

## 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 Supreme Court of Justice has a new (old) interim chief justice

On 18 October 2021, Interim Chairman Dorel MUSTEAȚĂ of the Superior Council of the Magistracy (SCM) issued [an order](#), which was later validated by the SCM, appointing Judge Vladimir TIMOFTI as interim chief justice of the Supreme Court of Justice (SCJ) until a permanent chief justice will be appointed later. Vladimir TIMOFTI had already served as interim chief justice of the SCJ, from 2019 through 2021.

It was the first time that the CSM appointed interim chief justice of the Supreme Court based on the legal amendments enacted by [Law 128/2021](#) adopted on 30 September 2021. [The bill for amendment](#) (Bill 213/2021) was initiated by several MPs from PAS. Before this amendment, the deputy chief justice with the longest seniority of service at the Supreme Court used to act in place of the Supreme Court's chief justice on an interim basis.

According to [the informative note](#) to [Bill 213/2021](#), the possibility to take over the highest judicial office on an interim basis based just on seniority of service at the SCJ undermined the authority of the SCM, which is the only body that has oversight of the self-management of the judiciary. The legislative initiative may have also pursued another aim—that of terminating the mandate of the current interim chief justice of the SCJ. Before Timofti was appointed, the office of interim chief justice of the SCJ was filled by the SCJ's Deputy Chief Justice Tamara CHIȘCA-DONEVA. The Parliament had appointed her as deputy chief justice in March 2021 by the vote of the then parliamentary majority PSRM-ȘOR. At that meeting, PAS MPs, who are among the authors of the adopted bill, [walked out](#) as a sign of protest. According to [statements](#) made on that occasion, Doneva was responsible for the fact that the Republic of Moldova had lost the [Gemenii Case](#) at the ECtHR and had to pay EUR 3,600,000 in damages.

The office of chief justice of the SCJ has been vacant for more than two years, after the former office holder, Justice Ion DRUȚĂ, [resigned](#) and [later faced charges of illicit enrichment](#), which the



It was the first time that the CSM appointed an interim chief justice of the Supreme Court based on the legal amendments enacted by Law 128/2021 adopted on 30 September 2021.

prosecution dropped in 2021. In July 2020, the SCM [attempted](#) at appointing a new chief justice of the Supreme Court, but neither candidates in that competition—Justices Liliana CATAN and Anatolie ȚURCANU—received the necessary number of votes.

## All legal professionals must be involved for a better quality of reasoning in court judgments, a study by the LRCM finds

Court judgments are often too long, incoherent, illegible texts that are hard to understand. This was one of the findings of a study officially released by the LRCM at the end of September 2021. The paper, titled [From Judgments to Justice—How Can We Achieve Better Judicial Reasoning in Moldova?](#) identifies the main causes of adopting poorly reasoned judgments, analyzing the legal shortcomings and practical constraints that weaken the efforts of the Moldovan judiciary to ensure proper quality of reasoning. The study explores the factors that influence the quality of reasoning and draws, among other sources, on the opinions of judges, prosecutors, lawyers, and other legal professionals.

The study found that inconsistent judicial practice is the main factor that negatively impacts the quality of reasoning in court judgments. This could be related to another shortcoming noted by the professionals interviewed for the study—the lack of documents that codify the judicial practice. Despite numerous levers conceived to standardize judicial practice, very few improvements to this effect have been made in courts' work over the past years. The limited impact of the efforts to standardize judicial practice could be explained by frequent legal amendments and the circumstantial interpretation of the law by the legislature and the executive, lack of tradition to respect the interpretation of the law given in court judgments, and the not so active role of the Supreme Court of Justice (SCJ) on this line over the past years.

Judges' workload and its uneven distribution is another factor that influences the adoption of poorly reasoned judgments. This opinion is widespread among judges, and it was also expressed by prosecutors and lawyers. Actual workload could be influenced not so much by a shortage of judges as by numerous national specificities, such as the system's red tape, inefficient court management, and lack of a proactive approach by the Superior Council of the Magistracy (SCM), which should react promptly to fill unexpected vacancies occurring in the courts' system.

