REPORT

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THE EFFECTIVENESS OF THE MECHANISM FOR REPAIRING THE DAMAGE CAUSED BY THE UNLAWFUL ACTIONS OF CRIMINAL INVESTIGATION BODIES, THE PROSECUTION SERVICE, AND THE COURTS OF LAW (LAW NO. 1545/1998)

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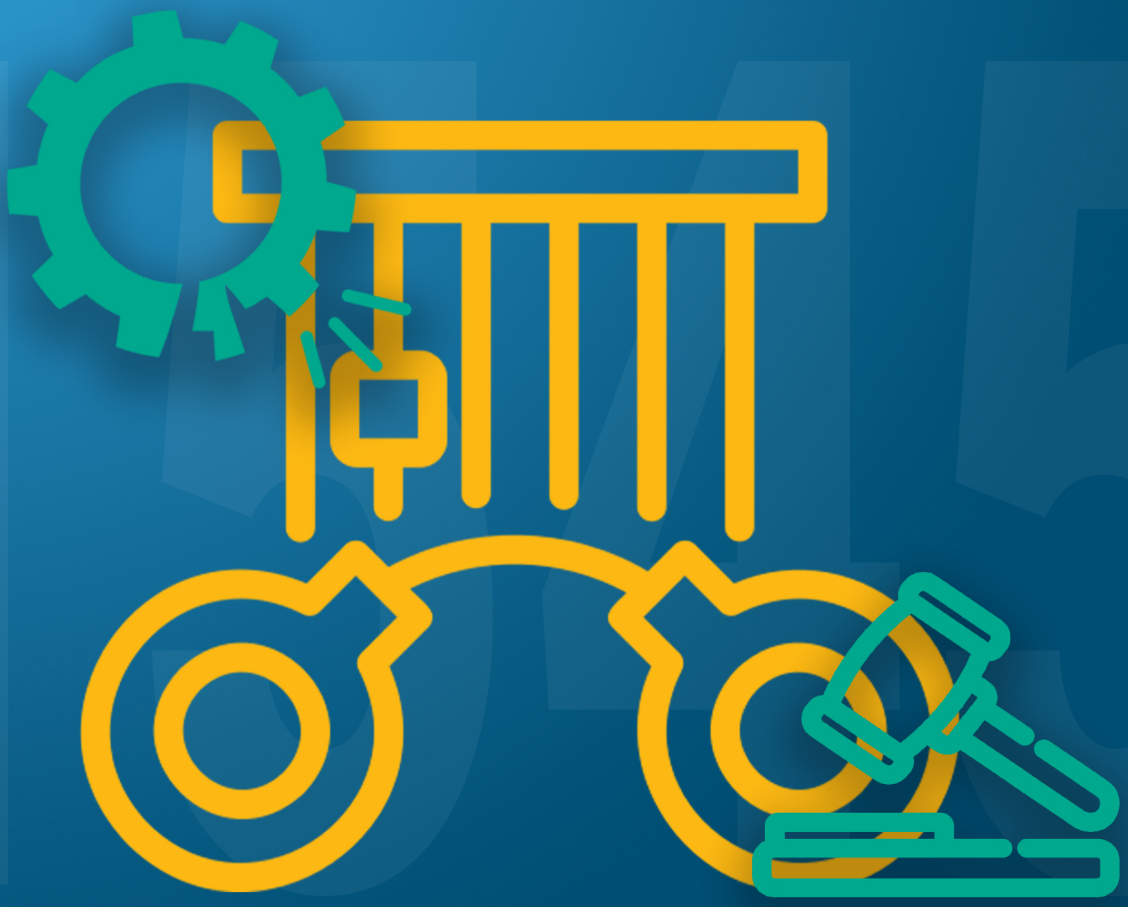

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The effectiveness of the mechanism for repairing the damage caused by the unlawful actions of criminal investigation bodies, the prosecution service, and the courts of law (Law No. 1545/1998)

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Abbreviations

AAIJ – Agency for Court Administration

ANP – National Administration of Penitentiaries

CNA – National Anticorruption Center

CSJ – Supreme Court of Justice

CRJM – Legal Resources Centre from Moldova

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights

IGP – General Police Inspectorate

INP – National Patrol Inspectorate

INSP – National Public Security Inspectorate

IP – Police Inspectorate

MJ – Ministry of Justice

MAI – Ministry of Internal Affairs

MF – Ministry of Finance

PG – Prosecutor General's Office

PA – Anticorruption Prosecutor's Office

SFS – State Tax Service

SIS – Intelligence and Security Service

SV – Customs Service

CSM – Superior Council of Magistracy

CPC – Civil Procedure Code

CP – Criminal Code

CC – Contravention Code

UP – Criminal Investigation

Law No. 1545/1998 – Law No. 1545 of 25 February 1998 on the procedure for repairing damage caused by the unlawful actions of criminal investigation bodies, the prosecution service, and the courts of law

MDL – Moldovan Lei

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Introduction

In 2024, the Ministry of Justice of the Republic of Moldova initiated the drafting of a new bill on the procedure for repairing damage caused by unlawful acts committed in criminal and contravention proceedings.[1] In the explanatory note accompanying the draft, the Ministry emphasized that the current law is conceptually outdated, contains numerous gaps, and no longer corresponds to the requirements of the case-law of the European Court of Human Rights (ECtHR)[2]. Among the deficiencies identified are the absence of a clear framework for determining the unlawful nature of acts or omissions by the authorities, insufficient regulations on the criteria for awarding compensation, and a limited number of persons covered by the law.

The Legal Resources Centre from Moldova (LRCM) decided to carry out this study with the aim of providing a thorough analysis of judicial practice in the application of Law No. 1545/1998. The study seeks to ground potential recommendations for the new law on data extracted from a representative sample of cases finally adjudicated.

The analysis did not aim to determine the correct solution in the judgments reviewed. It only assessed the consistency of court decisions in terms of the reasoning provided. To present a clearer picture of judicial practice, the study also examines decisions from both the appellate and first instance levels.

The research is intended primarily for the Ministry of Justice of the Republic of Moldova, in its capacity as the author of the draft law. At the same time, the report is also intended for the Parliament of the Republic of Moldova, in particular the Legal Committee on Appointments and Immunities, which is to examine the draft law within the parliamentary procedures. The information presented may serve as reference material in the legislative process, especially during the debates on the final form of the law.

At the same time, the report is designed as a practical tool for lawyers and other persons involved in litigation concerning Law No. 1545/1998, which remains applicable to cases pending or initiated before the entry into force of the new regulations. The analysis of the majority of finally adjudicated cases provides a coherent picture of judicial practice and can guide lawyers in formulating claims, in the legal reasoning of arguments, as well as in justifying the amounts sought as material and moral damages.

The report may also be useful for the Superior Council of Magistracy, the Supreme Court of Justice, and the courts, in their effort to ensure the uniformity of existing judicial practice. Identifying discrepancies in the reasoning of decisions and in the criteria applied in similar cases, as long as litigation under Law No. 1545 continues to exist, may serve as a starting point for the development of internal recommendations, jurisprudence guides, or thematic briefs.

[1] Bill Fact Sheet: https://www.justice.gov.md/ro/content/proiectul-de-lege-privind-modul-de-reparare-prejudiciului-cauzat-prin-faptele-ilicite-comise.

[2] The explanatory note to the draft law, publicly available at: https://www.justice.gov.md/sites/default/files/nota_de_fundamentare_pl_erori_judiciare_ale_statului_1_1.pdf.

Executive Summary

The research is based on the analysis of **263 cases finally adjudicated** by the Supreme Court of Justice (SCJ) in the period January 2020 – December 2024. Thus, the sample analyzed represents 78% of the 337 admissible cases reported by the SCJ and 61% of the 430 cases inventoried by the Ministry of Justice (which also include rejected complaints). Therefore, the conclusions of the research have a solid empirical foundation.

The claimants who sought compensation under Law No. 1545 are, for the most part, **protagonists of criminal cases concerning offenses against property—fraud (Art. 190 CC), corruption (Arts. 324, 326 CC), and abuse of power (Art. 328 CC)**—but cases of homicide (Art. 145 CC) and money laundering (Art. 243 CC) also appear.

The **contravention segment is represented by cases concerning annulled reports for traffic violations, drunk driving, insult** (Art. 69 Contravention Code), or exceeding the speed limit (Art. 236 Contravention Code). Although, legally, the claimant sues the state—represented by the Ministry of Justice, according to Art. 5 of the Law—the concrete defendants are the institutions whose officials caused the damage, in particular the Prosecutor General's Office and the structures of the Ministry of Internal Affairs (the General Police Inspectorate and the territorial inspectorates).

Most claims are based on Article 6(b) of the Law (termination of criminal prosecution) – 44%, followed by Article 6(a) (final acquittal) – 41%. Together, these grounds account for 85% of the cases and show that the central actor in the litigation is the person procedurally rehabilitated. Article 6(d), which refers to nullity, is invoked in only 3% of cases, probably due to the difficulty of proving nullity in court.

The interval between the occurrence of the ground and the filing of the action is, on average, three years, in compliance with the statute of limitations under Article 5(2).

The adjudication of cases under Law No. 1545 lasts, on average, 1,058 days (approximately 3 years): 331 days in the first instance courts, 257 days on appeal, and 232 days at the Supreme Court of Justice. Only seven cases (less than 3%) were remanded for retrial, an indication of formal stability.

