

Report No. 124516-MD

# **MOLDOVA**

## **Improving Access to Justice: From Resources to Results**

### **A Justice Sector Public Expenditure and Institutional Review**

2018

Governance Global Practice

Europe and Central Asia Region

The World Bank



Delivered by the World Bank in collaboration with the UK's Good Governance Fund

Document of the World Bank

## **CURRENCY AND EXCHANGE RATES**

Currency Unit – Moldovan Leu (MDL)

Exchange Rate (as of July 31, 2018): USD 1 = MDL 16.76

## **WEIGHTS AND MEASURES**

The Metric System is used throughout the report.

## **FISCAL YEAR**

January 1 to December 31

Vice President:	Cyril Muller
Senior Global Practice Director:	Deborah Wetzel
Country Director:	Satu Kahkonen
Practice Manager:	Daniel Boyce
Task Team Leader:	Amitabha Mukherjee

## ABBREVIATIONS AND ACRONYMS

ACA	Agency for Court Administration
BOQ	Bill Of Quantity
CEPEJ	European Commission for Efficiency of Justice
COE	Council of Europe
CST	Center for Special Telecommunications
DfID	Department for International Development
ECHR	European Court of Human Rights
EU	European Union
EU 11	Eleven European countries that most recently joined the EU
FMIS	Financial Management Information System
GDP	Gross Domestic Product
GOM	Government of Moldova
GPO	General Prosecution Office
HR	Human Resources
ICMS	Integrated Case Management System
ICT	Information and Communications Technology
IFC	International Finance Corporation
IMF	International Monetary Fund
JSPEIR	Justice Sector Public Expenditure and Institutional Review
JSRS	Justice Sector Reform Strategy
MIA	Ministry of Internal Affairs
MOF	Ministry of Finance
MOJ	Ministry of Justice
MTBF	Medium-Term Budgetary Framework
NAC	National Anti-Corruption Center
NDS	National Development Strategy
NIA	National Integrity Authority
NIJ	National Institute of Justice
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Co-operation and Development
OSCE	Organization for Security and Cooperation in Europe
PEP	Politically Exposed Person
PFM	Public Finance Management
PPA	Public Procurement Agency
PPL	Public Procurement Law
SCM	Superior Council of Magistracy
SCP	Superior Council of Prosecutors
SOE	State-owned Enterprise
MDL	Moldovan Leu
UK	United Kingdom
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USD	United States Dollar

## ACKNOWLEDGEMENTS

This report has been jointly prepared by a World Bank team with strong and interactive support from the Government of Moldova.

The World Bank team comprised Amitabha Mukherjee (Lead Public Sector Specialist and Team Leader), Constantin Rusu (Public Sector Specialist), Ramesh Siva (Lead Information Officer), Eva Melis (Counsel), Alexandra Solomatova (Analyst), Susan Padilla (Program Assistant), Viorica Strah (Program Assistant) and a team of Consultants comprising Damir Kaufman, Sanjay Suda, Olga Schwartz, Danijel Marasovic, Marinos Skempas, Dabin Oh, Souad Abid and Matthew Mingey. Some inputs were provided by a team from Ernst and Young Quantitative Economics and Statistics (QUEST) comprising Daniel Mullins (Team Leader), Rene Aubourg, Menuka Ban, Ashley Burke, Jack Cove, Edmond Jimngang, Shreepriya Poudel and Chad Smith.

In Moldova, special thanks go to the Ministry of Justice and its Agency for Court Administration; the Superior Council of Magistracy; the Supreme Court of Justice; the General Prosecution Office; the National Institute of Justice; the Legal, Appointments and Immunities Parliamentary Commission; the International and European Law Department of the State University of Moldova; the Center for Special Telecommunications and the e-Government Center.

The team thanks numerous representatives of Moldova's development partners who contributed with advice, insights and access to their reports and studies, especially the Delegation of the European Union to the Republic of Moldova; the EU ATRECO project in Moldova; the Council of Europe (Office in Chisinau); UNDP Moldova; the British Embassy Chisinau; the U.S. Embassy Chisinau; USAID Moldova; U.S. Treasury; and ABA-ROLI Moldova. The team thanks representatives of civil society who contributed their insights and shared their reports, including the Institute for Public Policy; the Legal Resources Center of Moldova; and the Institute for Strategic Initiatives.

The team benefited from strategic guidance from Mmes./Messrs. Satu Kristina Kahkonen (World Bank Country Director for Eastern Europe), Anna Akhalkatsi (World Bank Country Manager for Moldova), Alexander Kremer (former Country Manager for Moldova), Carolina Odobescu (Senior Country Officer, World Bank Office Moldova), Elisa Gamberoni (Senior Economist, Macroeconomics, Trade and Investment), Marcel Chistruga (Economist, Macroeconomics, Trade and Investment Global Practice), Adrian Fozzard (former Practice Manager, Public Sector and Institutions/Europe and Central Asia, Governance Global Practice), Daniel Boyce (Practice Manager, Public Sector and Institutions/Europe and Central Asia, Governance Global Practice), Faruk Khan (Program Leader), Lalita Moorty (former Program Leader) and David Bernstein (Lead Public Sector Specialist, Governance Global Practice).

The team expresses its gratitude to Moldovan counterparts for coordinating field visits and for the participation of their regional and local representatives, and to judges and officials of all tiers of Moldova's judiciary.

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## Executive Summary

***Moldova's reformers have long sought to strengthen the rule of law including the independence, efficiency and integrity of its courts.*** They have persevered through turbulence, conflict and economic headwinds, as Moldova confronted persistent challenges in its transition from a planned economy to a market-oriented democracy. Despite a sharp decline in poverty, it remains one of the poorest countries in Europe. The European Union and multilateral partners have long supported Moldova in transitioning to sustainable and inclusive growth, through strengthening multi-party democracy, macroeconomic management, public institutions, the rule of law and human rights.

***State capture is pervasive.*** Oligarchic interests and elite reluctance to reform a political system that serves their interests define Moldova's political economy. Nearly USD20 billion was reportedly laundered through Moldovan banks in recent years and nearly USD1 billion (about 15 percent of GDP) was stolen in a 2014 corruption scandal: investigations are still ongoing. Successive governments promised to combat corruption and transform the judiciary, the prosecution and the police into professional, rule-based entities functioning with integrity and public trust; little has changed on the ground.

***A well-functioning justice sector is critical for good governance, reducing corruption and efficient delivery of public services.*** For this report, Moldova's justice sector means the court system, the Superior Council of Magistracy (SCM), the prosecution system, the General Prosecution Office (GPO), the Ministry of Justice (MOJ) and selected executive branch and independent entities providing justice-related services. The SCM is Moldova's independent self-regulating body for the judiciary, overseeing judges' appointments, transfers and promotions. Following the adoption of a 2016 law on judicial reorganization, the judiciary consists of twenty courts which handle civil and criminal matters. The general jurisdiction courts comprise fifteen first-instance district courts, four appellate courts and a Supreme Court. Moldova has about 2,600 judges and court staff. The prosecution is constitutionally independent: the GPO directs investigations, orders arrests and oversees all criminal prosecutions. Major reforms have targeted the GPO but concerns over prosecutorial independence remain. The National Anti-Corruption Center (NAC), investigates high-profile corruption cases. The NIA (National Integrity Authority) and the Anti-Corruption Prosecutor Office were created as new entities to attack entrenched corruption. The NIA focuses on investigating officials' conflicts of interest and verifying their asset declarations, while the NAC exclusively targets corruption cases. The MOJ and its Agency for Court Administration (ACA), in the executive branch, play key roles in the administration of justice: among other things, the MOJ drafts and submits proposals for justice sector reforms and monitors and evaluates justice sector performance. The National Institute of Justice (NIJ) conducts in-service training of judges and prosecutors, as well as those who contribute to justice administration, and trains candidates for judgeships and the prosecution. The Union of Lawyers in the Republic of Moldova (UAM), the national bar association, lists about two thousand practising lawyers. Other important non-state justice system actors include university law faculties, non-governmental organizations and Moldova's development partners.

***An ambitious judicial reorganization law took effect on January 1, 2017.*** Before that date, there were 48 first-instance courts (including 4 in Transnistria) and several courts of special jurisdiction. The 2017 law merged most courts. Two specialized first-instance courts (Military Court and Economic Court) were closed and all five former Chisinau municipal courts were merged into one. Each court in Moldova now has at least nine judges. This reorganization and consolidation of the judicial network is expected to cost MLD1.18 billion (USD60 million). The Government expects this investment to pay off in seventeen years, with court optimization expected to generate annual savings of MLD45.3 million.

***Moldova's National Development Strategy "Moldova 2020", approved by law in 2012, identified justice reform as a strategic priority.*** Moldova adopted an ambitious Justice Sector Reform Strategy (JSRS) for 2011-2016 (extended to 2017). The Strategy was designed as a country-owned program of

justice sector reforms, centralizing donor support. It seeks to modernize and upgrade seven pillars: justice system; criminal justice; access to justice and enforcement of court decisions; integrity of justice sector actors; role of justice in economic development; respect for human rights in the justice sector; and a well-coordinated, well-managed and accountable justice sector. JSRS implementation relied on donor funding and required entities to prepare strategic development and funding plans aligned with Strategy priorities, but its implementation was impeded by challenges such as insufficient high-level commitment to actual actions, low technical capacity and poor donor coordination. A 2015 assessment of JSRS implementation showed mixed results, as did a 2016 EU assessment.

***In 2017, the MOJ, with contributions from justice sector stakeholders, began to design the next Justice Sector Reform Strategy for 2018-2021, but the announcement of elections to be held in early 2019 has put this work on hold.*** The draft strategy aims to consolidate and continue the reforms implemented during 2011-2017, to build a modern justice sector, including a new legal and institutional framework and increasing efficiency, quality and access to justice. These objectives are to be achieved through three strategic directions: (a) improving transparency, quality of decisions and access to justice; (b) strengthening justice actors' independence, self-governance and responsibility, and (c) moving towards an efficient and modern justice sector. It appears that work on the Strategy will resume after the 2019 elections. However, as this report and others show, the key challenge confronting Moldova's justice reformers is not planning and strategizing: it is implementing the reforms already begun.

#### *Performance And Its Constraints*

***A series of court user surveys were conducted in late 2017 as part of the preparation of this report; the survey findings have significant implications for policy and reform design and implementation.*** The surveys covered (a) citizens, (b) businesses, (c) professional users of judicial services (notaries, lawyers and bailiffs) and (d) justice sector employees (judges, prosecutors, court staff and prosecutor staff). The surveys explored these users' actual experiences and perceptions on courts, corruption and judicial reform (Annexes 1-4 highlight key findings):

- *Prosecutor's offices and courts are regarded as the ones most needing reform.*
- *Perceptions of the performance of Moldova's courts differ between citizens and businesses on the one hand, and professional users of court services and justice employees on the other.* Respondents who have actual experience with courts have different views about court performance: 76 percent of the general public and 76 percent of the business community expressed negative views. Most respondents across groups tend to state there have been no changes on the ground during 2015-2017.
- *46 percent of citizens and 47 percent of businesses feel that corruption has increased.* However, only 19 per cent of professional users and 14 percent of justice sector employees had similar views, reflecting greater optimism about anti-corruption from those 'within' the system. Citizens and businesses believe the prevalence of corruption is due to corrupt persons' impunity and corruption as a social tradition. 20 percent of citizens reported having paid a bribe, personally or through others. Among citizens who had actually used courts, the figure is higher.
- *More than 60 percent of citizens and businesses feel that an ordinary citizen or a businessman is unlikely to get a fair trial.* And while satisfaction with access to courts, prosecutor's offices and bailiffs is low, notaries receive more positive assessments.
- *On transparency, notaries receive broadly positive assessments while courts and prosecutor offices receive the most negative responses from citizens and businesses.* Citizens are most informed about notaries' work and least informed about prosecution and bailiff services.
- *10 percent of citizens report facing violations of their rights or of their family members during participation in court proceedings.* Respondents were mainly dissatisfied with judges' expertise. 45

percent of litigants were not satisfied with the length of time taken for case handling. Citizens and businesses who had actual experience with courts gave more negative responses about courts' functioning compared to those who had not.

- *Courts, prosecutor offices and bailiff services receive low efficiency ratings from citizens and businesses who are parties to court proceedings.* Judges and court employees reported an average of 40 hearings per week, with half these hearings adjourned.
- *Justice reform is ranked fourth in importance by citizens behind reforms in healthcare, pension and education.* Citizens state that judges' specialization, simpler procedures for small cases and reform of courts and prosecution constitute the most important justice reforms. Less than 30 percent of employees and professional users consider that ongoing reforms have had a positive impact.
- *There are no significant gender-related differences in citizens' responses about justice service quality and transparency, but low-income groups have lower awareness about court functioning compared to higher-income groups and feel that the judicial system is costly and opaque.*
- *The survey results are complemented by a snapshot of Moldova's justice system performance (Annex 5 - Justice At A Glance) which synthesizes data from numerous publicly available sources.*

***State capture undermines trust in public institutions.***<sup>1</sup> Further research – beyond the scope of this report – on patterns of enterprise and bank ownership and on the finances of politically exposed persons (PEPs) from sources such as the Panama Papers could throw more light on the links between PEPs, state capture, political control, illicit financing flows and corruption. The billion-dollar banking scandal shone a spotlight on state capture, corruption and money-laundering. Lack of trust in the justice sector reflects citizens' and businesses' broader distrust of the state.

***Despite numerous new laws, justice and anti-corruption reform implementation remains lackluster, with some reforms compromised or throttled from inside the system.*** Entrenched interests resist efforts to make the system more transparent, accountable and predictable – one with a more rational, performance-based distribution of resources across the system. Judges' appointment and promotions are not perceived as strictly following prescribed criteria and rules. Prisons are a sensitive issue, with investigative reports documenting how organized crime and property capture appears to be led from inside prisons. If reforms are to succeed, state capture and corruption – the binding constraints to improving justice performance - need to be addressed first.

***Access to justice for vulnerable groups – especially for women and girls - remains a key concern.*** Access constraints for vulnerable groups and lower mobility among rural populations, combined with longer distances to travel and poor transport have increased concerns about the impact of the planned court consolidation on access. Rural and remote areas account for 57 percent of Moldova's citizens and 84 percent of its poor. Access is a particular concern for women. A 2011 UN study found that 63 percent of women had experienced psychological, sexual or physical violence from their husband or partner. Rural, elderly, separated or divorced women are at higher risk of experiencing violence. The economic situation and domestic violence are thought to be key reasons for persistent trafficking of women: more than 25,000 persons are estimated to be trafficked annually, including children and juveniles.

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<sup>1</sup> Cristina Gherasimov, "Moldova: The Captured State on Europe's Edge." Chatham House, March 8, 2017.



## ***Recommendations***

1. *Address feedback on performance and corruption captured in the 2017 user surveys through targeted actions and investigations (including prosecutions of justice sector officials and staff for corruption), publicize progress annually and repeat surveys every two years.*
2. *Respond to investigative reports on organized crime originating in prisons by launching a program for non-incarcerative options for low-risk offenders jailed for misdemeanours and other non-violent petty offences<sup>2</sup>, leaving high-risk criminals in prison with more intensive attention.*
3. *Initiate (or expand, as the case may be) targeted programs to improve access to justice for vulnerable groups such as women, girl children, juveniles and minorities, in collaboration with civil society and development partners – and publish the results on a quarterly basis.*

### *Court Budgeting and Expenditures*

***A major shift in budgetary responsibilities from the MOJ to the SCM took place in 2013-14.*** Since 2014 most courts and the NIJ are subordinated to the SCM for budget planning, approval and execution, financial management, procurement and human resources. Prosecution entities fall under various budgetary structures: the GPO is a direct budget entity, but the Anti-Corruption Prosecutor's Office and Territorial Prosecutors' Offices are subordinate to the independent Superior Council for the Procuracy (SCP) for fiscal and budgetary purposes. The National Anti-Corruption Center (NAC) draws up and submits its draft budget directly to Parliament for approval to ensure its independence. The SCM introduced significant financial management and control reforms in 2015. It is still the responsibility of MOF and Parliament to make trade-offs between priorities. Article 23 of the Budget Law still requires the MOJ to provide organizational, material and financial support to the judiciary. To fulfil this role the MOJ's Department of Judicial Administration (DJA) was reconstituted in 2016 as the Agency for Court Administration (ACA), subordinated to the MOJ. The SCM exercises fiscal and budgetary oversight for all first-instance and appellate courts. External financial oversight over justice institutions (in addition to Parliament) is exercised by the MOF and the Court of Accounts (the supreme audit institution).

***Moldova's justice expenditure increased in nominal and real terms during 2010-2016.*** In total, the justice sector wage bill increased by 170 percent from 2010 to 2015. Capital spending is erratic and saw a sharp overall decrease in 2015 after increases in investments and repairs in previous years. Justice spending grew faster in 2013 than that of any other sector; since then it declined as a percent of GDP and of all government expenditures. Overall, Moldova's justice sector spending appears elastic and sensitive to demands of other sectors of government expenditures. Moldova's real justice expenditures are the lowest in Europe. Salaries account for around two-thirds of judicial expenditures in Moldova, consistent with international patterns. The wage bill for judges is rising rapidly. Capital spending is erratic and ad hoc, in contrast to the steady wage-bill increase. The erratic pattern of capital spending suggests that courts and SCM have difficulty in long-term planning for capital spending. Overall, operating expenditures, including capital repairs, decreased since 2013, suggesting a continuing budgetary squeeze.

### ***There are five key issues in court budgeting and expenditure management:***

- ***Justice sector statistics.*** High-quality statistics are necessary for formulating realistic strategies and policies, setting targets, monitoring outcomes, and for making evidence-based decisions about allocation and management of scarce resources. It has been difficult to gather accurate data on caseloads and spending for this report. Different parts of government sometimes possess different

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<sup>2</sup> For example, through a PPP-based approach to rehabilitating such low-risk offenders and reducing recidivism, following good practices from countries such as Australia, the UK and the USA.

data on the same issue; this makes it difficult – and results in delays – in analyzing expenditures, staffing and caseloads. None of this requires significant capital investment to address. However, it does require leadership and commitment – for silos to be broken, and for facilitating more open communication and data-sharing between entities key to justice sector modernization, among them the SCM, MOJ, GPO, MOF and the National Bureau of Statistics.

- *Reliance on line-item budgeting* - justice sector budgeting, including in the courts, is still based on the “line-item” approach. Individual courts budget based upon line-items, often across entire spending units, with little breakdown by activity. Spending budgets are controlled monthly; annual spending limits are converted into monthly allotments across spending units.
- *Build-up of arrears* - justice sector spending units are known to have run up arrears in past years, but there is no accurate estimate of the volume of arrears across the sector, or by court.
- *Accounting* - court accounting was intended to be automated for accuracy and transparency, but implementing accounting software has posed a significant challenge.
- *Reprogramming authority* - greater budget flexibility could improve court efficiency. Currently, judicial entities have little authority to reallocate (reprogram) resources between economic articles within an individual spending entity or across spending entities without the approval of the SCM.

### ***Recommendations***

1. *It would be desirable for the SCM, GPO, MOJ, MOF and the National Bureau of Statistics to rapidly improve basic statistical information on the justice sector, to enable evidence-based policy decisions.*
2. *It would be desirable for the MOF and SCM to develop guidelines to improve budget methodology and capital investments.*
3. *To improve productivity and control personnel costs, it would be desirable for the SCM to develop and publish criteria and procedures for granting awards and bonuses for jubilees, professional holidays and non-working holidays in the judiciary.*
4. *It would be desirable for the MOJ and the SCM to estimate the stock of arrears built up by the MOJ and the courts, and to develop a path and a timeline to reduce – and then eliminate and prevent build-up of – such arrears.*

### ***Strengthening Human Capital***

***The sector’s human resource management (HRM) process involves various entities responsible for managing personnel.*** Key players in the HRM function include the NIJ (responsible for training judges and prosecutors), the SCM (which makes policies and strategic decisions on HRM) and the MOJ (responsible in part for budgeting for courts and managing the deployment of judges). Several JSRS objectives and action plans directly concern justice sector HRM.

***The court reorganization is expected to lead to promotions, transfers and terminations, unavoidable in a restructuring of this scale and ambition.*** The number of persons served (per judge) across regions highlights the uneven distribution of service. For example, in 2016, one judge served a population of 8,100 in Chisinau while Leova had one judge for 26,900 persons. Regional differences in deployment of justice resources (in this case, judges) can be appropriately driven by differences in incidence of the need for judicial services, based on different population and economic conditions. However, these disparities are extreme in Moldova, and need to be explored in more detail to determine their implications for access to justice and the efficiency of the court network.

***The court reorganization provides an opportunity to significantly improve sector efficiency: over time, the reorganization will change the distribution of judges and court staff across Moldova, in line with fewer court locations and increased application of technology.*** The transition to an e-court system could

dispense with travel by enabling electronic filing and access. Effective implementation of e-justice and e-government is therefore crucial to improved justice services.

***Appropriate incentives for justice personnel – if well-designed - could resolve some corruption and HRM challenges.*** According to the JSRS, despite the new human resource management system, low civil service salaries remain an issue. Wage increases have sought to promote judicial independence and make judges less corrupt. In 2013 and 2014, judges received 100 percent salary increases and 10 percent increases in 2015 and 2016. One-third of judges are said by the MOJ to have been replaced since 2010 to reduce corruption. It is too early to assess whether these steps have decreased court corruption: the 2017 user surveys' findings on corruption do not reflect this.

***The selection and promotion of candidates and judges is done by a selection board*** on the basis of “clear, transparent objective criteria that are based on merit.” The law describes merit as “the knowledge level and professional skills, the ability to apply knowledge in to practice, the length of experience, qualitative or quantitative indicators of work undertaken as judge, maintenance of ethical standard and other research or academic activity.” Moldova has not specified clear metrics for measuring and managing performance, making it difficult to understand what “qualitative and quantitative criteria” may be. The law does not prescribe how to address conflicts of interest, e.g. selection board members are not required to disclose perceived or actual conflicts of interest or recuse themselves from decisions on candidates with whom they have personal relationships.

***Judges' performance evaluation and management need to become more transparent, accountable and rule-based.*** Judges' performance management is addressed in a 2012 Law on the Selection and Performance Evaluation of Judges, which gives the SCM primary responsibility for evaluation and requires it to set detailed criteria for performance evaluation. Judges are subject to regular performance evaluation every three years. A 2014 assessment of the law by the Organization for Security and Cooperation in Europe (OSCE) and ODIHR at the request of the SCM found “concerns with the fairness and transparency of the system including lack of consistency in grading, insufficient reasoning of Board decisions, and a perceived subjectivity of grading”. According to a Soros-Moldova assessment, the “quality of judicial acts is the weakest point of the Moldovan judiciary.”<sup>3</sup> Soros-Moldova believes that the decisions delivered by judges often belie ulterior motives, mainly due to heavy workload and insufficient professional education. Transparent appointment and promotion of judges is important for courts' independence. The SCM's work in this field does not seem to be sufficiently transparent.

***The JSRS declared the promotion and implementation of zero tolerance for justice sector corruption as a key objective, but Moldova has a long way to go, as the 2017 surveys of court users show.*** Delays in JSRS implementation have already cost Moldova about EUR1.8 million in lost EU financial support for the justice sector.<sup>4</sup> A major red flag was the perception that the SCM shielded judges from criminal prosecution. Information systems were found to be vulnerable to manipulation and corruption. The electronic system of random assignment of cases, the Integrated Case Management System (ICMS), was introduced to limit corruption in the courts. In December 2014, an investigation began against eight employees of a Chisinau district court suspected of manipulating the ICMS between 2012 and 2014 so that certain cases (concerning large monetary claims) were allocated to specific judges. Despite the JSRS's stated zero tolerance for corruption, actual anti-corruption actions and practices do not appear to have wrought actual change on the ground.

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<sup>3</sup> Soros-Moldova. Assessing the First Year of Moldova's Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere. Working paper. Chisinau: Soros-Moldova, 2016.

<sup>4</sup> Ibid.

### **Recommendations<sup>5</sup>**

1. *Prosecution service reform should be adopted without any further delays and no amendments to laws or draft laws should be introduced that would be contrary to the opinion of the Venice Commission or that would limit the powers of the prosecutors to combat high level corruption.*
2. *A transparent mechanism for judges' selection and promotion should be put in place. The SCM's discretion should be limited. The criteria for selection and promotion of judges should be reviewed to ensure the selection and promotion of the best candidates.*
3. *The authorities should ensure that all court cases are assigned randomly and should promptly investigate and sanction attempts to interfere with the Integrated Case Management System.*
4. *The independence of the Judicial Inspection should be strengthened and the procedure of investigation of judges should be simplified by abolishing the admissibility panel and transferring its powers to the Judicial Inspection.<sup>6</sup>*

### *Justice Sector Information Systems*

***Moldova plans to modernize its justice sector information systems, but there are challenges.*** Advances in technology and good practices from neighboring countries suggest Moldova could examine smarter ICT-based solutions to the capture, corruption and performance issues identified while realizing additional cost savings. A key focus of Moldova's justice reforms is to strengthen sector ICT capability and applications to increase efficiency, access, transparency and accountability. An objective of court consolidation is to create better working conditions for judges and staff, through improved facilities and efficiency. Key challenges to harnessing ICT comprise:

- *Vision - Moldova's court consolidation – as currently planned – may not improve efficiency and access, or significantly reduce capture, corruption or costs.* A combination of opportunities offered by technological advances and specialization – already being applied in some countries - could result in fewer judges needed, faster case processing and a somewhat different configuration of court categories, generating potential cost reductions and efficiency improvements.
- *Based on caseload trends, Moldova could need fewer than 15 first-instance courts.* Countries in the region have experienced a significant increase in the number of small-value high-volume cases filed in first-instance courts. These have clogged court dockets: in Slovenia and Azerbaijan, for example, such cases account for 25-40 percent of first instance courts' caseloads. Both countries opted to simplify and automate filing and processing of such cases in dedicated courts – thereby taking these cases off the dockets of 'normal' first-instance courts. Caseloads in 'normal' first-instance courts reduced by 25-40 percent mean fewer judges and judicial staff, fewer courthouses, lower wage bills, improved electronic and physical access and greater efficiency and – over time – perhaps greater public trust.
- *Fragmentation, security, cybercrime and cyberwarfare risks - Moldova's Cloud First Policy requires all departments and agencies to utilize the cloud, but despite the cloud's substantial spare capacity, the GPO would like to implement the e-Criminal Case system (now under pilot) on its own data center.* However, digital technologies in Moldova's justice sector lack sufficient security and privacy

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<sup>5</sup> From Soros-Moldova. Assessing the First Year of Moldova's Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere. Working paper. Chisinau: Soros-Moldova, 2016.

<sup>6</sup> July 2018 amendments to the Law on SCM (i.e. after preparation of this Report) aim to strengthen the role of judicial inspectors. In addition, the Law on disciplinary responsibility of judges was amended to improve the disciplinary mechanism to address judges' misconduct.

standards, putting the government, state entities, citizens and firms at high risk of becoming victims of cyberwarfare and cybercrime. The USD1 billion bank fraud happened only weeks after the Supreme Security Council's October 7, 2014 directive to ensure information security. And in 2010, the Central Election Commission was attacked on the day of parliamentary elections.

- *Current ICT modernization plans address each sector entity individually and erroneously assume that cost savings will only arise from 'business as usual' in fewer locations.* As a result, the plan missed opportunities for greater efficiency savings by putting resources where they can make a difference. Neither does the plan utilize other avenues for efficiency gains, for example by developing solutions in coordination with relevant justice entities or leveraging existing applications and capacities (e.g. the M-Cloud). Internal user needs play a marginal role, if any, in discussions around improving performance and service delivery. Differentiated needs of external users are yet to be reflected in sector ICT tools and applications.
- *Moldova's justice ICT challenges revolve around an advanced cloud infrastructure that lacks requisite support.* Its numerous stakeholders, objectives and activities are not aligned under a single ICT sector strategy/strategic framework or umbrella. This gap gave rise to a fragmented and complex organizational structure to coordinate justice sector ICT: the MOJ, the ACA, the SCM, the SCJ and the Center for Special Telecommunications (CST) are all tasked with the implementation of an appropriate e-justice system. Institutional competition in combination with capacity gaps across entities has prevented leveraging ICT, while low compensation hinders the ability of the Government of Moldova (GOM) to hire from the limited pool of highly-skilled ICT specialists.
- *Justice ICT funding is not aligned with outcomes or user priorities, and annual allocations hinder medium- to long-term planning.* There is no allocation for maintaining, supporting and enhancing existing systems. Moldova's justice sector also lacks an enterprise-level architecture to support high-quality and efficient resource management. Existing resources and capacities are limited and scattered across organizations, further reducing their effectiveness.
- *All courts use the ICMS – a system with little room for improvement.* ICMS's core infrastructure is old; its core technology – NET V2.0 – is outdated and not web-based, hence court users cannot track case progress. ICMS's algorithm for random case allocation to judges has been breached in the past adding to the existing lack of trust; case registration sees inconsistencies in determining case complexity and duplication of registration efforts. And there is user resistance to ICMS re-design or re-development due to the fear of add-ons to existing complexities. Started in 2017 USAID's "Open Justice" Project is providing support to: a) upgrading the functionality of the current ICMS, and b) integration of the updated ICMS that will run on current software with other e-governance platforms and applications (i.e. e-Filing). Programming of 30 updates to the ICMS has been completed, while seven stages of ICMS development are foreseen. USAID expects all seven stages to be programmed by September 2018.
- *Features available for other public services, such as e-filing and e-signature, are currently under implementation.* In 2017 the e-filing system (part of ICMS) was successfully tested in one the Chisinau courts and MOJ decided to extend testing to all courts from Chisinau, including the Appeal Court. However, the uptake is low and court decisions still need to be printed and physically signed by the judge to become legally binding.
- *Regularly, crowded facilities lead to hearings in judges' offices, where they cannot benefit from existing audio recording systems and uploaded to ICMS* raising questions about transparency and integrity. Where recorded, recordings suffer from low quality due to a lack of directional microphones.
- *A new GPO "Register of Criminalistics and Criminological Information", the so-called "e-Criminal Case" – was developed with UNDP support in 2016 and is now implemented by the GPO nationwide.* It envisions workflow automation and connection to other government systems to facilitate investigations. However, more than 40 of 54 GPO offices suffer from poor quality of local area

network cabling, low capacity of local switches and electricity wiring that is old and of poor quality. Further, *e-Criminal Case* does not have a disaster recovery facility and its server racks are installed in an unsecured storage room inside the GPO.

- *Other bodies, such as the SCM and civil registries, lack their own systems support.* In the case of SCM, examination and performance records of judges cannot be safely stored.

### ***Recommendations***

1. *To ensure that ICT services and reforms address public concerns about access, transparency and accountability, it would be desirable to set up a consultative forum with representatives from all stakeholders, civil society and the private sector, to gather feedback.*
2. *Review the 2017 and other court user survey findings on ICT issues and – in combination with feedback and suggestions received from the forum – identify the top three priorities with clear milestones and results indicators for the next twelve months.*
3. *Review compliance of justice sector (e-)services with ethnic and linguistic diversity and ensure that diverse needs and demands – especially those of vulnerable groups such as women, elders, juveniles and disabled persons - are reflected in current and future initiatives.*
4. *Develop a realistic, costed and sequenced Justice Sector ICT Strategy once there is certainty about distribution of functions and responsibilities between the MOJ and other sector entities.<sup>7</sup> Not making the latter a prior condition to the development of an ICT Strategy will likely lead to disconnects with and disruptions to reform implementation.*
5. *Define the requirements for an enterprise-level resource management system, i.e. HRMIS and FMIS (building on whole-of-government systems, not as stand-alone systems), to move away from manual operations, strengthen control and reporting and improve accuracy.*
6. *Install an enterprise-level database management system and standardize the development platform, including all separate systems currently within the MOJ, including all registries.*

### ***Physical Facilities***

***Until 2016 there were 44 first-instance courts (including two specialized courts for military and commercial affairs) and four Courts of Appeal; today, 15 first-instance courts of general jurisdiction run from insufficient and crowded facilities.*** Of the original 48 courts, 29 had less than seven judges each, while 10 had fewer than five judges. Little has changed on the ground: courthouses are crowded and are short of hearing rooms, raising questions about efficiency, transparency, integrity and accountability. Lack of (clear) signage, elevators, canteens and toilets as well as access shortcomings result in users who are poorly informed and not treated well.

***MOJ estimates that about USD60 million<sup>8</sup> (MDL1.5 billion) is needed to finance the reorganization of the judicial map as originally envisaged.*** Annual cost savings are estimated at MDL45.3 million and the court consolidation is expected to pay for itself within 17 years. The estimated amount is for new constructions, renovations, extensions, furniture and equipment; it underestimates the true cost of this model of consolidating the court network (e.g. Moldova does not yet have energy efficiency standards for its courthouses and other justice physical infrastructure, and none of its courts comply with national or international fire protection standards). The estimated cost of MDL1.5 billion does not include the

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<sup>7</sup> Preliminary cost estimates for developing and implementing a justice sector-wide ICT strategy and system are in a technical report on ICT issues, shared with the MOJ and SCM in 2017.

<sup>8</sup> Legal Resources Center of Moldova: Feasibility study for Court Optimization, last accessed on August 8, 2017:

cost of upgrading ICT, land acquisition (where needed), or demolishing existing buildings. However, funding is yet to be identified, and no donors have yet committed resources to finance court infrastructure. Instead of relying on its own scarce resources or donors to come in, it would be desirable for justice sector leadership to first reduce the overall amount needed, including by following peer country examples. For the financing eventually needed, innovative thinking could narrow the funding gap.

***Without thinking through some of the recommendations in this report, it is difficult to estimate the cost and time needed for the envisaged renovations, additions and constructions of courthouses in pursuance of the court consolidation.*** Linked to the consolidation are permit requests, conformity with regulations and standards, energy efficiency and safety concerns, as well as procurement of services and goods. The total average time needed to complete the design process – based on EU countries - is estimated at 14 to 20 months and design costs are estimated at around USD20 per square meter or up to five per cent of construction costs. The total average time needed to construct a new court building of 2,000 square meters is estimated at up to three years, while the total average time needed to rehabilitate an existing building of 2,000 square meters may need only a year. The average cost to construct a new building, or to add on or extend an existing building are estimated at USD580 (EUR519) per square meter in Chisinau and USD505 (EUR451) per square meter elsewhere. Preparing land for construction will add about USD60 (EUR55) per square meter to these costs. Moldova is yet to develop standard requirements for court buildings. And major renovations are usually more time-consuming than new construction, as design changes are common. Cost estimates per square meter may show significant variations depending on site-specific conditions and circumstances.

***Governments significantly underestimate the time and cost to complete design and building permit procedures before actual construction can even begin:*** these processes can and do take longer than the estimated nine to twelve months to get from concept to working drawings and final Bills of Quantity (BOQs). Public procurement – key to financing information systems and physical facilities efficiently and transparently – has been a concern for some years. Recent developments and changes to the legal framework for public procurement have led to improvements, but much remains to be done. On May 1, 2016, a new PPL entered into force, incorporating fundamental EU principles in public procurement.

