

NEWSLETTER

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In BRIEF

DUE TO THE DELAYS, THE MANDATE OF THE PRE-VETTING COMMISSION WILL BE EXTENDED BY SEVERAL MONTHS

On 10 March 2022, Parliament adopted the [Pre-Vetting Law](#), which provides for the evaluation of the ethical and financial integrity of the candidates for the Superior Council of Magistracy (SCM), the Superior Council of Prosecutors (SCP) and their affiliated colleges. Candidates who fail to pass the pre-vetting cannot be appointed to or elected for the respective offices. On 4 April 2022, the Parliament [appointed the Commission empowered](#) to assess the candidates registered for the contest (for more details, see [LRCM Newsletter no. 43](#)).

Although according to the terms provided by the Pre-Vetting Law, all candidates were to be assessed by 31 December 2022, The Commission is very behind schedule. By 10 December 2022, it had only vetted seven (7%) of the total 100+ candidates subject to the procedure. The Commission's first decisions concerned judges who changed their minds or did not comply with the evaluation conditions. Judges [Mihai COJOCARU](#) and [Dumitru PUȘCA](#) submitted their request to withdraw from the contest when the Commission asked them to fill out a statement regarding their wealth. Judge [Iana TALMACI](#) withdrew from the competition a little later, citing that she can no longer run for office after her husband's being elected as the President of the National Union of Bailiffs, on 16 September 2022. Judge [Gheorghe BALAN](#) failed the evaluation because he did not submit his assets and ethics declarations within the deadline set by the Commission.

The most advanced 'reviews' concern judges aspiring for a seat in the SCM. By 10 December 2022, the Commission held hearings on 15 judges aspiring for these positions and adopted only three decisions (out of seven previously mentioned). The decisions refer to judges [Ioana CHIRONET](#), [Maria FRUNZE](#) and [Livia MITROFAN](#) from the Chisinau District Court who were successfully vetted. At the same time, the Commission has not yet started the evaluation of the 12 lay candidates for the SCM, the 18 candidates for the prosecutor's office within the SCP and the more than 30 candidates aspiring to become a member of the SCM and SCP boards.

The delay appears to be due to difficulties in recruiting staff assisting


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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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
 www.crjm.org

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



Due to the delays, the Ministry of Justice is discussing that the vetting of SCJ judges be done by another commission, although it had previously announced that it would be done by the Pre-Vetting Commission.

the Commission, the large volume of information to be analysed, but also to the less efficient methods used by the Commission to vet candidates.

On 30 November 2022, the President of the Legal Committee for appointments and immunities of the Parliament registered [a draft law](#) by which the mandate of the Pre-Vetting Commission could be extended until 30 June 2023. On 1 December 2022, the draft law was already adopted in the first reading, and most likely it will be adopted in the second reading by the end of the year. At the same time, the Ministry of Justice is also examining the possibility of reducing the number of people vetted by the commission or ceasing its activity by the end of March or April 2023, when another commission is supposed to start evaluating the SCJ judges.

PRE-VETTING COMMISSION HEARINGS DIGEST – WHAT WAS THE COMMISSION MOST INTERESTED IN ABOUT THE SCM CANDIDATES?

By 10 December 2022, the Pre-Vetting Commission held hearings for 15 judges running for SCM membership. We put together a digest of the main questions put to the 15 candidates – aspects that the Commission was most interested in.

At the beginning of October 2022, the Pre-Vetting Commission started to interview the candidates to become a member of the judiciary's governing bodies. The hearings were postponed several times. It was initially announced that they would start in September. LRCM carefully analysed the recording of the hearings published by the Commission and identified the "hottest" questions put to the candidates.

On October 7, [Ioana CHIRONET](#) was asked about her sale of three plots of land at the wrong price, about failing to declare a loan of MDL 40,000 and about her selling a house at a slightly higher price than the one declared. [Livia MITROFAN](#) was asked about the donations received from her parents from abroad, purchasing an apartment and its refurbishment from these donations, and about a car imported and declared to the Commission by mistake at a slightly lower value than the real one. [Maria FRUNZE](#) did not receive any questions. On 25-26 October 2022, the [Commission adopted three decisions](#) by which it found that the three judges passed the Pre-Vetting and can run for the SCM seats.

