

NEWSLETTER

Contents

Parliament adopts numerous important amendments to the legislation concerning the judiciary

Prosecution seems to speed up the investigations against Plahotniuc, Platon, and Șor

The Parliament simplified the procedure for confiscating the assets of criminals

The Prosecutor's Office reported about its performance for 2021

IN BRIEF

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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PARLIAMENT ADOPTS NUMEROUS IMPORTANT AMENDMENTS TO THE LEGISLATION CONCERNING THE JUDICIARY

On 28 July 2022, the Parliament of the Republic of Moldova, with the vote of **71 MPs**, adopted in its final reading a **draft law** that provides for several amendments to the Law on the National Institute of Justice (NIJ). One of the changes concerns the composition of the NIJ Council, increasing the number of members appointed by the executive. The council elects the NIJ Director. The new provisions also excluded the requirement to have two years of work experience for persons applying for initial training courses to become a judge and introduced the obligation for candidates to submit the declaration of assets and interests as part of the dossier.

According to the authors, these amendments aim at strengthening the admission procedure at the NIJ, as well as establish additional admission criteria that could contribute to increasing the professionalism and integrity of judge candidates.

LRCM presented a **legal opinion on the draft law**, recommending establishing the lowest grade threshold for the evaluation process, excluding the two-year experience requirement for NIJ candidates, introducing more predictability in the contests for selection and promotion of judges, introducing a system for checking the integrity at all stages throughout a judge's career, etc. This summer, activity of the NIJ's was assessed by European Union experts with the scope to improve the training provided by the NIJ. The expert report has not yet been published, but the Ministry of Justice committed to amending the legal framework later on to address the critical issues identified in the report.

On 29 July 2022, the Parliament, with the vote of **54 MPs** of the Action and Solidarity Party, **adopted** in its final reading other legislative amendments regarding the judiciary. The law has not yet been promulgated. These amendments aim to align the secondary legislation to the **constitutional amendments** that entered into force on 1 April 2022. On 22 July 2022, LRCM presented the **legal opinion** on the draft law to the Parliament and came up with several proposals to improve it. Among the introduced amendments were the following:

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The amendments increase the independence, transparency and powers of the SCM, make it more difficult for judges with questionable reputations to benefit from increased social guarantees and change the composition of the SCM boards.

- a. Excluding the initial appointment of judges for a five-year term. Judges will be appointed for life from the start, reducing the risk of influence;
- b. The Superior Council of Magistracy (SCM) will be able to transfer judges to the same level of court or a lower-level court and will be able to release judges and court presidents from office without the approval of the President of the country. This amendment enhances the powers of the SCM;
- c. Excluding the institution of the temporary transfer, without competition, of judges. This provision was used in the past to circumvent competition for attractive positions in the judiciary;
- d. Introducing the possibility for judges to be seconded to the subdivision representing Moldova at the European Court of Human Rights (ECtHR). This amendment enables judges to improve their human rights knowledge and the quality of the Government's representation at the ECtHR;
- e. Regulating the departure of dishonourable judges from the judiciary, without pension and retirement allowance;
- f. Detailing the rules regarding the composition of the SCM, according to the recommendations of the Venice Commission. The mandate of the President of the SCM was reduced to two years, without the right to re-election, and the requirement that he/she be a judge was also excluded. Also, only SCM can revoke a SCM member, with a qualified majority. These measures will increase the independence of the SCM;
- g. Improving the regulation regarding SCM decision-making, excluding deliberation. This is intended to increase the transparency of the SCM;
- h. Reducing the number of members of the SCM boards. The Disciplinary Board will have seven members, and the other boards – five, maintaining that the majority be judges. The requirement that judges must come from all court levels was also excluded;
- i. Increasing the remuneration of lay members of the SCM and its boards.

PROSECUTION SEEMS TO SPEED UP THE INVESTIGATIONS AGAINST PLAHOTNIUC, PLATON, AND ŞOR

In June 2022, it was three years since Vladimir PLAHOTNIUC, the former leader of the Democratic Party of Moldova (DPM) and Ilan ŞOR, the leader of the Political Party "Şor" (PP "Şor") left the Republic of Moldova. Both are accused in the 'bank fraud' case. [According to the INTERPOL's National Central Bureau in Chisinau](#), Ilan ŞOR is wanted internationally, but Vladimir PLAHOTNIUC is not. [According to the Prosecutor's Office](#), the criminal organisation led by Vladimir PLAHOTNIUC was made up of several groups, which were led by

NAC admitted that some information in the investigation of illegal financing of the Șor Party was leaked. Following that, seven party activists left the country.