### ***Recommendations***

- 1. Review the 2017 and other court user survey findings on physical facility issues and – in combination with feedback and suggestions received from the forum – identify the top three priorities with clear milestones and results indicators for the next 12-24 months.*
- 2. Undertake a comprehensive review of the national legal framework to harmonize it fully with the provisions of the CRPD (Convention on the Rights of Persons with Disabilities). Court consolidation will need a realistic plan (as required by law) and estimate of the costs of retrofits and repairs to existing courthouses. It will be equally critical to do the “right thing” by making informed decisions to prioritize resource allocation to improve access for people with disabilities. An audit of actual CPRD compliance on the ground is needed to estimate the cost and time for priority retrofits.*
- 3. Review the current plan to reorganize the judicial map, taking account of international good practices to identify further streamlining and cost savings, such as designating a single court with territorial jurisdiction across Moldova for small-value high-volume civil enforcement cases and online filing capability, following EU good practice.*

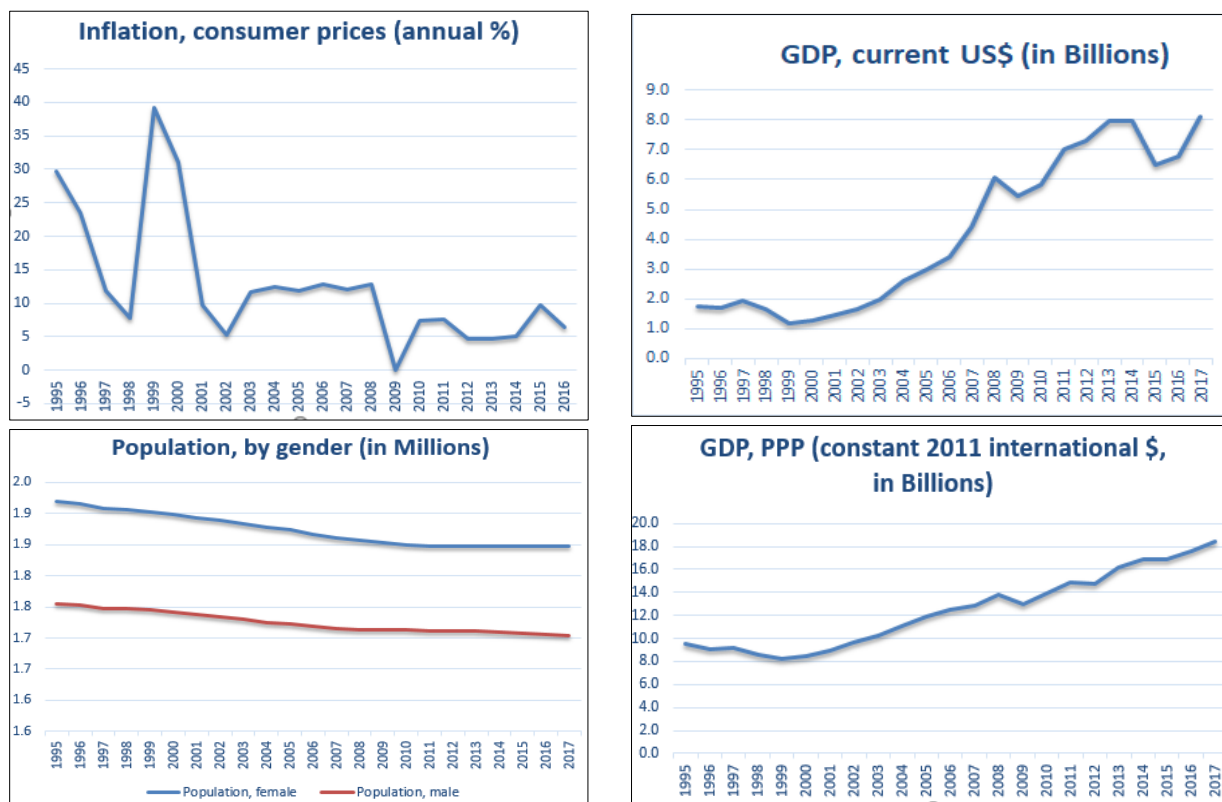
## Chapter One

### SETTING THE STAGE

#### *Economic Context*

**1.1 Moldova, an agricultural country in Eastern Europe, has confronted persistent challenges in its transition from a planned economy to a market-oriented democracy.** Following the collapse of the former Soviet Union, Moldova experienced a prolonged economic and social decline. Poor living standards were exacerbated by the knock-on effect of the 1998 financial crisis. Conflict in the Transnistria region, then home to Moldova’s key industrial enterprises, flared in the nineties. Nonetheless, Moldova achieved steady average annual GDP growth of 5 percent since the early 2000s. The economy suffered a recession in 2009 due to the global economic crisis and again in 2015 due to agricultural shocks and a bank fraud<sup>9</sup>, the latter highlighting pervasive corruption and financial sector vulnerabilities. However, a rebound in production and increasing public consumption led to growth of 4.1 percent in 2016. Figure 1.1 captures key economic and demographic trends from 1990-2017.

**Figure 1.1: Moldova: Key Trends (1990-2017)**



Source: World Bank

**1.2 Despite a sharp decline in poverty, Moldova is one of the poorest countries in Europe.** The overall poverty rate declined to 11.4 percent in 2014 and unemployment fell from 8.5 percent

<sup>9</sup> World Bank, Moldova Country Profile, <http://www.worldbank.org/en/country/moldova/overview>.



in early 2000 to 4.2 percent in 2016. Emigration caused Moldova's population to fall from 3.7 million in 1990 to around 3.5 million in 2017, and the population continues to decline by about 1.5 percent annually. Nominal GDP per capita at USD1900 is the lowest in Europe.

**1.3 After a decade of market reforms from 1991 to 2001, Moldova was the only country in South-East Europe which brought the Communist Party (PCR) back to power.** The PCR won the 2001 election on a promise to restore law and order, gaining 71 out of 101 parliamentary seats. PCR was re-elected with a comfortable majority in 2005. However, after violent mass protests in 2009, the PCR lost power to a pro-European coalition government.

**1.4 Beginning in 2009, pro-European governments received significant European Union (EU) support for institutional reforms.** Coming to power in 2009 after violent mass protests, the new coalition vowed to fight corruption, strengthen Moldova's finances and reform its legal and judicial system. European integration anchored the new Government's policy reform agenda and Moldova looked set to proceed with reforms and European integration. It signaled its intention to pursue deeper European integration when it implemented the first three-year Action Plan under the European Neighborhood Policy and signed an Association Agreement and a Deep and Comprehensive Free Trade Agreement (DCFTA) in 2014. The EU granted Moldovan citizens visa-free travel across EU member-states.

**1.5 Multilateral partners agreed to provide policy-based financial support to transition Moldova to sustainable and inclusive growth, provided institutional reforms continued.** Prior economic drivers, including remittances and pensions, do not appear to be sustainable any longer. Much of Moldova's pre-2015 growth was consumption-driven. Future growth will depend on private-sector job creation.<sup>10</sup> Continued migration of the working-age population, dependence on external markets and remittances, an inefficient public administration, unreliable public services, corruption and state capture make Moldova vulnerable to external shocks and internal challenges. Financing agreements with partners focus on strengthening multi-party democracy, macroeconomic management, public institutions, the rule of law and human rights.<sup>11</sup>

#### *Governance Context*

**1.6 Moldova is a constitutional parliamentary democracy with three equal branches of power: the executive, the legislature and the judiciary.** Moldova's executive divides functions between the President and the Government, led by the Prime Minister. Legislative function is vested in the unicameral Parliament. The judiciary is constitutionally independent. The Government's ability to function effectively is diminished as factionalism hindered cooperative inter-ministerial work and law-enforcement institutions were used in corporate raids and to take over property. Corruption persists in public sector especially within law enforcement, the judicial system, the public service, the educational system and the legislature.

**1.7 State capture characterizes Moldova today: pervasive oligarchic interests and the elite's unwillingness to reform a political system that serves their interests define the country's politics, policies and policy implementation.** The banking system has been a favourable environment for money-laundering. Nearly USD20 billion was reportedly laundered

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<sup>10</sup> Moldova Country Partnership Framework (FY18-21), Report no. 115716-MD, The World Bank.

<sup>11</sup> The IMF approved a three-year USD178.8 million Extended Financing Facility (EFF) and Extended Credit Facility (ECF). The first review was completed in April 2017; approximately USD57.4 million has been released.

through Moldovan banks in recent years, while close to USD1 billion (about 15 percent of GDP) was stolen in a corruption scandal involving three of the country's largest banks. In 2014 the Government provided a controversial bailout from foreign exchange reserves held with the National Bank. Investigations into the banking scandal are ongoing.

**1.8 Successive governments have promised to combat corruption and transform the judiciary, the prosecution and the police into professional, rule-based entities functioning with integrity and public trust.** Despite commitments for reforms at the policy level, no substantial impact has been achieved. Recent political developments have facilitated reforms, but Moldova has a long way to go. By 2016, the Democratic Party (PDM) defeated its main rival, the Liberal Democratic Party (PLDM). Political developments thereafter facilitated reforms, but Moldova has a long way to go. By 2016, the Democratic Party (PDM) obtained the de facto control over all three branches of power surviving attempt of resistance from a fragmented opposition and appointed its Prime Minister. The Government drew up a priority list of reforms, including 69 actions on areas from rule of law and good governance to improving the business environment, implementing justice reforms and combating widespread corruption.<sup>12</sup> Reforms included the adoption of new laws on Prosecution,<sup>13</sup> on reorganizing the courts<sup>14</sup> and on integrity. The IMF program was relaunched.<sup>15</sup> However, justice reforms have often been limited to enacting laws; implementation remains a challenge.<sup>16</sup> Civil society observers have complained of lackluster anti-corruption reforms, (including of the National Anti-Corruption Center), slow investigation of the banking fraud and dilatory reforms of regulatory agencies<sup>17</sup>. Slow or stalled reforms – signalling the persistence of state capture – deteriorated Moldova's relations with main development partners. The change of electoral system, meant to preserve the power of the ruling party and its allies, has been widely criticized. At the same time, the President and the Socialist Party play their role in dividing society, calling for closer approximation with Russia and the Eurasian Custom Union.

#### *Overview of Moldova's Justice Sector*

**1.9 Moldova's justice sector comprises entities spanning the judicial and executive branches of government.** In this report, Moldova's justice sector means the court system, the Superior Council of Magistracy (SCM), the National Institute of Justice (NIJ), the prosecution system, the General Prosecution Office (GPO) and selected executive branch entities providing

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<sup>12</sup> Moldova's Priority Reform Action Roadmap – Key Measures Until 31 July 2016 at <http://dcfta.md/uploads/0/images/large/moldova-s-priority-reform-action-roadmap-key-measures-until-31-july-2016.pdf>.

<sup>13</sup> Law on Prosecution, No. 1960-VII of March 16, 2016 which entered into force on August 1, 2016, last accessed on August 31, 2018 at <http://lex.justice.md/md/363882/>

<sup>14</sup> Law No. 68 of April 21, 2016, "On the reorganization of the judicial map", which came into force January 1, 2017

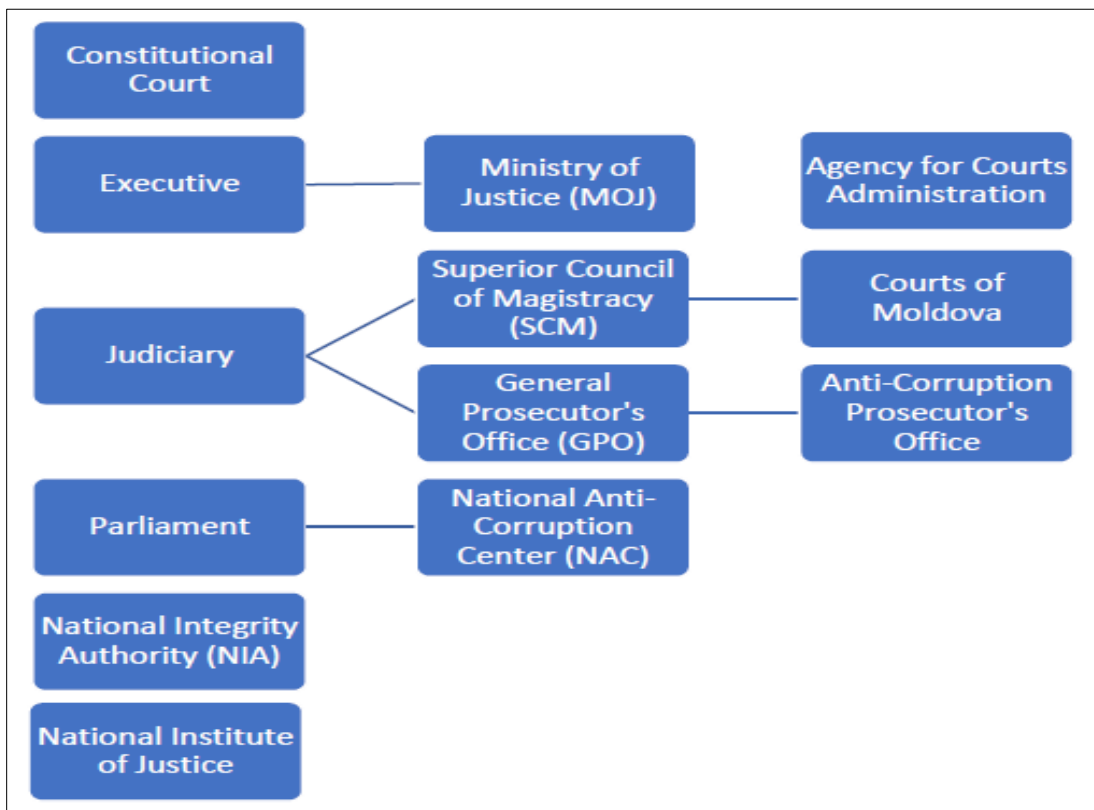
<sup>15</sup> "IMF reaches staff-level accord with Moldova for \$179M loan", [https://www.washingtonpost.com/business/imf-reaches-staff-level-accord-with-moldova-for-179m-loan/2016/07/26/89fc4e06-536c-11e6-b652-315ae5d4d4dd\\_story.html](https://www.washingtonpost.com/business/imf-reaches-staff-level-accord-with-moldova-for-179m-loan/2016/07/26/89fc4e06-536c-11e6-b652-315ae5d4d4dd_story.html)

<sup>16</sup> Monitoring report on the implementation of the Priority Reform Action Roadmap, (March-June 2016), a study by the Association for Participatory Democracy (ADEPT), Independent Think-Tank "Expert-Grup" and Legal Resources Centre from Moldova (LRCM), available at [http://crjm.org/wp-content/uploads/2016/07/Rap-Interm-Foiaia-de-parcurs-03-06.2016\\_ROM.pdf](http://crjm.org/wp-content/uploads/2016/07/Rap-Interm-Foiaia-de-parcurs-03-06.2016_ROM.pdf), last accessed on January 18, 2018

<sup>17</sup> Ibid

court-related services such as the Ministry of Justice (MOJ) and the Agency for Court Administration (ACA). Figure 1.2 summarizes the structure of the justice sector.

**Figure 1.2: Major Entities in Moldova’s Justice Sector**



**1.10 The Constitutional Court has sole authority to interpret the Constitution and resolve constitutional disputes.** It is independent of all other public authorities and bound only by the Constitution. It interprets the Constitution, confirms the results of elections and referenda, and reviews the constitutionality of laws and treaties. The Constitutional Court’s judges are appointed by Parliament, the Government, and the SCM by secret ballot. This is meant to promote the Court’s independence as the ultimate guarantor of the Constitution and rule of law. The Constitutional Court has not been considered in this report.

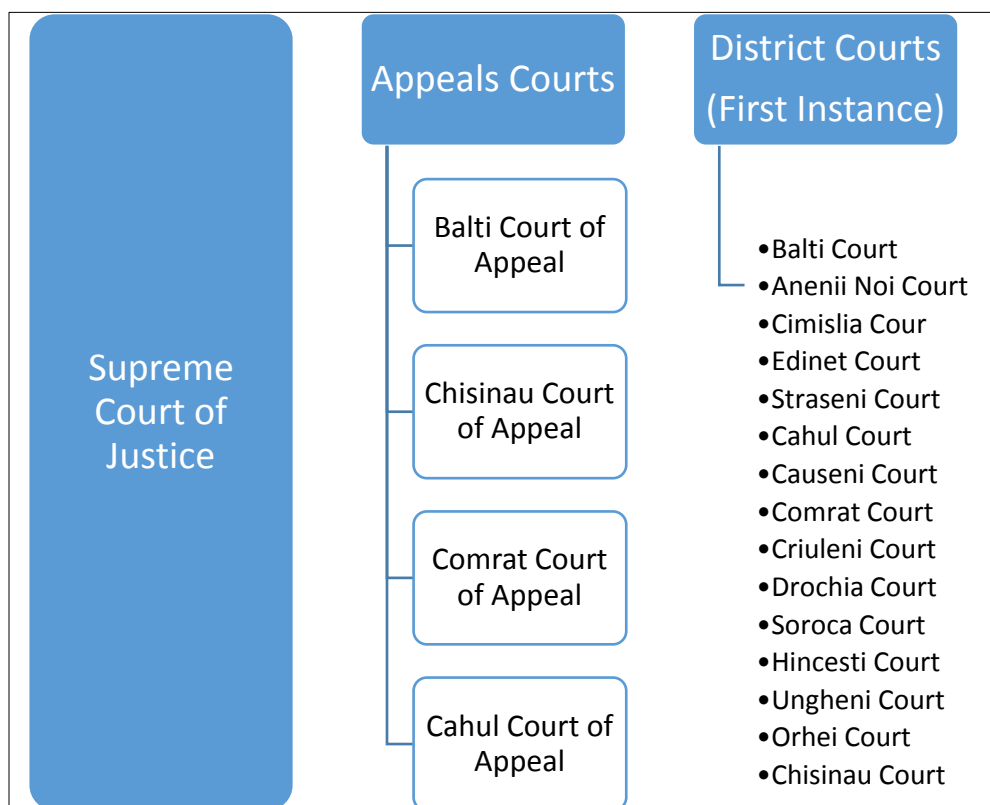
**1.11 The Superior Council of Magistracy is Moldova’s independent self-regulating body for the judiciary.** The Superior Council (SCM) oversees appointments, transfers and promotions of judges. The SCM is comprised of twelve members: three ex-officio (Supreme Court of Justice, Minister of Justice and Attorney General), six judges (elected by the general assembly of judges) and three professors (appointed by the Parliament).<sup>18</sup> The main functions of the SCM are “related to the career of judges, professional training of judges and staff of courts’ secretariats, and

<sup>18</sup> The Superior Council of Magistrates. <http://www.csm.md/despre-csm/informatia-general.html>

monitoring discipline and ethics of judges and courts' management.”<sup>19</sup> Institutionally, the Superior Council of Magistracy includes a Judicial Inspection arm and three affiliated agencies: the Performance and Evaluation Board; the Selection and Career Board; and the Disciplinary Board.

**1.12 Following the adoption of a 2016 law on judicial reorganization<sup>20</sup>, the judiciary consists of twenty courts, all of which handle civil and criminal matters.** The general jurisdiction courts comprise fifteen first-instance district courts, four appellate courts and a Supreme Court (Figure 1.3). In 2017, Moldova’s courts had about 2,600 authorized positions for judges and court staff, including about 600 judges<sup>21</sup>.

**Figure 1.3: Moldova: Courts of General Jurisdiction**



**1.13 The judicial reorganization law took effect on January 1, 2017.** Prior to that date, Moldova had 48 first instance courts (including 4 in Transnistria) and several courts of special jurisdiction. The new law merged most courts. Two former specialized first instance courts (Military Court and Economic Court) were closed and all five former Chisinau municipal courts merged into one. Each court now has at least nine judges. According to feasibility studies underlying the preparation of the new law, the reorganization of the judicial map is expected to

<sup>19</sup> “Transparency and Efficiency of the Superior Council of Magistracy.” Legal Resources Centre of Moldova, accessed at <http://crjm.org/wp-content/uploads/2014/04/Transparency-and-efficiency-of-SCM.pdf>

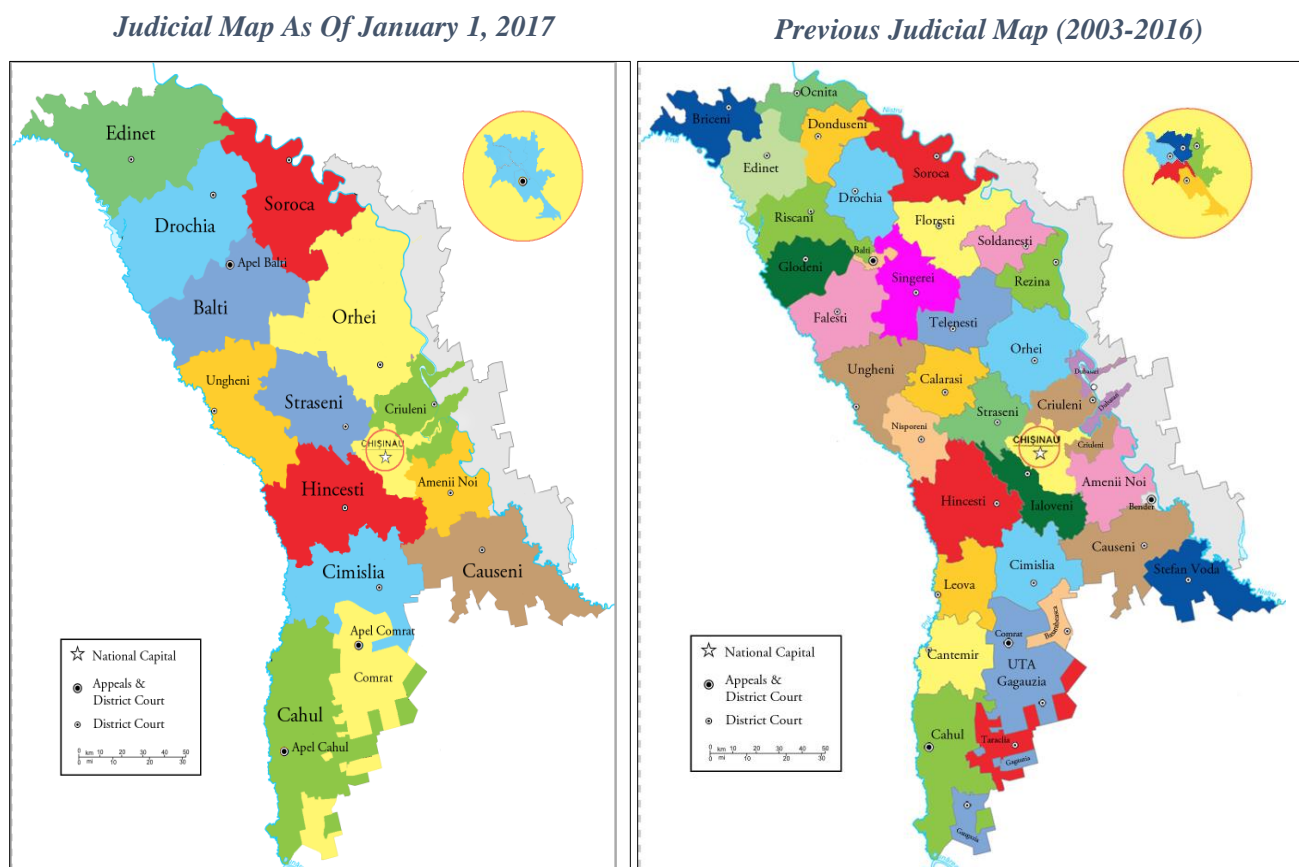
<sup>20</sup> Law No. 68 of April 21, 2016, “On the reorganization of the judicial map”, which came into force January 1, 2017

<sup>21</sup> Source: Superior Council of Magistracy.

cost MLD1.18 billion (about USD60 million).<sup>22</sup> This investment is expected to pay off in seventeen years, with court optimization expected to generate annual savings of MLD45.3 million. Figure 1.4 captures the fundamental reorganization of Moldova’s court network.

**1.14 The prosecution is constitutionally independent.** The GPO directs investigations, orders arrests and oversees all criminal prosecutions. During Moldova’s Communist period, the Prosecution was mandated to enforce strict compliance with the law, in all aspects of life. Prosecutors were given broad powers as eyes of the State, and their status was higher than that of judges. Prosecutors could stay criminal judgments and issue “decisions on ‘matters arising in the hearing of cases’”.<sup>23</sup> This structure persisted after the collapse of Moldova’s Communist government in the 1990s, with prosecutors retaining their broad unchecked mandate and contributing to stifling judicial independence.

**Figure 1.4 Moldova’s Court Network: A Fundamental Reorganization**



Source: World Bank staff estimates based on information from MOJ and SCM

<sup>22</sup> Legal Resources Center of Moldova: Feasibility Study for Court Optimization, last accessed on August 18, 2018 at <http://crjm.org/wp-content/uploads/2015/08/Moldova-Court-optimiz.pdf>

<sup>23</sup> John Pearson, “Transforming the Moldovan Prosecution Service: Can the Eyes of the State Become the Voice of the People?” *International Criminal Law Review* 12 (2012): 491-517

**1.15 Major reforms have targeted the GPO, but concerns over prosecutorial independence remain.** Reforms throughout the 1990s and early 2000s eliminated prosecutors’ powers to unilaterally issue arrest warrants and narrowed the prosecution’s authority.<sup>24</sup> Reforms culminated in a new law on the prosecution that became effective on August 1, 2016.<sup>25</sup> The law eliminates undue “general oversight powers” from the prosecutor’s office, reduces the total number of prosecutors, and increases salaries to reduce corruption. The law also revises appointment procedures to lessen political influence over appointment and promotion; for example, the Prosecutor General (PG) is now nominated by the Superior Council of Prosecutors (SCP), a body comprised of prosecutors, academics, and three *ex-officio* members, rather than by Parliament. Civil society groups criticized the appointment of the latest Prosecutor General for alleged ties to oligarchs and his rapid confirmation by the President.

**1.16 The National Anti-Corruption Center (NAC), investigates high-profile corruption cases.** The NAC, the National Integrity Authority (NIA) and the Anti-Corruption Prosecution were created as new entities to attack entrenched corruption. The NIA focuses on investigating officials’ conflicts of interest and verifying officials’ asset declarations, while the NAC exclusively targets corruption cases. However, concerns remain over their institutional independence and resources. Control of the NAC has been transferred between the executive and the parliament four times. NAC currently reports to the Parliament.

**1.17 The Ministry of Justice, in the executive branch, plays a key role in the administration of justice.** It drafts and submits proposals for justice sector reforms and monitors and evaluates justice sector performance. Its responsibilities include drafting and submitting proposals for legislative changes in the justice sector; reviewing all draft laws initiated by other Ministries; preparing and executing (together with the SCM) the judiciary’s budget; managing general courts; organizing execution of court decisions; organizing notaries; issuing special licenses for legal practice (as well as their suspension and cancellation); controlling civil registration bodies; and coordinating the implementation of laws to align Moldova’s justice system with EU good practices. Control of all local courts lay with the MOJ before 2014, when it was transferred to the SCM. Previously, the MOJ’s Department of Judicial Administration (DJA) asserted executive control over the independent judiciary’s finances. In practice, the DJA was understaffed and lacked capacity, and the SCM presented budgets directly to Parliament. In 2014, the SCM assumed control of all DJA budgeting functions and court control.<sup>26</sup> Functions relating to organizational support for courts was transferred to the Agency for Courts Administration (ACA) created under the MOJ: the ACA supports court functioning through gathering judicial statistics; administering court information systems; training court secretaries; and performing courts’ financial management and internal audit.

**1.18 The National Institute of Justice (NIJ) conducts in-service training of judges and prosecutors, as well as those who contribute to justice administration, and trains judge and**

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<sup>24</sup> Ibid.

<sup>25</sup> Law on Prosecution N 1960-VII of 16 March 2016. It entered into force on August 1, 2016.

<sup>26</sup> CRJM, *Achievements and Faults In Reforming the Justice Sector of the Republic of Moldova: 2012-July 2014. Translated select chapters*, September 2014, accessed August 23, 2017, <<http://crjm.org/wp-content/uploads/2014/09/LRCM-Achievements-Just-sector.-Translated-chapters.pdf>>

**prosecutor candidates.**<sup>27</sup> The NIJ is important to judicial operations and rule of law in that it aims to ensure ongoing legal competency, not just in national law but relevant European and international law, as well as human rights concerns. The NIJ is the only entity providing initial training to clerks and bailiffs.<sup>28</sup> Training primarily consists of classroom-style lecturing, although more practical skills-based and simulation training is being introduced.<sup>29</sup>

**1.19 The Union of Lawyers in the Republic of Moldova (UAM), the national bar association, lists 1,997 lawyers with the right to practice in 2017, excluding suspended and de-registered attorneys.**<sup>30</sup> These lawyers are increasingly disillusioned with the judicial system. In 2015, 68 percent of prosecutors and 81 percent of lawyers believed that corruption has remained the same or increased since 2011.<sup>31</sup> Lawyers are also increasingly concerned about perceived state interference and intimidation. In December 2016, the UAM criticized the prosecutions of two lawyers for making false statements, claiming that “the system inoculates fear in lawyers”.<sup>32</sup>

**1.20** Other important non-state actors in the justice system in Moldova include faculties of law of universities, non-governmental organizations and Moldova’s development partners.

#### *Overview of Justice Reforms*

**1.21 Moldova’s National Development Strategy “Moldova 2020”, approved by law in 2012, identified justice reform as a strategic priority.** Fighting corruption, improving access, and “increasing the quality and efficiency of justice” was one of seven long-term development objectives.<sup>33</sup> Justice reform is also key to Moldova 2020 commitments to improve the country’s business and investment climate.

**1.22 Moldova adopted an ambitious Justice Sector Reform Strategy (JSRS) for 2011-2016 (extended to 2017).**<sup>34</sup> The Strategy is designed as a country-owned program of justice sector reforms which centralizes donors’ support. The strategy meant to modernize and upgrade its seven key pillars: justice system; criminal justice; access to justice and enforcement of court decisions; integrity of justice sector actors; role of justice in economic development; respect for human rights in the justice sector; and a well-coordinated, well-managed and accountable justice sector.

**1.23 JSRS implementation relies on donor funding and requires entities to prepare strategic development and funding plans aligned with Strategy priorities.** To ensure internal

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<sup>27</sup> National Institute of Justice, accessed January 11, 2017, <https://www.inj.md/ro/statut>

<sup>28</sup> International Organization for Judicial Training, “About NIJ”, November 9, 2007, accessed August 23, 2017 at <http://www.iojt.org/~media/Microsites/Files/IOJT/Microsite/About-NIJ.ashx>

<sup>29</sup> UNDP, “From formal lecturing to skills building—better training for future judges and prosecutors in Moldova,” June 2, 2017 at <http://www.md.undp.org/content/moldova/en/home/blog/2017/6/2/From-formal-lecturing-to-skills-building-better-training-for-future-judges-and-prosecutors-in-Moldova.html>

<sup>30</sup> Union of Lawyers of Moldova

<sup>31</sup> CRJM, “Legal Resources Centre of Moldova, Assessing Perceptions of Judges, Prosecutors and Lawyers, October-December 2015” CRJM.org; March 29 2016, accessed on October 1, 2017 at <http://crjm.org/wp-content/uploads/2016/01/Summary-of-the-survey.pdf>

<sup>32</sup> Union of Lawyers in the Republic of Moldova, “The System Inoculates Fear In Lawyers,” January 3, 2017

<sup>33</sup> Government of the Republic of Moldova. 2012. *Moldova 2020, National Development Strategy: 7 Solutions for Economic Growth and Poverty Reduction*. [particip.gov.md/public/files/Moldova\\_2020\\_ENG1.pdf](http://particip.gov.md/public/files/Moldova_2020_ENG1.pdf)

<sup>34</sup> Ministry of Justice, *Strategy for Justice Sector Reform 2011-2016*. Last accessed October 1, 2017 at [http://www.justice.gov.md/public/files/file/reforma\\_sectorul\\_justitiei/srsj\\_pa\\_srsj/SRSJen.pdf](http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsj_pa_srsj/SRSJen.pdf)



consistency for funding justice sector priorities, the MOJ expects that the estimated costs to implement the Strategy will be reflected in sector budget requests and appropriations over several years. However, low budget capacity in the courts has resulted in a strong reliance on donor funding for Strategy implementation. From 2014-2016, the Strategy names at least thirteen external donors and implementing partners.<sup>35</sup> Donor congestion and poor donor coordination appears to have resulted in congestion and funding unpredictability. In 2015, reduced support from development partners cut the MOJ's JSRS budget by 49 percent, impacting implementation.<sup>36</sup> Implementation appears to have further been hamstrung by low technical capacity and – critically – lack of sustained and publicly declared high-level commitment to actual actions.

**1.24 A 2015 EU assessment of strategy implementation showed mixed results.**<sup>37</sup> Important laws were passed to strengthen judicial independence, including on prosecution, court system reorganization and integrity. However, these laws are yet to be fully implemented. Further, the assessment showed that 71 percent of planned goals were achieved, including 58 percent of actions under the “Criminal Justice” pillar and 53 percent under the “Access to Justice” pillar.<sup>38</sup> Reviews suggest insufficient focus on measuring results after laws are passed. For example, while Parliament approved new disciplinary procedures for judges, the more complex rules have increased delays and deterred disciplinary panels from filing new cases. Budgetary issues and political gridlock have delayed physical infrastructure projects such as courthouse rehabilitation and renovation. Political instability has compounded financing and implementation challenges.

**1.25 A 2016 EU assessment also disclosed a mixed picture.**<sup>39</sup> 323 (69 percent) actions out of 466 were assessed as implemented, 100 (21 percent) partially implemented, 36 (8 percent) unimplemented and 7 (2 percent) assessed obsolete. This assessment reflects marginally improved reform performance: 56 percent of actions were implemented in 2012 and 60 percent in 2013. However, other assessments, including by NGOs, suggest that these findings may be optimistic.

**1.26 A 2016 assessment of JSRS implementation by Soros-Moldova<sup>40</sup> recognizes five key achievements and concludes that though there has been progress in implementing action plans, much more remains to be done to achieve reform objectives.** Achievements include adoption of laws on the disciplinary responsibility of judges (2014) and on the optimization of the judicial map (2016); implementation of new procedures for judges' selection and performance evaluation (2012); automation of court case management systems (including random allocation of cases and audio recording of hearings); and adoption of the concept for the reform of the Prosecutor's Office (2015). This provides context for benchmarks set by the Government for the next phase of justice reform.

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<sup>35</sup> Ministry of Justice, “Justice Sector Reform Strategy 2011-2016”, accessed August 23, 2017 at <http://srsj.justice.gov.md/index.php>

<sup>36</sup> European Union, *Annual Report on the Implementation of the Justice Sector Reform Strategy 2011-2016 (Reporting Period: January-December 2015)*, accessed August 23, 2017 at <http://www.justice.gov.md/>

<sup>37</sup> Soros-Moldova. *Assessing the First Year of Moldova's Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere*. Working paper. Chisinau: Soros-Moldova, 2016.

<sup>38</sup> European Union, *Annual Report on the Implementation of the Justice Sector Reform Strategy 2011-2016*.

<sup>39</sup> Ibid

<sup>40</sup> Soros-Moldova. *Assessing the First Year of Moldova's Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere*. Working Paper. Chisinau: Soros-Moldova, 2016.



**1.27 In 2017 the MOJ with contributions from other justice sector stakeholders began to design the next Justice Sector Reform Strategy 2018-2021.** The draft strategy aimed to consolidate and continue the reforms already launched, including a new legislative and institutional infrastructure and increased efficiency, quality and access to justice. These objectives were to be achieved through three strategic directions: First, access to justice, quality and transparency of the justice act; second, independence, self-management and responsibility of justice sector actors, and third, an efficient and modern justice sector. However, the announcement of elections in early 2019 has caused the drafting of the strategy to be put on hold till the elections are over.

**1.28 Moldova’s partners can provide expertise and resources to modernize the justice sector, provided they result in verifiable improvements in public trust and confidence.** The management and allocation of available resources across the system is therefore a crucial issue. This report examines how key elements of Moldova’s justice system allocate and manage their resources (including financial, human, information and communications technology and physical infrastructure) to improve access to justice, especially for the vulnerable. The report suggests actions to strengthen resource management to improve efficiency, performance and access. However, even if these resource management challenges are addressed, system efficiency and equity are unlikely to improve unless longstanding corruption, capture and access issues—key to gaining public trust and generating verifiable progress—are also addressed simultaneously.

## Chapter Two

### PERFORMANCE AND ITS CONSTRAINTS

**2.1.** This chapter focuses on key issues surrounding justice performance. It first looks at the ‘big picture’ - an overview of Moldova’s governance and justice performance based on data in the public domain. The chapter then summarizes key findings from a set of four surveys of court users conducted in late 2017. It then briefly reviews three binding constraints to improving justice performance in Moldova (capture, corruption and access), the consequent implications and suggests actions to address the survey findings and the binding constraints.

