

NEWSLETTER

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In Brief

Digest: Justice and Anticorruption Forum

On 18 and 19 November 2021, the [Legal Resources Centre from Moldova \(LRCM\)](#), in partnership with the Government of the Republic of Moldova, held the third edition of the [Justice Reform and Anticorruption Forum](#). The forum was opened by the [President of the Republic of Moldova, Maia SANDU](#), followed by Janis MAZEIKS, Head of the Delegation of the European Union, Katrina FRIED, Ambassador of Sweden, Johnny Walsh, USAID representative, and [Vladislav GRIBINCEA, Executive Director of the LRCM](#). Sweden financed the event.

The forum gathered the main justice sector players, politicians, international experts, civil society and development partners to spur the announced justice and anticorruption reforms and to reduce the risks related to them. The event was structured into two one-day modules: the justice reform and the fight against corruption. The discussions of the first day focused on the reform of justice in democracies in transition and on the judicial vetting. The discussions of the second day were about the vision of the fight against corruption and the investigation and sanctioning of grand corruption.


Speaking about the problems of the justice sector, the participants mentioned its fragile independence, the low level of public confidence, corruption in the system, the deficient application of laws and poor communication with the public. The participants mentioned as problems that facilitate corruption the lack of a good interagency cooperation at the national level, corruption among those who are tasked with fighting it, the focus on petty corruption in the past, insufficient access to resources, equipment and personnel at the Anticorruption Prosecution Office, as well as application of lenient sanctions for corruption.



International experts and development partners agreed that the reform of the justice sector and the fight against corruption will take time. Therefore, a vision and good planning, organization, and communication around the reform is just as important as political will. The inclusiveness and transparency of reforms and the independence of the judiciary are vital for the sustainability of these reforms and for respect of human rights. The main reform discussed at the forum—the vetting of judges—must be supported by other



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.

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Vetting should not be viewed as a panacea for all problems of the justice sector. For a successful fight against corruption in the judiciary, it needs to be corroborated with other anticorruption reforms.

measures, such as streamlining the verification of asset, improving training for aspiring judges and aspiring prosecutors and calibrating public expectations from this reform. Another point was that speed must not prevail over the quality of change. Considering the failure of the past reforms, finding suitable people who could take over the leadership of the judiciary and anticorruption entities is going to be a challenge.

Recommendations concerning the reform of the judiciary included streamlining the self-administration of the judiciary, improving training at the National Institute of Justice, making the Supreme Court of Justice a genuine cassation tribunal, completing the optimization of the courts map and extending it to the prosecution system, as well as ensuring the transparency of the judiciary. Recommendations concerning anticorruption activities included adopting a comprehensive approach to the reform, ensuring the consistency of anticorruption laws, harsh sanctions for corruption, streamlining the Anticorruption Prosecution Office and the National Integrity Authority, reconsidering the role of the NAC, and digitizing public services.

Foreign experts mentioned that the judicial vetting was not a panacea for all problems of the justice sector and its efficiency was not a fact fully confirmed in practice. If it is decided, however, that the implementation of judicial vetting should go ahead, everybody must understand that this is a complex process, which will take five or six years. This innovation requires people who would carry out these duties and a fair number of people who would assist them. Drawing on the Ukrainian experience, experts warned against ultimately allowing unreformed justice organs to take decisions about vetting. Vetting must be in the competence of an entity that is independent from both the politics and the judiciary and must involve civil society and development partners.

The LRCM has prepared a [digest of the main discussions and recommendations voiced at the forum](#) and will share it with the Ministry of Justice, other decision-makers and development partners.

New amendments to broadcasting legislation, followed by important dismissals and appointments

On 14 October 2021, a group of MPs from the Action and Solidarity Party (PAS) filed a [bill](#) to amend the Code of Audio-visual Media Services (the Code). On 22 October 2021, seven nongovernmental media organizations signed a [joint statement](#), expressing concerns about the proposed amendments, which could strengthen the wicked practice of governing political circles of interfering with the activity of Teleradio-Moldova (TRM).

