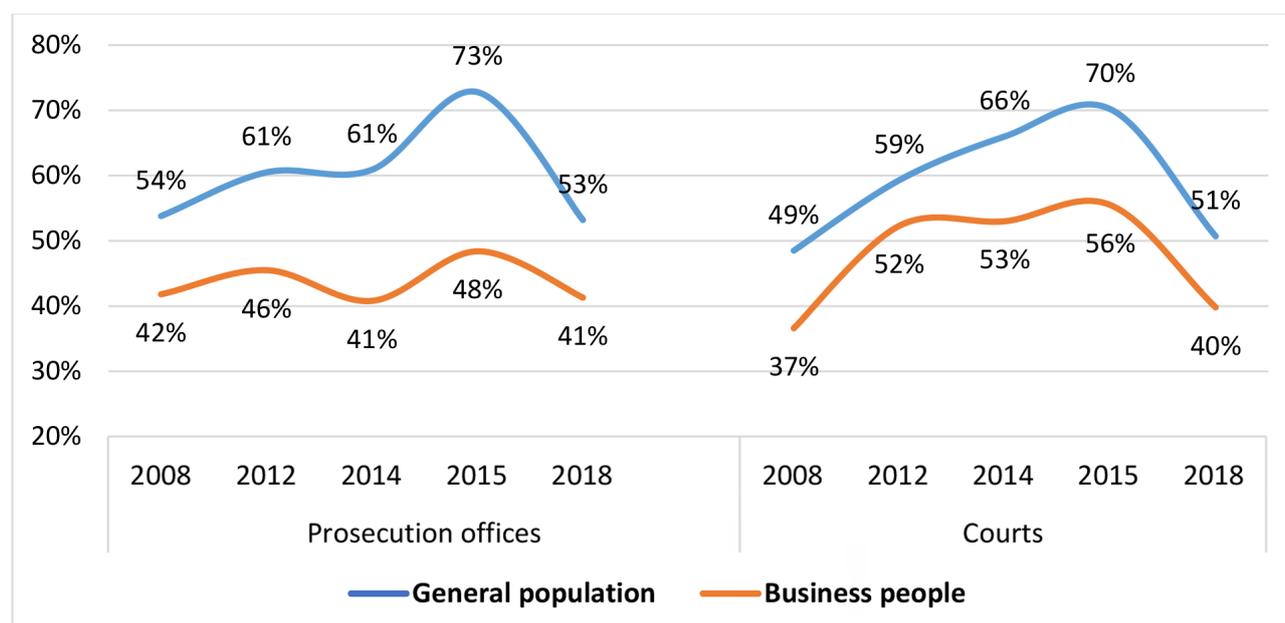
CORRUPTION IN THE JUDICIAL SYSTEM

Corruption remains central to confidence, or rather lack of it, in the justice system. Studies help to assess the trends in the perception of this phenomenon in the system.

Figure 6 below shows the trend in the perception existing among the general population and in the business circles regarding the practice of bribes in the courts and among prosecutors. Starting from 2008, this indicator reflected an increase in corruption. These trends lead to several observations.

First, the perception of corruption mirrors confidence in the justice system, as presented in Figure 1. The peak for this indicator, registered in 2015, coincides with the lowest level of confidence in the state institutions, registered in the same year. This observation serves as an example of how major events with wide media coverage can strongly influence public perception. Compared to other years, the year 2015 was characterized by a major political crisis started by the scandal of the billion theft, which wreaked havoc within the governing alliance and resulted in its end and the arrest of the ex-prime-minister Vlad FILAT.

Figure 6. How frequent is the practice of using money, gifts, and personal connections to “fix” issues in the following areas?⁹