In the first instance courts, 3 out of 4 claims are admitted (73.8%). On appeal, the admission rate drops to 41.4%, and 54% of the favorable first instance judgments are quashed or modified. In recourse, the Supreme Court of Justice declares 85.6% of cases inadmissible. At the same time, **only 14.4% are examined on the merits**, and in 89% of these cases the Court of Appeal's solution is upheld. Thus, Law 1545 disputes are won predominantly at first instance, but as the case moves through the system the claimant's chances steadily diminish..

From the perspective of compensation, the figures reveal a pronounced discrepancy between the claimants' expectations and the solution offered by the courts.

The moral damages claimed by the applicants amounted to a total of 112 million MDL, but the courts awarded only a tenth of that—9.85 million MDL, or approximately 9%. The average amount claimed per case (426,131 MDL) dropped to 37,452 MDL awarded.

As for material damages, the discrepancy is even greater: out of 294 million claimed, only 4.21 million were recognized, representing just 1%. Only 117 cases (44.5%) included claims for material damages. The average amount requested—1.12 million MDL—was reduced to only 16,255 MDL awarded per case, on average. Most often, lost wages are recovered, provided they are thoroughly proven, which generates the risk of parallel labor disputes and, theoretically, of double compensation.

Court costs were claimed in 133 of the 263 cases examined, amounting to a total of nearly 2 million MDL, but the courts admitted only 958,000 MDL in total, i.e., 49%. The average per case is 7,532 MDL (claimed) versus 3,685 MDL (awarded). Although the recovery rate is higher than for material and moral damages, the 50% reduction in the compensation of court costs often leaves the victim with a reduced or even null net benefit.

Article 12 of the Law, which refers to official apologies, was applied in 33 cases. In this regard, practice is inconsistent: some courts reject the request on the grounds that the 15-day term has expired, while others have decided that the term concerns only voluntary enforcement, not the right to request apologies.

The analysis does not indicate urgency to review the duration of proceedings: average timeframes remain below the critical thresholds established in the case-law of the European Court of Human Rights. The real problems are the low level of compensation and the lack of uniform practice. The courts systematically undervalue moral and material claims, invoke excessive standards of proof, and the lack of correlation with labor law creates risks of double compensation.

Under these conditions, although the legal framework provides a domestic remedy, its practical usefulness remains moderate, and the victim often leaves with only one tenth of what was claimed and with half of the lawyer's fee uncovered.

Methodology

Period and method of research:

Within this study, all judgments of the Supreme Court of Justice (SCJ) adopted definitively and irrevocably over a five-year period (1 January 2020 – 31 December 2024) were identified, as well as the solutions delivered by the appellate courts and first instance courts in these cases. The SCJ judgments were identified on the SCJ's website[3]. This website does not allow searches of court judgments based on the solution delivered. For this reason, all judgments (those of the Civil, Commercial and Administrative Litigation Chamber) adopted during the reference period and publicly available were thoroughly analyzed. The judgments of the other courts were identified and accessed on the courts' portal[4].

[3] The website of the Supreme Court of Justice: https://csj.md.

[4] The unified courts' portal: http://www.instante.justice.md/.

All the judgments analyzed were systematized in an open database for documentation and cross-checking by any interested person (the Excel document can be accessed by scanning the QR code below).

The analysis is aimed at identifying the cases examined under Law No. 1545/1998, which regulates the cases, manner, and conditions of the state's patrimonial liability for damage caused by unlawful acts committed in criminal and contravention proceedings by criminal investigation bodies, the prosecution service, and the courts.

The mechanism for identifying judgments:

Most often, such cases are examined under the subject "on compensation for material and moral damages under Law No. 1545 of 25 February 1998." On the website concerning the case-law of the SCJ[5], In the search field for the subject, the word "1545" was initially included, followed by "unlawful acts" and "the unlawful acts." Another possible step consisted in removing the word "1545" from the subject search and entering the phrase "Ministry of Justice" in the parties field of the case. With regard to the legal issue, priority is given only to the grounds for declaring the recourse[6].

At the stage of finalizing the methodology, the LRCM requested proposals and comments from the Ministry of Justice. In this way, the methodology was aligned with the ministry's vision and priorities, while also providing additional support in the process of drafting a new law to regulate the respective field.
At the data collection stage, the LRCM sent information requests to the SCJ, AAIJ, and the Ministry of Justice regarding the number of cases finally resolved under Law No. 1545/1998 in the past five years. These data are essential to be compared with the results of the judgment identification and to verify the consistency of the data to be analyzed in the upcoming study

Database with all the judgments analyzed:

The database contains the following categories of information to facilitate a structured and coherent analysis:

1. Case number – Represents an essential indicator in case management, allowing traceability and verification in the court archives.
2. Case title – Allows us to contextualize the case and identify the general subject matter of the dispute.
3. Claimant (profession) – By collecting data on the claimant's profession, we can perform correlation analyses between different professions and the types of disputes addressed, as well as assess their impact on socio-professional groups.
4. Institution against which the claim is filed – Essential information for identifying the types of public institutions (constating agents, Ministry of Internal Affairs, prosecution service, NAC, courts, etc.) most frequently facing lawsuits under Law No. 1545/1998.

[5] SCJ jurisprudence: http://jurisprudenta.csj.md/db_col_civil.php
[6] See for example: https://jurisprudenta.csj.md/search_col_civil.php?id=56591;
or https://jurisprudenta.csj.md/search_col_civil.php?id=69347.

5. Description of the issue – Provides a summary of the legal problems underlying the dispute, allowing for qualitative analysis of the grounds for contestation. Information was also included to expressly indicate the article of the law on which the claimant based the action, in order to understand which "errors" lead to the initiation of the action.
6. Year of the unlawful act (alleged by the claimant) – This variable is crucial for assessing the duration between the alleged act and the opening of proceedings, providing information on the promptness of legal reactions.
7. Date of filing the action – Allows calculation of the duration of proceedings and analysis of the efficiency of the judiciary in resolving disputes within a reasonable timeframe.
8. Date of judgment (first instance / court of appeal / SCJ) – Evaluates the time needed for the court to issue a decision and identifies possible delays in the judicial process.
9. Nature of the solution (first instance / court of appeal / SCJ) – This category is used to determine the percentage of admitted and rejected cases, allowing a quantitative analysis of favorable or unfavorable solutions for claimants.
10. Retrial of the case – Analyzes whether cases were remanded for retrial, identifying complex or problematic cases requiring multiple examinations.
11. Amount of moral damages awarded (MDL) – Analyzes compensation granted for moral damages and enables comparative evaluation among similar cases to observe consistency in awarding moral damages.
12. Amount of material damages awarded (MDL) – Collects data on amounts awarded for material damages, analyzing the financial dimension of disputes.
13. Amount of court costs (MDL) – This information allows evaluation of the costs borne by the parties in the proceedings and the financial impact of judicial processes.
14. Criteria – Collecting data for this category allows us to understand whether the criteria established in Article 11 are sufficient for the court.
15. Official apologies (0 – no, 1 – yes) – Analyzes the frequency of cases in which official apologies were granted and their importance in resolving conflicts.
16. Comments / notes – Any additional observations related to cases will be documented to provide a more detailed perspective on the specific circumstances of each dispute.

Data analysis

a) Period and type of cases analyzed

The research is based on the analysis of 263 cases finally adjudicated by the Supreme Court of Justice during the period January 2020 – December 2024. The authors did not take into account court judgments that were not appealed to the SCJ. At the same time, the research initially excluded cases examined under Law No. 1545/1998 that were declared inadmissible at a certain stage on procedural grounds (failure to observe the appeal or recourse deadline, repeated applications, or applications submitted by persons not entitled to do so).

The list and the total number of cases analyzed was cross-checked with several sources. According to data provided by the SCJ, during 2020–2024, a total of 337 cases were examined under Law No.

1545/1998[7], and according to the Ministry of Justice, 430 cases were adjudicated[8], in the same period, under the same law.

By comparing these data, the 263 cases analyzed in the research represent:

- 78% of the 337 cases reported by the SCJ (which exclude inadmissible applications);
- 61% of the 430 cases reported by the Ministry of Justice (which include all cases, regardless of the nature of the solution).

The high proportion of 78% of the cases analyzed compared to the total number of cases adjudicated at the SCJ shows that the data collected are substantial and significant, even if they do not cover all cases exhaustively. The exclusion of inadmissible cases on procedural grounds is methodologically justified, since they do not provide relevant information for the analysis of the merits

Therefore, the conclusions of the study can be considered to have a solid empirical basis, being grounded in a rigorous analysis of a relevant proportion of the total cases adjudicated during this period. At the same time, it remains important to take into account the self-imposed limits of the research, in particular the exclusion of cases not resolved on the merits or those that were not appealed to the SCJ.

