



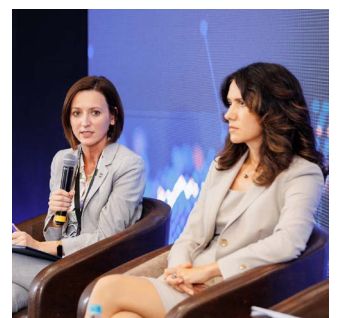
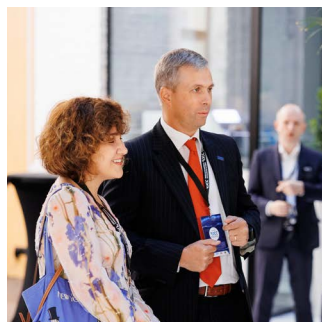
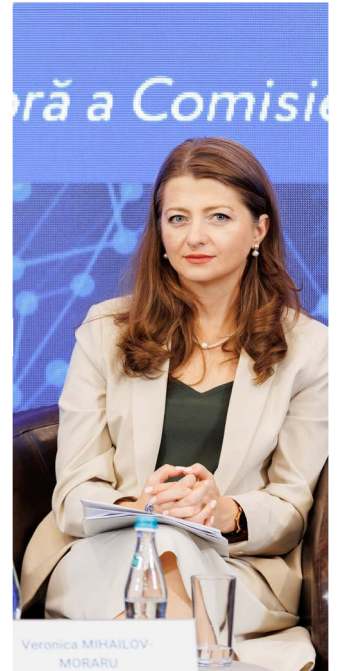
# RJCC

## Justice and Anticorruption Reforms Forum

Chișinău, 19–20 September 2023



### SYNTHESIS





## CONTEXT

An independent judiciary and effective mechanisms to prevent and fight corruption are fundamental to the rule of law, indispensable for the sustainable development of the country, and necessary for a well-functioning democracy and respect and fulfilment of human rights.

After declaring its independence in 1991, the Republic of Moldova started a transition process toward a governance system based on democracy and the rule of law. One of the elements of this transition was the desire to establish an independent, socially accountable, and non-corrupt judiciary. Over the last decade, considerable efforts have been made to achieve this goal, but they failed to produce the effects desired by society. The Moldovan judiciary is still perceived by the public to be politically dependent, severely affected by corruption, and primarily acting in corporate interests.

In pursuit of improving the state of the justice sector, Moldovan authorities have devised a new [Action Plan](#) and [Strategy in the field of justice](#). Among their main objectives are the enhancement of independence and accountability within the judicial and prosecution systems, the strengthening of the legal framework pertaining to integrity, anticorruption measures, and actions against money laundering, the strengthening of capacities of legal professions related to the justice system, the enhancement of access to justice and the human rights protection system, the improvement of mechanisms for the execution of criminal sentences, and of the efficiency and transparency of legal services through digital transformation.

An event of historical importance for the Republic of Moldova was the attainment of the status of candidate country for accession to the European Union on June 23, 2022. The new status involves the completion of a complex process by our country, where it has to implement, at a swift pace, [a series of measures](#) required by the European Commission, most of which refer to the justice reform. A decision regarding the commencement of accession negotiations is expected by the end of year 2023. In this context, it is crucial for the justice reform to be effective. For this reason, the „Justice and Anticorruption Reforms Forum” was organized as a platform for transparent and professional debates between key actors in the justice sector, politicians, civil society, and development partners to identify feasible and effective directions for reforming the justice system and combating corruption in Moldova.

The forum addressed the most important and topical subjects that the justice reform and fighting corruption must take into account to be truly effective and to deliver results to the benefit of the people. These subjects include the judicial vetting and the reform of the Supreme Court of Justice, the investigation and effective sanctioning of corruption, the optimization of the judicial map, and the future of justice.



## INTRODUCTION



„Citizens demand justice from the government. It is not the government’s role to dispense justice; rather, justice must be administered by the judiciary. The government and governance provide all the necessary tools for the system to be reformed. My expectation from this forum is that we identify ways in which courageous, honest, and integral individuals within the system can take a step forward, and for this reform to be carried out by judges and prosecutors.”

