

NEWSLETTER

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In brief

About LRCM

Legal Resources Centre from Moldova (LRCM) is a nonprofit organization that contributes to strengthening democracy and the rule of law in the Republic of Moldova with emphasis on justice and human rights. Our work includes research and advocacy. We are independent and politically non-affiliated.

Peculiarities of the parliamentary elections held on 11 July 2021

The snap parliamentary elections were held in the Republic of Moldova on 11 July 2021. **1,476,216 voters participated in the elections**, with a turnout of 52.3%. 211,834 (14.3%) votes were cast at 150 polling stations abroad, with 28,173 votes (1.9%) cast by the voters residing on the left bank of the Dniester River.

Following the votes count, only three of the 23 electoral candidates have accessed the Parliament, namely, the Action and Solidarity Party (PAS), the electoral block of Communists and Socialists (BeCS), and the Political Party "Șor" (PPȘ). PAS got 52.8% of the votes, the highest number of votes ever obtained by a party in the Republic of Moldova. BeCS got 27.2% of the votes, PPS got 5.7%, and the rest of the contenders failed to pass the 5% electoral threshold set for the parties and 7% threshold set for the electoral blocks in order to access the Parliament. The electoral block "Renato Usatyî" (BeRU) – led by the mayor of Balti, Renato Usatyî himself, obtained 4.1%, the political party "Justice and Truth Platform" (PPDA) 2.3%, the Democratic Party (PDM) 1.8%, and the rest of the contenders got less than 1.5%.

PAS obtained the vast majority of the diaspora votes (86.2%) as well as in the Municipality of Chisinau (56.7%) and in the Central districts of the country. BeCS supporters came mostly from the Russian-speaking part of the population. Thus, BeCS obtained 80.7% in Gagauzia, 62% on the left bank of the Dniester River, 58% in Taraclia, and 40% in the Municipality of Balti. BeCS also got more than 40% of the votes in the Northern districts of the country. In the Municipality of Chisinau, BeCS harvested 28.4%, and only 2.5% from the diaspora.

Same as before, the voters outside Moldova showed active participation in the elections, especially those in Western Europe. Every seventh vote in these elections was cast by a voter outside Moldova. **212,434 votes cast in these elections by the diaspora** marked the highest level of its participation in the parliamentary elections so far. 65.5% of the votes cast abroad came from four countries: 66,300 from Italy; 26,000 from Germany; 23,900 from the UK; and 23,000 from France. Surprisingly few people voted in the Russian Federation, total worth 6,154, which is 2.4 times less than the votes cast in London (UK) alone, where the number of ballots cast was over 14,800.

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PAS claims its election campaign was at 90% financed by donations received through bank transfers. BeCS did not report any donations received during six weeks of the campaign, while in the last week it reported that it received cash donations exceeding MDL 2.3 million.

PAS and other opposition parties have criticized the Central Election Commission (CEC) for opening an insufficient number of polling stations abroad (see details in [CRJM Newsletter No. 34](#)), which created the risk of exhaustion of ballots in some of the localities. However, none of the polling stations ran out of the ballots during 2021 parliamentary elections unlike in the 2020 presidential elections, when polling stations abroad ran out of the ballots during the second round of elections. This year, more polling stations were opened where there was a shortage of ballots recorded in 2020. The ballots may have also lasted due to the lower voter turnout in the current elections, compared to the second round of the presidential elections in November 2020.

Unlike previous elections, in the 2021 election campaign, the main parties were no longer using funds affiliated with their leaders. Likewise, this campaign was marked by a smaller size of funding spent by the electoral competitors. [BeRU](#) spent the largest amount of money on their campaign – MDL 13.7 million, [BeCS](#) and [PAS](#) have spent about MDL 6.4 million each, and [PPŞ](#) about MDL 5.4 million. [According to the report submitted to the CEC by PAS](#), over 90% of their campaign was covered by donations made by almost 2,000 people, with the majority of funds received via bank transfer. Also, [BeRU reported](#) that about 85% of its expenses incurred on the campaign was covered by donations, predominantly made in cash. [BeCS didn't report to the CEC on any donations](#) for carrying out its election campaign during six weeks. However, during the last week of the campaign BeCS reported on the receipt of MDL 2,307,730 donated by 129 individuals. All of the donations were made in cash between 6-9 July 2021. Later on, [the Socialists Party of the Republic Of Moldova \(PSRM\) made corrections to the list of the individuals](#) who donated for their campaign.

BeRU was ranking the third in Balti, following BeCS and PAS. Due to the non-accession of his party to the Parliament, on 12 July 2021, [Renato USATYI announced](#) that he resigns from his position as Balti Municipality mayor and quits politics. On 13 July 2021, [the leadership of yet another party](#), the PPDA, which failed to access the Parliament, announced its resignation *in corpore*, and the new leadership of the party is expected to be elected on 5 September 2021.