The professionals interviewed for this study claim that there is an established "culture" of superficial reasoning of court judgments. This is explained by a certain fear among judges that detailed reasoning could lead to the quashing of judgments. Newcomers adopt the pre-established deficient practices because there is no initial or in-service legal training on the reasoning of

Inconsistent judicial practice, judges' large and unbalanced workload, and an established "culture" of limited legal reasoning in judgements are the main factors that negatively impact the quality of reasoning in the judgements issued by courts in the Republic of Moldova.

court judgments. Legal professionals believe there is a direct relationship between the quality of reasoning in court judgments and the shortage of personnel that assists judges. Although officially there is enough personnel that assists judges, its turnover is extremely high; and they do not receive sufficient training before taking over their job duties. Judicial assistants themselves acknowledge that they have difficulties at work and lack sufficient legal education and skills, especially when entering the profession.

The timeframes for examining cases or taking procedural decisions are yet another factor that negatively impacts the quality of reasoning in court judgments. Judges tend to comply with statutory time limitations, often to the detriment of other requirements, including those concerning the reasoning of judgments. The quality of reasoning is also influenced by the performance of other trial participants (lawyers and prosecutors) and by the quality of training offered by the National Institute of Justice (NIJ) and law schools.

The LRCM's analysis comes with a few solutions, including the introduction of measures to standardize judicial practice into the legal framework and court management practices, the transfer of some categories of civil cases to the competence of bailiffs, the reinstatement of mandatory reasoning for all judgments on civil cases, the abolishment of mandatory judicial mediation and its replacement with extra-judicial mediation, the codification of the SCJ's caselaw, and the improvement of the training in legal writing and reasoning offered by the National Institute of Justice and law faculties. The full study is available [HERE](#).

## Major changes at the Prosecutor General's Office following the arrest of suspended prosecutor general Alexandr STOIANOGLO

Prosecutor General Alexandr STOIANOGLO was suspended by law on 5 October 2021, after a prosecutor assigned by the Superior Council of Prosecutors (SCP) started prosecution against him [on charges of](#) abuse of office, passive corruption, misrepresentation, and transgression of job duties. On 5 October 2021, Stoianoglo was arrested, and on 8 October 2021, he was placed under house arrest for 30 days (see more details in the [LRCM's Newsletter 37](#)). For the first time in the history of the Republic of Moldova, a Prosecutor General in office stands prosecution.

On 8 October 2021, the Prosecutor General's Office [announced](#) that, given the complexity of the case against Stoianoglo and the heightened public attention to it, the Prosecutor General's Office had set up a criminal investigation task force of prosecutors led by Prosecutor Victor FURTUNĂ, whom the SCP had assigned to examine the allegations concerning the illegal actions committed by Stoianoglo and to decide whether there were elements that warranted the initiation of prosecution. On 12 October 2021, Prosecutor Furtună [announced](#)

The Prosecutor General's Office set up a criminal investigation task force formed of prosecutors and led by Prosecutor Victor FURTUNĂ to handle the case of suspended Prosecutor General Stoianoglo. President Maia SANDU requested that the SCP starts the performance review procedure concerning Stoianoglo.

that the prosecution requested that Stoianoglo is arrested and remanded so that he could not influence witnesses and case participants, using hierarchical subordination, or destroy evidence.

The Stoianoglo case involved multiple criminal investigation actions. On 28 October 2021, Prosecutor Furtună assigned by the SCP [informed](#) about the actions taken during approximately three weeks, namely four searches, the hearing of five suspects and five witnesses, the enforcement of 20 orders concerning the seizure of items and documents, the ordering of five forensic tests, etc.