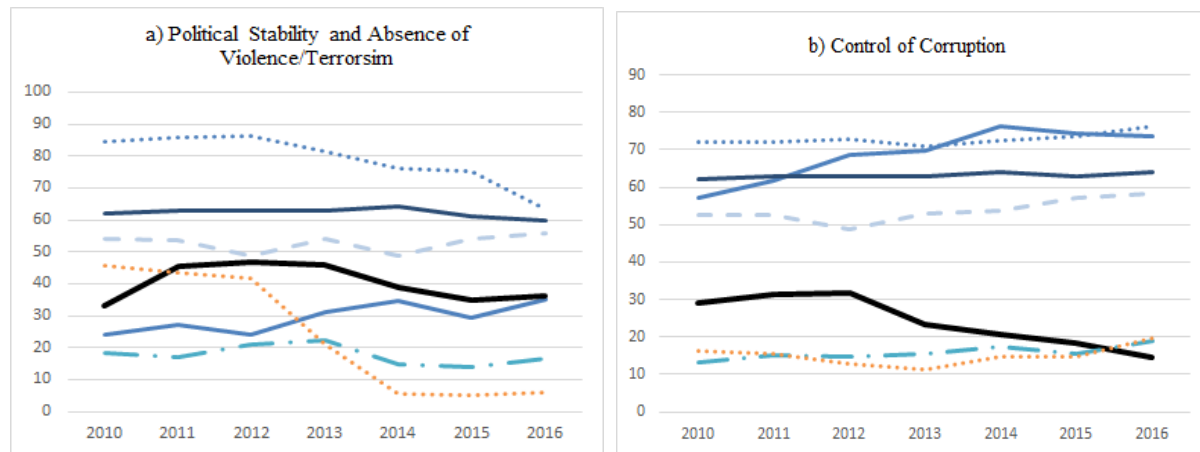
#### *The Big Picture – Overview of Governance and Justice Performance*

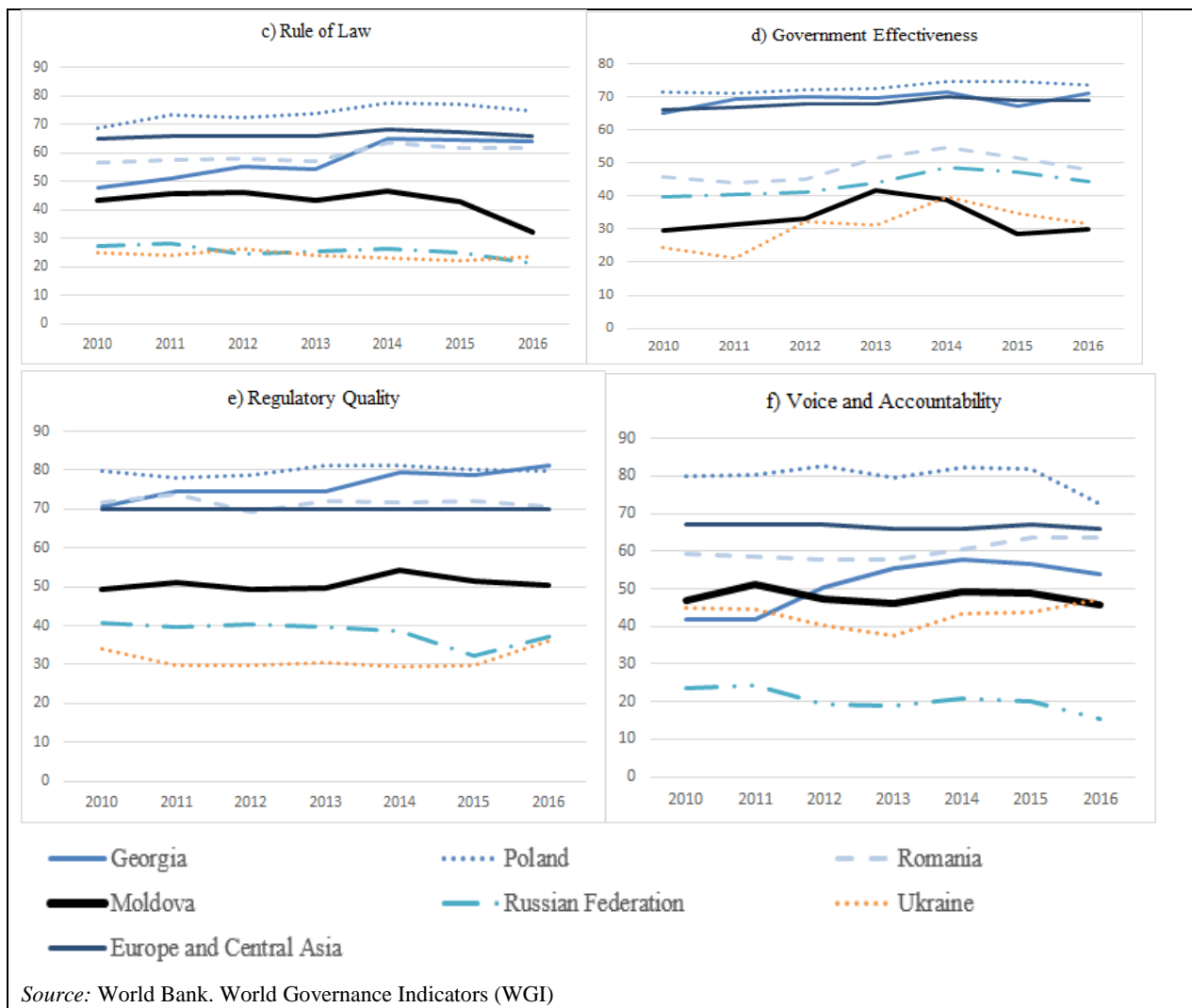
**2.2.** **Moldova’s governance indicators have remained largely stagnant over two decades.** The country’s ranking has remained below the 50th percentile for all six Worldwide Governance Indicators (Box 2.1). While its indicators on Voice and Accountability and Regulatory Quality have improved slightly, four other indicators, including the Rule of Law and Control of Corruption indices, have either remained stagnant or deteriorated.

#### Box 2.1: Benchmarking Moldova’s Governance Performance

Figures below show Moldova’s performance along six dimensions of the World Governance Indicators (WGI) compared to some EU member-states and other European peers. Moldova scores relatively well on indicators compared to Ukraine and Russia, but lags Georgia, Poland and Romania. Its performance on control of corruption and rule of law poses high risks to Moldova’s democratic transition and its envisioned trajectory of EU integration.

**Figure 2.1: Comparative Governance Performance, 2010-2016, Percentile Ranking**





### 2017 Surveys of Court Users<sup>41</sup>

**2.3. Surveys of (a) citizens, (b) businesses, (c) professional users of judicial services (notaries, lawyers and bailiffs) and (d) justice sector employees (judges, prosecutors, court staff and prosecutor staff) were conducted in Moldova during August-October 2017: key findings are at Annexes 1-4 of this report.** The surveys explored these users' actual experiences and perceptions on courts, corruption and judicial reform. 3,336 respondents were interviewed for the surveys. They comprised 1,602 respondents for the general public survey, 500 for the survey of businesses, 609 for justice sector employees and 625 for the survey of professional users. The general public survey was conducted face-to-face with a representative sample of 1,602 adults nationwide; the margin of sampling error was plus/minus 2.5 percent. The survey of businesses was based on a representative sample of 500 business units nationwide; the margin of error was

<sup>41</sup> For more details, please refer to World Bank Report number 124517-MD (Moldova - Surveys of Court Users, April 2018), financed by the UK's Good Governance Fund and the World Bank. Annexes 1-4 of this report capture key findings from the surveys.

plus/minus 4.4 percent. The survey of justice sector employees had a representative sample of 609 respondents (judges, court staff, prosecutors and prosecutor's office staff) with a plus/minus 4 percent margin of sampling error. The survey of professional users was based on a representative sample of lawyers, notaries and bailiffs, with a margin of error of plus/minus 4 percent.

**2.4. Perceptions of the performance of Moldova's courts differ between citizens and businesses on the one hand, and professional users of court services and justice employees on the other.** On court functioning, citizens and businesses tend to have negative opinions. Such opinions were shared by elder segments of the population (50 percent among the age group 55-64 years), while younger respondents (ages 18-24 years) tended to have more positive opinions about court performance (44 percent).

**2.5. Respondents who had actual experience with using courts had more negative views about court performance: 76 percent each of the general public and businesses expressed negative views.** Professional users were equally divided (positively and negatively) in their views on court performance; the most positive views are from bailiffs (59 percent), while lawyers (51 percent) are most negative.

**2.6. Most respondents across all groups tend to state that there have been no changes on the ground during 2015-2017.** Citizens note increased corruption and non-observance of human rights, while professional users are more concerned about judges' competence. Approximately 20 percent of citizens note improvements, mainly more thorough work of court staff and arrests of high-profile public figures. Among professional users, 36 percent report positive changes and cite audio and video recording of court hearings as the most effective judicial reform measure. Justice sector employees (judges, court staff, prosecutors and prosecution staff) view changes in the quality of justice services more positively than professional users.

**2.7. Corruption perceptions differ significantly across user groups.** 46 percent of citizens and 47 percent of businesses responded that corruption had increased. However, only 19 percent of professional users and 14 percent of employees had responses in this category. Service providers and professional users were more reserved: they often reported lack of changes or improvements; there was a large share of undecided respondents in these groups. When asked about corruption, the professional judicial community stayed reserved. However, most businesses and citizens state that corruption is high, with notaries viewed as least corrupt and the police the most. Many citizens' and businesses' responses stated that corruption could be found at all levels of the court system, while the percentage of professional users and judicial employees with similar responses was lower.

**2.8. Citizens, businesses, and justice sector employees have different views about factors facilitating corruption.** The general public and businesses believe that behind the prevalence of corruption are the impunity of corrupt persons and views about corruption as a social tradition. Justice sector employees and professional users consider low salaries of judges and court staff to be the most important reasons for the prevalence of corruption. Service providers state that personnel numbers and quality, especially insufficient staff and lack of competence of police officers and court employees, have the biggest impact on judicial impartiality and efficiency.

**2.9. One in five citizens reported to have paid a bribe (personally or through mediators); among citizens who had actually used courts (i.e. were parties to court proceedings), this share is much higher.** One in ten entrepreneurs reported paying bribes, and one-third knew someone in their circle who did so. Only 7 percent of service providers reported experiencing

situations when someone tried to exercise informal pressure on them. In such cases, lawyers and parties to the proceedings acted as “agents of influence” and tried to influence them with money or gifts.

**2.10. The general public and business community broadly feel that an ordinary citizen or a businessman is unlikely to get a fair trial (more than 62 percent share this opinion).** The assessments of professional users are equally divided between those who think that courts deliver fair decisions to any citizen and those who oppose them. Citizens state that rights of disabled persons and of those who have lower income are least observed in the justice system. Similarly, professional users agree that the most important factor that influences judges’ decisions is the income level of the parties to the proceedings. On human rights violations, 48 percent of citizens – especially those who have had court proceedings (71 percent) – would apply to the European Court of Human Rights (ECHR). High corruption levels and lengthy case-resolution times are key reasons why judicial decisions are appealed to the ECHR.

**2.11. Satisfaction with access to courts, prosecutor’s offices and bailiffs is not high; notaries tend to receive more positive assessments.** Among citizens and businesses, almost half the respondents who actually participated in court proceedings had searched for information about their rights. Citizens mainly searched for information about the work of notaries and lawyers, and it was rather easy for them to get that information. Businesses were more interested in information about court cases, enforcement of court decisions and complaint-filing procedures: they found it very difficult to get such information. The most popular sources of information for the public are television and the internet. Citizens stated that the judicial system is most accessible in terms of information, geographical proximity of courts and ease of use of court buildings. They consider the court system to be costly. Professional users and citizens were divided about access for different categories e.g. by gender, age and income. 63 percent of professional users stated that the court system was accessible but only one in four citizens had a similar view. Justice sector employees state that judicial institutions are more accessible in terms of infrastructure but less accessible for disabled persons and vulnerable groups.

**2.12. On transparency, notary offices receive broadly positive assessments while courts and prosecutor offices receive the most negative responses from citizens and businesses.** Citizens were most informed about notaries’ work and least informed about prosecution and bailiff services. Among citizens and businesses, participants in court proceedings were more likely to look for information about cases and courts in general. These user groups tend to receive information from informal sources (lawyers) more frequently than from formal sources. The availability of audio and video recordings of court proceedings is confirmed by the majority of professional users: in terms of courts’ efficiency and transparency, this measure is regarded as very effective. Less than half the respondents said they had access to information about court decisions. Less than 29 percent of professional users said that courts have a clear complaint filing mechanism available to the public. Public information about courts is sufficient for more than half of citizens, but more than half of businesses complain about insufficient information. The majority of businesses said they would like to get information on how to submit an application to court, while citizens were more interested in getting legal advice.

**2.13. On participation in court proceedings, 10 percent of citizens report facing violations of their rights or of their family members.** However, only one-third of respondents applied to court. One-third of citizens stated they were satisfied with the court decision. Respondents were mainly satisfied with the work of lawyers and notaries and dissatisfied with judges’ expertise. 45

percent of proceedings participants were not satisfied with the length of time taken for case handling. One-quarter of businesses said they had been parties to court proceedings in the last two years. Less than 41 percent of entrepreneurs were satisfied with the court decision, the quality of case-processing and the thoroughness of examination of the case. Citizens and businesses who had actual experience with courts gave more negative responses about courts' functioning compared to those who had no actual experience with court proceedings. Participants of court proceedings also tended to evaluate efficiency and accessibility of the judicial system more negatively.

**2.14. Courts, prosecutor offices and bailiff services receive low efficiency ratings from citizens and businesses who were parties to court proceedings; notaries receive high ratings.**

Citizens who visited courthouses were basically satisfied with room arrangements, working hours and access to public transport. Businesses were satisfied with the ease of document submission, clear signage and audio-video recording of proceedings. Kiosks, elevators and areas for mothers with children received the lowest scores, although these were regarded as not significant. Citizens and businesses said that courts needed to improve access for persons with disabilities and improve the quality of physical infrastructure. Lawyers expressed similar views on court infrastructure and confirmed the need to create a barrier-free environment for persons with disabilities.

**2.15. Service providers, especially court employees, consider their workloads to be excessive, due to the growing inflow of new cases and insufficient personnel; judges and court employees report an average of 40 hearings per week, with half these hearings adjourned.**

Court employees most appreciated the opportunity for professional development and interactions with colleagues. High workload and lack of qualified staff were negatives. Although the current remuneration system receives lowest scores on satisfaction, employees said this was the most important factor in their work. The size of the workplace, fixed working hours and social reputation were regarded as less important. Employees reported being poorly informed about the funding of courts and prosecutor's offices. In general, however, 20 percent of justice employees stated that in recent years, requests for additional funding had been met.

**2.16. Justice reform is ranked fourth in importance by citizens, behind healthcare, pension and education reform.**

Citizens said that judges' specialization, simpler procedures for small cases and reform of courts and prosecution were the most important justice reforms. Most businesses and professional users, and about 50 percent of citizens, were generally informed about judicial reforms, with the share of informed persons being higher among citizens who had actual experience with courts. 61 percent of service providers are also aware of the reform measures. Most employees, particularly prosecutors, expected that modernization of judicial bodies would improve systemic efficiency. Less than 30 percent of employees and professional users considered the impact of the ongoing reforms to be positive. Citizens and businesses were mainly neutral or negative. Most respondents in all target groups provided high scores for reforms such as simplified procedures for small cases and audio-video recording of court hearings. Employees and professional users expect that specialization of judges and prosecutors would have positive effects. The court consolidation (court optimization) was seen as less likely to bring positive results, according to professional users and employees. Employees saw no justification to reduce the number of public functions of judges who enjoy immunity in civil and criminal cases, or to withdraw immunity from judges or to optimize the court map (i.e. consolidate the court network). Professional users were not confident that mediation, if introduced, would be effective. More than half the judicial employees agreed that judicial reform has had positive impacts, with prosecutors being more optimistic than judges.

**2.17. No significant gender-related differences are seen in citizens’ responses about the quality and transparency of justice services**, i.e. women’s assessments do not differ from that of men. Small gender differences do appear in scores for access to services: women are more likely to face difficulties in searching for information about local lawyers practicing in the area than their male counterparts. Additionally, across various aspects, women were more likely to not provide answers due to generally lower awareness about courts.

**2.18. Low-income groups have lower awareness about the functioning of the court system compared to higher-income groups, and state that the judicial system is least accessible in terms of cost and information.** Their scores for accessibility of the judicial system are lower than that of citizens with higher incomes. Low-income respondents gave more negative scores on judges’ and lawyers’ expertise and on the thoroughness of court proceedings.

**2.19. Access, efficiency and transparency of courts, prosecutor’s offices and bailiff service are not rated very highly, but the notary service consistently receives high scores; prosecutor’s offices and courts are regarded as the ones most needing reform.** On access to court services, respondents said more attention should be paid to making information on cases and court decisions available to the public and making complaint-filing procedures simpler and clearer. Less than half the respondents reported being able to find the court decision they need.

**2.20. The most important reform to improve transparency of the court system is audio and video recordings of court hearings: this measure is widely identified by respondents across all groups** as a key factor to improve transparency and court modernization.

#### *Capture and Corruption*

**2.21. State capture undermines trust in public institutions.**<sup>42</sup> An October 2015 Public Opinion Survey found that the Government was trusted by only 8 percent of the population. The percentage of respondents who considered corruption to be “a very big issue” increased by 34 percentage points since May 2010.<sup>43</sup> The Gallup World Poll 2016 indicated that only 15 percent of Moldovans expressed confidence in the judicial system.<sup>44</sup> Moldova’s citizen’s and business view corruption as the foremost issue hindering state performance.<sup>45</sup>

**2.22. Reports abound about state capture, the evolution of organized crime networks in Moldova and ‘facilitators’ in the political, executive, law enforcement and judicial spheres (Box 2.2)**<sup>46</sup>. However, the specifics of state capture are murky and difficult to establish<sup>47</sup>. Further research – beyond the scope of this report – on patterns of enterprise and bank ownership and on the finances of politically exposed persons (PEPs) from sources such as the Panama Papers<sup>48</sup> could

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<sup>42</sup> Cristina Gherasimov, “Moldova: The Captured State on Europe’s Edge.” Chatham House, March 8, 2017.

<sup>43</sup> International Republic Institute (IRI), Public Opinion Survey of Residents of Moldova, Sep 29-Oct 21, 2015

<sup>44</sup> Gallup, *World Poll 2016*, accessed August 18, 2017.

<sup>45</sup> See, for example, media articles such as this, last accessed on January 18, 2018 at <http://www.euronews.com/2017/10/06/moldovas-leaders-step-up-east-west-tug-of-war>

<sup>46</sup> See, for example, this report, last accessed on January 18, 2018 at <https://en.crimemoldova.com/news/investigation/evolution-of-organized-crime-in-moldova-over-the-26-years-of-its-independence/>

<sup>47</sup> <https://www.nytimes.com/2016/06/04/world/europe/moldova-vlad-plahotniuc.html>

<sup>48</sup> NGOs in Ukraine, for example, have begun this process.

throw more light on the links between PEPs, state capture, political control, illicit financing flows and corruption.

**Box 2.2 Moldova – Evolution of Organized Crime - Excerpts from an Investigative Report**

The chaos that established in the former republics after the dissolution of the USSR provided fertile ground for the development of organized crime. In that period, the mafia clans of the former Soviet empire changed their activities from theft and robberies to cross-border drug, weapon and human trafficking and smuggling of stolen vehicles. Soon, the underworld leaders became involved in privatizations, thereby controlling parts of the formal economy, while some entered the political field as well. The Republic of Moldova was not an exception in this respect, like the other "sister republics", it had its "stars" in the sphere of organized crime.

The end of the 20<sup>th</sup> century saw a reorganization of the criminal world in the Republic of Moldova, which followed a life-and-death war among criminal clans. After that war, some underworld leaders were simply killed, some were imprisoned, and others simply ran away, continuing their criminal activities outside the country. Experts claim that it was in that period that the organized crime in Moldova was reborn, acquiring a new form. Gradually, the classical organization of mafia clans, led by leaders with rich criminal records, disappeared. Politicians took control of the main areas of influence in the economy, Corruption became institutionalized. Traders no longer paid protection fees to thugs belonging to a clan or another, instead they paid protection fees to the heads of law enforcement agencies. There are rumors that tens of thousands of euros are paid to secure the position of a prosecutor, a police chief or a judge, are becoming more and more widespread. News items about law enforcers involved in drug or human trafficking business became frequent.

This phenomenon led to the disappearance of the middle class. On the one hand, we have very rich people, most of them state officials; on the other hand, there are the poor, who hardly make ends meet. At the same time, the struggle for political power, which offers unlimited possibilities to protect the wealth and illegal activities that bring fabulous income, became more and more assiduous.

*Source: Crime Moldova, "Evolution of Organized Crime in Moldova Over The 26 Years Of Its Independence", August 16, 2017<sup>49</sup>*

**2.23. Moldova ranked 122nd out of 180 countries in 2017 with a score of 31 out of 100, compared to the EU composite index of 66.<sup>50</sup> Transparency International (TI) identifies corruption as Moldova's major challenge and data suggests that corruption is worsening.<sup>51</sup> Box**

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<sup>49</sup> <https://en.crimemoldova.com/news/investigation/evolution-of-organized-crime-in-moldova-over-the-26-years-of-its-independence/>

<sup>50</sup> The Corruption Perceptions Index is scaled from 0-100. Composite scores are compiled for each country and rescaled so that "0 equals the highest level of perceived corruption and 100 equals the lowest level of perceived corruption". See Corruption Perceptions Index 2017: Short Methodology Note, last accessed January 18, 2018 at [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016#resources](https://www.transparency.org/news/feature/corruption_perceptions_index_2016#resources)

<sup>51</sup> E.V., Transparency International. "Corruption Index Reflects Moldova's Disappointing Response to Corruption", last accessed January 18, 2018 at [http://www.transparency.org/news/pressrelease/corruption\\_index\\_reflects\\_moldovas\\_disappointing\\_response\\_to\\_corruption](http://www.transparency.org/news/pressrelease/corruption_index_reflects_moldovas_disappointing_response_to_corruption)



2.1 also shows widespread public sector corruption in recent years, with a downward trend in “Control of Corruption” from 2010 onwards.

**2.24. The November 2014 billion-dollar banking fraud scandal shone a spotlight on state capture, corruption and money-laundering.** Banks and government officials were alleged to be complicit in the theft of about USD1 billion — 15 percent of GDP – from three of Moldova’s largest banks in November 2014. The scandal outraged Moldova’s citizens, led to protests and was exacerbated when the banks involved were controversially bailed out using the country’s foreign exchange reserves.<sup>52</sup> "People who failed to prevent this embezzlement, people who failed to find criminals, people who failed to find where the money is, people who failed to seize this money - of course they don't inspire any trust among the public," said Stanislav Pavlovskiy, a former judge at the European Court of Human Rights<sup>53</sup>. The investigation into the bank fraud is making slow progress, generating skepticism about the state’s ability and willingness to take difficult actions which could hurt those involved in state capture<sup>54</sup>. Years before the bank theft, more than USD20 billion was reportedly laundered from Russia into the EU through Moldova, using UK shell companies with Latvian accounts. According to Moldova’s prosecutor general a credible investigation will require questioning almost all members of Moldova’s political elite.<sup>55</sup>

**2.25. Lack of trust in the justice sector reflects the broader distrust of the state among citizens and businesses.** Citizens view the courts and prosecutors as “extremely corrupt” alongside the police, customs, mayors, the military and local councils. The Gallup World Poll 2016 indicated that only 15 percent of respondents expressed confidence in the judicial system, while 70 percent stated they did not trust the courts. This is less than half of the regional average for former Soviet Union countries<sup>56</sup>. The Barometer of Public Opinion 2015 indicates slightly better results, although trust in the judicial system decreased between 2008 and 2015, from 25 percent to 15 percent<sup>57</sup>. According to the Rule of Law index, Moldova’s index for the absence of corruption in government services is 0.32 (with 0 being the lowest and 1 the highest). The index for civil justice is 0.47, and that for criminal justice is 0.34<sup>58</sup>.

**2.26. The 2017 surveys of court users conducted for this report confirmed that citizens and businesses continue to have negative experiences and perceptions in respect of courts and the prosecution, and that very little has changed on the ground (Annexes 1-4 depict key findings).** In addition, according to the Public Opinion Survey of May 2018, 61 percent of survey respondents have an unfavorable view of the courts, and 60 percent as it concerns the GPO.<sup>59</sup> Earlier, a 2015

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<sup>52</sup> The Economist, “Who’s holding up Moldova?”, <http://www.economist.com/blogs/freeexchange/2015/08/eastern-europe>, last accessed on August 8, 2016

<sup>53</sup> “Moldova Anger Grows Over Banking Scandal”, BBC, September 14, 2015, last accessed January 18, 2018 at <http://www.bbc.com/news/world-europe-34244341>

<sup>54</sup> See, for example, this report from Reuters, last accessed on January 18, 2018 at <https://www.reuters.com/article/us-moldova-russia-insight/moldova-sees-russian-plot-to-derail-money-laundering-probe-idUSKBN16M1QQ>

<sup>55</sup> <http://www.bbc.com/news/magazine-33166383>

<sup>56</sup> Gallup, *Confidence in Judicial Systems Varies Worldwide*, online: <http://www.gallup.com/poll/178757/confidence-judicial-systems-varies-worldwide.aspx>

<sup>57</sup> Institute for Public Policy, Barometer of Public Opinion about the socio-political situation before the local elections: <http://www.e-democracy.md/en/monitoring/politics/comments/bop-alegeri-locale-2015/>.

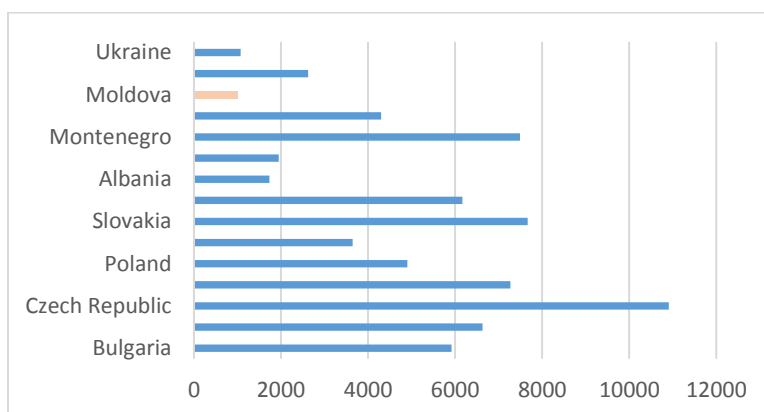
<sup>58</sup> Source: <http://data.worldjusticeproject.org/>

<sup>59</sup> Center for Insights in Survey Research, Public Opinion Survey: Residents of Moldova. May-June 2018, last accessed on July 25, 2018

perception survey on corruption and justice reform<sup>60</sup> showed that 68 percent of prosecutors and 81 percent of lawyers believe that corruption in the justice sector has remained the same or increased since 2011. This is in line with the 2013 International Survey of Enterprises by the International Finance Corporation (IFC) which found that only 31.9 percent of respondents in Moldova considered courts to be, impartial and incorrupt, compared to 38.9 percent in Eastern Europe. About 70 percent of respondents did not believe that courts would protect their property rights. Satisfaction with court proceedings remains low on a 5-point scale (5 being the highest): district courts score 3.91, Courts of Appeal 3.76 and the Supreme Court 3.62.<sup>6</sup> Lower courts have a significantly better score than higher courts: local reformers believe this is because citizens and firms are more likely to interact with lower (first-instance) courts, which generates greater trust in lower courts' impartiality and fairness, while public perceptions about higher courts are largely uninformed.

**2.27. Moldova's unpredictable business climate and perceived insufficient protection of property rights deter foreign investment.** Foreign direct investment (FDI) per capita is among the lowest in Europe and the region (Figure 2.1). In the 2018 Doing Business report, Moldova ranks forty-fourth overall and twentieth in "Registering Property". However, in "Enforcing Contracts" and "Resolving Insolvency", it ranks sixty-second and sixty-fifth respectively. Local businesses perceive corruption to be a challenge: 43.5 percent of entrepreneurs surveyed by Transparency International in 2015 believe the judiciary is corrupt.<sup>61</sup>

**Figure 2.1: FDI Stock Per Capita (USD, 2016)**



Source: UNCTAD, FDI/MNE database

**2.28. Implementation of justice and anti-corruption reforms remains lackluster, despite passage of new laws.** From 2016, the Democratic Party (PDM) under Prime Minister Pavel Filip promoted reforms to improve the rule of law and good governance, implement justice reforms, combat corruption<sup>62</sup> and create a better business environment. While new laws were passed on

<sup>60</sup> Legal Resources Centre of Moldova, Assessing Perceptions of Judges, Prosecutors and Lawyers, October-December 2015; last accessed on October 1, 2017 at <http://crjm.org/wp-content/uploads/2016/01/Summary-of-the-survey.pdf>

<sup>61</sup> Doing Business Report 2018.Report. Accessed July 26, 2018. [http://www.doingbusiness.org/reports/global-reports/~/\\_media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB18-print-report.pdf](http://www.doingbusiness.org/reports/global-reports/~/_media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB18-print-report.pdf)

<sup>62</sup> Moldova's Priority Reform Action Roadmap – Key measures until 31 July 2016, at <http://dcfta.md/>

prosecution<sup>63</sup>, reorganization of the court system<sup>64</sup>, public integrity and re-establishing IMF programs, implementation remains slow or stalled.<sup>65</sup> Anti-corruption reforms, particularly in banking and energy, remain largely on the books, with little implementation.<sup>66</sup>

**2.29. Some reforms have been attenuated from inside the system.** Deeply entrenched interests resist efforts to make the system more predictable, with clear division of responsibilities and a more rational, performance-based distribution of resources across the system. The process of appointing judges is not perceived to be transparent or fair<sup>67</sup>, with judges' appointment and promotion processes not strictly following prescribed criteria and rules<sup>68</sup>. Prisons have been a sensitive issue, with investigative reports documenting how organized crime and property capture appears to be led from inside Moldova's prisons (Box 2.3).

### **Box 2.3 Prison Gangs, Property Seizures and Bad Loans**

Gangs operating from prisons are known to have developed schemes, in collaboration with corrupt municipal employees and public notaries, to deprive potential victims of their apartments or homes. In some cases such victims were later alleged to have been tortured, killed or driven to suicide. Targeted apartments were usually recorded in the name of homeless persons, pledged to a bank and subsequently sold.

Such schemes for extortion and property raiding are often run by gang members from inside prisons, with the help of corrupt jail officials. The starting point is usually an employee in the privatization department of a municipality, targeted as an accomplice, who provides information to the gang about apartments inhabited by elderly and lonely persons. These apartments were or are usually first privatized in the names of other gang members. The gang also receives information from other accomplices who are employed in the architecture department of a municipality: they gather information about the target property from the database of Cadaster State Enterprise and other sources. A gang member is usually made responsible for finding and recruiting homeless people, in whose names the apartments are then recorded. Subsequently these apartments are pledged to a bank, with ownership documents being processed by a notary public who is also an accomplice. The notary usually has direct links with the gang leader and, besides falsifying powers of attorney for gang members, executes other fraudulent documents on real estate transactions. Apartments recorded in the name of homeless persons are then valued by a real estate appraiser, another accomplice. An accomplice in a commercial bank issues loans in the names of the homeless persons, pledging property such as apartments which have been "illegally alienated" from their true owners.

Gangs can operate so effectively even from inside prisons because they intimidate or induce their jailers and prison administrators to collaborate or remain silent. Guards and other officials are reportedly bribed or threatened with physical harm (including to their family and relatives) to their persons or homes or induced to participate in the scheme.

Source: *Makena's Empire: Nightmare In Prisons Continues*<sup>69</sup>

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<sup>63</sup> Law on Prosecution, No. 1960-VII of March 16, 2016. It entered into force on August 1, 2016.

<sup>64</sup> Law No. 68 of April 21, 2016, "On the reorganization of the judicial map", which came into force January 1, 2017

<sup>65</sup> CRJM, *Monitoring report on the implementation of the Priority Reform Action Roadmap, March-June 2016*, last accessed on August 7, 2017

<sup>66</sup> Ibid.

<sup>67</sup> The Transparency and Efficiency of the Super Council of Magistracy: January 2015 – March 2016, available at <http://crjm.org/wp-content/uploads/2016/07/CRJM-Raport-CSM-2016-WEB1.pdf>

<sup>68</sup> Ibid

<sup>69</sup> <https://en.crimemoldova.com/news/crime/makena-s-empire-nightmare-in-prisons-continues/>

**2.30. If reforms are to succeed, corruption and state capture – the most binding constraints to improving Moldova’s justice performance and access to justice - need to be addressed effectively.** Technical solutions are unlikely to improve justice performance or access unless verifiable actions to address corruption and state capture are implemented. Only then will visible change appear on the ground: public trust will then begin to improve, judges, prosecutors and their staff will have confidence to do the right thing, and citizens and firms will begin to feel that courts and prosecutors will work more impartially and fairly than they have been allowed to so far. Possible approaches to the implementation of reforms are discussed at the end of the chapter.

*Access To Justice For The Vulnerable*

**2.31. Access to justice for vulnerable groups remains a key concern.** Access constraints for vulnerable groups (Box 2.4) and lower mobility among rural populations in combination with longer distances to travel and poor transport condition have increased concerns about the impact of the planned consolidation on access.

**Box 2.4. Access to Justice for Persons with Disabilities**

In 2014, Moldova reported 184,400 persons with disabilities, or 5.2 percent of the total population. Discrimination and stigma surrounding persons with disabilities remains as a hangover from Soviet times, where such persons were segregated. Lack of accurate data about persons with disabilities and their distribution across the country compounds the lack of priority to addressing their needs. Underdeveloped physical infrastructure near courthouses and non-existent disabled access to such buildings result in barriers to safe access. Limited public information on barriers to access and steps being taken to overcome them perpetuates such barriers and limits pressure for reform. In February 2016, the UN Special Rapporteur stated that “persons with disabilities are often denied procedural accommodation in court, while the accessibility of court buildings and services themselves remains a serious challenge” in Moldova.

Moldova signed the Convention on the Rights of Persons with Disabilities (CRPD), requiring that reasonable accommodation is provided to persons with disabilities, to promote equality and combat discrimination. Moldova has progressed in harmonizing national legislation with CRPD principles: In 2012, it adopted Law No. 60 on the Social Inclusion of Persons with Disabilities and Law No. 121 on Ensuring Equality. These laws strengthen the legal framework protecting the rights of persons with disabilities through, inter alia, the recognition that denial of reasonable accommodation is a form of discrimination.

However, key laws remain aspirational. Moldova has yet to undertake a comprehensive review of its national legal framework to harmonize it fully with the provisions within the CRPD. Actual compliance on the ground is another challenge. In practice, most government buildings – including courthouses – do not provide special access to persons with disabilities.

Access to courthouses, prosecution offices, registration offices and other justice physical facilities is essential for ensuring access to justice for persons with disabilities, and to protect their CRPD rights. Article 9 requires states to eliminate obstacles to accessibility to buildings and provide signage in Braille in facilities open to the public. Article 13 of the CRPD requires states to ensure equal access to justice to people with disabilities. The European Convention on Human Rights, to which Moldova is a signatory, prohibits disability as grounds for discrimination under Article 14. In March 2016, the European Court of Human Rights affirmed the importance of accessibility for disabled persons in the case *Guberina v. Croatia*.

**2.32. Moldova’s population suffers from limited access to, inefficiency and poor quality of services, especially in rural and remote areas.** This has contributed to social exclusion.<sup>70</sup> To improve the quality of justice services and use existing resources more efficiently, Parliament on April 21, 2016 passed Law No. 76 *On the Organization of the Judicial Map*. This law reorganizes the judicial map by merging 42 first instance courts and closing two specialized courts for military and commercial affairs. Of these original 44 courts, 29 had less than seven judges each, and 10 had fewer than five judges each. Caseload distribution showed significant variations across the judicial system. Since January 1, 2017, 15 first-instance courts serve citizens and the private sector, in addition to four Appeals Courts and the Supreme Court.

**2.33. The reorganization of the judicial map and other streamlining efforts will need to improve, not jeopardize, access to justice services for the local population.** Lower mobility among rural populations in combination with longer distances to travel and poor transport condition may raise concerns regarding access to justice services. This becomes particularly relevant in remote and rural areas where 57 percent of Moldova’s citizens reside – and which account for 84 percent of Moldova’s poor.

**2.34. Access is a particular concern for women.** According to the Constitution, all citizens are “equal before the law and the public authorities”. A Law on Ensuring Equal Opportunities for Men and Women was enacted in 2006<sup>71</sup>. Its implementation, however, still presents obstacles for women in various aspects of social and economic life. With support from the UN, the National Bureau of Statistics found that 63 percent of women had experienced psychological, sexual or physical violence from their husband or partner and at least one woman in ten had experienced economic violence.<sup>72</sup> Rural, elderly, separated or divorced women tend to be at higher risk of experiencing multiple types of violence. Moldova has one of the highest rates of human trafficking in its neighbourhood and is primarily a source country. The economic situation and domestic violence are identified as key reasons for the persistent trafficking of women. More than 25,000 Moldovans are estimated to be trafficked annually.

**2.35. Despite progress in prevention and protection of victims, Moldova’s current infrastructure and support services to survivors of violence and trafficking are in precarious financial condition and face obstacles in terms of their sustainability.** For example, under Moldova’s decentralization reforms, women’s support centers were to be supported by local governments, but in practice depend on donor or NGO grants. Social norms and gender roles that perpetuate stereotypes of subjugation and disempowerment and lack of knowledge of and access to information concerning rights and empowerment further hinder women from reaching out for

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<sup>70</sup> World Bank Group. August 2016. Moldova, Paths to Sustained Prosperity. A Systematic Country Diagnostic. Last accessed on April 30, 2018 at: <http://documents.worldbank.org/curated/en/465041475522681625/pdf/Moldova-SCD-clean-09232016.pdf>

<sup>71</sup> Moldova ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1994, and the Optional Protocol to the Convention in 2006. By so doing, it recognized the competence of the Committee on the Elimination of Discrimination against Women – the body monitoring state parties’ compliance with the Convention – to receive and consider complaints from individuals and groups within its jurisdiction; see <http://www.un.org/womenwatch/daw/cedaw/protocol/>

<sup>72</sup> „Violence against Women in the Family in the Republic of Moldova. UN Moldova and Statistica Moldovei. Report. Accessed July 17, 2018. [http://www.statistica.md/public/files/publicatii\\_electronice/Violenta/Raport\\_violen\\_fem\\_eng.pdf](http://www.statistica.md/public/files/publicatii_electronice/Violenta/Raport_violen_fem_eng.pdf).

help. Introducing online information and virtual ‘help desks’ that can be accessed easily from home could help victims without exposing them to harm.

**2.36. Access to justice services will also need to respond to ethnic and linguistic diversity.** Around 25 percent of Moldova’s population do not speak Romanian/Moldovan as their first language. Alongside ethnic Moldovans and Romanians, other ethnic groups, including Ukrainians, Russians, Gagauz, and Bulgarians account for about 22 percent of the population<sup>73</sup>.

