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# ANNUAL REPORT

MAY 15, 2017 – SEPTEMBER 30, 2017

## USAID'S OPEN JUSTICE PROJECT IN MOLDOVA



October 30, 2017

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# ANNUAL REPORT

## MAY 15, 2017 – SEPTEMBER 30, 2017

### USAID'S OPEN JUSTICE PROJECT IN MOLDOVA

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### OBJECTIVE I

- I. Draft Assessment Report of the Impact of Law No. 76 of 21.04.2016 on the Reorganization of the Courts in Moldova (Activity I.I.I.I)

2. Superior Council of Magistracy Decision No. 558/25 dated August 8, 2017 on Establishing the Working Group for Streamlining the Reorganization of the Courts (Activity 1.1.1.3)
3. Ministry of Justice Letter No. 01/10415 dated September 19, 2017 on Delegating Representatives to the Working Group for Implementing Relevant Actions Related to Court Reorganization and Optimization (Activity 1.1.1.3)
4. Feasibility Study for Implementing a Videoconferencing Solution in the Courts to Ensure Remote Communication of the Parties to a Trial (Activity 1.1.2.3)
5. Report on the Study Trip to Odessa, Ukraine (Activity 1.1.2.6)
6. Functionality Requirements for the Case Management System and Changes to the Integrated Case Management System 4.1.2 (Activity 1.1.2.7)
7. Report on the ICMS Public Information Focus Group (Activity 1.2.2.1)
8. Action Plan for Development and Implementation of the Integrated Case Management System (ICMS) in Moldovan Courts of Law 2017–2019 (Activity 1.2.2.3)
9. Superior Council of Magistracy Decision No. 518/24 dated August 1, 2017 on the Amendment of the Regulation on Case Weights for Civil, Administrative, and Criminal Cases, and on the Updating of the Nomenclature of Case Weights Levels, Provided in Those Regulations (Activity 1.2.3.4)
10. Ministry of Justice Order on the Establishment of the Working Group for Improving the Case Management System (CMS) and Identifying the Functionalities of the Integrated Case Management System (ICMS)
11. Assessment of the Public Information Materials Available on the Benefits of the CRO, ICMS, and E-file (Activity 1.2.4.1)

## **OBJECTIVE 2**

12. Superior Council of Magistracy Decision No. 510/23 of July 18, 2017 Regarding the Appointment of Representatives of the SCM and the Courts to the Working Group for the Implementation of the CEPEJ-Compliant Judicial Statistics (Activity 2.1.2.1)
13. Ministry of Justice Decision No. 570/23 of July 25, 2017 on the Establishment of the Working Group for Implementing the Judicial Statistics Spreadsheet Based on CEPEJ Indicators (Activity 2.1.2.1)
14. Report on the Website Information Workshop (Activity 2.3.2)
15. Report on the Breakfast for Journalists to Discuss Ways to Improve Access to Information about the Judiciary through Judicial Bodies' Webpages (Activity 2.3.2)
16. Superior Council of Magistracy Decision No. 557/25 of August 8, 2017 on the Establishment the Working Group for Revising the Judicial Selection and Promotion Criteria (Activity 2.2.4.6)
17. Report on the Workshop on Court Performance Indicators of Public Interest (Activity 2.1.2.1)
18. Report on the Anonymization of Published Court Decisions in Various Countries of the World (Activity 2.3.12)

## LIST OF ACRONYMS

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|        |  |
|--------|--|
| ACA    | Agency for Court Administration  |
| ATRECO | EU Project on Increased Efficiency, Accountability and Transparency of Courts in Moldova |
| CEPEJ  | European Commission for the Efficiency of Justice  |
| CMS    | Case Management System   |
| CRO    | Court Reorganization and Optimization  |
| CTS    | Center for Special Telecommunications  |
| DPI    | Department of Penitentiary Institutions  |
| EAP    | Efficiency Action Plan   |
| EJSM   | Electronic Judicial Statistics Module  |
| EU     | European Union   |
| FAQ    | Frequently Asked Questions   |
| ICMS   | Integrated Case Management System  |
| IFCE   | International Framework for Court Excellence   |
| IT     | Information Technology   |
| JIB    | Judicial Inspection Board  |
| JPI    | Judicial Performance Indicator   |
| JPEB   | Judges' Performance Evaluation Board   |
| JSCB   | Judges' Selection and Career Board   |
| JSRS   | Judicial Sector Reform Strategy  |
| MELP   | Monitoring, Evaluation and Learning Plan   |
| MOJ    | Ministry of Justice  |
| MOU    | Memorandum of Understanding  |
| NGO    | Non-Governmental Organization  |
| PGO    | Prosecutor General's Office  |
| RFQ    | Request for Quotations   |
| SCM    | Superior Council of Magistracy   |
| USAID  | United States Agency for International Development                                       |

## ABOUT THE PROJECT

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The United States Agency for International Development's (USAID's) Open Justice Project is a two-year rule of law project being implemented in Moldova from May 2017 until May 2019. Its purpose is to assist the Government of Moldova to improve the efficiency and transparency of the Moldovan judicial system and improve access to justice for citizens of Moldova.

The Open Justice Project's components include:

- **Objective 1: Increased Efficiency of the Justice System** — Activities to align Case Management System (CMS) updates with recently passed laws complementing court reorganization and optimization (CRO) efforts, develop an overarching Integrated Case Management System (ICMS) built to interface with existing and future databases in the justice sector, strengthen court administration processes, and build the capacity of the Superior Council of Magistracy (SCM) and the Ministry of Justice (MOJ) to refine legislation consistent with the goals and objectives of the Judicial Sector Reform Strategy (JSRS), in close collaboration with civil society.
- **Objective 2: Increased Transparency and Accountability of the Justice System** — Activities to advance and fully apply judicial ethics standards, disciplinary procedures, and a sound evaluation and merit-based judicial selection system to reduce corruption risks, strengthen professionalism and integrity, and hold the judiciary accountable for violations of ethical standards and the law.

In implementing these activities, Open Justice works in partnership with key actors and stakeholders in the justice system in Moldova, primarily the SCM, the MOJ, and the Agency for Court Administration (ACA), as well as the courts throughout the country.

Specific activities include building the capacity of local stakeholders to refine, upgrade, and implement the CMS, as well as developing an overarching modern ICMS that will facilitate data exchange among state agencies. The Project will also assist its local counterparts to improve caseload and court processes, streamline the court reorganization process, and display court performance indicators and a statistical web report card that media and citizens can use to gain access to information on court performance. Together, the Project's activities will lead to the Moldovan courts' modernization and automation and will also significantly bolster judicial transparency and accountability.

The Project's activities are led by a team of experienced national legal experts with in-depth knowledge of the Moldovan justice system. The local team is supported by a wide range of international and national experts who provide specialized expertise.

# Open Justice Project by the Numbers

## Court automation



15 recommended upgrades to improve court automation



16 meetings with the IT company to coordinate the upgrade of the Integrated Case Management System



Figure 1 - Project coverage throughout the country

## Efficiency



368 court employees responded to a survey assessing the impact of court reorganization and optimization



5 Working Groups established to boost the efficiency of the judiciary

## Transparency



4 public consultations conducted for enhancing access to judiciary information



2 online surveys rolled out to increase access to information

## EXECUTIVE SUMMARY

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The Open Justice Project is pleased to present its first Annual Report for the fiscal year, covering the period from May 15, 2017 to September 30, 2017.<sup>1</sup> The report highlights Open Justice's major accomplishments to date and describes progress made toward the Project's goals of advancing the Moldovan justice system's efficiency, transparency, and accountability.

This Annual Report begins with a list of the Project's key achievements, followed by a description of the project's specific activities and results attained under each of its two objectives. The performance management section addresses the progress toward completion of the Project's targets and the obstacles encountered. The report also includes a budget execution section, an administration and project management section, a project environmental section, and the list of counterparts and beneficiaries actively engaged with the Project, along with a several annexes. The Monitoring, Evaluation, and Learning Plan (MELP) report is included as Annex I to this Report.

From the outset, Open Justice successfully implemented an ambitious Mobilization Plan. From May 15 to June 28, 2017, the Project quickly secured an office, hired personnel, and submitted the draft Year I Work Plan and the MELP to USAID.

To ensure buy-in from the necessary counterparts, on August 4, 2017, Open Justice signed a three-party Memorandum of Understanding (MOU) with the SCM and MOJ that sets forth the areas of cooperation and the responsibilities of each party in implementing the Project's activities.

Under Objective I, Open Justice contracted with the Information Technology (IT) company Soft Tehnica, which developed and submitted a detailed Business Process Analysis for the overarching Integrated Case Management System (ICMS) on September 30. The analysis provides a holistic overview of the functioning of the ICMS, describes workflows and processes that will be programmed into the ICMS for all court levels, and incorporates business requirements from the SCM, MOJ, and ACA. Once the counterparts approve the ICMS Business Process Analysis in October 2017, Soft Tehnica will start the programming work on the ICMS.

Open Justice also agreed on the list of refinements to the current CMS in use in Moldovan courts with the MOJ and the SCM, which will reflect the recent changes in the laws and will facilitate CRO. The two-day study visit to Odessa that the Project organized for the SCM, MOJ, ACA and the Center for Special Telecommunications (CTS) representatives in September 2017 familiarized them with the functionalities of the E-file module in the Odessa courts. Soft Tehnica will implement some of those functionalities in the E-file module, which will be part of the CMS.

A significant accomplishment of the Project under Objective I was the development of a comprehensive Assessment Report on the Impact of Court Reorganization on court operations, case flow, and case management, which will be discussed with the MOJ and SCM during the first quarter of the next fiscal year.

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<sup>1</sup> The Open Justice Project's Year I is May 2017–May 2018, but the Task Order requires fiscal-year-based reporting. Thus, this report covers only the four months since the contract was signed in May to align it with the US Government's fiscal year.

During the reporting period, at the Project's request, the SCM and MOJ established five Working Groups which set the framework for Project's current and future activities and cooperation with the counterparts. The five Working Groups are: 1) the CEPEJ Working Group, 2) the Time Standards Working Group, 3) the Judicial Selection Working Group, 4) the CMS/ICMS Working Group, and 5) the CRO Working Group.

Under Objective 2, the Project facilitated several meetings of the SCM's Working Group on implementing European Commission for the Efficiency of Justice (CEPEJ) Indicators, which resulted in proposed new performance indicators that will be incorporated in the Electronic Statistical Report and the Judicial Performance Dashboard that will be part of the overarching ICMS.

- The Project also developed the functional requirements for a Document Management System that will automate the activity and the data exchange within and between the courts, the SCM, and ACA/MOJ. This will significantly improve the transparency and efficiency of these bodies.
- At the Project's request, the SCM established a Judicial Selection Working Group for revising the judicial selection and promotion criteria. A team of Project experts (a national and an international short-term consultant) are offering expertise and assistance to the Working Group.
- The Project, at the request of USAID, also drafted a 97-page report about practices relevant to court anonymization in various countries around the world, which it will use to promote transparency in Moldova's published court decisions.
- The Project had prolific activity under its Outreach Component, making a significant effort to reach out, inform, and involve the public, NGOs, lawyers, and other entities in its activities.
- Aside from its Launch Event that mass media covered extensively, the Project created and regularly updates thematic pages on Facebook, Twitter, Vkontakte, Instagram, LinkedIn, and YouTube. On these social media outlets, the Project shares the most significant news about judicial reforms, important updates from its counterparts, and publishes updates about its activities. The Project also took part in the Civic Fest event, during which it informed more than 100 visitors about the Project's activities to promote transparency and justice.

## KEY ACHIEVEMENTS

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### OBJECTIVE 1: INCREASED EFFICIENCY OF THE JUSTICE SYSTEM

During the reporting period, under Objective 1, the Open Justice Project:

- Assisted the SCM and the MOJ in establishing the Working Group for improving the existing CMS and identifying the functionalities of the new overarching ICMS and provided technical support for meetings and activities.
- Identified priority upgrades/updates to CMS, including those in support of deploying the Court E-file Module, according to SCM and MOJ requests.
- Assisted the SCM to amend the Regulation on Case Weights for Civil, Administrative, and Criminal Cases, which will be incorporated into the new ICMS.
- Conducted a focus group to identify the needs for public information to be generated by the ICMS, which will be accessible through the Courts' Web Portal ([instante.justice.md](http://instante.justice.md)), E-case, and the web report card ([statistica.instante.justice.md](http://statistica.instante.justice.md)).
- Completed the Business Process Analysis for developing a new integrated ICMS, including statistical reports to be incorporated into the ICMS Electronic Judicial Statistics Module.
- Conducted a Technical Needs Assessment and developed the Action Plan for ICMS development.
- Conducted a two-day study visit to Odessa to document processes related to functionalities of the E-file Module in Ukraine, to be implemented in the overarching ICMS in Moldova.
- Helped establish a Working Group for streamlining the reorganization of the courts.
- Finalized a Rapid Participatory Assessment of the impact of CRO on court operations, case flow, judicial review, and case management to be presented to the Working Group for streamlining the reorganization of the courts.
- Completed an assessment of the materials available to court users and the public regarding the impact of CRO and the benefits of ICMS and E-file.
- Conducted a feasibility study for implementing videoconferencing equipment in courts to ensure remote communication of the parties to a trial with the court.