Veaceslav PLATON, Vladimir ANDRONACHI and Ilan ȘOR. The latter controlled through intermediaries the banks Unibank SA, Banca Socială SA and Banca de Economii SA.

On 4 July 2022, the Prosecutor's Office filed another motion within the 'bank fraud' case, featuring the former Governor and two former Deputy Governors of the National Bank of Moldova. [According to the Prosecutor's Office](#), in 2014, as persons affiliated with the criminal organisation of Vladimir PLAHOTNIUC, they enabled and provided the necessary means to carry out the embezzlement of Unibank SA, Banca Socială SA and Banca de Economii SA's funds, including by approving in the management bodies of these banks some people affiliated with Ilan ȘOR and by failing to intervene in the faulty activity of these banks.

On 5 July 2022, the Chisinau District Court, Ciocana office, issued an [in-absentia arrest warrant](#) for 30 days for Vladimir PLAHOTNIUC in the 'Metalferos' case. The prosecutors' motion was filed at the Chisinau District Court as early as 5 November 2021. This is due to the former DPM leader's lawyers requesting 26 times [to transfer the examination of the motion to arrest](#) Plahotniuc from the Chisinau District Court to another court. The Supreme Court of Justice dismissed these motions as unfounded. In the 'Metalferos' case, Plahotniuc is accused of creating and leading a criminal organisation, committing fraud on a particularly large scale and money laundering.

On 8 July 2022, the former DPM MP, Vladimir ANDRONACHI, [has been placed under international wanted persons list](#) by INTERPOL, for arrest and extradition to the Republic of Moldova. He is suspected of money laundering in the 'Metalferos' case and in the 'bank fraud' case.

On 14 July 2022, Olga BONDARCIUC, the notary involved in the authentication of several documents concerning the companies controlled by Vladimir PLAHOTNIUC, Ilan ȘOR and Veaceslav PLATON and who allegedly provided notary services to the former President, Igor DODON, [was extradited to the Republic of Moldova](#) by the Belgian authorities. [According to the Prosecutor's Office](#), she is suspected of forging public documents, knowingly translating and legalising documents used in 'bank fraud', submitting false statements, including concealing documents regarding some non-resident companies through which the money in the 'bank fraud' was laundered. Bondarciuc was arrested for 30 days. The Disciplinary Board of Notaries proposed and the Minister of Justice [withdrew her notary](#) license.

On 21 July 2022, with the vote of 58 MPs, the Parliament [approved the lifting of the immunity](#) of Marina TAUBER, Șor Party MP. The Parliament had already approved the lifting of her immunity once (for more information, see [LRCM Newsletter no. 45](#)). Tauber is suspected of falsifying the financial report on the management of the Șor Party for the first quarter of 2022, intending to hide the amount of money raised and used, as well as knowingly accepting the financing of the party by a criminally organised group. The MP was incarcerated for 30 days in the Penitentiary no. 13.

Between 21 and 25 July 2022, the officers of the National Anticorruption Center (NAC) and the Security and Intelligence Service, together with the anti-corruption prosecutors, raided 97 locations throughout the country, especially at the branches of the territorial organizations of the Șor Party, in the investigation with regards to its illegal financing. [According to the NAC](#), the party would have knowingly accepted money of dubious origin from a criminal group, which was used in the interest of the party, fees for artists, members' wages, etc. The money arrived in the Republic of Moldova as transfers, including cryptocurrency. In the first semester of this year, the party would have made payments amounting to EUR 600,000, while the reported expenses were around MDL 228,000. The wages of the Șor Party members amounting to EUR 100,000 were allegedly paid from sources of obscure origin, and approximately MDL 3,500,000 were used to transport protesters. On 16 July 2022, [at least seven activists of the Șor Party left the Republic of Moldova](#). According to NAC, some information from the criminal investigation was leaked. A criminal case has been launched in this regard, which is being investigated by anti-corruption prosecutors.