#### ***Recommendations***

- 2.1. Address feedback on performance and corruption captured in the 2017 user surveys through targeted actions and investigations (including prosecutions of justice sector officials and staff for corruption), publicize progress annually and repeat surveys every two years.*
- 2.2. Respond to investigative reports on organized crime originating in prisons by launching a program for non-incarcerative options for low-risk offenders jailed for misdemeanors and other non-violent petty offences<sup>74</sup>, leaving high-risk criminals in prison with more intensive attention.*
- 2.3. Initiate (or expand, as the case may be) targeted programs to improve access to justice for vulnerable groups such as women, girl children, juveniles and minorities, in collaboration with civil society and development partners – and publish the results on a quarterly basis.*

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<sup>73</sup> 2004 census.

<sup>74</sup> For example, through a PPP-based approach to rehabilitating such low-risk offenders and reducing recidivism, following good practices from countries such as Australia, the UK and the USA.

## Chapter Three

### COURT BUDGETING AND EXPENDITURES

**3.1.** This chapter reviews court budgeting and expenditures. It explains how resources are allocated, reviews trends in court expenditures, summarizes key issues and suggests how resource allocations can be better linked, over time, to policy priorities and results.

#### *Background*

**3.2. Moldova is reforming its public financial management (PFM) system.** The current reform initiatives are grounded in the 2013-2020 Strategy for the Development of Public Finance Management<sup>75</sup> approved by Government Decision No. 573 of August 6, 2013<sup>76</sup> and supported by Moldova's development partners. The strategy includes provisions to improve budget development, ensure rules-based and competitive procurement, and implement financial management information systems (FMIS) across government entities, and is accompanied by annual action plans to implement the 2013-2020 Strategy.<sup>77</sup> The budget itself, i.e. budget preparation, approval, execution, control and audit processes, is regulated by the Law on Public Finances and Budgetary Fiscal Accountability No. 181 of 25 July 2014<sup>78</sup> (the Budget Law).

**3.3. The national budget includes four elements – the state budget, the state social insurance budget, mandatory health insurance funds and local budgets – prepared annually under a uniform classification system.** The first three elements are included in the central consolidated budget and cover Moldova's 51 Central Public Authorities (CPAs), among them the Constitutional Court, the Supreme Court and the Superior Council of Magistracy. The local budgets comprise those of the 896 first level units (villages, towns, municipalities -- except Chisinau and Balti) and 36 second level budgets (32 districts/rayons, the autonomous territorial unit of Gagauzia, the unrecognized territorial unit of Transnistria, and the two municipal budgets of Balti and Chisinau). While the Budget Law provides for local budget authority with the executive responsible for budget development and execution based on approval of local councils, the Ministry of Finance is required to approve local budgets.

**3.4. For authorization processes and expenditure controls, Moldova relies on its treasury system, operated by the MOF and implemented through the Financial Management Information System (FMIS).** Its goal is to ensure that budget entities do not exceed the available appropriation and monthly allocations. A new FMIS started to operate in 2015.

#### *Budget Functions and Public Financial Management*

**3.5. Moldova has begun to improve its PFM system, but much more remains to be done.** Implementation gaps are addressed by the 2013-2020 PFM Strategy. Moldova is yet to establish a dedicated automated commitment management system. Its decentralized payroll system is inefficient. Financial statements are not presented according to international standards and

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<sup>75</sup> [http://mf.gov.md/sites/default/files/strategia\\_de\\_dezvoltare\\_mfp\\_2013-2020\\_english.pdf](http://mf.gov.md/sites/default/files/strategia_de_dezvoltare_mfp_2013-2020_english.pdf)

<sup>76</sup> [http://mf.gov.md/sites/default/files/strategia\\_de\\_dezvoltare\\_mfp\\_2013-2020\\_english.pdf](http://mf.gov.md/sites/default/files/strategia_de_dezvoltare_mfp_2013-2020_english.pdf)

<sup>77</sup> <http://mf.gov.md/en/managementul-finan%C8%9Belor-publice/strategia-de-reform%C4%83-a-mfp/planuri-%C8%99i-rapoarte>

<sup>78</sup> <http://lex.justice.md/md/354213/>



information on financial risk and contingent liabilities is missing<sup>79</sup>.

**3.6. The MOF leads the development of the Medium-Term Budgetary Framework (MTBF) in accordance with fiscal principles and rules established by the Budget Law.** The MTBF framework includes the revenue framework, fiscal policy, the macro-budgetary framework, and the expenditure framework<sup>80</sup>. The Government annually approves the MTBF and submits it to Parliament (Articles 48 and 49 of the Budget Law). The MTBF 2017-2019 was approved by the Government through the Government Decision No. 1011 of 26 August 2016<sup>81</sup>. The next MTBF, for 2018-2020, is under development and places greater emphasis on identifying efficiency savings within the existing resource envelope, so that public services can be delivered more efficiently<sup>82</sup>. However, strategic linkages between Moldova’s National Development Strategy (NDS) “Moldova 2020”, the MTBF and the performance targets in budget submissions continue to be weak. While costed strategies currently cover the three-year MTBF period, long-term policy strategies exist in parallel and are either not costed at all or insufficiently costed<sup>83</sup>.

*Justice Sector Budget Development and Review*

**3.7. Sector budgeting takes place within the context of the MTBF and is a state function (Article 121 of the Constitution).** Figure 3.1 shows the status of budget entities and oversight responsibilities within the justice sector. The MOJ, the SC, the CC, the SCM, the SCP, the GPO and the NIJ are direct budget entities and also stand-alone entities for purposes of accounting, procurement and automation. All other courts and prosecutors’ offices are subordinate to the SCM and SCP, respectively. A major shift in budgetary responsibilities from the MOJ to the SCM took place in 2013-14. Since 2014 most courts, along with the NIJ, have been subordinated to the SCM for budget planning, approval and execution, financial management, procurement and human resources. Prosecution entities, however, fall under various budgetary structures: while the GPO is a direct budget entity, the Anti-Corruption Prosecutor’s Office and Territorial Prosecutors’ Offices are subordinate to the independent SCP for fiscal and budgetary purposes. The National Anti-Corruption Center (NAC) draws up and submits its draft budget directly to Parliament for approval to ensure its independence. The MOJ retains budgetary responsibility for the penitentiary systems, the Legal Information Center, the ACA, the OCS (registration of civil status), the National Justice Expertise Center of the MOJ, the Center for Legal Approximation, the State Registration Chamber, and the Department of Justice Gagauzia<sup>84</sup>.

**Figure 3.1: Budget Oversight in Moldova’s Justice Sector**

Moldova Court Network: Fiscal, Policy and Service Providing Units	Direct Budget Entity, Oversight Entity (budget, accounting, procurement, automation)
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<sup>79</sup> Public Expenditure and Financial Accountability (PEFA) Assessment. 2015. Last accessed September 20, 2017: [http://eeas.europa.eu/archives/delegations/moldova/documents/more\\_info/pefa\\_assessment\\_2012-2014.pdf](http://eeas.europa.eu/archives/delegations/moldova/documents/more_info/pefa_assessment_2012-2014.pdf)

<sup>80</sup> <http://mf.gov.md/Contacte>

<sup>81</sup> <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=366969>

<sup>82</sup> <http://mf.gov.md/en/content/current-2018-2020-mtbf-process>

<sup>83</sup> Public Expenditure and Financial Accountability (PEFA) Assessment. 2015. Last accessed September 20, 2017: [http://eeas.europa.eu/archives/delegations/moldova/documents/more\\_info/pefa\\_assessment\\_2012-2014.pdf](http://eeas.europa.eu/archives/delegations/moldova/documents/more_info/pefa_assessment_2012-2014.pdf)

<sup>84</sup> Ministry of Justice of the Republic of Moldova, Subordinated Administrative Authorities; last accessed September 22, 2017 at: <http://www.justice.gov.md/category.php?l=ro&idc=179&>



External Financial Oversight	
Supreme Audit Institution (Court of Accounts)	
Ministry of Finance (budget and internal control)	
Administrative / Oversight Units	
Ministry of Justice (policy, budget, internal accountability, except judicial)	Direct
Department of Judicial Administration (Administrative Support, except judicial budget)	MOJ Subordinate
Moldovan Superior Council of Magistracy (budget, policy, HR)	Direct
Moldovan Superior Council of Prosecutors (SCP)	Direct
Courts of General Jurisdiction	
Supreme Court of Justice (1)	Direct
High Appeals Courts (1) <sup>85</sup>	SCM
Regional Appeals (Tribunal) Courts (4)	SCM
District Courts (42)	SCM
Public Prosecution Service	
General Prosecution Office (GPO) (1)	Direct
Anti-Corruption Prosecutor's Office (1)	SCP
Territorial/District Prosecutor's Office (?)	SCP
Courts of Special Jurisdiction	
Constitutional Court (1)	Direct
Administrative Appellate Court	SCM
Economic Court of Appeal	Eliminated – 2011
Commercial District Court (19)	SCM
Military Court (1)	MoD
Support Bodies	
National Institute of Justice (NIJ)	Direct
National Council for Free State Legal Assistance, National and Territorial Offices (6)	MOJ
National Judicial Examination Center	MOJ
Legal Information Center	MOJ
Other	
National Anticorruption Center (NAC)	Direct

**3.8. In 2013 the DJA's budgetary and financial administrative responsibilities were transferred to the SCM which now reviews, approves and manages the judiciary's budget under Article 22 of the Budget Law<sup>86</sup>.** The SCM organizes the process of budget drafting and expenditure planning for district courts and courts of appeal, reviews courts' budget proposals, expenditure and financial plans, checks calculations and the justification of explanatory notes. It is further the SCM's responsibility to contribute to the development, update and report on the implementation of measures envisaged in the medium-term budget for courts and court of appeals and verifies and summarizes the courts' financial reports and prepares the final financial report. Any within-year budget adjustments are proposed to the MOF by the SCM after such court president's requests are reviewed and approved. The SCM reviews in detail court budget requests, including requests for bonuses/awards and payments for jubilees, professional holidays and holidays. The SCM also develops and coordinates staffing and employment schemes for judges and ensures approval and registration with the MOF. Its budget reviews cover requests for bonus

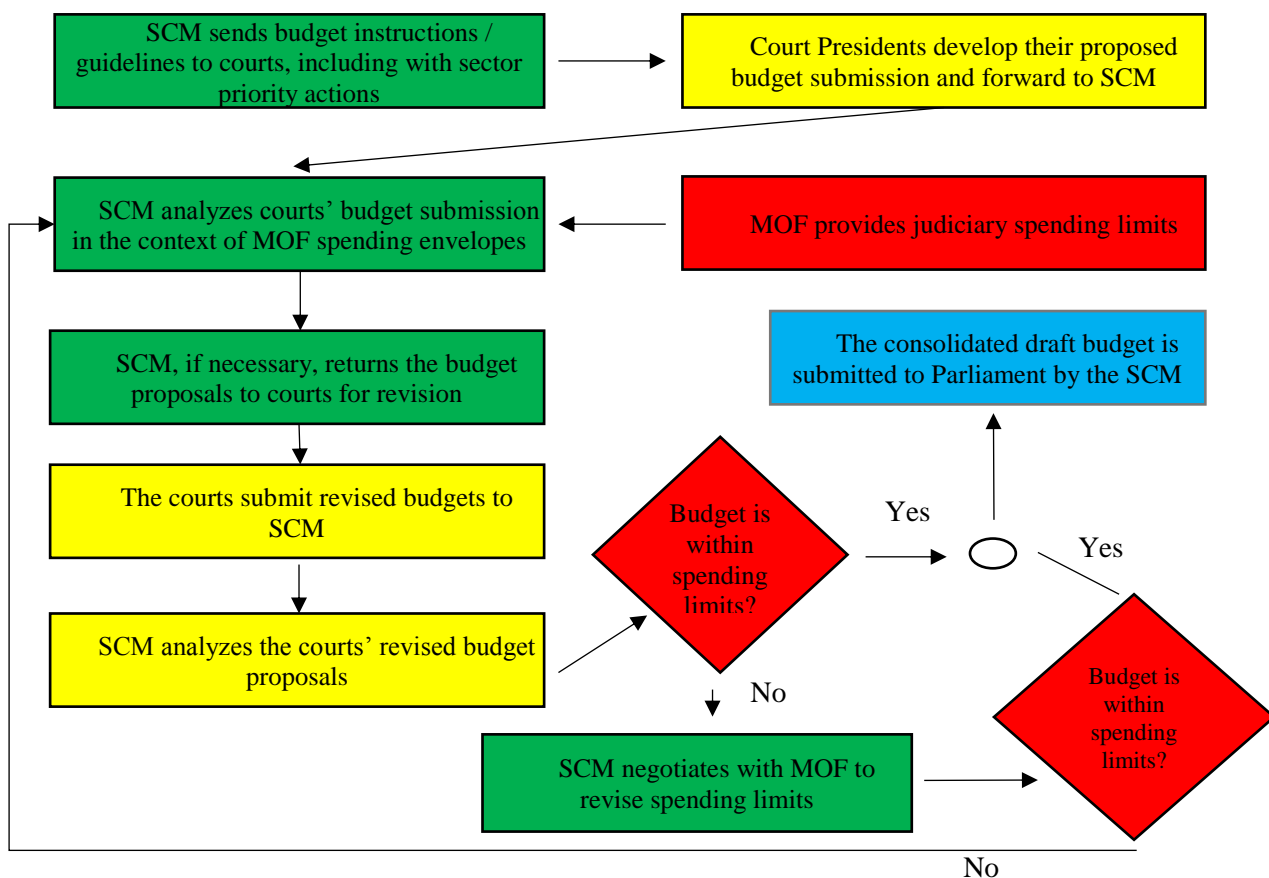
<sup>85</sup> The Chisinau Court of Appeals also functions as the Higher Appeals Court. Therefore, depending on the classification preferred, it can be regarded as a higher appeals court or as a fifth appeals court.

<sup>86</sup> "The financial means necessary for the good functioning of the courts shall be approved by Parliament, at the proposal of the Superior Council of Magistracy and included in the State Budget."

and awards as well as payments for jubilees and leave<sup>87</sup>.

**3.9. To fulfil its new role the SCM introduced significant financial management and control reforms in 2015.** Supported by USAID, these reforms were initially piloted in seven courts and in the SCM itself and have now been extended to all courts<sup>88</sup>. Within the SCM the chief secretary is responsible for consistency between the submitted budget request and the strategic plan’s priorities. He/she crafts the narrative justification, establishes goals, objectives and performance indicators, and assures that budget calendar deadlines are met. The SCM’s economic services unit performs the analysis and calculations to generate spending proposals and compliance with established ceilings. It also prepares capital project briefing notes. The 2015 changes also included personal legal penalties for distorting calculations and failure to meet established deadlines. Figure 3.2 depicts courts’ budget development and review process since 2014.

**Figure 3.2. Budget Development Process For Courts Since 2014**



**3.10. Although the SCM has assumed responsibility for court budgets, earlier divergences between court budget requests and budget allocations have not been resolved.** It is still the responsibility of MOF and Parliament to make trade-offs between priorities. For example, the 2015

<sup>87</sup> Superior Council of Magistracy, Budgeting, last accessed September 22, 2017 at: <http://www.csm.md/2013-08-26-07-08-51/2013-11-20-07-46-57.html>

<sup>88</sup> Guzun, I. and Macrinici, S., *Transparency and Efficiency in the Superior Council of Magistracy of the Republic of Moldova: January 2015 – March 2016*. Legal Resource Centre from Moldova. Monitoring Report May 2016.

budget allocated 73 percent of the amount requested by the SCM for the judiciary. During 2015, several court presidents requested amendments to their 2015 and 2016 budgets which were brought forward to the MOF by the SCM<sup>89</sup>. SCM support, however, is neither automatic nor granted. There is no systematic framework in place to approve or reject individual requests<sup>90</sup>.

**3.11. Article 23 of the Budget Law still requires the MOJ to provide organizational, material and financial support to the judiciary.** This is despite the MOJ and its subordinated entities' roles being trimmed and the primary actors in the judiciary budget becoming the SCM, MOF and Parliament. To fulfil this role and by Government Decision No. 650<sup>91</sup> of May 26, 2016, the DJA was reconstituted as the Agency for the Administration of the Courts (ACA), subordinate to the MOJ. It performs internal audit functions for the courts, advises courts on the financial management and control system and collects judicial statistics. As an exception to the SCM's budget responsibility, the ACA coordinates budget planning and allocates the state budget appropriation for investments and capital repairs for the courts, which are also administered by the Agency along other special and discrete programs<sup>92</sup>. Local public administration authorities which provided premises and facilities to the judiciary cannot withdraw from their commitment without MOJ consent<sup>93</sup>. Further, the MOJ is responsible for the ICMS, though the SCM would like to take over this responsibility (further details are in Chapter 5).

#### *Court Budgeting under the SCM*

**3.12. Court budgeting, including planning, review and approval, is guided by the “Methodology for Planning Court Budgets”<sup>94</sup>.** This methodology specifies the development of a performance-oriented budget framework for courts and requests the SCM to establish formulas to determine expenditure ceilings. It provides a basis for establishing the sector strategy and Medium-Term Expenditure Framework and establishes requirements for categories of operating expenses based on court performance. The latter take precedence over article limits established by the MOF and the SCM is prohibited from altering these during the review of court submissions so long as the estimates are consistent with the established methodology.

**3.13. In mid-2014, the SCM approved the draft court budgets for 2015 and the estimates for 2016 and 2017 based on this methodology<sup>95</sup>.** In the first year (and revised in future years), budget ceilings are estimated using linear statistical models. These models regress economic expenditure article spending on case composition over four budget years and use the then estimated

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<sup>89</sup> Legal Resources Centre of Moldova. 2016. *The Transparency and efficiency of the Super Council of Magistracy: January 2015 – March 2016*; last accessed September 21, 2017 at <http://crjm.org/wp-content/uploads/2016/07/CRJM-Raport-CSM-2016-WEB1.pdf>; page 14: "Based on the adopted decisions, the SCM proposed to the Ministry of Finance to identify opportunities for the allocation of additional funds from sources budgeted for the justice sector reform. These requests were especially grounded on the need to complete the construction works and pay allowances for dismissal or other salary rights of judges".

<sup>90</sup> Legal Resources Centre of Moldova. 2016. *The Transparency and efficiency of the Super Council of Magistracy: January 2015 – March 2016*; last accessed September 21, 2017 at <http://crjm.org/wp-content/uploads/2016/07/CRJM-Raport-CSM-2016-WEB1.pdf>

<sup>91</sup> See Government Decision No. 650 of 26 May, 2016; last accessed September 21, 2017: <http://lex.justice.md/md/365169/>

<sup>92</sup> Agency for the Administration of Judicial Courts, <http://www.justice.gov.md/tabview.php?idc=223>

<sup>93</sup> Law of the Republic of Moldova on the Organization of Judiciary 7/16/95.

<sup>94</sup> SCM Directive No. 109/3 of January 2014.

<sup>95</sup> SCM Directive No. 606/20 of July 15, 2014; SCM Directive No. 773/25 of September 23, 2014.

parameters to project expenditures for the succeeding two budget years, adjusted for price increases. However, court budgets for 2015 and 2016 were not adopted on time<sup>96</sup>, resulting in a continuation of spending authorization at the previous year's level<sup>97</sup>.

**3.14. In line with the Government's budgeting objectives, Moldova's courts are required to apply a zero-based budgeting approach within a performance-based context<sup>98</sup>.** The SCM's budget methodology adheres this approach with annual justification from zero funding and applied to economic articles of expenditure<sup>99</sup>. The "performance" budget ceiling is identified based on the number of files examined during the last four quarters, i.e. the last three quarters of the previous year and the first quarter of the current year. Expenditure ceilings are established in aggregate across categories of spending for individual courts based on a formula that relates spending to the number of cases processed.

**3.15. As with other public authorities, Moldova's courts apply the performance-based budgeting approach to other economic article classifications** such as office supplies, books and periodicals, medications, telecommunications and postage, equipment repair, training, and editorial services, while performance-based budgeting generally applies to budgeting for specific activities or programs taking into account their past and expected future achievements, not to economic articles of expenditure. All expenditure ceilings are established in aggregate across spending categories for individual courts based on a formula which relates spending to the number of cases processed (see Box 3.1). Courts then allocate resources between economic articles.

**Box 3.1. Formula for Calculating Court Article Group Expenditure Ceiling**

$B = K + ((\$_{civil} * N_{civil}) + (\$_{cont} * N_{cont}) + (\$_{crim} * N_{crim}))$ , where:

B = Economic Article Group Budget Ceiling;

K = Fixed expenditure (unrelated to cases examined/adjudicated);

$\$_{civil}$  = Average cost of examining/adjudicating a civil case;

$N_{civil}$  = Number of civil cases examined/adjudicated;

$\$_{cont}$  = Average cost of examining/adjudicating a contravention case;

$N_{cont}$  = Number of contravention cases examined/adjudicated;

$\$_{crim}$  = Average cost of examining/adjudicating a criminal case; and

$N_{crim}$  = Number of criminal cases examined/adjudicated.

Case quantities are established based on the number of case files examined/adjudicated during the previous three quarters of the previous year and the first quarter of the current year. The relationship to expenditures and costs is estimated via a linear (regression) model and adjusted for projected inflation.

**3.16. However, there are several issues to which a performance-based budgeting approach does not apply.** Estimated staffing costs are based on approved staff positions and approved pay scales. Estimates developed distinguish between those staff estimates to continue the current work

<sup>96</sup> See Law on State Budget for 2015 No. 72 of April 12, 2015.

<sup>97</sup> See Art. 47 (1) e) and Art. 57 of the Budget Law.

<sup>98</sup> SCM Directive No. 109/3 of January 28, 2014.

<sup>99</sup> Budget proposals use the budgetary classification approved by the Minister of Finance Directive No. 91 of October 20, 2008. These articles include remuneration, social insurance, gas, heat, soft inventory and equipment, building repair, property leasing, security, computing and IT, water and sanitation, banking fees, business travel, health insurance, transfers, capital investments, fixed asset purchases and overhaul.

and those required to embark on new initiatives. Staff allowances are estimated on the basis of projected resignations and the expected need for temporary labor. Capital expenditures and repairs are estimated on an individual project approach: each proposed project requires detailed cost estimations and corresponding justifications for associated costs. Utility costs and rent are estimated based on past trends adjusted for projected cost increases and inflation.

### *Financial Oversight*

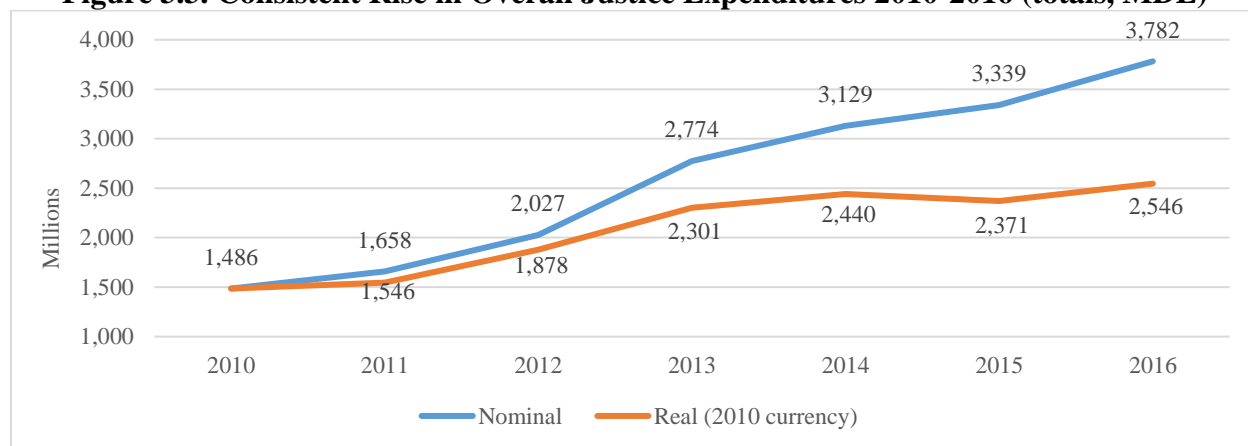
**3.17. The SCM exercises fiscal and budgetary oversight for all first-instance and appellate courts.** A 2015 review by USAID in partnership with the SCM and the MOJ found significant progress from 2012 to 2015 in automating court accounting. USAID has also providing training of court staff in financial management and auditing. As all Government agencies, the MOJ also conducts internal audit units. Previously this function sat with the DJA, now it is with the ACA. Internal audit units report either directly to line ministers or heads of agencies with the MOF Directorate for Harmonization of the Internal Financial Public Control System assuming a coordination function. USAID has also support the strengthening of internal audit functions within DJA and later ACA and continues to do so, including providing support to drafting of internal audit regulations and extending internal audit functions to individual courts.

**3.18. External financial oversight over justice entities (in addition to Parliament) is exercised by the MOF and the Court of Accounts (the supreme audit institution).** The Court of Accounts has ultimate external audit authority over the courts, SCM and MOJ.

### *Judicial Expenditures*

**3.19. Moldova’s justice expenditure increased in nominal and real terms during 2010-2016.** Overall justice spending is dominated by Ministry of Internal Affairs (MIA) spending which accounted for more than two-thirds of spending in these years. High MIA expenditures relate to national security, penitentiaries and public safety. In total, the justice sector wage bill increased by 170 percent from 2010 to 2015. Capital spending is erratic and saw a sharp overall decrease in 2015 after increases in investments and repairs in previous years.

**Figure 3.3. Consistent Rise in Overall Justice Expenditures 2010-2016 (totals, MDL)**

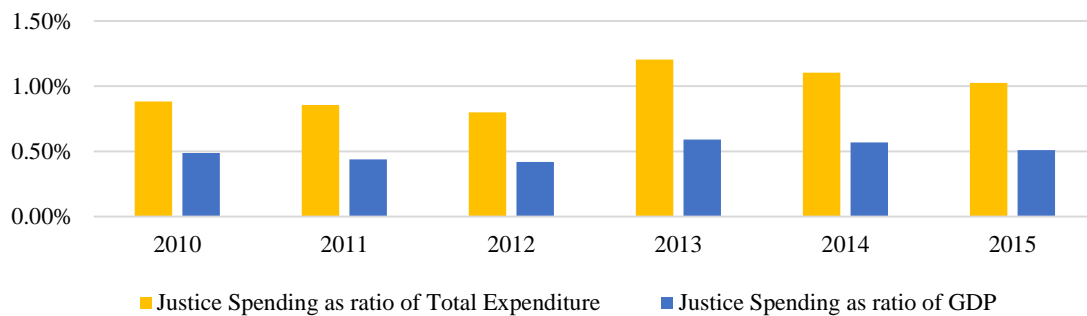


Source: World Bank, MOJ

**3.20. Spending on justice grew faster in 2013 than any other sector; since then it declined as a percent of GDP and of all government expenditures.** As Figure 3.4 depicts, justice spending spiked in 2013, increasing from 0.8 to 1.2 percent of total government expenditures or almost one half in real justice expenditures. The sudden increase was linked to the Constitutional Court ruling

that the justice sector reform plan passed by Parliament in 2011 was constitutional. Thereafter real spending plateaued in 2014, while spending as a proportion of government spending decreased by about eight percent and declined faster compared to a modest decline in government expenditures in 2015 (Figure 3.6). This decrease is linked to significant public funds spent on an emergency bailout in the context of Moldova’s bank fraud: the GOM re-prioritized non-justice spending, hence the disproportionate decrease in justice expenditures in 2015. Overall, justice spending appears elastic and sensitive to demands of other sectors of government expenditures.

**Figure 3.4. Justice Spending as ratio of GDP and Total Government Expenditure**



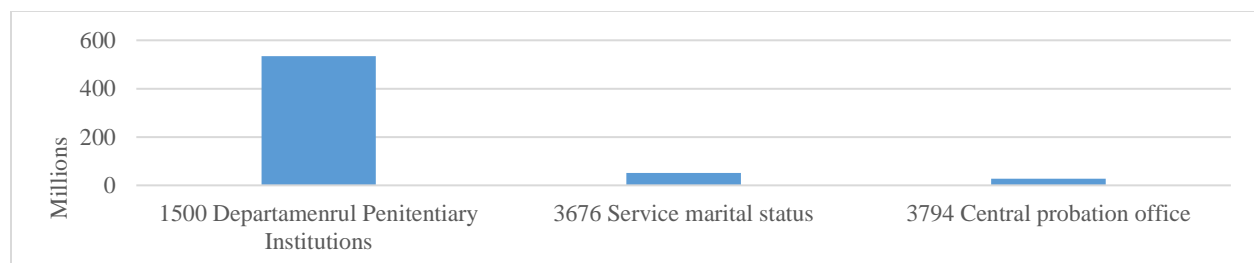
Source: Ministry of Justice, World Bank

**3.21. Among Council of Europe members, Moldova’s spends the least on justice<sup>100</sup>.** It ranked 10th in the 2016 CEPEJ rankings<sup>101</sup> for justice system budget expenditures as a percent of GDP.

*Spending Distribution: MOJ and the Courts*

**3.22. The MOJ’s top spending unit is the Department for Penitentiary Institutions** (Figure 3.5). Its expenditure is rising. In 2010, about 57 percent of MOJ funds were spent on corrections, increasing to 81 percent by 2016.

**Figure 3.5. MOJ Top Spending Units 2016**



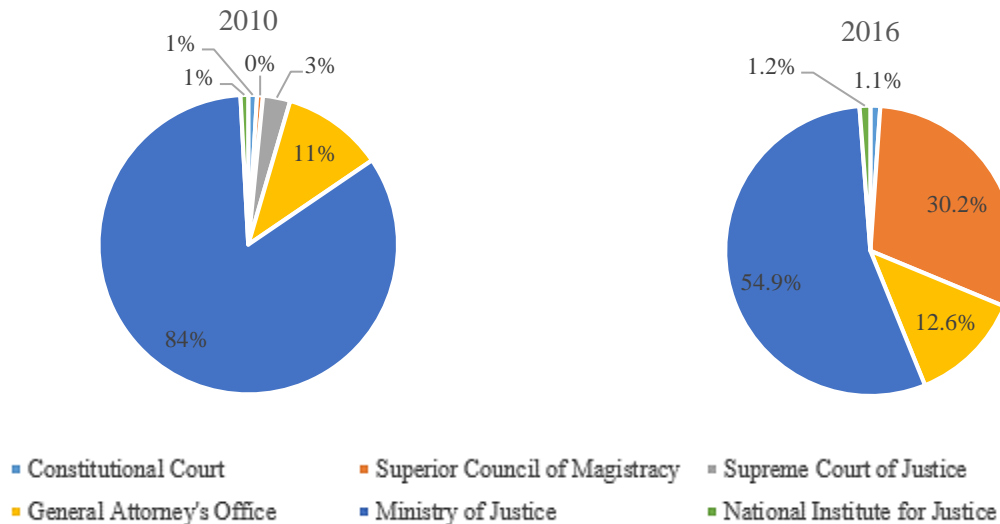
**3.23. However, overall MOJ spending sharply decreased in 2013-2014, when court-related spending powers were transferred to the SCM.** Mirroring the 2014 shift in spending powers, the SCM’s spending share rose from 1.2 percent to 30.2 percent (Figure 3.6). In 2010 the MOJ, with 84 percent of overall expenditures, oversaw all penal, appeals court, and first-instance court expenditures. The GPO spent the second largest portion at 11 percent. The Supreme Court received its funding from parliament as a direct budgetary entity; its share was 5.6 percent of justice

<sup>100</sup> “European judicial systems efficiency and quality of justice,” European Commission for the Efficiency of Justice: <http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/CEPEJ%20Study%202023%20report%20EN%20web.pdf>.

<sup>101</sup> 2014 is the latest available dataset, as of July 2018.

spending. With the spending shift in 2013/2014 the SCM became the second largest spender in the sector and assumed budgetary responsibility for the Supreme Court. GPO spending remained steady from 2010 to 2015 at around 11-12 percent. The remainder of expenditures fell to the Constitutional Court and the NIJ, each under 2 percent.

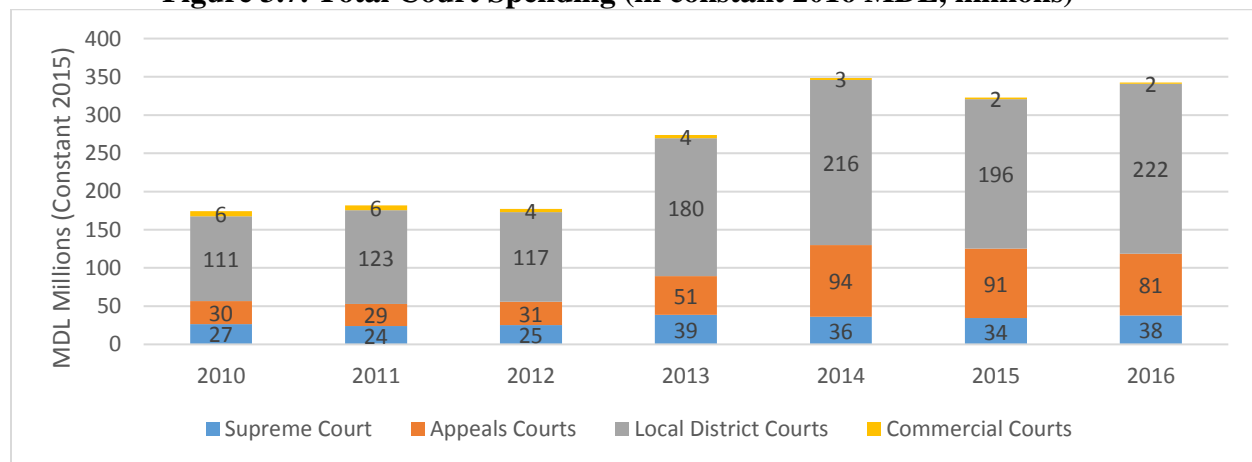
**Figure 3.6. Justice Expenditures: Shares of Entities (2010 and 2016)**



Source: World Bank staff estimates based on data from the MOJ

**3.24. The significant change in court administration arising from the SCM’s expanded role did not significantly affect court spending patterns.** Total court real spending – excluding the Constitutional Court and the Supreme Court – increased by 51 percent (or 75 million MDL) from 2012 to 2013 under MOJ oversight possibly due to an overall increase in justice sector spending. Court spending in 2014, i.e. under SCM oversight, continued to increase, now by 18 percent, but then fell in 2015. This decrease was likely linked to Moldova’s financial and banking crises. In 2016 total court spending picked up again, though it did not reach its 2014 levels.

**Figure 3.7. Total Court Spending (in constant 2016 MDL, millions)<sup>102</sup>**



Source: World Bank staff estimates based on MOJ data

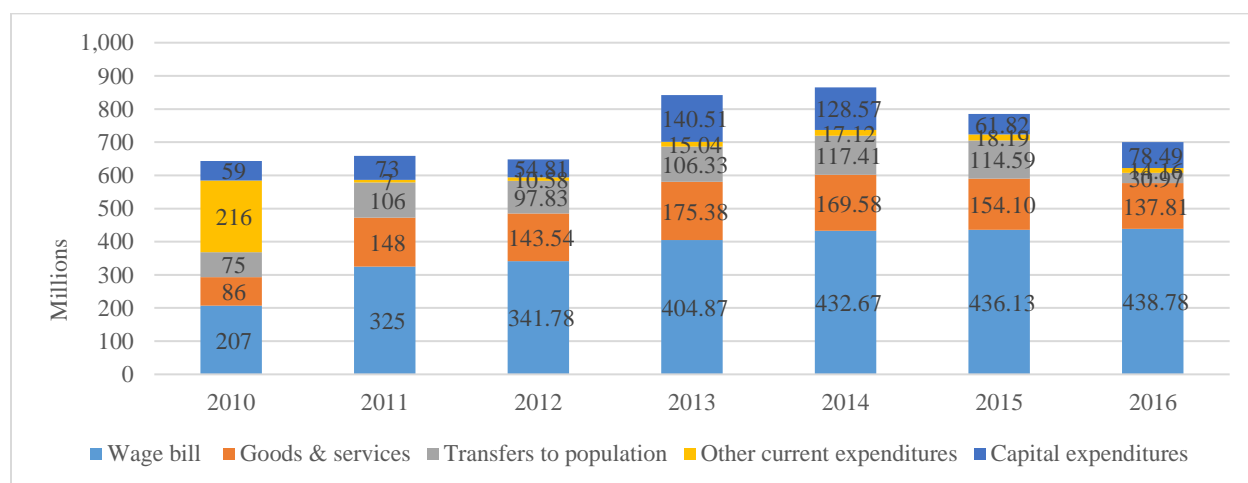
<sup>102</sup> Excludes district courts located in Transnistria.



*Spending distribution amongst spending categories*

**3.25. Salaries account for about two-thirds of judicial expenditures in Moldova, consistent with international patterns, with judges’ wage bill rising rapidly.** Figure 3.8 decomposes spending by labor, social security, purchase of fixed assets, capital repair works, supplies and materials, utilities, travel, and other spending. The combined expenditure on wages, salaries, and social insurance reached nearly 69 percent of total spending in 2015, from where it fell to about 63 percent in 2016. However, overall labor spending for courts was fairly constant. Besides the jump in spending between 2014 and 2015, labor saw little variation in its portion of overall spending. Though labor spending has not increased with regularity, it has consistently consumed between 57 and 69 percent of court budgets.

