

LCRM – Legal Resources Centre from Moldova

More than half of judicial decisions are faultily depersonalized

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The depersonalization of court decisions in the Republic of Moldova is defective or inconsistent in 63% of general civil, contravention and criminal cases, and in 55% in corruption cases. This is the conclusion of the experts from the Legal resources Centre from Moldova (LCRM) based on the analysis of 1,340 judicial decisions adopted from 1 January 2018 to 31 March 2019. The data were made public at the launch event of the analytical document „Transparency of the judiciary versus personal data – An analysis on the publication of judgements in the Republic of Moldova” on 24 January 2020.

According to the law, until published, certain information in the judgment must be excluded from the content of a court decision. It is up to the judge to determine whether certain information in the judgment may seriously affect the privacy of the parties or affect certain interests and, consequently, anonymize certain parties or even the entire judgment. The rules on anonymization are set out in a Superior Council of Magistracy's Regulation approved in October 2017.

Most of the times, the courts fail to follow the provisions regarding the obligation to hide, *ex officio*, the home address, the date and place of birth, the personal identification number or the registration plate. This rule was breached in 305 decisions analyzed (38% of the total analyzed). In 179 decisions (34% of the total criminal and misdemeanors decisions analyzed) the judges (with the exception of the SCJ judges) abusively anonymized the names of the authors, perpetrators or instigators. In 163 decisions (20% of the total decisions analyzed), provisions of the Regulations not allowing the anonymization of the name of the judge, prosecutor, police officer, mediator, the bailiff, notary or the lawyer were breached. In 100 decisions (12% of the total decisions analyzed) a violation of the rule regarding anonymization in the interests of minors, privacy or morality was confirmed. In 172 decisions (21% of the total decisions analyzed) only part of the decision was depersonalized.

The results confirm that the failure to follow the provisions of the Regulation regarding the publication of court decisions, affects the entire judicial system. In the case of the **district courts**, the average rate of violations of the Regulation is 75%, and in some courts, it exceeds 90%. At the level of the **courts of appeal**, the situation is much better, but equally worrisome. 47% of the court decisions from the courts of appeal fail to meet the SCM Regulation. In the case of the Comrat Court of Appeal, the rate of decisions found in breach is 67%. **At the SCJ**, the provisions of the Regulation were not followed in 23% of the analyzed cases.

The authors highlight that the failure to follow the provisions of the Regulation regarding the

publication of court decisions, for one reason, breaches the privacy of individuals who appear before the court. On the other hand, incoherent anonymization, makes the whole exercise useless. At the same time, information that should stay is excluded. This further erodes confidence in the judiciary.

The authors recommend the SCM to clarify any problematic provisions of the Regulation and take urgent measures to consolidate or “refresh” the knowledge of the judiciary and of the judicial assistants regarding the understanding and application of the provisions of the Regulation. The authors also recommend the SCM to draft Guidelines for judicial assistants and judges, on the way and the situations in which the provisions of the SCM Regulation are applicable. Competent institutions such as the SCM and the Agency for Court Administration shall continue to ensure more efficient monitoring of compliance with the provisions regarding publication and depersonalization of court decisions.

The analysis is available [here](#):

The analytical document „Transparency of the judiciary versus personal data – An analysis on the publication of judgements in the Republic of Moldova” is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of the LRCM and do not necessarily reflect the views of USAID or the United States Government.

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