Figure 1. Number of cases analyzed annualy
(1 January 2020 - December 2024)

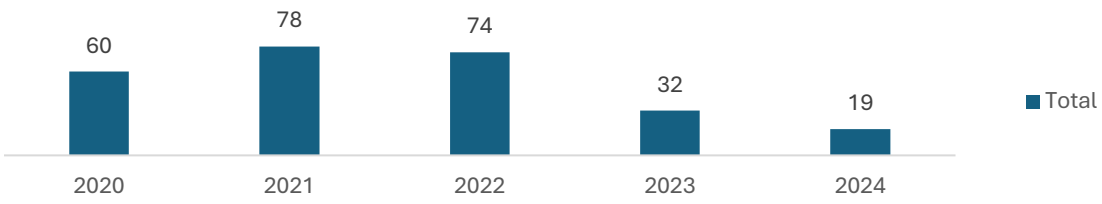
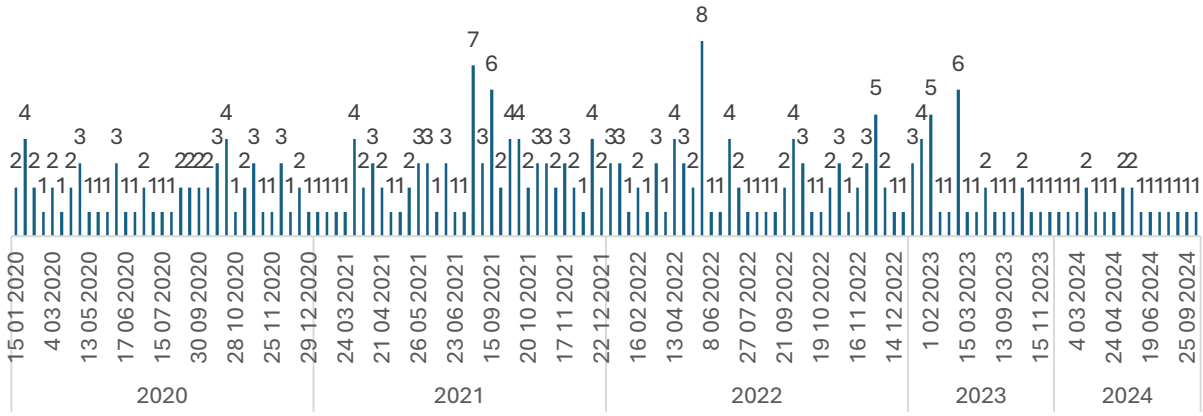


Figure 2. Date of issuance of final judgments under Law No. 1545/1998



[7] Reply of the SCJ No. 261 of 1 November 2024 to the LRCM's request No. 45/24 of 25 October 2024.
[8] Reply of the Ministry of Justice No. 04 of 4 November 2024 to the LRCM's request No. 2878 of 25 October 2024.

b) Type and typology of the cases analyzed

The analysis of the 263 cases shows a diversity of matters, without a clear pattern or dominant category being identifiable. In most cases, the claimants who filed actions under Law No. 1545/1998 had been involved in criminal cases concerning offenses against property, such as fraud (Art. 190 CC), corruption offenses (Arts. 324 and 326 CC), or abuse of power (Art. 328 CC). At the same time, there are also cases concerning serious crimes, such as homicide (Art. 145 CC) or money laundering (Art. 243 CC). An interesting aspect is the relatively high share of contravention cases, many of them relating to traffic violations, drunk driving, or acts such as insult (Art. 69 Contravention Code) or speeding (Art. 236 Contravention Code).

A detailed analysis of the set of cases shows that, in most instances, the persons concerned invoked the erroneous or abusive application of criminal and/or contravention measures. The main grounds for action were either acquittal in court (Art. 6(a) of Law No. 1545/1998) or release from criminal investigation and termination of criminal proceedings (Art. 6(b) of Law No. 1545/1998). There is also a significant number of contravention cases, where the sanctions imposed by the constatation agents (fines, penalty points, provisional suspension of driving licenses, etc.) were later annulled by the courts due to the absence of the contravention or when the acts were declared null (Art. 6(d) of Law No. 1545/1998).

Thus, three broad categories of cases emerge. The first includes criminal cases that ended with final acquittals in court (the claimants arguing that the criminal prosecution had been delayed for years, and in the end no criminal act was established). The second category consists of cases concluded with release from criminal investigation, after the persons had either been detained, subjected to preventive measures, or other investigative actions had been undertaken against them. The claimants argue that the lack of solid evidence ultimately led to the dismissal of the cases, but until then they had been deprived of liberty and subjected to restrictions on free movement, their other fundamental rights and freedoms had been violated, or a legitimate interest had been harmed. The third category concerns contravention cases in which the reports or sanctioning decisions were annulled. The courts found either the nonexistence of the contravention act or procedural errors that led to the nullity of the report.

c) Who are the claimants and defendants in cases under Law No. 1545

The majority of those who initiated these court actions are ordinary citizens (people without public positions) who were either placed under criminal investigation, detained, or arrested, and later acquitted or released from prosecution. In contravention cases, the overwhelming majority of claimants are drivers who contested contravention reports accusing them of speeding, violating traffic rules, driving under the influence of alcohol, etc. (Arts. 236, 242, 233, 69, 354 of the Contravention Code), and the courts ruled in their favor, establishing either the absence of the contravention or serious procedural errors.

In many cases, the claimants were businesspeople, managing companies (SRLs), or working as directors, accountants, and managers. They were subjects of cases concerning offenses such as tax evasion, money laundering, influence peddling, fraud in commercial contracts, etc. However, they

were later released from prosecution on the grounds of lack of elements of the offense or were acquitted by the courts.

In the analyzed cases, the subjects also include lawyers who brought actions against the prosecution service or the police after being detained or searched in cases of alleged corruption or complicity in their clients' offenses. The list also includes bailiffs who were criminally investigated for abuse of power or forgery, but who were later acquitted.

Another part of the claimants were police officers (criminal investigation officers, police inspectors) or other staff from the system (including the Customs Service, the Intelligence and Security Service, the Border Police), who were investigated for abuse of office, corruption, influence peddling, etc. Subsequently, these claimants obtained acquittals (or were released from prosecution) and thus sued the state.

Under Law No. 1545/1998, the statements of claim essentially target the state, represented in court by the Ministry of Justice (Art. 5), for damages suffered as a result of abuses in criminal or contravention proceedings—illegal arrests or convictions, confiscations of property, or other abusive measures. Nevertheless, the concrete institutions indicated as defendants in civil actions are those that factually caused the damage through the actions of their officials—predominantly, the Prosecutor General's Office and various structures of the Ministry of Internal Affairs (the General Police Inspectorate, the territorial inspectorates, etc.).

Table No. 1. List of institutions against which the claim was filed

Institution	No. of cases
Prosecutor General's Office	185
Ministry of Internal Affairs (General Police Inspectorate)	5
Ministry of Internal Affairs (National Patrol Inspectorate)	6
Ministry of Internal Affairs; Prosecutor General's Office	3
Ministry of Internal Affairs (National Patrol Inspectorate)	2
Prosecutor General's Office; General Police Inspectorate	2
Anticorruption Prosecutor's Office	2
Ministry of Internal Affairs	3
State Tax Service	2
Ministry of Internal Affairs (Edineț Police Inspectorate)	2
Ministry of Internal Affairs (General Police Inspectorate)	2
Prosecutor General's Office	1
Prosecutor General's Office; Customs Service	1

Prosecutor General's Office; National Administration of Penitentiaries	1
Ministry of Internal Affairs (GPI)	1
Ministry of Internal Affairs (General Police Inspectorate, Ialoveni Police Inspectorate)	1
Ministry of Internal Affairs (Botanica Police Inspectorate, Chisinau Police Directorate)	1
Prosecutor General's Office; Consumer Protection and Market Surveillance Agency	1
Ministry of Internal Affairs (Buiucani Police Inspectorate)	1
Prosecutor General's Office; Ministry of Internal Affairs	1
Ministry of Internal Affairs (Cahul Police Inspectorate)	1
Ministry of Internal Affairs (Chisinau Police Directorate)	1
Ministry of Internal Affairs (Centru Police Inspectorate)	1
Prosecutor General's Office; Ministry of Internal Affairs; National Center for Personal Data Protection	1
Ministry of Internal Affairs (Centru Police Inspectorate)	1
Prosecutor General's Office (Strășeni Prosecutor's Office)	1
Ministry of Internal Affairs (Ciocana Police Inspectorate, Chisinau Police Directorate)	1
Prosecutor General's Office; Ministry of Internal Affairs (Border Police Department); National Anticorruption Center	1
Ministry of Internal Affairs (National Patrol Inspectorate Bălți)	1
Prosecutor General's Office; Superior Council of Magistracy	1
Ministry of Internal Affairs (Fălești Police Inspectorate)	1
Prosecutor General's Office; Anticorruption Prosecutor's Office	1
Ministry of Internal Affairs (Hîncești Police Inspectorate)	1
Rîșcani District Prosecutor's Office	1
Ministry of Internal Affairs (Criuleni Police Inspectorate)	1
Ministry of Justice; Ministry of Finance; Prosecutor General's Office	1
Ministry of Internal Affairs (General Police Inspectorate; Rîșcani Police Inspectorate, Chisinau Police Directorate)	1
Court (Hîncești Court, Ialoveni seat)	1
Ministry of Internal Affairs (General Police Inspectorate; National Patrol Inspectorate)	1
Ministry of Internal Affairs (National Public Security Inspectorate)	1