According to the bill, Parliament would ensure the oversight of TRM. TRM's Supervision and Development Board (the Supervisory Board) would be appointed directly by Parliament rather than the Broadcasters Council (BC).

The amendment of the broadcasting legislation created prerequisites for political interference with TRM. However, the TRM's new management appointed based on these amendments have recommended themselves in the past by professionalism and impartiality.

The bill also provided for the appointment of TRM's CEO by Parliament, at the proposal of the Supervisory Board, rather than the Supervisory Board itself. Moreover, according to the bill, Parliament would have the right to dismiss members of the BC and the Supervisory Board for the deficient work of the entity or bad performance. Parliament's rejection of the annual activity reports submitted by the Supervisory Board or the BC would automatically entail the dismissal of their members. The bill also established that the mandates of all members of the Supervisory Board and the CEO of TRM would end by virtue of law on the effective date of the amendments.

The bill [passed its first reading](#) on 21 October 2021 and [the final reading](#) on 4 November 2021. In between, on 26 October 2021, the Parliamentary Committee for Culture, Education, Research, Youth, Sports, and Mass Media (the Committee) held [a public consultation](#) on the bill, which involved media service providers and representatives of civil society. Most participants voiced concerns about the potential political subordination of TRM and direct interference with its editorial policy. Nevertheless, the bill remained mostly unchanged after the consultation. On the same day, President Maia SANDU signed the bill, thus making it law. The law was published in the Official Gazette the next day, taking effect right away.

On 10 November 2021, just six days after the passage of the bill in the second reading, the Committee [decided](#) to hold a repeated examination of the BC's activity report for 2020. The next day, after a questions-and-answers session, Parliament rejected the BC's [activity report by the vote](#) of 55 PAS MPs. In line with the new amendments, the BC members were dismissed *en bloc*, even though some of them had been [appointed](#) by Parliament in 2020 and could not be held accountable for the entire work of the BC done in 2020. The former chairperson of the BC, Ala URSU-ANTOCI, [said she would challenge](#) in court the Parliament's decision concerning her dismissal.

On 25 November 2021, lawmakers, by 81 votes, appointed new members of the Supervisory Board of TRM. These are Arcadie GHERASIM, Sergiu STANCIU, Corneliu POPOVICI, Aurelian DĂNILĂ, Loretta HANDRABURA, Cristian JARDAN, and Irina MAȚENCO. Just four days later, the Supervisory Board proposed Parliament to appoint Vlad ȚURCANU as CEO of TRM. Parliament accepted this proposal on 1 December 2021.

The BC is formed of seven members appointed by Parliament, of whom three are proposed by parliamentary groups, two by civil society organizations, one by the government, and one by the President. On 3 December 2021, Parliament [appointed](#) the new composition of the BC by the vote of 86 MPs. The new members were Ruslan MIHALAEVSCHI, Liliana VIȚU-EȘANU, Larisa TUREA, Orest DABIJA, Tatiana CRESTENCO, Ana GONȚA, and Eugeniu RÎBCA. On 16 December 2021, the BC members elected Liliana VIȚU-EȘANU chairperson of the BC.

The report on the review of the work performance of suspended Prosecutor General Alexandr STOIANOGLO is expected by 23 December 2021. The SCP could take a decision concerning this report in January 2022.

New charges brought against the Prosecutor General, while his performance is under scrutiny

On 5 October 2021, the Superior Council of Prosecutors (SCP) gave permission for the criminal investigation of Prosecutor General Alexandr STOIANOGLO on charges of corruption and abuse of power. He was apprehended on the same day and later placed under house arrest (see the [LRCM's Newsletter 37](#) for more details). On 11 November 2021, in response to a report filed by Viorel MORARI, ex-chief of the Anticorruption Prosecution Office (APO), the SCP assigned Prosecutor Vasile PLEVAN of the APO to investigate another charge against Alexandr STOIANOGLO. This time, he was accused of having disclosed at a press conference confidential information from a criminal case against Mr. Morari. One week later, on 18 November 2021, in response to a report filed by former MP Inga GRIGORIU, the SCP assigned Anticorruption Prosecutor Andrei BALAN to investigate the allegations that Mr. Stoianoglo had covered up the persons involved in the extradition of seven Turkish nationals in September 2018 (see the [LRCM's Newsletter 27](#) for more details) and had absolved them of criminal liability.

