

NEWSLETTER

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THE MAIN ACHIEVEMENTS OF LRCM IN 2019

- Together with the International Commission of Jurists, we have brought to public attention that the Moldovan judiciary lacks independence and lives in fear.
- We have proposed numerous legal improvements, including those concerning the [Superior Council of the Magistracy](#), [the amendment of the Constitution](#), [the tax policy](#), [parliament procedures](#), and [the fight against grand corruption](#).
- We [have compared](#) the Moldovan justice system to other countries of the region and have analyzed [gender dimension](#) in the judiciary.
- We [have hosted](#) the Justice Reform and Anticorruption Forum, offering justice sector representatives and top-ranking politicians the opportunity to talk about the challenges of the justice sector.
- We [have surveyed lawyers' perception](#) and [have analyzed the dynamics of public confidence](#) in the justice system of the Republic of Moldova.
- We [have reacted publicly to the June 2019 political crisis](#) and [have requested the resignation of Constitutional Court judges](#). Later on, we [expressed our disagreement](#) with the non-transparent appointment of new judges to the Constitutional Court.
- We have analyzed [the work of the ECtHR in 2018](#), [won at the ECtHR a case concerning the infringement of freedom of expression against Moldova](#), and [informed](#) the Council of Europe about the actions Moldova had not taken to prevent arbitrary arrests.
- Together with other civil society organizations (CSOs), we [have requested the Central Election Commission](#) to allow Moldovan citizens to vote with expired passports and [have proposed the present government measures](#) for improving democracy in the country.
- Together with other CSOs, we have prepared the [Timeline of Attacks against the Nongovernmental Organizations from the Republic of Moldova](#).
- We [have organized democracy schools for 31 students](#) and have [trained](#) 24 lawyers on ECHR, 98 NGO representatives in the 2% mechanism, and over 600 students on the rule of law.

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- We [have prepared information materials about the 2% Law](#) and [have reviewed the results of the second year](#) of the implementation of the 2% Law in Moldova.
- We continued [informing](#) you about the main developments in good governance, justice, anticorruption, human rights, and civil society.

GOOD GOVERNANCE

THE STATE OF EMERGENCY—A GO-AHEAD FOR ABUSES

On 17 March 2020, the Parliament of the Republic of Moldova [declared a state of emergency](#) due to the COVID-19 pandemic. The state of emergency was introduced for the maximal period allowed by law—2 months—from 17 March through 15 May 2020. Parliament assigned the Commission for States of Emergency (CSE) to manage the crisis and vested it with almost unlimited powers to impose measures for containing the pandemic.

On 18 March 2020, the permanent delegation of the Republic of Moldova to the Council of Europe (CoE) informed the Secretary General of the CoE about the need to apply Article 15 of the [European Convention on Human Rights](#). This article allows derogation from some provisions of the Convention in the event of war or other public danger threatening the life of a nation. The Republic of Moldova mentioned that it would like to derogate only from the provisions concerning three rights: the freedom of assembly and association, the right to education and the freedom of movement. Moldova was among the few states that made such declarations. [Ramona STRUGARIU](#), vice chairperson of the delegation to the EU-Moldova Parliamentary Association Committee, said that derogation from the provisions of the Convention would set a dangerous precedent for democracy.

On 30 March 2020, the Legal Resources Centre from Moldova (LRMC) and the Institute for European Policies and Reforms (IPRE) published [a legal opinion](#) that highlighted the disproportion of other measures imposed by the CSE. The document viewed as contrary to the Constitution the special rules that concerned the challenging of decisions of the CSE during the pandemic (the exclusive competence of the Chişinău Court of Appeal, whose judgments were not appealable), contraventions committed during the state of emergency, the impossibility of challenging dismissals from office and derogations concerning imports of medical drugs for the eastern regions of the country.

Freedom of expression is another right affected by the pandemic. On 19 March 2020, the Intelligence and Security Service (SIS) [temporarily blocked access to 52 web portals](#) that had allegedly spread fake news about the pandemic. It is not clear what criteria were used to evaluate web sites and whether the decision of SIS was proportionate. Media organizations requested authorities to develop and apply clear and transparent mechanisms for taking such decisions, to rule out potential abuses. On 24 March 2020, the chairperson of the Audiovisual Coordination Council (ACC) issued [an order](#) “with immediate effect for all subjects of the Code of Audiovisual Media Services.” The order limited the sources

of trustworthy and impartial information about the COVID-19 pandemic only to national and foreign competent public authorities. The ACC chairperson has no powers for taking decisions with mandatory effect. Paragraph five of the order limited the right of access to information and precluded the plurality of opinions at national media outlets. A few days later, after the [public reaction](#) of nongovernmental organizations from the media sector, the order was revoked.

On 1 April 2020, by [Decision No. 213](#), the Government tabled a motion of censure [concerning the support measures during the state of emergency](#). Apparently, the Government resorted to this procedure to avoid debates on the draft law in Parliament and inconvenient questions from the opposition, as well as to use these measures in the presidential campaign of autumn 2020. Under Article 106¹ of the Constitution, the draft law should have been introduced in the plenum of Parliament. Parliament was convened on 2 April, but Prime Minister Ion CHICU could not present the draft law due to lack of quorum. The parliamentary groups of the Party of Socialists and the Democratic Party, constituting the ruling majority, did not attend the plenary meeting. Despite this fact, Speaker Zinaida GRECEANÎ signed the law on the same day, and on 6 April, [the law was promulgated](#) and published in the Official Gazette. On 7 April, Members of Parliament

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[Sergiu LITVINENO](#), [Veronica ROȘCA](#), [Andrian CANDU](#), [Sergiu SÎRBU](#), [Dinu PLÎNGĂU](#), and [Alexandr OLEINIC](#) filed an application with the Constitutional Court (CCM), invoking the violation of the procedure for. Although the applicants challenged only some provisions of the law, [on 13 April 2020, the CCM declared the entire law unconstitutional](#). The CCM noted that the Constitution did not establish any exception from the mandatory requirement of introducing draft laws in plenary meeting and that the plenum should have been

deliberative, which did not happen. The CCM also mentioned that the violation of the procedure for assumption of liability by the government produced effects for the entire law. Despite the Constitutional Court declaring the law unconstitutional, the [CSE approved most provisions of the law and they took effect](#) on 10 April 2020, before the CCM issued its decision. [The CSE is formed](#) of representatives of ministries and public agencies and presided by the prime minister.

THE RULING ALLIANCE PSRM-PDM OFFICIALLY RECOGNIZED

On 16 March 2020, one day before the declaration of the state of emergency caused by COVID-19, the Party of Socialists of the Republic of Moldova (PSRM) and the Democratic Party of Moldova (PDM) signed a [coalition agreement](#). As a result of the establishment of the government coalition, the CHICU Government dismissed four ministers and PDM delegates were appointed as ministers instead. Under the agreement, the government was shared as it follows: PSRM kept the ministries of finance, justice, health, agriculture, and home affairs, while PDM took the ministries of foreign affairs, economy, education, and defense, as well as the office of vice prime minister for reintegration. In addition, the two parties committed themselves to forming ruling coalitions at the local level. [The web portal Anticoruptie.md wrote](#) that four of the five ministers proposed by PDM had been involved in illegal acts.

