

NEWSLETTER

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About LRCM

Legal Resources Centre from Moldova (LRCM) is a nonprofit organization that contributes to strengthening democracy and the rule of law in the Republic of Moldova with emphasis on justice and human rights. Our work includes research and advocacy. We are independent and politically non-affiliated.

The Constitutional Court found that the President Sandu can dissolve the Parliament

After the Constitutional Court's (CCM) judgment of 23 February 2021 declaring the repeated nomination of Natalia GAVRILIȚA for Prime minister unconstitutional (see the LRCM's [Newsletter 30](#)), President Maia SANDU [held](#) new consultations with parliamentary groups on 16 March 2021. During the consultations, Ms. Maria DURLEȘTEANU, PSRM's candidate for Prime minister [announced](#) via a Facebook post that she withdrew her candidacy, suggesting she did not want to be manipulated. After the consultations with parliamentary groups finished, President Sandu [nominated](#) for Prime minister Mr. Igor GROSU, the leader of the Action and Solidarity Party (PAS), which was led by President Sandu before she became President. President Sandu motivated the nomination of Mr. Igor GROSU by the fact that at the time of the consultations no candidate was supported by the parliamentary majority. Mr. Igor GROSU was asked to prepare a programme for his Government and the list of cabinet members to be presented to Parliament.

Two days later, a new parliamentary majority was formed and put forward its candidate for the Prime minister's office. On 18 March 2021, Mr. Corneliu FURCULIȚĂ, chairperson of the parliamentary group of the Socialist Party of the Republic of Moldova (PSRM), [announced](#) in Parliament the establishment of [a formalized majority](#). It consisted of 53 MPs from the PSRM parliamentary group and the Platform Pentru Moldova (the Șor Party and unaffiliated MPs who had left the Pro Moldova group). The new parliamentary majority put up Mr. [Vladimir GOLOVATIUC](#), former MP from PSRM, who had been appointed as Ambassador of the Republic of Moldova to the Russian Federation in December 2020, for Prime minister. PSRM invited President Sandu to a new round of consultations. On the same day, President Sandu [announced](#) that new consultations could take place only after Parliament rejected the candidacy of Mr. Igor GROSU.

A few MPs from PSRM petitioned the CCM to verify the constitutionality of the nomination of Mr. Igor GROSU for Prime minister. On 22 March 2021, the CCM [found](#) that, following the withdrawal of Ms. Mariana DURLEȘTEANU, the parliamentary majority, which was formalized on 11 February 2021 to back her candidacy for the Prime minister,

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The parliamentary majority introduced the state of emergency to block the dissolution of Parliament. PAS asked the CCM to declare this decision unconstitutional

ceased to exist. Therefore, a parliamentary majority did not exist at the time of the nomination of Mr. Igor GROSU. The CCM stressed that, in the absence of a formal absolute parliamentary majority, the President must nominate a candidate for Prime minister after consultations with parliamentary groups took place, even if parliamentary groups disagreed with the President's proposal. The CCM found that the decree concerning the nomination of Mr. Igor GROSU had been issued in accordance with the Constitution. Judge Vladimir ȚURCAN had a [dissenting opinion](#).

On 24 March 2021, two Socialist MPs challenged the decree issued on 27 January 2021 concerning the nomination of Ms. Natalia GAVRILIȚA for Prime minister at the CCM. The application pursued the invalidation of President Sandu's first proposal concerning the investiture of the Government, rejected by Parliament on 11 February 2021, which would make it impossible to dissolve the Parliament. The Socialist MPs argued that the decree had not yet been published in the Official Gazette on the date of requesting the vote of confidence for the Gavrilița Government. Another reason was that, by nominating Ms. Natalia GAVRILIȚA, President Sandu and the nominee pursued the dissolution of Parliament rather than its vote of confidence. On 1 April 2021, the CCM declared this application inadmissible, as the challenged decree consumed its effects following the rejection of the request for investiture of the Government on 11 February 2021. According to the Constitutional Court's jurisprudence, the act that consumed its effects may not be subjected to verification of constitutionality.

It was expected that the [Programme for Government](#) and the [list of members](#) of the Grosu Government would be presented at a [Parliament meeting](#) on 25 March 2021. The attempt to invest the Grosu Government failed due to a lack of quorum after MPs from PSRM and the Platform Pentru Moldova (the Șor Party) left the Parliament chamber. On 19 January 2016, the CCM [found](#) that Parliament's failure to grant a vote of confidence for the Government, regardless of the underlying reasons, amount to failure to form a Government.