Anticorruption Prosecutor's Office	1
Prosecutor General's Office (Cimișlia Prosecutor's Office); Ministry of Internal Affairs (Cimișlia Police Inspectorate)	1
Ministry of Internal Affairs (General Police Inspectorate); State Environmental Inspectorate	1
Prosecutor General's Office (Găgăuzia Prosecutor's Office)	1
Ministry of Internal Affairs (General Police Inspectorate; Centru Police Inspectorate)	1
Prosecutor General's Office; Ministry of Internal Affairs	1
Ministry of Internal Affairs (General Police Inspectorate)	1
Prosecutor General's Office; Intelligence and Security Service	1
Ministry of Internal Affairs (National Patrol Inspectorate)	1
Prosecutor General's Office; National Administration of Penitentiaries; General Police Inspectorate	1
Ministry of Internal Affairs (National Public Security Inspectorate)	1
Ministry of Internal Affairs (Botanica Police Inspectorate)	1
Customs Service	1
Prosecutor General's Office; Ministry of Internal Affairs (General Police Inspectorate)	1
Prosecutor General's Office; State Tax Service	1
National Administration of Penitentiaries	1
Hîncești Prosecutor's Office	1
Ministry of Internal Affairs (General Police Inspectorate)	1
Prosecutor General's Office; National Administration of Penitentiaries	1
Ministry of Internal Affairs (Căușeni Police Inspectorate, GPI)	1
Ministry of Internal Affairs (Chisinau Police Directorate)	1
Ministry of Finance; State Environmental Inspectorate	1
Ministry of Internal Affairs (National Patrol Inspectorate North)	1
Total	**263**

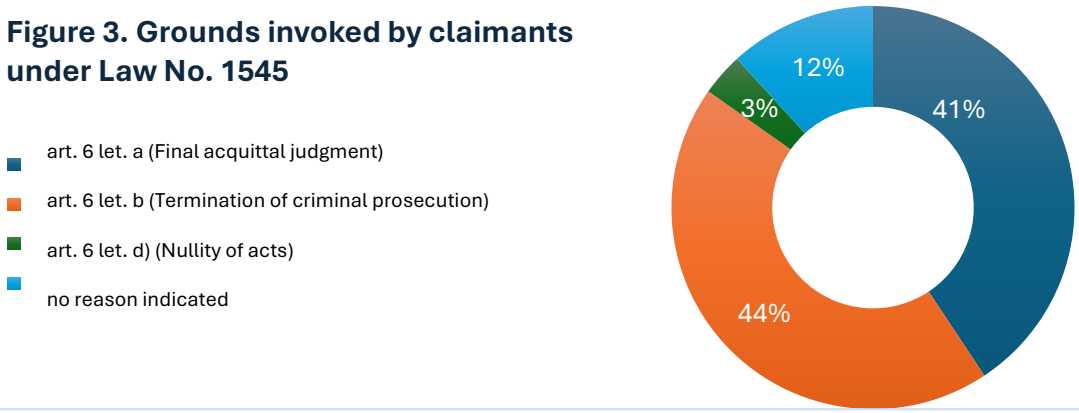
The data in the table clearly show that the Prosecutor General's Office is the main institution against which claims have been filed under Law No. 1545/1998, accounting for an overwhelming number of 185 cases, which represents approximately 70% of the total 263.

At the same time, a significant share of the claims also target the Ministry of Internal Affairs, through its various structures (the General Police Inspectorate, territorial Police Inspectorates, the National Patrol Inspectorate, etc.), being a party in dozens of cases—either individually or together with other institutions. The presence of other institutions, such as the National Administration of Penitentiaries, the State Tax Service, or the Customs Service, is marginal.

d) The most frequent grounds invoked by claimants under Law No. 1545/1998

Most frequently, in 44% of the cases analyzed, the claimants invoked the ground provided by Article 6(b) (termination of criminal prosecution), and in 41% of the cases, the ground provided by Article 6(a) (final acquittal). **Together, these two categories cover 85% of the total claims filed under Law No. 1545**, indicating that the majority of actions brought by claimants are based on an acquittal or the termination of the criminal case on the merits.

Figure 3. Grounds invoked by claimants under Law No. 1545



The much lower percentage of cases based on Article 6(d) (nullity of acts)—only 3%—shows that this ground is rarely invoked by claimants, possibly due to the difficulties of proving nullity in court. Surprisingly, in about 12% of the cases analyzed, no explicit ground for the claim is indicated, which may reflect either poor drafting of the claims (or rather of the court judgments) or ambiguity in the interpretation of this ground..

The distribution presented shows that claimants rely predominantly on situations where the intervention of the authority was clear and favorable—acquittal or termination/release from criminal prosecution—when formulating claims for compensation.

This finding suggests that Law No. 1545/1998 is perceived and used primarily in relation to concrete outcomes of the criminal process, while more technical or unclear grounds are rarely invoked. At the same time, the courts (judges) should be encouraged to expressly state in their judgments the legal ground on which the action was based, in order to ensure transparency and clarity of the decision.

With regard to the invocation of the ground provided by Article 6(d) (nullity of acts), it should be noted that although this provision concerns the acts or actions of the criminal investigation bodies or of the special investigative bodies, in practice there have also been claims in which the claimants requested the annulment of contravention reports.

This finding suggests the existence of a difficulty in clearly distinguishing the situations that give rise to the right to compensation. It may also reflect the absence of a distinct legal ground covering such circumstances. Thus, a clearer and more precise regulation of the grounds and conditions under which such actions may be brought is necessary. Such clarification would reduce the risk of divergent interpretations and ensure a more uniform and predictable application of Law No. 1545. From the analysis of the types of cases, a deficient formulation in the text of Law No. 1545/1998 and a contradictory application thereof can be observed. According to Articles 6 and 10, four situations are exhaustively provided in which the right to compensation arises. Among these, the annulment of a contravention report is not included.

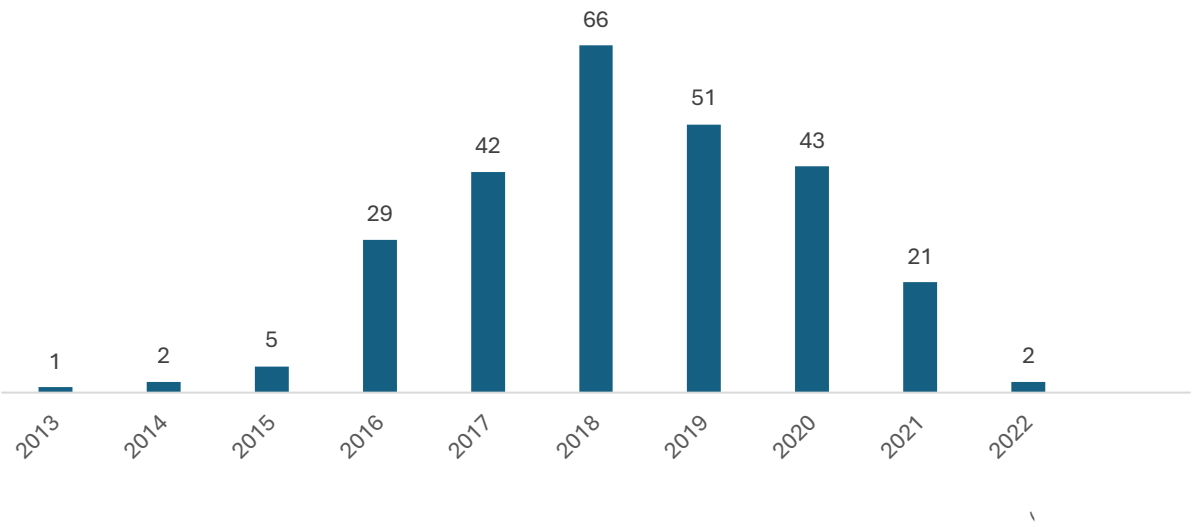
However, in practice, the courts usually admit actions brought on this ground in cases where the claimant has prevailed in a contravention case. In such actions, the courts generally rely on the provisions of Article 13(1) of Law No. 1545/1998, which stipulates that the material and moral damage caused by the unlawful imposition of contravention fines by bodies other than the courts shall be compensated by those bodies

This situation highlights a legislative and judicial practice inconsistency, since although the relevant provisions do not expressly provide for the right to bring actions under Law No. 1545/1998 in cases of annulment of contravention reports, in practice such actions are admitted, relying on the interpretation of adjacent provisions. This discrepancy underscores the need to review and clarify the conditions under which the right arises to claim compensation for damage caused by unlawful actions of law enforcement bodies, in order to ensure its uniform and predictable application.

e) The year of occurrence of the ground that allowed the filing of the action

As in other types of cases adjudicated by the courts, there are no fixed time limits, the exceeding of which would automatically lead to a violation of the ECHR. When determining whether the reasonable time requirement has been breached, the ECtHR takes into account the complexity of the case, the conduct of the claimant and of the authorities, as well as what is at stake for the claimant. As a rule, judicial proceedings lasting less than two years in a single court are dismissed by the ECtHR as manifestly ill-founded.

Figure 4. The year in which the ground arose that allowed the filing of the action under Law No. 1545/1998



Following the analysis of the data in the chart, it is found that, on average, between the year in which one of the grounds for filing arose and the date of filing the action (under Law No. 1545/1998), there is an interval of approximately three years (a fact that corresponds to the statute of limitations: according to Article 5(2), the action may be brought within three years from the date on which the right to compensation arose).

From the analysis of the identified cases, it can be observed that, on average, the time interval between the date of the act (which constituted the ground for filing under Law No. 1545/1998) and obtaining a final judgment on compensation may vary between 6 and 9 years. Moreover, approximately 20% of the analyzed cases exceed the threshold of 6 years from the commission of the act to the final decision on the granting (or rejection) of damages.