### OBJECTIVE 2: INCREASED TRANSPARENCY AND ACCOUNTABILITY IN THE JUSTICE SYSTEM

The following activities represent the Project's major achievements under Objective 2:

- Completed the Business Process Analysis for developing functional requirements for the Document Management Systems for the courts of law, SCM, and ACA/MOJ.

- Conducted a workshop to evaluate and update the content and develop the functional requirements for the SCM, MOJ/ACA, and the courts' portal websites.
- Organized a workshop for journalists on improving access to information about the judiciary through the SCM, MOJ/ACA, and courts' portal websites.
- Finalized the Business Process Analysis for revised webpages of SCM, MOJ/ACA and courts portal website.
- Helped create the Working Group for the implementation of the CEPEJ-compliant judicial statistics spreadsheet and the Working Group on time standards.
- Conducted a workshop on the determination of judicial performance indicators that generate information of public interest.
- Assisted the SCM in establishing the Working Group for revising the judicial selection and promotion criteria.
- Developed an electronic proposal form to improve the CRO process and placed it on the courts' web portal.
- Developed electronic box to identify frequently asked questions about work of the courts and placed it on the courts' web portal.
- Prepared the Report on the Anonymization of Published Court Decisions in Various Countries and provided it to USAID.

## SECTION I – ACTIVITIES AND RESULTS

### OPEN JUSTICE PUBLIC OUTREACH ACTIVITIES

#### LAUNCHING OF THE OPEN JUSTICE PROJECT

On June 23, 2017, Open Justice conducted its official Launch Event, during which it informed relevant stakeholders and the public about its main objectives and goals. The U.S. Ambassador, James D. Pettit, USAID Country Director, Karen Hilliard, the Minister of Justice, Vladimir Cebotari, and the President of the SCM, Victor Micu, spoke and attended the event. Over 60 representatives of the justice sector from various regions in Moldova participated in the event. The launch was widely covered by the media (see Annex VI, Mass Media and Social Media Coverage Report). The launch event was an excellent interaction and networking opportunity between the Project's counterparts, justice sector professionals, and non-governmental organization (NGO) leaders.



Figure 1 – Open Justice Project's Launch Event

#### SIGNING OF THE MEMORANDUM OF UNDERSTANDING WITH KEY STAKEHOLDERS

On August 4, 2017, the Open Justice Project signed an MOU with the MOJ and the SCM. The MOU outlines the cooperation areas under the Project and highlights the activities that will be implemented as a result of the collaboration between the signatory parties. The MOU identifies a series of priority areas of cooperation among the Project and its counterparts, as well as the responsibilities of each signatory party in implementing the activities. It is expected that, among other things, the public's access to justice sector information will increase significantly during the two-year project collaboration with the judiciary. The MOU is attached in Annex VII.



Figure 2 – Minister of Justice Vladimir Cebotari, SCM Chairman Victor Micu and Open Justice Chief of Party Cristina Malai sign the MOU

## OPEN JUSTICE PARTICIPATED IN THE “CIVIC FEST” FESTIVAL

On September 29 and 30, 2017, Open Justice presented its activities at the 5th edition of Civic Fest. Every year, the festival brings together people, projects, and partners from the Republic of Moldova and the European Union (EU) to discuss and exchange ideas about best practices and innovative initiatives for the benefit of its citizens. During the two-day festival, over 40 local and international organizations joined efforts to display high impact civic engagement and civic excellence programs under the motto “Moldova for its Citizens.” Open Justice engaged with visitors and promoted the Project’s main activities, thus increasing awareness about the significance of American support for justice sector reform and the benefits the Project produces for the Moldovan people.



Figure 3 – Open Justice participation at the Civic Fest International Festival

The project team informed over 100 visitors about the IT tools that Open Justice is currently implementing in the judiciary to foster a transparent and accountable judicial system.

## OPEN JUSTICE – FACEBOOK PAGE

<https://www.facebook.com/JustitieTransparenta/>

Open Justice created a Facebook page entitled “Justitie Transparentă” (“Open Justice” in Romanian), which is a social media platform for posting and sharing news about the most important judicial reforms in Moldova, significant journalistic investigations pertaining to justice, and news about the Open Justice Project’s activities and achievements. Since its creation in August 2017, Facebook users viewed more than 1,000 times the news and events that Open Justice posted. Currently, although the page has an audience of 70 regular followers, the posts’ reach exceeded 4,500 in just two months (August and September).



Figure 4 – Open Justice Facebook page

## **OBJECTIVE I: INCREASED EFFICIENCY OF THE JUSTICE SYSTEM**

### **SUB-OBJECTIVE I.1: COURT REORGANIZATION AND OPTIMIZATION IMPLEMENTED**

#### **Activity I.1.1: Refine court reorganization and optimization plans, establish and communicate clear timeframes for implementation**

##### **Activity I.1.1.1 – Conduct a rapid, participatory assessment of the impact of CRO on court operations, case flow, judicial review, and case management**

In accordance with the provisions of the Law on Court Organization and Optimization, in January 2017, the Moldovan judiciary embarked on a complex CRO process, which resulted in the merging of 46 district courts into 15 courts. The expected end result of the CRO is optimized costs and an increase in the courts' efficiency. In order to assess the impact of the CRO on the courts' daily activities and provide targeted assistance with CRO implementation, Open Justice developed a comprehensive draft CRO Impact Assessment Report (included in Annex VIII). For the purpose of the Assessment, Open Justice conducted seven focus groups with representatives from the SCM, ACA/MOJ, and district and appellate courts. In addition to the focus groups, the Project carried out an online survey in which a total of 368 court presidents, judges, and court staff participated and contributed their opinions about the impact, advantages, and disadvantages of CRO. The Project will present the Assessment Report's conclusions and recommendations at the first meeting of the established the CRO Working Group, scheduled for October 2017 (Activity I.1.1.3 below).

##### **Activity I.1.1.2 – Conduct mapping of current case flow and other processes and procedures relevant to functionality of CMS and ICMS with reference to CRO (including the specialization of judges)**

The Project, in close collaboration with the MOJ/ACA and SCM, produced a list of 33 refinements to upgrade the current CMS to reflect recent changes in the law, including changes with reference to CRO. On July 6, 2017, the MOJ/ACA and SCM approved the list of CMS refinements. On July 24, 2017, the Project contracted with the IT Company Soft Tehnica to refine the CMS accordingly. With regard to developing the functionalities for the new overarching ICMS that the Project will develop, on September 30, 2017, Soft Tehnica delivered the draft ICMS Business Process Analysis, which includes a map of the courts' current caseload and other processes relevant to ICMS functionality as they relate to CRO.

##### **Activity I.1.1.3 – Establish a Working Group on the implementation of relevant actions related to CRO in close collaboration with other involved donors**

Open Justice assisted SCM to establish a Working Group on CRO, which the SCM formally approved on August 8, 2017. A representative of the EU-funded Project on Increased Efficiency, Accountability and Transparency of Courts in Moldova (ATRECO) is a member of the Working Group. The SCM will also invite other donor representatives to participate in thematic meetings of the Working Group as appropriate. On September 19, 2017, the MOJ also appointed two MOJ representatives to the Working Group to ensure the full collaboration of the MOJ in implementing CRO-related actions. The Working Group's role is to analyze the findings of the Project's CRO Impact Assessment Report and to provide recommendations for modifying the normative, legislative,

and institutional framework to ensure the effective implementation of the Law on Court Reorganization. The first meeting of the Working Group will be in October 2017.

#### **Activity 1.1.1.4 – Provide assistance to the Working Group for developing a strategic communication plan to educate public and court users on CRO**

Although planned for the June–September 2017 period, this activity depended on the setting up of the Working Group on the implementation of relevant actions related to CRO. As discussed in Activity 1.1.1.3 above, the composition of the Working Group was finalized on September 19, 2017. Open Justice anticipates that this activity will start in October 2017. Meanwhile, the Project contracted a local communications consultant to provide assistance with developing the strategic communication plan to educate the public and court users on CRO. The Project will also closely collaborate with the ATRECO project, which has a strong CRO communication component in its activity plan.

#### **Activity 1.1.1.5 – Implement activities from the strategic communications plan on CRO**

This activity is planned for the first quarter of the next fiscal year. See Activity 1.1.1.4 above.

### **Activity 1.1.2: Introduce new IT to accelerate CRO and complete technical upgrades to CMS**

#### **Activity 1.1.2.1 – Perform study on identification and introduction of IT solutions to facilitate implementation of CRO**

The Study will be drafted during the first quarter of the next fiscal year, after discussions with the members of the CRO Working Group (see Activities 1.1.1.1 and 1.1.1.3 above). The Study will also propose development of Document Management Systems for the SCM, ACA, and the courts in order to streamline their daily communication and information exchange and thereby increase their efficiency.

#### **Activity 1.1.2.2 – Implement the recommendations from the performed study**

This activity is planned for the first quarter of the next fiscal year, once Activity 1.1.2.1 has been completed.

#### **Activity 1.1.2.3 – Conduct a feasibility study for implementing videoconferencing equipment in courts to ensure remote communication of the parties to a trial with the court**

Open Justice contracted with a local IT consultant who developed a feasibility study for implementing videoconferencing equipment in courts to allow remote communication between the different parties (particularly in-custody defendants) and the court. During the period between June and September 2017, Open Justice staff and the IT consultant attended meetings with various counterparts to clarify the institutions' requirements regarding the videoconferencing system. As a result of the meetings, the consultant was able to describe and recommend an IT solution that would be able to simultaneously accomplish three important purposes: 1) videoconferencing between the parties and the court; 2) video recording of court hearings; and 3) videoconferencing between the SCM and the courts. Based on the recommendations of the feasibility study, in September the Project launched a procurement bid for videoconferencing equipment. The study is included in Annex VIII.

#### **Activity 1.1.2.4 – Pilot the video recording of court hearings in two courts (one Appellate Court and one District Court)**

The videoconferencing solution described in Activity 1.1.2.3 above includes the potential to video record court hearings. The Project will pilot the solution in two courts (a district court and an appellate court). The video recording solution that the Project will procure will be integrated with the audio recording SRS Femida solution that the courts already use.

#### **Activity 1.1.2.5 – Provide IT equipment to SCM and courts of law to streamline communications on court administration, CMS, etc.**

As described in Activity 1.1.2.3 above, the videoconferencing solution that the Project will purchase will allow videoconferencing between the SCM and the courts, thus streamlining communication.

#### **Activity 1.1.2.6 – Conduct a two-day study tour to Odessa to study the electronic filing system (e-filing) to inform the E-filing Module in Moldova**

On September 12–15, 2017, Open Justice organized a study tour to the Odessa region of Ukraine, for the representatives of the SCM, ACA/MOJ, the CTS, and Soft Tehnica. During the visit, the Moldovan delegation learned about the functionalities of the E-file Module that is part of the ICMS the Ukrainian courts in the Odessa region use. Discussions during the study trip also covered aspects related to E-Prosecution CMS available in Ukrainian prosecutor offices, as well as data exchange among state agencies. The study tour provided Open Justice and its stakeholders with a clearer understanding of the process for developing actual interconnectivity functionalities that will be integrated into the upgraded ICMS. The study visit report is included in Annex VIII.



*Figure 5 – Study visit to Odessa. Meeting with representatives of the Kyivskiy District Court of Odessa*



*Figure 6 – Study visit to Odessa. Meeting with the president of the Odessa Commercial Appellate Court*

#### **Activity 1.1.2.7 – Identify and perform priority upgrades/updates to CMS, including in support of deploying Court E-file Module, according to SCM and MOJ requests**

On July 6, 2017, the MOJ/ACA and SCM approved a list of 33 refinements to the current CMS. On July 24, 2017, the Project contracted with the IT company Soft Tehnica to develop, *inter alia*, the approved CMS refinements. Open Justice and Soft Tehnica attended the meetings of the Working Group on CMS refinement and ICMS development to discuss relevant legal issues and technical details. On August 3, 2017, the Project requested the CMS source code from the ACA/MOJ in order to start developing CMS refinements. On August 8, 2017, the ACA/MOJ informed the Project that the CMS source code will be provided only after the MOJ finalizes testing the E-file Module, which is

connected to the CMS. On August 18, 2017, the MOJ decided to postpone the work on CMS refinements until September 30, 2017.

**Activity 1.1.2.8 – Monitor CRO transition-related data migration from CMS to ICMS, adapt data fields and protocols**

The Business Process Analysis that the IT company Soft Tehnica delivered to the Project on September 30, 2017, includes a data migration model and plan. The data migration from CMS to ICMS will be implemented after developing the new version of ICMS, i.e., during the next program year.

**Activity 1.1.2.9 – Develop the online version of Guidelines for Effective Court Administration, including fillable templates and electronic forms**

Open Justice will start this activity during the first quarter of the next fiscal year.

**Activity 1.1.2.10 – Train court personnel on use of the templates and forms from the Guidelines for Effective Court Administration**

This activity is closely related to Activity 1.1.2.9 discussed above and will also begin in the next fiscal year.