On 3 November 2021, the Chişinău Court, Ciocana Office, [extended](#) the house arrest warrant for Stoianoglo for another 30 days. A day earlier, on 2 November 2021, the Chisinau Court of Appeals (CCA) [declared inadmissible](#) Stoianoglo's application to the administrative court by which he requested the annulment of the SCP's decision of 5 October 2021 to assign Prosecutor Furtună to examine MP Carp's allegations about Stoianoglo's illegal actions. The CCA held that the challenged decision was not an individual administrative act as defined in the Administrative Code.

The Bloc of Communists and Socialists (BCS) has taken several actions in support of the suspended Prosecutor General, such as [statements](#) defending him, [a visit to the detention facility](#), [the organization of protests](#), and [the posting of bail](#) to court to have him released (see the [LRCM's Newsletter 37](#) for more details). Additionally, BCS MP Vasile BOLEA [requested](#) that the Superior Council of the Magistracy (SCM) evaluates and sanctions Judge Nicolae CORCEA— one of the judges from the Chişinău Court, Ciocana Office who had examined and admitted Prosecutor Furtună's motion for the arrest of Stoianoglo. Moreover, on 14 October 2021, BCS filed a censure motion against Justice Minister Sergiu LITVINENCO, citing the undermining of the independence of the Prosecutor General's Office because of the arrest of Stoianoglo. The Parliament [rejected](#) this motion one week later, on 21 October 2021.

On 4 November 2021, President Maia SANDU [requested](#) that the SCP started the performance review procedure concerning the suspended Prosecutor General. President Sandu based her request on the provisions of Article 31<sup>1 (2)</sup> of the [Law on the Prosecution Authority](#), which were adopted by the parliamentary majority formed of the Action and Solidarity Party (PAS) in August 2021.

On 5 October 2021, in addition to Prosecutor General Stoianoglo, the SCP also suspended by law his deputies—Ruslan POPOV, Mircea ROŞIORU, and Iurie PEREVOZNIC. Prosecutors [Iurie PEREVOZNIC](#) and [Mircea ROŞIORU](#) resigned as deputies of the Prosecutor General on 7 and 18 October 2021, respectively.

Prosecutor Ruslan POPOV [was charged](#) with [illicit enrichment](#). Earlier, the media had published investigations about Popov's unaccounted wealth ([Ziarul de Gardă in 2013](#), [Anticorupție.md in 2020](#), also see details in the

LRCM's Newsletter 25). In January 2020, the National Integrity Authority (NIA) [announced](#) that it had started the verification of Popov's property. On 30 September 2021, the NIA [finished](#) the verification of Popov's property and notified the State Tax Service so that it could start a fiscal verification of the homestead of Popov's father. On 11 October 2021, the NIA [announced](#) that it had sent the materials to prosecutors.

On 9 October 2021, Popov was taken to custody for 72 hours. Two days later, on 11 September 2021, the Chişinău Court, Ciocana Office, examined the prosecution's motion for the pretrial detention of Popov and [decided](#) to place him under a 30-day house arrest. On 19 October 2021, the Chişinău Court of Appeals admitted the prosecution's appeal and [decided](#) to place Popov under 20-day pretrial detention.

After the suspension by the law of Prosecutor General Stoianoglo, on 6 October 2021, the SCP [appointed](#) Prosecutor Dumitru ROBU as interim Prosecutor General (see the [LRCM's Newsletter 37](#) for more details). Dumitru ROBU had already held this office on an interim basis in summer 2019. On 21 October 2021, the interim prosecutor general appointed [Eduard BULAT and Marcel DIMITRAŞ](#) as his two deputies.

The composition of the management at specialized prosecution offices also changed. Ion CARACUIAN, chief prosecutor of the Prosecution Office for Fighting Organized Crime and Special Cases (PCCOCS), [resigned](#) for personal reasons. On 15 October 2021, the SCP appointed several prosecutors to act in executive positions on an interim basis at the (APO) and PCCOCS. These prosecutors are:

- [Elena CAZACOV](#), appointed as interim chief prosecutor of the APO;
- [Ion MUNTEANU](#), appointed as interim deputy chief prosecutor of the APO;
- [Sergiu RUSSU](#), appointed as interim chief prosecutor of PCCOCS;
- [Vladislav BOBROV](#), appointed as interim deputy chief prosecutor of PCCOCS;