On October 28, the Commission heard three other judges. The judge of the Supreme Court of Justice (SCJ) [Iurie BEJENARI](#) was asked about a donation he made to his son to organize his wedding, about a plot of land obtained from Durlleşti City Hall to improve his living conditions, although the law did not expressly provide for such a right (land which the judge sold later), about cars bought at low prices and sold a few years later at prices higher than those he purchased them at, as well as about a case the judge examined, in which one of the parties was a lawyer with whom the judge's family travelled on holiday together. Chisinau District Court Judge [Vitalie STRATAN](#) was asked about obtaining an apartment under a

special program for judges (while his wife already had an apartment) and selling it shortly after obtaining it, about a multi-year interest-free loan taken from a relative (who did not have the sufficient official income to provide it), about expenses that exceeded his income in 2014, about procuring a property from a bank at a relatively low price and about relatives paying for the education of his two children at a private school. SCJ judge [Anatolie TURCAN](#) did not present the requested information to the Commission within the deadline, without providing convincing reasons. The President of the Commission announced this during the interview and rejected the candidate's request to present the requested information at the hearing.

On October 29, the Commission heard three more judges. Chisinau Court of Appeals judge [Angela BOSTAN](#) was asked about her mother purchasing an apartment in the centre of Chisinau, although she had no sources to procure it (the apartment where the judge currently lives with her mother), and about her decision to convene the General Assembly of Judges in September 2019 to recall members of the CSM. The judge of the Chisinau District Court [Vladislav HOLBAN](#) was asked about his procuring an apartment from a bank at a relatively low price, about his income obtained while working in the US before becoming a judge that he used to procure an apartment, about commercial premises that his wife manages and about a donation received from his parents, although they have not declared any income in recent years. The judge from the Straseni District Court [Sergiu OSOIANU](#) was asked about his being compensated with about MDL 1,000,000 from the Chisinau City Hall in exchange for the right, obtained by a court decision, to use an apartment, about the apartment in Chisinau obtained at a preferential price, about a plot of land in Straseni obtained from the local authorities to improve the living conditions of the new families (although he already owned the apartment in Chisinau and was not officially married), about the cars bought at low prices and sold a few years later at higher prices, about the failure to declare two parking spaces procured by his concubine, about donations received from parents that exceeded their income, and about alleged donations received from his concubine's mother.

On December 1, the Commission heard two other judges. SCJ judge [Aliona MIRON](#) was asked about a bank account where she claimed her parents' money was deposited, about a house she received for free from her mother, about an apartment obtained at a preferential price, although she had an apartment in Chisinau, and about a loan taken from a natural person. The judge of the Balti District Court, [Stanislav SORBALO](#), was asked about the decision he adopted, which served as the reason for his release from office in 2008 (he was reinstated by the SCJ in 2020), about his son procuring a car and an apartment at prices that seemed too low.

On December 2, the Commission interviewed two more judges. Judge [Sergiu CARAMAN](#) from the Criuleni District Court was only asked about the failure to declare some bank accounts before 2016, although he was obliged by law to do so. The judge of the Ungheni District Court [Vasile ŞCHIOPU](#) was asked about an apartment in Chisinau obtained at a preferential price, about a loan

Real estate received under privileged conditions, suspicious donations, failure to declare the real value of transactions and manner of examining cases – are just some of the issues that the Pre-Vetting Commission raised at judges' hearings

taken from a businessman, about failing to declare several donations he made to his son, about a car that was valued at a price slightly lower than the market value and about failing to declare several bank accounts before 2016.

On December 3, two more judges were interviewed. The judge of Hincesti District Court [Ecaterina BUZU](#) was asked about the disciplinary sanction applied to her in 2015 for the delayed reasoning of some court decisions, about her family living in an apartment in Chisinau for over 10 years without paying rent, about one of her daughters procuring this apartment at a reduced price and selling it two years later at triple the price, as well as about the confusing flows in one of her bank accounts. The judge of the Chisinau District Court [Nicolae ȘOVA](#) was asked about receiving an apartment at a preferential price, even if he was building a house and had another apartment, about selling to his daughter the apartment received at a preferential price in unclear circumstances, about selling a building that the judge admitted that he sold it at a price higher than that indicated in the contract, about the suspicious procurement of EUR 25,000, about the free use of a luxury car, about not declaring bank accounts before 2016 and about refraining from examining an insolvency case.