On [26](#) and 29 March 2021, President Maia SANDU held consultations with parliamentary groups to dissolve the Parliament. The consultations of 29 March were required because [PSRM](#) and the [Platform Pentru Moldova](#) had not shown up at the consultations of 26 March. On 29 March 2021, after the consultations took place, President Sandu [asked](#) the CCM to establish that the circumstances that warranted the dissolution of Parliament had been met. The President pointed out that the conditions from Articles 85 (1) and (2) of the Constitution are in place. It provides that snap election take place when the Government cannot be formed within three months or when, within 45 days the, Parliament does not grant repeatedly a vote of confidence for the Government. President Sandu mentioned that the three-month period for the investiture of a new government started from the retirement of the Chicu Government on 23 December 2020 and ended on 23 March 2021. As for the requirement from Article 85 (2) of the Constitution, the President added that Ms. Natalia GAVRILIȚA, candidate for Prime minister's office had filed a request for investiture with Parliament on 8 February 2021 and the 45 days had started

from that day and had ended on 25 March 2021. The Parliament did not accept any of the candidates proposed for the Prime minister's office (neither Ms. Natalia GAVRILIȚA nor Mr. Igor GROSU) put up by the President. On 15 April 2021, with three votes in favor and two against, the Constitutional Court found that the conditions for dissolution of the Parliament have been met and that the President can dissolve the Parliament.

On 31 March 2021, the Parliament [declared](#) a state of emergency in the Republic of Moldova for the maximal two-month duration allowed by law—from 1 April through 30 May 2021. [The proposal](#) to declare a state of emergency came from the Provisional Government. However, the Government failed to present the Parliament with a list of restrictions and expenses that the state of emergency would cause. The [acting Prime minister Mr. Aureliu CIOCOI](#) said on a TV show that setting the state of emergency for such a lengthy period was not logical and that the proposal to set it for two months had not come from the Government. According to Article 85 (4) of the Constitution, the Parliament cannot be dissolved during a state of emergency. Therefore, although the CCM found on 15 April 2021 that the Parliament could be dissolved, the Presidential decree ordering the Parliament's dissolution and setting the date for the snap parliamentary election will be possible only when the state of emergency is lifted. On 9 April 2021, two MPs from PAS [requested that the Parliament's decision concerning the state of emergency be declared unconstitutional](#) because it lacked sufficient justification and a provisional government cannot request the introduction of a state of emergency.

On 1 April 2021, Speaker Zinaida GRECEANÎI wrote a letter to the Secretary General of the Council of Europe (CoE), where she wrote that President Maia SANDU had violated her constitutional duties by requesting the CCM to approve the dissolution of Parliament. Ms. Zinaida GRECEANÎI asked the Secretary General to mediate the conflict between President Sandu and the Parliament. On 12 April 2021, [the Secretary General of the CoE answered](#) that the rules for dissolving the Parliament were stipulated in the Constitution and interpreted by the Constitutional Court, as well as that [the Venice Commission had issued an opinion about this subject in 2019](#). On 9 April 2021, Justice Minister Fadei NAGACEVSCHI [called](#) the Constitutional Court to request the opinion of the Venice Commission about the dissolution of Parliament.

Four judges, one prosecutor and one lawyer acquitted in a corruption case

Although a judge was found guilty of corruption, the charges against him were dropped for procedural reasons

On 17 March 2021, the Chișinău Court [acquitted](#) Judges Galina MOSCALCIUC and Ludmila OUȘ of the Chișinău Court of Appeal and Judges Svetlana TIZU and Victoria HADÎRCA of the Chișinău district Court in a corruption case. The four judges were charged in 2018 with participation in a criminal scheme. Allegedly, they and another judge of the Chișinău Court of Appeal—Ms. Liuba BRÎNZA—had issued multiple court judgments, during both first and appeal courts, in exchange for money. One of the judgments was in favour of a

doctor accused of malpractice. According to prosecutors, several individuals, including a lawyer and the judicial assistant of Judge Brînza, transmitted the money. Afterwards, Judge Brînza distributed the bribe among the other judges. Ms. Brînza [was captured on video transmitting the money to another judge. The footage appearing on the internet](#) on the day when the judges were arrested. On video Ms. Brînza puts EUR 1,000 each into two envelopes and then passes one of them to a woman who looks like Judge Moscalciuc. The latter hides the envelope in her bra and leaves the office.