**Dorin RECEAN, Prime Minister of the Republic of Moldova**

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„Things have become much more complicated, and I would argue, even more urgent because of Russia’s unprovoked war against Ukraine and the negative effects this war has had on Moldova. An independent judiciary is the cornerstone of the justice reform and anticorruption effort. Independent courts ensure that society is ruled by law and not by the arbitrary and self-interested decisions of those in power. The law must be applied by law enforcement agencies consistently and impartially. The law’s fair application must ensure that political leaders along with everyone else can be held legally and publicly accountable in the courts and only when the courts are truly independent from other state and political entities can they act as a real check on the abuse of power.”

**Kent D. LOGSDON, U.S. Ambassador to the Republic of Moldova**

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„My speech two years ago, prepared for the same forum, was more or less a long shopping list of actions that Moldova had to undertake. We are still at the stage where we have this long shopping list, but I also noticed that the list of things that had already been done is getting longer. Despite all the challenges we’re facing, we can see that, in two years, Moldova has made quite a lot of progress.”

**Janis MAZEIKS, Ambassador of the European Union to the Republic of Moldova**



„We at the LRCM have a simple mission—we aspire to live in a democratic state where the rule of law, and human rights reign supreme. The role of this forum is to bring into discussion the pressing problems of the system, its challenges, and its accomplishments. Our goal is to identify the best solutions together with experts from Moldova and abroad, as well as with all partners who want to strengthen the rule of law in the Republic of Moldova.”

**Ilie CHIRTOACĂ, Executive Director of the Legal Resources Centre from Moldova**

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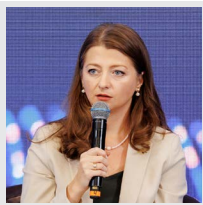




# JUDICIAL VETTING AND THE SUPREME COURT OF JUSTICE REFORM

## MAIN ISSUES

- **Low level of public trust in the justice system.** This phenomenon is due to several factors, including corruption, political influence on the judiciary, poor handling of corruption cases, and lack of transparency.
- **Judges and prosecutors' resistance to the current reforms in the judiciary, manifested through** refusal to cooperate, public opposition, critical statements, or comments, delays, and resignations. This factor posed a risk to the implementation of these reforms and the timely delivery of the proposed results. .



„The experience of the past years and the various responses to this effort have shown that the state is still compelled to come up with different reactions when there's a lack of desired progress. According to *the vox populi*, it is evident that things are not moving in the right direction, and stricter actions are needed. We all have to undertake these changes.”

**Veronica MIHAILOV-MORARU, Minister of Justice**

- **Lack of interest and an insufficient number of candidates for vacancies at the Supreme Court of Justice,** even among non-judges, has resulted in the extension of the competition. Judges' reluctance to engage in the vetting procedure is primarily due to a lack of trust in the process and concerns about the sanctions applied in case of failure, the risks for them being too high.



„At the Supreme Court of Justice, we have 11 judge positions, and currently, we do not have enough candidates. This is an issue, as the application deadline for the competition continues to be extended. My hope is that the amendment to the law, through which appropriate remuneration will be provided to the judges of the Supreme Court of Justice, along with the streamlining of procedures, will render the position of a judge at the Supreme Court more appealing.”

**Sergiu CARAMAN, Interim President, Superior Council of Magistracy**

- **High workload and limited institutional capacity.** This factor has negative consequences on the efficient and prompt handling of cases, limiting access to justice, diminishing the quality of justice administration, and eroding public trust in the judicial system.

## PROPOSED SOLUTIONS

- **A salary increase for judges and prosecutors who have successfully passed the vetting and a significant salary increase for Supreme Court judges** is essential to attract and retain highly-performing judges and prosecutors, thereby fostering increased independence and efficacy within the judicial system. These salary increases have been promised repeatedly in the past, and it is crucial to uphold these commitments.

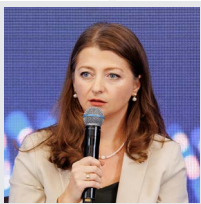


„Before making demands, certain conditions must be offered. In the Romanian judicial system, supreme court judges hold the highest rank of dignity and receive the highest level of remuneration of all categories of magistrates, judges, and prosecutors in Romania. The issue of not having candidates for a position in the Supreme Court of Justice has never arisen in our case. The financial aspect is a factor that must be considered across the entire judiciary and prosecution system equally.”