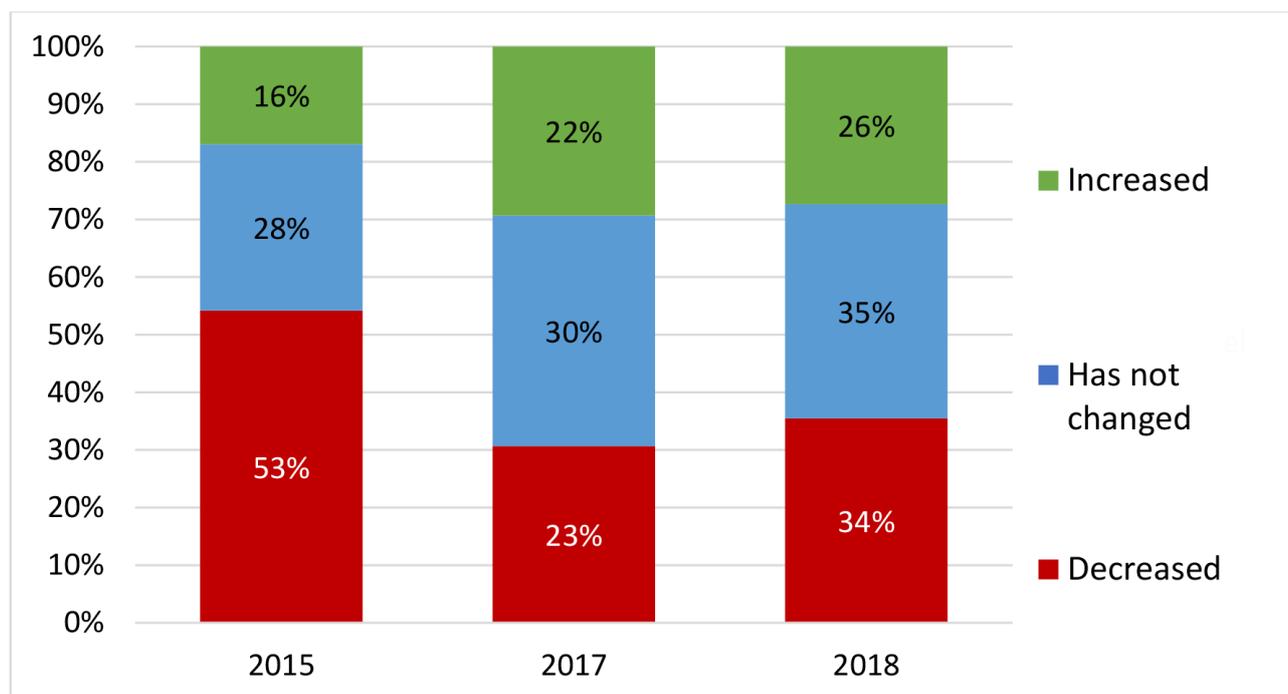


Source: The sociological study “Corruption in Republic of Moldova: Perceptions vs. Personal Experiences of Business People and Households,” Transparency International Moldova, 2018.

⁹ The sociological study “Corruption in Republic of Moldova: Perceptions vs. Personal Experiences of Business People and Households,” Transparency International Moldova, 2018, available at http://www.transparency.md/wp-content/uploads/2018/10/Transparency_International_Cercetare_Sociologica_August_2018- ROM.pdf.

Similar trends were found in the surveys among other groups. A comparison of the level of corruption at the time of survey and in 2011, in the studies carried out among lawyers in 2015, 2017, and 2018, also shows very negative opinions in 2015. In 2015, 53% of the lawyers considered that corruption in the justice system increased in comparison with 2011. In 2017, only 23% had this opinion, and in 2018 only 34%.

Figure 7. The trend of corruption in the justice system from 2015 through 2018 in comparison with 2011: lawyers' opinions



Source: 2015—a survey among judges, prosecutors and lawyers, LRCM; 2017—the analytical report “Republic of Moldova: The Assessment and Monitoring of Performance in the Justice Sector,” World Bank; 2018—a survey among lawyers, LRCM

CONCLUSIONS

During the analyzed period, the judicial system underwent many changes as a result of multiple reforms. In 2012, legislative amendments were approved to increase the number of the staff in all courts. Thus, each judge at the district court (first instance) and appellate courts was assigned with one judicial assistant, and each judge at the Supreme Court of Justice was assigned with three judicial assistants. Additionally, the position of chief of secretariat was introduced for each court. From 2014, judges' salaries were increased—an important step towards ensuring judicial independence. Furthermore, a series of legislative amendments reduced the judges' workload through such measures as the cancellation of the obligation to provide reasoning in the civil judgments of the district court and the introduction of mandatory mediation by judges in civil cases. From 2016, the courts system entered into the process of reorganization by reducing the number of the district courts and increasing the number of judges per court to improve the quality and efficiency of the justice system. Most representatives of the justice sector (judges, prosecutors and lawyers) had anticipated these changes and were positive about them. These changes, however, failed to improve the perception of the final beneficiaries, the population and the business, regarding the performance of the justice system. The persistently low levels of public confidence in the justice system should determine the judicial system and other relevant decision makers take urgent actions to improve the quality and fairness of justice delivery.



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