In April 2019, [representatives of PSRM](#) and President [Igor DODON](#), the unofficial leader of PSRM, had declared that they would never form a coalition with PDM and would rather opt for a snap election. Earlier, PDM [had also declared](#) that they would not form a coalition with any of the parties in Parliament. In November 2019, PDM voted for dismissing the SANDU Government and, a few days later, for investing the CHICU Government proposed by PSRM. Moreover, after the government's investiture, PDM and PSRM voted jointly on the better part of the most important legal acts. In February 2020, seven MPs left PDM and formed the parliamentary group Pro Moldova, lead by the ex-speaker Andrian CANDU. They alleged that PDM intended to form a coalition with PSRM, which the democrats denied. Later, several MPs left PDM and joined the parliamentary groups of Pro Moldova and the Șor Party.

MOLDOVA IN 2019 INTERNATIONAL RANKINGS CONCERNING DEMOCRACY AND THE RULE OF LAW

In 2019, Moldova ranked 82nd out of 128 countries in the [2019 – 2020 Rule of Law Index](#). Just like in the previous year, our country scored lowest for absence of corruption, ranking 12th out of 14 regionally and 106th globally. The police remain the most corrupt sector in Moldova. Denmark was the first in the rank of least corrupt countries. The second weakest position of Moldova, 101, was for regulatory enforcement. In constraints on government powers, Moldova came in 92nd. In criminal justice, Moldova ranked 11th out of 14 regionally and 89th globally. Moldova scored well for order and security indicator – 31st globally and 4th regionally.

In the [2019 Global Democracy Index](#) prepared by the [Economist Intelligence Unit](#), the RM ranked 83rd among 167 states, registering decline compared to previous year. Moldova's score ranked it among the countries with a hybrid government regime. The countries that kept dominating the ranking globally were Norway, Iceland and Sweden. The index used 60 indicators in five categories: election process and

pluralism, the functioning of government, political participation, democratic political culture and civil liberties. Moldova scored lowest in democratic political culture.

According to the [2020 study of civil rights and liberties by Freedom House](#), in 2019, Moldova obtained a general score of 60 out of 100 points, up two points from the previous year. For political rights, Moldova had 26 out of 40 points and for civil liberties 34 out of 60. Moldova ranked among partially free countries and positioned itself in the rating between Fiji and Liberia.

In the [2019 Corruption Perceptions Index \(CPI\)](#) by Transparency International, Moldova ranked 102nd among 180 countries, scoring 32 points. It went down three positions from 2018. In the Top Eastern Partnership States, Moldova was third to last, underscoring only Ukraine and Azerbaijan. Denmark and New Zealand were leading the ranking. The high level of corruption in Moldova was also highlighted by [Secretary General of the Council of Europe Marija PEJČINOVIĆ BURIĆ](#).

JUSTICE

THE JUSTICE MINISTER MAKES ANOTHER “ATTEMPT” TO CHANGE THE CONSTITUTIONAL PROVISIONS CONCERNING THE JUDICIARY

In late December 2019, the Justice Ministry put [a draft law](#) on the amendment of the Constitution out for public consultation. The draft law's purpose is to ensure the independence and accountability of the judiciary. It provides for life tenure of judges, removing the Constitutional requirement for presidential reconfirmation of judges after the first five years of tenure. The draft law strengthens the independence of the Superior Council of the Magistracy (SCM) by providing for a single six-year term mandate of the SCM members, changes the composition of the SCM and clarifies the conditions for electing or appointing SCM members. The draft law removes the requirement concerning the appointment of Supreme Court judges by Parliament and their minimal prior experience in judicial office of ten years.

In [March 2020](#) and [June 2020](#), the Venice Commission issued two opinions concerning the draft laws amending the Constitution. Overall, the Commission described the amendments as positive and in line with international standards. The Commission had a few recommendations for the procedure of selection of non-judicial SCM members and the for recalling of the SCM members. The Venice Commission also recommended the authorities to terminate of the mandates

of SCM non-judicial members, who had been elected by Parliament in January 2020. According to the Commission, these members had been elected in a controversial way, without political consensus and for a full four-year term, which offsets the positive impact that the constitutional amendments were supposed to produce. The draft law was amended in line with the Commission's recommendations. On 1 July 2020, the Ministry of Justice [announced](#) that it had sent the draft law to the Constitutional Court for endorsement.

Although the voting on the project has been long awaited, previously, the Parliament failed twice to adopt these amendments. According to Article 142 (3) of the Constitution, amendments to the Constitution must be adopted within one year from the day the bill with the endorsement of the Constitutional Court is presented to the Parliament. In 2016, a similar draft law had been presented to the Parliament, but it was not voted within one year and became null and void. In 2017, another similar draft law had been initiated, but shared the same fate, despite positive opinions from the [Constitutional Court](#) and the [Venice Commission](#). The Venice Commission had described the amendments as generally positive and in line with international standards.

THE APPOINTMENT OF SCM MEMBERS BY PARLIAMENT—A BONE OF CONTENTION

On 30 July 2019, a member of the Superior Council of Magistracy (SCM) among professors, Serghei ȚURCAN, was appointed judge to the Constitutional Court. On 20 November 2019, Ion POSTU, another professor and member of the SCM, gave up his mandate of SCM member. Thus, on 20 November 2019, two positions of SCM member from among professors were vacant. On 21 November 2019, [the SCM requested Parliament](#) to urgently fill in these vacancies and to avoid the lack of quorum at the sittings of the SCM. Under the law, the Parliament had to organize a public contest within 30 days.

On [4 December 2019](#), the government approved a draft law for amending the Law on the SCM. The amendments increased the SCM's membership from 12 to 15, by adding two professor members. The draft law also stated that only a judge could act as chairperson of the SCM and, in the absence of SCM's chairperson ([recalled in July 2019](#)), the senior judge member of the SCM would be acting chairperson. The draft law passed very quickly in the Parliament. By 6 December 2019, the draft

law had already passed its first reading and on [20 December 2019](#) Parliament [passed it in the final reading](#). The same day, the justice minister requested the opinion of the Venice Commission. On [22 January 2020](#), the Venice Commission offered a positive review of the increase of the number of professor members, but recommended their appointment to be validated by Parliament's qualified majority or the candidates to be shortlisted by an independent expert commission, to mitigate the risk of political nominations. The Venice Commission criticized the election of the SCM chairperson exclusively among judges. Despite the critical opinion of the Venice Commission, President Dodon promulgated the law. The amendments took effect on [31 January 2020](#).

On 3 February 2020, MP Sergiu LITVINENCO tabled [a draft law](#) that proposed that non-judicial SCM members to be selected by a special expert commission. Later, [the minister of Justice said](#) that he shared his opinion. On 12 February 2020, the Legal Parliamentary Committee discussed the draft law,

but only two opposition MPs supported it. Instead, on 9 July 2020, Parliament passed in the final reading [another draft law, registered by President Dodon in February](#), which removed the prohibition introduced in December 2019 on non-judge members of the SCM to sit as chairperson of the SCM.

On 5 February 2020, [Parliament announced a competition](#) for four SCM member positions for professors and approved the corresponding regulations. [18 candidates applied](#), of whom 17 qualified for the hearing phase. On 11 March 2020, [LRCM and IPRE requested suspending the competition](#) and proposed an independent shortlisting mechanism in line with [the January 2020 recommendation of the Venice Commission](#). This request was ignored. On 13 March 2020, the [Legal Committee of the Parliament organized the hearing of the candidates](#). The parliamentary opposition boycotted it, citing the lack of integrity of some candidates and the change of the composition of the Legal Committee on [10 March 2020](#), to ensure majority in

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the committee for the parliamentary majority. The committee invited three NGOs—Lawyers for Human Rights, Pro-Marshall Center, and Center for the Analysis and Prevention of Corruption—as observers. Apparently, they presented a written opinion about the candidates, but it was not made public. After the hearing, the Committee [nominated the highest scoring candidates for appointment by the Parliament plenum](#). On 17 March 2020, the four professors were appointed as SCM members [with the vote of 55 MPs](#)

from the ruling majority. The professors were not even present at the Parliament's sitting, contrary to the established practice. In June 2020, [the Venice Commission criticized](#) the election of the professor members of the SCM, stating that the selection had been politically influenced. It recommended that their mandate be terminated with the amendment of the Constitution in 2021. [The draft law on amending the Constitution approved by the government](#)

[on 1 July 2020](#) provides for the termination of the mandate of the professor members of the SCM.

