

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.



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THE FOURTH EDITION OF THE “JUSTICE REFORM AND COMBATING CORRUPTION” FORUM

On 15-16 September 2022, the [Legal Resource Centre from Moldova \(LRCM\)](#), in partnership with the Ministry of Justice (MJ) organised the fourth edition of the “[Justice and Anticorruption Reforms Forum](#)”. The President of the Republic of Moldova, Maia SANDU, the Ambassador of the United States of America (USA) to the Republic of Moldova, Kent D. LOGSDON, the Ambassador of the European Union (EU) to the Republic of Moldova, Janis MAZEIKS, and the President of LRCM, Vladislav GRIBINCEA [opened](#) the event. It also featured Richard NEPHEW, US State Department Coordinator on Global Anti-Corruption as [keynote speaker](#).

The forum [brought together](#) the main actors in the justice sector, politicians, independent experts, civil society, and development partners to identify and advocate for justice reform and combating corruption and reducing the risks related to them. The event was structured in two blocks, each lasting one day: justice reform and the fight against corruption.

On the [first day of the Forum](#), the discussions focused on European integration and the conditions regarding justice that Moldova must meet, the vetting and the Supreme Court of Justice (SCJ) reform. The main reform that was discussed was the vetting of judges and prosecutors. The vetting began in April 2022 and continues to this date. According to the authorities, the implementation of this new and complex mechanism is taking longer than originally planned for objective reasons, such as the selection of members of the Pre-vetting Commission and the war that broke out in the neighbouring state.

However, the discussions highlighted the need for better planning by the current government. Along with the vetting of the candidates for the Superior Council of the Magistracy and the Superior Council of Prosecutors membership, it was analysed the reform of the SCJ whose role, attributions, and organisational chart; the quality of judges’ activity is to be reviewed. Other recommendations related to reducing the heavy workload of judges, increasing salaries in the justice sector, making justice more transparent and limiting the possibility of postponing the examination of high-profile files were discussed. Additional suggestions

LEGAL RESOURCES CENTRE FROM MOLDOVA



Ambitious justice reforms and the fight against corruption are going to take some time. The timeliness of the reform implementation and citizens' trust are essential, but the quality of reforms remains the determining factor.

were made regarding the pre-accession process of the Republic of Moldova to the EU and how the sustainability of the targeted reforms can be ensured.

On the [second day of the Forum](#), the investigation of grand corruption and the effective sanctioning of corruption were discussed. It was recommended to introduce a mechanism to encourage the public to denounce grand corruption, ensure the real autonomy and independence of the Anticorruption Prosecutor's Office (PA), clearly distinguish between the powers of the National Anticorruption Centre (NAC) and the PA, allocate sufficient human and technical resources to the PA and NAC, digitise these institutions, prioritise the examination of corruption cases once they reach the court, increase the efficiency of corruption sanctioning, ensure an even and effective application of the law in this field.

International experts and development partners [noted](#) that the ambitious reforms regarding justice and the fight against corruption announced in the Republic of Moldova, are going to take some time. Citizens' trust is essential, and the timeliness of reform implementation plays a substantial role. However, the quality of these reforms is the determining factor. In addition to the increased attention from citizens and development partners, there is also a sincere and unconditional political will of the authorities to fight against corruption and reform the justice sector. The support of the international community in this process is an essential asset for the Republic of Moldova.

LRCM will publish a summary of the main recommendations resulting from the Forum, which will be sent to the MJ, development partners and other decision-makers, but also all participants of the forum.

NEW RESIGNATIONS AND AUTHORISATIONS TO INITIATE CRIMINAL PROSECUTION OF JUDGES

After a two-month break, on [9 September 2022](#) and [22 September 2022](#), the Superior Council of Magistracy (SCM) convened in plenum. The Council accepted the resignations of judges Ion MOROZAN and Corina URSACHI, both from the Chisinau District Court and of Nadejda LAZAREVA from the Ceadâr-Lunga District Court.

[Ion MOROZAN](#) worked as a judge, including an investigative judge, for about 17 years. He led the panel of judges that [freed](#) Dorin DAMIR, the son-in-law of Vlad PLAHOTNIUC, and Valeriu COJOCARU, the suspended head of the Balti Police Inspectorate. Both were [detained](#) in Prison no. 13, being criminally investigated in the fictitious employment case within the former Directorate no. 5 of the Ministry of Internal Affairs.