On 30 July 2022, several senior representatives of the Congress of the United States of America addressed a letter to President Joe BIDEN, requesting that the USA [imposes sanctions](#) against Vladimir PLAHOTNIUC, Ilan ȘOR and Veaceslav PLATON. Congress representatives stated that the three oligarchs are investigated in several criminal cases, being allegedly responsible for a series of fraudulent acts, both in the Republic of Moldova and internationally.

THE PARLIAMENT SIMPLIFIED THE PROCEDURE FOR CONFISCATING THE ASSETS OF CRIMINALS

On 21 July 2022, Parliament [passed a law](#) designed to simplify the procedure for seizing convicted people's assets, namely those assets that they cannot justify, also known as extended confiscation. The confiscation is not limited to corruption offences, but is to be extended to other repeated offences listed in art. 106¹ of the Criminal Code, committed for enrichment purposes, which are sanctioned with more than 4 years of imprisonment. The law entered into force on 5 August 2022.

According to the new regulations, extended confiscation does not require prosecutors to prove 'beyond a reasonable doubt' the illicit origin of the goods, as was previously needed. From now on, it could be sufficient to be convicted for a single criminal episode, establishing a difference of 20 average salaries per economy (about MDL 200,000) between the incomes and assets obtained in the last 5 years until the crime was committed. If the judges establish the likelihood that the property was obtained illicitly, the assets should be confiscated, unless the convicted person can prove the legal nature of the difference.

The prosecution will be obliged to ask judges to confiscate the dubious property of the person convicted of a serious crime if the convict cannot justify the legal nature of the assets

The prosecutors will be the ones to check each time whether such a difference exists and if so, they will have to request a judge to authorise the confiscation. Later, when the case goes to court, the indictment should contain information about the seized assets.

Before the draft was voted on in its final reading, LRCM [proposed a series of recommendations](#) for the improvement of the draft law. Most of them were accepted.

THE PROSECUTOR'S OFFICE REPORTED ABOUT ITS PERFORMANCE FOR 2021

At the beginning of the year, the General Prosecutor's Office published [its activity report](#) for 2021. The report lists several achievements of the institution. Among them is the development and implementation of a new [strategic plan for the Prosecutor's Office](#) for 2021-2025.

The Prosecutor's Office's priorities in 2021, according to the report, were countering corruption and organised crime. Prosecutors were also active in legislation. In 2021, the Prosecutor's Office initiated the development of over 30 draft laws, including those concerning the criminal procedure code.

The report acknowledges that corruption and organised crime at the national level are still quite high, which determined the need to strengthen legal institutions, including assessing the activity and integrity of the Prosecutor's Office. With regards to challenges, the report also cites imperfect legal framework, courts procrastinating the investigation of criminal cases, and launching the criminal prosecution of Prosecutor General Alexandr STOIANOGLO (for more information, see [LRCM Newsletter no. 37](#)) and his deputies.

In 2021, prosecutors oversaw the investigation of 40,414 cases (compared to 42,248 in 2020) and conducted investigation in 3,376 cases (compared to 3,458 in 2020). The number of cases which prosecutors oversaw has been steadily decreasing over the past four years (over 14,000 cases fewer than in 2020). In terms of conducted criminal investigations, the number has remained practically the same for several years (approximately 3,000 cases being investigated in 2017 as well). The decrease in the number of criminal cases in Moldova was not explained in the report.

According to the report, prosecutors submitted 4,334 requests to investigative judges asking to authorise special investigative measures (compared to 3,941 in 2020). Only a tiny number of these – 20 (less than 0.5%) were rejected. The most frequent special investigative measures authorised by judges remain to be the interception of communications and images – 2,405 cases, followed by the collection of information from telecom service providers – 872 cases, using technical methods and means for gathering evidence, as well as locating or tracking through the global positioning system (GPS) or through other technical means – over 590 cases of using such measures.