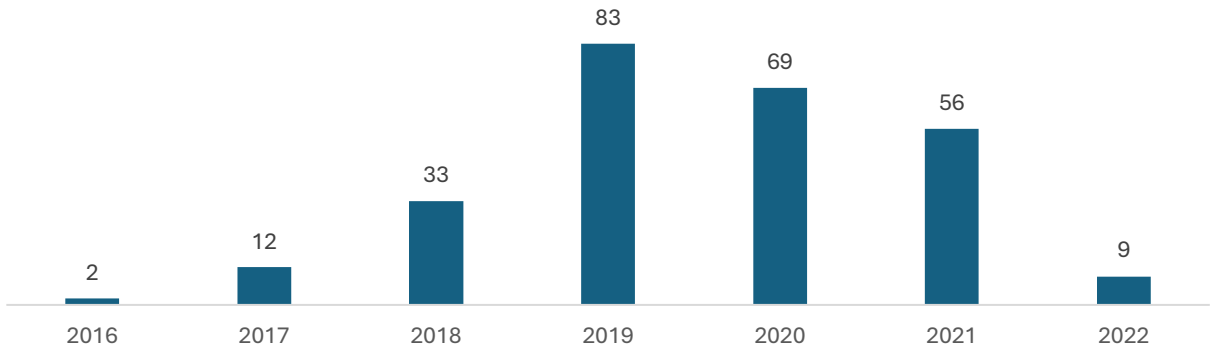
Given the high incidence of cases in which the action is filed with delay, an explicit legislative clarification is required regarding the conditions under which reinstatement of the term may be granted. We also recommend the harmonization of judicial practice through guidance from the SCJ or by developing good practice guides that include clear criteria for examining requests for reinstatement of the term.

f) Duration of proceedings under Law No. 1545

Law No. 1545/1998 does not provide for a special time limit within which the statement of claim must be examined by the courts. The examination of such cases is carried out according to the general rules of civil procedure, without a derogatory or expedited regime. The only explicit time limit provided by the law is the statute of limitations: according to Article 5(2) of Law No. 1545/1998, the action may be brought within three years from the date on which the right to compensation arose. Therefore, the resolution of cases under the Law depends entirely on the court's workload, the

conduct of the parties, and the complexity of the case, with no procedural guarantees regarding a maximum examination period.

Figure 5. The year of filing the action under Law No. 1545



In most of the analyzed cases, the interval between the filing of the action and the final decision at the SCJ does not exceed three years, and some cases are resolved in as little as 1–2 years. Overall, it can be concluded that Law No. 1545/1998 provides a theoretically predictable framework for resolution.

The average duration of the analyzed cases (from the date of filing the action until the SCJ's decision) is approximately 1,058 days, which corresponds to about 34.8 months (almost 2 years and 11 months). Most of the time is "spent" at first instance, with an average of 331 days (about 11 months), followed by the Court of Appeal – 257 days (approx. 8.5 months) – and the examination of the recourse at the SCJ – 232 days (approx. 7.5 months).

Table No. 2. Duration of proceedings

Category (duration of proceedings)	Number of cases	Percentage (%)
Up to 6 months	6	2.28%
6–12 months	61	23.19%
12–18 months	84	31.94%
18–24 months	40	15.21%
24 months and more	72	27.38%

About 2.28% of the cases were resolved within up to 6 months (at all three levels), while more than 58% lasted longer than 18 months. No less than 27.38% of the cases lasted for a period of over two years. The examination of a case brought under Law No. 1545/1998 over a period longer than 24 months, combined with the enforcement of the judgment over several more months, does not appear to be problematic in light of ECtHR standards.

It is also noteworthy that in only 7 of the 263 cases analyzed, the files were remanded for retrial—representing less than 3%, which indicates a relative stability of the solutions adopted by the lower courts. In a single case, the examination period lasted nearly seven years, which may be problematic, especially when compared to the average duration of the cases.

Top 10 cases with the longest examination period

No.	Case number	Duration in 1st instance	Duration in 2nd instance	Duration in 3rd instance	Total duration	Duration (years)
36	2ra-1807/22	2105	281	147	2533	6,94
83	2ra-787/22	716	643	308	1667	4,57
7	2ra–1108/23	264	975	371	1610	4,41
123	2ra-1922/21	100	1280	217	1597	4,38
20	2ra-729/23	1155	123	302	1580	4,33
22	2ra-621/23	993	217	344	1554	4,26
205	2ra-1335/20	1016	322	197	1535	4,21
52	2ra-1451/22	875	287	224	1386	3,80
14	2ra-329/23	546	287	552	1385	3,79
17	2ra-85/23	698	192	494	1384	3,79

The analyzed data do not indicate a pressing need for legislative revision of the mechanism for examining cases under Law No. 1545/1998 from the perspective of the duration of proceedings. The current law does not provide for a special time limit for resolution, and cases are adjudicated under the general rules of the Civil Procedure Code. This approach does not contravene ECtHR standards, which do not impose a fixed term but assess the duration depending on the complexity of the case, the conduct of the parties, and the claimant's interest.

The average duration of disputes (approximately 2 years and 11 months) and the fact that only 7 out of the 263 cases were remanded for retrial indicate a relative stability and predictability of the current mechanism, despite some isolated cases of excessive duration. Therefore, it is not necessarily required to introduce an accelerated or derogatory procedure, but rather to strengthen the capacity of the courts and to proactively monitor the duration of proceedings in order to prevent unjustified delays in individual cases.

g) Court decisions

Considering the 263 cases finally adjudicated, the interpretation of the figures shows that the "battle" is usually won at first instance: nearly 3 out of 4 claims (73.8%) are admitted there, making it the stage with the highest success rate for claimants. The Court of Appeal functions as a substantial filter—not only reducing the share of admitted claims to 41.4%, but also quashing/modifying the trial court's judgments in 54% of cases, which indicates that a significant part of the favorable first instance rulings do not withstand appellate review. At the SCJ, 8 out of 10 appeals are declared inadmissible (85.6%), and only 14.4% are examined on the merits. Moreover, the SCJ upholds the Court of Appeal's solution in nearly 9 out of 10 cases.

In other words, most often, claimants succeed at the first instance courts, the chances decrease considerably on appeal, and at the recourse stage the status quo prevails, with the SCJ intervening only exceptionally to overturn lower court decisions.

Table No. 3. Distribution (admitted/rejected) at each level (263 cases)

Level of jurisdiction	Admitted	%	Rejected	%
First Instance Court	194	73,8 %	69	26,2 %
Court of Appeal	108	41,4 %	153	58,6 %
Supreme Court of Justice*	38	14,4 %	225	85,6 %

* At the SCJ, as "admitted" was treated any solution on the merits (quashing, modification, upholding with modifications), while "rejected" referred to appeals declared inadmissible.

Table no. 4. Rate of Upholding vs. Quashing/Modification

Comparison	Upholds previous decision	%	Quashing / Modification	%
Court of Appeal compared to First Instance Court (n = 261)	120	46,0 %	141	54,0 %
Supreme Court of Justice compared to Court of Appeal (n = 263)	234	89,0 %	29	11,0 %

Upholding at the SCJ = "appeal inadmissible" or a decision containing the wording "upholds." The rest are classified as quashing/modification.

Table No. 5. Frequency of "appeal inadmissible" vs. appeal admitted (SCJ)

Type of appeal	Number	%
Appeal inadmissible	225	85,6 %
Appeal admitted (on the merits)	38	14,4 %

The research results show that judicial practice in cases concerning Law No. 1545/1998 is not uniform across all court levels: first instance courts more often issue favorable decisions for claimants, while the Court of Appeal acts as a substantial corrector. Uniformity is consolidated only after the strict filter of the SCJ—especially on aspects such as the grounds of state liability and the methodology for calculating compensation.

h) Reasoning of judgments

The analysis of the 263 finally adjudicated judgments reveals a consistent but formalistic approach of the courts in applying Law No. 1545/1998. Whether at first instance, appellate courts, or even at the SCJ, the courts apply the same criteria: the act must be unlawful within the meaning of the law, and the person must be procedurally rehabilitated through a final and irrevocable act. The granting of compensation is not presumed but must be demonstrated step by step. The courts consistently reiterate that the right to compensation (both material and moral) is conditional upon the cumulative fulfillment of two sets of legal conditions:

- the existence of an unlawful act expressly provided in Article 3 of the Law (such as unlawful conviction, unjustified preventive arrest, abusive detention, unfounded indictment, etc.);
- the existence of a ground for rehabilitation, regulated in Article 6 of the Law (such as final and irrevocable acquittal, definitive termination of criminal proceedings for absence of the act, or release from prosecution, etc.).

In the absence of a final and irrevocable procedural act of rehabilitation, the courts frequently dismiss the claims as unfounded.

Judges have also emphasized in several cases that the mere termination of criminal proceedings on grounds of prescription or reclassification as a contravention does not in itself constitute proof of the illegality of the prosecution. In such cases, lacking actual rehabilitation, the claims are dismissed.

With regard to contravention proceedings, the application of Law No. 1545/1998 is interpreted restrictively. In general, the right to compensation is recognized only in situations where the sanction was imposed by a court and subsequently annulled. If the contravention measure originates exclusively from the constatation agent, many judges consider that the case does not fall within the scope of Article 3 of the Law.

However, there are exceptions where the courts have partially admitted the claim for compensation, particularly when the contravention report was found to be manifestly abusive or unlawful. The first step in analyzing the claim is the strict verification of admissibility conditions. The courts require that the claimant's action be cumulatively based on an unlawful act provided for in Article 3 of the Law (such as unlawful conviction, unjustified preventive arrest, abusive detention, wrongful prosecution) and on a final procedural act of rehabilitation, under Article 6 (such as acquittal, dismissal of the case for nonexistence of the criminal act, or lack of elements of the offense). Without this dual ground, the claim is most often dismissed as inadmissible or unfounded.