On 23 July 2021, [the Constitutional Court validated the election results](#). PAS obtained 63 of the 101 seats in the Parliament, BeCS obtained 32 seats (22 delegates of the PSRM and 10 of the Party of Communists of the Republic of Moldova, PCRM), and PPŞ obtained 6 seats. With 63 mandates, PAS can invest the Government on its own and pass important laws, such as the Budget Law. PAS is four votes short to make changes to the Constitution, the changes that might be necessary in order to launch the external evaluation of judges – one of the major reforms promoted by this party.

40 out of 101 MPs mandates validated by the Constitutional Court were taken by women. [More than half of the MPs](#) are newly elected. The youngest MP is 22 years old PAS activist Eugeniu SINCEVICH. The oldest MP is 83 years old PSRM member, Eduard SMIRNOV.

The Constitutional Court declares unconstitutional the provisions of the procedure on terminating the constitutional judge's mandate in case of a conflict of interest

On 9 July 2021, the Constitutional Court (CC) issued a [judgment](#) declaring unconstitutional Article 19 (1) (e) of the [Law on the Constitutional Court](#). It provides for the termination of the constitutional judge's mandate by lifting of the immunity of a judge in the event of "drawing based on the final decision of a direct conclusion (or through a third person) of a legal act, taking or participating in the decision-making process without solving the actual conflict of interest in accordance with the provisions of the legislation on managing the conflict of interest."

The case is stemming from the [referral filed with the CC on 25 June 2021](#) by the MP Sergiu LITVINENCO, Action and Solidarity party (PAS), shortly after the National Integrity Authority (ANI) initiated prosecution against Domnica MANOLE, the Constitutional Court Chairperson. The complaint claims that the contested provisions violate the provisions set out in Articles 134, 137, and 140 of [the Constitution, guaranteeing the independence of the judiciary and exercising judgements by the courts exclusively](#).

On 9 July 2021, the CC issued a decision, thus validating the complainant's referral. The High Court has ruled non-admittance of external control of the jurisdictional activity. The only authority competent in carrying out such control is the Constitutional Court itself. The appointment of an executive body, such as ANI, to check up the jurisdictional activity of the CC would mean recognition of the powers of the executive authority in deciding on the constitutional matters, expressly prohibited by the Constitution. Such control should be carried out pursuant to the provisions set forth in Articles 134, 137, and 140 of the Constitution, further developed in [Article 27 of the Constitutional Jurisdiction Code](#), governing the procedure of a judge's recusal in case of having any justifiable doubts about their impartiality.

As mentioned in the Court judgment, recusal and impeding participation of a judge in a case trial, whereby there are doubts concerning their impartiality, shall be based on the objectives of exercising the right to a fair trial, ensuring the legitimacy of the courts/tribunals, and ensuring the judicial integrity. Viewed in isolation, these appear to favor a quasi-absolute application of the institution of recusal. However, the court pointed out that the automatic recusal of a judge may produce absurd consequences. For example, attempts of maintaining the public confidence in the justice system and the impartiality of the judiciary fail if judges are continuously threatened with recusal and prohibition from case hearing, since this very fact induces the perception that the entire system is corrupt. Thus, the obligation of impartiality does not act in an absolute manner but implies a proper balancing of competing principles. For these very reasons, analysis of the circumstances proving that the objection is justified belongs to the CC exclusively, as the latter has the necessary tools to decide between the competing interests.

ANI does not have the constitutional and legal authority to verify the participation of the constitutional judges in hearing of cases contained in the Court register.

"In the absence of prohibitions set by the Prosecutor's Office, Veaceslav PLATON has fled the country"

Question marks on Veaceslav Platon's acquittal in the bank fraud case

On 14 June 2021, the Chisinau Court acquitted Veaceslav PLATON in the bank fraud case. This happened following [a request for his release](#) from prison, filed on 15 June 2020 by the Prosecutor General, Alexandr STOIANOGLO. The latter believes that Platon's case was trumped up in response to a political order (see details in [LRCM Newsletter No. 26](#)). Veaceslav PLATON served four out of eighteen years of his total sentence in Penitentiary No. 13.

On 2 July 2021 a 263-page long [judgment explaining the reason for the acquittal was published](#). The reason for the acquittal was a complete waiver of charges brought by the Prosecutor's Office, stating that the defendant did not perpetrate any acts of fraud and money laundering. Likewise, the court canceled the seizure of some movable property and registered shares owned by Veaceslav PLATON. Dozens of pages of the judgment contain Platon's own statements, pursuant to which the core beneficiaries of the bank fraud are Vladimir PLAHOTNIUC and Ilan ŞOR who drained the banking system through numerous fictitious transactions.