The next round of hearings will take place between 14-16 December 2022. The hearings, in Romanian and English, are available on the [Commission's YouTube channel](#).

MOLDOVAN JUSTICE ANALYSED AND COMPARED WITH EUROPEAN COUNTRIES FIGURES

On 29 November 2022, LRCM in partnership with the Ministry of Justice publicly presented the study "[Moldovan judicial system in figures – a comparative look \(2022\)](#)". The study was developed based on data from the [Evaluation Report on European judicial systems](#), published every two years by the European Commission for the Efficiency of Justice (CEPEJ). The study takes a look at relevant statistics describing the situation of the judicial system in 47 countries, based on data from 2020, most of the countries being members of the Council of Europe (CoE), including the Republic of Moldova.

The LRCM analysed the situation in the Moldovan justice sector through the lens of several important indicators, such as budgets dedicated to the judicial system, the number of judges and prosecutors, their salaries, the number of cases examined, but also the duration of case examination, etc. According to the data, the Republic of Moldova allocated for the judicial system about EUR 15.7 per inhabitant, more than Armenia, Azerbaijan, or Georgia, but considerably less than the median of the CoE countries, which is almost four times higher (EUR 64.5 per inhabitant). The money allocated to the judicial system in Moldova constitutes about 1.2% of the national budget. This figure is equal to the median of the analysed countries for the same year, but this does not indicate that the

The number of judges in Moldova per capita is similar to that of the member countries of the Council of Europe, but their remuneration is substantially lower... The number of prosecutors is twice as high, but they examine twice as few cases criminal as in European countries.

financing of the justice system in Moldova is sufficient, considering the small overall budget of the country.

Between 2014 and 2022, the salaries of Moldovan judges and prosecutors increased considerably. For judges, salaries almost doubled (+83.7%), and for prosecutors, they tripled (+334.3%). While the numbers show a significant increase, the remuneration of justice professionals remains insufficient, compared to other countries with an economic level comparable to Moldova. Although in 2020 the Republic of Moldova compensated its new judges with a salary 2.5 times higher than the national average gross salary, in other post-Soviet countries this ratio was higher, as follows: Armenia – 3.9, Azerbaijan – 6.3, Georgia – 3.4, Ukraine – 6.8. These figures support the argument for a considerable increase in the salaries of judges in the Republic of Moldova, especially for beginner judges. At the same time, the salary of Moldovan prosecutors at the beginning of their career compared to the national average gross salary is comparable and similar to the salaries of beginning prosecutors in Armenia, Azerbaijan, Georgia, Ukraine and the Baltic countries.

In 2020, approximately 17.5 judges per 100 thousand inhabitants were active in Moldova, which is similar to the median of the CoE countries (17.6). The figures confirm that the number of judges in the country is sufficient. Moreover, if all judge positions were filled (504), then the ratio would be 18.8 judges per 100 thousand inhabitants. Regarding prosecutors, the analysed data show that 24.3 prosecutors per 100 thousand inhabitants were active in the Republic of Moldova in 2020, i.e. well over double the median of the analysed countries (11.1). At the same time, the number of prosecutors per capita in Moldova is twice as many prosecutors as in Romania, Armenia, Azerbaijan, and Georgia, and triple compared to Germany. These figures could serve as a basis for initiating discussions on optimizing the number of prosecutors in the country but on the condition of simplifying criminal procedures.

In 2020, 4.27 civil, administrative, and criminal cases per 100 inhabitants were registered in the Republic of Moldova, or 17.6% more compared to the CoE median. In 2020, Moldovan prosecutors initiated 1.04 criminal and contravention cases per 100 inhabitants, which is about 2.5 times less than the CoE median and two times less than the number of cases initiated in 2018.