THE SIEGE ON JUSTICE FOLLOWING A ECtHR JUDGMENT

In early 2020, President Igor DODON, the prime minister, and the justice minister repeatedly used offensive language against the judicial system (for example, “[chaos from justice](#),” “[cunning judges](#),” “[specimens](#),” etc.). Most of the above expressions were prompted by the judgment of the European Court of Human Rights (ECtHR) in the case of [Ojog and Others v. Moldova](#) issued on 18 February 2020. The judgment referred to the abusive expropriation of a part of the Gemeni Trade Center from its former owners in 2005. The Moldovan government was forced either to pay over EUR 3.6 million or to pay only EUR 1.5 million and to return a part of the Gemeni complex to the plaintiffs. President Igor DODON stated that the responsible judges should pay from their own pockets, that [their property should be confiscated](#) and that he insisted on amending the law so that judges did not receive big retirement pensions. Mr. Dodon had already made similar statements in the past. On [27 June 2017](#), during the court examination of the appeal against his decision to withdraw the Moldovan citizenship from the ex-president of Romania Traian BĂSESCU, Mr. Dodon had declared that he had judges' careers in his hands and felt secure about the outcome of the litigation.

Politicians' unbalanced and selective accusations may further undermine public confidence in justice. The [Superior Council](#)

POLITICIANS' CALLS
TO HOLD JUDGES
ACCOUNTABLE FOR
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ECtHR ENDED IN
NOTHING

[of the Magistracy](#) (SCM), the [Association of Judges](#) and [some judges](#) reacted to those statements, calling them a smearing campaign against the judiciary. [According to the Venice Commission](#), no mistake should lead to pecuniary or criminal liability of judges, unless committed with intent or gross negligence. The present law already allows legal actions for damages against those responsible for cases lost at the ECtHR. So far, no judge was forced to compensate the state the damages caused by their actions, even though, in some cases, violations could not have been anything but intentional or by gross negligence.

On [20 February 2020](#), Prime Minister Ion CHICU requested the Minister of Justice to prepare a request to the Prosecutor General's Office as soon as possible to initiate prosecution against [judges guilty](#) of the violations found in [Ojog and Others](#). [The Prime Minister also said](#) that the financing for the judiciary in 2020 would be reduced by the amount payable under the judgment of the ECtHR. He also requested the National Integrity Authority to verify the integrity and potential conflicts of interests of all judges responsible for cases lost at the ECtHR. On [26 February 2020](#), the finance minister ordered the blocking of MDL 70 million of the funds earmarked for courts. On [23 April 2020](#), the State Budget Law was amended to cut the budget of courts by approximately MDL 70 million. The cut

affected allocations for court administration, personnel costs, and the construction of courthouses. This budget cut is unconstitutional because the law allows similar cuts only if other public institutions' budgets suffer cuts as well.

On [21 February 2020](#), the Governmental Agent complained to the Prosecutor General's Office. The complaint did not

mention the alleged violations or the crimes to be investigated. On [5 March 2020](#), the Prosecutor General announced that he would initiate a criminal procedure as soon as possible. It is not clear whether that prosecution has started ever since. Many of the judges who issued the court judgments that lead to the expropriation in the case of *Ojog and Others* still work as judges and have never been suspended from office.

JUSTICE IN MOLDOVA DURING THE STATE OF EMERGENCY

On 17 March 2020, the entire territory of the Republic of Moldova [was put under a state of emergency](#) for 60 days. A series of measures imposed as a result affected the judicial system. Most of them were provided for in [Order No. 1 of 18 March 2020 of the Commission for States of Emergency \(CSE\)](#). Special measures imposed in the justice sector affected judiciary deadlines (limitation periods, time bars, periods for filing appeals, complaint processing periods, etc.) that were suspended until the end of the state of emergency. Among suspended cases were civil, criminal, and contravention matters. Time-critical cases were examined via teleconference. The Chişinău Court of Appeal was responsible for the examination of challenges from orders of the CSE. The period prescribed for challenges was 24 hours, without the possibility of restarting the limitation period. The decisions of the Chişinău Court of Appeal were not appealable.

During the period of 30 March through 30 April 2020, declared holiday for the public sector, [prosecution offices and courts of law](#) had a special work schedule. Prosecutors, judges, and the staff assisting them were instructed to work in the office only on urgent cases. Lawyers, notaries, and bailiffs were, however, required to work as usual, observing epidemiological safety rules or else face the sanction of disbarment. Lawyers, notaries, and bailiffs do not offer exclusively services that cannot wait during the pandemic crisis. It is not clear why

the latter were forced to continue working, since prosecution offices and courts of law enjoyed a special working regime.

A series of measures related to the enforcement of sentences. Under [Order No. 50 of 12 March 2020 of the Ministry of Justice](#), extended by [Order No. 61 of 10 April 2020](#), and [Order No. 1 of 18 March 2020 of the CSE](#), all national prisons were put in quarantine. The enforcement of non-custodial sentences was suspended. Prisoners' right to have visitors, receive packages, and walk outside the penitentiary was also suspended. On the other hand, the number and length of phone calls and teleconferences on software platforms accepted by the administration of penitentiaries was doubled. So far, no measures related to prisoners' health, including access to diagnostic and treatment services, were provided. As a result, the Ombudsman's Office and several civil society organizations put out a [call](#) proposing measures to improve medical treatment in penitentiaries. [The Ombudsman's Office filed a motion](#) to the prosecutor general and the chairperson of the Superior Council of Magistracy, requesting that, during the state of emergency, milder crimes committed by persons older than 50 or with chronic conditions shall be punished with alternative measures instead of imprisonment. LRCM has prepared [an infographic](#) summing up all measures ordered for the state of emergency that have affected the Moldovan justice system.

MORE THAN HALF OF COURT JUDGMENTS ARE ANONYMIZED INCORRECTLY

On 24 January 2020, LRCM published the policy paper [Transparency of the Judiciary versus Data Protection](#). The study analyzes how Moldovan courts of law publish and anonymize court judgements published on internet. Based on the analysis of over 1,300 randomly selected judgments, the study found that the anonymization of published judgments was often deficient or inconsistent. [The rules of the Superior Council of the Magistracy \(SCM\)](#) on the publication and anonymization of court judgments on the internet were not followed in 63% of analyzed judgments. In cases concerning corruption, these rules were not

respected in 55% of judgments. According to this paper, the deficient depersonalization of court judgments is a systemic issue. At the first level courts, the average rate of the violation of the rules concerning the publication and depersonalization was 75%. In some of them it exceeded 90%. Appellate courts were in a better position, but with signs of concern —47% of court judgments did not comply with the SCM's rules. At the

IN SOME COURT
JUDGMENTS, EVEN THE
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ANONYMIZED!

SCJ, these rules were violated in 23% of the examined judgments.