## **The case concerning the illegal wiretapping of the opposition members and civic activists sent to court**

On 22 October 2021, the [Prosecutor General's Office](#) announced that the criminal case concerning the illegal wiretapping of opposition representatives, civic activists, and journalists in 2017 and 2018 had been sent to court. The investigation started in August 2019, just after the Government in Chişinău and the management at the Prosecutor General's Office changed. The case was triggered by [an investigation about wiretapping published by RISE Moldova](#) in June 2019. The case was handled by anticorruption prosecutors.

For reasons still unknown, anticorruption prosecutors dropped charges against the prosecutors involved in the abusive wiretapping and never brought charges against the “masterminds” of the operation.

A jurist at the LRCM managed to find out more information about the criminal case sent to court. The wiretapping was carried out as part of three criminal cases. More than 50 persons were wiretapped. Every month, prosecutors would request the extension of wiretapping. Overall, the Prosecution Office for Fighting Organized Crime and Special Cases (PCCOCS) requested, and courts issued, over 200 warrants authorizing or extending wiretapping. The wiretapping carried out as part of these three cases accounted for approximately 5% of all wiretapping activities carried out in the Republic of Moldova at that time.

The three criminal cases that involved wiretapping were initiated based on Facebook posts or interviews taken by journalists. According to prosecutors, these posts and interviews were part of efforts to organize riots, which is a crime under [Article 285 \(1\) of the Criminal Code](#). Six months into the first case—when the maximal legal period wiretapping is allowed for elapsed—prosecutors would start a new case, and after another six months, yet another case. The police started the first two cases, and PCCOCS, the third one. According to anticorruption prosecutors, there was not a single reason that warranted the initiation of these cases and wiretapping. A few police officers said that wiretapping was ordered by the management of PCCOCS and Directorate 5 of the Ministry of Home Affairs (MHA).

In the case that was sent to court, anticorruption prosecutors indicted five police officers who requested wiretapping, including the former chief of Directorate 5 of the MHA, Valeriu COJOCARU. Initially, charges were also brought against two prosecutors who had started the third criminal case and coordinated the police officers who performed wiretapping activities. These charges, however, were dropped at a later phase for unknown reasons. Those prosecutors still work within the prosecution system.

The indicted five police officers had absolutely no interest in wiretapping opposition leaders, NGO members, and journalists. This was a political order coordinated at the top level. The investigation in the case sent to court did not touch a single senior officer from the MHA or chief prosecutor, even though more than two years have passed since RISE published its investigation. According to [the communiqué of the Prosecutor General's Office](#), a few other similar cases are in the pipeline, and apparently, neither are they targeted at the “masterminds” of the operation.

Even to this date, judges have not informed those over 50 wiretapped persons that they had been wiretapped, despite this being judges' legal obligation. Moreover, none of the judges and prosecutors responsible for the wiretapping that is being examined in this case received disciplinary sanctions. At first, a few disciplinary actions were initiated against the prosecutors involved in the wiretapping, but they were dropped for procedural reasons.

After RISE published its investigation, some of the wiretapped persons attempted to get access to the criminal cases under which they had been wiretapped, but prosecutors dismissed their requests on the grounds that those persons “had no procedural quality” in the criminal cases in question. The investigating judges of the Chişinău Court found that the prosecutors' refusal had good grounds.

In the summer of 2020, five wiretapped persons took the case to the European Court of Human Rights (ECtHR), claiming that they had been wiretapped abusively and the law did not ensure sufficient protection for them against such abuses. In March 2021, [the ECtHR requested explanations from the Government](#) of the Republic of Moldova. In June 2021, the government representative submitted their explanations, stating that the wiretapping was performed legally and requested the court to dismiss the application.