Prosecutors charged the judges with the acceptance of bribery (Article 324 of the Criminal Code) and the deliberate issue of an illegal judgment (Article 307 of the Criminal Code). Late on the prosecutor asked for acquittal of all judges except Ms Brînza on charges of taking bribe (Article 324 of the Criminal Code) and for the conviction of all judges under Article 307 of the Criminal Code. Most of the suspects were acquitted except for the Judge Brînza's judicial assistant. The latter was sentenced to three years of suspended imprisonment. The doctor who had offered the bribe (Mr. Vadim SCARLAT) pleaded guilty and [was convicted earlier in another trial](#). The corruption charges against Judge Brînza (the Scarlat episode) were dropped because "there were circumstances that excluded the initiation of prosecution and indictment." The court ruling did not specify what those circumstances were.

On 17 March 2021, the court issued only the operative part of the judgment. The motivated judgment will be delivered on 16 April 2021. The judgement is not final and is subject to appeal.

Between 2010 and 2020, [only one judge charged with corruption was sentenced to incarceration in the Republic of Moldova](#). Immediately after the delivery of the judgement in June 2014, the judge left the Republic of Moldova and went missing.

After hearing of the NIA leadership, the Parliament set up a committee to improve the integrity legislation

MPs are planning to amend the integrity legislation

On 16 December 2020, the parliamentary majority formed of PSRM and the Platform Pentru Moldova (the Șor Party) passed a draft law that severely impacted the work of the National Integrity Authority in the final reading. The draft law [was challenged at the Constitutional Court](#) (see the LRCM's Newsletter 28 for details).

On 22 January 2021, a group of MPs from the Democratic Party of Moldova (PDM) filed [a draft law](#) that proposed amending the [Law on the NIA](#) and the [Law on the declaration of property and personal interests](#). The draft law reduced the time limits for inspections, introduced the possibility to challenge the decisions concerning the initiation of an inspection, prohibited integrity inspectors from reporting suspicions of crime to prosecution or tax administration authorities until their decision was final, and it included absurd derogations from the definition of the conflict of interest etc. The draft law stated that the law would also apply to ongoing inspections, which would result in the statutory

termination of many inspections because they had already lasted for more than the newly proposed time limit.

On 4 March 2021, [the NIA published an opinion](#) warning about the risk that this draft law would lead to the termination of many inspections already underway. On 10 March 2021, the LRCM issued [a legal opinion](#) stating that the adoption of the draft law was unacceptable. According to the LRCM, the amendments did not bring about predictability, were not backed by arguments and could not improve the NIA's work. Nonetheless, on 12 March 2021, the draft law passed its first reading on the condition that MPs excluded harmful provisions before the final reading.

After [the hearing of the NIA's management, which was held on 10 March 2021](#), a special parliament committee was set up to improve the integrity law. [The composition of this committee](#) was decided on 19 March 2021. Most members of the committee are MPs from PSRM and the Şor Party. The committee must develop and present the draft law to the Parliament within 120 days.

Currently, a few expert groups are involved in studying the legal framework concerning integrity. President [Maia SANDU](#) said that the President's office was working on a draft law that would improve the NIA law and would be presented soon to the Parliament. The Council of Europe also began a study to improve the legal framework concerning the NIA.

Mr. Denis ULANOV is charged with the involvement in bank fraud and Mr. Petru JARDAN, with the causing of damages to the Chişinău International Airport

MPs from the Şor Party were stripped of immunity but were set free

On 19 March 2021, Prosecutor General Alexandr STOIANOGLO requested the Parliament to strip of the immunity of MPs Petru JARDAN and Denis ULANOV of the Şor Party. Mr. Denis ULANOV faces charges of fraud (Article 190 (5) of the Criminal Code) and money laundering (Article 243 (3) of the Criminal Code) in a bank fraud case, while Mr. Petru JARDAN is accused of abuse in office (Article 327 (3) of the Criminal Code) in a case concerning the concession of the Chişinău International Airport. Prosecutors estimate that the damage MP Ulanov caused to the state amounts to EUR 23.8 million and USD 12 million and the damage caused by MP Jardan is of MDL 4.8 million. Mr. Denis ULANOV is accused of having caused damages to Banca de Economii in 2014, when, acting as Ilan ŞOR's lawyer, he handled the purchase of shares in a commercial bank with money obtained from the bank fraud. As for Petru JARDAN, he is accused of having caused damages of almost EUR 400,000 to the airport by unduly signing an insurance agreement in 2013.