In most of the courts, noncompliance was related to the rule concerning the anonymization

of the information about domiciles, the dates and places of birth, personal identification number and car plate number (at least 305 of the examined judgments (38%)). There were also cases of abusive depersonalization, where the names of defendants, perpetrators, or instigators were anonymized even though this was prohibited (179 examined judgments (34%)). There were cases of abusive anonymization of the names of lawyers, prosecutors, inspectors, and even of courts and judges (11 examined judgments (1%)). Another violation was the partial depersonalization of published judgments that should have been anonymized entirely, where one part of the

document was depersonalized and the other—usually the end of the judgment—was not (172 examined judgments (21%)).

LRCM recommended the SCM to clarify the problematic provisions of the SCM's Regulations and to take urgent measures to reinforce or “refresh” judges' and judicial assistants' understanding of how to depersonalize court judgments published online. The inadequate depersonalization of court judgments adversely affects the private lives of individuals who appear in court and also erodes confidence in courts.

THE SUCCESSES AND CHALLENGES OF PROSECUTION OFFICE IN 2019

At the beginning of the year, the Prosecutor General's Office published the [activity report](#) of the prosecution service for 2019. The report presented fewer accomplishments than in previous years. Instead, it described the numerous challenges that had negatively impacted the performance and efficiency of the institution in 2019. The change of governments, the resignation of the prosecutor general, and the strong links of the Prosecution Office with political circles, as well as political disputes were cited as the factors that weakened the performance and dented the image of the institution. The report listed the errors and omissions of the previous management, that resulted in abusively initiated criminal cases, illegally applied special investigative measures, delays and inefficiency of certain important investigations, as well as deficient representation of the prosecution in courts. The report stressed that excluding such practices and sanctioning prosecutors responsible for them was set as a priority for 2020.

In 2019, the 640 prosecutors oversaw prosecution in 46,758 cases (47,514 in 2018) and conducted prosecution in 4,162 cases (4,429 in 2018). Prosecutors filed 4,261 motions for special investigative measures (5,578 in 2018), of which only 38 (0.9%) were dismissed. The most common special measures applied were the interception of communications and images—2,812, the collection of information about communications from service providers—707 (770 in 2018), use of technical equipment for gathering evidence, and location or tracking through the Global Positioning System (GPS) or other technical means—507 (594 in 2018). In 2019, the Prosecutor General's Office created two new subdivisions with special powers: the Personal Data Protection Service and the Internal Audit Service. In addition, it refined its E-file system, adding in it the templates of procedural acts, to simplify prosecutors' work. In 2019, 24 prosecutors have been disciplined (compared to 13 in 2018).

TURBULENCES IN THE PROSECUTION SERVICE AFTER THE APPOINTMENT OF THE NEW PROSECUTOR GENERAL

In [January 2020](#), the Prosecutor General Alexandr STOIANOGLO presented the results of the inspections carried out by the Anticorruption Prosecutor's Office and the Prosecution Office for Fighting against Organized Crime and Special Cases (PCCOCS). Inspections revealed multiple issues, including the lack of records concerning special investigative measures and the abusive initiation of numerous criminal cases, mainly for special investigation measures (mostly for the interception of communications).

At PCCOCS, the investigation of many criminal cases lasts for years. From 1 August 2016 through December 2019, only 10% of the finished cases concerned crimes committed by organized groups. At the Anticorruption Prosecutor's Office, one third of cases that ended in conviction concerned petty

corruption, where the value of bribes did not exceed MDL 5,000. From 2016 through 2019, investigations into the banking fraud had been conducted by a group of only six prosecutors and without proper planning. Earlier, [LRCM proposed the exclusion](#) of petty corruption cases from the competence of the Anticorruption Prosecutor's Office. Following this inspection, prosecutors [initiated several](#) disciplinary and criminal proceedings against prosecutors, mostly for the abusive interception of communications and for dragging the investigations.

From January through February 2020, the Prosecutor General Stoianoglo had a series of meetings with prosecutors, including at specialized prosecution offices. He requested some prosecutors to resign and [to stop “shameful visits to](#)

[diplomatic missions.](#) During that period, over 20 prosecutors from specialized prosecution offices were posted for 30 days, without their consent, to territorial prosecution offices outside

Chişinău, and over 15 prosecutors from territorial prosecution offices were posted to specialized prosecution offices for periods from three to six months.

ANOTHER ATTEMPT TO ABOLISH JUDGES' SPECIAL PENSION SYSTEM

From 1 January 2021, judges' pensions will be calculated and indexed in accordance with the general rules described in the [Law on the Public System of Pensions](#). The new scheme for the calculation and indexation of judges' pensions was proposed by the Ministry of Health, Labor, and Social Protection and the National Social Insurance Fund. The [draft law](#) was voted in Parliament on 27 February 2020. The informative note to the bill explained that the purpose of the draft law was to ensure that the receipt of social payments correspond to the contributions paid. The informative note did not make any figure that determined the need for this draft law.

In the present, judges' pensions are calculated in accordance with the wages of a sitting judge. Thus, a judge who turns 50 and has a seniority of service of 20 years, including 12.5 years as a judge, is entitled to a pension that amounts to 55% of the average monthly salary, plus 3% for every full year of service after the completion of 20 years of service, but not more than 80% of the average monthly salary (Article 32 of the [Law on the Status of Judge](#)).

In the present, judges' pensions are recalculated every year, depending on the size of sitting judges' salaries (for more details about the size of judges' salaries, see [LRCM's Newsletter 20](#)). The draft law also abolished the recalculation of judges' pensions. Judges' pensions will be indexed in accordance with general rules, twice a year, on 1 April and 1 October. The new pension indexation rules will apply exclusively to the pensions established for judges before 1 January 2021 and prosecutors before 1 January 2018.

JUDGES' PENSIONS WILL
NO LONGER BE INDEXED
IN ACCORDANCE WITH
THE SALARY OF SITTING
JUDGES.

In the past, the government had already tried to change the method of calculating judges' pensions, but without success. In [2011](#), the Constitutional Court (CCM) had declared the provisions of a law that diminished special retirement conditions for judges unconstitutional, at the same time upholding them for other categories of pensioners. In [2017](#), the CCM found the abolishment of judges' special pensions unconstitutional, because the exclusion of the provisions regulating judges' special pension affected the principle of judicial independence (for details about the CCM judgment, see [LRCM's Newsletter 15](#)). In both instances, the application to the CCM came from the Supreme Court of Justice.

Another [draft law](#), registered by a group of opposition MPs on 25 November 2019, provides for a gradual extension of the retirement age for judges starting 1 January 2021 until it reaches the standard retirement age of 63 years in 2028. At present, any judge who turns 50 may claim a pension for seniority of service.

The draft law also provides for the abolishment of severance packages. At present, judges who leave the system honorably are entitled to a severance pay amounting to 50% of their average salary at the moment of leave multiplied by the number of years of service as judge. On 25 March 2020, the government [endorsed](#) the extension of the retirement age for judges. The next day, the Superior Council of the Magistracy [disagreed](#) with this draft law. On 9 July 2020, the draft law passed the first reading in Parliament.

CONSTITUTIONAL COURT JUDGES MAY NOT BE HELD LIABLE FOR VOTES AND OPINIONS EXPRESSED AS JUDGES

On 26 March 2020, the Constitutional Court (CCM) [issued a judgment](#) in which it explained the conditions in which judges of the CCM may be held criminally liable. The application was filed by the former acting prosecutor general Dumitru ROBU in August 2019, amid the investigation of the events of 7 – 15 June 2019, when former judges of the Court adopted several controversial decisions. The Democratic Party of Moldova (PDM) used these judgments later to challenge the legitimacy of the SANDU Government invested on 8 June 2019, to initiate

the dissolution of Parliament and to refuse the transfer of the power to the new government.