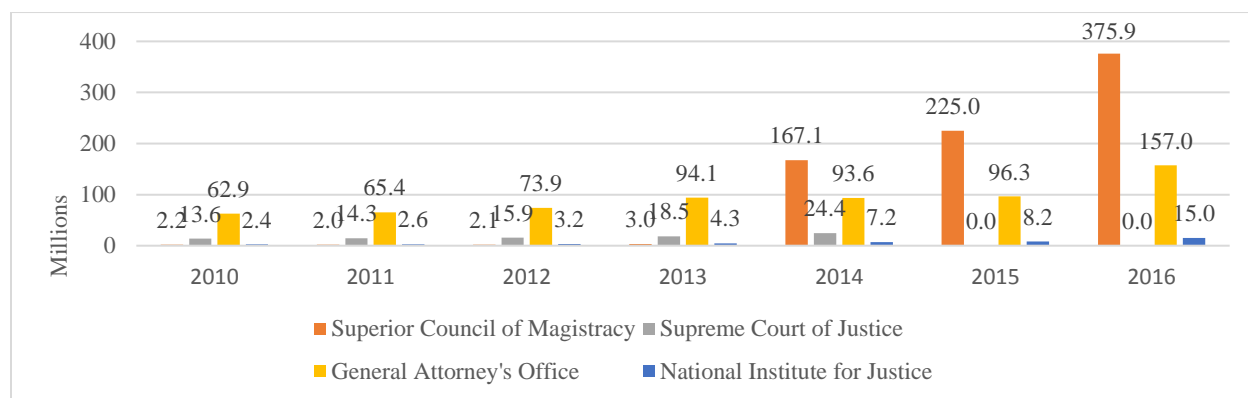
**Figure 3.8. Shares in Real Spending 2010-2016 at 2010 prices (excluding MIA)**



Source: World Bank staff estimates based on MOJ data

**3.26. Actual spending on labor, however, varies largely across sector entities** (Figure 3.9). According to the MOJ, factors that increased expenditures on salaries, goods and services included (a) employment of judicial assistants and setting up their working places; (b) setting up hearing rooms for cases involving minors; (c) demolishing iron bars from courtrooms used for criminal hearings; and (d) purchase of vehicles for some courts. As Figure 3.9 depicts, such expenditures began in 2013 and continued, as part of JSRS (2011-2016) implementation.

**Figure 3.9. Wage Bill Expenditures: Select Entities (2010-2016)**

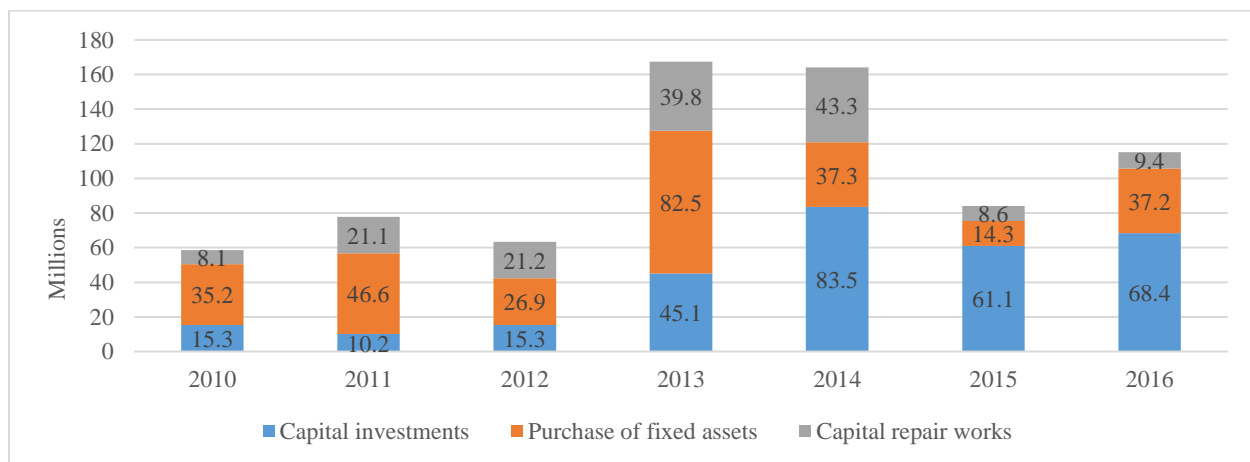


Source: World Bank, Ministry of Justice



**3.27. Capital spending is erratic and ad hoc, in contrast to the steady wage-bill increase (Figure 3.10).** In any given year, these expenditures could be more than double the previous years' proportion of total expenditures, or be sliced in half. Courts treat spending on capital investments and fixed assets as a trade-off, given that a large increase in one appears to lead to a decrease in the other. For example, in Figure 2.8, purchase of fixed assets increased from 9.91 percent to 17.35 percent between 2013 and 2014. Simultaneously, spending on capital repairs fell from 11.43 percent to 9.28 percent. In the next year purchase of fixed assets held steady at 17.46 percent while capital repairs fell significantly to 1.52 percent. The erratic pattern of capital spending suggests that courts and SCM have difficulty in long-term planning for capital spending. Though capital spending tends to be “lumpy” everywhere, inefficient programming of capital replacement and repairs can lead to more costly expenditures in outer years (see also Chapter Five).

**Figure 3.10. Justice Sector Capital Spending 2010-2016 (MDL)**



Source: World Bank, Ministry of Justice

**3.28. Overall, operating expenditures, including capital repairs<sup>103</sup>, decreased since 2013, suggesting a continuing budgetary squeeze.** Since items such as supplies, materials and utilities tend to behave like fixed costs, sufficient expenditures are needed to keep buildings heated and systems operating. This argues for exercising care to assure that courts are fortified with sufficient supplies and materials for effective operations. A spending decrease in any of these categories could result in a reduction in outputs. Moldova’s Courts of Appeal and District Courts, however, saw a steady decrease since 2013, due to the crowding-out effect of labor as noted above. In 2015, operating expenditures experienced another drastic cut (except for the Constitutional Court) due to the bank fraud case. While reductions can result from economizing on energy consumption, a change in tariffs or reducing the complement of operating facilities, there is no evidence this has happened in Moldova. Energy efficiency improvements, as long as facilities remain effectively provisioned, is desirable. Reduction in office supplies can be achieved through technology and process changes. However, unless well planned and executed, reductions in non-wage operating expenditures can result in unintended declines in operating efficiency and performance.

**3.29. When entity budgets are unexpectedly squeezed, for example because of the knock-on effect of the banking fraud, operating expenditures tend to be the first to be cut.** In the short term, it is easier to cancel trips, postpone capital repairs and forego supplies than reduce

<sup>103</sup> Operating expenditures are defined as capital repair, utilities, supplies and materials, travel and other expenses.

salaries and staff complements. Unfortunately, the drastic cut in operating expenditures will likely require an uptick in emergency repairs to capital in ensuing years, as Moldova attempts to recover.

**3.30. By decision no. 681/29 of 18 October 2016, the SCM approved the draft budgets of courts for 2016 and estimates for the years 2016-2017 based on the Methodology of Planning Court Budgets.** The total budget approved for 2017 was MDL402 billion, with approved estimated budgets for 2018 and 2019 of MDL345 billion and MDL346 billion, respectively. The State Budget allocated MDL390 billion to the courts for 2017.<sup>104</sup>

## **Key Issues**

### *Justice Sector Statistics*

**3.31. High-quality statistics are necessary for formulating realistic strategies and policies, setting targets, measuring and managing results, monitoring outcomes, and for making evidence-based decisions about allocation and management of scarce resources.** This is true for the justice sector, where sound decisions and actions require high-quality statistics. Accurate and up-to-date information and statistics provide a better understanding of policy impacts. CEPEJ guidelines on Judicial Statistics (accessible at <https://rm.coe.int/1680747678>) also make this point.

**3.32. It has been difficult to gather accurate data on caseloads and spending for this report.** Different parts of government sometimes possess different data on the same issue. For example, data from MOJ or SCM on the number of judges for each year differs from data available with the National Statistical Office. In addition, data on justice spending reported by the MOJ to CEPEJ – as in many countries – differs (often significantly) from expenditure data reported by the MOF. Such differences in basic data make it difficult – and result in delays – in analyzing expenditures, staffing and caseloads. For example, current statistics do not capture the age, duration and complexity of cases – key elements to assess the efficiency of courts and prosecution. Such data would facilitate assessment and comparison of performance by courts and GPO offices (by location and over time). In addition, if information on the time spent by judges and court staff was integrated into the case management system, it could help assess and monitor judges’ workloads and per-case resolution cost for different categories of cases. None of this requires significant capital investment. However, it does require leadership and commitment – for silos to be broken, and for information to be shared. If this is done, it will facilitate more open and effective communication and data-sharing between entities key to justice sector modernization, among them the SCM, MOJ, GPO, MOF and the National Bureau of Statistics.

### *Budget Methodology*

**3.33. The budget methodology specified that in the first year (and as revised in future years), budget ceilings would be estimated through linear statistical models (specifically, regression analysis), regressing economic expenditure article spending on case composition over four budget years and using the estimated parameters to project expenditures for the succeeding two budget years, adjusted for price increases.** This method can be useful for establishing relationships, but care must be taken to assure that it is not used to perpetuate existing,

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<sup>104</sup> See the 2017 State Budget Law no. 279 of 16 December 2016.

inefficient operating models and production arrangements.<sup>105</sup>

#### *Capital Investment Programming and Management*

**3.34. While the budget methodology requires costing specific capital projects, the SCM is yet to adopt a policy on capital investments and equipment and facility upgrading.** The functioning of the court system is as dependent on effective deployment of ICT and capital infrastructure as on adequate levels of operating resources and on appropriate capital investment programming. The SCM does not yet have a multi-year capital investment program. This appears to be as much due to lack of capital investment programming as insufficient resources.<sup>106</sup> The SCM argues that capital investment programming does exist for the courts following a parliament decision (number 21 of March 3, 2017), but that decision (which approved the Action Plan for Court Consolidation and Courthouse Renovations) by itself is not a capital investment program.

#### *Continued Reliance on Line-item Budgeting*

**3.35. Budgeting in the justice sector, including the courts, is based on economic article or “line-item.”** Performance and zero-based budgeting require a classification of spending based upon, at minimum, activities reflective of work or objectives or tasks to be accomplished if not objectives to be achieved. This requires an output or outcome-oriented classification to be overlaid on the existing economic article structure and controlled through processes forcing spending units to be accountable for activity or outcome achievement. Ideally, such a structure would include crosswalks to classifications: (i) by program; (ii) by administrative/spending unit; (iii) by function; (iv) activity and (v) by economic article. Without such a crosswalk classification, it is difficult to reap the benefits of a performance and/or zero-base framework. The degree to which crosswalks exist is limited to ministry and department levels. Without extension to the actual spending agencies and their activity, there is little benefit to the effort beyond window dressing. While a performance structure can be quite useful for resource allocation comparisons, it adds little value if the analysis is not informed by the lowest level spending units (individual courts).

**3.36. Individual courts budget based upon line-items, often across entire spending units, with little breakdown by activity.** This preserves the budget as an administrative accountability mechanism and continues its focus on inputs (purchases). It allows higher level units such as the MOF and SCM to protect line items (such as wages and salaries) by making marginal budget adjustments to other economic articles of spending, but it detracts from an understanding of how allocated resources or adjustments to allocated resources will affect sector outputs and outcomes.

**3.37. Spending budgets are controlled monthly; annual spending limits are converted into monthly allotments across spending units.** Upon approval of the budget, ministries are required to establish a financial plan identifying monthly cash needs. Within 45 days, the MOF approves a disbursement schedule and allots appropriated resources over the months of the budget year. Budget execution must take place within this disbursement schedule unless prior formal authorization for deviation has been provided by the MOF. The ACA establishes and monitors the apportionments across courts and the SCM can reallocate spending across courts based on requests

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<sup>105</sup> USAID has guidance on estimating such ceilings using regression techniques. See USAID, *Recommendations on Developing Performance Based Budget Proposals for Courts* (Rule of Law Institutional Strengthening Program, April 2013; Moldova).

<sup>106</sup> See [Transparency and Efficiency of the Superior Council of Magistracy of the Republic of Moldova January 2015-March 2016](#).

from individual courts and recommendations of ACA. Courts have little individual discretion in the use of budgeted funds.

#### *Arrears*

**3.38. Justice sector spending units are known to have run up arrears in past years, but there is no accurate estimate of the volume of arrears across the sector, or by court.** A monthly expenditure plan does not ensure resources will be available. For 2015, 2 percent of budgeted resources were required to be spent to finance arrears from previous years. In February 2016, the treasury suspended payments of suppliers and wages for several courts due to insufficient resources.<sup>107</sup> The total volume of arrears accumulated in the justice sector is not known. Neither is the volume of arrears accumulated across all courts. It will be important to ascertain the volume and composition of justice sector arrears so that this issue can be addressed, and a path to prevent future build-up of arrears is adopted.

#### *Accounting*

**3.39. Court accounting was intended to be automated for accuracy and transparency, but implementing accounting software has posed a significant challenge.** Before 2012, 21 courts—then nearly half of all Moldovan courts—performed manual accounting. USAID provided all courts with standardized accounting software and trained court accountants in its use. However, as of September 2015, several courts were using non-standard accounting software and two courts were continuing to use manual accounting.<sup>108</sup> Court accounting staff turnover and requests for a repeat of the training led USAID to organize a second training by the software seller.<sup>109</sup>

#### *Absorption Capacity*

**3.40. Execution capacity varies by court.** Between 2012 and 2014, court budgets doubled in real terms. There has been concern that the increases may have occurred at a pace that outstrips the ability of spending units to effectively absorb resources. The 2013 budget allocations, primarily for staffing (judge assistants and chiefs of secretariats) and for capital renovation, were executed at 96 percent across the system;<sup>110</sup> the 2014 absorption rate was 95 percent. These numbers show an improvement over 2011, when district courts executed their budgets at 93 percent.

#### *Reprogramming Authority*

**3.41. Greater budget flexibility could improve court efficiency.** Currently, judicial entities have little authority to reallocate (reprogram) resources between economic articles within an individual spending entity or across spending entities without the approval of the SCM. As long as the SCM is amenable to requests this may not pose a difficulty. However, the precedent has been to constrain reallocation, which could pose problems for efficient budget execution, create barriers to improve access to justice and lock courts into inefficient processes.

**3.42. Reprogramming authority produces more effective resource administration;**

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<sup>107</sup> SCM Decision no. 186/8 of 22 March 2016.

<sup>108</sup> USAID Rule of Law Strengthening Program (ROLISP), Assessment Report of Courts of Law in the Republic of Moldova, September 2015.

<sup>109</sup> USAID, Annual report for USAID Rule of Law Strengthening Program March 1, 2015 – February 28, 2016, February 2016

<sup>110</sup> 2013 Annual Report on the Implementation of the Justice Sector Reform Strategy for the Years 2011 – 2016, Ministry of Justice Republic of Moldova.

**however, it requires budget information and authority at the spending unit level.** The division between budget administration and actual spending unit operations separates economic and management incentives from operational control. This limits the degree to which reprogramming can be appropriately informed and responsive to spending unit needs and limits the effectiveness of resource management.

### ***Recommendations***

- 3.1. It would be desirable for the SCM, GPO, MOJ, MOF and the National Bureau of Statistics - as part of Moldova's justice sector modernization process - to rapidly improve basic statistical information on the justice sector, in particular ensuring that different parts of government do not have conflicting data and information.*
- 3.2. It would be desirable for the MOF and SCM to develop guidelines to improve budget methodology and capital investments.*
- 3.3. To improve productivity and control personnel costs, it would be desirable for the SCM to develop and publish criteria and procedures for granting awards and bonuses for jubilees, professional holidays and non-working holidays in the judiciary.*
- 3.4. It would be desirable for the MOJ and the SCM to estimate the stock of arrears built up by the MOJ and the courts, and to develop a path and a timeline to reduce – and then eliminate and prevent build-up of – such arrears.*

## Chapter Four

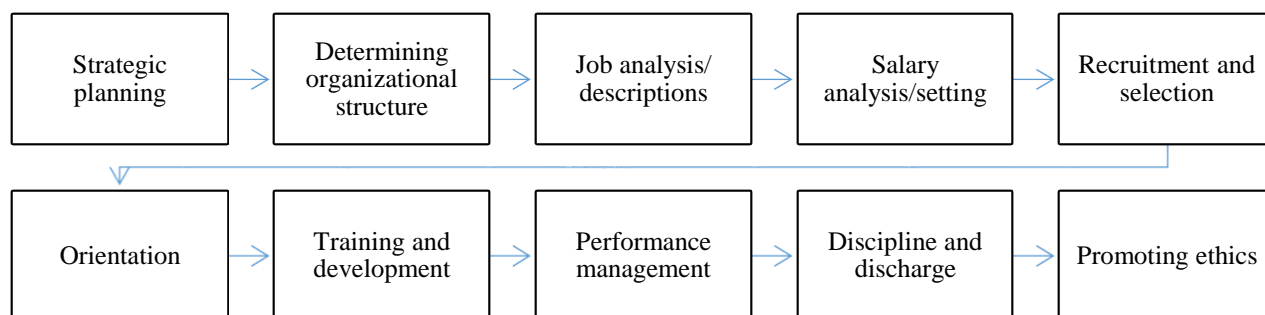
### STRENGTHENING HUMAN CAPITAL

**4.1** This chapter reviews key human resource issues and challenges pertaining to the justice system and suggests actions to improve courts' human capital. The chapter covers units under the management of the MOJ and the SCM and uses the framework in Figure 4.1.<sup>111</sup>

#### *Background*

**4.2** The sector's human resource management (HRM) process involves various entities responsible for managing personnel. Key players in the HRM function include the NIJ (primarily responsible for training judges and prosecutors), the SCM (which makes policies and strategic decisions on HRM) and the MOJ (responsible in part for budgeting for courts and managing the deployment of judges).

**Figure 4.1 A Framework for Assessing Human Resource Management in Moldova's Justice Sector**



**4.3** Several JSRS objectives and action plans directly concern justice sector HRM. The strategy<sup>112</sup> establishes clear and transparent criteria to recruit, appoint and promote judges, review the procedures to relieve and redeploy judges, strengthen judicial self-governance and administration, implement an e-justice system for efficient and functional use of the judicial information system and revise procedures in place to ensure accountability and transparency.

#### *Organizational Structure*

**4.4** The organizational structure of the justice sector is largely determined by its envisaged roles, functions, authorities and responsibilities as provided in the Constitution and other laws. Past analyses of the justice sector structure have focused on the organization and deployment of judges and other legal assistants. Historical data on the number of staff and their remuneration is limited. Trends from existing staffing data will also change with the court reorganization that took effect on January 1, 2017.

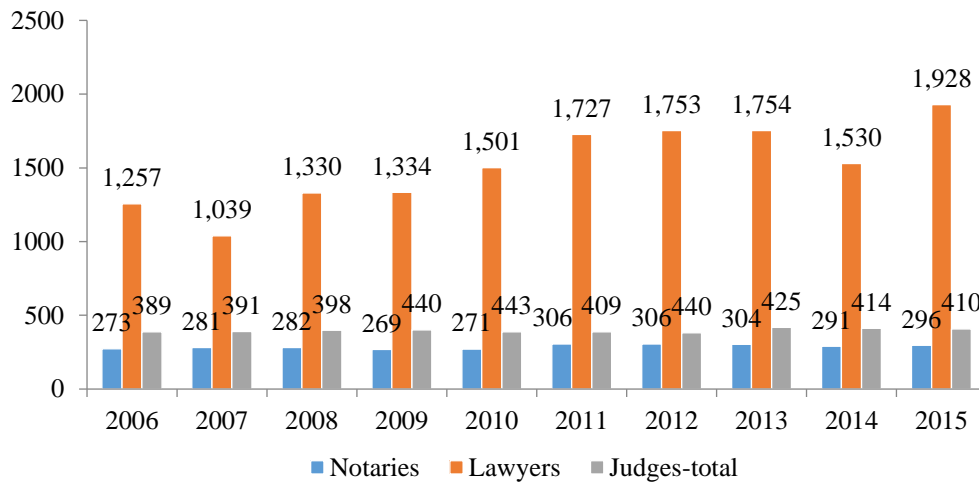
**4.5** The JSRS identifies different categories of legal professionals who contribute to a functioning justice sector. They include lawyers, notaries, mediators, bailiffs, legal experts,

<sup>111</sup> See National Center for State Courts, Core Competencies, Human Resource Management Resource Guide, at <http://www.ncsc.org/topics/human-resource-management/human-resource-management/resource-guide.aspx>

<sup>112</sup> Soros-Moldova. Assessing the First Year of Moldova's Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere. Working Paper. Chisinau: Soros-Moldova, 2016.

managers of insolvency proceedings and translations/interpreters. Figure 4.2 provides estimates for the numbers behind some of these professions.

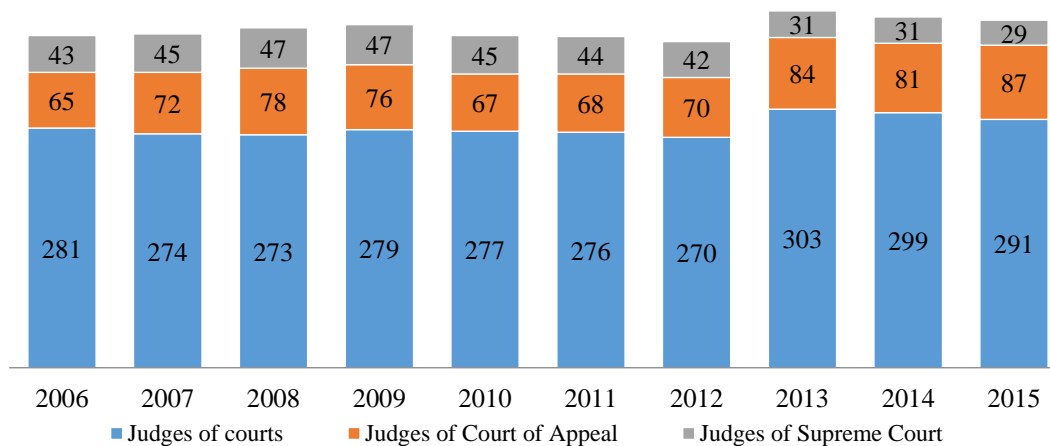
**Figure 4.2 Key Justice Professions by Numbers (2006-2015)**



Source: National Statistics Office, SCM

**4.6 The number of lawyers has almost doubled since 2007.** This number fluctuates somewhat, but 2015 showed a more significant spike than previous years. Judges and notaries both saw marginal increases since 2006. The population of Moldova has been decreasing since 2006, which means that per capita justice sector staff has increased during this period.

**Figure 4.3 Number and Types of Judges in Justice Sector**



Source: National Statistics Office

**4.7 Judges and other justice sector staff are divided among district courts, courts of appeal, and the Supreme Court** (Figure 4.3). The number of district court judges has increased somewhat since 2006, with a high of 303 in 2013 compared to a low of 270 in the previous year (a range of 12 percent). The number of appellate court judges has increased since 2006, though not uniformly, while the number of the Supreme Court judges has decreased.

**4.8 The court reorganization is expected to lead to promotions, transfers and terminations, unavoidable in a restructuring of this scale and ambition.** The restructuring abolished two

specialized courts and consolidated the 42 first instance courts into 15 first instance courts. The five courts in Chisinau are now consolidated into a single court. The new 15 courts have 9 or more judges each. In 2017 Moldova had about 500 judges and about 2,100 court staff.<sup>113</sup> However, in 2016, 29 courts had less than 7 judges each and 10 first instance courts had less than 5 judges.

**4.9 The number of persons served (per judge) across regions highlights the uneven distribution of service.** For example, in 2016, there was one judge to serve a population of 8,100 in Chisinau while Leova had one judge for 26,900 persons. In 2011, each judge in Cantemir served 31,400 people while each judge in Rezina only served 10,500 people. The widest variation was between Anenii Noi and Basarabeasca in 2013: one had 27,700 people per judge while the other had only 9,600. There is also a disparity between the number of judges in different regions. Courts with fewer judges fail to promote judges' professional development and such smaller courts are relatively expensive to maintain and operate. Regional differences in deployment of justice resources (in this case, judges) can be appropriately driven by differences in incidence of the need for judicial services, based on different population and economic conditions. However, these disparities are extreme in Moldova, and need to be explored in more detail to determine their implications for access to justice and the efficiency of the court network.

**4.10 The workload of judges in different courts varies substantially.** For instance, in 2012, the annual number of cases per judge varied between 24 and 1,145. Judges in Chisinau and Balti had much higher workloads than their colleagues in the rest of the country; if resources deployed per judge are similar, resources per case would vary considerably. As demonstrated in the following sections of this chapter, resources per judge do vary significantly across courts and regions, meaning that resources per case also likely vary in a nonsystematic manner. If this is not a function of case composition, the quality of the judicial process likely suffers.

**4.11 The law reorganizing the courts became effective on January 1, 2017: over time, it will change the distribution of judges across the country in line with the reduced number of court locations and increased application of technology.** The gradual merger process of the courts will continue until 2027, when the new buildings required for the fewer (but larger) courthouses and court complexes are constructed. The new plan aims to optimize the number of judges available to the population, to consolidate the institutional capacities of the courts, and to ensure the most efficient use of available resources. The post-consolidation number of judges and staff per court is supposed to ensure an equal distribution of workload in all the regions of the country.

**4.12 The transition to an e-court system could dispense with the need for travel by enabling electronic filing and access.** Effective implementation of e-justice and e-government is therefore crucial to improved justice sector services in Moldova. The current reorganization plans provide an opportunity to significantly improve the efficiency of the justice sector.

#### *Compensation*

**4.13 Appropriate compensation levels for justice personnel could resolve some HRM and corruption challenges.** According to the JSRS, despite the new human resource management system, low civil service salaries remain an issue. Low salaries are said to have caused high staff

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<sup>113</sup> World Bank. "Moldova JSPEIR - Civil Works Technical Report," 2016 (shared with the MOJ).



turnover rates (e.g. 11 percent in 2014)<sup>114</sup> but there is no clear evidence of this. Wage increases have sought to promote judicial independence and make judges less corrupt.<sup>115</sup> In 2013 and 2014, judges received 100 percent salary increases and 10 percent increases in 2015 and 2016. Beginning in 2013, each judge was assigned a legal assistant and from 2014, an additional clerk to reduce work pressure. Additionally, according to the MOJ, one-third of judges have been replaced since 2010 to reduce corruption.<sup>116</sup> It is too early to assess whether these steps have decreased corruption in the courts – certainly the 2017 user survey findings on corruption do not reflect this.

**4.14 Data on total justice sector salary and expenditure by judge per year show that the coefficient of variation between wages expenditures in different regions was 46 percent.**<sup>117</sup> In 2016, Ungheni rayon spent almost three times the amount of money that all regions spent on average in 2011. Overall trends show that expenditures per judge increased from the 2011 average in all regions except for two or three.

#### *Recruitment and Promotion*

**4.15 According to Article 1 of the law on the judiciary, the selection and promotion of candidates and judges is done by the board for the selection and career of judges (selection board) on the basis of “clear, transparent objective criteria that are based on merit.”** The law describes merit as “the knowledge level and professional skills, the ability to apply knowledge in to practice, the length of experience, qualitative or quantitative indicators of work undertaken as judge, maintenance of ethical standard and other research or academic activity.”

**4.16 Moldova has not specified clear metrics for measuring and managing performance, making it difficult to understand what “qualitative and quantitative criteria” may be.** As noted earlier in the section on organizational structure, judges in different parts of the country have varied caseloads and receive different levels of remuneration. Without a system to standardize the workload and performance of these judges, it is difficult to establish common evaluation and performance standards. This creates difficulties in discerning relative performance between courts and judges. The law also fails to clarify how the different “merit” criteria are to be weighted during the decision-making process (e.g. it does not specify the relative weights of performance and seniority in promotion decisions).

**4.17 The selection board examines candidates’ dossiers and documents submitted by judges seeking promotion.** It also organizes and conducts interviews with candidates. In selecting candidates for first-time appointments, the selection board also considers the results of the examination conducted by the Graduation Commission of the National Institute of Justice. The law does not, however, lay out how to address conflicts of interest. For example, there are no provisions requiring selection board members to disclose perceived or actual conflicts of interest or to require them to recuse themselves from decisions regarding candidates with whom they have personal relationships.

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<sup>114</sup> Moldova. Ministry of Justice. Chisinau. Strategy on Justice Sector Reform 2011-2015 (2012) accessed at [http://www.justice.gov.md/public/files/file/reforma\\_sectorul\\_justitiei/srsj\\_pa\\_srsj/SRSJen.pdf](http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsj_pa_srsj/SRSJen.pdf)

<sup>115</sup> Ibid

<sup>116</sup> Soros-Moldova. Assessing the First Year of Moldova’s Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere. Working paper. Chisinau: Soros-Moldova, 2016.

<sup>117</sup> Tables showing wage and salary expenditures per judge and total court expenditures per judge are in the Annex.

## *Professional Development*

**4.18 The National Institute of Justice (NIJ) was established to train judges, prosecutors and other justice sector personnel.** According to the Law on the NIJ and the Statute of the NIJ, this institution specializes in the training of the judiciary and is independent of the national education system.<sup>118</sup> Initial training of personnel is completely financed by state funds. Any risks to the sustainability and mid-term planning of the organization due to inconsistent donor funding only applies to the in-service training of judges.<sup>119</sup> NIJ is also allowed to train other legal professionals on a contractual basis.

**4.19 The JSRS lists reform of the NIJ to increase its efficiency as an interventional area.** The NIJ, the SCM, the SCP and parts of the MOJ have been made responsible for achieving this. The strategy also makes the SCM, SCP and MOJ responsible for reviewing the programs of NIJ to ensure their compliance with the training needs of judges and prosecutors and to encourage the specialization of judges on specific case types. The Council's board consists of judges, prosecutors, a MOJ representative, and a law professor. In theory, this brings a variety of perspectives into the strategic planning process of the NIJ and also makes cooperation with other justice sector entities easier. It has been suggested that the guarantee of state funding increases the NIJ's independence from external influence.

**4.20 Admission to the NIJ is selective.** Before the training begins, the NIJ determines the number of training slots. In recent years, the number of vacancies in the justice sector has exceeded the number of candidates working in the sector. The candidates first have to answer written legal questions and then undergo legal tests and exercises before they enter the institute. The admission process also involves an oral component to the exam. The final criteria for selecting candidates into the training, however, are not entirely transparent. The admissions announcements also lack details on methods of appraising the examinations.

**4.21 The initial training lasts for 18 months and includes theoretical and practical training and internships.** Judges and prosecutors are usually trained separately but there are some mixed groups. Judges are free to choose the kind of training they want to receive from a fixed set of choices. Candidates are also entitled to a monthly scholarship equal to 50 percent of the basic salary of a court judge so they can concentrate on their studies. However, trainees do not have easy access to mentors and the quality of trainers is not regularly evaluated.<sup>120</sup>

**4.22 The law requires that the NIJ coordinate its curricula for in-service professional training with the SCM, the GPO and the MOJ.** However, until 2012, only one comprehensive Training Needs Assessment (TNA) had been conducted under a joint program of the EU and the Council of Europe (COE).

**4.23 The law requires the NIJ to organize 40 hours of in-service training annually for each judge and prosecutor.** To fulfil this legal requirement, NIJ staff are always busy organizing training events. For example, in 2012 the NIJ organized 82 events relating to in-service training of

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<sup>118</sup> Law on the National Institute of Justice, Official Gazette of the Republic of Moldova No. 102-105/484 of 07.07.2006, cited by Council of Europe: <https://www.coe.int/t/dghl/cooperation/lisbonnetwork/membres/moldova-law.pdf>

<sup>119</sup> COE 2013, "Eastern Partnership Enhancing Judicial Reform in the Eastern Partnership Countries", Project Report 2013.

<sup>120</sup> Ibid

judges and prosecutors. However, most were proposed by donors and were based on donors' priorities and expertise, not necessarily on judges' and prosecutors' professional development priorities. 67 percent of judges participated in at least one of these programs. However, the program lasts 1-2 days, which means that many judges were not able to fulfill the 40 hours of required in-service training. By 2015, the number of trainings organized had increased to 242 but only a few of them lasted longer than a day. Additionally, few training sessions were dedicated to non-legal skills, leaving participants lacking the non-technical skills required to be an effective judge. Some experts recommend transferring the responsibility for curricula design from the NIJ board to the SCM.<sup>121</sup> This is because allowing the NIJ to determine compulsory subjects to teach the judges could infringe upon judges' independence.

**4.24 The judges' performance evaluation board indicated that training provided did not match judges' needs as identified in their performance reviews.** According to the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), the "link between performance evaluation outcomes and training offered by the National Institute of Justice (NIJ) has not been discussed. The performance evaluation for judges does not incorporate training needs."

**4.25 The JSRS listed activities to improve training but these are not yet implemented.**<sup>122</sup> Robust assessments of training plans implemented in the judiciary seem to be lacking. The current strategy has prioritized instituting training programs for the trainers of NIJ, reviewing the budget of the NIJ according to its real needs, and monitoring of the implementation of the NIJ reform. According to the strategy, the NIJ is required to conduct entry-level and in-service training of court managers and also provide training to court staff responsible for budget development and execution. The SCM and MOJ together are expected to train judges on file management and rules regarding case reviews. Care should also be taken to ensure that the training of court managers, legal assistants, and trainings on file management and case reviews are government funded. Otherwise they may need to rely on the funding of external donors, which would hinder the consistency of training and perhaps bias the curriculum.

#### *Performance Management*

**4.26 Detailed criteria for the performance management of judges are listed in the May 2012 Moldovan law on the Selection and Performance Evaluation of Judges.** The law requires the SCM to set detailed criteria for performance evaluation and gives the SCM primary responsibility for evaluation. The law states that the Board of Judges (or evaluation board) is responsible for performance evaluation, which aims at determining the knowledge and professional skills of the judge and ability to apply theoretical knowledge and necessary skills in practice. According to the law, performance evaluation results are used to organize appropriate professional training of judges, ensure an objective comparison between judges for promotion, and motivate judges to improve their level of training and professional skills. The criteria for the performance evaluation of judges are set by the SCM and published on their website and in the Official Gazette.

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<sup>121</sup> *ibid*

<sup>122</sup> See Strategy on Justice Sector Reform, Adopted by the Moldovan Parliament on 25 November 2011 (Law no. 231), in force from 6 January 2012.

<sup>122</sup> COE 2013, "Eastern Partnership Enhancing Judicial Reform in the Eastern Partnership Countries", Project Report 2013.pg. 180

**4.27 Judges are subject to performance evaluation every three years.** If their quality of performance is deemed insufficient, the judge is subject to ‘extraordinary evaluation’, according to article 13 of the law. The law permits judges to initiate their own extraordinary performance evaluation by requesting a performance evaluation. An SCM member may request a performance evaluation of a specific judge. The law specifies criteria to evaluate judges’ performance:

- a. Efficiency - these may include case disposal rates and timeliness of decisions;
- b. Quality - these include examination of the rate of reversal of decisions, clarity of reasoning and organization of professional work and training; and
- c. Professional integrity - compliance with ethics, professional reputation, misconduct and absence of ECHR violations.

**4.28 In 2014, the OSCE and the ODIHR assessed the above law at the SCM’s request.** Their assessment found “concerns with the fairness and transparency of the system including lack of consistency in grading, insufficient reasoning of Board decisions, and a perceived subjectivity of grading.”<sup>123</sup> When interviewing individual judges, ODIHR found that “one respondent alleged that specific judges are earmarked prior to a promotion process, and there is peer pressure on those not earmarked to withdraw their candidacies.” They also found that performance assessments were inconsistent and widely perceived to be subjective.

**4.29 The OSCE and ODIHR also analyzed the working of the Board.** Their report shows that “the Board gathers data on these criteria, receives the opinion of the chair of the court amongst other data collected, and interviews the judge. Each Board member fills in a score sheet for the evaluated judge, and the final score is determined following the interview with the judge.”<sup>124</sup> A common criticism of this system is that it is not an effective method of informing a judge about his performance. It lacks detailed recommendations for improvement and therefore does not contribute sufficiently to performance improvement.

**4.30 The JSRS makes the SCM, the courts, the SCP and Unions of liberal professions of the justice sector responsible for creating a system of periodic evaluation of the performance of actors in the justice sector.** To this end, these entities developed criteria for the periodical evaluation of performances, drafted internal regulations of the actors of the justice sector, and evaluated all judges according to the new performance criteria.<sup>125</sup> The strategy also states that the SCM and the MOJ are responsible for reviewing the range of disciplinary deviation and of disciplinary procedure. The SCM and the MOJ have now drafted amendments to the regulatory framework, revised and adjusted the range of disciplinary deviations, and implemented a new mechanism referring to the examination of disciplinary accountability.