**Codruț OLARU, Independent expert, former Vice President of the Superior Council of Magistracy of Romania**

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- **Proactive communication with actors from the justice sector to explain the specifics of the reforms along with providing accurate and strategic information to the general public** are essential to avoid confusion and build trust. Effective communication with the citizenry at every stage of the reforms helps to provide accurate information and manage expectations.



„Some reservations expressed by judges are completely unfounded due to many manipulations, and this is regrettable, including because of some representatives within the judicial system. The law regarding vetting offers significantly more guarantees than the pre-vetting law because it regulates a different procedure. There is a margin related to income that does not result in immediate dismissal. Ultimately, the Superior Council of Magistracy (CSM) and the Superior Prosecutor’s Office (CSP) will have the final say.”

**Veronica MIHAILOV-MORARU, Minister of Justice**

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- **Investments in increasing and developing institutional capacity** are imperative to cope with higher workloads and to manage cases more efficiently, ensuring access to justice and the quality of justice administration. This could include additional training for staff and the building of resources to facilitate workflows.



„What the judiciary can do to mitigate the prevalent public criticism is to become efficient. If justice becomes efficient, people will gradually start to gain trust. If there are persistent delays or complete absence, expectations for anything different cannot be realistically entertained.”

**Daniel-Marius MORAR, former Chief Prosecutor, the National Anticorruption Directorate, Romania**

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## MAIN ISSUES

- **The public's high expectations regarding the delivery of fast and tangible results in fighting corruption.** Nationwide, there is significant public dissatisfaction with the actions taken by the current government in combating corruption. According to the September 2023 Public Opinion Barometer, 80% of citizens are dissatisfied with the actions of the current government in this area, and only 13% are satisfied.



„Nationally, our standing appears worse than internationally because the impact of the changes made in these two years is harder to notice. The citizenry will see these changes late, because it reaches them through public information.”

**Olesia STAMATE, Chair, Legal Committee of the Parliament**

- **Prolonged trials of corruption cases, especially high-profile ones.** Proceedings in corruption cases take 3.5 times longer than in regular criminal cases. This factor negatively affects public trust in the institutions responsible for fighting corruption and in the judicial system, impeding the eradication of corruption in Moldova.
- **Lack of long-term financial, human, and logistical resources at the Anticorruption Prosecution Office** affects the institution's capacity to handle corruption cases from start to completion. Ensuring effective case handling by the Anticorruption Prosecution Office, following the model of Romania's National Anticorruption Directorate (DNA), is an extremely complicated process.
- **Large number of cases and a limited number of prosecutors.** Currently, the number of corruption cases is significant, whereas the number of prosecutors in the prosecution system is insufficient to handle this workload. Additionally, prosecutors have to represent the state's case in courts throughout the entire country, which may result in overburdening.



„Our prosecutors must represent cases to completion in the courts, both in appellate courts and at the Supreme Court of Justice if necessary. Currently, the Anticorruption Prosecution Office has ten prosecutors presenting the state's case in the courts, and we have 500 pending cases. It's an extremely large amount, and they travel across the entire country. In 2022, we had to participate in over 5,000 hearings. We need a reasonable number of cases per prosecutor.”

**Veronica DRAGALIN, Chief Prosecutor, Anticorruption Prosecution Office of Moldova**

## PROPOSED SOLUTIONS

- **Strengthening the Anticorruption Prosecution Office with financial, human, and logistical resources and providing protection for whistleblowers are crucial** to uphold the institution's autonomy and independence from other entities and to strengthen public trust in the institution.
- **Specialization of prosecutors.** To achieve tangible results in the fight against corruption, prosecutors need good training. Additionally, there is need for specialized structures to recognize and identify corruption and individuals prone to it. It is also necessary to identify and attract talented prosecutors, who can be identified even in territorial offices.