**Activity 1.1.2.11 – Perform an assessment of the court premises to determine the cost-benefits and efficiency of their operation and propose amendments to the Law on Court Reorganization for an efficient merging of courthouses**

As of March 3, 2017, and via Decision No. 21, the Moldovan Parliament approved the Courthouses' Construction and Renovation Plan as part of the CRO implementation. The ACA/MOJ will oversee the implementation of the plan over a period of 10 years. The Project will assist the ACA/MOJ to evaluate the conditions in existing court premises and determine the costs and benefits and the efficiency of their operation. The Project contracted a local consultant to carry out this assessment.

**Activity 1.1.3: Strengthen justice sector professional and institutional capacity to implement CRO in compliance with laws and regulations**

**Activity 1.1.3.1 – Provide assistance to the CRO Working Group in drafting amendments to legislative / normative / regulatory acts to facilitate the implementation of CRO, including regulations on the use of ICT in courts**

This activity will start in in October 2017, when the CRO Working Group will meet (see Activity 1.1.1.3 above).

**Activity 1.1.3.2 – Provide support in implementing the activities of the new Justice Sector Reform Strategy that aim to facilitate CRO implementation**

This activity is dependent upon the approval by Parliament of the new JSRS for the years 2018–2024, which is tentatively scheduled for December 2017.

**Activity 1.1.3.3 – Conduct a training needs assessment of the judiciary based on priorities within the CRO**

As part of the CRO Impact Assessment report (see Activity 1.1.1.1), the Project surveyed judicial representatives about their CRO-related training needs. The Project will present the information

collected and discuss the findings of the survey with the National Institute of Justice and the SCM in October 2017.

#### **Activity 1.1.3.4 – Develop training plan based on assessment**

Based on the results of the assessment described in Activity 1.1.3.3 above, Open Justice will develop a training plan for the judiciary during the first quarter of the next fiscal year.

#### **Activity 1.1.3.5 – Provide support to develop a study on CRO's impact on the functioning of the judicial system that will provide findings and recommendations on the development of local stakeholders' permanent capacity to improve court operations in the context of CRO (ongoing in Year 2)**

This activity is planned for the third quarter and the early part of the fourth quarter in the next fiscal year.

#### **Activity 1.1.3.6 – Develop and test document management system for ACA/MOJ, generate statistical reports, review of materials, etc.**

This activity is planned for the end of the first quarter of the next fiscal year.

### **SUB-OBJECTIVE 1.2: INTEGRATED CASE MANAGEMENT SYSTEM (ICMS) IS REDESIGNED, UPGRADED, IMPLEMENTED; IT IS SUSTAINABLE AND IS CAPABLE OF INTEGRATION WITH ALL RESPECTIVE E-GOVERNANCE SYSTEMS IN MOLDOVA AND COMPATIBLE WITH COURT REORGANIZATION AND OPTIMIZATION; ICMS BECOMES A STANDARD OF BEST COURT AUTOMATION PRACTICES IN THE REGION**

#### **Activity 1.2.1: Build capacity and support stakeholders to update CMS and develop functional ICMS**

##### **Activity 1.2.1.1 – Establish a Working Group to guide development and implementation of ICMS**

On July 25, 2017, with the Project's assistance, the SCM and MOJ established a joint Working Group on the implementation of relevant actions related to CMS refinement and ICMS development. The Working Group members include representatives of the SCM, courts, ACA/MOJ, CTS, E-Governance Center, Soft Tehnica, and Open Justice. The Working Group's role is to provide guidance about CMS refinements and ICMS development, and to review the Business Process Analysis and other ICMS-related documents. At the last September meeting, Soft Tehnica presented the ICMS structure, system mock-ups, and user-cases.

##### **Activity 1.2.1.2 – Provide technical support for CMS/ICMS Working Group meetings and activities**

Open Justice provided the following technical support for Working Group meetings and activities: a) set up the Working Group meetings and developed the meetings' agenda and other materials; b) developed the meeting minutes and submitted them to all Working Group members; c) provided three trainings for Soft Tehnica staff to give them a better understanding of the CMS and ICMS functionalities; d) attended weekly meetings with Soft Tehnica representatives to identify the

functional requirements for CMS and ICMS; and d) attended 16 meetings with Soft Tehnica representatives to discuss the Business Process Analysis for ICMS.

## **Activity 1.2.2: Develop updates to CMS; develop and implement ICMS**

### **Activity 1.2.2.1 – Engage stakeholders, including lawyers and NGOs (including those representing persons with disabilities), to assess their needs and include their input in ICMS development, including incorporating the E-file Module and web-based tools**

During July 2017, Open Justice conducted two events relevant to this activity, as discussed below.

#### **Training for the Chisinau District Court on the correct use of the CMS and incorporate the collected input into ICMS development.**

On July 20, 2017, Open Justice assisted the ACA/MOJ to train 42 staff members of the Chisinau District Court ("Centru" location) on the correct use of CMS. Judicial assistants, court clerks, chiefs of the secretariats, and chancellery staff participated in the training. Participants identified several problems related to CMS use and discussed solutions to address those. The event helped Open Justice to identify problems faced by court staff in using CMS and to establish proposals for the functionalities of the new ICMS. The ACA published news about the training on its webpage:

<http://aaij.justice.md/ro/content/la-20072017-agen%C8%9Bia-de-administrare-istan%C8%9Belor-judec%C4%83tore%C8%99ti-%C3%AEn-comun-cu-programul-pentru>

#### **Focus group for lawyers, NGOs, and journalists to assess their needs and include their input in ICMS development, including incorporating the E-file Module and web-based tools**

On July 28, 2017, Open Justice conducted a focus group for lawyers, NGOs, and journalists to identify their needs for information that the ICMS must generate and which will be reflected on the courts' web portal, the E-file module, and the courts' Web Report Card. The aim of the focus group was also to identify the type of information and tools needed to better serve people with disabilities who will use the above-mentioned websites. Twenty-three (23) people participated in the event, including three representatives of NGOs that advocate for the rights of persons with special needs. As a result of the event, Open Justice developed a list of recommendations about the types of information that the ICMS must generate and provide to the courts' web portal, the E-file module, and courts' Web Report Card.



*Figure 7 – Presentation on accessibility of information available in ICMS and courts' portal for persons with special needs*

#### **Activity 1.2.2.2 – Support piloting of E-file Module to assist attorneys and pro se litigants to file complaints and upload documents, including workshops with lawyers to understand how to operate the new system**

Open Justice will support the MOJ with piloting the E-file Module in October 2017.

### **Activity 1.2.2.3 – Conduct technical needs assessment and draft an Action Plan for ICMS development**

Open Justice conducted a technical needs assessment and developed a draft Action Plan for ICMS development for the years 2017–2019, which it submitted to the MOJ for review (included in Annex VIII). The Action Plan covered the following aspects: 1) Business Process Analysis for ICMS development; 2) designing system architecture and graphical user interfaces; 3) ICMS development; 4) data migration; 5) purchasing equipment for hosting ICMS; 6) procurement of IT equipment; 8) ICMS final testing; 9) implementing ICMS and training court staff; 10) ICMS maintenance. The Project is currently awaiting the MOJ's feedback on the Plan.

### **Activity 1.2.2.4 – Develop data and additional functional requirements for statistical reports to be incorporated into the ICMS Electronic Judicial Statistics Module**

Open Justice contracted Mr. Ingo Keilitz, as International Judicial Statistics and Court Performance Consultant, to work on an electronic judicial statistics module (EJSM) for Moldovan courts. From September 13 to September 30, Mr. Keilitz met with representatives of the Chisinau District Court, the Chisinau Appellate Court, the Supreme Court of Justice, Soft Tehnica, the ACA/MOJ, and the SCM and discussed proposed upgrades to the EJSM. Mr. Keilitz's second visit to Moldova is planned for the end of October 2017.

### **Activity 1.2.2.5 – Design IT system architecture and graphical user interface in the ICMS;**

**Activity 1.2.2.6 – Develop the ICMS software, test and complete the modules;**

**Activity 1.2.2.7 – Conduct data migration from CMS into ICMS;**

**Activity 1.2.2.8 – Conduct testing and final user acceptance of the ICMS system;**

**Activity 1.2.2.9 – Develop the ICMS User Guide including for all its modules (EJSM, Performance Dashboard, etc.);**

**Activity 1.2.2.10 – Upgrade the online Court Report Card and connect it with the ICMS**

These activities are expected to start during the first quarter of the next fiscal year.

### **Activity 1.2.3: Institutionalize management of ICMS at national level**

**Activity 1.2.3.1 – Develop pre-deployment training programs for court leadership and management teams, judges, court staff, administrators / system holders, and external stakeholders (this continues in Year 2, including system management hand-off to MOJ and SCM);**

**Activity 1.2.3.2 – Develop ICMS management and operation plan, training, and troubleshooting resources;**

**Activity 1.2.3.3 – Develop legal framework review checklists to verify ICMS compliance with the legal provisions**

These will start in the next fiscal year, once the ICMS has been developed and implemented.

#### **Activity 1.2.3.4 – Support MOJ and SCM to develop necessary changes to legislative and normative framework to implement ICMS**

Open Justice provided support to the SCM on drafting amendments to the Regulation on Case Weights for Civil, Administrative, and Criminal Cases, especially for amending the calculation formula for case complexity levels. The SCM Board approved the changes to the regulation by its August 1, 2017 Decision No. 518/24. The Project will transpose the approved amendments into the new ICMS.

#### **Activity 1.2.4: Inform the public about the CRO impact and the advantages of ICMS and the E-file system**

##### **Activity 1.2.4.1 – Assess the materials available to court users and public regarding CRO impact and the benefits of CMS and E-file**

Open Justice conducted a rapid assessment of materials available to court users and the public at large about CRO's impact, as well as the benefits of CRO, CMS, and the E-File system. The report noted that there is little information available in a short and easy-to-read format. The assessment also provides recommendations for developing outreach materials that will help the public and court users better understand their rights and the benefits gained as a result of upgrading ICMS and launching E-File. The assessment will also help Open Justice provide assistance to the CRO Working Group to develop a strategic communication plan to educate the public and court users on CRO (see Activity 1.1.1.4 above). The assessment is included in Annex VIII.

##### **Activity 1.2.4.2 – Assist the SCM and MOJ to develop informational materials and an outreach campaign, public communication activities, and public education on CRO and ICMS**

The new ICMS will be launched in the next fiscal year, when Open Justice will conduct extensive communication and outreach campaigns on ICMS. The Project will also build on the findings identified in the CRO Impact Assessment (see Activity 1.1.1.1 above). The Project will closely cooperate with the EU-funded ATRECO project for this activity.

#### **Activity 1.2.5: Improving public access to judicial information**

##### **Activity 1.2.5.1 – Train lawyers to use the E-file Module**

This activity will start after the launch of E-file Module testing (see Activity 1.2.2.2 described above).

##### **Activity 1.2.5.2 – Develop a public video to highlight features and benefits of the E-file Module and the courts' web portal to enhance their public use**

This activity is planned to start during the next fiscal year after implementation of the E-file Module.

#### **Activity 1.2.6: Ensuring that ICMS and other technological upgrades serve the needs of citizens**

##### **Activity 1.2.6.1 – Incorporating the principles of inclusion, gender, and non-discrimination in all project activities, technology, and communication**

The activities conducted by Open Justice under Objective I are, in the interest of improving access to justice and transparency, non-discriminatory, gender-sensitive, and attentive to the requirements of those with special needs. Two efforts in particular, discussed below, addressed these concerns.

**Focus group to identify the public information to be generated by the Integrated Case Management System and made accessible through the Courts' Web Portal (instante.justice.md), E-case, and the web report card (statistica.instante.justice.md)**

On July 10, 2017, the Project conducted a focus-group for stakeholders, including lawyers and NGOs, to assess their needs and include their input into development of ICMS and web-based tools. Out of 23 event participants, 9 participants were women. Out of total of three panelists, two panelists were women. At the event, Open Justice identified a list of recommendations regarding the accessibility of information placed on the courts' web portal and ICMS for persons with special needs. The Project will continue to liaise with these specialized NGOs in the process of developing the new ICMS.

**The CMS/ICMS Working Group and the CRO Working Group**

Out of the 24 members of the CMS/ICMS Working Group, 12 members are women and 12 are men. The CRO Working Group's 10 members include 4 women and 6 men.

**SUB-OBJECTIVE 1.3: STREAMLINE CASE FLOW AND OPTIMIZE COURT ADMINISTRATION AND MANAGEMENT BASED ON THE DATA FROM THE UPGRADED ICMS**

**Activity 1.3.1 – Provide support to SCM to amend the regulations and instructions on manual and electronic statistical reporting for all court levels to include new statistical and performance measures**

During the next meetings of the CMS/ICMS Working Group, Open Justice plans to discuss new statistical and performance measures for the courts, developed with the assistance of the STTA Mr. Keilitz (see Activity 1.2.2.4 above), and to identify the necessary amendments to normative acts.