On 29 November 2021, the APO announced that the criminal investigation against Alexandr STOIANOGLO on charges of abuse of power was finalized. He is accused of having unlawfully awarded approximately MDL 164,000 as retirement compensation to prosecutor Nicolae CHITOROAGĂ. The retired prosecutor could not be awarded this compensation until the final resolution of the disciplinary action against him. Mr. Stoianoglo claims this was a technical error that did not cause any damage to the prosecution system, because the money was refunded shortly after payment.

Meanwhile, the SCP received a criminal complaint against the interim prosecutor general. On 2 December 2021, in response to reports filed by Interim Prosecutor General Dumitru ROBU and Veaceslav VALICO, the SCP assigned Ina FRUNZA-BARGAN to investigate the allegations concerning corruption committed by Mr. Robu. A video showing Mr. Robu count banknotes with the comment that he was taking a bribe had been leaked to the media. Mr. Robu claims that this money was from the sale of a car. Veaceslav VALICO, who reported the case to the SCP, ran as independent candidate in the parliamentary election of July 2021. In most televised debates he was represented by controversial businessman Veaceslav PLATON. The latter had been released from prison in 2020 due to Alexandr STOIANOGLO's intervention.

On 4 November 2021, President Maia SANDU requested a review of the performance of suspended Prosecutor General Alexandr STOIANOGLO. This review became possible due to the amendments to the Law on the prosecution service adopted in August 2021, which allowed dismissing the Prosecutor General for poor results at the performance review (see the [LRCM's Newsletter 36](#) for more details). The SCP approved the Regulation on Reviewing the Work Performance of the Prosecutor General on 22 November 2021 and set up a Review Committee (the Committee) on 23 November 2021. The Committee

has the following members: [Drago KOS](#), international anticorruption expert put forward by the president; Angela POPIL, lawyer put forward by the Ministry of Justice; [Lidia BULGAC](#), ex-judge put forward by the Superior Council of the Magistracy; Ion MATUȘENCO, lawyer put forward by the reviewed Prosecutor General; and Mariana ALEXANDRU, advisor to the chief prosecutor of the Romanian DIICOT, put forward by the SCP. On 2 December 2021, at the request of the Romanian Prosecutor General, the SCP excluded Ms. Alexandru from the Committee, because Romanian prosecutors are not allowed to apply Moldovan laws.

The Committee's proceedings take place behind closed doors, but it can decide to make some sessions public. [According to media reports](#), from 23 November to 3 December, the Committee met in two sessions. For performance review, the Committee can use various documents, judgments of international and national courts, including journalistic investigations, etc. Under the law, the procedure will take 30 days and will conclude with a report. The SCP will use the report to grade the prosecutor general's work as "excellent," "good," or "unsatisfactory." The latter will entail his dismissal.

Mr. Stoianoglo challenged the SCP's decision to start a review of his work performance with the Chișinău Court of Appeals and requested the suspension of the review procedure on these grounds. On 2 December 2021, the SCP decided that, in the absence of a court judgment, the review procedure might go on.

How will the mechanism for vetting judges and prosecutors look like?

One of the main [reforms announced by the government](#) is the vetting of judges and prosecutors (VJP). According to [the government's action plan](#), the government will approve the VJP bill and will send it to Parliament by February 2022. A similar initiative had been started under the Sandu Government in autumn 2019, but had been abandoned under the Chicu Government.

On 15 November 2021, the Ministry of Justice published a [concept paper about the vetting mechanism](#). The concept paper proposes setting up a Vetting Committee (VC) of 12 members. The VC will have its own secretariat and access to public databases. The VC's vetting reports will be subject to the approval of the Superior Council of the Magistracy (SCM) or the Superior Council of Prosecutors (SCP).