General Prosecutor's Office: In 2021, the Prosecutor's Office focused on countering corruption and organized crime. Statistical data from the Prosecutor's Office do not confirm increased efforts in this regard.

| IN BRIEF:

On **12 April 2022**, a [criminal case was initiated](#) against the Centre for Investigative Journalism (CIJ) and the author of the journalistic investigation '[VLAD FILAT: How his wealth was spared](#)', based on the complaint filed by Vladimir FILAT's lawyer. The lawyer claims that CIJ journalists hacked the former public servant's email and requested information about the sources they used in the investigation. CIJ representatives stated that preserving the confidentiality of journalistic sources is a right protected by the European Court of Human Rights, and no criminal investigation was launched based on the journalistic investigation, asking the prosecutors to investigate the possible crimes committed by Filat.

On **22 April 2022**, the Disciplinary Board of the Superior Council of Magistracy [released Judge Andrei NICULCEA](#) from office. The sanction was applied six months after [his voluntary departure](#) from the judiciary. Niculcea is known for reclassifying Ilan ŞOR's case and for ordering a milder sentence. He also [ordered sentences against Vlad FILAT and Vladimir BOTNARI](#). The Disciplinary Board found him incompatible with the position of judge following the RISE Moldova investigation, which exposed his lifestyle and his family's connections with the Şor family (for more information, see [LRCM Newsletter no. 32](#)).

On **4 July 2022**, the Anticorruption Prosecutor's Office [finalised](#) investigating the former Governor of the National Bank of Moldova (NBM), Dorin DRĂGUȚANU and the former Deputy Governors of the NBM Ion STURZU and Emma TĂBĂRȚĂ, in the criminal case regarding 'the bank fraud'. All three are accused of fraud committed by a criminal organisation in particularly large proportions ([art. 42, art. 190 paragraph \(5\) of the Criminal Code](#)), as well as money laundering in particularly large proportions ([art. 42 paragraph \(5\), art. 243 paragraph \(3\) of the Criminal Code](#)). [According to the prosecutors](#), in 2014, acting in the interests of the criminal organisation led by Vladimir PLAHOTNIUC, they developed and implemented a well-determined plan to embezzle particularly large amounts of financial means from the banking system of the Republic of Moldova. Prosecutors seized the assets of the accused.

The pre-vetting of the candidates for the SCM office has begun and two candidates have already left the race. **On 11 and 21 July 2022**, the Pre-Vetting Board adopted two decisions discontinuing their evaluation. In the first case, Judge [Mihail COJOCARU](#) withdrew from the evaluation process. The Board's decision does not explain the reasons for the withdrawal. In the other case, Judge [Gheorghe BALAN](#) failed to submit the declaration of wealth and personal interests within the deadline set by the Board. The judge explained that it was impossible to submit the statement within the proposed deadline due to the large volume of work. The Board rejected the judge's arguments, citing that it had given all candidates sufficient time to submit the statement, including a consultation period on the draft statement of about six weeks. In the Board's opinion, the reasons invoked by the judge do not make up for extraordinary circumstances that justify extending the deadline to submit the declaration.

On **12 July 2022**, officers of the National Anticorruption Centre and anticorruption prosecutors [searched](#) the home of the former President of the Parliament and the former leader of the "Pro Moldova" Party, Andrian CANDU, former president of the Democratic Party of Moldova, Vladimir PLAHOTNIUC's son-in-law. Adrian CANDU is being investigated for illicit enrichment committed by a person holding public office. The criminal case was initiated following a notification by the National Integrity Authority (NIA), which [carried out](#) wealth and personal interests assessment of the former public servant. He [stated](#) that he challenged in court NIA's [act](#), which found the former democrat with an unjustified fortune of MDL 4.3 million.

On **21 July 2022**, Chisinau District Court judges, Ciocana office, [once again placed](#) the former head of the Security and Intelligence Service (SIS), Vasile BOTNARI, under house arrest. This comes after, on July 5, [the Chisinau Court of Appeal](#) transferred the former head of the Service from house arrest to Penitentiary no. 13. The former head of the SIS [is suspected](#) in a criminal case of illicit enrichment ([art. 330/2 para. \(2\) of the Criminal Code](#)). Prosecutors plan to appeal the July 21 decision.

On **27 July 2022**, the criminal case featuring former President of the Supreme Court of Justice (SCJ), Ion DRUȚĂ, accused of illicit enrichment, [reached the court](#). According to the Anticorruption Prosecutor's Office, Ion DRUȚĂ is accused of having gained between 2014-2019 a series of movable and immovable goods with monetary means that cannot be justified. At that time he was President of the the SCJ.

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