**4.31 According to Soros-Moldova’s assessment of the first year of Moldova’s implementation of the Association Agenda, the “quality of judicial acts is the weakest point of the Moldovan judiciary.”**<sup>126</sup> Soros-Moldova believes that the decisions delivered by judges often belie ulterior motives, mainly due to the heavy workload in some courts and the insufficient

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<sup>123</sup> *ibid*

<sup>124</sup> *ibid*

<sup>125</sup> Strategy on Justice Sector Reform 2011-2015, Ministry of Justice, 2012:

[http://www.justice.gov.md/public/files/file/reforma\\_sectorul\\_justitiei/srsj\\_pa\\_srsj/SRSJen.pdf](http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsj_pa_srsj/SRSJen.pdf)

<sup>126</sup> Soros-Moldova. Assessing the First Year of Moldova’s Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere. Working paper. Chisinau: Soros-Moldova, 2016.

professional education of judges. The transparent appointment and promotion of judges is important for the independence and efficiency of the judicial system. The work of the SCM in this field does not seem to be sufficiently transparent. The 2016 working paper states that “a SCM monitoring report by the Legal Resources Centre of Moldova (LRCM), covering January 2013-September 2014, found a number of serious problems in this regard, including: promotion to the Supreme Court of Justice (SCJ) and courts of appeal of judges who had obtained lower scores at the Board for Selection and Career of Judges; the design of separate competitions for each position, which creates avenues for manipulation; and the use of inadequate criteria for the selection of judges that do not contribute to the promotion of the best candidates.” They also found that the results of exams taken in NIJ only have 30 percent weight in the final criteria for the employment of judges, leaving the remaining 70 percent to more subjective forms of evaluation. Similarly, in the case of promotions, past performance evaluations constituted only 40 percent of the criteria.

**4.32 In an environment vulnerable to corruption, institutions tend to work well if they are transparent and accountable.** Moldova’s SCM does not meet either criterion yet. Until the SCM becomes more transparent and accountable, performance management of Moldova’s judges – essential to better functioning courts - will remain opaque.

*Code of Conduct, Discipline and Discharge*

**4.33 The JSRS declared the promotion and implementation of zero tolerance for corruption in the justice sector as a key objective, but Moldova has a long way to go, as the 2017 court user surveys show.** And as shown in Figure 4.4, Freedom House has consistently rated Moldova poorly in its “judicial framework and independence” as well as “corruption.” TI’s CPI scores have given Moldova between 2.1 to 3.3 points for corruption in the past decade.<sup>127</sup>

**4.34 Parliament noted with concern - in its Decision no. 53-XVIII of October 30, 2009 - that the judiciary in Moldova was seriously affected by corruption.**<sup>128</sup> It attributed this to the “neglect or selective application by the SCM of the law governing the liability of judges, its indulgence; lack of response from the SCM and prosecution bodies to the judges’ actions, which sometimes are of criminal nature; lack of response and resistance to intimidation of the judiciary and political pressure coming from representatives of the government; lack of transparency of justice and the SCM activity, especially concerning the selection, appointment, promotion and punishment of judges; failure of initial and continuous training of judges; inadequate provision of materials for judges; “syndication” of the judiciary power etc.”<sup>129</sup>

**Figure 4.4. Moldova: Governance and Corruption Scores**

Metrics	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Judicial framework and independence	4.5	4.5	4.5	4.5	4.75	4.5	4.5	4.5	4.75	4.75
Corruption	6	6	6	6	6	6	6	5.75	5.75	5.75

*Source:* Freedom House, cited in Moldova by Leonard Litra<sup>130</sup>

<sup>127</sup> E.V., Transparency International. "Transparency International Annual CPI Rankings." Transparency.org. 2016. Accessed January 12, 2017. <https://www.transparency.org/cpi2015/>.

<sup>128</sup> Strategy on Justice Sector Reform 2011-2015, Ministry of Justice, 2012:

[http://www.justice.gov.md/public/files/file/reforma\\_sectorul\\_justitiei/srsj\\_pa\\_srsj/SRSJen.pdf](http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsj_pa_srsj/SRSJen.pdf)

<sup>129</sup> Ibid

<sup>130</sup> Litra Leonid, “Nations in Transit ratings and averaged scores”, Freedom House, last accessed October 1, 2017

Note: The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest.

**4.35 Delays in JSRS implementation have cost Moldova about EUR1.8 million in lost EU financial support for the justice sector.**<sup>131</sup> A major red flag was the perception that the SCM shielded judges from criminal prosecution. Freedom House pointed out that “In July, the government adopted amendments that enabled the criminal prosecution of judges without the consent of SCM on all charges. The changes were a continuation of 2012–2013 efforts to make these prosecutions easier. However, in November, the Supreme Court of Justice (SCJ) asked the Constitutional Court to repeal the law as it adversely affected judicial independence.”<sup>132</sup>

**4.36 Information systems were found to be vulnerable to manipulation and corruption.** The electronic system of random assignment of cases, the Integrated Case Management System (ICMS), was introduced to limit corruption in the courts. On December 11, 2014, the Anti-Corruption Prosecutor initiated an investigation against eight employees of a Chisinau district court who were suspected of manipulating the ICMS between 2012 and 2014 so that certain cases (concerning large monetary claims) were allocated to specific judges.<sup>133</sup> The Anti-Corruption Prosecutor’s Office is understood to be examining the case.

**4.37 Despite the JSRS’s stated zero tolerance for corruption, actual anti-corruption actions and practices do not appear to be a priority.** In February 2015, 16 civil society organizations called upon the SCM to urgently address the issue of case distribution in all courts, identify vulnerabilities, and sanction those involved in manipulating the random case distribution system. The SCM has not yet reported on the subject.

**4.38 The new law has some drawbacks.** It prescribes a cumbersome procedure for investigating judges. The law transfers the exclusive right to initiate disciplinary proceedings from an SCM member to a panel of three members of the Disciplinary Board. Based on the materials presented by the Judicial Inspection, which is called to investigate judges, Judicial Inspection decides whether to submit the case for examination to the Disciplinary Board or to dismiss the case. (According to the SCM, by law the Judicial Inspection is not part of the SCM Secretariat but a separate entity, hence it can decide whether to submit a case to the Disciplinary Board or to dismiss it.) This procedure has been criticized in the Joint Opinion of the Venice Commission and the ODIHR.

**4.39 Overall, Soros-Moldova’s assessment of JSRS implementation, especially with respect to corruption, led to sensible and feasible recommendations, provided below.**

4.1: “Prosecution service reform should be adopted without any further delays. Parliament should not introduce amendments that would be contrary to the opinion of the Venice Commission or that would limit the powers of the prosecutors to combat high level corruption.

4.2: The authorities should take firm measures to optimize the judicial map by consolidating the number of courts.

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<sup>131</sup> Ibid

<sup>132</sup> Ibid, 449

<sup>133</sup> On December 30, 2014, the SCM consented to a criminal investigation of judges suspected of participating in these actions. On December 1, 2014 the SCM Chairperson notified the National Anti-Corruption Centre of the alleged manipulation of the ICMS by the Deputy President of the Supreme Court. The claim refers to 22 cases of alleged manipulation of ICMS during January-November 2014.

4.3: A transparent mechanism of selection and promotion of judges should be put in place. The discretion of the SCM should be limited, if not eliminated. This task can be assigned to the Board for Selection and Career of Judges of the SCM. The criteria for selection and promotion of judges should be reviewed to ensure the selection and promotion of the best candidates.

4.4: The authorities should take urgent measures to reform the system of investigative judges to ensure the better protection of human rights and rotation of investigative judges.

4.5: The authorities should ensure that all court cases are assigned randomly. It should also promptly investigate and sanction any attempts to interfere with the Integrated Case Management System.

4.6: The independence of the Judicial Inspection should be strengthened. The procedure of investigation of judges should be simplified by abolishing the admissibility panel and transferring its powers to the Judicial Inspection.”<sup>134</sup>.

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<sup>134</sup> Soros-Moldova. Assessing the First Year of Moldova’s Implementation of the Association Agenda – Progress and Opportunities in the Political Sphere. Working paper. Chisinau: Soros-Moldova, 2016.

## Chapter Five

### INFORMATION SYSTEMS AND PHYSICAL FACILITIES

#### Background

**5.1. Moldova plans to undertake further modernization of its justice sector information systems and physical facilities, including consolidating its 44 court locations to 15 over time.** However, more strategic use of judicial personnel, advances in technology and adoption of lessons and good practices from neighboring countries suggest it could be desirable for Moldova to examine smarter solutions to the capture, corruption and performance issues identified in Chapter 3 while realizing additional cost savings. This chapter explores some of these possibilities.

**5.2. A key focus of Moldova’s justice reforms is to strengthen sector ICT capability and applications to increase efficiency, access, transparency and accountability.** Pillar 1 of the JSRS intervention area 1.2.3 recommends implementing *an e-justice system for the efficient and functional use of the judicial information system in order to exclude the human factor from the administrative process of case management*. Since 2012, Moldova has run a government cloud computing infrastructure – the M-Cloud – to enable faster and more efficient delivery of electronic services. The Cloud First policy requires all government agencies and entities to utilize the cloud and all CST-provided facilities, transitioning all systems over time to the CST. While courts still function out of existing physical locations, the ICMS has been reconfigured to support the 15 consolidated first-instance courts.

**5.3. Another objective of court consolidation is to create better working conditions for judges and staff, through improved facilities and efficiency.** For example, court automation is to be integrated into the design of new courthouses to streamline procedures, all courthouses are to be made accessible for persons with disabilities, courts are to comply with international access and circulation practices and requirements (public, limited, secured) and courthouse designs need to reflect the local context to demonstrate the judiciary’s openness and increase confidence in the judiciary. The Action Plan envisages that reconfigured and expanded courthouses will build in transparency measures (such as hearing rooms in size and numbers adequate for litigants and visitors while reducing opportunities for corruption), while courthouse designs will be standardized to include functional spaces and facilities (such as waiting areas, signage, lawyers’ rooms and canteens). Lifecycle costs are envisaged to be optimized through sustainable construction, with capital savings expected from centralized procurement of goods and services.

#### Key Issues

##### *Vision*

**5.4. The “classic” model of organizing courts’ jurisdictions, where courts handle all case categories within their territorial jurisdiction, is on its way out globally, but Moldova’s court consolidation – as currently planned – may not improve efficiency and access or reduce capture, corruption or costs.** A combination of opportunities offered by technological advances and specialization – already being applied in some countries - could result in fewer judges needed, faster case processing and a somewhat different configuration of court categories, generating potential cost reductions and efficiency improvements. This is explained in more detail below.

**5.5. To begin with, based on caseload trends explained in Chapters 2 and 3, Moldova could need fewer than 15 first-instance courts.** Countries in the region have experienced a significant increase in the number of small-value high-volume cases filed in first-instance courts. These have



clogged court dockets and put additional stress on already stressed systems operating in a resource-scarce environment. In Slovenia and Azerbaijan, for example, such cases account for 25-40 percent of first instance courts' caseloads. Both countries have opted to simplify and automate the filing, processing and deciding/resolving of such cases in dedicated courts – thereby taking these cases off the dockets of 'normal' first-instance courts - to address the judicial crisis created by this phenomenon (Box 5.1). Caseloads in 'normal' first-instance courts reduced by 25-40 percent mean fewer judges and judicial staff, fewer courthouses, lower wage bills, improved electronic and physical access and greater efficiency and - over time – perhaps greater public trust.

### **Box 5.1. Azerbaijan – Fast-Tracking Small Civil Enforcement Cases**

Small-value high-volume civil enforcement cases (called “order processing cases” or OPCs in Azerbaijan) comprised more than half of civil cases in Azerbaijan in 2014 and 2015. The number of incoming civil cases grew almost six-fold from 2010 (55,177 cases) to 2015 (313,892 cases), creating a judicial crisis. Within these numbers, the number of OPCs filed rose from 20,964 in 2010 (38 percent of total incoming cases) to 165,343 in 2015 (53 percent). These clogged court dockets and put pressure on Azerbaijan's courts and MOJ to find and implement a rapid solution. The World Bank-financed Judicial Services and Smart Infrastructure Project (JSSIP) supported this effort.

The initiative to adapt the Slovenian automated fast-track process for such claims comprises three stages: piloting a simplified business process in Azerbaijan's busiest court (Yasamal District Court in Baku City) involving the two largest stakeholders (banks and mobile operators, who bulk-file large volumes of small-value claims); amending relevant laws, by-laws and regulations<sup>135</sup> to authorize streamlined processes; and designating a single court to centrally receive, process and decide such cases electronically.

Azerbaijan's ICMS provided a solid starting point: Yasamal Court judges and staff adopted an ambitious goal to implement the pilot within three months from launch. Key deliverables included electronic bulk filing, electronic bulk delivery of decisions, standardized petition and order forms, a new way of validating data using G2G communication with external registers and automated generation of orders with electronic signatures of judges.

Standardized envelopes and digitized attachments eased the burden of administrative staff and speeded up business processes. Automated court orders allowed judges to focus on substance and adjudication. The pilot decreased judges' and staff workload and increased processing speed. The pilot created a mostly paperless environment. Data quality improved due to validation with external registers. Finally, the pilot introduced standardized forms (petition, order, envelope), decreasing adjudication time and cost.

The streamlined process has 4 stages: the creditor electronically bulk-files e-signed petitions; data is validated by the system, which rejects petitions if data is not validated, or accepts them and issues e-signed “orders” which are then electronically transmitted to the parties along with a paper version through the postal system. The system is designed to receive confirmation of delivery of the printed “order” to the debtor.

\* *Source:* Slovenian case study on COVL Project, last accessed January 28, 2018 at:

[http://www.irsig.cnr.it/BIEPCO/documents/case\\_studies/COVL%20Slovenia%20case%20study%2025042012.pdf](http://www.irsig.cnr.it/BIEPCO/documents/case_studies/COVL%20Slovenia%20case%20study%2025042012.pdf)

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<sup>135</sup> Such as the Civil Procedure Code, the Courts Act, the Law on Court Fees, the Law on Digital Signature, the Law on Electronic Documents and the Guide on Clerical Work in Courts.

## ***Information and Communications Technology***

**5.6. The Cloud First Policy requires all departments and agencies to utilize the cloud.** Despite the cloud's substantial spare capacity, the GPO is operating the e-Criminal Case system from its own obsolete data centre. ICT options are not leveraged to their full potential and e-justice tools are only used to a limited extent. The combination of a missing strategy and lack of procedures and standards in place will continue to make it difficult to identify and allocate funding for ICT reform initiatives; system management and maintenance suffer. Further details on these issues can be accessed in the *Technical Report: Information & Communication Technology (ICT) in Moldova's Justice Sector. An Examination of Selected Issues* (submitted to MoJ earlier).

**5.7. While the Cloud First Policy aims to accelerate growth and development, such new technologies require special attention and institutional capabilities<sup>136</sup>.** Digital technologies in the justice sector lack sufficient security and privacy standards and hence put Moldova's justice sector at high risk of becoming victims of cyberwarfare and cybercrime. Only a few weeks after the Supreme Security Council's directive to ensure information security on October 7, 2014, Moldova suffered the bank USD1 billion bank fraud. Earlier, in 2010, the Central Election Commission was attacked on the day of parliamentary elections. Insufficient coordination between responsible institutions, cybersecurity mechanisms and well-trained specialists make government entities, private companies and citizens institutions alike targets for cyber-attacks<sup>137</sup>. To protect existing and future e-applications, justice sector entities need to periodically stress-test all existing and planned applications and address the security gaps identified.

**5.8. Current modernization plans address each sector entity individually and erroneously assume that cost savings will only arise from 'business as usual' in fewer locations.** As a result, the plan missed opportunities for greater efficiency savings by putting resources where they can make a difference. Neither does the plan utilize other avenues for efficiency gains, for example by developing solutions in coordination with relevant justice entities, or leveraging existing applications and capacities (e.g. the M-Cloud). Internal user needs play a marginal role, if any, in discussions around improving performance and service delivery. Differentiated needs of external users are yet to be reflected in sector ICT tools and applications. An example from Saudi Arabia is instructive: the evolution of the site "knowyourrights.com" shows that moving closer to (potential) users does not always require large capital investments. The goal of the site's founder was to develop a "solution app" offering fixes to specific common problems, from filing a domestic violence case without the need to hire a lawyer, to searching for a job or reporting the theft of

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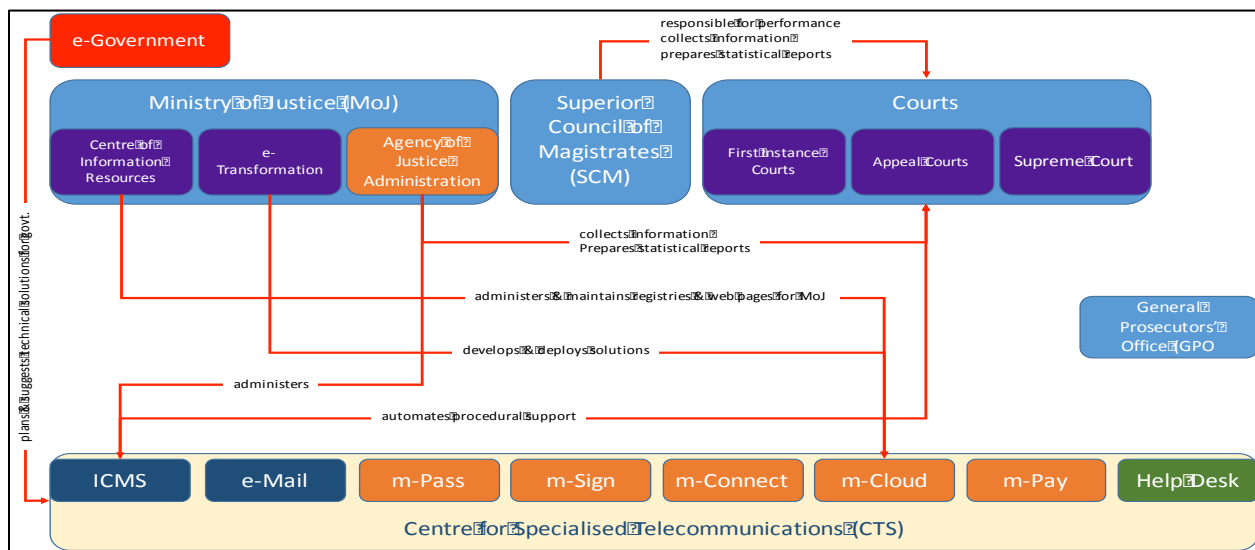
<sup>136</sup> As Moldova's National Strategy for Information Society Development – "Digital Moldova 2020" (Government Decision No. 857, October 31, 2013) – and Moldova's Supreme Security Council (Decision No. 01/1-02-5) admit.

<sup>137</sup> Spinu, Natalia. 2015. Creating and Strengthening Cybersecurity in the Republic of Moldova. In: *Information & Security: An International Journal*, Vol. 32, 2015; last accessed on September 11, 2017: [https://procon.bg/system/files/3208\\_cyber\\_moldova.pdf](https://procon.bg/system/files/3208_cyber_moldova.pdf)

intellectual property. The application feeds a strong demand gap: since its launch in July 2016, it has been downloaded 35,000 times (i.e. more than 80 downloads per day over 14 months)<sup>138</sup>.

**5.9. Moldova’s justice ICT challenges revolve around an advanced cloud infrastructure that lacks requisite support.** Its numerous stakeholders, objectives and activities are not aligned under a single ICT sector strategy/strategic framework or umbrella. This gap gave rise to a fragmented and complex organizational structure to coordinate justice sector ICT (Figure 5.1): the MOJ, the SCM, the Center for Special Telecommunications (CST) and the e-Government Center (E-Gov) are all tasked with the implementation of an appropriate e-justice system<sup>139</sup>. Institutional competition in combination with capacity gaps across all institutions has prevented leveraging ICT for sector efficiency, transparency, accountability, access and service delivery. Low compensation hinders GOM ability to hire from the limited pool of highly-skilled ICT specialists.

**Figure 5.1: ICT Governance in the Justice Sector**



Source: World Bank

**5.10. Funding for justice ICT is not aligned with outcomes and/or user priorities and annual allocations hinder medium- to long-term planning; there is no allocation for maintaining, supporting and enhancing existing systems** (see also Section 3 of the *Technical Report on ICT*). No ICT Strategy guides decision-making and resource allocation to various ICT initiatives leading to fragmented investments that do little to advance the overall justice reform program. A lack of established procedures and standards results in poor development of business cases and insufficient attention to asset life-cycle management. Systems have been developed using existing resources; hence application use the most easily accessible technologies. Due to a lack of budget allocation, system management and maintenance suffer.

<sup>138</sup> Nabbout, Mariam. September 6, 2017. “This woman made an app for Saudi women to learn their rights”, in *stepFEED*; last accessed September 13, 2017 at <http://stepfeed.com/this-woman-made-an-app-for-saudi-women-to-learn-their-rights-7275>

<sup>139</sup> For details regarding each agency’s tasks and responsibilities, see Section 3 of the *Technical Report on ICT*.

**5.11. Moldova’s justice sector lacks an enterprise-level architecture to support high-quality and efficient resource management.**<sup>140</sup> This includes financial management, budget management, human resource management, payroll and asset management. Existing systems were not designed in an integrated manner. This has led to systems that are fragile and at risk of breakdown if more applications are added or major modifications made to existing applications. As a result, performance suffers when systems are scaled up. If such systems are used by MOF and treasury, there is no automated interface between them and the judiciary information systems. Each court does its financial management and payments separately on spreadsheets. No comprehensive HR management system (HRMIS) monitors performance and controls payroll of sector personnel. Expertise, specialization and experience useful to enable proper resource allocation and facilitate overall performance improvements, are not recorded. Standard office automation systems such as Microsoft Office products are widely used, but versions differ between offices and even within the same office.

**5.12. Existing resources and capacities are limited and scattered across organizations, further reducing their effectiveness.** Centralized infrastructure support services and the infrastructure have not been leveraged effectively. Of concern are almost negligible programming skills to support applications and system development. Justice sector stakeholders do not have sufficient ICT technical skills themselves to manage either CST or any outsourced supplier.

**5.13. All courts use the ICMS.** ICMS’s core infrastructure is old; its core technology – NET V2.0 – is outdated and not web-based, hence court users cannot track case progress. ICMS’s algorithm for random case allocation to judges has been breached adding to the existing lack of trust; case registration sees inconsistencies in determining case complexity and duplication of registration efforts. Part of the struggle can be explained by nine organizations maintaining ICMS through separate support arrangements over the years. Each used different standards and developed different sets of sub-routines making the actual code almost un-supportable. Continued changes and enhancements to ICMS are difficult to realize. Users are often unclear who to escalate ICMS issues to, which most often end up being discussed amongst judges of the same court in their monthly meetings. However, there is user resistance to ICMS re-design or re-development due to fear of add-ons to existing complexities. Starting 2017 the USAID’s “Open Justice” Project is working on two related activities: a) upgrading the functionality of the current ICMS. Programming of the 30 updates to the current ICMS has been completed and the implementer is currently conducting field tests and trainings, and b) integration of the updated ICMS that will run on current software with other e-governance platforms and applications (i.e. e-Filing). The ICMS development is occurring in seven stages. The 4th stage was just completed and is currently being field tested. It is expected that all seven stages will be programmed by September 2018.

**5.14. Features available for other public services, such as e-filing and e-signature, are currently under implementation.** In 2017 the e-filing system (part of ICMS) was successfully tested in one of the Chisinau courts and MOJ decided to extend testing to all Chisinau courts, including the Appeal Court. However, the uptake is low and court decisions still need to be printed and physically signed by the judge to become legally binding.

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<sup>140</sup> Preliminary cost estimates to establish an enterprise-level resource management system were developed in an ICT Technical Report as part of JSPEIR preparation and shared with the MOJ and SCM in 2017.

**5.15. Regularly, crowded facilities lead to hearings in judges’ offices,** where they cannot benefit from existing audio recording systems and uploaded to ICMS raising questions about transparency and integrity. Where recorded, recordings suffer from low quality due to a lack of directional microphones.

**5.16. A new GPO “Register of Criminalistics and Criminological Information” – the so-called “e-Criminal Case” – was developed with the support of UNDP in 2016 and implemented by the GPO nation-wide.** However, at least 42 of the 54 offices suffer from poor quality of local area network cabling, low capacity of local switches and an electricity wiring that is old and of poor quality raising doubts concerning full implementation. Further, e-Criminal Case does not yet have any disaster recovery facility and its server racks are installed in an unsecured storage room inside the General Prosecutor’s Office. The use of spare cloud capacity available with CST is not foreseen. (Tentative cost estimates to assess ICMS and e-Case were prepared during JSPEIR missions and are available for reference if needed.)

**5.17. Other bodies, such as the SCM and civil registries, lack their own systems support.** In the case of SCM this has led to an alarming situation where examination and performance records of judges cannot be safely stored. Lack of an electronic registry of birth, death and marriage certificates, which are largely kept by churches in manual ledgers, results in lengthy procedures to collect this information. To improve safety, security, access and transparency, major investments may be needed to catch up to Moldova’s public sector performance elsewhere. Activities to improve select MOJ registries have been suggested in an ICT technical report earlier shared with the MOJ and SCM.

#### **Box 5.2. Donor Support for Justice Sector ICT**

Moldova’s development partners have contributed significantly to the development and roll-out of justice sector ICT applications and systems.

**USAID** supported the development (2007) and deployment (2008) of the ICMS used in all first-instance courts and courts of appeal. During system development, USAID coordinated inputs from MOJ and SCM. Since 2016 USAID has not provided further support as it has been waiting for MOJ and SCM to resolve ICMS governance issues (see discussion above) especially as they concern ownership. However, USAID may consider providing additional support of about USD8 million over the next four years for ICMS enhancements such as functionalities to increase transparency and access and to allow for external monitoring (watchdogs). In light of the court consolidation, the proposed USAID engagement will also review the immediate needs for the ICMS to be aligned with the new organizational structure. USAID also supported an assessment of the physical infrastructure of courts and prosecutor offices. The assessment was conducted in view of the planned deployment of the e-case system developed for the GPO with UNDP support.

**UNDP** has not been engaged in any significant ICT projects in the justice sector in recent years but it has assisted in niche areas. Development of some modules of the e-Case system for the GPO which included the development of software development (done by an Estonian company at a cost of USD56,000) and procurement of servers and other hardware (approximately USD100,000). While this system will not require a lot of effort to support, it has not been tested as it has not been fully deployed due to insufficient infrastructure in GPO offices, such as insufficient or poor cabling standards, insufficient electricity outlets and insufficient office equipment like personal computers. There are no ongoing support arrangements in place, it is expected to be support by in-house staff of the GPO. Today, the system is installed on two racks in a storage room that doubles as a server room. Since no more funding is available, UNDP is currently not involved in assisting this system. UNDP also conducted an analysis of a new system of tariffs and fees for the MOJ. The system has been developed but not yet approved for deployment.

## *Courthouses*

**5.18. Until 2016 there were 44 first-instance courts, and four Courts of Appeal in Moldova: these accounted for 473 judges and 2,122 court staff.** Out of these 48 courts, 29 had less than seven judges each, while 10 had fewer than five judges. Caseload distribution showed significant variations across the judicial system. Given these resource misallocations, the Strategy and its accompanying Action Plan address the optimization of the judicial network to improve the quality of justice, use sector resources more efficiently and create better working conditions for judges and staff. On April 21, 2016, Parliament passed *Law No. 76 On the Organization of the Judicial Map*, which reorganized the judicial map by merging, downsizing and closing existing courts from January 1, 2017.

**5.19. Today, 15 first-instance courts of general jurisdiction run from insufficient and crowded facilities.** Little has actually changed on the ground: courthouses continue to be crowded and suffer from a shortage of hearing rooms, raising questions about efficiency, transparency, integrity and accountability. Lack of clear signage, elevators, canteens and toilets as well as access shortcomings result in court users who are poorly informed and not treated well.

**5.20. MOJ estimates that about USD60 million<sup>141</sup> (MDL1.5 billion) is needed to finance the reorganization of the judicial map as envisaged by the MOJ.** Annual cost savings are estimated at MDL45.3 million and the court consolidation is expected to pay for itself within 17 years. However, funding is yet to be identified. Further, the estimated amount is only for new construction, renovations, extensions, furniture and equipment. It does not include the cost of upgrading ICT, of land acquisition where needed or of demolishing existing buildings.<sup>142</sup>

**5.21. The MOJ wants to include MDL751 million for six courts in upcoming medium-term budgets.** As with courts' ICT infrastructure, courts' physical infrastructure also lacks clear governance structures and decision-making processes. The Public Investment Management (PIM) decision-making process is fragmented and a constructive dialog between justice sector leadership and other important actors such as the MOF and the State Chancellery is needed. Hence, it takes a long time until packages reach the Inter-Ministerial Committee for Strategic Planning at the Prime Minister's Office which has the mandate to take decisions on large investment projects.

**5.22. No donor commitment has been made to fund court infrastructure.** Earlier, the EU had plans for a court infrastructure project to finance the construction of three courts (approx. EUR15 million). Recent in-country developments, however, put planning on hold. Instead of relying on its own scarce resources or donors to come in, the justice sector leadership should first reduce the overall cost, including by following peer country examples and through innovative thinking beyond budgetary resources, for example through realizing added value from current assets.

**5.23. The Strategy and Action Plan envisaged a five-phase court consolidation plan:** a preparatory phase involving consultations with Moldova's civil society, followed by four stages of construction to ensure uniform and standardized implementation of court consolidation. The construction of new court facilities is intended to follow one of two models, depending on whether the new facility will be built on the same plot or on a newly identified and allocated plot. The first

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<sup>141</sup> Legal Resources Center of Moldova: Feasibility study for Court Optimization, last accessed on August 8, 2016: <http://crjm.org/wp-content/uploads/2015/08/Moldova-Court-optimiz.pdf>

<sup>142</sup> Further details on physical infrastructure issues are in a technical report on physical facilities, shared with the MOJ and SCM in 2017.



model foresees the demolition of the existing courthouse, the second does not. Moldova does not currently have energy sufficiency standards for its courts, and none of Moldova's courts comply with national or international fire protection standards.

**5.24. Constructing court facilities in Moldova, as in other countries, can be divided into three major steps: design, construction and adjustments during operation.** Linked to these are permit requests, accordance with regulations and standards, technical supervision, handover, energy efficiency and safety concerns, cost implications and investment decisions as well as procurement of services and goods. The total average time needed to complete the design process is estimated at 14 to 20 months; costs are estimated at around USD20 per square meter or up to five per cent of construction costs. The total average time needed to construct a new court building of 2,000 square meters is estimated at up to three years; the total average time needed to rehabilitate an existing building of 2,000 square meters may need only a year. Average costs to construct a new building, or to add on or extend an existing building are estimated at around USD580 (EUR519) per square meter in Chisinau and USD505 (EUR451) per square meter outside the capital city. Preparing land for construction will add about USD60 (EUR55) per square meter to these costs.<sup>143</sup>

**5.25. In addition, the reality is that more time and additional costs may be needed** for work, efforts and materials that may not have been calculated or are difficult to estimate. For example, the MOJ in collaboration with the Ministry of Finance (MOF), the Ministry of Rural Development and Construction and the SCM is yet to develop standard requirements for court buildings. Repairs and rehabilitation efforts depend largely on the complexity of works needed, the building and its condition. Major renovation works are usually more time-consuming, as design changes are common given unknown actual conditions requiring a re-visit of design and construction assumptions. Cost estimates per square meter may show significant variations depending on site-specific conditions and circumstances. And while the above estimates seem to be reasonable, they need to be reviewed given the time that has elapsed. Hence, generalizations may need careful handlings and further specifications to be reliable. Further, cost estimates do not include costs for furniture, ICT equipment etc.

**5.26. Governments significantly underestimate the time and cost to complete design and building permit procedures before actual construction can even begin:** these processes can and do take longer than the estimated nine to twelve months to get from concept to working drawings and final Bills of Quantity (BOQs). Different agencies and entities review architectural, structural, mechanical, electrical, fire protection and traffic technical documentation; the collection of permits alone may well exceed twelve months. Only when a state-licences specialist has approved the design can the project move to the next stage i.e. applying for a construction permit. Tender documents need to be prepared, the procurement process then follows Moldova's public procurement law with gaps and issues identified below.

**5.27. Public procurement – key to financing information systems and physical facilities efficiently and transparently - has been a concern for many years; recent developments and changes to the legal framework led to improvements, but much remains to be done.** On May 1, 2016, a new PPL (Law No. 131 of July 3, 2015) entered into force, which incorporates fundamental EU principles to public procurement. The development of the new PPL commenced

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<sup>143</sup> Republic of Moldova: Feasibility Study for Court Optimization. USAID. July 2015, last accessed on July 25, 2018: <https://crjm.org/wp-content/uploads/2015/08/Moldova-Court-optimiz.pdf>

as part of the EU-financed Twinning Program with Romania, and continued as part of Moldova's commitments made under the Association Agreement (AA) and Deep and Comprehensive Free Trade Area (DCFTA). Overall, the new law provides a satisfactory regulatory framework and incorporates fundamental EU principles governing the award of public contracts. However, some areas will require further attention: for example, procurement concerning defence and utilities remain unregulated, and the legal framework governing concessions and public-private partnerships (PPPs) requires revision and alignment with relevant EU legislation. While the adoption of the new PPL is a positive development and the Public Procurement Agency (PPA) benefitted recently from new regulations concerning its structure and function, challenges remain, specifically concerning the development, adoption and implementation of secondary legislation. In July 2016, Moldova acceded the WTO GPA which is an important step in the establishment and maintenance of an efficient system of government procurement. In December 2016, the Government approved the Strategy for the development of the public procurement system for the period 2016-2020

**5.28. Establishment of the National Complaint Settlement Agency:** Since the adoption of the Law on Public Procurement, the review of public procurement-related complaints was assigned to the National Complaint Settlement Agency, which is functioning since September 2017.

#### **Box 5.4. Support from International Partners**

The EU Delegation launched its project 'Technical Assistance in Reengineering of Selected Public Services in Moldova'. The project includes 6 components; component 2 "Support in reengineering electronic public procurement services", supports the development of an e-Procurement platform.

The European Bank for Reconstruction and Development has implemented a project 'Policy Advice and Support in Legislative Drafting for Procurement Reforms' which aimed at adjusting the national legal framework related to e-Procurement to EU and GPA standards, as well as developing Terms of Reference/Technical Specifications for a new e-Procurement platform.

The World Bank, at the request of the Public Procurement Agency of Moldova, has approved a grant to support the assessment of the public procurement system based on the Methodology for Assessing Procurement Systems (MAPS). The grant will be made from the Global Procurement Partnership Multi-Donor Trust Fund. The MAPS tool aims to accelerate the implementation of a modern, efficient, sustainable and more inclusive public procurement system. The project will be implemented during 2019-2020.

### **Recommendations**

**5.29. Improving access to and trust in justice services should be the litmus test of all investments in ICT and physical facilities.** To use investments as an opportunity to quickly show for tangible results instead will come with the risk that investments are disconnected from the overarching reform goal. Subsequently, adjustments are likely to occur resulting in overall higher costs to eventually respond to the public's needs. To facilitate change and improve sector performance, Moldova's justice sector leadership will need to do its own 'house-keeping' first.

**5.30. Moldova's justice sector leadership should push for more e-courts accompanied by awareness and increased e-literacy among citizens and firms to better tailor services and bring them closer to citizens and the private sector.** The introduction of e-tools and e-services (e-courts) should be closely aligned with the overall progress towards the establishment of an e-government in Moldova. Authorities, with support from the World Bank, aim to improve access



to, and the efficiency and quality of selected public services through a reduction of bureaucratic obstacles hindering access, re-engineering and digitizing services, and aligning staff capabilities with a new citizen-centric, digital service model<sup>144</sup>. Support from the EU to develop fixed and mobile broadband coverage across the country can support efforts to improve access to justice for citizens and firms.

**5.31. The justice sector leadership needs to concretize its priorities through periodic consultations with, and report back to Moldova’s citizens, civil society and private sector.**

Bringing services closer to citizens and private sector goes beyond upgrading physical infrastructure. To ensure that the specifics of justice sector needs and demands are addressed, a consultative forum with representatives from all stakeholders, including civil society and private sector, should be set up. Feedback from the consultations in combination with periodic rapid user surveys can ensure that immediate concerns are prioritized and acted upon.

**5.32. Before any decision is taken on significant public investments, ‘quick wins’ to address capture, corruption, efficiency and access should be identified and acted upon.**

Current funding allocations are not aligned with desired outcomes or user priorities, leading to fragmented investments that do little to advance justice reforms. A lack of established procedures and standards results in poor development of business cases and insufficient attention to asset life-cycle management. No effort is made to track costs and benefits from ICT investments. And existing systems become ineffective as equipment is not maintained or upgraded on time.

**5.33. Technical and legal challenges and growing expectations for reform results need to be coordinated between sector stakeholders.**

Only when reforms are well orchestrated, can the task of improving Moldova’s justice sector performance for the benefit of citizens, civil society and the private sector be delivered.

**5.34. Justice sector ICT modernization actions do not appear to be realistically costed or sequenced, nor do they take account of advances in technology which could further reduce the volume of capital investments needed.**

Building on good practices and lessons from EU peers such as Croatia, Poland and Slovenia could be key to rapid and successful delivery of long-promised improvements in access to justice. If well-thought through, smarter design and application of information systems could speed up case intake and processing, automate handling of certain case categories, enable the government to designate a single court in Moldova to handle specific cases such as small-value high-volume civil enforcement cases which are swamping lower court dockets (and thereby lower caseloads of other courts). A key consequence of such ‘smart thinking’ would be that fewer courthouse locations than currently anticipated will be needed, without affecting access, and significantly reducing anticipated capital outlays and operating costs.