The VC will be monitored by an international monitoring mission (IMM) formed of seven members, of whom five will be appointed by development partners and two, by civil society. The IMM's membership will first need to be approved by the Government, after which it will be voted *en bloc* by the Parliament, where it will need three fifths of the votes (61 votes). The IMM will participate in the nomination of VC members and will be allowed to challenge the reports of the VC

The Ministry of Justice plans to vet candidates for the Superior Council of the Magistracy and the Superior Council of Prosecutors until April 2022.

and the decisions of the SCM and the SCP on vetting. The Action and Solidarity Party (ASP), which is in power, has enough votes to approve the membership of the IMM.

Appeals against the results of vetting will be in the competence of a special chamber (SAC) of the Chişinău Court of Appeals. It will include seven judges and two alternate judges nominated by the IMM and appointed by presidential decree. The chamber will have its own secretariat and headquarters and will not report to the management of the Chişinău Court of Appeals.

According to the concept paper, all judges and prosecutors in the country will be vetted in three phases. The first phase of vetting will cover the justices of the Supreme Court, the judges of appellate courts and the prosecutors of the Prosecutor General's Office, of the Anticorruption Prosecution Office, and of the Prosecution Office Specialized in Fighting Organized Crime. During the second and third phases, vetting will be extended to the remaining judges and prosecutors.

The concept paper proposes the verification of the assets and expenses of the subjects of vetting and their family members, as well as of conflicts of interest. Those who will fail the vetting process will be removed from the system and will be banned from working again in the judiciary.

The Ministry of Justice requested proposals to improve the concept paper and set up a task force to produce its final version. The [Judges Association Vocea Justiției](#), [CPR Moldova](#), and the [Legal Resources Centre from Moldova](#) have already submitted their proposals. The LRCM recommended, among other things, that the burden of proof concerning the legal origin of assets be on the subjects of vetting, that the vetting mechanism be transparent and adopted after extensive consultations with the opposition and that the vetting is conducted by independent entities that have sufficient resources.

According to the concept paper of the Ministry of Justice, before starting the vetting of judges and prosecutors, this mechanism will be applied to candidates for membership in the SCM and SCP. Vetting will be applied both to candidacies voted by judges and prosecutors, as well as to those appointed by the Parliament or other organizations. On 2 December 2021, the justice ministry published a [bill](#) on vetting this category of subjects. The bill has been sent to the Venice Commission and its opinion is expected by mid-December 2021. According to the bill, the vetting of candidates for the SCM and the SCP will be in the competence of a committee, which will have six members. Three members will be proposed by development partners, and the other three will be appointed by the Ministry of Justice at the proposal of parliamentary groups. According to the Ministry of Justice, this vetting [will be performed](#) until April 2022. The Ministry expects that the vetting will cover approximately 50 or 60 candidates for the SCM. Together with their family members and relatives, the total figure may rise to 400 or 500 persons. The General Assembly of Judges and the General Assembly of Prosecutors scheduled for 3 December 2021 and, respectively, 19 November 2021 were postponed for an indefinite period to allow the vetting of candidates.

Two judges were promoted to the Supreme Court of Justice

On 4 November 2021, Parliament appointed Judges [Ghenadie PLĂMĂDEALĂ](#) and [Dorel MUSTEAȚĂ](#) to the Supreme Court of Justice (SCJ). The candidacy of Judge Oxana ROBU was [rejected](#).

The Superior Council of the Magistracy (SCM) had proposed Parliament to appoint Ghenadie PLĂMĂDEALĂ and Oxana ROBU back in [September 2020](#). Parliament should have considered the two candidacies for promotion to the SCJ at its [plenary meeting of 12 March 2021](#), but never came to discuss them. On 4 November 2021, the plenum of Parliament accepted the candidacy of Mr. Plămădeală and rejected that of Ms. Robu. The lawmakers did not explain why they did not back Ms. Robu even though, earlier, the Parliamentary Committee for Legal Matters had appraised her positively. More information about both candidates is available [here](#).