The CCM found, among other things, that constitutional court judges enjoyed functional immunity. They cannot be held liable for their votes and opinions and actions taken legally as part of their service. The CCM judges can be held liable, however, for any crime committed outside the process of decision making. For example, they can be held liable for accepting bribes

(pecuniary or political). The Court also found that prosecution against any judge of the CCM, including ex-judges, is possible only with preliminary agreement from the plenum of the CCM.

It seems, however, that the judgment of the Court does not offer a definite answer concerning the possibility of holding CCM judges liable for intentional and/or gross violations of imperative rules or uniform judicial practice. In December 2019, at the request of the CCM, [the Venice Commission explained](#) that, just as any other judges, CCM judges may be held liable criminally and materially “in exceptional cases of extreme deviation from principles and standards of the rule of law and constitutionality.” The Venice Commission also mentioned that the CCM was obliged to revoke the immunity of judges on request, unless

judges were prosecuted for their opinions or the Court found that the accusation was clearly committing an abuse. In the context of the decisions issued by judges of the Court in June 2019, the Venice Commission [published an opinion](#) highlighting that those judgments could not have a logical explanation and did not rely on the letter and the spirit of the Constitution.

Since autumn 2019, the Prosecution Office has not come with public updates about the investigation of the abuses committed in June 2019. Despite the vague opinion of the CCM and the clearly arbitrary nature of the CCM judgments of 7 and 8 June 2019, the Prosecutor General has not requested the CCM's agreement to the prosecution of the ex-judges of the CCM. They resigned *in corpore* in summer 2019.

ANTICORRUPTION

NATIONAL INTEGRITY AUTHORITY IN 2019

According to the [NIA's activity report for 2019](#), integrity inspectors examined 2,764 declarations of assets and personal interests, which account for 2.4% of the filed declarations. Inspectors initiated 301 inspections and prepared 147 certificates. They found 94 cases of the violation of the law on declaring assets, conflicts of interests, or incompatibilities, and dropped 53 cases where no violation was found. Of the 94 cases of violation, 60 concerned conflicts of interests, 23 - incompatibilities, 10 - the declaration of assets and personal interests, and 1 - restrictions on holding public offices.

THE NIA SAW
IRREGULARITIES ONLY
IN 6 OUT OF 400
DECLARATIONS OF
ASSETS OF JUDGES IT
“CHECKED.”

The NIA intended to request the termination of mandate, employment, or service and the ban on holding public offices for three years for 76 individuals. 33 of them were chiefs of public institution, 17 - mayors, 12 - local councilors and 14 were from other categories.

Integrity inspectors examined 133 contravention cases. They issued 100 protocols in total, 72 of which concerned

the violation of the rules for declaring assets and personal interests and 17 - failure to declare or to address conflicts of interests. Only 26 contravention cases (20%) were sent to court.

In 2019, integrity inspectors examined 2,764 declarations of assets and personal interests. The NIA's report does not state clearly how many verifications concerned high-ranking public officials, but these figures suggest that NIA did not focus on checking the property of these subjects. According to the NIA's web site, in 2019, it checked [the declarations of 400 judges](#) (out of the total of approximately 480 sitting judges) and [300 prosecutors](#) (out of the total of approximately 700 prosecutors). As a result, inspectors initiated six verification concerning judges and opened 16 contravention cases for a late presentation of declarations. The big number of judges and prosecutors subjected to checks should not inspire enthusiasm, as in most cases integrity inspectors checked only the respect of the deadline for presentation of declarations.

NIA CHECKS THE PROPERTY OF DEPUTY PROSECUTOR GENERAL RUSLAN POPOV

On 22 January 2020, the web portal Anticoruptie.md published [a journalistic investigation](#) about the property of the deputy Prosecutor General, Ruslan POPOV. According to the investigation, Mr. Popov organized a farming business that includes a 100-ha orchard in the village of Mileștii Mici, Ialoveni. The business is registered on Mr. Popov's father,

who is a pensioner. The investigation mentioned that the owner was also building a refrigerator on the land, to store fruits.

The following day, the Prosecutor General's Office came with a [press release](#) according to which the information from

the journalistic investigation had been sent to the National Integrity Authority (NIA) for inspection. The better part of the press release referred to Mr. Popov's explanations about the origin of the property, with a comment that the information "was deliberately orchestrated by certain individuals and groups of political, economic, and criminal interests [...] and can lead to their liability under the law", which sounds rather like a threat. The same day, the NIA [communicated](#) that it had initiated a verification of the legal regime of Mr. Popov's property. In late summer 2020, the NIA's investigation was apparently still under way.

Earlier, in October 2013, Mr. Popov had been suspended from office after the initiation against him of a criminal case under Article 352 (1) of the Criminal Code. It concerned the alleged improper declaration of assets. It was prompted by a [journalistic investigation](#) concerning his failure to declare his house. The criminal case was later discontinued. On 6 December 2019, the new Prosecutor General Alexandr STOIANOGLO [appointed](#) Mr. Popov as his deputy. At the Prosecution Office, Mr. Popov is responsible for criminal investigations. This is *de facto* the most influential position of deputy Prosecutor General.

HIGH-PROFILE CASES

PROSECUTION OFFICE REFUSED TO OPEN AN INVESTIGATION INTO THE ILLEGAL FINANCING OF PSRM BY PLAHOTNIUC

In September 2016, RISE Moldova published a [journalistic investigation](#) according to which the Party of Socialists of the Republic of Moldova (PSRM) had allegedly received MDL 30 million (approximately USD 1.5 million) from an offshore company based in Bahamas and connected to the Russian Federation. The transfer was made several months before the presidential election of 2016, through Exclusiv Media SRL owned by socialist MP Corneliu FURCULIȚĂ. According to RISE Moldova, Exclusiv Media SRL concluded loan agreements with several persons close to PSRM, who later made donations to PSRM. These persons are Corneliu FURCULIȚĂ, MP and currently chief of the parliamentary group of PSRM, Vasile BOLEA, MP for PSRM, Maxim LEBEDINSCHI, then member of the Central Election Committee, Petru CORDUNEANU, municipal councilor for PSRM, etc. In 2016, the law prohibited foreign financing for political parties.

Even before, Exclusiv Media SRL [had already been suspected](#) for money laundering. The prosecution was initiated by the National Anticorruption Center (NAC) on 1 July 2016, before the presidential election and the publication of RISE's investigation. No other details about that prosecution are known.

On 4 November 2016, a few days before the second round of the presidential election, both PSRM and Exclusiv Media SRL, [brought a legal action](#) against RISE Moldova. On 21 December 2017, as part of the case PSRM versus RISE Moldova, the Chișinău District Court partially admitted PSRM's claims and ordered RISE to publish a refutation and to pay MDL 10,000 in moral damages. The court found that the statements and/

or widespread information about PSRM being financed from foreign sources and PSRM financing Igor DODON's election campaign from foreign funds lacked factual basis and did not reflect the reality. Mr. Dodon had predicted this court judgment approximately half a year earlier, mentioning the decision of the court on a [TV program](#) on 12 May 2017 [time span: 1:00:26 – 1:00:48]. The Chișinău Court of Appeal and the [Supreme Court of Justice](#) upheld the judgment of the Chișinău District Court on 18 April 2018 and, respectively, 11 July 2018.

In the second case, Exclusiv Media SRL versus RISE Moldova, on 22 February 2017 the court admitted the claim of Exclusiv Media SRL partially. On 31 May 2018, the Chișinău Court of Appeal [admitted](#) the appeal of RISE Moldova, quashed the first instance court judgment and sent the case for retrial. More than three years later, in March 2020, after the retrial, the Centru Office of the Chișinău District Court [dismissed](#) the action of Exclusiv Media SRL as unfounded.