**Activity 1.3.2 – Train SCM, ACA, and court representatives on the use of the amended and the new statistical reports in a manual environment (before ICMS is implemented);**

**Activity 1.3.3 – Train SCM, ACA, and court representatives on the use of the statistical data and reports produced by the EJSM in ICMS;**

**Activity 1.3.4 – Train SCM, ACA, and court representatives on the use of the amended and the new statistical reports for decision-making, analysis, and reporting of data**

These activities will start in the next fiscal year.

**Activity 1.3.5 – Contract a consultant to regularly monitor and follow-up on alleged manipulations in the CMS and ICMS random case distribution process and report to the SCM and ACA about the revealed irregularities**

Open Justice launched a competition for selecting a local consultant to provide technical support to the ACA and the SCM and its Judicial Inspection to monitor the random case distribution process in Moldovan courts. At the end of September, the Project identified a local consultant for this task. The consultant will analyze the statistical data reflected in the EJSM in ICMS, related to random distribution of cases and will identify those actions that appear to circumvent the proper random assignment of

cases. Also, the consultant, who will start the activity in October 2017, will work with the ACA/MOJ and the SCM to improve the content of the monthly random case distribution reports.

### **Activity 1.3.6 – Monitor the activity of the CTS related to ICMS administration in order to detect and report any risks that exist for the CTS to manipulate the ICMS from the servers that host the ICMS**

Open Justice contracted a local IT consultant to develop the Request for Quotes (RFQ) for purchasing an IT solution to monitor the activity of the CTS related to ICMS administration. The Project will launch the procurement bid during the first quarter of the next fiscal year.

### **Activity 1.3.7 – Assist the SCM and ACA identify and describe new interactive functionalities that can be included in the ICMS to improve staff productivity such as personal performance dashboards, desktop training, daily reminders, etc.**

This activity was part of the ICMS Business Process Analysis carried out by Soft Tehnica. Soft Tehnica will present the potential new functionalities to the local counterparts in October 2017.

## **SUB-OBJECTIVE 1.4: ICMS IS CAPABLE OF EVENTUAL FUNCTIONAL INTEGRATION WITH ALL RELEVANT SYSTEMS OF THE STATE AGENCIES (THE CIVIL REGISTRY, PGO, POLICE, FORENSICS BUREAU, CADASTER SYSTEM, ETC.)**

### **Activity 1.4.1 – Assist MOJ in connecting the Prosecutor General's Office e-case management system to the E-file Module and other e-tools, including developing ICMS modules that ensure compatibility**

The Project attended meetings with the Prosecutor General's Office (PGO) and ACA/MOJ representatives about ICMS's interoperability with the PGO's E-file system. Soft Tehnica incorporated the necessary interoperability functionalities into the ICMS Business Process Analysis.

### **Activity 1.4.2 – Support developers to work with the MOJ/ACA to determine functional and technical requirements for ICMS to ensure ICMS connectivity and interoperability**

This activity is part of the ICMS Business Process Analysis carried out by Soft Tehnica. Soft Tehnica met with the ACA/MOJ and the PGO and determined the technical requirements to ensure ICMS interoperability.

### **Activity 1.4.3 – Develop Interagency Plan to guide expansion of ICMS and build capacity of justice sector stakeholders to implement and manage the system, as well as plan equipment purchases (ongoing in Year 2)**

This activity is expected to start in the next fiscal year.

## **OBJECTIVE 2: INCREASED TRANSPARENCY AND ACCOUNTABILITY OF THE JUSTICE SYSTEM**

### **SUB-OBJECTIVE 2.1: PERFORMANCE MANAGEMENT STANDARDS APPLIED BASED ON THE MANAGEMENT DATA GENERATED BY THE ICMS**

#### **Activity 2.1.1: Expand use of standards on procedures timeframes by judges**

##### **Activity 2.1.1.1 – Support SCM to improve and implement time standards regulations**

At the Project's request, the SCM created the Working Group on time standards, which will analyze the existing normative framework on the duration of procedural acts and will develop new approaches based on relevant CEPEJ guidelines. The first meeting of the Working Group will take place in October 2017.

##### **Activity 2.1.1.2 – Train judges on compliance with time standards**

This activity is planned for the first quarter of the next fiscal year after the SCM revises its time standards regulation based on CEPEJ guidelines. See Activity 2.1.1.1 discussed above.

##### **Activity 2.1.1.3 – Incorporate time standards into the ICMS**

This activity is planned for the first quarter of the next fiscal year, once ICMS development has started.

#### **Activity 2.1.2: Upgrade CMS and develop ICMS to implement court performance management standards**

##### **Activity 2.1.2.1 – Assess Council of Europe court performance standards, identify required modifications to ICMS data fields, the EJSM, and the Performance Dashboard, and develop the ICMS functional requirements to incorporate new standards**

The Working Group for the implementation of the CEPEJ-compliant judicial statistics spreadsheet was set up on July 18, 2017 through a Decision of the SCM at the Project's request. The CEPEJ Working Group focused its activity on a list of Judicial Performance Indicators (JPIs) approved by the SCM in 2016, including those implemented by CEPEJ in six pilot courts in 2015–2016. In August and September 2017, the CEPEJ Working Group carried out four meetings to discuss the JPIs. The outcome of the first phase of the Working Group's activity is the development of an indicators' concept, a calculation formula, data sources, and the manner of presentation to the public. In the subsequent phases, the Working Group will focus on the amendment of the relevant legal framework related to JPIs.

Soft Tehnica included the necessary functional requirements for the new JPIs into the Judicial Performance Dashboard and the EJSM in the Business Process Analysis documentation.



*Figure 8 – CEPEJ Working Group session*

### **Activity 2.1.2.2 – Review relevant regulatory framework and suggest amendments for implementing CEPEJ standards in the courts**

This activity is planned for the first quarter of the next fiscal year.

### **Activity 2.1.2.3 – Train and assist the SCM and the courts to apply CEPEJ statistical indicators when monitoring the activity of courts and improving court administration**

This activity is planned for the next fiscal year.

### **Activity 2.1.2.4 – Incorporate the new performance standards into ICMS (EJSM and Performance Dashboard) and update them to provide data on procedures timeframes and other CEPEJ performance indicators;**

### **Activity 2.1.2.5 – Train justice sector personnel to use data generated by EJSM and the Performance Dashboard (ongoing in Year 2)**

These activities are planned for the next fiscal year.

## **Activity 2.1.3: Make data on judicial performance standards available to the public and stakeholders through web links and flexible applications**

### **Activity 2.1.3.1 – Collect and share feedback from NGOs, professors, researchers, etc., on performance standards that are important to the public**

In parallel with the activity of the Working Group on CEPEJ indicators (see Activity 2.1.2.1 above), Open Justice conducted a workshop for lawyers, NGOs, academics, and researchers to collect their feedback on performance standards that are important to the public, as well as on other public information on the courts' efficiency that the indicators generate. Open Justice presented the proposed JPIs and discussed their calculation formula, manner of presentation in the Web Report Card, and the indicators' availability to the public. The openness and interest of participants allowed the Project to collect an extended list of proposals to be taken into consideration in the further development of the judicial performance indicators by the CEPEJ Working Group.



*Figure 9 – Workshop participants discuss the judiciary performance indicators that will become available online*

### **Activity 2.1.3.2 – Develop functional requirements for applications, web links for generating data, and judicial reporting files for online use by the public**

The contracted IT company Soft Tehnica will develop the functional requirements related to web links generating data about JPIs for online use by the public in the upcoming fiscal year.

### **Activity 2.1.3.3 – Incorporate requirements, including web-based graphic interfaces for public information into ICMS development**

This activity is planned for the next fiscal year.

## **Activity 2.1.4: Strengthen courts' capacity to institutionalize the International Framework for Court Excellence (IFCE)**

**Activity 2.1.4.1 – Conduct workshops with all courts about the IFCE implementation process;**

**Activity 2.1.4.2 – Institutionalize court performance monitoring as part of the IFCE implementation in all Moldova courts**

These activities are planned for the next fiscal year.

## **SUB-OBJECTIVE 2.2: INSTITUTIONALIZE OVERSIGHT OVER JUDICIAL PERFORMANCE**

**Activity 2.2.1 Improve the Judicial Inspection Board's capacity to receive, investigate, and resolve complaints against judges**

**Activity 2.2.1.1 – Collect information to evaluate Judicial Inspection Board (JIB) operations and aspects of JIB activity to be upgraded and improved**

The Project will seek two consultants, one international and one local, to assist the SCM, the Disciplinary Board, and the JIB in the process of ensuring fair and transparent disciplinary proceedings. The activity will start in October 2017.

**Activity 2.2.1.2 – Prepare assessment report on JIB activity, with findings and recommendations, and develop JIB Efficiency Action Plan (EAP)**

This activity, closely related to the Activity 2.2.1.1 above, will be implemented during the next fiscal year.

**Activity 2.2.1.3 – Conduct a workshop to present the findings and recommendations of the EAP, including on the implementation of IT solutions in JIB activity**

This activity is closely related to Activity 2.2.1.1 discussed above and will start during the next fiscal year.

**Activity 2.2.1.4 – Finalize EAPs; EAPs approved by the SCM**

This activity is closely related to Activity 2.2.1.1 and will begin during the next fiscal year.

**Activity 2.2.1.5 – Assist the SCM and JIB to implement EAPs (including delivery of an information system for document management);**

**Activity 2.2.1.6 – Conduct training for JIB inspectors and analysts to a) improve skills and tools to detect misconduct; b) develop skills for using ICMS before its pre-deployment; and c) use the information system for document management**

These activities are planned for the next fiscal year.

## **Activity 2.2.2: Develop tools to streamline the process of examining complaints submitted to the SCM and JIB**

### **Activity 2.2.2.1 – Gather data on the process for examining complaints, identify gaps, and prepare a report with findings and recommendations**

This activity is related to Activity 2.2.1.1, and its implementation will start in the next fiscal year.

### **Activity 2.2.2.2 – Present the report with conclusions and recommendations to the SCM members and JIB**

This activity, related to Activity 2.2.1.1, will be implemented during the next fiscal year.

### **Activity 2.2.2.3 – Develop functional requirements for web-based resources and tools for submission and examination of complainants, including templates and forms**

During the reporting period Soft Tehnica gathered data on the process of examining of complaints submitted to the JIB in order to deliver a Document Management System to the JIB during the next fiscal year. The document management system will include web-based resources for online submission and examination of complaints, which will increase the transparency and effectiveness of the JIB's activities.

### **Activity 2.2.2.4 – Develop and test functions and web-based applications regarding the submission and examination of complainants;**

### **Activity 2.2.2.5 – Develop content for publicly available resources (e.g., FAQs, templates, smart forms, instructions, videos, etc.)**

These activities are planned for the next fiscal year.

## **Activity 2.2.3: Automation of the SCM's Judicial Ethics Commission**

Open Justice will begin Activities 2.2.3.1 – 2.2.3.8 under this section during the next fiscal year.

## **Activity 2.2.4: Build Capacity of the Judicial Selection Board (JSCB) and Judicial Performance Evaluation Board (JPEB) to use CMS, ICMS and other data management tools**

### **Activity 2.2.4.1 – Collaborate with the SCM, JSCB, and JPEB to conduct self-assessments to identify processes to be upgraded and automated for more efficient and transparent operation**

Open Justice hired a team of two consultants, one international and one local, to assist the SCM's Judicial Selection and Career Board (JSCB) and Judicial Performance Evaluation Board (JPEB) in the process of ensuring fair, transparent, and accountable procedures for the selection, promotion, and evaluation of judges, as well as improving the efficiency and skills of the SCM's subordinate bodies in their role of overseeing judicial performance. The assessment phase started in September 2017 with a round of meetings and interviews with members of the SCM, JSCB, and JPEB, judicial candidates, judges, and NGOs.

**Activity 2.2.4.2 – Prepare an assessment report on the JSCB and JPEB with conclusions and recommendations;**

**Activity 2.2.4.3 – Conduct a workshop to present the report's findings and develop an action plan;**

**Activity 2.2.4.4 – Develop the action plan and present to the SCM for approval;**

**Activity 2.2.4.5 – Assist the SCM, JSCB, and JPEB to implement the activities provided by the action plan**

These activities are expected to start in the next fiscal year.

## **SUB-OBJECTIVE 2.3: PUBLIC ACCESS TO JUSTICE SECTOR INFORMATION**

### **Activity 2.3: Improve court transparency and accountability with increased public access**

**Activity 2.3.1 – Assist the SCM, MOJ, and courts to continue updating the content for the SCM and the ACA/MOJ website including the courts' portal**

Open Justice is currently working on activities that will contribute to updating the content of the websites of the SCM and the ACA/MOJ and the courts' portal. Open Justice conducted two workshops to consult judges, lawyers, civil society, and journalists on the type of information and functionalities the judiciary website should provide (see the Success Story in Annex IV).

**Activity 2.3.2 – Conduct workshops with the SCM, ACA/MOJ, courts, and stakeholders to evaluate the content and functional requirements for the respective websites and the courts' portal that will be interoperable with and extract data from ICMS**

On August 10, 2017, Open Justice conducted a workshop with representatives of the SCM, ACA/MOJ, courts, lawyers, and civil society in order to obtain feedback about the improvements that should be made to the judiciary's webpages to increase the transparency of judicial activities and processes. Proposals referred to the webpages' accessibility for persons with special needs and inclusion of advanced search engines.