Particularly important is the way in which the courts differentiate criminal cases from contravention cases. In the case of contravention sanctions, compensation is granted only if the sanction was imposed by a court and subsequently annulled.

The assessment of moral damages is another central aspect. The courts frequently invoke ECtHR case-law on "just satisfaction" and emphasize that compensation should not be punitive but reasonable, proportionate to the proven suffering. There is, however, a general tendency to reduce the amounts claimed (see the following sections). Even where real suffering is established, the

courts reduce compensation on the basis of principles of equity, avoiding the idea of unjust enrichment. In the absence of specific evidence (medical documents, witnesses, press articles, proof of suspension from office, etc.), only modest amounts are awarded, or the claim is entirely dismissed.

As for material damages, judicial practice is even stricter. Compensation is awarded only if direct evidence of loss of income is provided (suspensions from office, dismissals), while for costs and expenses (lawyer's fees actually paid) or ancillary costs (transport, photocopies, medical treatment), the amounts are also reduced. Any element not supported by concrete documents is disregarded. For example, seized goods that were not recovered can only be compensated if it is proven that the seizure was unfounded or that they were not returned.

The courts consistently reiterate that criminal prosecution, in itself, is not an illegality. Being given the status of suspect or the opening of a criminal case are considered normal acts of state activity, provided they are not accompanied by a demonstrable error. Therefore, only a formal act of rehabilitation (acquittal, dismissal for absence of the act, etc.) cannot automatically justify the award of damages.

The courts of appeal generally have a role in verifying the soundness of the first instance decision. They examine whether the conditions of Law No. 1545/1998 were correctly applied and whether the unlawful acts or suffering claimed by the claimant were sufficiently proven. Often, the appeal courts maintain the sums established by the first instance, but they may intervene either to increase them (if the first instance underestimated the seriousness of the suffering) or to reduce them (if they consider the sums excessive in relation to judicial practice).

The SCJ rarely intervenes on the merits of the case. Most appeals are declared inadmissible because they do not invoke lawful grounds for quashing. Only in specific situations does the SCJ modify the outcome: either increasing compensation if it considers the suffering underestimated, or reducing it if it finds the sums excessive. It may also reinstate the first instance judgment if the Court of Appeal misapplied the law (for example, by ignoring that release from prosecution for absence of the act is equivalent to rehabilitation).

There have been court judgments[9] in which the claimants, having been acquitted on some counts, had their claims for moral damages dismissed on the grounds that there had not been a complete acquittal. The practice reveals an evident difficulty in clearly delimiting what constitutes unlawful acts or actions of the criminal investigation bodies or other responsible persons for which compensation may be claimed. This situation raises the issue of the absence of clear and predictable criteria to allow judges to distinguish between abusive acts or measures applied in connection with unfounded charges (which led to acquittal) and justified actions related to the facts for which a conviction was handed down.

In this context, there is a need for explicit regulation regarding the notions of unlawful acts and unlawful prosecution, or other provisions that would allow judges to separately assess the unlawful

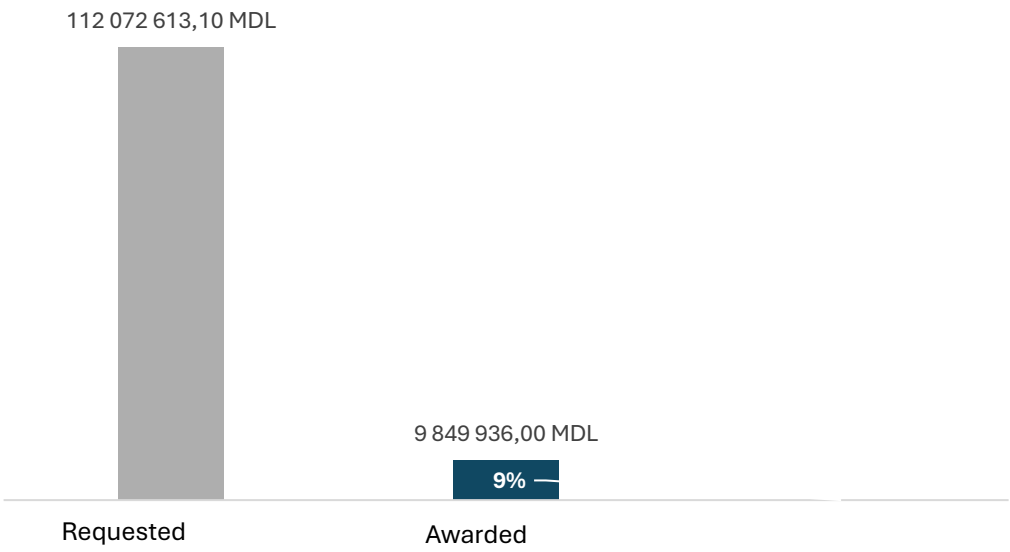
[9] See for example, case no. 2ra-1278/22.

actions or unjustified measures—such as those declared unfounded through acquittal—from the acts that led to the person's conviction.

i) Compensation for moral damages

In the period 2020–2024, under Law No. 1545/1998, the courts admitted claims for moral damages amounting to a total of approximately 9.85 million MDL, while the total amount claimed by the plaintiffs exceeded 112 million MDL. This means that, on average, the courts awarded only 9% of the amounts claimed, reflecting either a very low level of receptiveness to the plaintiffs' assessments and expectations or exaggerated claims on their part.

Figure 6. Amounts awarded by the courts as **moral damages** to claimants under Law No. 1545/1998



The average moral damages claimed per case amount to 426,131 MDL, while the average awarded is only 37,452 MDL, that is, just 16% of what the claimants request. Only a few cases [10] obtained the full amount claimed (100%), and in a few other cases, the admission rates exceeded the 50% threshold, but these remain isolated exceptions.

Top 10 cases with the highest awarded damages (moral damages)

[10] For example, case no . 2ra-886/22 or case no. 2ra-352/21.

	Case	Amount of moral damages claimed (MDL)	Amount of moral damages awarded (MDL)	Share
1	2ra-1986/21	800 000	500 000	63%
2	2ra-1832/2019	3 000 000	450 000	15%
3	2ra-886/22	300 000	300 000	100%
4	2ra-899/22	526 000	263 000	50%
5	2ra-168/2022	500 000	250 000	50%
6	2ra-1578/2021	1 950 000	220 000	11%
7	2ra-201/22	1 000 000	200 000	20%
8	2ra-523/2	1 000 000	200 000	20%
9	2ra–1578/22	550 000	200 000	36%
10	2ra-758/2020	320 000	200 000	63%

These data outline a picture in which the courts show caution, or even reluctance, in awarding substantial moral compensation. The cases in which damages were fully or partially recognized tend to have in common either multiple claimants, or rigorous reasoning supported by clear evidence, or a significant repercussion of the act (e.g., media coverage of the case, prolonged detention, psychological or physical violence).

Moreover, the evidentiary standards applied remain uncertain, which affects the predictability and uniformity of decisions. In practice, although the law enshrines the principle of full compensation (Art. 3(2)), the reality shows that only a small fraction of the suffering assessed by victims is recognized. Furthermore, there are examples where the same type of violation is assessed differently:

Case	Amount awarded (MDL)	Days of unlawful detention	Compensation per day (MDL)
2ra-1267/21	100 000	129	≈ 775
2ra-981/21	5 000	100	50

These data demonstrate an acute lack of predictability and uniformity in the way moral damages are awarded under Law No. 1545/1998.

The massive discrepancies between the amounts claimed and those awarded—combined with the absence of clear evaluation criteria—raise serious questions about fairness. It is true, however, that sometimes the claimants' demands may also be exaggerated.

In the context of drafting a new law, it is imperative to establish at least indicative support guidelines for determining the amount of moral damages, taking into account the seriousness of the violation, the duration of abusive detention or unjustified criminal prosecution, the impact on the person's life, and ECtHR case-law. It is also necessary to institutionalize judicial practice guides or recommendations that would contribute to a predictable and coherent application of the Law.

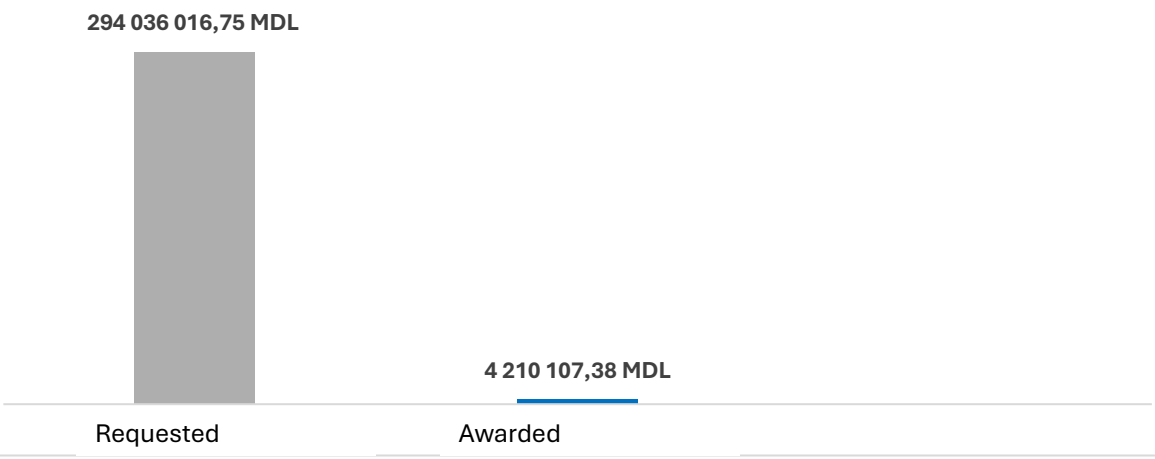
j) Compensation for material damages

In the period 2020–2024, the courts admitted claims for material damages amounting to a total of approximately 4.21 million MDL, while the total amount claimed by the plaintiffs exceeded 294 million MDL. The total actually awarded by the courts shows that, on average, only 1% of the claimed amount was granted.