[Corina URSACHI](#) worked as a judge for about 11 years. On 7 April 2022, the National Integrity Authority (NIA) [issued a declaration](#) of violation of the wealth and personal interests regime. According to NIA, the judge included in the declarations submitted for the years 2017-2020 erroneous data about movable assets totalling more than EUR 500,000. The judge did not indicate the income received in the form of donations and monetary gifts at family events, amounting to more than EUR 97,000. NIA notified the Prosecutor's Office to determine whether the declarations were forged.

Resignations and criminal investigations increase with the announcement of the vetting

[Nadejda LAZAREVA](#) worked as a judge, including as an investigative judge for about 16 years.

At the request of the acting Prosecutor General, Dumitru ROBU, the SCM authorised the initiation of criminal prosecution regarding the judge of the Chisinau District Court, [Aureliu POSTICĂ](#) who is suspected of false statements. Between 2000 and 2011, Aureliu POSTICĂ worked as a prosecutor, and since 2011 he has been a judge. He is known for the fact that he [rejected the request](#) of Domnica MANOLE's lawyers to cancel the initiation of the criminal investigation on her behalf (see [LRCM Newsletter no. 18](#)). Prosecutors later [dropped the charges](#). Aureliu POSTICĂ was also a part of the panel of judges that acquitted the [five judges detained](#) in a corruption case in 2018. He [stated that he owns](#) several pieces of real estate and movable assets, and from 2020 – a house of 147.7 m², for which he would have paid MDL 500,000 for.

As of the beginning of 2022, at the request of the Prosecutor's Office, the SCM agreed to prosecute six judges.

APPOINTING INTERIM LEADERSHIP – A PERSISTENT PRACTICE IN THE PROSECUTION SYSTEM

On 9 September 2022, the Superior Council of Prosecutors (SCP) [rejected the candidates](#) proposed by the acting Prosecutor General for leadership positions in the territorial Prosecutor's offices, but also in the Prosecutor's Office for Combating Organised Crime and Special Cases (PCCOCS). The reasons cited by SCP for their rejection were discussed in a closed session. Similarly, the SCP [announced](#) 18 leadership vacant positions in the majority of the territorial Prosecutor's offices, including the General Prosecutor's Office. All candidates must apply by 17 October 2022.

On 22 September 2022, citing the avoidance of institutional blockages, the SCP [appointed the interim](#) heads of several Prosecutor's Offices, including for the previously rejected Offices. The SCP appointed [Igor DEMCIUCIN](#) as acting deputy chief of the PCCOCS, and [Cătălin SCUTELNIC](#) as acting chief prosecutor of the Chisinau District Prosecutor's office. At the request of the Acting General Prosecutor, [Alexandru CELAC](#) was appointed Acting Deputy Head of the Balti Municipal Prosecutor's office. Following an interview, [Sergiu BEŞLIU](#), a lawyer, was appointed as a member of SCP on behalf of the civil society to the Board for the selection and career of prosecutors (Board). His appointment will be valid after being vetted (see [LRCM Newsletter no. 44](#)).

On 6 October 2022, the Parliament approved in the final reading the [draft amendment](#) to the Law on the Public Prosecution Service. It was voted on within 15 days of its registration in Parliament, which raises questions about compliance with transparency requirements in the decision-making process.

According to the authors, the draft law aims to make sure that the recommendations

Only one year later, the Law on the Public Prosecution Service was again amended regarding the mechanism of evaluating and suspending the activity of the Prosecutor General and the establishment of interim leadership.

of the Venice Commission from December 2021 are considered. At that time, the Commission criticised the ad hoc evaluation mechanism of the Prosecutor General for the lack of clear evaluation criteria in the law, but based on the evaluation criteria developed in a regulation subsequently adopted by SCP (see [LRCM Newsletter no. 40](#)). The new law establishes the composition of the Vetting Board, as well as defines the criteria for the performance evaluation of the Prosecutor General, regulates the right of the SCP to decide, with the vote of the majority of the members present, on maintaining or terminating the suspension from office of the Prosecutor General and his deputies, when under criminal investigation. Also, the Prosecutor General (holder) returns to the composition of the SCP, only with the right to vote on normative acts and policy documents for the development of the prosecution.