Civil cases and administrative cases were generally heard in 329 days and 555 days, respectively, which is 78% and 55% faster than the median of the countries analysed. Certainly, how timely these types of cases are examined is very important, but this cannot prevail over the quality of justice.

Criminal cases were heard in 473 days, which is 17.5% slower than the CoE median. As a rule, in countries with advanced democracy, criminal cases are examined more quickly compared to other types of cases, however, in the Republic of Moldova, this is not observed, which inevitably negatively affects the rights of persons under criminal investigation.

The State Secretary of the Ministry of Justice Veronica MIHAILOV-MORARU took part in the presentation of the study. She welcomed the development of the analytical document and noted that monitoring the evolution of statistical data related to the justice system plays an important role in the process of improving and promoting reforms in this sector.

In 2019 and 2021, LRCM developed similar documents based on the CEPEJ Reports from 2018 and 2020, which present statistical data in the field of justice for the years 2016 and 2018, respectively.

THE LONG STORY OF THE CONCESSION AND RECOVERY OF CHISINAU INTERNATIONAL AIRPORT BY THE STATE

On 19 June 2012, the Government [issued a decision](#) regarding the initiation of the public-private partnership for the concession of the Chisinau International Airport. The partnership aimed to develop the airport infrastructure as well as the quality of the services provided. On 30 May 2013, on its last day in office, the then Government [approved](#) the concession procedure and established its conditions. The project [was dealt with in great haste](#) and lacked transparency, as highlighted in the [anti-corruption expert report](#), which also warned of the project's 'danger of promoting certain group interests'.

Of the seven companies which were invited by the selection committee, only two expressed interest, both based in Russia. On 15 August 2013, the offer of the Russian LLC "Vnukovo Invest" was rejected by the commission on the grounds that it did not meet certain formal requirements. Thus, the only company left in the competition was LLC "Avia Invest", which won the tender. Its offer established that the airport will be conceded for 49 years, in return for 1% of the income made by the concessionaire and investments amounting to EUR 244.2 million. This company owned by Russian shareholders later elected the controversial businessman, Ilan ŞOR, as the chairman of the company's Board of Directors.

Immediately after the concession, a group of liberal-reformer and communist MPs submitted a complaint to the Constitutional Court on the grounds that the resigned Government had clearly abused its powers. On 8 October 2013, the Constitutional Court [decided](#) to discontinue the application because the disputed matter refers to legal control, which falls within the competence of common law courts. At the same time, the National Confederation of Trade Unions challenged the Government's decision in court on the grounds that it would be unlawful. Later, both the common law courts and the Supreme Court of Justice (SCJ) [rejected](#) the claims submitted by the Confederation because the disputed matter at din not in any way harm their rights and interests.

In March 2015, the Anticorruption Prosecutor's Office started a criminal investigation into abuse of power committed by the management of LLC

3 to 0 – The Arbitration Court in Stockholm, as well as two national courts, ruled for the return of the Chisinau International Airport back to the state.

“Avia Invest” in the period 2013-2015, which allegedly caused particularly large damages to the state owned company. In 2016, the criminal case was [discontinued](#), after the court accepted the appeal filed by LLC “Avia Invest” asking to annul the order of the prosecution to start the criminal investigation on the grounds that no crime was committed.

Three years later, once a new Government was appointed, a [Parliamentary Commission of Inquiry](#) was created to analyse how the privatizations were carried out between 2013 and 2019. The Commission repeatedly notified the National Anticorruption Centre and the Prosecutor’s Office, citing that it has evidence of the violations of the airport concession, but it did not yield any results. On 9 September 2019, the Government [repealed](#) four decisions taken between 2012 and 2013 regarding the concession of the airport (including the Government decisions mentioned above).

On 15 May 2020, ‘Komaksavia Airport Invest’ Ltd, which owns the majority of the assets of LLC ‘Avia Invest’, submitted a request to the Arbitration Institute of the Stockholm Chamber of Commerce (the Arbitration Court) against the Republic of Moldova to compel it to continue with the Chisinau International Airport concession contract, or pay compensation of EUR 883.7 million for the alleged expropriation. On 8 July 2020, the Public Property Agency (APP) notified LLC ‘Avia Invest’ about the termination of the concession contract on the grounds that it did not honour its contractual obligations and on 24 July 2020, LLC ‘Avia Invest’ addressed the Arbitration Court with the request to apply insurance measures in the case initiated in May. In the same request, the company disagreed to pay the state 50% of the airport tax fare charged per passenger at every departure and disagreed with the notice of termination of the concession contract.