Out of the 263 cases analyzed, material damages were claimed in 117. This means that approximately 44.5% of the cases included a request for material compensation. In other words, in less than half of the cases did the claimants expressly request payment of material damages.

On average, material damages of 1,122,275 MDL were claimed per case, while the courts awarded, on average, only 16,255 MDL. This difference highlights either a consistent overestimation of damages by claimants or a very strict approach by the courts with regard to admitting such claims, which may reflect difficulties in proving the damages, a high standard of evidence assessment, or the application of restrictive liability criteria.

Figure 7. Amounts awarded by the courts as material damages to claimants under Law No. 1545/1998



Material damage is difficult to prove in practice, especially in the absence of written evidence regarding income prior to detention or the actual loss suffered. Frequently, claimants submit estimated or assumed claims, and the courts refuse to award compensation in the absence of certain evidence.

Although material damage should, in theory, be easier to quantify (through documents, receipts, bank statements, etc.), the courts show extreme caution, often rejecting or significantly reducing claims. In most cases where compensation was granted, it was based on documentary evidence of forced absence from work, namely the calculation of lost wages. Full awards of the amounts claimed

occurred mainly in such situations, where the evidence was clear, complete, and consistent with the duration of detention or restrictive measures.

Top 10 cases with the highest awarded damages (material damages)

	Case	Amount of material damages claimed (MDL)	Amount of material damages awarded (MDL)	Share
1	2ra-787/22	995 610	487 215,63	49%
2	2ra–1578/22	412 282	402 948	98%
3	2ra-1541/2020	395 460	395 460	100%
4	2ra-1229/21	335 445	335 435	100%
5	2ra-791/20	249 209	249 209	100%
6	2ra-1832/2019	426 521	242 335	57%
7	2ra-1657/2022	232 104	232 104	100%
8	2ra-923/23	210 000	210 000	100%
9	2ra-1643/22	188 900	188 900	100%
10	2ra-458/2021	183 477	183 477	100%

In the cases highlighted above, material damages were predominantly awarded on the basis of salaries lost due to the suspension of claimants from their positions. These situations may become problematic, since non-payment of salary is, in essence, an issue governed by labor law: if the employer refuses to pay remuneration during the period of unlawful sanctions, the proper legal remedy is a labor dispute in which the employee seeks enforcement of salary obligations by the employer.

On the one hand, the non-admission of claims for material damages under Law No. 1545 would require going through a new (parallel) set of procedures, while on the other hand, admitting the same claim under Law No. 1545 generates two systemic risks:

a) **Double compensation** – the claimant may obtain (i) damages for salary from the Ministry of Justice (or another authority) under Law No. 1545 and (ii) the same salary from the employer in a separate labor dispute, of which the state may not be aware.

b) **Fragmented procedural treatment** – the same factual issues (duration of employment, salary level, deductions, social contributions) are resolved in parallel by courts applying different legal tests, which may result in inconsistent outcomes.

Starting from the realities identified, it is advisable that the new regulatory framework include clear provisions regarding the criteria for assessing material damages. In this respect, the new law should provide clarifications either to exclude the recovery of unpaid wages from its scope and specify that salary claims arising from unlawful detention must be pursued exclusively through labor law

proceedings against the employer, or to expressly accept such claims within the same set of proceedings.

This amendment would (i) eliminate the risk of double compensation, (ii) preserve the coherence of remedies under labor law, and (iii) simplify the assessment of pecuniary damage, ensuring that under Law No. 1545 only losses directly attributable to the unlawful act of the state are compensated.

If material damages continue to be awarded under Law No. 1545, then the possibility should be established for courts to apply legal presumptions in cases of forced absence from work, even in the absence of supporting documents (if the person was in detention, they could not have been at work), as well as to guide courts toward standardized calculation methodologies, for example, by reference to the average gross salary in the economy for a given period.

At the same time, the development of judicial practice guides and the organization of specialized training for judges would contribute to a more uniform application of the criteria for awarding material damages. In the absence of such measures, the risk of maintaining inconsistent and excessively rigid judicial practice remains significant, to the detriment of the efficiency and fairness of the process of compensating damages caused by judicial errors.

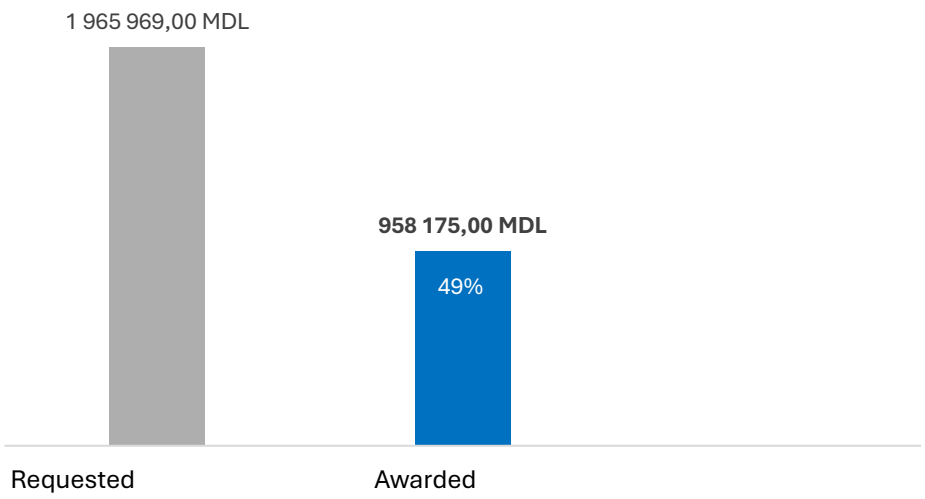
k) Compensation of costs and expenses (litigation costs)

Actions brought under Law No. 1545/1998 are not subject to a state fee. However, they often involve expenses for legal assistance. High legal assistance costs borne by the claimant can reduce to zero the effectiveness of the remedy provided by Law No. 1545/1998. Given that the claimant resorts to the services of a lawyer, it may turn out that if the attorney's fees are only partially compensated, in the end the claimant receives, by final judgment, an amount only slightly higher than—or even less than—the fee paid to the lawyer. In other words, even if the claimant wins the case, de facto, their compensation is very small or even nonexistent.

In the period 2020–2024, in lawsuits regarding damages under Law No. 1545/1998, in about half of the analyzed cases—specifically, in 133 out of 263 files (about 50.6%)—claimants requested compensation for litigation costs. They requested reimbursement of litigation expenses totaling 1,965,969 MDL. Out of this amount, the courts awarded 958,175 MDL, which represents on average approximately 49% of the total claimed.

The average amount requested per case for costs and expenses was 7,532.4 MDL, while the average amount actually awarded by the courts was 3,685.3 MDL. These figures show that, although the chances of recovering such costs are relatively higher than in the case of material damages, the courts frequently reduce their amounts—practically by 50%.

Figure 8. Amounts awarded by the courts as **costs and expenses** to claimants under Law No. 1545/1998



Unlike material and moral damages, the admission rate of litigation costs is significantly higher, indicating a greater receptiveness of the courts to at least partially compensate the direct expenses borne by claimants in the process of obtaining damages. However, the average amount awarded is still much lower than in the case of other types of damages.

This admission rate reflects a relatively favorable attitude of the courts toward litigation costs, although there is still a tendency to reduce the amounts compared to those claimed—particularly in cases where lawyers' fees are high or not justified by concrete documentation.

Top 10 cases with the highest awarded litigation costs:

No.	Case	Asked (MDL)	Awarded (MDL)	Share
1	2ra-201/22	46000	46000	100%
2	2ra-165/21	50000	40000	80%
3	2ra-791/20	35000	35000	100%
4	2ra-1044/20	60000	32000	53%
5	2ra-796/2020	60000	32000	53%
6	2ra-1657/2022	30000	30000	100%
7	2ra-85/23	75000	30000	40%
8	2ra-1229/21	28000	28000	100%
9	2ra-1755/22	26000	26000	100%
10	2ra-1392/21	26000	26000	100%

Most of the cases in which the amounts were fully awarded had complete documentation, often accompanied by legal assistance contracts, receipts, vouchers, and invoices. However, there are

cases where the courts awarded only 10–30% of the amount claimed or rejected the requests entirely, citing lack of evidence, insufficient justification, or the application of the principle of proportionality.

This analysis suggests that, although the judiciary appears more willing to recognize litigation costs, there are no uniform standards regarding their reasonable level. In the absence of guiding criteria, the decisions may remain arbitrary, varying depending on the court, geographic area, or even the judge.