According to multiple media reports, Directorate 5 of the MHA was extensively used from 2017 to 2019 to watch or intimidate the opposition and to ensure protection for persons who entered the entourage of Vladimir PLAHOTNIUC. Allegedly, Directorate 5 of the MHA [had offered](#) Dorin DAMIR, who was close to Plahotniuc, a fake status of operative and fake identity. Reports also have it that Directorate 5 [fabricated a criminal case on the illegal possession of munition](#) against an activist from PPDA and [staged a rape committed by Gheorghe PETIC](#), another PPDA activist. In July 2019, the then Minister of Home Affairs Andrei NĂSTASE [liquidated Directorate 5](#) because it had served as a tool for prosecuting those who had opposed the government.

## The examination of the criminal case against Viorel MORARI goes on

On 26 December 2019, suspended Prosecutor General Alexandr STOIANOGLO started prosecution against Viorel MORARI, former chief of the Anticorruption Prosecution Office, for “abuse of office,” “misrepresentation in public acts,” and “interference with criminal investigation.” The criminal case was based on an anonymous letter and the confession of a subordinate of Morari. On 10 January 2020, Viorel MORARI was admitted as an accused and arrested for 72 hours, and on 13 January 2020, he was remanded in custody. On 23 January 2020, the Superior Council of Prosecutors (SCP) admitted Stoianoglo’s motion to suspend Viorel MORARI as chief prosecutor of the Anticorruption Prosecution Office pending the final decision in the case against him. On 12 August 2021, the Prosecutor General [ordered](#) the termination of suspension from office and employment relations with him (for more details, see the [LRCM's Newsletter 36](#)). Viorel MORARI challenged this decision, and the case is [pending examination](#) at the Chişinău Court, Rîşcani Office.

According to the Prosecutor General’s Office, Viorel MORARI [is accused](#) of having admitted an illegally registered complaint from Plahotniuc in December 2016, based on which, forging a series of procedural acts, he allegedly started a criminal case against Veaceslav PLATON for a defamatory report filed on 2 August 2016 with the Directorate for Investigating Organized Crime and Terrorism (DIICOT) of Romania. The only injured party, in this case, is Veaceslav PLATON who claims that the examination of that application resulted in his formal accusation in the Banking Fraud Case (billion theft case) and caused him material damages worth USD 300 million and moral damages estimated at MDL 1 million.

Although courts seem to consider the criminal case against Viorel MORARI as a matter of top priority, the numerous motions for recusal and self-recusal and delays have dragged out the proceedings.

After finishing the investigation on 7 February 2020, the Prosecutor General's Office [sent](#) the criminal case to the Chişinău Court, Buiucani Office. On 10 February 2020, the case was randomly assigned for examination to Judge Ana CUCERESCU. At the defenders' request, Deputy Chief Judge Dorin DULGHIERU ordered the examination of the case by a panel of three judges. The panel included Judge Vasilisa MUNTEAN as the panel's chief judge, Judge Ana CUCERESCU as rapporteur, and Judge Irina PĂDURARU. As soon as the judicial panel has been formed, at the hearing of 14 February 2020, two of the three judges decided to release Morari on probation, whereas the judge rapporteur had a dissenting opinion. On 17 February 2020, the Prosecutor General's Office [declared](#) that the formation of the judicial panel was illegal and requested the Supreme Court of Justice (SCJ) to relocate the case to another court. The Chamber for Criminal Cases of the SCJ [dismissed the request](#).

On 19 October 2021, Judge Rapporteur Ana CUCERESCU [recused herself](#) from the examination of the criminal case. The judge cited intimidation by the other two panel judges and the restriction of her rights and obligations as judge rapporteur, which made her unable to pass an impartial decision on the case. The trial included hearings she was not informed of, where the panel examined her motion for self-recusal. The hearings were set without consulting her agenda and overlapped with other scheduled hearings so that she could not participate in two hearings concurrently.

The judge also maintained that the other two panel judges pressed her into complying with their instructions and accused her publicly of exceeding job duties and exchanging text messages with the prosecutor. Moreover, at the hearing of 15 October 2021, the panel scheduled 16 hearings on the case for the period of 28 November 2021–30 December 2021, without consulting the judge rapporteur. The other two judges explained that they had retrieved the list of hearings scheduled for Judge Ana CUCERESCU from the Integrated Case Management System (ICMS).