On 3 August 2022, the Arbitration Court [rejected](#) the request of ‘Komaksavia Airport Invest’ Ltd and established that it has no investment in LLC ‘Avia Invest’ under international law, forcing the company to reimburse the expenses of legal representation of the Republic of Moldova of EUR 216,678.75. The company [says](#) it will appeal the Arbitral Tribunal’s decision in Sweden’s higher court.

On 22 September 2020, LLC ‘Avia Invest’ filed an action in administrative litigation against PPA through which it requested to cancel the termination notice. On 21 February 2022, the court [rejected](#) the action as unfounded. [After several requests](#) to transfer the case to a different court, recusal, and invocation of the exception of unconstitutionality, on 23 November 2022, the Chisinau Court of Appeals [rejected](#) LLC ‘Avia Invest’ appeal.

The representatives of LLC ‘Avia Invest’ [accuse](#) the judges of the Chisinau Court of Appeals, who examined the appeal, of committing illegalities during the examination of the case. The judges in question also [came up with](#) a reaction and stated that the parties can appeal the court’s decision and that the accusations are unfounded and intended to influence public opinion. Similarly, [the representatives of the Government](#) refuted the statements of LLC ‘Avia Invest’ and of the former Deputy Director General of PPA (who resigned on 7

December 2022) that the state could pay approximately EUR 90 million back to the company for the alleged investments they would have made between 2013 and 2020. The decision of the court of appeal is enforceable but can be appealed to the SCJ within 30 days.

In 2022, the Anticorruption Prosecutor's Office re-initiated the criminal investigation in the Chisinau International Airport concession case. The former Prime Minister at the time, Iurie LEANCĂ, is [featured](#) as a suspect in this criminal case.

PARLIAMENT APPROVES IMPORTANT POLICIES FOR THE PROTECTION OF HUMAN RIGHTS

On 17 November 2022, the Parliament approved the National Strategy '[European Moldova 2030](#)', a national long-term vision document that adapts the priorities and commitments of the Republic of Moldova as a candidate country with the view to join the European Union. The objectives of the Strategy derive from the modern concept of quality of life and envisage improving income, living conditions, education, culture, health, human rights observance, trust in government and justice, human security, and quality of the environment. On the human rights side, the strategy states that all sectoral policy documents should focus on interdependence, equality and non-discrimination, participation, empowerment, and accountability.

On 17 November 2022, the Parliament [voted on a draft law](#) to improve the mechanism for ensuring the rights of victims of family, domestic and sexual violence. The law provides several procedural guarantees, such as the possibility of giving statements in a friendly environment, in the absence of the suspected person, the right to privacy and the protection of personal image, as well as the guarantee that the victims benefit from medical services, assistance and post-traumatic counselling for their physical and psychosocial recovery. In the same way, the criminal liability will not be removed even if the victim reconciles with the offender. Law enforcement agencies will continue to investigate the crime, even if the victim withdrew their complaint.

On 1 December 2022, the Parliament adopted the amendments to the [Law on the Ombudsman](#). The law aims [to provide a series of guarantees](#) and make the institution's activity more efficient. The Ombudsman will benefit from immunity, they will not be able to be detained, arrested, or searched without the consent of the Parliament, and the Ombudsman deputies – without prior informing the Parliament. However, in the case of a flagrant crime, the Parliament's consent will not be necessary. The [procedure for selecting the Ombudsman](#) was also changed. In addition to the Special Parliamentary Commission, the candidates will be evaluated in advance by an independent commission of experts who will issue a reasoned report recommending the candidate or candidates for appointment. After analysing the CV's and the report, the Special Parliamentary Commission will select the candidates who scored the highest and will propose the candidacies for further voting in the plenary session of the Parliament. It will be possible to

The right to sanction acts of discrimination and refer to the Constitutional Court is necessary for the effective work of the Equality Council

dismiss the Ombudsman only after hearing them in the plenary session of the Parliament.