Charges against Veaceslav PLATON appear in another two criminal cases handled by the Anti-corruption Prosecutor's Office (PA). The first case has to do with the active corruption of two guards of the National Administration of Penitentiaries who escorted Platon to the courts in 2016. The second case has to do with misappropriation of funds maintained on the accounts of insurance companies, in which the latter was the majority shareholder acting through straw men. These cases are still pending before the Chisinau Court.

On 19 July 2021, Veaceslav Platon [flew to the UK](#) via Chisinau International Airport. The prosecution believed that he would not dodge away and therefore [did not apply any measures](#) to prevent his escape from the country. On 2 August 2021, following Platon's failure to appear before the court, the PA [filed with the court](#) a request to issue a warrant for the arrest of Veaceslav Platon and to list him wanted. The judges [dismissed the request](#) and set 12 August 2021 as the deadline for his appearance before the court. The lawyers have never mentioned where their client was and whether he intends to return to the country.

The decision to release and subsequently not to apply any preventive measures triggered a wave of criticism with regard to Alexandr STOIANOGLO. Previously the investigative media identified [a number of business ties](#) between the Stoianoglo's family and the companies managed by Veaceslav PLATON.

“The conviction rate for using torture is very low, thus generating impunity for the torturers”

Combating mistreatment is a problem still unresolved in the Republic of Moldova

On 14-16 September 2021, the Committee of Ministers of the Council of Europe will review the measures taken by the Republic of Moldova with regards to [the execution of judgement on Leviņa](#) group of cases. This group is made up of the decisions taken by the European Court of Human Rights (ECtHR) corroborating facts of mistreatment applied by the police, its failure to efficiently investigate such, conviction based on the evidence obtained in cases of mistreatment, failure to provide adequate medical care to the detainees etc. The Leviņa group reveals structural problems not yet resolved by the Republic of Moldova.

On 27 July 2021, the LRCM and [Promo-LEX](#) forwarded to the Committee of Ministers [a communication](#) concerning the guarantees and the impact of measures taken by the authorities to prevent and fight against ill-treatment. Different institutions found that there was still a large number of complaints about ill-treatment against a rather small number of investigations initiated and subsequently filed with the court. The rate of conviction in cases of torture is even lower, which serves to generate the impunity for torturers. The persons suspected of ill-treatment are rarely suspended from office while the authorities do not have any information on the application of these procedural measures. The independence of medical staff is directly affected due to subordination of the management of temporary detention centers, while the principle of confidentiality of medical examinations is not fully met.

The Legal Resources Center for Moldova (LRCM) and the Promo-LEX Association have urged the Committee of Ministers to request the transfer of preventive detention institutions from the Ministry of Internal Affairs to the Ministry of Justice, and the medical staff from the temporary detention centers into subordination of the Ministry of Health. It is also necessary to improve the quality of investigations on allegations of ill-treatment, giving priority to these cases and to ensure that any persons suspected of ill-treatment are immediately suspended from office and remain suspended for the duration of the investigation etc.

According to the [report of the Committee of Ministers](#) regarding the execution of the ECtHR judgements; at the end of 2020, the Republic of Moldova had 154 non-executed cases, including 49 reference cases (involving structural or systemic problems). In terms of the number of outstanding cases, Moldova ranks 9th out of the 47 member states of the Council of Europe.

In order to streamline the execution of the ECtHR judgements and prevent similar violations in the future, the non-commercial organizations may send communications to the Committee of Ministers on the measures taken by the state. Details on how to draw them up can be found in the [Handbook on Implementation of ECtHR Judgements](#) produced by the [European Implementation Network](#).

As early as January-February 2022, the Republic of Moldova will go through the third Universal Periodic Review (UPR) cycle.

The LRCM proceeded to review the commitments of the Republic of Moldova within the framework of the Universal Periodic Review (UPR) mechanism and submitted a number of recommendations

On 14 July 2021, the LRCM in partnership with [Promo-LEX](#), [Association for Participatory Democracy "ADEPT"](#), [Contact Center](#), [Expert-Group](#), [Corruption Analysis and Prevention Center \(CAPC\)](#) and the [Institute for European Policies and Reforms \(IPRE\)](#), filed [four thematic alternative reports](#) with the Universal Periodic Review (UPR), a mechanism created by the United Nations Human Rights Council pursuant to which the fulfilment of the obligations and commitments by the UN member states in the field of human rights could be assessed. The alternative reports submitted cover four dimensions – integrity and anti-corruption, justice, human rights and the civil society space.