On 22 October 2021, Ana CUCERESCU's motion for self-recusal [was dismissed](#) by another judicial panel. Two of the three-panel judges voted to dismiss the motion for recusal, whereas Judge Valentina GARABAGIU, chief judge of the panel, had a dissenting opinion. At the hearing, Morari and Judge Garabagiu argued. Viorel MORARI mentioned that Valentina GARABAGIU was the spouse of ex-judge Gari BIVOL who was under criminal investigation in the Laundromat Case.

Judge Cucerescu's self-recusal motion [was backed](#) by Ion CREȚU, Platon's lawyer. He confirmed Ana CUCERESCU's arguments that the panel had examined her motion in her absence, and earlier, in [a motion for the relocation](#) of the criminal case, he had warned that only the other two panel judges had interrogated witnesses, without consulting the judge rapporteur. Morari's lawyer cited examples when motions had been examined in the absence of other panel judges, but with the participation of the judge rapporteur. Had the motion for the recusal of the judge rapporteur been admitted, the examination of the criminal case would have had to start anew.

Recently, Carolina VIDRAŞCU-BRÎNZA, one of the three prosecutors who had handled the case against Viorel MORARI, [decided to leave](#) the prosecution system.

On 21 October 2021, the prosecutor's last day of employment, the SCP was to examine Viorel MORARI's complaint against Prosecutor Vidraşcu-Brînză. The examination was postponed, however, as Morari requested to be present at the SCP's meeting.

So far, approximately [94 hearings](#) have been scheduled in this case. Many were adjourned/postponed, and most at the request of the judicial panel. The examination of this case reached [a record number of motions for recusal](#). Platon requested the recusal of panel judges and the entire panel altogether seven times. The accusation requested the recusal of judges two times. Defendant Morari requested the recusal of the state prosecutor once and of a clerk once.

The former chief of the Anticorruption Prosecution Office is accused of three criminal cases. So far, this case is the only one that is being examined in court. In another case, where Viorel MORARI was accused of "illicit enrichment" and "money laundering," the prosecution dropped charges on 18 June 2020. As for the case of VENTO gas station, where Morari and one of his subordinates are accused of "excess of power," "misrepresentation in public acts," "illegal arrest," and "deliberate initiation of a criminal case against an innocent person," on 17 July 2021, the Prosecutor General's Office [announced](#) that it would be sent to court after the accused familiarized themselves with the indictment. The case, however, never reached court.

Viorel MORARI pleads not guilty and maintains that the cases were opened for political considerations after he decided to reinstate, in 2019, the criminal case on the alleged foreign financing of the Party of Socialists (see the [LRCM's Newsletter 25](#) for more details).

## Important amendments made to the laws governing the National Integrity Authority and the declaration of property and personal interests

On 4 August 2021, a group of MPs from the Action and Solidarity Party (PAS) filed [a bill](#) in Parliament to amend the Law on the National Integrity Authority (NIA) and the Law on the declaration of property and personal interests. The bill provides for the revision of some of the core elements of the NIA's work, such as the strengthening of the mechanism for the verification of property and interests.

On 13 August 2021, just nine days after the filing, Parliament approved the bill in the first reading by the vote of 58 PAS MPs. On 10 October 2021, the bill passed its second reading by the vote of 57 PAS MPs. MPs explained this rush by the [conditions](#) imposed by the European Union (EU) for the second installment of the macro-financial assistance and the fact that the NIA reform [was high on the agenda](#) of the current government. The macro-financial assistance was divided into two installments of EUR 50 million each, and the first installment has already been offered to the Republic of Moldova.

The recent innovations related to the declaration of property and personal interests are meant to contribute to the improvement and strengthening of the mechanism for the verification of property and interests and to streamline the NIA's work.