„How did the National Anticorruption Directorate (DNA) manage to go from an inefficient institution to a strong and efficient one, given that before and after 2005, we had the same resources? It's all about people, and the problem here is the same. You can have a very well-endowed and perfect institution, but if people don't make a difference, we remain stagnant.”

**Daniel-Marius MORAR, former Chief Prosecutor, the National Anticorruption Directorate, Romania**

- **Prioritized examination of corruption cases, as required by the new amendments to the Criminal Procedure Code, and swiftness.** Both prosecutors and judges are required to pay special attention to corruption cases and deliver results within a reasonable time, in the name of the public interest.
- **Efficient cooperation between the Anticorruption Prosecution Office and other institutions,** such as the National Anticorruption Center, the Prosecutor's Office for Combating Organized Crime and Special Cases, the National Integrity Authority, and the Office for Prevention and Fight against Money Laundering. A single actor in the fight against corruption is neversufficient.
- **Severe sanctions for acts of corruption.** To effectively combat this phenomenon, the applied sanction must be more inconvenient than the commission of the offence, specifically, the extensive confiscation of the assets that a person convicted of corruption cannot justify.
- **Transparent and proactive communication with the public about the latest developments in corruption cases** to increase trust in, and the credibility of, anticorruption institutions. Proactive communication also makes anticorruption institutions more responsible in handling cases of corruption.



„When we talk about public trust, it is based on changes seen by society and the inevitable application of sanctions. Transparency is necessary to gain trust. Society should know how justice is administered and why certain decisions are made.”

**Vira MYKHAILENKO, Chief Judge, High Anticorruption Court of Ukraine**





## MAIN ISSUES

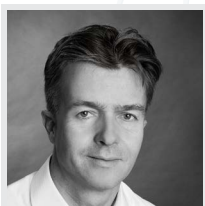
- **A large number of national courts operating with a reduced number of judges** causes difficulties in setting up judicial panels, requiring the transfer of judges from other localities. This situation leads to delays in case examination, significant costs, and hinders the specialization of judges, with a negative impact on the quality of justice administration. It also has a negative effect on the public perception of the duration of legal proceedings.



„We find ourselves in a prolonged transitional situation that has lasted for far too long, and that’s why judges have to relocate from one courthouse to another. If we had a single courthouse, there would be no issue with the court administration system, and there would be no need to transfer a case from one courthouse to another.”

**Vladislav GRIBINCEA, Justice Programme Director, Legal Resources Centre from Moldova**

- **Significant increase in workload in urban courts, both in terms of substantive and appellate cases, and decrease of workload in regional courts** leads to extended case examination periods and a decrease in the resolution rate, ultimately affecting the quality of justice administration.
- **Under-equipped or suboptimally facilitated courthouses result in** inadequate working conditions for judges and court personnel, affecting the quality of justice administration. This situation also creates difficulties in case management and may lead to delays in case examination.
- **Resistance on the part of professionals from the system and the citizenry to the optimization of the judicial map**, manifested through attachment to local courts.



„It’s extremely important not to underestimate the complexity of this endeavor because there are so many people who are involved in it, so many people who will be affected by this change, and so many aspects and elements that should be taken into account. The political factor usually has the greatest influence on the duration of implementing changes.”

**Jesper WITTRUP, Expert, Denmark**





## PROPOSED SOLUTIONS

- **Evaluation of the reform, using a detailed statistical analysis** with emphasis on two key aspects—efficiency in workload management and access to justice.
- **Reorganization of the judicial map to bring it in line with the current needs of the public and the workload, including by merging or relocating courts. Various reorganization scenarios can be tested using** interactive applications already employed in Albania.



„Under the public administration reform strategy for 2023–2030, there is the intention to stagger the reform. The first phase, spinning from 2023 to 2026, will consist in voluntary amalgamation starting in 2024. In fact, a law has already been approved in the Parliament of the Republic of Moldova to implement this phase. We really want to have as many authorities as possible willing to optimize voluntarily through the merger and consolidation of local public authorities. The primary focus of this reform is to improve the quality of life for citizens, enhance the quality of services provided, and ensure the best possible access to the authority or institution delivering this service.”

**Larisa VOLOH, MP, Parliament of the Republic of Moldova**

- **Specialization of judges for qualitative justice.** The larger the court, the better the quality of justice administered by it. Specialization can only be efficiently in a court that has at least 15 judges.