On 5 October 2022, Dumitru ROBU's mandate as acting Prosecutor General expired. And his deputy, Eduard BULAT [acted in his stead](#). Subsequently, [the SCP appointed](#) the anti-corruption prosecutor Ion MUNTEANU as acting General Prosecutor who was appointed to the position on 12 October 2022, by [the decree of President Maia SANDU](#).

The law establishes that the acting Prosecutor General can hold office for a maximum of 6 months (if the office is established as a result of the fact that the position is vacant) or lasts until the completion of the criminal case (if the office is established as a result of the suspension of the Prosecutor General in connection with a criminal investigation). Likewise, the heads of the two specialized prosecutor's offices - the Anticorruption Prosecutor's Office (PA) and PCCOCS, selected after being vetted, are allowed to nominate their deputies who will be appointed by the Prosecutor General, with the written consent of the SCP.

CONSTITUTIONAL COURT: THE CONSTITUTION ALLOWS TO EXCLUDE JUDGES FROM THE SYSTEM IF THEY VIOLATE THE WEALTH DECLARATION REGIME

On 27 September 2022, the Constitutional Court (Court) [issued a judgement](#) on the constitutionality of several provisions of the [Law on the status of judges](#). The provisions subject to control refer to the possibility of the judge's dismissal from office if they (1) violate the regime of conflicts of interest, (2) fail to resolve the incompatibility situation, (3) fail to submit the declaration of wealth and personal interests and/or refuse to submit it. The Superior Council of the Magistracy (CSM), which is the author of the referral, stated that these provisions are contrary to the Constitution and would undermine the independence of judges, as they would confer improper powers on the National Integrity Authority (NIA), to the detriment of the SCM, which must exclusively hold the competence to decide on the dismissal of judges.

The Court held that NIA cannot initiate the control of compliance with the legal regime of the conflicts of interest in the activity of the administration of justice by judges. This would contradict the provisions of the Constitution. However, NIA can intervene if a

Constitutional Court: It is reasonable to be liable and dismissed from office for failing to submit the declaration of assets so as to encourage compliance with this obligation and to detect possible cases of corruption.

judge admits to a conflict of interest when performing administrative activities such as public procurement, hiring, etc. In such cases, NIA can establish possible violations and sanction judges, but these measures can also be subject to judicial control.

Referring to the standards of the Venice Commission, the Court ruled that failure to declare assets constitutes a violation serious enough to cause the judge to be removed from office. Therefore, it is reasonable to have liability in the form of dismissal from office for not submitting the declaration of assets and personal interests, to encourage compliance with this obligation and to detect possible cases of corruption. The Court ruled that the remedy established by the integrity legislation through the possibility of judicial review is adequate and provides sufficient protection against possible abuses.

The Court concluded that there is no evidence to confirm that the control of compliance with the regime of conflicts of interest and incompatibilities of the office of a judge provides room for the abuse of the powers of the SCM in favour of NIA. The disputed provisions were declared constitutional to the extent that the facts for which NIA requests the establishment of the violation of the legal regime of conflicts of interest were admitted by the judges in their administrative capacity.

LRCM COMPILED AND SYSTEMATISED THE 730 VIOLATIONS FOUND BY THE ECtHR IN MOLDOVAN CASES

On 12 September 2022, it will be 25 years since the European Court of Human Rights (ECtHR) can examine claims submitted against the Republic of Moldova. To facilitate the application of ECtHR standards and to prevent similar violations, the LRCM [synthesized all the violations found](#) by the ECtHR regarding the Republic of Moldova during this period.

The more than 5,000 pages of ECtHR jurisprudence have been summarized in a 16-page document. The jurisprudence was compiled and systematized according to the right violated and the type of violation. All decisions in which a violation of the same type was found, are presented in an easy-to-read table. The synthesis is highly appreciated, being already consulted in just one month by more than 9,500 people.

By 11 September 2022, the ECtHR issued 568 judgments in Moldovan cases, more than the Netherlands, Germany or Spain, countries with a much larger population than Moldova's. In the 568 judgments, the ECtHR found that the country committed 730 human rights violations. Unlike other countries with numerous convictions, where only one type of violation prevails, such as the length of court proceedings (Italy) or the return of property (Romania), the violations found in the Moldovan cases are varied, with no group of violations standing out. This is an indicator of the poor protection of human rights in Moldova, especially in the justice system.