The alternative report in the field of integrity and anti-corruption is seeking that the participating states would recommend Moldova to strengthen its institutions and anti-corruption protection mechanisms by improving the system of prosecutors' promotion, in particular clarifying the role of the Prosecutor General in the career of prosecutors, improving the activity and efficiency of ANI (carrying out priority checks on high-level officials); confiscation of unlawfully acquired property (reversal of the burden of proof onto civil servants with regard to the legality of acquired estate) and providing a protection mechanism for the integrity whistleblowers (creating a protection mechanism to offer a more prompt and efficient response to the repressive actions against integrity whistleblowers).

In the field of justice, the alternative report recommends strengthening the independence of the judiciary by approving amendments to the Constitution having regard to the judiciary, approving the new justice sector reform strategy (2021–2024), enhancing the role of the Superior Council of Magistracy (SCM) as a guarantor of judicial independence, improving the system of selection and promotion of judges, as well as simplifying the mechanism of disciplinary responsibility of judges.

In the field of human rights, the report notes that so far Moldova has no effective guarantees and remedies against abusive expulsion, given the abusive deportation of [the seven Turkish teachers of 2018](#). At the same time, the report presents data on the worrisome authorization rate of about 98% of wiretapping and the rate of accepted pretrial arrest writs, reaching the historical highs of about 93% during 2016-2020. In this regard, the report recommends strengthening the national legal framework to provide sufficient safeguards against abuse and introducing a single, credible system for telephone wiretapping and an appropriate mechanism for monitoring compliance with the wiretapping legislation.

In the domain of civil society, the report dwells on the need for the adoption of a new civil society development strategy, on the denunciation of the attacks

and defamations against Moldovan Civil Society Organizations (CSOs) and against human rights defenders, strengthening the financial sustainability of the CSOs, and renouncing any initiatives for amending of the law on CSOs, under the guise of the efforts of anti-money laundering and counter-terrorism financing.

As early as January-February 2022, the Republic of Moldova will go through the third Universal Periodic Review (UPR) cycle. The discussion will take place in Geneva (Switzerland), at the UN Council meeting.

IN BRIEF:

On 9 July 2021, [was released the final report](#) of the Laundromat Enquiry Parliamentary Commission led by MP Inga GRIGORIU (PPDA). The Commission proposed to investigate the circumstances that have made possible laundering of more than 20 billion US dollars through the judicial system of the Republic of Moldova in 2010-2014. More than 30 current and former civil servants, as well as ex-presidents of the Supreme Court of Justice (Mihai POALELUNGI) and of the Constitutional Court (Alexandru TANASE), were summoned for a hearing by the Commission. According to the report, the "Laundromat" scheme would not have become possible without the involvement of a number of state institutions, including the office for Prevention and Fight against Money Laundering, the National Bank, the National Anti-Corruption Center, as well as one of the banking and financial institutions, Moldindcombank, that have manifested gross negligence in exercising their service duties and failure to comply with the provisions of Anti-money Laundering Law. The Commission came up with a number of recommendations, among which, amending the national regulatory framework on measures to prevent and combat money laundering and terrorist financing.

On 11 July 2021, the Supreme Court of Justice [canceled on procedural grounds the judgment of the SCM](#) pursuant to which the institution agreed that the former judge of the Chisinau Court of Appeal, Mihai CIUGUREANU, should be placed under criminal investigation by prosecutors. Allegedly, judge Ciugureanu has pronounced, in good faith, a number of sentences, as a result of which the state has been stripped of about 780 hectares of land. According to the judges of the SCJ who have supported the conclusions of the lower courts, one of the reasons for cancelling the SCM judgment was that the disposition of the criminal prosecution by the SCM was examined in the absence of a quorum. The cancellation of the criminal prosecution agreement on procedural grounds implicitly implies the illegality of the entire set of investigative measures carried out by the prosecutors, and finally, the possibility of dismissing the criminal proceedings. Same trickery through which was contested the SCM's consent on launching the criminal prosecution [is currently invoked](#) by yet another former Judge, Oleg STERNIOALĂ investigated by the prosecutors for money laundering in particularly large amounts. This judge's case is pending before the Chisinau Court of Appeal.

On 20 July 2021, the Legal Resources Center for Moldova (LRCM), in partnership with the International Commission of Jurists-European institutions (ICJ-EI) and the EcoContact Association, launched the project “[Shields for human rights defenders – Supporting Human Rights Defenders in the Republic of Moldova](#)”, the first of its kind in the Republic of Moldova, aimed at providing support and assistance to Human Rights Defenders (HRD) in situations of risk. The project is aligned with the overall objective pursued by the EU program “European Instrument for Democracy and Human Rights” (EIDHR), which aims at providing support for human rights priorities in the Republic of Moldova. The objective of the project is to strengthen the monitoring and protection of human rights by empowering HRD to operate in a safe and favorable environment, pursuant to their rights and freedoms. As part of the project, the implementation partners intend to organize training sessions, monitor cases against HRD, and provide them, if necessary, with qualified legal assistance, followed by advocacy activities at the national and international levels.

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