The appointment of Mr. Musteață raised multiple questions because, on 4 November 2021, he was member of the SCM. Article 20 (3/2) of the [Law on the SCM](#) prohibits the promotion of SCM members to a higher court during the period of their mandate and the subsequent six months. The chairperson of the Parliament Committee for Legal Matters, [Olesea STAMATE](#), explained that the appointment of Mr. Musteață was based on the proposal concerning his promotion to the SCJ submitted by the SCM on [July 2018](#), when the ban on promoting SCM members did not exist yet. Back in 2018, the Parliamentary Committee for Legal Matters had rejected the SCM's proposal of July 2018 concerning the promotion of Mr. Musteață to the SCJ, communicating this fact to the SCM. The plenum of Parliament, however, had not approved that decision.

Although, at first sight, the narrow interpretation of the ban on the promotion of SCM members, cited by Ms. Stamate, does not seem unfounded, it is contrary to the spirit of the current law. The provisions of the Law on the SCM are quite clear: they prohibit the promotion of SCM members during their mandate. Besides, Article 9 of the Law on the SCJ establishes that Parliament must appoint judges to the SCJ within 30 days of receiving the proposal from the SCM. Moreover, it is not clear how the candidacy of Mr. Musteață re-emerged on the agenda of the Committee for Legal Matters if, in 2018, the Committee had already rejected it, and why the Committee changed their mind in 2021.

The appointment of Mr. Musteață came amid media reports concerning his integrity. The political party [Platforma DA](#) requested the [parliamentary majority](#) to reject him because of his lack of integrity and faulty appointment procedures. Later, the media published [an informative note from the Intelligence and Security Service \(SIS\)](#), by which, presumably, SIS had informed Prosecutor General Alexandr STOIANOGLO on 28 January 2020 about the alleged illegalities committed by two SCM members—Dorel MUSTEAȚĂ and Nina CERNAT—in acquiring wealth. In a statement for [Ziarul de Gardă](#), Mr. Musteață said that some of the properties indicated in that document did not belong to him. On [24 November 2021](#), the Prosecutor General's Office communicated that, although it never received the January 2020 note from SIS

Dorel MUSTEAȚĂ got promoted to the Supreme Court of Justice despite a legal ban and through an ambiguous procedure.

officially, it was considering the circumstances described in the note as published by the media to determine whether the allegations presented the elements of the crime of illicit enrichment.

Criminal investigation for illicit enrichment—a fleeting trend or an efficient mechanism against corrupt officials?

The former Bălți Court of Appeals chief judge Alexandru GHEORGHIEȘ, the former chief prosecutor Nicolae CHITOROAGĂ, the former deputy Prosecutor General Ruslan POPOV, the former deputy chief prosecutor of the Chișinău Prosecution Office Igor POPA, and the list goes on with judges, high-ranking officials, and party leaders, such as former Democratic Party leaders Vladimir PLAHOTNIUC and Dumitru DIACOV. Apart from the adjective “former,” what all these figures have in common is that today they all stand prosecution on charges of illicit enrichment.

First introduced into the Criminal Code in February 2014, the crime of “illicit enrichment” has remained unnoticed for many years. Even when it was applied, the persons it was applied to were usually less visible civil servants, such as mayors or vice ministers at most. According to [a study](#) conducted by CPR Moldova, from 2014 through 2019, prosecutors started just over 20 such cases. Some cases concerning illicit enrichment, including those started in 2014, have been under examination for more than eight years. None of the cases started on these charges has made a final court judgment yet.

The most advanced procedure on illicit enrichment concerns Oleg MELNICIUC, a judge from the Chișinău District Court and former chief judge of the Rîșcani Office of the same court. In September 2021, the Anenii Noi District Court sentenced him to seven years in prison. According to the trial court's [sentence](#), from 2014 through 2016, the Melniciucs' expenses exceeded their earnings by at least MDL 640,000. Moreover, Melniciuc intentionally entered incomplete or false information in his declarations on assets and personal interests. Despite having been convicted by the trial court, Melniciuc still holds judicial office because courts [have invalidated](#) the SCM decision concerning his suspension from office. Melniciuc will go to prison only if appellate courts uphold the sentence he received.