*Figure 10 - Civil society, lawyers and judges present suggestions for improving judiciary websites*



*Figure 11 – Journalists recommend enhancements to the judiciary websites to better serve the public's needs*

On September 22, 2017, Open Justice organized an informal meeting with representatives of several mass media groups on the same topic of transparency and public information. Open Justice integrated

the feedback on an extended list of recommendations that will be used for upgrading the above-mentioned three webpages.

**Activity 2.3.3 – Assist the SCM, courts, and MOJ/ACA to finalize the content, technical, and functional requirements of ICMS, including the graphical interface and web applications for a revised webpage and courts' portal, and revise the webpages**

Soft Tehnica already delivered website mock-ups and is in the process of finalizing the website design and approved content. See the crosscutting activities discussed above and below (Activity 2.3.1, Activity 2.3.2, and Activity 2.3.5). This activity will be completed in the first quarter of the next fiscal year.

**Activity 2.3.4 – Assist the SCM and courts to develop content for the statistical Court Web Report Card of the Moldova courts, court statistical reports, templates, and smart forms**

See cross-cutting Activity 1.2.2.1 on the focus group held for lawyers, NGOs and journalists to identify their information needs, which the new ICMS will generate and which will be reflected on the courts' Web Report Card. See also Activity 2.1.3.1 on collecting feedback from NGOs, professors, researchers, and others on performance standards that are important to the public to be made available through the statistical Court Web Report Card. See also Activity 1.2.2.4, which included developing additional functional requirements for statistical reports to be incorporated in the EJSM.

**Activity 2.3.5 – Assist the SCM, courts, and MOJ/ACA to conduct public outreach and communications to publicize the webpage and courts' portal**

This activity is interrelated with Activity 2.3.4. It will be implemented during the next fiscal year.

**Activity 2.3.6 – Develop an electronic proposal form to improve the CRO process and place it on the courts' portal**

Open Justice developed an electronic proposal form to improve CRO. The electronic proposal form was placed online on the courts' portal on September 4, 2017 and will gather the public's recommendations until October 31, 2017. Visitors to the courts' portal now have the opportunity to express their views on the CRO process thereby providing feedback on this reform.

**Activity 2.3.7 – Identify, compile, and publish frequently asked questions (FAQs) about work of courts through a public call for suggestions on the courts' portal**

Open Justice developed a frequently asked question (FAQ) survey, which was published on the courts' portal, and which has the purpose of collecting and answering FAQs about the courts' work and services.

**Activity 2.3.8 – Develop and distribute printed materials on newly implemented reforms to be used by courts, lawyers, NGOs, etc.;**

**Activity 2.3.9 – Assist the SCM and courts to assess the needs of and develop specialized outreach materials for the disabled, elderly, youth, and vulnerable groups**

These activities are planned for the next fiscal year.

### **Activity 2.3.10 – Assist the SCM, MOJ, and courts to incorporate adaptive technologies for the disabled into the new website and implement them in the courts**

On July 28, 2017 and August 10, 2017, Open Justice invited representatives of NGOs that represent the interests of people with special needs to consult with them on the adaptive technologies needed for each judiciary website. The Project integrated their feedback into a large list of website improvements, which includes text zooming and color changes for visually-impaired and simple menus to make it easier for people with reduced mobility to search through information from the judiciary online. Soft Tehnica, will ensure the inclusion of adaptive technologies into the court webpages (see Activity 2.3.1, Activity 2.3.2, and Activity 2.3.3).

### **Activity 2.3.11 – Conduct a public perception survey on court efficiency and the activity of the judiciary**

Open Justice is currently coordinating with the EU Project ATRECO the logistics for conducting a national survey. The perception survey will be conducted October to November 2017, using qualitative and quantitative analytics. An international consultant will oversee the survey process.

### **Activity 2.3.12 – Provide technical assistance and work with the key stakeholders to improve transparency in publishing court decisions on the courts' portal (including improving the Draft SCM Regulation on Publishing Court Decisions)**

At USAID's request, Open Justice drafted a 97-page comparative study on different approaches to publishing court decisions based on practices found in 30 countries. This report is included in Annex VIII. The Project also met with the representatives of the National Center for Protection of Personal Data to discuss the provisions of the draft SCM Regulation on Publishing Court Decisions, which requires anonymization of all personal data, including the names of parties. Moreover, as part of the same draft Regulation, the Open Justice team discussed a proposed alternative mechanism by which journalists could obtain access to non-redacted versions of court decisions. The implementation of this activity is expected to continue in the next fiscal year.

## **SECTION II – PROGRAM ENVIRONMENTAL COMPLIANCE**

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The Open Justice Project has a categorical exclusion per Millennium DPI's task order contract Section H.17, Environmental Compliance Requirement, and the Initial Environmental Examination attached as Annex I to the task order.

## SECTION III – PERFORMANCE MANAGEMENT

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This Section provides an overview of the progress towards achieving planned Project activities during the reporting period and the contextual circumstances affecting the attainment of planned Project targets. The Project achieved most of its targets for the planned period, as listed below. A major Project achievement was the signing of an MOU with the SCM and the MOJ that sets forth the responsibilities of each signatory party in achieving Project's goals.

The completion of the Business Process Analysis for the overarching ICMS was a significant achievement under Objective I. This analysis serves as the foundation for developing the ICMS, which will ensure easy electronic data exchange among the courts and state agencies. The IT company that the Project contracted to develop the ICMS will use the analysis to develop the ICMS, upgrade the judicial bodies' webpages, and develop a Document Management System for the Project's main counterparts.

The drafting of a comprehensive CRO Assessment Report, which analyses the impact of CRO on the courts' daily activities and contains recommendations to address CRO challenges, is another important achievement. This report will serve as the basis for the Project's future activities facilitating CRO-related progress in the Moldovan judiciary.

At the Project's request, the SCM and the MOJ established five Working Groups that will work towards promoting reforms in various areas of Project's activities. The SCM, with the Project's support, amended the Regulation on Case Weights for Civil, Administrative, and Criminal Cases, which provides a new weighted caseload formula. This regulatory change will be built into ICMS to randomly assign cases.

At USAID's request, the Project completed a 97-page Report on the Anonymization of Court Decisions that provided a comparative analysis of the different approaches taken by 30 countries towards anonymization. This report will be used to advocate for judicial transparency by publishing court decisions.<sup>2</sup>

The Project also engaged two consultants (one international and one local) to provide technical assistance to promote improved, merit-based judicial selection and promotion criteria.

The Project's outreach component actively engaged civil society, journalists, lawyers, and donor representatives in discussions about court performance information that should appear on judiciary webpages. The Project also regularly engages with the public through its social media pages.<sup>3</sup>

Against the above achievements, the only area in which the Project temporarily postponed the start of its planned activities was the development and implementation of CMS refinements. While the Project agreed with the SCM and MOJ on the list of CMS refinements, the MOJ informed the Project that it will deliver the CMS source code only after piloting the CMS E-file Module in early October 2017. Once the Project receives the CMS source code from the MOJ, it will commence this activity. The Project anticipates to completing this task during the first quarter of the next fiscal year.

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<sup>2</sup> A recent draft SCM Regulation calls for anonymization of parties' names from published court decisions, which negatively impacts judicial transparency and impedes efficient journalistic investigations.

<sup>3</sup> The Project created Facebook, Twitter, Vkontakte, Instagram, and LinkedIn pages.

## SECTION IV – LIST OF COUNTERPARTS AND BENEFICIARIES

---

### I. Ministry of Justice

Contact details:

Republic of Moldova, Chisinau  
31 August 2982 no. 82 str.,  
MD – 2112  
Tel: +373 22 233340  
E-mail:  
raisa.morozan@justice.gov.md  
(Councilor of the Minister)

Vladimir Cebotari – Minister  
of Justice

Role in the project:

The MOJ is the state institution responsible for drafting laws and decisions of the Government regarding justice and social-economic fields. It coordinates the implementation of the JSRS. Open Justice collaborates with the MOJ on aspects related to the CMS upgrade and ICMS development, CRO assessment and implementation, trainings for lawyers on the E-file Module, and ensuring ICMS connectivity and interoperability with other e-governance systems.

### II. Agency for Court Administration

Contact details:

Republic of Moldova, Chisinau  
Ștefan cel Mare str., no.124 B,  
2<sup>nd</sup> floor  
Tel: + 373 22 27 18 14  
E-mail: daj@justice.gov.md

Valentina Grigoris – Chairman

Role in the project:

The ACA is an administrative authority subordinate to the MOJ, responsible for ensuring the organizational activity of the district and appellate courts. The institution is also responsible for the coordination of the court reorganization process. Open Justice collaborates closely with the ACA on aspects related to upgrading CMS and developing ICMS, ICMS interoperability with other e-governance systems, improving institutional capacities for monitoring manipulations in the CMS and ICMS random case distribution process, assessing the impact of CRO and the introduction of IT solutions in the courts of law to facilitate the implementation of CRO, improving the electronic statistical reporting of the justice sector, and organizing trainings for court personnel on subjects relevant to Project activities.

### III. Superior Council of Magistracy

Contact details:

Republic of Moldova, Chisinau  
5, M. Eminescu str.  
Tel: + 373 22 991-991  
E-mail: aparatul@csm.md

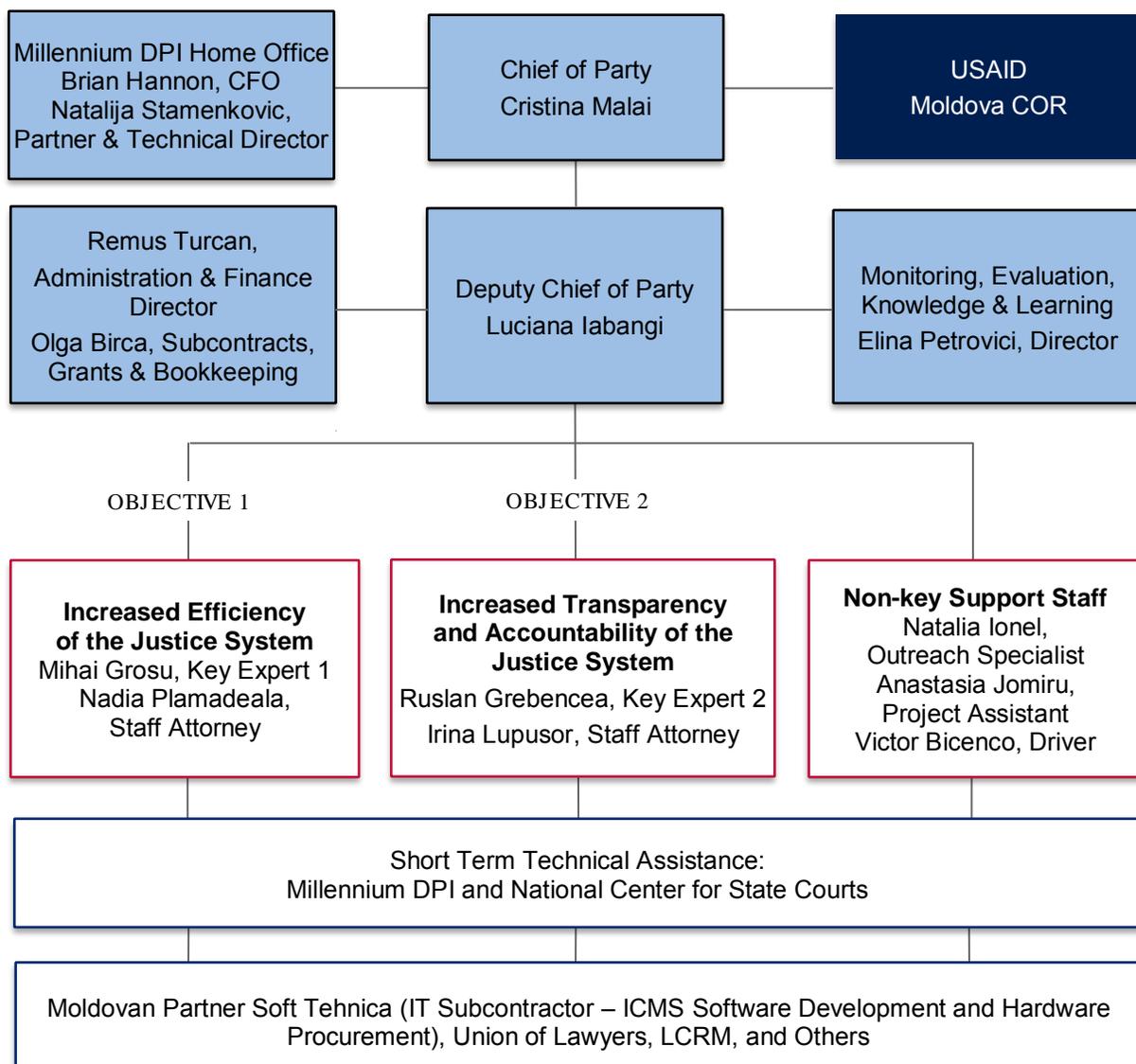
Victor Micu – Chairman

Role in the project:

The SCM is responsible for the judicial administration of the courts and ensuring the independence of the judiciary in Moldova. Open Justice collaborates closely with the SCM on aspects related to the implementation of CRO, setting-up the Working Groups to promote various judicial reforms, improving the electronic statistical reports from ICMS, addressing the weak areas in the appointment and promotion of judges, improving transparency in publishing court decisions on the courts' portal, and trainings for judges on subjects related to program activities.