On 22 March 2021, the parliamentary plenum examined the Prosecutor General's requests. MPs decided to withdraw the parliamentary immunity of MP Petru JARDAN by 68 votes and that of MP Denis ULANOV by 70 votes. MPs from the PRO Moldova Group and the Platform Pentru Moldova (the Şor Party) voted against this decision. MP Vladimir CEBOTARI refrained from voting in respect of Mr. Petru JARDAN, citing a conflict of interests. Representatives of the PRO Moldova Group and the Platform Pentru Moldova voted against the

withdrawal of Mr. Denis ULANOV's immunity despite [him stating on 19 March](#) that he would encourage them to support the Prosecutor General's motion for the withdrawal of immunity to prove his innocence.

Right after the parliament sitting of 22 March 2021, anticorruption prosecution officers put the MPs with withdrawn immunity [under a 72-hour arrest](#). The prosecutors requested a 30-day pre-trial arrest for the two MPs, citing the risk that they would abscond or impede the investigation. On 25 March 2021, the Ciocana Office of the Chişinău district Court decided to release both MPs on parole. The Anticorruption Prosecutor's Office challenged the investigating judge's orders at the Chişinău Court of Appeal. On 5 April 2021, the Chişinău Court of Appeal [dismissed](#) the prosecutors' appeals. Thus, both MPs remain free and the prosecution is still underway. Both Messrs. Denis ULANOV and Petru JARDAN plead not guilty.

In Brief

On 26 January 2021, the Superior Council of the Magistracy (SCM) [accepted the resignation](#) of Judge Nina VELEVA of the Cahul Court of Appeal (Cahul CA). She was the judge-rapporteur in the case of Ilan ŞOR. On 23 February 2021, Mr. [Tudor BERDILĂ](#) was appointed as judge-rapporteur in that case. Under the law, the change of the judge dealing with the case leads to restarting the examination of the case. As of 2 April 2021, it has been three years since the Cahul CA started the examination of the Şor case.

On 17 March 2021, the Parliamentary Committee for Legal Matters, Appointments, and Immunities held [a joint meeting](#) with judges and SCM members. The judges and the SCM members complained of the standstill formed in the Moldovan judicial system and requested Parliament's support for the amendment of the laws, including the law on the reorganization of the judicial map and the SCM's boards. The judges also expressed dissatisfaction with the recent decisions of the Parliament to refuse the appointment of several judges to the SCJ. At the end of the meeting, the judges and committee members did not take any decision about follow-up measures.

On 19 March 2021, the OSCE's [Office for Democratic Institutions and Human Rights \(ODIHR\)](#) published its [opinion](#) on the draft law that proposed the creation of the office of [ombudsperson for entrepreneurs' rights](#). On 24 March 2021, [the Venice Commission](#) also issued an [opinion](#) on this topic. Both opinions stressed the risks accompanying this initiative. ODIHR's experts consider that the draft law undermines the efficiency and independence, including the financial independence of the Ombudsperson's Office. The Venice Commission's experts also drew attention to the risk of internal conflicts between the ombudsperson, the ombudsperson for children's rights, and the ombudsperson for entrepreneurs' rights, which could cause difficulties and, implicitly, deadlocks between these entities.

On 19 March 2021, the [Parliament decided to set up](#) a special committee

to select the ombudsperson candidate . The office became vacant after the death of Ombudsman Mihail COTOROBAI. On 31 March 2021, the Parliament [announced](#) the competition on its website. Interested persons can submit their applications by 20 April 2021.

On 22 March 2021, a judge from [the Centru Office of the Chişinău Court](#) was [caught red-handed and arrested](#) for influence peddling. On 8 April 2021, the judge was charged with [another criminal](#) of the same type. In the first case, the judge allegedly asked for USD 16,000 from a company for influencing a civil case in favor of the company. The prosecutors also started a criminal case against the manager of the company who had allegedly offered the bribe. The manager of the company was placed under house arrest for 30 days, but the prosecutors' motion to arrest the judge [was dismissed](#). In the second criminal case, the judge allegedly extorted USD 1,000 from the manager of a company for influencing prosecutors in issuing a judgment in a criminal case. The judge was [suspended](#) from office until the final resolution of the criminal cases.

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