Next, the Parliament is still considering the [draft law](#) on strengthening the capacities of the Equality Council. The draft law provides for the expansion of the scope of contraventions that the Council can find, stating clearly that the Council can submit briefs (*amicus curiae*) in the court of law, and strengthening the mechanisms for notifying the Council and examining complaints, etc. However, LRCM and other civil society organizations [consider it necessary](#) to empower the Council to sanction acts of discrimination and give it the right to refer such cases to the Constitutional Court. The final vote on the draft law was postponed several times to further discuss it and identify a political consensus.

| IN BRIEF

On 10 November 2022, the former Prosecutor General of the Republic of Moldova, Eduard HARUNJEN, submitted a petition to the President of the country requesting the annulment and suspension of the 2019 presidential decree regarding his release from office. Harunjen claims that the impugned act is flawed and was issued as a result of the political pressure he was under. Moreover, according to the former Prosecutor, the legal effects of the decree would be suspended by law, meaning that he would eventually be reinstated in office as of the day he submitted his prior request. The General Prosecutor's Office confirmed that they received such a petition but refrained from commenting on the situation. The President's Office did not comment on the given situation either. Eduard Harunjen resigned from the position of Prosecutor General in July 2019. On 25 November 2022, Harunjen's request for the suspension of the disputed act was rejected by a [court order](#). The appeal submitted by Harunjen will soon be examined by the Chisinau Court of Appeals.

On 11 November 2022, President Maia SANDU signed the [decree granting the citizenship](#) of the Republic of Moldova to the Romanian judge, Cristi DANILEȚ, and the former head of the National Office for Prevention and Control of Money Laundering of Romania, Daniel-Marius STAICU. On 30 November 2022, by Government decision, Staicu [was appointed](#) as director of the Office for Prevention and Fight against Money Laundering for a five-year term.

On 16-17 November 2022, LRCM together with the National Institute of Justice [organised a training session](#) for 10 judges, 10 prosecutors and 10 lawyers. The training session aimed to improve the participants' knowledge concerning the application of the standards of the European Convention on Human Rights (ECHR) such as the right to a fair trial, especially from the point of view of statistics and identified trends among new Moldovan applications, as well as other aspects related to the administration of evidence, the adversarial nature of the process, and the obligation to reason court decisions, etc. Dragoș

CUCEREANU, lawyer at the ECtHR Registry and Vladislav GRIBINCEA, lawyer and Executive Director of LRCM were leading the training session.

On 16 November 2022, the Anticorruption Prosecutor's Office announced that the lawyers of the former leader of the Democratic Party of Moldova (PDM) Vladimir PLAHOTNIUC [are trying to delay](#) the examination of the request to finalise the criminal investigation of the commonly known 'Bank Fraud', in his absence. Plahotniuc's lawyers succeeded in postponing six court hearings in just three months, citing various reasons.

On 30 November 2022, LRCM organised [a roundtable discussion](#) on 'The role of civil society in the national risk assessment in the field of money laundering and terrorist financing', with the participation of representatives of civil society and the Office for Prevention and Fight against Money Laundering (SPCSB). The purpose of the event was to analyse the [Report on the National Risk Assessment](#), developed and released by the SPCSB in April 2022, and to strengthen cooperation between non-commercial organizations and public authorities in this field.

| LRCM'S TEAM

Vladislav GRIBINCEA
Executive Director

Aurelia CELAC
Accounting & Financial Manager

Ilie CHIRTOACĂ
Program Director

Olga CORTAC
Director of Administrative Service

Daniel GOINIC
Program Director

Alina FRIMU
Assistant of Financial Administrative Service

Oxana BRIGHIDIN
Legal Officer

Dumitru JOMIR
Communication Coordinator

Victoria MEREUȚĂ
Legal Officer

Daniel STANCIU
Communication Specialist

Andrei NASU
Legal Officer



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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



www.crjm.org



crjm.org



crjmoldiva