In summer 2019, a series of events brought up the foreign financing of PSRM again. In June 2019, Igor DODON and Vladimir PLAHOTNIUC secretly negotiated a parliamentary coalition between PSRM and the Democratic Party of Moldova (PDM). On 8 June 2019, Publika TV, owned by Plahotniuc, [released a video](#) where Igor DODON and Vlad PLAHOTNIUC discussed the forming of a government coalition. During the discussion, which apparently took place on 7 June 2019, Mr. Dodon said that, until April 2019, the Russian Federation was being financing him with almost USD 1 million per month.

On 11 June 2019, the Anticorruption Prosecutor's Office [initiated a criminal action suo motu](#) based on that video. One

month later, on 8 July 2019, the Anticorruption Prosecutor's Office [ordered the refusal to initiate prosecution](#) in that case. On 26 November 2019, Viorel MORARI, Chief Anticorruption Prosecutor, [annulled](#) the order of 8 July 2019, because it had been issued without a thorough fact-checking. In early December 2019, Mr. Morari merged the case of 2019 and the case initiated in July 2016 that involved Exclusiv Media SRL. Mr. Morari set up a group of 38 prosecutors and criminal investigators to conduct the investigation.

PROSECUTORS
SAW NO ISSUES
IN THE INCIDENT WITH
THE "BAG"

In December 2019, Viorel Morari was removed from office and put under criminal investigation. In January 2020 he was arrested. Mr. Morari [claims](#) that his problems resulted from his decision to resume the investigation into the financing of PSRM. [According to Mr. Morari](#), in November 2016, Ruslan FLOCEA, the new chief of the NAC, asked him to check the case because it had high impact and, if possible, to terminate the prosecution. After the check, Mr. Morari withdrew the money laundering case involving Exclusiv Media SRL from the NAC's and transmitted it to the Anticorruption Prosecution Office. In January 2020, the new Prosecutor General Alexandr

STOIANOGLO [stated](#) that, based on the motion of the chairperson of PSRM, he had carried out a check and decided that the two cases had been merged illegally, having nothing in common to be joined. The cases were severed and after that handled separately.

In January 2020, after the inspection at the Anticorruption Prosecutor's Office initiated by the new Prosecutor General, prosecutor Eugeniu RURAC, who handled this case, [resigned](#). On 6 March 2020, the Anticorruption Prosecution Office [came with a press release](#) in which it informed that it will not investigate the case concerning the video from the PDM headquarter, as no crime was committed. The prosecution office said that the investigation had not produced evidence showing that there had been a crime and that PSRM had reported its income and spending for 2016, 2017 and 2018 correctly. It also communicated that the case initiated in 2016, concerning money laundering and involving Exclusiv Media SRL, was still under examination. The press release did not specify whether it referred to the Bahamas case or the prosecution started on 1 July mentioned above.

RAPID DEVELOPMENTS IN THE CASES INVOLVING VEACESLAV PLATON

The businessman Veaceslav PLATON received a cumulated sentence of 25 years of prison in two cases. The first was the BEM case, in which he was sentenced to 18 years in prison for fraud and money laundering. He was accused that, in November 2014, he had obtained MDL 870 million (approximately USD 58 million) by fraud from Banca de Economii a Moldovei by means of loans offered to companies he had managed *de facto*. The second was the Moldasig case, where he was found guilty of an attempted fraud in the form of stealing funds from three insurance companies and trying to bribe employees of the Special Unit "Pantera". In the second case he was sentenced to 12 years of prison. More details about these cases are presented in LRCM's Newsletters [21](#), [20](#), [16](#), [14](#), and [11](#)).

In *the Moldasig case*, on 29 October 2019, the Supreme Court of Justice (SCJ) [quashed](#) the decision of 14 December 2018 of the Chişinău Court of Appeal, sending the case to Chişinău Court of Appeal for retrial. The SCJ found that Mr. Platon's right to a fair trial had been infringed. The SCJ referred to multiple violations committed by first and appellate courts, such as failure to specify all factual circumstances concretely, failure to hear some witnesses, unfounded dismissal of Mr. Platon's motions for an expert examination, contradictions in the reasoning of the first instance court judgment and the denial of Mr. Platon's right to reply and to final plea. The SCJ

also mentioned that, in the descriptive part of its judgment, the Chişinău Court of Appeal had found the incriminated deed several times and every time differently and had qualified the actions of the defendants differently. The SCJ noted that Mr. Platon's right to defense had also been infringed by the assignment of public defenders although Mr. Platon had already had lawyers and refused the lawyers offered by the state and by the dismissal of the public defenders' application to postpone the examination to let them get familiar with the materials of the case.

On 30 January 2020, the Chişinău Court of Appeal [retried](#) the Moldasig case, quashed the entire sentence of 12 December 2017 of the Chişinău District Court and ordered a retrial at the Chişinău Court. The appellate court found that Mr. Platon had been denied concrete and effective defense during trial. The case was sent to retrial because, at certain phases of the proceedings, Mr. Platon had been assisted by the lawyers offered by the state. The Criminal Procedure Code (Article 415) does not authorize sending a case for retrial for such a reason. The Chişinău Court of Appeal published this decision, unlike the decision of 14 December 2018 quashed by the SCJ.

Mr. Platon was kept in custody in Penitentiary 13 of Chişinău. On 22 January 2020, the Ciocana Office of the Chişinău Court [reduced](#) his prison term by 565 days on account of

poor detention conditions. Earlier, Mr. Filat also benefitted of this remedy (for details, see [LRCM's Newsletter 24](#)). In June 2020, [Veaceslav Platon was released](#) on the request of the Prosecutor General on account of the request for the revision of his allegedly arbitrary conviction. More details about the release of Mr. Platon are coming in the next LRCM newsletter.

In November 2019, a court from Kyiv issued an irrevocable judgment that [annulled](#) the decision of the Prosecutor General's Office of Ukraine concerning the extradition of Mr. Platon to Moldova. The Prosecutor General of Ukraine [requested](#) the return of Mr. Platon to Ukraine. On 14 August 2019, a Russian court of law warranted the [arrest of Mr. Platon in absentia](#) for the illegal transfer of EUR 37 billion outside the territory of the Russian Federation. Earlier, on 5 August 2019, the same court

had warranted the arrest of Vladimir PLAHOTNIUC, listed in the same criminal case. The Russian Federation declared Mr. Platon and Mr. Plahotniuc as wanted. Both Russia and Ukraine requested the extradition of Mr. Platon. On 22 January 2020, the Prosecutor General's Office communicated that it [had rejected](#) the request to return Mr. Platon to Ukraine and to extradite him to the Russian Federation because he had Moldovan citizenship.

Prosecutor General Alexandr STOIANOGLO [stated](#) in February 2020 that Mr. Platon had participated in the hearing of the billion theft case and that the Prosecutor General's Office would investigate all statements he had made. Mr. Platon had not been heard in the case against Mr. Plahotniuc (see details in LRCM's [Newsletter 21](#)).

THE SCM REFUSED TO RECONFIRM A JUDGE FOR NO CLEAR REASON

Under Article 116 of the Constitution, judges are initially appointed for five years. When this term ends, the President of the country reconfirms them on the proposal of the Superior Council of Magistracy (SCM). On [16 April 2020](#), the SCM refused to ask the President to reconfirm the appointment of Judge Mihai MURGULEȚ. His five-year term had ended on 4 February 2020. Back in June 2019, the judge [had reported](#) to the SCM that, from 2018 through 2019, several chief judges had attempted to influence him. As a result, several chief judges, including the chief judge of the Supreme Court, were suspended from office for a short time (for more details, see [LRCM's Newsletter 22](#)).