## SECTION V – ADMINISTRATION AND PROJECT MANAGEMENT

Upon starting the Project activities on May 15, 2017, Open Justice quickly located an office, signed the lease, and purchased office furniture and equipment. To make sure that it was in full compliance with Moldovan Tax Code provisions, the Project contracted a local firm to calculate payroll taxes and prepare the necessary tax reports. During the reporting period, Open Justice obtained USAID's approval for the promotion of the Objective 2 Program Assistant to the vacant Position of Subcontracts, Grants & Bookkeeping Specialist. In addition, the Project interviewed and identified two individuals to replace the proposed Objective 1 Key Expert 1, Vlad Manoil, who could not join the Project. During next fiscal year, the Project will seek USAID's approval to contract these two people.



## **ANNEX I. REPORT ON THE MONITORING, EVALUATION, AND LEARNING PLAN**



**USAID**  
FROM THE AMERICAN PEOPLE

# REPORT ON THE PROJECT MONITORING, EVALUATION, AND LEARNING PLAN

USAID'S OPEN JUSTICE PROJECT  
IN MOLDOVA

October 30, 2017

## **DISCLAIMER**

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# REPORT ON THE PROJECT MONITORING, EVALUATION, AND LEARNING PLAN

OCTOBER 30, 2017

## USAID'S OPEN JUSTICE PROJECT IN MOLDOVA

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Submitted on October 30, 2017

**Contract:** AID-OAA-I-13-00029  
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## LIST OF ACRONYMS

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|        |  |
|--------|--|
| ACA    | Agency for Court Administration  |
| ATRECO | EU Project on Increased Efficiency, Accountability and Transparency of Courts in Moldova |
| CEPEJ  | European Commission for the Efficiency of Justice  |
| CMS    | Case Management System (courts)  |
| DPI    | Department of Penitentiary Institutions  |
| EJSM   | Electronic Judicial Statistics Module  |
| EU     | European Union   |
| ICMS   | Integrated Case Management System (justice sector-wide)                                  |
| IT     | Information Technology   |
| LRCM   | Legal Resource Centre of Moldova   |
| MELP   | Monitoring, Evaluation, and Learning Plan  |
| MOJ    | Ministry of Justice  |
| NGO    | Non-Governmental Organization  |
| PGO    | Prosecutors' General Office  |
| ROLISP | USAID's Rule of Law Institutional Strengthening Program                                  |
| SCM    | Superior Council of Magistracy   |
| USAID  | United States Agency for International Development                                       |
| WJP    | World Justice Project Rule of Law Index  |

# I. PROGRESS AGAINST PROJECT INDICATORS

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## A. EXECUTIVE SUMMARY

The United States Agency for International Development (USAID) approved the Open Justice Project's Monitoring, Evaluation, and Learning Plan (MELP) on September 6, 2017. The Project's MELP performance indicators measure the progress made towards enhancing the institutional capacity, transparency, and accountability of the Moldovan justice sector institutions as a result of the Project's assistance and contribution during the Project's first program year, which starts on May 15, 2017 and finishes on May 14, 2018.

According to Section F.3 of the Open Justice Task Order, MELP data collection shall be based on the US fiscal year (October 1 – September 30). The MELP progress report is part of the Project's Annual Report, due to USAID by October 30 of each year.

As such, this MELP Report describes the progress that Open Justice has made against its approved MELP indicators during the reporting period of May 15, 2017 to September 30, 2017.

Therefore, since this Report presents the Project's performance results for only 4.5 months of the Project's life, the indicators (except Indicator 2.3.2) have not yet reached their Year 1 targets,<sup>1</sup> as the Project planned them based on the program year, but reports them based on the US fiscal year.

Overall, the Project established 16 performance indicators, of which one indicator is established as an overarching Project Goal indicator. The other 15 indicators are grouped according to the Project's objectives and the expected results set forth in Contract AID-117-TO-17-00001. There are six performance indicators for Objective 1, Increased Efficiency of the Justice System, and nine performance indicators for Objective 2, Increased Transparency and Accountability of the Justice System.

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<sup>1</sup> By September 30, 2017, Indicator 2.3.2 reached and even exceeded the target planned for program Year 1 (see page 12 below).

## **B. PROJECT INDICATORS**

### **Project Goal Indicator**

The Project Goal indicator is:

- Increase in the court management score

### **Objective 1 Indicators**

The six Objective 1 performance indicators are:

1. Number of approved and implemented amendments, regulations, court rules and instructions developed with USAID Open Justice support
2. Number of district courts utilizing the overarching Integrated Case Management System (ICMS)
3. Number of justice sector personnel who received training with Open Justice support
4. Percentage decrease in alleged manipulations of the random case assignment module
5. Number of public-facing electronic applications that are incorporated into the Ministry of Justice's (MOJ's) overarching ICMS
6. Number of e-governance systems/services, integrated with overarching ICMS

### **Objective 2 Indicators**

The nine Objective 2 performance indicators are:

1. Ratio of judicial cases backlogged to the total number of pending cases
2. Percentage of performance management standards developed versus applied
3. Increase of reasoned, merit-based judicial appointments ensured by the Superior Council of Magistracy (SCM)
4. Increase in public confidence of judicial effectiveness
5. Number of citizens reached by public outreach campaigns
6. Increase in number of positive or neutral media reports, reflecting MOJ, Agency for Court Administration (ACA), and SCM activity
7. Proportion of SCM sessions archived out of the total sessions live-streamed
8. Number of pilot courts using audio and video equipment to accommodate court users who are unable to attend the court hearing or sessions
9. Proportion of female panel speakers and female general participants in Project program-assisted activities, initiatives, and events

The table below analyzes the Project's performance against the established targets.

## C. TABLE OF PERFORMANCE INDICATORS AND PROGRESS

| <b>Project Goal: More accountable and efficient justice system accessible to all members of society</b>   |           |   |                                     |                                  |
|---|-----------|---|-------------------------------------|----------------------------------|
| <b>Performance Indicator</b>  | <b>BL</b> | <b>End of Program Target (May 14, 2019)</b> | <b>Year 1 Target (May 14, 2018)</b> | <b>September 30, 2017 Actual</b> |
| Increase in the score for court management  | 0.33      | 0.35  | 0.34                                | 0.33                             |
| Unit: Number (Scores)   |           |   |                                     |                                  |
| <p><b>COMMENT:</b> Open Justice established the value for this indicator based on an external evaluation source, namely the World Justice Project Rule of Law Index (WJP). The WJP is based on 44 sub-factors measured through specific WJP Rule of Law tools and quantitative data posted on the WJP's web page <a href="https://worldjusticeproject.org/our-work/publications/rule-law-index-reports">https://worldjusticeproject.org/our-work/publications/rule-law-index-reports</a>.</p> <p>Out of the WJP's total 44 sub-factors, Open Justice identified and selected only those relevant to the Project's areas of activities. As a result, Open Justice came up with four relevant WJP factors that it will monitor during the life of the Project. These four factors are: 1) Constraints on Government Powers; 2) Absence of Corruption; 3) Civil Justice; and 4) Criminal Justice. The data measures the extent to which Moldova's policy and state institutional framework supports the accountability and efficiency of the courts and the quality of the courts' administration. The most recent WJP Rule of Law Index score available for Moldova is from the year 2016.</p> <p>USAID, in discussions with the Project, recognized that Open Justice cannot, given its narrow scope and the short time period of the contract, influence these scores in any meaningful way; therefore, it was agreed that the Project's MELP Director will monitor and report any changes in the WJP scores.</p> |           |   |                                     |                                  |
| <b>Objective I: Increased Efficiency of the Justice System</b>  |           |   |                                     |                                  |
| <b>Result I.1: Court reorganization and optimization mapping updated, refined, and implemented</b>  |           |   |                                     |                                  |
| <b>Performance Indicator</b>  | <b>BL</b> | <b>End of Program Target (May 14, 2019)</b> | <b>Year 1 Target (May 14, 2018)</b> | <b>September 30, 2017 Actual</b> |
| I.1.1. Number of approved and implemented amendments, regulations, court rules, and instructions developed with Open Justice Project support  | 0         | 12  | 8                                   | 1                                |

|   |    |                                      |                              |                           |
|---|----|--------------------------------------|------------------------------|---------------------------|
| Unit: Number  |    |                                      |                              |                           |
| <p><b>COMMENT:</b> During the reporting period, Open Justice assisted the SCM to draft amendments to the Regulation on Case Weights for Civil, Administrative, and Criminal Cases. As a result, the SCM amended the Regulation by its Decision No. 518 / 24 adopted on August 1, 2017. Open Justice will incorporate the revised case weights into the random case assignment module of the overarching ICMS that it will develop.</p> <p>During the next quarter, Open Justice, in cooperation with the SCM and the MOJ, will initiate a review and propose amendments to the normative framework in areas related to judicial selection, discipline, and ethics, court automation, and court performance, as well as other judicial reform areas.</p> <p>The proposed amendments will result from the technical assistance that Open Justice currently offers to the following five SCM Working Groups: the Working Group for the implementation of CEPEJ indicators, the Working Group on time standards, the Working Group for revising the judicial selection and promotion criteria, the Working Group for streamlining the reorganization of the courts, and the Working Group for improving the Case Management System (CMS) and identifying the functionalities of the ICMS. According to their mandate, the established Working Groups will provide recommendations for amending the existing normative, legislative, and institutional framework to advance the implementation and institutionalization of the justice sector reforms.</p> |    |                                      |                              |                           |
| <p><b>Result 1.2: Case management system (CMS) is redesigned, upgraded, and implemented; it is sustainable and capable of integration with all respective e-governance systems (ICMS) in Moldova and compatible with court reorganization and optimization; ICMS becomes a standard of best court automation practices in the region</b></p>  |    |                                      |                              |                           |
| Performance Indicator   | BL | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
| 1.2.1. Number of district courts utilizing overarching ICMS<br><br>Unit: Number   | 0  | 15                                   | 0                            | 0                         |
| <p><b>COMMENT:</b> According to the approved Open Justice Year 1 Work Plan, the Project will work on developing an overarching ICMS, which it will implement in all 15 Moldovan district courts during Program Year 2. Therefore, this indicator is the only End of Program (Y2) MELP indicator.</p> <p>The overarching ICMS will replace the current CMS that the Moldovan courts use.</p> <p>In July 2017, Open Justice signed a fixed-price contract with the IT company Soft Tehnica to develop and help implement the overarching ICMS. The Project also assisted the SCM and the MOJ to create, in July 2017, a Working Group on CMS refinement and ICMS development. Their task will be to propose, as well as validate, new ICMS functionalities.</p>   |    |                                      |                              |                           |

During the reporting period, the Working Group met weekly to discuss and propose CMS/ICMS functionalities. As a result, Soft Tehnica developed the draft ICMS Business Process Analysis, which defines the workflow and business processes for the to-be-developed overarching ICMS. In October 2017, Open Justice will conduct a three-day workshop with the Moldovan counterparts to discuss and validate the ICMS Business Process Analysis. Following the workshop, Open Justice will obtain the approval of the MOJ and the SCM Chair of Business Processes for the new ICMS prior to Soft Tehnica starting the ICMS development.

| Performance Indicator   | BL | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
|---|----|--------------------------------------|------------------------------|---------------------------|
| <b>I.2.2.</b> Number of justice sector personnel that received training with Open Justice Project support<br><br>Unit: Number | 0  | 1,500                                | 200                          | 125                       |

**COMMENT:** During the reporting period, Open Justice trained and informed 125 persons (74 women and 51 men) on judicial reform issues in areas in which the Project works. Below is a description of the trainings and information sessions that the Project conducted.

The Objective 1 Project Key Expert trained a total of 42 representatives of district courts (32 women, 10 men) on the use of the actual CMS during a workshop conducted on July 20, 2017. During the workshop, the Project's Key Expert also collected input for new functions of the future overarching ICMS.

Open Justice also organized four public events (focus groups and workshops), in order to inform and gather feedback from the invited participants on the following subjects:

1. The existing CMS and future ICMS functions/applications for 23 participants (10 women, 13 men) organized on July 28, 2017
2. Updating the SCM, ACA, and courts' web portal pages for 31 participants (16 women, 15 men) conducted on August 20, 2017
3. Judiciary performance indicators for 22 participants (11 women, 11 men), conducted on September 6, 2017
4. A meeting with journalists to identify the types of information that the ICMS should generate and that should be reflected on the SCM and ACA web pages and the courts' web portal, for seven participants (5 women, 2 men) conducted on September 22, 2017.