Public consultations on this bill took place on [28 July](#) and [19 August](#) 2021. Many experts from civil society criticized the amendments proposed initially, lack of transparency, and the haste with which the bill was voted in the first reading. The Legal Resources Centre from Moldova (LRCM) has addressed to Parliament [a list of recommendations](#) to improve the bill. The [NIA](#) and the [National Anticorruption Center \(NAC\)](#) presented negative opinions on the bill. After the bill passed its first reading and repeated consultations were held, many of the experts' recommendations were taken into account.

[The law](#) was published in the Official Gazette on 29 October 2021 and includes the following innovations:

- The verification is extended over the family members, parents/parents-in-law, and major children of the subjects of verification. If the subject of verification is involved in a cohabitation arrangement or has dependents, the verification is extended over the property of these persons as well.
- The value of the services that must be declared increased from six to ten national average salaries (MDL 87,000 in September 2021).
- Property must be declared at its real value at the moment of purchase.
- The law introduces a new obligation to declare virtual assets (cryptocurrency).
- The burden of proof is reversed, and now it is the subject of verification or their relatives/donors who must clarify doubts to account for the property.
- The number of Integrity Council members increased from seven to nine due to an increase of members assigned by the justice ministry to represent civil society from two to three and the addition of another member assigned by the president of the country.

In adopting the new law, Parliament heeded many of the recommendations made by civil society organizations. Experts' proposal to raise inspectors' remuneration to the level of judges, however, was not accepted.

Before the bill passed in the second reading, on 21 September 2021, the Constitutional Court (CCM) [declared](#) Law 244 of 16 December 2020, which amended a series of regulatory acts concerning the NIA's powers, unconstitutional. This law had been voted on 16 December 2020 by the members of the previous Parliament, who represented the Party of Socialists of the Republic of Moldova (PSRM) and the Pentru Moldova Platform (the Șor Party and unaffiliated MPs who had left the Pro Moldova group). The CCM [suspended](#) the provisions of this law on 21 December 2020, on the day of receiving the application.

[Law 244/2020](#), which was declared unconstitutional, had introduced many amendments that limited the NIA's powers, namely, it had reduced the limitation period for the NIA's verifications from three years to one year within the termination of office or mandate and limited these verifications to only

the assets acquired by officers during the latest office held, and not during earlier offices. Other amendments reduced the limitation period for challenging the NIA's acts from one year to 15 days and required the application of the limitation periods from special laws on disciplinary liability. The CCM found that the law had been adopted after two readings that took place on the same day, with a one-minute interval between them, without debates, and in violation of constitutional parliamentary procedures. The Court also found that the legal amendments could lead to the impunity of civil servants.

## RISE Moldova wins an ECtHR case with PSRM concerning the investigation of foreign financing

On 12 October 2021, the European Court of Human Rights (ECtHR) ruled on the case [Asociația Reporteri de Investigație și Securitate Editorială din Moldova \(RISE Moldova\) and Sanduța v. Moldova](#). The applicants complained about the violation of freedom to communicate information, guaranteed under Article 10 of the European Convention on Human Rights, as they had been obliged to retract certain statements from a journalistic investigation, which allegedly defamed the political Party of Socialist of the Republic of Moldova (PSRM).

Back in September 2016, RISE Moldova had published a [journalistic investigation](#) which alleged that PSRM had received MDL 30 million (approximately USD 1.5 million) from a Bahamas-based offshore company connected to the Russian Federation (see the [LRCM's Newsletter 25](#) for more details). Igor DODON and PSRM took legal action against RISE Moldova several days before the second round of the 2016 presidential election.

After that, Dodon became president of the country and the case against RISE Moldova went in favor of PSRM [in all national courts](#). The reason behind these decisions was that state institutions had not found that PSRM had received suspicious funds from abroad and therefore labeled the investigation of RISE Moldova as defamatory. Courts ordered RISE Moldova to publish a retraction and to apologize in public.