During the hearing at the SCM, SCM member Victor MICU requested to have the examination of this matter delayed, citing several pending disciplinary proceedings against Judge Murguleț. Mr. Murguleț insisted that the matter be examined on the same day and the SCM followed his request. The SCM did not gather enough votes to propose the reconfirmation of Mr. Murguleț. The SCM cited 56 complaints and 11 reports filed against the judge from 1 January 2019 through 26 March 2020, 40 hours of absence from work without good reason in two months, a large backlog of the judge and the judge'

multiple statements on a TV, that constituted direct "assault" on the image of justice and undermined public confidence in justice. The SCM's refusal to propose the President to reconfirm Mr. Murguleț as judge for life raises serious concern. Although multiple disciplinary complaints were mentioned, at that date, they all were pending and the Disciplinary Board had not applied any disciplinary sanction to him. Likewise, the Ethics Commission had not found any violation of ethics by Mr. Murguleț. Mr. Murguleț's performance was rated as ["very good"](#) and the mentioned absences from work seem to have had no impact on the work of the court and the judge tried to justify them. [On 11 May 2020](#), the President of the Republic of Moldova issued a decree to dismiss Mr. Murguleț from office.

The SCM's decision was interpreted as retaliation against Mr. Murguleț and had a deterring effect on other judges who otherwise want to report influences from their colleagues. At least four associations of judges have criticized the decision of the SCM. [Vocea Justiției din Moldova](#), [two professional organizations of judges from Romania](#), and [one from the Netherlands](#). The latest time the SCM had refused to propose [the reconfirmation of judicial appointment was in 2014](#).

HUMAN RIGHTS

MOLDOVA ONCE AGAIN IN THE TOP IN THE COUNTRIES WITH HIGHEST NUMBER OF APPLICATIONS AND CONVICTIONS AT THE ECtHR

On 31 January 2020, LRCM released a [policy brief](#) concerning the Republic of Moldova at the European Court of Human Rights (ECtHR) in 2019. LRCM's analysis is based on the [ECtHR's annual activity report](#) for the corresponding year and on the analysis of the [ECtHR's case law](#) concerning Moldova.

Although in 2019 the ECtHR received the lowest number applications against Moldova in 12 years, Moldovans still complained to the ECtHR 3.4 times more often than the European average. In relation to the country's population, this figure ranked Moldova sixth out of the 47 member states of the Council of Europe. As confidence in justice has not changed significantly in 2019, this drop seems to be influenced by the decline of the popularity of the ECtHR.

By 31 December 2019, the ECtHR had issued 441 judgments

on Moldovan cases, of which 54 in 2019. In this respect, in 2019, Moldova ranked fifth out of the 47 states.

Most cases lost by Moldova at the ECtHR concerned the way judges and prosecutors apply the law. The most frequent types of violations found by the ECtHR were failure to enforce court judgments (old violations), ill treatment and an improper investigation of ill treatment and deaths, poor detention conditions, arbitrary detention and the unlawful reversal of irrevocable judgments. Under all judgments and decisions issued until 31 December 2019, the Republic of Moldova was obliged to pay over EUR 17,1 million (EUR 537,000 in 2019).

As of 31 December 2019, 1,056 Moldovan applications were still pending judgment, 95% of them with big chances of success.

THE STATISTICS CONCERNING THE APPLICATION OF THE COMPENSATORY REMEDY FOR POOR DETENTION CONDITIONS WAS RELEASED

On 1 January 2019, the [new remedy](#) for improper detention conditions came into effect. Under this remedy, prisoners and ex-prisoners who are or were kept in conditions that did not comply with Article 3 of the ECHR are entitled to a reduction of prison term or, if this is not possible, to a pecuniary compensation. According to the [annual activity report](#) of the National Administration of Penitentiaries for 2019, until 31 January 2020, the penitentiary system has registered 5,180 complaints about poor detention conditions. During 2019, courts have examined 2,402 applications. Out of all examined applications, courts admitted 1,503 and dismissed 899. The prison term of 1,410 prisoners was reduced by a total of 436,000 days and courts granted MDL 1.6 million in compensations. 137 prisoners were released. The released included the ex-prime minister Vlad FILAT and the former sportsman Ion ȘOLTOIANU, convicted for homicide, illegal possession of arms and blackmail. This triggered intense

public debate about the reasonableness of such a mechanism.

On [12 March 2020](#), Parliament suspended the reduction of sentences for convicts kept in poor conditions. The law came into effect on 7 April 2020 and was effective until 1 May 2020. [The Ministry of Justice developed a draft law](#) to improve the compensatory mechanism. The proposed amendments exclude the right of persons on remand to compensatory remedy, reduces the coefficient for the compensation of days of imprisonment in poor conditions during pretrial custody, puts the burden of proof concerning detention conditions on prisoners, extends the period for examining complaints about detention in poor conditions, etc. In [LRCM's opinion](#), the proposed amendments bring insignificant improvements to the compensatory mechanism. Rather, they introduce limitations for prisoners' access to it, while some measures are not correlated with the law on the enforcement of sentences.

CIVIL SOCIETY

CSOS CALL ON PARLIAMENT TO PASS THE DRAFT LAW ON NON-PROFIT ORGANIZATION IN THE FINAL READING

On 3 March 2020, more than 20 SCOs, including LRCM, signed a [public call](#) addressed to all parliamentary groups, requesting the resumption of consultation and voting on [Draft Law No. 109 on Nonprofit Organizations](#) in the second reading. The new law will bring considerable improvements to SCOs' operation framework in terms of their establishment, organization and functioning. It simplifies the registration of nonprofits and removes the rigid internal organization structure imposed on them by current laws. The draft law limits the possibilities of the state to exert abusive pressure on nonprofits and excludes unjustified limitations on the foundation of nonprofits by certain categories of persons. As for political activities, the draft law completely prohibits nonprofits from supporting election candidates and sets clear limits on the relationship

between nonprofits and political parties.

The signatory organizations called on Parliament and all parliamentary groups to pass the draft law in the final reading, to bar any amendments that could impede nonprofits' work and to consult with CSOs about any proposed amendment to the draft law in a transparent and inclusive way. The enactment of the draft law is part of the National Action Plan for the implementation of the Association Agreement with the European Union for 2017 – 2019. The draft law was prepared by a working group—which included civil society representatives—set up by the Ministry of Justice in March 2016. Although the passage of the draft law in the final reading should have been a natural action, Parliament has been putting it off for 24 months now.

THE "RADIOGRAPHY" OF ATTACKS ON SCOS IN 2019

Several SCOs have published [a "radiography" of attacks on civil society organizations \(SCOs\) during 2019](#). This was the third edition of the document, the first two referring to the years [2016 through 2017](#) and [2018](#). The radiography for 2019 included both attacks on civil society as well as the reaction of national CSOs and the findings of international organizations, such as the UN Special Rapporteur on the Situation of Human Rights Defenders and the Council of Europe Commissioner for Human Rights. Attacks were presented in chronological order.

MANY PORTALS THAT
USED TO ATTACK CIVIL
SOCIETY DURING PDM'S
GOVERNMENT STOPPED
THEIR WORK AFTER
PDM STEPPED DOWN

campaign. Attacks on LRCM happened in the context of the justice reform announced by the Ministry of Justice. A judge from the Supreme Court of Justice said that LRCM should have been liquidated. LRCM's president was attacked in connection with his participation as a member in the government commission for the recruitment of constitutional court judges. In the case of SFM, several web portals with questionable reputation published false information that the organization's funds had been used improperly for political interests.