„If you have enough judges, you can organize the process much easier. Otherwise, you’re compromising on quality. Specialization offers the advantages of the efficiency and quality of hearings and case examination.”

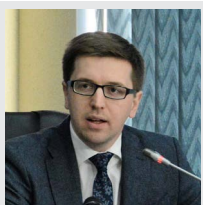
**Esther de ROOIJ, Justice sector expert and judge, Kingdom of the Netherlands**

- **Strategic location of courthouses taking into account the transportation infrastructure and proximity to economic development centers** to facilitate swift employment and the professional development of staff.
- **Involvement of judges and support staff in the optimization process, organizing public consultations, and fostering open communication with the general public on the reasons and benefits of the reform.** These aspects are essential for gaining the support and trust of professionals from the system and the public.



## MAIN ISSUES

- **Limited technological infrastructure, especially in the rural areas of the Republic of Moldova.** The public does not have equal access to modern technology and online services. This factor limits and slows down the digitalization process.
- **Personnel crisis, limited financial resources, and lack of adequate equipment** have a significant impact on the digitalization of the judicial system. The scarcity of resources, makes the development and stability assurance of software a challenging task.



„Any possibility of using raw software must be prohibited. We had numerous failures with software that was not tested or adapted to the Ukrainian system. In the current context, we no longer have the possibility, nor should we, to test justice.”

**Bohdan KRYKLYVENKO, Head of the apparatus of the High Anticorruption Court of Ukraine**

- **Lack of tools and platforms for efficient information management** in the judiciary leads to delays and low public trust.
- **Inadequate communication between courts and professionals, often hindered** by bureaucracy and paperwork. This fact complicates cooperation and affects the quality of justice administration.



„The costs associated with accessing justice, whether it's lawyers fees, filing costs, defense expenses, or simply the ability to pursue a case, continue to raise. The rising cost of justice remains an issue that technological innovations haven't attempted to address.”

**Veronica MIHAILOV-MORARU, Minister of Justice**





## PROPOSED SOLUTIONS

- **Development and implementation of tools and platforms to facilitate the efficient entry and retrieval of information by court staff.**
- **Development and implementation of an efficient communication platform between courts and professionals in the judicial system, along with digital tools and platforms**, such as M-connect and the Integrated Case Management System (ICMS), with an emphasis on improving interactions and data exchange in the justice sector.



„When we have such communication, we'll be able to effectively create a digital archive for justice, where any procedural document issued by an actor from a court is included in a digital state archive so that all those who have access to this document could use it as often as necessary, thus implementing the principle of the primary source of truth.”

**Dinu VATAMAN, Head of the Legal Information Resources Agency**

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- **Implementation of citizen communication tools, such as the filing of a digital case and an authentic digital archive for those involved in legal proceedings.**

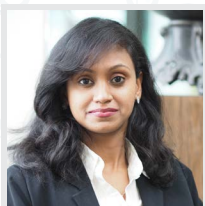


„Of course, we need to develop an electronic calendar, where the judge, the lawyer, and the litigant can set a common agenda, and we also need integration with the videoconferencing system so that the litigant could participate in court hearings from other locations.”

**Petru VÎRLAN, Deputy Director, Agency for Courts Administration of the Republic of Moldova**

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- **Collaboration with development partners** to learn from their experience and expertise and to secure financial support for a more efficient process.
- **Assessment of the impact of artificial intelligence (AI) on the justice system**, recognizing the benefits of AI in data analysis, trend identification, and prediction, and enhancing judicial processes not by replacing judges, but rather by assisting them in making decisions based on precedent reasons and writing judgments with text blocks and predefined formats. For that end, it is necessary to train professionals to use these tools.



„Considering the evolution of AI, its current capacities, and ongoing development, in the near future, AI is expected to be able to justify its decisions based on precedents and draft judgments using text blocks and predefined formats. However, it is not yet capable of independently interpreting relevant legal provisions and case law within final decisions or qualifying legal aspects appropriately.”

**Linda B. LOUIS, Lecturer in Law and Technology, The Hague University**

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