Some judges who examined this case at the national level [were promoted](#) by decrees of President Igor DODON. For example, Judge Ala MALÎI was appointed to the Chișinău Court of Appeals (Chișinău CA) by a decree of 12 March 2018, during the examination of the appeal filed by RISE Moldova against PSRM. One month later, she was already sitting on the judicial panel [that annulled that appeal](#).

When the ECtHR communicated the case to the Government in March 2019, the government representative (GR) requested the national courts to expressly acknowledge the violation of the applicants' freedom of expression and to award compensations. On 3 December 2020, the Chișinău CA admitted the GR's motion for revision and [dismissed the defamation action](#) brought by

At first, the national courts found the investigation of RISE Moldova defamatory, but they reconsidered their decisions after the ECtHR communicated the case to the government

PSRM as unfounded, but did not award RISE Moldova compensations. The judgment of Chişinău CA became final because nobody challenged it in cassation.

The ECtHR found a violation of the rights of RISE Moldova because the authorities had not awarded compensations despite finding the violation of their freedom of expression.

## | IN BRIEF:

**On 26 October 2021, the Constitutional Court issued a positive opinion** on the bill for amending [Article 70 \(3\) of the Constitution](#). The bill for amending the Constitution provides for the annulment of MPs' immunity if they commit a crime of active or passive corruption, influence peddling, excess or abuse of power, illicit enrichment, and money laundering. This bill aims at strengthening public trust in representatives of public authorities. The Constitutional Court established that the bill was in line with the Constitution revision rules and can be put forward in the plenum for examination.

**On 1 October 2021, the Prosecutor General's Office (PGO) released a communiqué**, announcing the official indictment of the former MP from the [Democratic Party \(DP\)](#), Vladimir ANDRONACHI, his spouse, and the family's trusted lawyer. The Anticorruption Prosecution Office charged the three with the commission of fraud and money laundering, both crimes on a grand scale and for the benefit of an organized crime group. Following a series of searches performed as part of the investigation of the Banking Fraud Case, prosecutors discovered actions of money laundering by several organized crime groups that resulted in the stealing of approximately MDL 32 million from Banca de Economii. According to the indictment, the criminal actions of the three culminated at the final phase of the Banking Fraud—that is, during the period of 24–27 November 2014.

At the prosecutors' request, judges issued an arrest warrant in absentia for the former MP and put him on the international wanted list. His spouse and lawyer were allowed to stay free during the investigation but cannot leave the country.

**On 5 October 2021, the plenum of the Superior Council of the Magistracy (SCM) adopted a decision** concerning the nomination of judges to the Chişinău Court of Appeals. The SCM plenum proposed the President of the Republic of Moldova appoints Judge Boris TALPĂ of the Criuleni District Court, Judge Ghenadie MÎRA of the Anenii Noi District Court, Judge Sergiu DAGUȚA of the Chişinău District Court, and Judge Alexandru SANDU of the Chişinău District Court, Centru Office, as judges at the Chişinău Court of Appeals. The decision is appealable at the Chişinău Court of Appeals for 30 days.

## I LRCM's Team

**Vladislav GRIBINCEA**  
Executive Director

**Daniel GOINIC**  
Legal Officer

**Nadejda HRIPTIEVSCHI**  
Program Director

**Victoria MEREUȚĂ**  
Legal Officer

**Sorina MACRINICI**  
Program Director

**Aurelia CELAC**  
Accounting & Financial Manager

**Oxana BRIGHIDIN**  
Legal Officer

**Olga CORTAC**  
Director of Administrative Service

**Ilie CHIRTOACĂ**  
Legal Officer

**Alina FRIMU**  
Assistant of Financial Administrative Service



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### Legal Resources Centre from Moldova

 33, A. Șciusev st.,  
MD-2001, Chișinău,  
Republic of Moldova

 +373 22 84 36 01  
 +373 22 84 36 02

 [contact@crjm.org](mailto:contact@crjm.org)  
 [www.crjm.org](http://www.crjm.org)

 [crjm.org](http://crjm.org)  
 [crjmolдова](https://twitter.com/crjmolдова)