Therefore, as recommendations, it is necessary to clarify the nature of recoverable costs, including an illustrative list (fees, taxes, experts, translations, etc.), as well as the obligation of courts to explicitly justify the full or partial rejection of cost claims, in order to increase transparency.

l) Official apologies – a symbolic remedial mechanism

According to the data analyzed, in 33 out of the 263 cases the provision of Article 12 of Law No. 1545/1998 was applied, which establishes the obligation of the prosecutor to issue official apologies to acquitted or rehabilitated persons. This legal provision plays an essential role in the official recognition of judicial errors and in restoring the dignity of those affected by unlawful actions by criminal investigation bodies or the courts. Through its symbolic nature, it contributes to the humanization of the act of justice and provides a minimal form of moral rehabilitation.

Situations were identified in which the interpretation of Article 12(4) of Law No. 1545/1998 generated inconsistent practices. Thus, the trial court dismissed the request for official apologies, considering that the 15-day deadline provided in the text for offering apologies had expired. In one case, however, the Court of Appeal admitted the claimant's appeal and explicitly held that this deadline concerned only the voluntary execution of the obligation and did not affect the person's right to obtain apologies through a judicial decision. Consequently, the prosecutor was obliged to issue official apologies in written form, confirming that the restrictive interpretation of the deadline contradicted the remedial spirit of the provision.

This precedent highlights the need to clarify the timing and manner of filing a request for official apologies. To prevent uncertainties and ensure the predictability of the remedy, the new regulation should expressly provide that the injured person may request apologies either separately or together with the compensation claim, whenever the authority refuses or fails to present them voluntarily. Such a clarification would strengthen the effectiveness of the remedial mechanism, avoiding delays and divergent interpretations by the courts.

Considering the number of requests, the application of this provision appears to remain limited and often formal. To truly achieve its remedial purpose, it is recommended to maintain this article in the law, but with a revision of the application procedure, including the standardization of the form of apologies and the introduction of a mechanism to monitor their effective implementation.

The practical effectiveness of the mechanism introduced by Law No. 1545/1998

LRCM analyzed over 70% of all proceedings initiated under Law No. 1545/1998 that resulted in a final decision between January 2020 and December 2024. Based on the analysis of 263 cases definitively resolved by national courts during 2020–2024, it can be concluded that the mechanism introduced by Law No. 1545/1998 is functional, but its practical effectiveness remains moderate.

From the perspective of trial duration, the mechanism can be considered reasonable: the average time for resolving disputes is approximately 2 years and 11 months, with only 7 cases (less than 3%) being sent back for retrial. At the same time, in over 70% of cases, claimants prevailed at first instance, which indicates real access to justice. The procedure is predictable, does not violate ECtHR standards on trial length, and does not, at this stage, require urgent interventions to accelerate case resolution.

However, the reparatory effectiveness of the mechanism is limited by major discrepancies between the amounts claimed and those actually awarded. The courts granted only 9% of the total value of moral damages claimed (9.85 million MDL out of 112 million MDL) and just 1% of material damages claimed (4.21 million MDL out of 294 million MDL). In addition, litigation costs were compensated at a rate of only 49%, which, given high attorney fees, can render the compensation obtained symbolic or even nonexistent in real terms. This situation indicates an excessively restrictive application of the criteria for awarding compensation, the absence of clear standards, and inconsistent judicial practice, particularly in the assessment of moral suffering and material losses of persons affected by unlawful actions of the state.

Therefore, the mechanism is effective from a procedural standpoint but suboptimal in terms of actual compensation for damages. To reach its potential, the law needs to be reformed and supplemented with detailed criteria, guidelines for assessing damages, and clearer regulations on costs and alternative compensation mechanisms. Only in this way can a fair balance be ensured between the victim's right to reparation and the public interest in predictability and consistency in the application of the law.

In conclusion, the analysis of the 263 irrevocably resolved cases shows that, although Law No. 1545/1998 remains a useful tool for remedying errors committed by state authorities, judicial practice is marked by a lack of coherence and clear criteria in determining compensation. The final outcome is often that injured persons either receive no material compensation at all or only modest sums compared to the real extent of their suffering. Therefore, new legislative amendments and judicial practice guidelines are crucial to ensure fairness and efficiency in the application of the law.

The study highlights a considerable lack of uniformity in judicial practice in cases based on Law No. 1545/1998, especially with regard to the reasoning of judgments and the treatment of comparable cases. Although courts generally rely on the same admissibility conditions (the unlawful act and procedural rehabilitation), their application differs significantly from one court to another and sometimes even within the same court. There are cases where courts reject claims for lack of a formal acquittal, while in others they admit similar claims on the basis of a simple discontinuation of criminal proceedings. The differences are even more evident in the evaluation of moral damages:

for comparable situations (e.g., detentions of similar length), the awarded compensation may vary from a few thousand to hundreds of thousands of lei, without judgments clearly explaining the reasoning for such differences.

Moreover, in cases where courts admit only part of the claimants' requests (for example, only for one head of claim), the reasoning does not always clarify whether the rejection of the other claims influences the overall compensation. This lack of coherence affects the predictability of the system and the trust of litigants, particularly when nearly identical actions based on the same legal grounds receive different solutions without sufficient reasoning. Under these conditions, not only a reconsideration of the legislative framework is required, but also the development of clear judicial practice guidelines to provide judges with common methodological benchmarks for assessing damages, applying admissibility criteria, and structuring reasoning. Uniformity of practice is not only a principle of good administration of justice but also a guarantee of equal treatment for persons in similar situations.

At present, there is only one Plenary Decision of the Supreme Court of Justice (No. 8 of 24 December 2012, amended by Decision No. 17 of 16 October 2017), which guides the application of a unified judicial practice in cases concerning the compensation of moral and material damages suffered by persons detained as a result of violations of Articles 3, 5, and 8 of the ECHR. Through this decision, the Plenary of the Supreme Court of Justice clarifies, among other things, the notions of "detention," "convicted person," and "defendant," establishing a coherent methodological framework for evaluating claims filed by detainees. The decision provides judges with a practical guide for analyzing alleged violations and quantifying damages. However, it also explains why Law No. 1545/1998 does not cover situations of already convicted persons, directing courts to apply the Convention directly and to use analogy of law/right under the Civil Procedure Code when adequate domestic rules are absent.

Recommendations

To ensure clarity, predictability, and uniform application of the mechanism for compensating damages caused by unlawful deprivation of liberty or other unjustified procedural measures, the following are recommended:

Recommendations	Addressees
▪ **Express regulation of the notion of "unlawful acts"** that give rise to the right of a person to claim compensation for damages suffered. The law must clearly and exhaustively define the acts and actions of state authorities that may be qualified as unlawful, including criminal or contravention liability contrary to legal provisions, unjustified or disproportionate application of procedural measures, as well as the conduct of criminal investigations or special investigative measures in violation of the person's fundamental rights and guarantees.	Parliament, Ministry of Justice

Clear and predictable delimitation of the conditions, grounds, and circumstances in which the right to claim compensation arises. The law should expressly and restrictively establish the situations in which state liability may be engaged, so that they are easily identifiable and applicable in practice. These must include, obligatorily: final and irrevocable acquittal, discontinuation of criminal proceedings or removal from prosecution on rehabilitation grounds, annulment of a contravention report, and nullification of acts or actions of prosecutorial or investigative bodies, in the case of an acquitted or discharged person.	Parliament, Ministry of Justice
▪ **Establishment of a clear, transparent, and objective mechanism for calculating compensation for material and moral damages.** This mechanism should be based on legal criteria that allow for fair and uniform assessment, taking into account the duration of unlawful deprivation of liberty, severity of unjustified measures, consequences on the person's physical and psychological health, impact on private and professional life, level of publicity, absence of fault, and effects on reputation and social relations.	Parliament, Ministry of Justice
▪ **Creation of an extrajudicial settlement mechanism for compensation claims**. In cases where the violation of rights and the existence of damage are evident, going through the entire judicial process becomes formal and inefficient. To improve efficiency, save public resources, and ensure fair and prompt compensation, public authorities should be legally empowered to recognize, in whole or in part, the claimant's requests and to propose settlement agreements. This mechanism must include detailed criteria for its application, preferably developed in a secondary normative act, but expressly provided for in the law.	Parliament, Ministry of Justice
▪ **Uniform criteria for damage assessment.** The law or a subsequent act should establish a reference grid inspired by ECtHR case law: standard amounts per day of unlawful detention, adjustment factors for severity, publicity, health and reputational impact. For material damages, relative presumptions (e.g., based on the gross average salary) and clear rules on overlap with labor litigation should be set to prevent double compensation.	Parliament, Ministry of Justice, Supreme Court of Justice
▪ **Unified regime for litigation costs and official apologies.** The law should detail recoverable costs (fees, taxes, experts, translations) and oblige courts to explicitly justify any reduction. For apologies under Article 12, the law should specify that they may be requested at any stage of proceedings, introduce a standard template, and set a publication/delivery deadline, monitored by the Ministry of Justice.	Parliament, Ministry of Justice
▪ **Practice guidelines and continuous training.** The Supreme Court of Justice should periodically issue binding guidance on the application of	Supreme Court of Justice,

Articles 3, 6, and 13, while the National Institute of Justice should include training modules dedicated to assessing moral and material damages. Implementing these measures will bring coherence to judgments, enhance public trust, and align the national mechanism with European human rights standards.	Superior Council of Magistracy
▪ **Integration and periodic updating of NIJ curricula** with modules on damage assessment and uniform application of the law.	National Institute of Justice, Superior Council of Magistracy

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