Judges, lawyers, national experts, SCM and MOJ/ACA staff, non-governmental organizations (NGOs) and journalists, Soft Tehnica, the European Union-funded Project on Increased Efficiency, Accountability, and Transparency of Courts in Moldova (ATRECO), and representatives of a USAID-funded media project attended the events.

Following an assessment by the Project's team, Open Justice developed a tentative list of trainings to be organized for judges and court staff during the next fiscal year.

| <b>Result 1.3: Case management data generated to streamline caseload and optimize court administration and management</b>  |               |   |                                     |                                  |
|--|---------------|---|-------------------------------------|----------------------------------|
| <b>Performance Indicator</b>   | <b>BL</b>     | <b>End of Program Target (May 14, 2019)</b> | <b>Year 1 Target (May 14, 2018)</b> | <b>September 30, 2017 Actual</b> |
| <b>1.3.1.</b> Percentage decrease in alleged manipulations of the random case assignment module<br><br>Unit: numeric, percentage<br><br>Sub-Indicators:  |               |   |                                     |                                  |
| 1. Ratio of judges blocked for a period to the total number of judges  | 41%           | <20%  | <30%                                | 24%                              |
| 2. Number of cases/actions of using the option "incompatible judges"   | 4,620 (100%)  | <60%  | <80%                                | 15%                              |
| 3. Number of times judges saved in the system as "incompatibles"   | 27,988 (100%) | <60%  | <80%                                | 9%                               |
| 4. Number of cases/actions saved as "examined by the same judge/panel"   | 213 (100%)    | <90%  | <95%                                | 72%                              |
| 5. Number of actions saved in the system as "changing the judge's role"  | 12 (100%)     | <75%  | < 85%                               | 17%                              |
| <p><b>COMMENT:</b> The current CMS used in Moldovan courts use includes an automatic random case assignment module, which has been assigning cases to judges since November 2014, eliminating the human factor. In December 2014, the former USAID Rule of Law Institutional Strengthening Program (ROLISP) started developing monthly monitoring reports that identified the number of times that the courts randomly assigned and re-assigned cases using ICMS, as well as instances and number of times that the courts used ICMS-available options to assign cases to a limited pool of judges or to a certain judge or panel of judges.</p> <p>The Moldovan legislative and normative frameworks specify a limited number of circumstances when judges can be excluded from the pool of available judges for random case assignment. Examples of such circumstances are when judges are on vacation or sick leave, or when they were previously involved with the same case in a different capacity (prosecutor, lawyer), or when a case should be sent to the same judge/panel of judges for re-examination.</p> <p>Following the completion of USAID's ROLISP, the ACA took over the development of monthly random case assignment monitoring reports, which it publishes on its website. During the reporting period, Open Justice intended to contract a short-term consultant to analyze the manner in which</p> |               |   |                                     |                                  |

the ACA presents the information in its monthly monitoring reports, follow-up with specific courts that have the highest number of actions of interference with the CMS random case assignment module to identify whether the manipulation was mandated by law or whether it was illegal, and present findings/recommendations to the SCM and the ACA to improve the structure and content of the MOJ/ACA reports.

To implement this activity, Open Justice launched a competition for selecting a short-term consultant. Following this process, the Project was unable to identify an available and sufficiently qualified local consultant to undertake this highly technical and complex assignment by the end of September 2017. As a result, Open Justice decided to recruit a staff member for the position of Legal Adviser under Objective I who will undertake, *inter alia*, the duties intended for the short-term consultant as described above. The Legal Adviser will start her activity in October 2017, subject to USAID approval.

In light of the above, the reported Year I actual results for this indicator do not reflect the Project's activity. Instead, this data is the result of an exercise involving an analysis of data from the latest and the previous random case monitoring reports.

**Result 1.4: ICMS is capable of eventual functional integration with all relevant systems of the state agencies (the civil registry, the Prosecutors' General Office (PGO), police, prisons, forensics bureau, cadaster system, etc.)**

| Performance Indicator  | BL | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
|--|----|--------------------------------------|------------------------------|---------------------------|
| 1.4.1. Number of public-facing electronic applications that are incorporated into the MOJ's overarching ICMS<br><br>Unit: Number | 0  | 4                                    | 2                            | 0                         |

**COMMENT:** Open Justice contracted the local IT company Soft Tehnica to develop the concept of the new ICMS and incorporate public facing applications into the overarching ICMS.

Also, Open Justice worked closely with the SCM and MOJ/ACA to identify and establish the functional requirements for integration of IT tools into the new ICMS. For this purpose, the Project assisted the SCM and MOJ/ACA to create a Working Group to identify the functionalities of the ICMS. The Working Group met several times. As a result, Soft Tehnica completed the Business Process Analysis, which it will discuss with the Project's counterparts in early October 2017. The number and the type of the electronic public-facing applications is subject to the Working Group's discussions on the developed Business Process Analysis.

Examples of public-facing electronic applications are: the Web Report Cards listing court performance data, available on the SCM's website, web-based public applications/resources and tools for complainants, as well as smart forms for litigants. The Project will develop the exact list of such applications with input and validation from the CMS/ICMS Working Group.

| Performance Indicator   | BL   | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
|---|------|--------------------------------------|------------------------------|---------------------------|
| <b>1.4.2.</b> Number of e-governance systems/services integrated with overarching ICMS<br><br>Unit: Number  | 0    | 3                                    | 1                            | 0                         |
| <b>COMMENT:</b><br><br>Open Justice will develop a new, overarching ICMS that will integrate various e-governance systems/services and facilitate data exchange among them. This will increase the efficiency of the justice sector in general and the activity of the courts in particular.<br><br>On August 21, 2017, Open Justice sent a letter to the MOJ asking for information on the state agencies and systems that should be integrated into the ICMS. The MOJ responded that the following state IT systems need to be interconnected through ICMS: the E-File system of the PGO, the Department of Penitentiary Institutions' (DPI's) system, the civil registry, the system of the Ministry of Interior Affairs, MPay, MPass, MSign, MLog, and other systems.<br><br>To provide a platform for discussion and communication between all relevant state agencies about the IT systems capable of eventual integration with ICMS and the systems that will exchange data with ICMS and will interpret the shared data, Open Justice proposed establishing a Working Group on the interoperability of the ICMS. The Working Group is expected to start its activity in October 2017. Due to the fact that during the reporting period Soft Tehnica only finalized the Business Process Analysis for the ICMS, the identification and work for e-governance systems/services will start during the next reporting period. |      |                                      |                              |                           |
| <b>Objective 2: Increased Transparency and Accountability of the Justice System</b>   |      |                                      |                              |                           |
| <b>Result 2.1: Performance management standards applied based on the management data generated by the CMS/ICMS</b>  |      |                                      |                              |                           |
| Performance Indicator   | BL   | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
| <b>2.1.1.</b> Ratio of judicial cases backlogged to the total number of pending cases<br><br>Unit: Percentage   | 3.7% | <2%                                  | <3%                          | 3.7%*                     |
| <b>COMMENT:</b> For the purpose of this indicator, "case backlogged" is a domestic court case that is pending, unresolved, for a period exceeding 24 months.  |      |                                      |                              |                           |

According to data provided by the ACA, for six months of year 2017, the total number of active cases is 58,606 court cases, of which 2,157 cases are backlogged cases.

On November 29, 2016, the SCM adopted a decision establishing time frames for the duration of case procedural acts, but those time frames have not been implemented. To improve the courts' time management practices, Open Justice assisted the SCM to establish a Working Group that includes SCM members and court staff representatives who will review the set time frames against the European Commission for the Efficiency of Justice (CEPEJ) time management indicators. Open Justice's aim is to encourage the judiciary to identify realistic performance targets, and to improve the court performance statistical system, through implementation of CEPEJ's time management standards for the judiciary. The members of the Working Group will review the SCM's regulation regarding judicial timeframes and will develop new approaches to them. It is expected that the Working Group will start its activity in the next fiscal year.

Open Justice will upgrade both the Judicial Performance Dashboard and the Electronic Judicial Statistical Module (EJSM), which will incorporate data on cases that were examined during the established time frames, as well as cases that the courts failed to examine during such timeframes. This will ensure that the SCM and the ACA will have easy online access to such data.

Open Justice will work with the judiciary to deliver the necessary tools and procedures (such as the updated CMS and the overarching ICMS, redefined performance indicators, etc.) to reduce case backlogs while not diminishing the quality of justice.

Evaluating the courts' activity through the number of cases backlogged will allow the SCM and the courts to monitor the compliance and performance of each court, in accordance to the EHCR case law, and to assess and compare the caseload of the different courts.

\* Note: Open Justice established the baseline for this indicator based on the available ACA report. The next ACA report will be issued in October 2017. The actual value for this indicator does not reflect the impact of the Open Justice Project's activity.

**Result 2.2: Oversight over judicial performance institutionalized**

| Performance Indicator  | BL  | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
|--|-----|--------------------------------------|------------------------------|---------------------------|
| 2.2.1. Percentage of performance management standards developed versus applied<br><br>Unit: Percentage | 23% | 100%                                 | TBD                          | N/A                       |

**COMMENT:** Prior to the Project's start, the SCM adopted Decision No. 634/26 of September 29, 2016 approving new court performance indicators. The SCM decision, however, does not expressly provide for the enforcement of the indicators in all Moldovan courts, and not all of them are integrated into the ICMS. Consequently, it is not possible to collect data on the use of performance indicators on an electronic basis.

Currently, only 3 out of 13 Court Performance Indicators approved by the SCM are used through the CMS Performance Dashboard, and only 2 out of 13 are published online for the public, via the Web Report Card that the public can access from the SCM's website to see the clearance rate and the rate of postponed court hearings.

Eight out of the 13 SCM-approved indicators are CEPEJ indicators. Open Justice planned to incorporate the CEPEJ indicators into CMS during the first phase of the Project implementation. The Project requested that the ACA/MOJ provide the source code and up-to-date technical documentation for the CMS so they could carry out planned activities to improve CMS. On August 8, 2017, the ACA/MOJ informed the Project that the CMS source code will be provided after the MOJ finalizes testing the E-file Module, which is connected to the CMS. During a joint meeting between the MOJ and Open Justice Project organized on August 18, 2017, the MOJ decided to postpone the work on CMS refinements until September 30, 2017. Taking this situation into consideration, Open Justice could not estimate the target for the first project year by the end of September 2017.

To revise and define the final list of performance indicators, which will be incorporated into ICMS and made available to the public, Open Justice, the SCM, and MOJ/ACA established a Working Group. In September 2017, the Project contracted an international consultant who spent two weeks in Moldova working with Objective 1 and Objective 2 staff and the Working Group members to revise the current list of performance indicators. In addition, on September 6, 2017 Open Justice conducted an interactive workshop to collect feedback from judicial and non-judicial specialists, NGO representatives, and journalists about the judicial performance indicators and their availability to the public. Open Justice expects to finalize the list of performance indicators, the calculation formula, and the data sources by November 2017.

| Performance Indicator   | BL  | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
|---|-----|--------------------------------------|------------------------------|---------------------------|
| 2.2.2. Increase of reasoned, merit-based judicial appointments ensured by the SCM<br><br>Unit: Percentage | 20% | >70%                                 | >40%                         | 8%                        |

**COMMENT:** According to a recent report presented by the Legal Resource Centre of Moldova (LRCM) in late spring 2017, the process of the selection and promotion of judges raises concerns because of the SCM's lack of reasoning in appointing and promoting judges. According to the LRCM, only 2 out of 10 appointments and promotions (20%) were based on highest score and were to some extent reasoned by the SCM.

USAID approved the Open Justice Year 1 Work Plan with a request for the Project to work in the area of promoting merit-based judicial appointment and clear judicial promotion criteria and procedures.

With that aim, in September 2017, Open Justice launched a call for applications from local and international consultants to form a team to assist with improving the SCM's regulations and practices

regarding the selection of judges and judicial career advancement. The team of consultants started their assignment on September 22, 2017 and will finish the assignment on December 31, 2017.

In addition, Open Justice assisted the SCM in establishing a Working Group that will revise the criteria, the scoring system, and the competition procedure for judicial appointment and promotion, which will help improve the reasoning of the decisions of the SCM in this area.

During the reporting period, Open Justice Objective 2 staff monitored the SCM's web page and reported that SCM has launched 34 competitions and announced 51 judicial openings, and that 141 judicial candidates participated in the contest. The SCM appointed 34 applicants and issued a total of 38 decisions, out of which only three decisions (8%) were reasoned.

As Open Justice only recently started implementing this activity, the actual data for this indicator does not reflect the impact of the Project's activity.

**Result 2.3: Public Access to justice sector information**

| Performance Indicator   | BL  | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
|---|-----|--------------------------------------|------------------------------|---------------------------|
| 2.3.1. Increase public confidence of judicial effectiveness<br><br>Unit: Percentage | 22% | >5%                                  | N/A                          | N/A                       |

**COMMENT:** As baseline for this indicator, Open Justice used the data presented by the Institute for Public Policies in its last Barometer of Public Opinion survey, conducted in early 2017. The survey contains data about respondents' trust in various state and non-state institutions, including in the justice sector.