**Recommendations**

5.1. To ensure that services provided and reforms planned address the public’s concerns regarding access, transparency and accountability, it would be desirable to set up a consultative forum with representatives from all stakeholders, civil society and the private sector, to gather feedback.

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<sup>144</sup> The World Bank Group. June 2017. Country Partnership Framework for Moldova (FY18-21).

- 5.2. Review results from the 2017 and other court user surveys and – in combination with feedback and suggestions received from the forum – identify the top three priorities with clear milestones and results indicators for the next twelve months.
- 5.3. Review compliance of justice sector (e-)services with ethnic and linguistic diversity and ensure that diverse needs and demands – especially those of vulnerable groups such as women, elders, juveniles and disabled persons - are reflected in all current and future initiatives.
- 5.4. Undertake a comprehensive review of the national legal framework to harmonize it fully with the provisions of the Convention on the Rights of Persons with Disabilities (CRPD). Court consolidation will need a realistic plan (as required by law) and estimate of the costs of retrofits and repairs to existing courthouses. It will be equally critical to do the “right thing” by making informed decisions to prioritize resource allocation to improve access for people with disabilities<sup>145</sup>. In addition, an audit of actual compliance on the ground is needed to estimate the cost and time for priority retrofits.
- 5.5. Develop a realistic, costed and sequenced ICT Strategy (aligned with the justice sector strategy (under development) once there is certainty in the distribution of functions and responsibilities between the MOJ and other sector entities.<sup>146</sup> Not making the latter a prior condition to the development of an ICT Strategy will likely lead to disconnects with and disruptions to reform implementation.
- 5.6. Build on what exists in terms of expertise, skills, experience, systems and (unused) space and learn from what has worked (or not) at home and abroad. At a minimum, bring the justice sector up to speed with the rest of the public sector (e-filing, e-signature).
  - 1) *Conduct a rapid assessment of ICMS (courts) and e-Criminal Case (prosecution), including of the robustness of migration plans, training needs, change management and transition efforts in light of the recent amendments and improvements.*
  - 2) *Define the requirements for an enterprise-level resource management system, i.e. HRMIS and FMIS (building on whole-of-government systems, not as stand-alone systems), to move away from manual operations, strengthen control and reporting and improve accuracy.*
  - 3) *Install an enterprise-level database management system and standardize the development platform, including all separate systems currently within the MOJ, including all registries.*
- 5.7. Review the current plan to reorganize the judicial map, taking account of international good practices to identify further streamlining and cost savings, such as designating a single court with territorial jurisdiction across Moldova for small-value high-volume civil enforcement cases and online filing capability, following EU good practice (e.g. from Slovenia).

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<sup>145</sup> As Azerbaijan, Croatia, Romania and the Philippines, for example, have done or are doing. Azerbaijan, under a World Bank-financed project, adopted an innovative approach to incorporate architectural design features in so-called ‘smart courts’ to ensure disabled access and facilitate movement inside courthouses for people with mobility impairment and visual handicaps. These features, integrating IT and Braille signage, removed such obstacles to access.

<sup>146</sup> Cost estimates for developing and implementing a justice sector ICT strategy and system are in the ICT technical report shared with the MOJ and SCM in 2017.

# **ANNEXES**

## Annex 1. 2017 Survey Of General Population – Key Findings

# Moldova 2017 Surveys of Court Users

## Key Findings: Survey of General Population



WORLD BANK GROUP



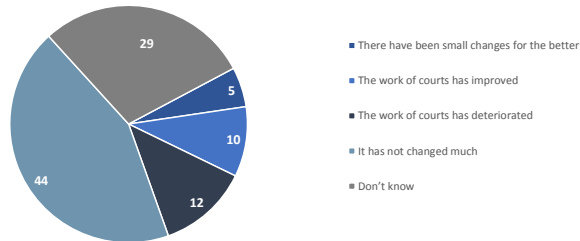
British Embassy  
Chisinau



UKaid  
From the British people

56% of citizens believe the work of courts has not changed, or has deteriorated, in the last 2-3 years

*In your opinion, how has the work of courts changed in Moldova over the past two or three years? (Percent of respondents)*

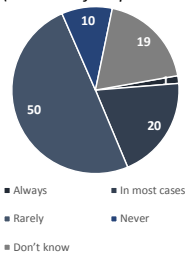


Key Findings: Survey of General Population

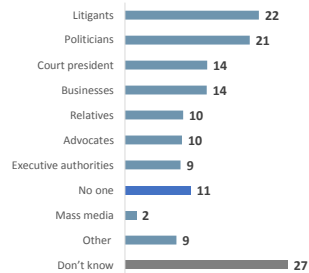
3

Only 1 in 5 citizens believe that court decisions are made fairly and impartially

*In your opinion, are judges' decisions fair and impartial? (Percent of respondents)*



*In your opinion, who (if anyone) influences the judge in deciding cases? (Percent of respondents)*

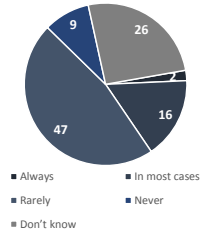


Key Findings: Survey of General Population

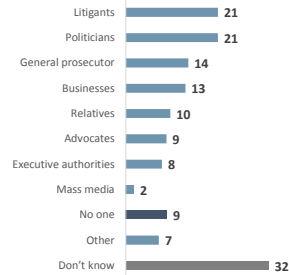
4

## 56% of citizens feel that prosecutors' decisions are rarely or never fair and impartial

*In your opinion, are prosecutors' decisions fair and impartial? (Percent of respondents)*



*In your opinion, who (if anyone) influences the prosecutors in deciding cases? (Percent of respondents)*

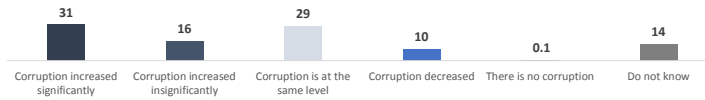


Key Findings: Survey of General Population

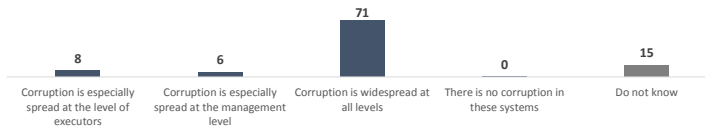
5

## 71% of citizens feel that justice sector corruption is widespread at all levels, while 76% feel it has increased or remained at the same level since 2011

*What is your opinion regarding the evolution of corruption in the justice sector since 2011?*



*What is your opinion regarding the stratification of corruption in the justice sector?*

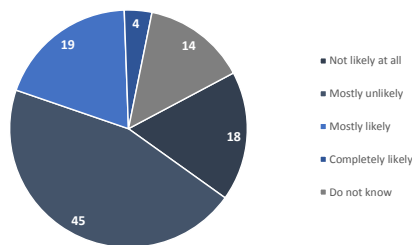


Key Findings: Survey of General Population

6

## 63% of citizens do not expect fair court proceedings

*In your opinion, how likely is it for ordinary citizen to have fair court proceedings? (Percent of respondents)*

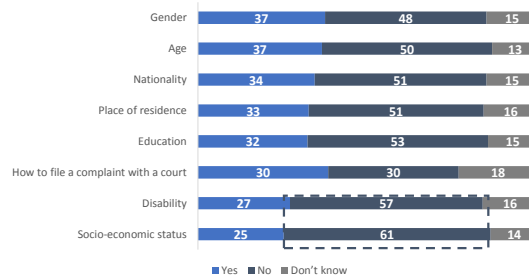


Key Findings: Survey of General Population

7

## Citizens believe that Moldova's judicial system treats citizens differently depending on their profile, especially their socio-economic, disability and educational status

*In your view, does the judicial system in Moldova treat all citizens equally notwithstanding their...*

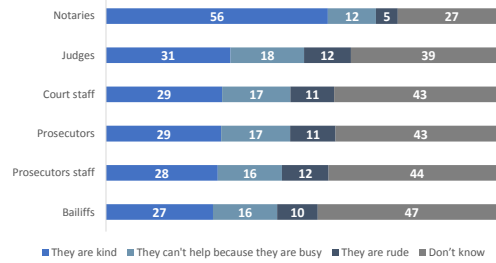


Key Findings: Survey of General Population

8

## Notaries outperform other actors in terms of client treatment

*How would you describe the treatment of court users by justice sector personnel? (Percent of respondents)*

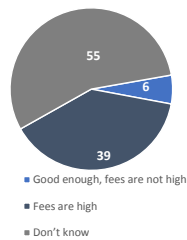


Key Findings: Survey of General Population

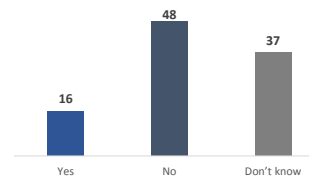
9

## In approaching courts, 48% of respondents have no difficulties in identifying court fee amounts...

*How would you describe the level of state fees for court proceedings? (Percent of respondents)*



*Are there any difficulties in identifying the amount of fees for court proceedings? (Percent of respondents)*

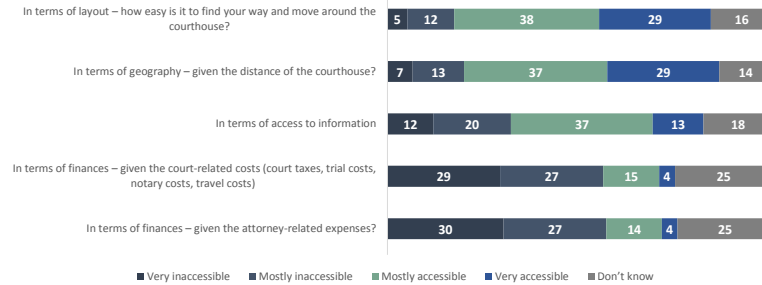


Key Findings: Survey of General Population

10

...but court-related costs, attorney expenses and insufficient access to information are key impediments to citizens' access to the justice system

How accessible is the justice system to you personally? (Percent of respondents)

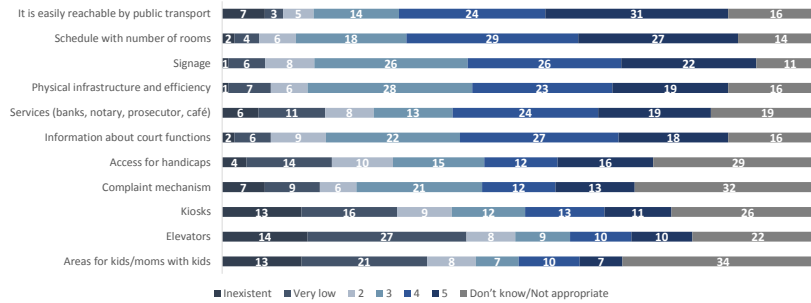


Key Findings: Survey of General Population

11

While access to courts by public transport is good, there are difficulties for those who seek information, require handicap access or come with children...

How would you describe the level of quality of the following factors in courts?

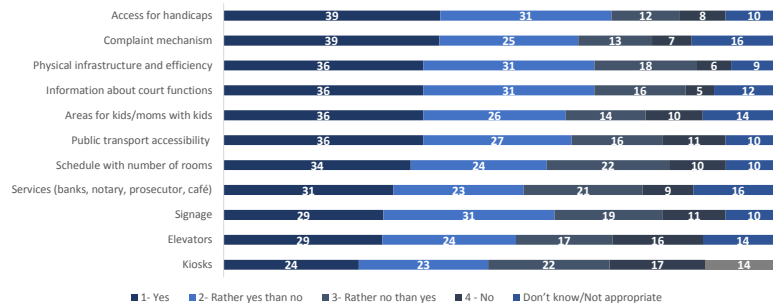


Key Findings: Survey of General Population

12

...hence citizens regard handicap access, information about court functions and improved physical infrastructure as top priorities to improve courts

Which of these factors should be implemented to improve courts?

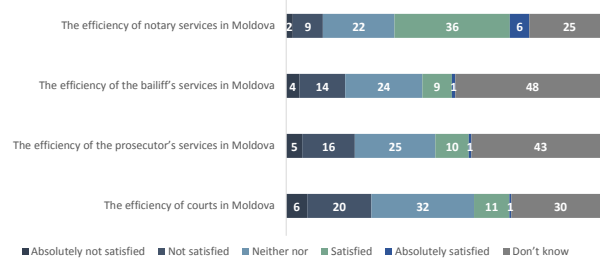


Key Findings: Survey of General Population

13

## Only 1 in 10 citizens are satisfied with the efficiency of courts, prosecutors and bailiffs

How would you describe your general satisfaction with the efficiency of...

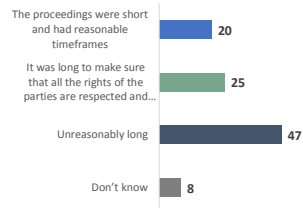


Key Findings: Survey of General Population

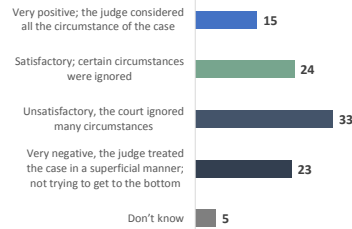
14

## Unreasonably long proceedings and lack of thoroughness of proceedings are major citizen concerns

How would you assess the length of proceedings?



How would you describe the thoroughness of the court proceedings?

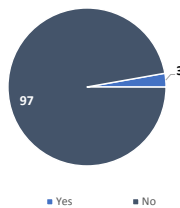


Key Findings: Survey of General Population

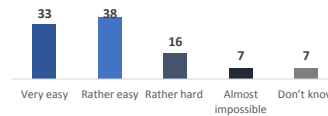
15

## Only 3% of citizens used court e-services and 72% of respondents do not want to use them

Have you ever used electronic court services?



Is it easy to use electronic court services? % of those who used electronic court services



Would you like to use electronic court services? (Percent of respondents)



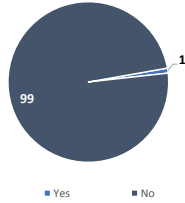
Key Findings: Survey of General Population

16

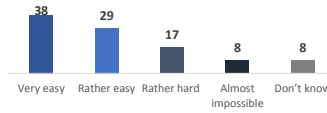


## Only 1% of citizens used e-services of the prosecutor's office and 73% do not want to use them

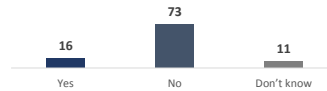
Have you ever used electronic services of the prosecutor's office?



Is it easy to use e-services of the prosecutor's office? % of those who used e-services of the prosecutor's office



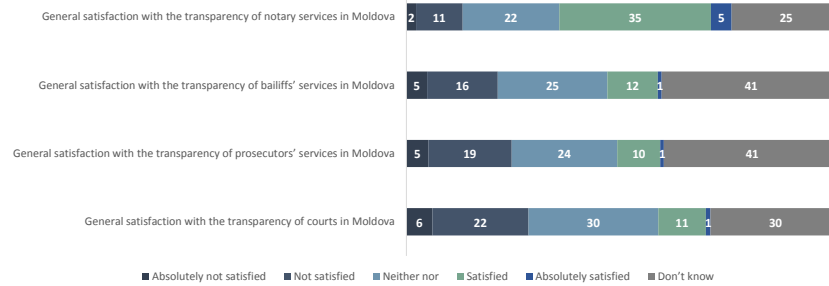
Would you like to use electronic services of the prosecutor's office? (Percent of respondents)



Key Findings: Survey of General Population

17

## Notaries score highest on transparency, while courts receive the lowest scores

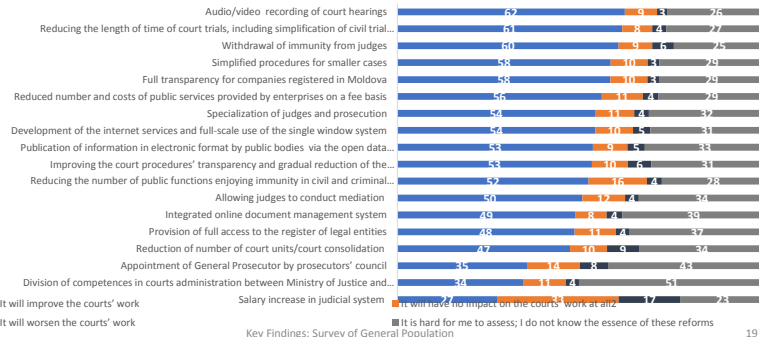


Key Findings: Survey of General Population

18

## Citizens see most court reform initiatives as high-impact, the top four being audio-video recordings, speedier trials/proceedings, withdrawal of judges' immunity and simpler procedures for small cases

How would you describe the effect of the initiatives in the court reform?

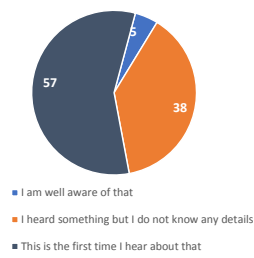


Key Findings: Survey of General Population

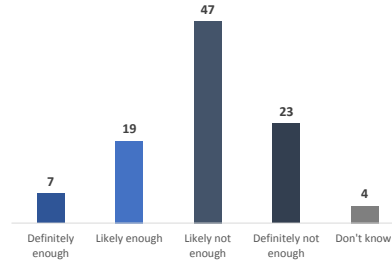
19

57% of citizens are not aware of court reforms, while those who are complain about insufficient information

Moldova is undergoing a court system reform which started in 2011. Are you aware of that?



Do you have enough information about the Moldavian judicial system reform?

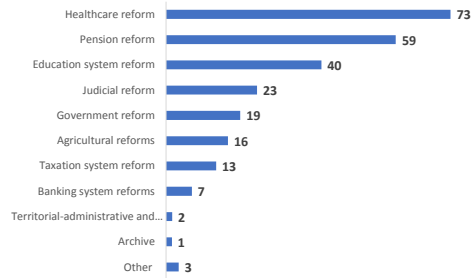


Key Findings: Survey of General Population

20

Citizens regard judicial reform as the fourth highest national priority, validating state attention to this issue

In your opinion, which three reform initiatives are the most important for Moldova?



Key Findings: Survey of General Population

21

## Annex 2. 2017 Survey Of Businesses - Key Findings

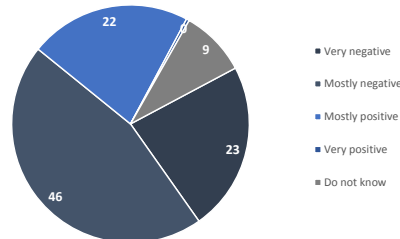
# Moldova 2017 Surveys of Court Users

## Key Findings: Survey of Businesses



### Two-thirds of businesses have a negative opinion of Moldova's courts

*What is your general opinion about the functioning of courts in Moldova over the last 2 years?*

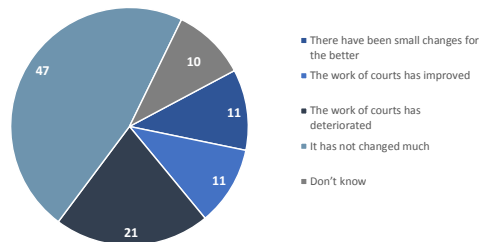


Key Findings: Survey of Businesses

3

### About half of all businesses believe nothing has changed in the functioning of courts in the last 2-3 years

*In your opinion, how has the work of courts changed in Moldova over the past two or three years?*

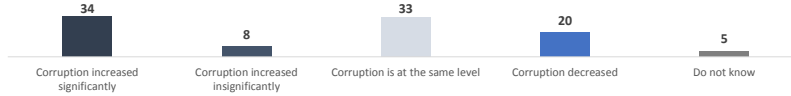


Key Findings: Survey of Businesses

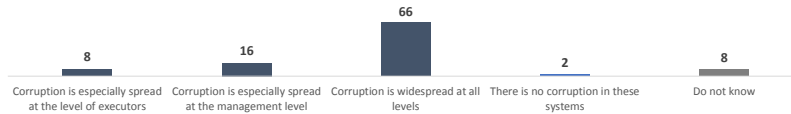
4

Justice sector corruption is a concern: three-fourths of businesses believe it has remained the same or increased, while two-thirds believe it is widespread at all levels

*What is your opinion regarding the evolution of corruption in the justice sector since 2011?*



*What is your opinion regarding the stratification of corruption in the justice sector?*

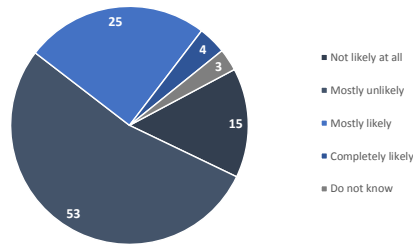


Key Findings: Survey of Businesses

5

68 percent of businesses believe that fair court proceedings are unlikely for an ordinary business

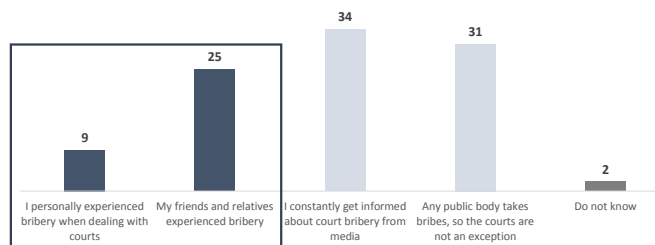
*In your opinion, how likely is it for an ordinary business to have fair court proceedings?*



Key Findings: Survey of Businesses

6

Businesses' perceptions of court corruption are drawn from experiencing bribery personally or through friends or relatives

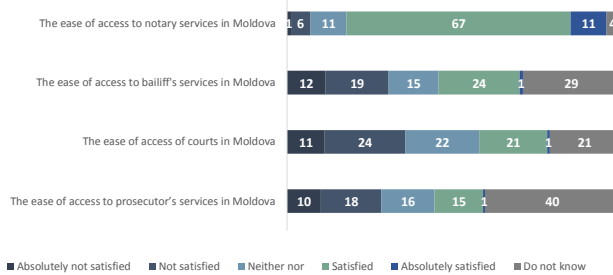


Key Findings: Survey of Businesses

7

## Businesses are most satisfied with ease of access to notary services, followed by bailiffs and courts

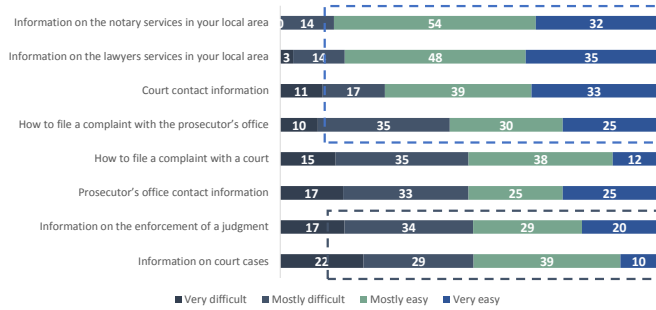
How would you describe your general satisfaction with ...



Key Findings: Survey of Businesses

8

## Businesses find it difficult to find information on court cases, enforcement of court decisions, prosecutors' office contact and how to file a complaint in court

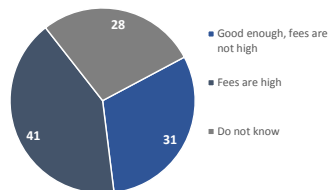


Key Findings: Survey of Businesses

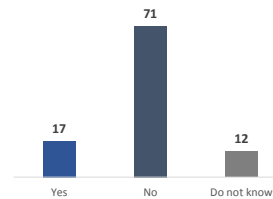
9

## While businesses consider court fee levels to be high, they are easy to calculate

How would you assess the level of state fees for court proceedings?



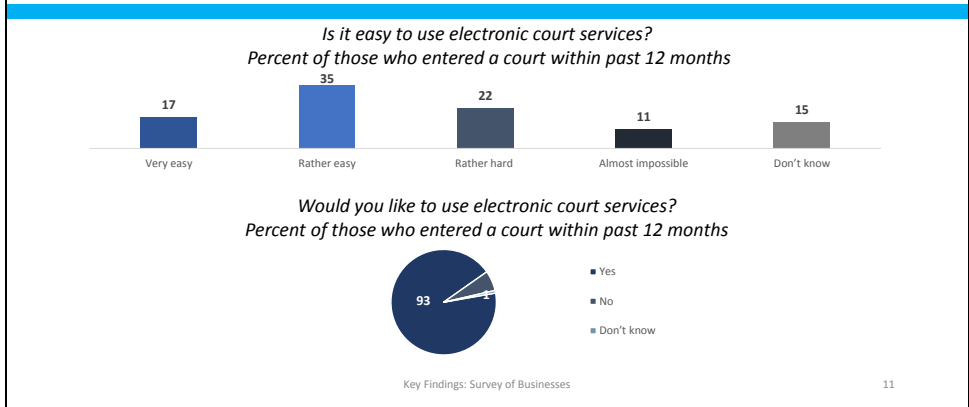
Are there any difficulties in identifying the amount of fees for court proceedings?  
Percent of those who could assess the level of state fees



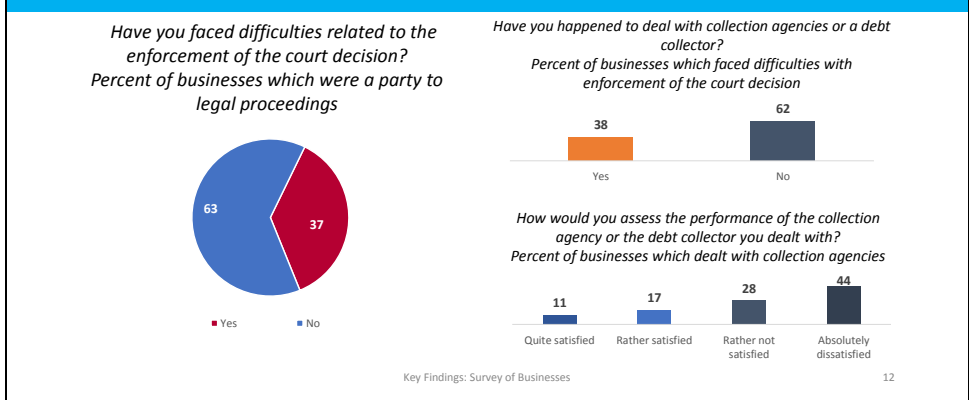
Key Findings: Survey of Businesses

10

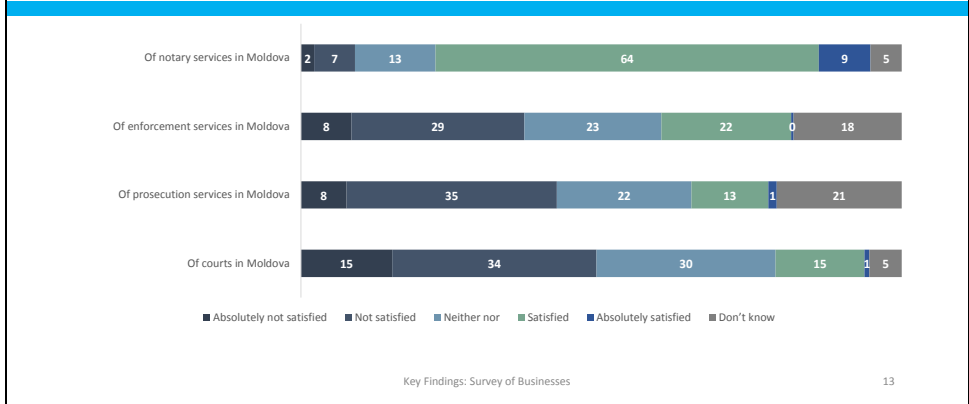
Of businesses which actually used courts, 52% found court e-services easy to use and 93% would like to use them



While 38 percent of businesses facing enforcement challenges used private debt collectors, 72 percent of such firms were not satisfied with such agencies' performance

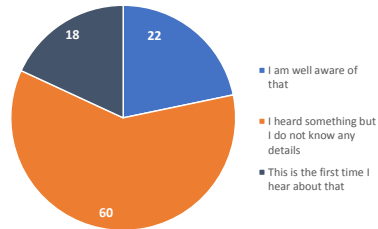


Notaries outperformed other justice institutions on transparency; courts received the lowest scores



## 60 percent of Moldovan businesses are aware of judicial reform efforts...

Moldova is undergoing a court system reform which started in 2011.  
Are you aware of that (percent responding)?

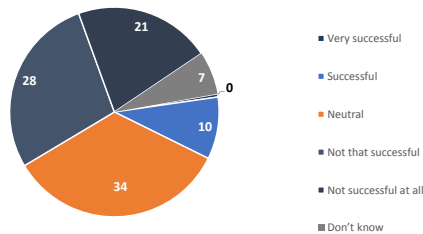


Key Findings: Survey of Businesses

14

...but only one-tenth of businesses who know about the reforms regard as a success, one-third are neutral and almost half are negative about the reforms

How do you assess the success of judicial reforms?  
(Percent of those informed about the reform)

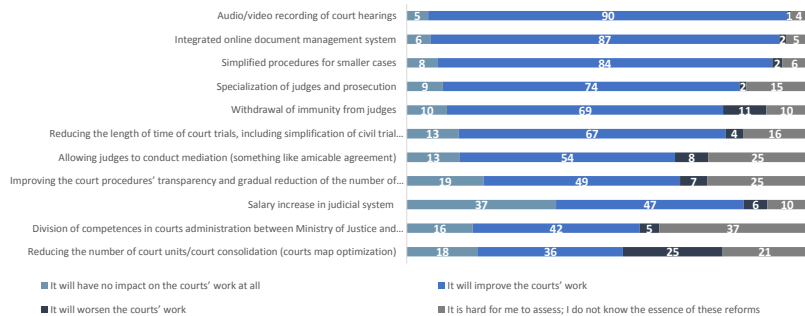


Key Findings: Survey of Businesses

15

Businesses have high hopes for positive impacts from key court reforms, validating state attention to such reforms

How would you describe the effect of the initiatives in the court reform?



Key Findings: Survey of Businesses

16

## Annex 3. 2017 Survey Of Professional Users - Key Findings

# Moldova 2017 Surveys of Court Users

## Key Findings: Survey of Professional Users



WORLD BANK GROUP



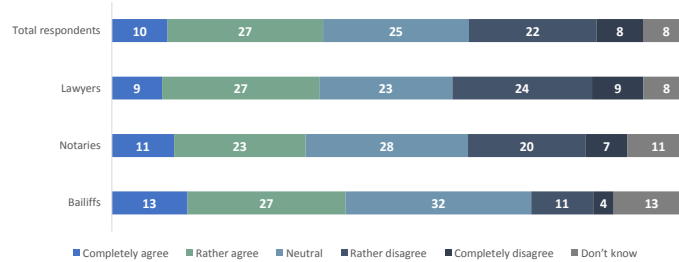
British Embassy  
Chisinau



UKaid  
From the British people

### More professional users than not believe that quality of justice has improved over time

*To what extent do you agree with the statement that in 2017 the quality of justice was better than in 2011 (in %)?*

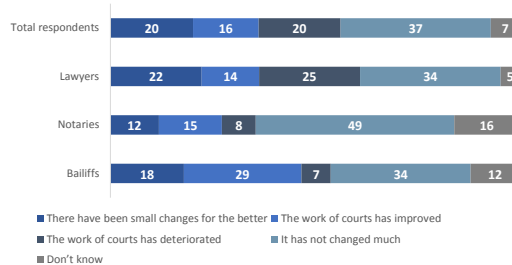


Key Findings: Survey of Professional Users

3

### Though up to half of them have seen no changes in recent years

*In your opinion, how has the work of courts changed in Moldova over the past two or three years (in %)?*



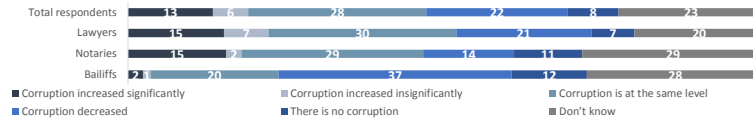
Key Findings: Survey of Professional Users

4

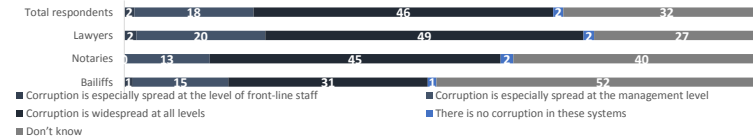


## Corruption is of major concern among professional users

*What is your opinion regarding the evolution of corruption in the justice sector since 2011?*



*What is your opinion regarding the stratification of corruption in the justice sector?*

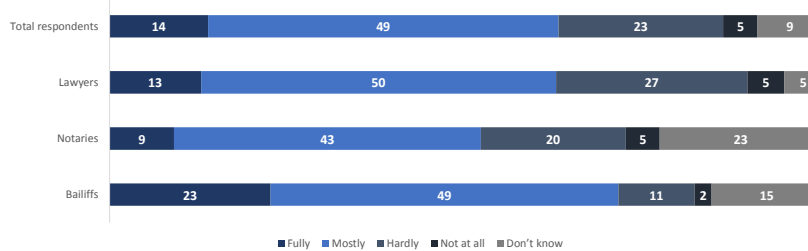


Key Findings: Survey of Professional Users

5

## At the same time about 2/3 of professional users see equal access for all fully or mostly achieved

*When you think about the last 3 years, to what extent was the judicial system in Moldova equally accessible to all citizens notwithstanding their age, education level, financial status, nationality, handicap, the language they use (in %)?*

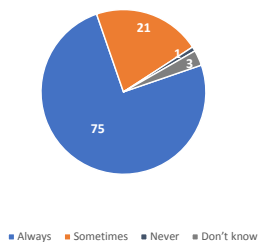


Key Findings: Survey of Professional Users

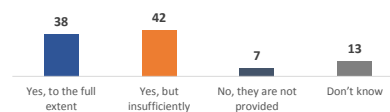
6

## However, assessments concerning various aspects of access, including legal advice and legal aid, vary

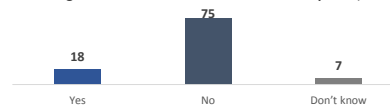
*Are persons, who do not speak the language, in which the legal proceedings are held, provided with the free interpreter (in %)?*



*Are legal advice and legal aid for the vulnerable groups of people provided to the full extent (in%)?*



*Are there rooms in courthouses for holding meetings and discussions with the lawyers (in%)?*

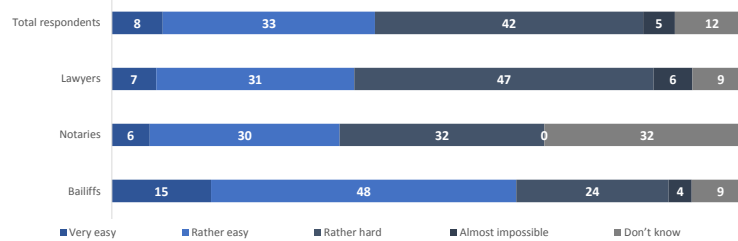


Key Findings: Survey of Professional Users

7

## Information on court decisions seems to be a particularly tricky area for citizens

*In your opinion, is it easy for an ordinary citizen to obtain information on the court decision they need (in %)?*

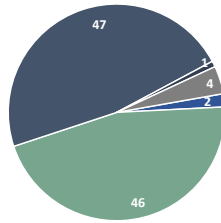


Key Findings: Survey of Professional Users

8

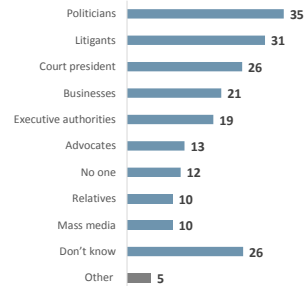
## Similarly, lawyers question the fairness and impartiality of court decisions

*In your opinion, are judges' decisions fair and impartial (% of lawyers)?*



■ Always ■ In most cases ■ Rarely ■ Never ■ Don't know

*In your opinion, who (if anyone) influences the judge in deciding cases (% of lawyers)?*

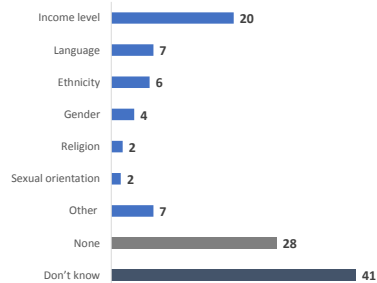


Key Findings: Survey of Professional Users

9

## A citizen's income level is considered as the most influential factor re a judge's behavior

*Which of these factors (if any) influence judges' decision and behavior to litigants?*

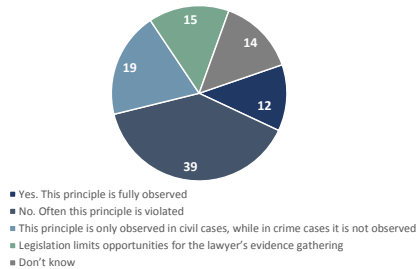


Key Findings: Survey of Professional Users

10

## A significant number of lawyers are worried about key principles of legal proceedings

Are principles of equality and adversarial principle observed in a legal proceeding (% of lawyers)?