Attacks that happened in 2019 focused especially on certain events, such as the February 2019 parliamentary election, the justice reform announced by the SANDU Government in summer 2019, or the recruitment of judges for the Constitutional Court. Several CSOs were the direct target of the 2019 attacks, including Promo-LEX Association, the Legal Resources Centre from Moldova (LRCM), Amnesty International Moldova (AIM) and Soros Foundation – Moldova (SFM). Attacks on Promo-LEX came from multiple politicians and public authorities that were annoyed by the association's shadow monitoring reports on the February 2019 parliamentary election or monitoring and reporting on human rights in the region of Transnistria. Attacks on AIM came after it criticized the police's inaction about the harassment and aggression during the election

Just as in previous years, authorities try to limit the space of civil society. The 14 November 2019 program for government of the CHICU Government contained only one activity for civil society, namely strengthening the watchdog role of civil society organizations and prohibiting their involvement in political activity. The member organizations of the Moldovan National Platform of the Eastern Partnership Civil Society Forum [declared](#) that the program for government's restriction on the involvement of SCOs in political activity was against international standards and negated the CSOs' right to engage in public policies and to participate in debates on topics of public interest. The [Government's Action Plan for 2020 – 2023](#), approved on 11 December 2019 did not include the limiting of CSOs' political activity among its objectives anymore.

The document also examined the situation of the CSOs from the region of Transnistria. In 2018, the legal framework was supplemented with a restriction on the involvement of CSOs from the region who received funds from abroad in so called “political activity,” which in essence was public policy work. The law provides for a complex reporting mechanism and harsh sanctions for both CSOs and their founders and even for persons who participate in activities carried out by these organizations.

Many media portals with questionable reputation that used to publish or repost critical articles about CSOs became inactive after the change of government in June 2019 (for example, www.actual.md or www.today.md). These web portals used to publish materials favorable to the government led by the Democratic Party of Moldova and hostile to the opposition and had been engaged in smearing campaigns against civil society. Some of them went back to life after the dismissal of the SANDU Government.

IN BRIEF

On **27 January 2020**, the governments of the US and the Republic of Moldova hosted [a meeting of the working group](#) on the rule of law and good governance as part of the US – Republic of Moldova Strategic Dialogue. The meeting was attended by representatives of many authorities from both countries. Moldovan civil society was also invited. The United States and the Republic of Moldova agreed to cooperate in five specific fields: the implementation of important reforms in the justice sector, the strengthening of anticorruption institutions, the promotion of a free and active mass media and civil society, the improvement of government transparency and the protection of human rights.

On **29 January 2020**, the President of the Republic of Moldova addressed [Ziarul de Gardă](#) (ZdG) a preliminary request to refute the information described in the investigation [Vacantele de lux ale președintelui](#) (President’s Luxurious Vacations). ZdG’s investigation presented information about at least 20 vacations the President and his family had had in multiple luxurious resorts and hotels worldwide. According to the ZdG’s investigation, the vacations’ estimated cost was way bigger than the declared incomes of the President’s family. According to the President, the investigation used false information, especially the information that, in 2018, he and his family had stayed at one of the most luxurious hotels of Greece, where one night of stay can cost as much as EUR 20,000. President Igor DODON also said that the prices of vacations had not exceeded the declared personal incomes and some information was presented in a slanted way, undermining his honor and dignity. In the context of the investigation, opposition parties [requested](#) the National Integrity Authority, the State Fiscal Service, and the Prosecutor General’s Office to check the information presented by ZdG.

From **31 January through 2 February 2020**, the Legal Resources Centre from Moldova hosted the third edition of the [School of Applied Democracy](#), addressed to students

and recent university graduates. The event aimed at raising the awareness and understanding of the challenges faced by Moldova on its way toward democracy and to encourage human rights, critical thinking and civic activism among young people. The 2020 edition of the winter school Applied Democracy produced 22 advocates for democracy and human rights determined to actively disseminate the good practice learned during the four days of training.

On **13 February 2020**, the [European Union – Republic of Moldova Civil Society Platform](#) gathered at its sixth meeting, where it [adopted a joint declaration](#). The document contains multiple references to the implementation of the Association Agreement, the important results achieved in bilateral trade and the significant impact of the visa-free regime. Moldovan authorities were urged to intensify efforts to crack down on grand corruption.

On **18 February 2020**, Dumitru ȚÎRA, civil society member of the Integrity Board of the NIA, quitted. Previously, the ex-minister of Justice Oleseă STAMATE had recalled Dumitru ȚÎRA from this position, because, during the 20 October 2019 local election, he had run for mayor of the municipality of Chișinău as representative of a political party. This was categorized as political activity, which is incompatible with the position of Board member. Mr. Țîra challenged the recall order in court and said that he would step down if he wins the case in court. On 17 February 2020, the Chișinău Court [annulled the order concerning the recalling](#) of Mr. Țîra from the position of Board member on formal grounds.

On **25 February 2020**, the Council of Europe released a [report](#) on pretrial arrest in the Republic of Moldova. The analysis was based on a analysis of cases concerning arrests and covered the period of 1 January 2013 through 31 December 2018. During this period, the rate of accepted motions for arrest was 85.4%. Cassation courts granted prosecutors’ motions for

arrest in 100% of cases. The study concluded that arrest was used excessively often. Prosecutors did not offer evidence and concrete arguments to prove the presence of reasonable doubt in 13.6% of cases. Only in half of the examined proceedings they produced evidence and arguments justifying that alternatives to arrest cannot be applied. The authors concluded that changing the law would not change this practice and that judges and prosecutors had to change their practices.

29 February 2020 marked the end of the project "[Promoting the rule of law and contributing to strengthen the integrity system in Moldova](#)" implemented by the Legal Resources Centre from Moldova and Expert-Forum România, with financial support from the Embassy of the Kingdom of the Netherlands. Over 480 students, lawyers, probation officers and journalists discussed with specialists from Moldova and România about ethical dilemmas of judges. Nine public debates about justice system, democracy, integrity, and fight against corruption were held with national and international experts and attended by more than 200 students and 80 residents from various districts of Moldova. 95 judges, integrity inspectors, and prosecutors from Moldova and Romania participated in thematic conferences and trainings, which facilitated the sharing of professional experience.

On **3 March 2020**, Ms. Diana SCOBIOALĂ, [Director of the National Institute of Justice \(NIJ\) since 2015, was appointed for a second mandate](#) of five years. She received the votes of all ten members present at the meeting of the NIJ's Board. Her only shortlisted counter candidate was Mr. Valentin ROȘCA, an NIJ trainer. Under Article 9 of the Law on the [National Institute of Justice](#), NIJ Director may not serve more than one term. This prohibition—lobbied by the NIJ's leadership—was introduced in 2016. The law, however, provided for an exception for the NIJ Director in office—that is, for Ms. Scobioală.

On **25 March 2020**, the government approved a draft law on the ratification of an amendment to the loan agreement for the construction of the penitentiary of Chișinău, to increase the previously allocated loan amount from EUR 39 million to EUR 49 million. On 21 May 2020, Parliament ratified the amendment to the loan agreement. At the moment, the construction of the new penitentiary is at least five years and a half behind schedule. During 2014 – 2018, in total MDL 121.36 million were allocated for the implementation of this project and only MDL 23.1 million (19%) were spent.



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ABOUT LRCM

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

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