Many cases concerning illicit enrichment are based on materials documented through [journalistic investigations](#) that have been available to the public for many years or on [information offered to prosecutors](#) by the Intelligence and Security Service (SIS). It is not clear why prosecutors have not used these materials earlier and whether SIS has communicated them earlier. In some cases, for example, such as the one concerning former deputy Prosecutor General Ruslan POPOV, prosecutors started the case concerning illicit enrichment despite the fact that, earlier, the National Integrity Authority (NIA) [had discontinued the verification](#) concerning him for lack of evidence.

Although this crime had been introduced back in 2014, none of the criminal cases concerning illicit enrichment has made a final court judgement yet

Many cases on illicit enrichment were started in 2019 and 2021, during the time in office of Dumitru ROBU as interim Prosecutor General. In October 2021, the Prosecutor General's Office [announced that it had ordered the verification](#) of criminal cases started in 2019 to find out why it takes so long to complete them. This verification also extends to the cases against former Supreme Court justices Ion DRUȚĂ and Oleg STERNIOALĂ.

When prosecutors start a case concerning illicit enrichment, they must prove two elements: (a) that the fortune owned by the civil servant or their family substantially exceeds their earnings during a certain period, and (b) that these assets or resources could not be acquired legally. Although the criminal law does not give a precise definition of the concept of "substantial difference," the laws governing the regime of wealth and interests imply that substantial difference might mean at least 20 national average monthly salaries. In 2021, this sum amounted to approximately MDL 176,000. This sum will grow year on year depending on the size of the national average salary approved by the government.

| In Brief:

In **November 2021**, the Russian Prosecutor General's Office [referred](#) to court the criminal case in which Veaceslav PLATON [is charged](#) with laundering money from Russia through the Republic of Moldova, by means of Moldinonbank. The alleged actions took place between June 2013 and May 2014. Earlier, on 14 June 2021, the Chișinău District Court had acquitted Veaceslav PLATON in the Banking Fraud Case at the request of Prosecutor General Alexandr STOIANOGLO. Despite being charged in other two criminal cases, in July 2021, Platon left the territory of Moldova unhindered (see the [LRCM's Newsletter 35](#) for more details). On 11 November 2021, at prosecutors' request, the Chișinău District Court [issued](#) an arrest warrant on Veaceslav Platon, after he failed to appear before court in a criminal case against him.

On **11 November 2021**, the Superior Council of Prosecutors (SCP) [decided to postpone](#) the General Assembly of Prosecutors (GAP) scheduled for 19 November 2021. On 29 November 2021, the Superior Council of the Magistracy (SCM) [decided to postpone](#) the General Assembly of Judges (GAJ) scheduled for 3 December 2021. Earlier, the GAJ had been already put off once (see the [LRCM's Newsletter 37](#) for more information). All organizational procedures related to the GAP and the GAJ were put on hold until an indefinite date. The participants of the GAP and the GAJ have to elect members of the SCP and, respectively, the SCM, as well as members of specialized boards. Apparently, the real reason the assemblies were postponed was the vetting of candidates by a committee of foreign experts.

On **11 November 2021**, courts acquitted six persons [convicted earlier](#) for an attempt on the life of former Democratic Party leader Vladimir PLAHOTNIUC. Igor MELNIC, Stepan CHIROV, Ivan COJOCARI, Dmitrii ȘEVCENCO, Valerian

ZABOLOTNÎI, and Vasile DRAGULEA were immediately released from detention. The last defendant, Vasile DRAGULEA, also received MDL 10,400 in damages for poor conditions of detention at Penitentiary no. 13. The court found that prosecutors were unable to prove the commission of the crime. The judgment came after both the Chişinău District Court and the Chişinău Court of Appeals had convicted these persons earlier, sentencing them to 3 to 23 years in prison. Later, the Supreme Court of Justice quashed these decisions and sent the case for retrial.

From **1 through 3 December 2021**, the Bar Union of the Republic of Moldova held a congress, where representatives elected the new chairperson of the Bar Union and 6 of the 11 members of the Lawyers Licensing Committee. The congress was held online and gathered over 1,150 of the 1,950 lawyers practicing in the country. The voting was also conducted electronically, by means of VoteMeApp at www.voteme.app. Mr. Dorin POPESCU was elected the new chairperson of the Bar Union right in the first round and will hold this office for two years.

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