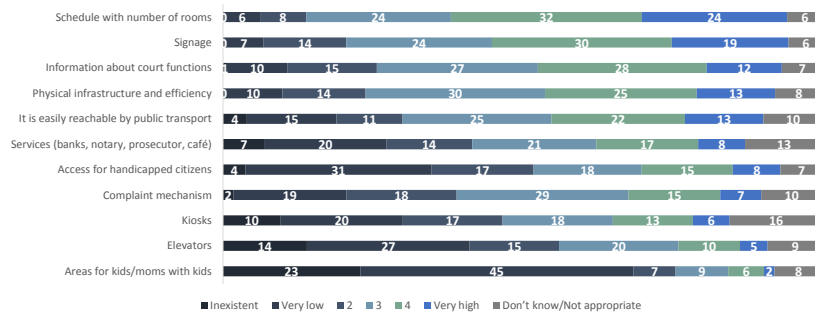


Key Findings: Survey of Professional Users

11

## Access to justice for those with handicaps is considered low

How would you describe the level of quality of the following factors in courts?

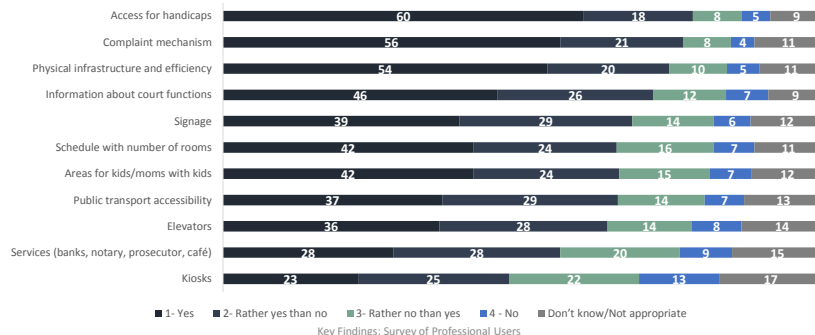


Key Findings: Survey of Professional Users

12

## Professional users consider access and accountability as top priorities for improvement

Which of these factors should be implemented to improve courts?

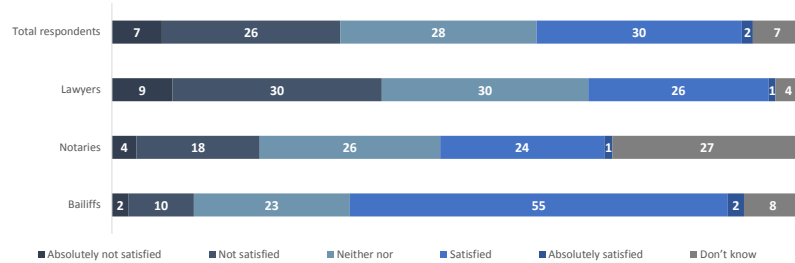


Key Findings: Survey of Professional Users

13

With the exception of bailiffs, less than 1/3 of professional users are satisfied with court efficiency

*How would you describe your general satisfaction with the efficiency of courts in Moldova (in %)?*

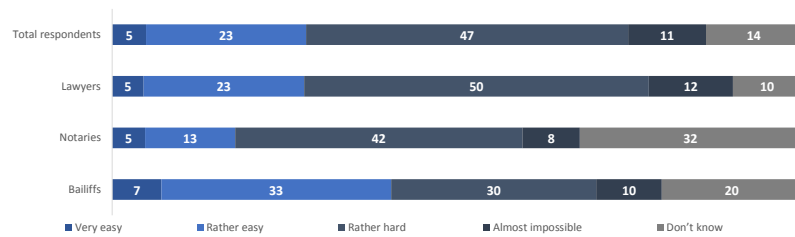


Key Findings: Survey of Professional Users

14

Tools to increase efficiency, such as court e-services, lack citizen-orientation according to professional users

*In your opinion, is it easy for an ordinary citizen to use electronic services of the court (in %)?*

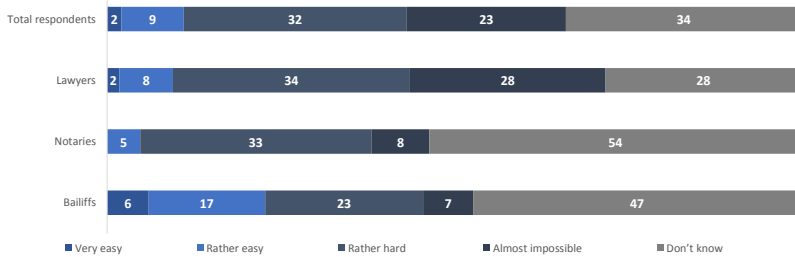


Key Findings: Survey of Professional Users

15

Similarly, prosecutor's e-services lack user friendliness

*In your opinion, is it easy for an ordinary citizen to use the information system of the Prosecution Service (in %)?*

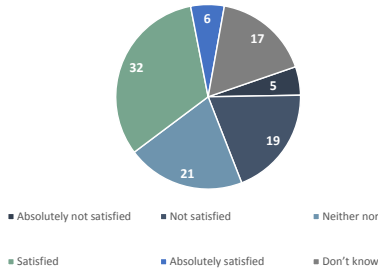


Key Findings: Survey of Professional Users

16

## Efficiency of legal aid services outperform courts and prosecution's e-services according to professional users

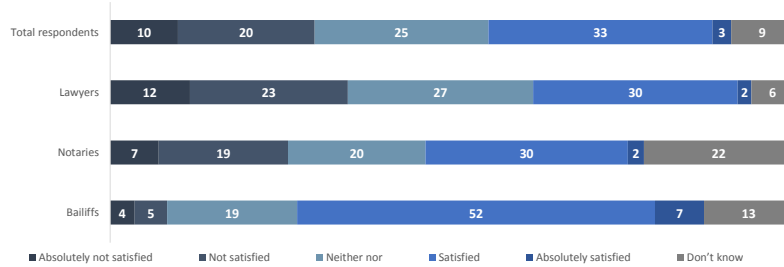
How would you describe your general satisfaction with the efficiency of free legal aid services in Moldova (% of lawyers)?



Key Findings: Survey of Professional Users

17

Professional users are divided regarding court transparency: about 1/3 of respondents are (absolutely) satisfied with courts' transparency, another 1/3 is not

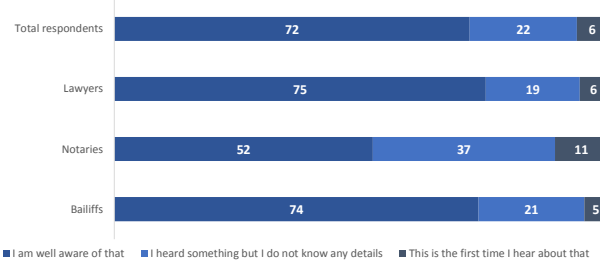


Key Findings: Survey of Professional Users

18

## Professional users are aware of ongoing court reforms

Moldova is undergoing a court system reform which started in 2011. Are you aware of that (in %)?

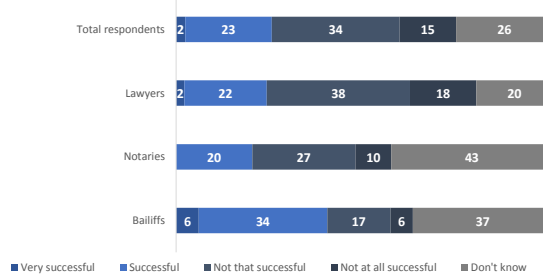


Key Findings: Survey of Professional Users

19

## Overall, professional users consider that judicial reforms so far have had limited success

How do you regard the success of judicial reforms? (percent of respondents)

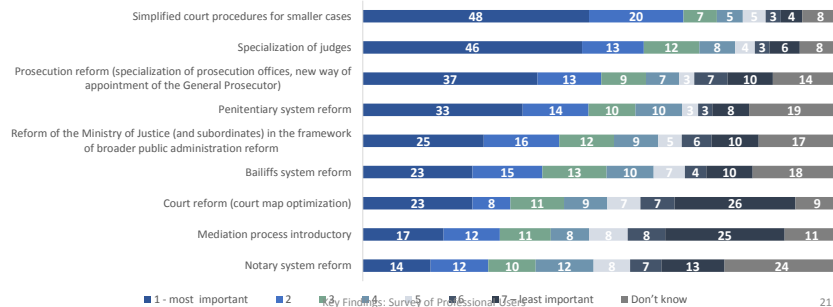


Key Findings: Survey of Professional Users

20

## Professional users consider simplification and specialization as top priorities for improvement

I will read to you some reform initiatives in the justice sector in Moldova. Please rank them from 1 to 7, where 1 is the most important one, and 7 is the least important one (in %).



Key Findings: Survey of Professional Users

21

## Annex 4. 2017 Survey Of Justice Employees - Key Findings

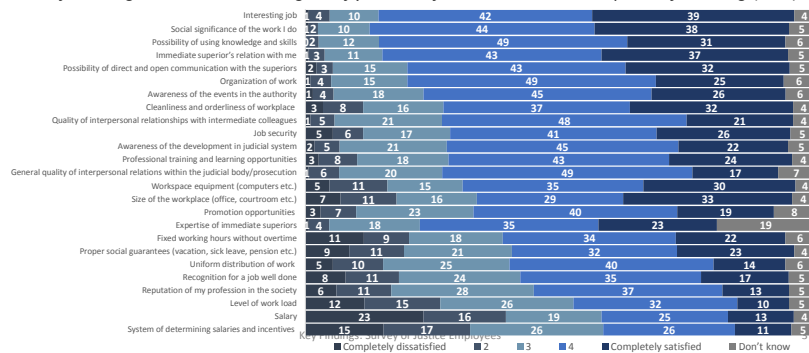
# Moldova 2017 Surveys of Court Users

## Key Findings: Survey of Justice Employees



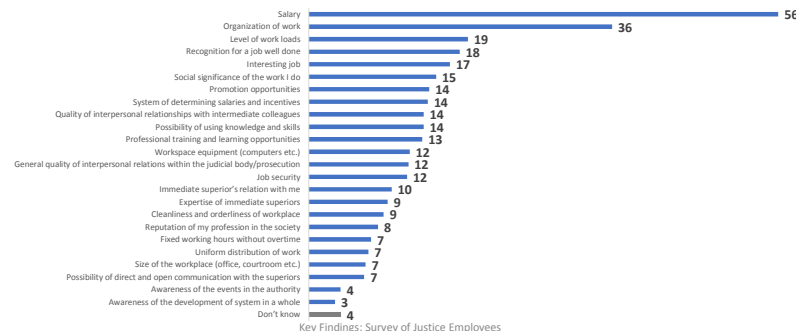
### Staff is pleased with their work – interesting and impactful

Use the following scale to rate the degree of your satisfaction with certain aspects of working (in %):



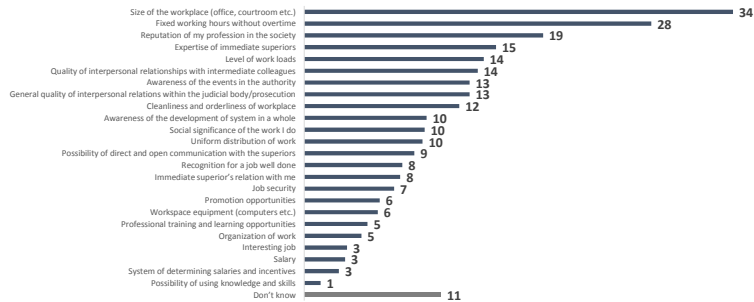
### Salary, work organization, workload and recognition are the top job satisfaction characteristics for employees

Mark three characteristics of your job that are currently most important to you (percent responding)



## Office space and fixed working hours are the least important job satisfaction factors

Mark three characteristics of your job that are currently least important to you (percent responding)

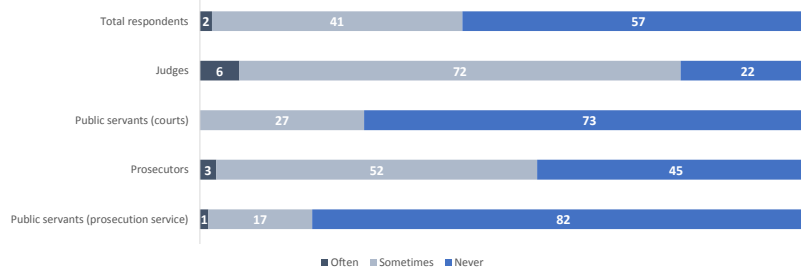


Key Findings: Survey of Justice Employees

5

## Safety is a concern: 72% of judges and 52% of prosecutors sometimes feel unsafe

Do you worry about your safety because of your position (percent responding)

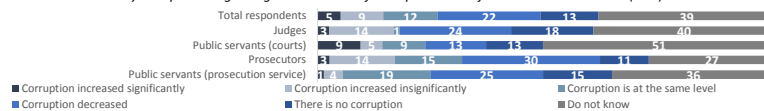


Key Findings: Survey of Justice Employees

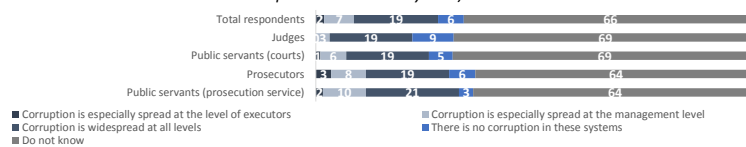
6

## Employees tend to believe that corruption has decreased

What is your opinion regarding the evolution of corruption in the justice sector since 2011 (in %)?



What is your opinion regarding the stratification of corruption in the justice sector (% of those who believe the corruption exists in the system)?



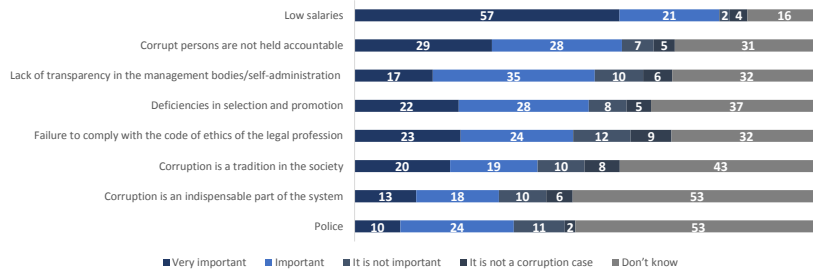
Key Findings: Survey of Justice Employees

7



## Employees feel that low salaries are the most important factor contributing to corruption

In your opinion, what is the impact of the following causes in the distribution of corruption in the justice sector? Please estimate each cause (percent of those who believe the corruption exists in the system)

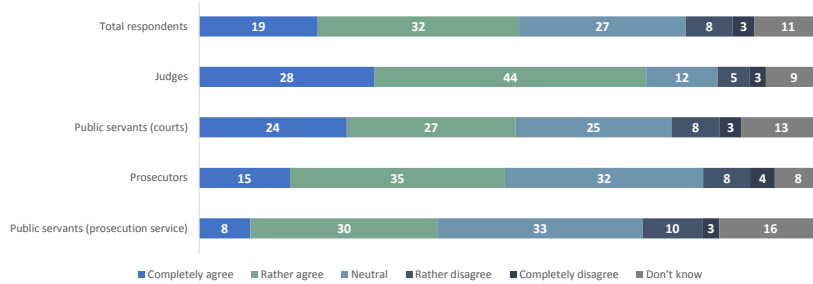


Key Findings: Survey of Justice Employees

8

## 72% of judges see improvements in the quality of justice; about 50% of other employee groups agree

To what extent do you agree with the statement that in 2017 the quality of justice was better than in 2011 (in %)?

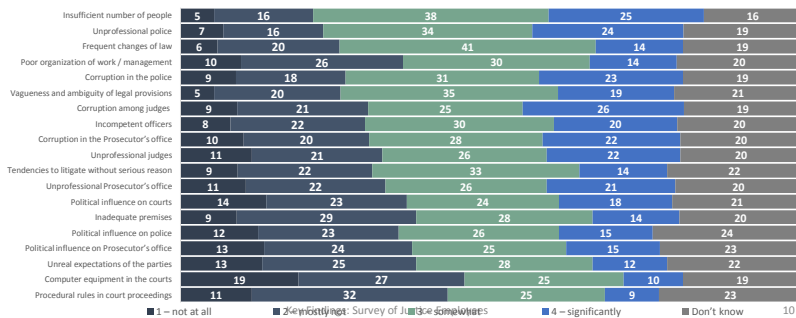


Key Findings: Survey of Justice Employees

9

## Efficiency and integrity are put at risk by procedures, organization, management, outdated information technology systems and poor premises

To what extent does each of the following factors decrease efficiency and integrity of the judicial system in Moldova today (in percent)?

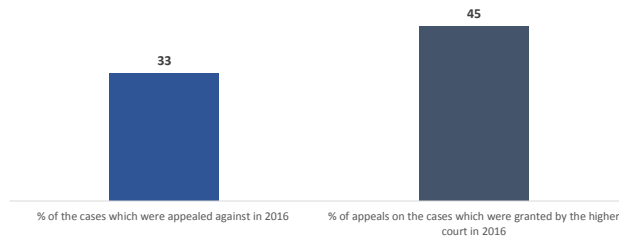


Key Findings: Survey of Justice Employees

10

## Lower court decisions were overturned in 45% of cases appealed against, creating quality and predictability risks

What percentage of cases you worked on in 2016 was appealed against?  
 What percentage of appeals on the cases you worked on in 2016 was granted by the higher court?

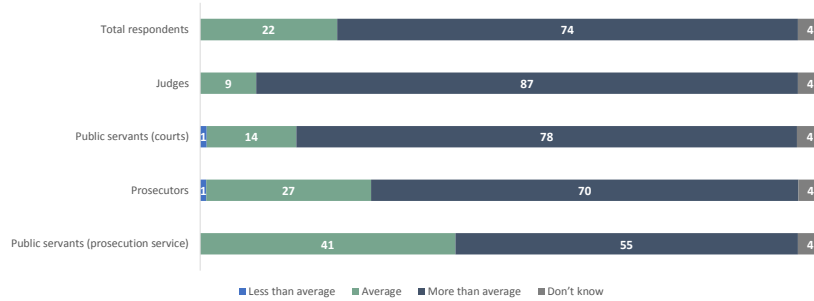


Key Findings: Survey of Justice Employees

11

## The overwhelming majority of employees consider their workload to be higher than average...

Compared to the average workload would you say your current workload is ... (in percent)?

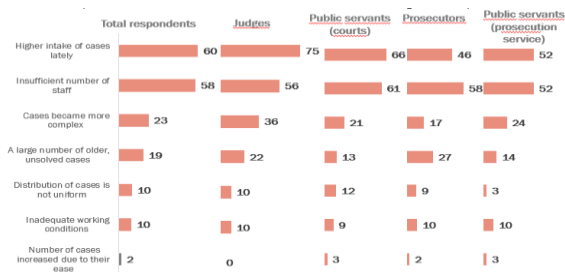


Key Findings: Survey of Justice Employees

12

## ... and point to higher case intakes and insufficient staff for this situation

What are the reasons you currently have a higher than optimal number of cases?  
 (Multiple answers, percent of those who said the number of cases was higher than optimal)

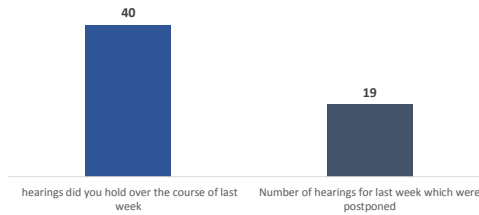


Key Findings: Survey of Justice Employees

13

## On average, half the number of court hearings each week are postponed – leading to delays and inefficiency

*How many hearings did you hold over the course of last week considering all cases you are working on? How many hearings out of the total number of hearings for last week were postponed? (Average number of hearings, mean among court employees)*

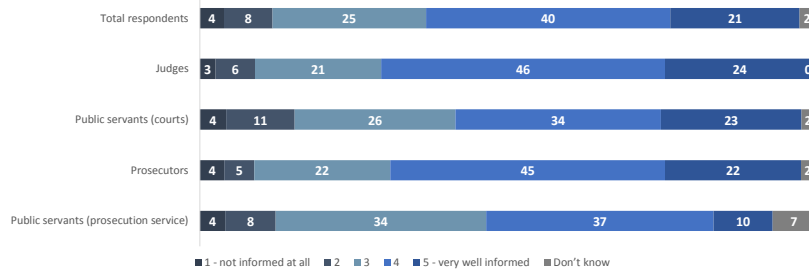


Key Findings: Survey of Justice Employees

14

## More than 60 percent of employees feel they are well informed about ongoing judicial reforms

*To what extent are you personally informed about the plans for the reform of judicial system of Moldova? (percent responding)*

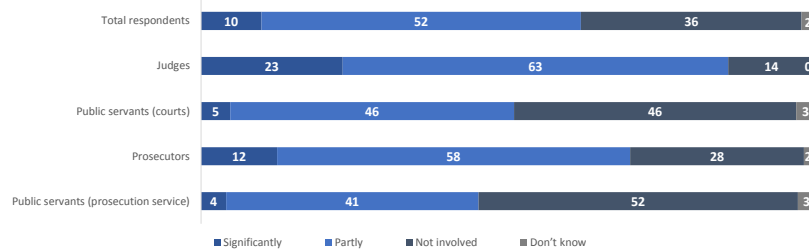


Key Findings: Survey of Justice Employees

15

## More than 60% of employees – including 85% of judges – feel they are involved in designing judicial reforms

*To what extent are people like you involved in designing judicial reform initiatives? (percent responding)*

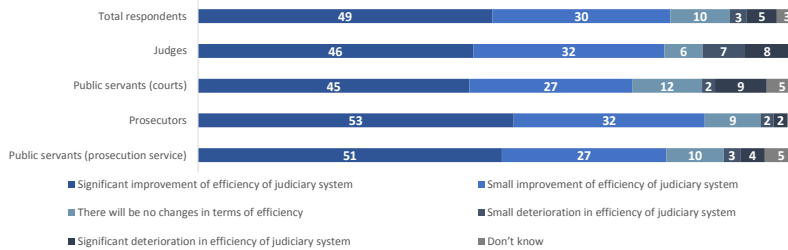


Key Findings: Survey of Justice Employees

16

## Employee have high expectations that the judicial reforms will improve system efficiency...

What are your expectations from the judicial reforms initiated? Do you expect the reforms to result in...(percent)

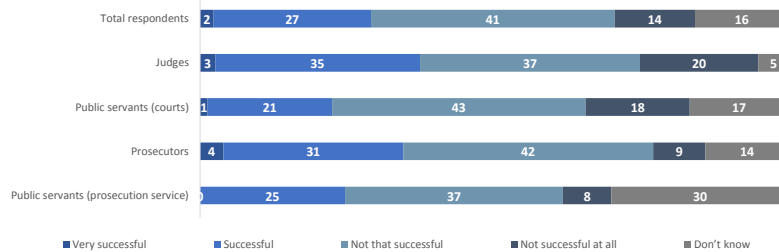


Key Findings: Survey of Justice Employees

17

## ...but less than one-third of all employees consider judicial reforms so far to be successful

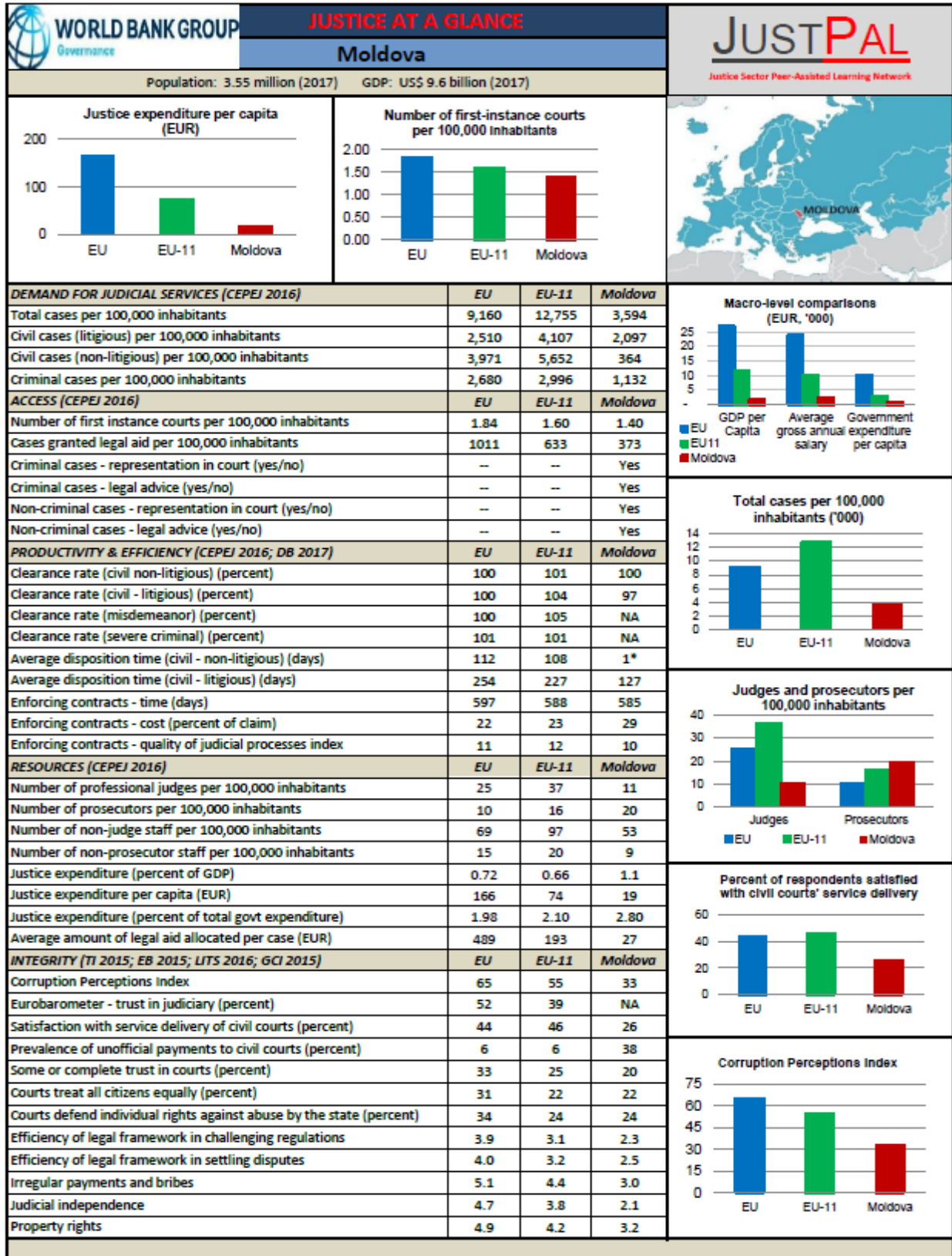
How would you describe the success of the judicial reform so far? (percent responding)



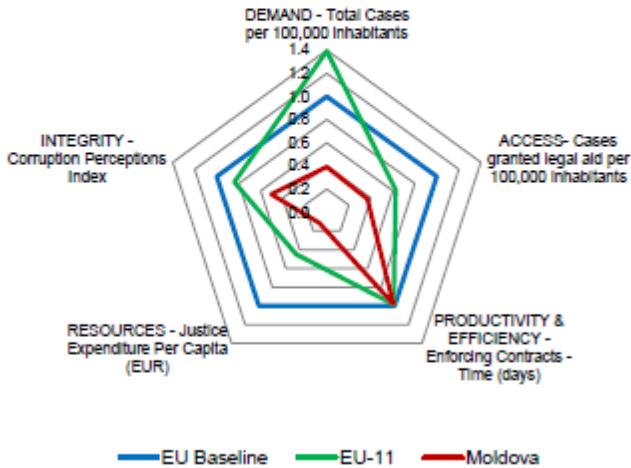
Key Findings: Survey of Justice Employees

18

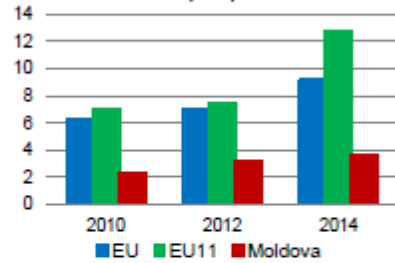
## Annex 5. Moldova: Justice At A Glance 2017



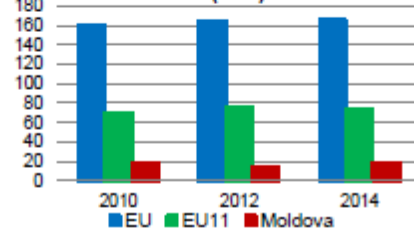
Population: 3.55 million (2017) GDP: US\$ 9.6 billion (2017)



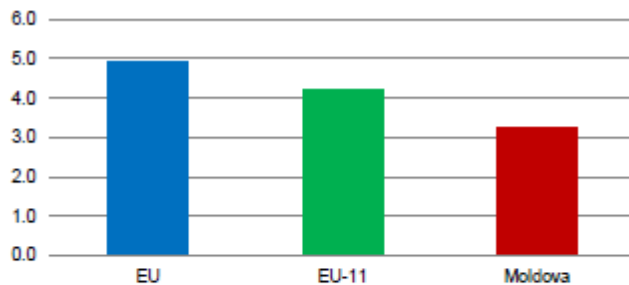
**Total Cases per 100,000 Inhabitants ('000)**



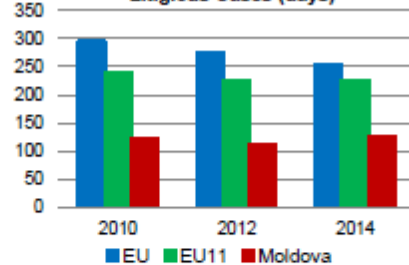
**Justice Expenditure Per Capita (EUR)**



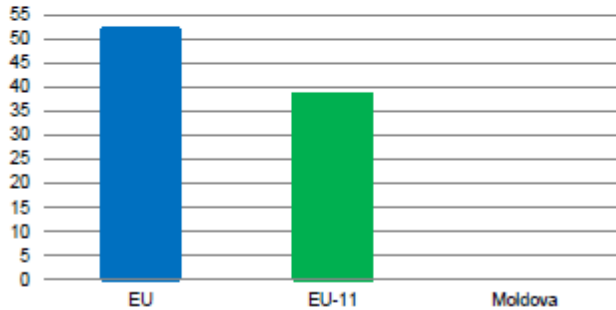
**Property Rights**



**Average Disposition Time for Civil Litigious Cases (days)**

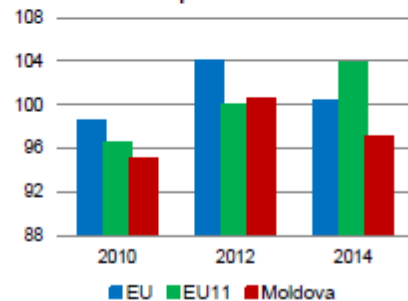


**Eurobarometer - Trust in Judiciary (percent)**



Note: Moldova data not available.

**Clearance Rate (civil - litigious) percent**



DEMAND FOR JUDICIAL SERVICES	Definition	Report Year	Source
Total cases per 100,000 inhabitants	Number of total incoming first instance cases per 100,000 inhabitants	2016	CEPEJ
Civil cases (litigious) per 100,000 inhabitants	Number of incoming first instance civil (and commercial) litigious cases per 100,000 inhabitants	2016	CEPEJ
Civil cases (non-litigious) per 100,000 inhabitants	Number of incoming first instance civil (and commercial) non-litigious cases per 100,000 inhabitants	2016	CEPEJ
Criminal cases per 100,000 inhabitants	Number of incoming first instance criminal cases per 100,000 inhabitants	2016	CEPEJ
ACCESS	Definition	Report Year	Source
Number of first instance courts per 100,000 inhabitants	Number of first instance courts (general jurisdiction and specialized) per 100,000 inhabitants	2016	CEPEJ
Cases granted legal aid per 100,000 inhabitants	Cases granted with legal aid per 100,000 inhabitants	2016	CEPEJ
Criminal cases - representation in court (yes/no)	Provision of legal aid for representation in court in criminal cases (yes/no)	2016	CEPEJ
Criminal cases - legal advice (yes/no)	Provision of legal aid for legal advice in criminal cases (yes/no)	2016	CEPEJ
Non-criminal cases - representation in court (yes/no)	Provision of legal aid for representation in court in non-criminal cases (yes/no)	2016	CEPEJ
Non-criminal cases - legal advice (yes/no)	Provision of legal aid for legal advice in non-criminal cases (yes/no)	2016	CEPEJ
PRODUCTIVITY & EFFICIENCY	Definition	Report Year	Source
Clearance rate (civil non-litigious) (percent)	Total clearance rate for civil non-litigious cases (percent)	2016	CEPEJ
Clearance rate (civil - litigious) (percent)	Total clearance rate for civil litigious cases (percent)	2016	CEPEJ
Clearance rate (misdemeanor) (percent)	Total clearance rate for misdemeanor cases (percent)	2016	CEPEJ
Clearance rate (severe criminal) (percent)	Total clearance rate for severe criminal cases (percent)	2016	CEPEJ
Average disposition time (civil - non-litigious) (days)	Average disposition time for civil non-litigious cases in first instance courts	2016	CEPEJ
Average disposition time (civil - litigious) (days)	Average disposition time for civil litigious cases in first instance courts	2016	CEPEJ
Enforcing contracts - time (days)	Time is recorded in calendar days, counted from the moment the plaintiff decides to file the lawsuit in court until payment.	2017	DB
Enforcing contracts - cost (percent of claim)	Cost is recorded as a percentage of the claim, assumed to be equivalent to 200 percent of income per capita. No bribes are recorded. Three types of costs are recorded: court costs, enforcement costs and average attorney fees.	2017	DB
Enforcing contracts - quality of judicial processes index	The quality of judicial processes index is the sum of the scores on the court structure and proceedings, case management, court automation and alternative dispute resolution indices. The index ranges from 0 to 18, with higher values indicating better and more efficient judicial processes.	2017	DB
RESOURCES	Definition	Report Year	Source
Number of professional judges per 100,000 inhabitants	Number of full-time equivalent professional judges per 100,000 inhabitants	2016	CEPEJ
Number of prosecutors per 100,000 inhabitants	Number of full-time equivalent prosecutors per 100,000 inhabitants	2016	CEPEJ
Number of non-judge staff per 100,000 inhabitants	Number of full-time equivalent non-judge staff per 100,000 inhabitants	2016	CEPEJ
Number of non-prosecutor staff per 100,000 inhabitants	Number of full-time equivalent non-prosecutor staff per 100,000 inhabitants	2016	CEPEJ
Justice expenditure, percent of GDP	Approved budget allocated to the overall justice system as a percent of GDP, nominal	2016	CEPEJ
Justice expenditure per capita (EUR)	Approved budget allocated to the overall justice system per capita (EUR), nominal	2016	CEPEJ
Justice expenditure, percent of total government expenditure	Approved budget allocated to the overall justice system as a percent of total government expenditure, nominal	2016	CEPEJ
Average amount of legal aid allocated per case (EUR)	Average amount of legal aid allocated per case (EUR), nominal	2016	CEPEJ
INTEGRITY	Definition	Report Year	Source
Corruption Perceptions Index	A composite index between 0 (highly corrupt) and 100 (very clean), drawing on corruption-related data collected by a variety of reputable institutions.	2015	Transparency International
Eurobarometer - trust in judiciary (percent)	Survey of trust in judiciary system with 3 possible options: tend to trust, tend not to trust, or don't know	2015	Eurobarometer
Satisfaction with service delivery of civil courts (percent)	How satisfied were you with the quality and the efficiency of the service/interaction? Very unsatisfied, unsatisfied, indifferent, satisfied, very satisfied	2016	LITS
Prevalence of unofficial payments to civil courts (percent)	Did you or any member of your household make an unofficial payment or gift when using a civil court over the past 12 months (yes/no)?	2016	LITS
Some or complete trust in courts (percent)	To what extent do you trust the following institutions with 7 possible options - complete distrust, some distrust, neither trust or distrust, some trust, complete trust, don't know, not applicable	2016	LITS
Courts treat all citizens equally (percent)	To what extent do you agree that the following exist in our country - 7 possible options (strongly disagree, disagree, neither disagree or agree, agree, strongly agree, refused, don't know)	2016	LITS
Courts defend individual rights against abuse by the state (percent)	To what extent do you agree that the following exist in our country - 7 possible options (strongly disagree, disagree, neither disagree or agree, agree, strongly agree, refused, don't know)	2016	LITS
Efficiency of legal framework in challenging regulations	Scored on a scale of 1 (poor) to 7 (best), using an Executive Opinion Survey	2015	GCI
Efficiency of legal framework in settling disputes	Scored on a scale of 1 (poor) to 7 (best), using an Executive Opinion Survey	2015	GCI
Irregular payments and bribes	Scored on a scale of 1 (poor) to 7 (best), using an Executive Opinion Survey	2015	GCI
Judicial independence	Scored on a scale of 1 (poor) to 7 (best), using an Executive Opinion Survey	2015	GCI
Property rights	Scored on a scale of 1 (poor) to 7 (best), using an Executive Opinion Survey	2015	GCI

Acronyms: CEPEJ (European Commission for the Efficiency of Justice); DB (Doing Business); LITS (Life in Transition Survey); GCI (Global Competitiveness Index - World Economic Forum)

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