The most frequently violated rights are the right to a fair trial (Art. 6 ECHR) – 229 violations (31.4%), the right to freedom from torture and inhuman or degrading treatment (Art. 3 ECHR) – 171 violations (23.4%), the right to liberty and security

The violations found in the Moldovan cases are quite varied, which indicates poor protection of human rights, especially in the justice system.

(Art. 5 ECHR) – 106 violations (14.5%), the right to an effective remedy (Art. 13 ECHR) – 65 violations (8.9%), the right to respect for private and family life (Art. 8 ECHR) – 43 violations (5.8%) and the right to freedom of expression (Art. 10 ECHR) – 21 violations (2.8%).

The most common types of violations are non-execution of court decisions – 81 violations (11.1%), defective investigation of ill-treatment and deaths – 59 violations (8.1%), cancellation of irrevocable court decisions – 56 violations (7.7%), detention in poor conditions – 48 violations (6.6%), ill-treatment – 39 violations (5.4%), arbitrary arrest – 30 violations (4.1%) and deprivation of liberty contrary to national law – 28 violations (3.9%).

By issuing judgements on those 568 ECtHR violations, the Republic of Moldova was obliged to pay compensatory damages of over EUR 22,000,000. For more information on the assigned compensation, [take a look at another analysis developed by LRCM](#), in early 2022.

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Between September 2022 and February 2023, LRCM will provide expertise and technical assistance to the National Integrity Authority (NIA) for the development of a new methodology for the verification of wealth and personal interests, conflicts of interest, incompatibilities, restrictions, and limitations. The project is financially supported by the [German International Cooperation Agency \(GIZ\)](#), the [European Union \(EU\)](#) and the German Federal Ministry for Economic Cooperation and Development (BMZ). LRCM will assist NIA to adjust the methodology of the integrity inspectors, as well as develop standard operating procedures to facilitate the control activity carried out by them. The current challenges of the activity of integrity inspectors were recently reflected in the LRCM study "[NIA Acts and judicial practice regarding them](#)".

On 1 September 2022, Sorin POPESCU was appointed as Director of the [Court Administration Agency \(CAA\)](#), which is subordinated to the Ministry of Justice (MJ). CAA is responsible for judicial statistics, the Integrated Case Management System, managing the court secretariat, but also planning major refurbishments in courts. Previously, Sorin POPESCU worked for 12 years within the MJ.

On 8 September 2022, the Anticorruption Prosecutor's Office (PA) [searched](#) the residence of the former MP of the Communists and Socialists Parliamentary Bloc, Alla DOLINȚĂ. According to the PA, the search was carried out within the criminal case launched against the former President of the Republic of Moldova (see [LRCM Newsletter no. 48](#)). Concerning the former MP, no coercive measures were applied, nor was any procedural quality assigned. According to [investigative journalists](#), Alla DOLINȚĂ owns the headquarters of the Socialist Party and is one of the party's most prolific financiers.

On 22 September 2022, the Prosecutor General's Office discontinued the criminal investigation regarding the suspended Prosecutor General, Alexandr

STOIANOGLO, who was accused of abuse of power, passive corruption, and false statements. [According to the Prosecutor's Office](#), he would have received goods and favours from Veaceslav PLATON, in the amount of MDL 63,233,032, would have illegally dropped the accusation and would have facilitated the release of Veaceslav PLATON from detention, thus damaging the public budget of MDL 869,224,839. Moreover, Alexandr STOIANOGLO arguably failed to include in his assets declaration that his wife was managing a company registered in Ukraine.

On 22 September 2022, the Anticorruption Prosecutor's Office (PA) [submitted](#) to the court a new episode of the criminal case generically named "Banking fraud case". This new episode targets the former Governor of the National Bank of Moldova (BNM), Dorin DRĂGUȚANU, and two former Deputy Governors of the BNM, Ion STURZU and Emma TĂBĂRȚĂ. According to the PA, they are accused of committing fraud and money laundering, both in particularly large proportions (see details in [LRCM Newsletter no. 47](#)). The prosecutors froze their assets. In the case of the second former Deputy Governor of the National Bank of Moldova, Emma TĂBĂRȚĂ, the criminal investigation could not be carried out, as she was outside the country. The prosecutors submitted a writ of mandate to the country in which it was located, to inform the accused. All three plead not guilty.

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