Open Justice plans to conduct two in-depth national surveys during the life of the Project to measure public confidence in the judiciary's effectiveness. Open Justice is currently coordinating this effort with the EU Project ATRECO, which also planned to conduct such a survey. In order to avoid overlap and wasted funds, Open Justice and ATRECO agreed to coordinate and co-fund the survey. The first Open Justice perception survey will be conducted in October 2017 and November 2017 using qualitative and quantitative analytics. Open Justice will conduct the second survey based on the same methodology used for conducting the first survey. The Project will carry out the second survey at the end of the second year of the Project in order to identify trends.

The survey questions will cover court reorganization and optimization, speedy justice, the implementation of court performance standards, court automation, e-services, the quality and user-friendliness of court services, and satisfaction of court users and litigants. The Project's outreach team also plans to conduct information campaigns and sessions during the life of the Project to increase the public's understanding about services offered to the public by the courts and the judiciary. The Project's team will also work with the courts to increase the efficiency of court

| administration. Thus, Open Justice will contribute to an increase in the public's knowledge of and confidence in the judicial system.   |    |                                      |                              |                           |
|---|----|--------------------------------------|------------------------------|---------------------------|
| Performance Indicator   | BL | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
| 2.3.2. Number of citizens reached by public outreach campaigns<br><br>Unit: Number  | 0  | 5,000                                | 2,000                        | 1,213                     |
| <p><b>COMMENT:</b> To achieve the performance targets for this indicator, Open Justice will conduct a plethora of activities, from publishing leaflets and conducting meetings and workshops, to producing video spots on issues related to the reforms being enacted.</p> <p>Open Justice has begun work on public outreach and educational materials that explain the impact of court reorganization and optimization for citizens and court goers. In addition, Open Justice is working on upgrading the websites of the SCM and ACA/MOJ and the courts' web portal to make them more user-friendly and informative. The updated courts' portal website will incorporate a map of courts around the country and will allow court users to easily identify the right court in which to file lawsuits.</p> <p>Moreover, Open Justice just started to work on a new call for grant applications, which will focus on informing the public at large about the benefits of the newly implemented IT tools within the judiciary. The Project team intends to also launch the "Know Your Rights" campaign, aiming to raise the people's awareness about their rights in court and during a trial. All outreach materials will be designed keeping in mind the limitations and interests of people with special needs.</p> <p>During the first reporting period, Open Justice organized four public events, targeting different judicial and non-judicial specialists (83 participants), informing them of specific project actions and distributing relevant information about ICMS, IT tools (e-File and e-Notification), performance indicators, and judicial webpages.</p> <p>Open Justice uses Facebook as a mechanism to inform the public at large about the Project's activities and achievements and about recent developments in the justice system. Overall, more than 1,000 people clicked on and read the posts on the Project's Facebook page during July–September 2017. The top three most engaging posts were about first a field trip to Odessa, Ukraine to exchange experience in the latest IT advances on how to increase transparency and efficiency of the judiciary; the second most popular post was about a discussion forum with representatives of the mass media on how to effectively increase the public's access to information pertaining to the judiciary; and the third post was about the participation of Open Justice at the Civic Fest International Festival, described below.</p> <p>In September 2017, the Open Justice team participated in the Civic Fest International Festival, which is held every year and brings together people, projects, and partners from the Republic of Moldova and the EU to discuss and exchange best practices and innovative initiatives that benefit citizens. Open Justice interacted with more than 100 event visitors and 30 civil society representatives. The</p> |    |                                      |                              |                           |

| <p>team members promoted the Project's activities and explained the range of benefits that court users, civil society, and ordinary people will gain from the reforms.</p>  |     |                                      |                              |                             |
|---|-----|--------------------------------------|------------------------------|-----------------------------|
| Performance Indicator   | BL  | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual   |
| <p><b>2.3.3.</b> Increase in number of positive or neutral media reports, reflecting MOJ/ACA and SCM activity</p> <p>Unit: Number, Percentage</p>   | 120 | >20%                                 | >10%                         | 93<br>(78% our of baseline) |
| <p><b>COMMENT:</b> During the reporting period, Open Justice monitored media resources and identified 93 neutral and positive media reports (which represent 78% compared to the baseline) published in various Moldovan media outlets on subjects related to: ICMS/court automation; E-File; court reorganization and optimization; performance indicators; anonymization of court decisions; and the selection and promotion of judges.</p> <p>Open Justice actively collaborates with the SCM and ACA/MOJ and intends to widely inform the public about the impact of the court reorganization and optimization process, the upgraded ICMS, performance indicators, judges' evaluation and selection process, the anonymization of court decisions, monitoring of random case distribution to exclude manipulations, introducing court video and audio conferencing, a public opinion survey on the judiciary's effectiveness, live streamed and archived SCM sessions, IT solutions to be developed, and online fillable templates that help judicial specialists, lawyers, and court users.</p> <p>On September 22, 2017, Open Justice organized a discussion forum with journalists presenting the Project's objectives and core activities, and explaining the benefits of the main Project deliverables/products, such as the new ICMS and the updated judicial web pages. During the meeting, the Open Justice representatives summarized the positive changes that will occur in the judiciary for specialists, court users, the public, and media representatives. Open Justice expects that all these important project areas (ICMS, court reorganization, etc.) will be actively covered in the traditional and online media, raising the public profile of the reforms and meeting the public's demand for information and right to know, which will increase their trust in the judiciary.</p> |     |                                      |                              |                             |
| Performance Indicator   | BL  | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual   |
| <p><b>2.3.4.</b> Proportion of SCM sessions archived out of the total sessions live streamed</p> <p>Unit: Percentage</p>  | 0   | 100%                                 | 100%                         | 0                           |
| <p><b>COMMENT:</b> The SCM holds weekly meetings during which SCM members discuss and adopt decisions on various issues pertaining to the daily activities of the courts, court administration, and</p>   |     |                                      |                              |                             |

judicial appointment and promotion, as well as react to requests submitted by various agencies. The SCM live-streams its weekly meetings via its webpages so that any interested party can watch the meetings in real time. To live-stream its meetings, the SCM uses the video recording equipment that the previous USAID-funded ROLISP project donated and installed. This live-streaming of SCM meetings has significantly increased the transparency of the SCM's activity over past practices, when very few people could attend the SCM's meetings.

The only shortcoming of the current practice is that there is no archive of live-streamed SCM meetings available to the public after a particular meeting has concluded. During several focus groups that Open Justice conducted for lawyers and journalists, the participants mentioned the importance of storing the SCM's live-streamed sessions on the SCM's webpage for a period of at least six months after the date of the meetings.

After the Project's discussions with the SCM, the SCM leadership declared their intention to archive all live-streamed sessions and store them on the SCM web page for at least six months for each year.

Currently, the SCM web page is hosted on a server that lacks the technical capacity to store the live-streamed sessions. During the next fiscal year, Open Justice intends to continue to offer assistance to the SCM to create an archive of its live-streamed meetings, which would be made publicly available on the SCM website.

Open Justice and Soft Tehnica will support the SCM with needed IT solutions, including moving data storage to the cloud, so that all sessions are fully and easily archived. The SCM's leadership agreed that its sessions should be available to the public for six months in the next fiscal year.

| Performance Indicator   | BL | End of Program Target (May 14, 2019) | Year 1 Target (May 14, 2018) | September 30, 2017 Actual |
|---|----|--------------------------------------|------------------------------|---------------------------|
| <p><b>2.3.5.</b> Number of pilot courts using audio and video equipment to accommodate court users who are unable to attend a court hearing or sessions</p> <p>Unit: Number</p> | 0  | 2                                    | 1                            | 0                         |

**COMMENT:** Open Justice is supporting the SCM to enhance the courts' technical capacities to offer better services to the public, including providing remote services for persons under arrest and court users who are physically unable to attend court hearings.

An efficient way to achieve the above-mentioned aim is to install videoconferencing equipment in courts that will ensure video communication between the courts and case parties, including those being detained.

The SCM asked that Open Justice help pilot the videoconferencing equipment in one district and one appellate court to see how the equipment functions and to demonstrate the benefits it provides. The SCM also asked Open Justice to outline the amendments for the normative framework that will

be needed to accommodate videoconferencing as a permanent solution to be used in all courts. Open Justice agreed to assist the SCM with its request.

For this purpose, the Project will purchase and install audio-video equipment in two courts and penitentiary institutions that are under the jurisdiction of these courts so that inmates will be able to participate remotely in court trials.

During the reporting period, Open Justice contracted a consultant who prepared a feasibility study for implementing videoconferencing solutions in courts. The document covers the experience and best practices of other countries in providing for remote participation in trials. Based on the recommendations and findings provided in the feasibility study, on September 15, 2017, Open Justice launched a procurement bid for a videoconferencing system. The Project anticipates finalizing the procurement in November 2017.

| Performance Indicator  | BL | End of Program Target (May 14, 2019)                         | Year 1 Target (May 14, 2018)                                 | September 30, 2017 Actual                                    |
|--|----|--|--|--|
| <p><b>2.4.1.</b> Proportion of female panel speakers and female general participants in Project program-assisted activities, initiatives, and events</p> <p>Unit: Percentage</p> | 0  | Female panel speakers – 25%<br><br>Female participants – 55% | Female panel speakers – 15%<br><br>Female participants – 45% | Female panel speakers – 10%<br><br>Female participants – 51% |

**COMMENT:** Open Justice organized four public events during the reporting period for 83 participants (42 women and 41 men). More specifically, out of the 42 female participants, four women played a central role as moderators during Open Justice organized events. Open Justice will continue to advocate for more active participation by women in the Project's activities and will engage them as panelists wherever possible.

## **ANNEX II. BUDGET EXECUTION SECTION**



Open Justice Project in Moldova  
 USAID  
 RFTOP SOL-117-17-000003  
 May 2017 - May 2019

**BUDGET EXECUTION SECTION**

| <b>Budget Execution Report - Annual Report 2017</b>                                    |                        |  |   |   |  |
|--|------------------------|--|---|---|--|
| <b>Line Item</b>   | <b>Contract Amount</b> | <b>Invoiced as to<br/>September 30,<br/>2017</b> | <b>Estimated<br/>October 1, 2017 -<br/>September 30,<br/>2018</b> | <b>Estimated<br/>October 1,<br/>2018 - May 14,<br/>2019</b> | <b>Total<br/>Cumulative<br/>Expenditures</b> |
|  | <b>1</b>               | <b>2</b>   | <b>3</b>  | <b>4</b>  | <b>5=2+3+4</b>                               |
| Salaries and Wages   | \$ 709,778             | \$ 90,597  | \$ 386,988  | \$ 232,193  | \$ 709,778                                   |
| Fringe Benefits  | \$ 195,189             | \$ 21,721  | \$ 108,714  | \$ 64,753   | \$ 195,189                                   |
| Travel and Per Diem  | \$ 140,901             | \$ 16,344  | \$ 69,321   | \$ 55,236   | \$ 140,901                                   |
| In-Country National, Third Country National<br>Consultants & International Consultants | \$ 373,186             | \$ 13,900  | \$ 272,669  | \$ 86,617   | \$ 373,186                                   |
| Equipment and Supplies   | \$ 85,817              | \$ 45,684  | \$ 5,640  | \$ 34,493   | \$ 85,817                                    |
| Communications   | \$ 14,118              | \$ 1,654   | \$ 7,790  | \$ 4,674  | \$ 14,118                                    |
| Subcontractors   | \$ 2,139,723           | \$ 109,460                                       | \$ 1,508,880  | \$ 521,383  | \$ 2,139,723                                 |
| Other Direct Costs   | \$ 249,625             | \$ 26,664  | \$ 139,350  | \$ 83,611   | \$ 249,625                                   |
| Program Costs  | \$ 81,222              | \$ -   | \$ 50,760   | \$ 30,462   | \$ 81,222                                    |
| G&A  | \$ 589,449             | \$ 35,863  | \$ 280,512  | \$ 273,074  | \$ 589,449                                   |
| <b>Subtotal Contract Cost</b>  | <b>\$ 4,579,008</b>    | <b>\$ 361,887</b>                                | <b>\$ 2,830,625</b>   | <b>\$ 1,386,499</b>   | <b>\$ 4,579,008</b>                          |
| II. Fixed Fee  | \$ 274,740             | \$ 21,713  | \$ 158,141  | \$ 94,886   | \$ 274,740                                   |
| <b>III. Total Cost Plus Fixed Fee</b>  | <b>\$ 4,853,748</b>    | <b>\$ 383,601</b>                                | <b>\$ 2,988,766</b>   | <b>\$ 1,481,385</b>   | <b>\$ 4,853,748</b>                          |

## **ANNEX III. PROJECT'S NEWSLETTER**



## NEWS BULLETIN

MAY – AUGUST 2017

### USAID LAUNCHES A NEW JUDICIAL REFORM PROJECT IN MOLDOVA



*Project Chief of Party Cristina Malai welcomes guests and presents the Project activities for the next two years*

**“These improvements will require the full support of the Ministry of Justice, the Superior Council of Magistracy, and the courts. Our goal is nothing less than a justice system the Moldovan people can be proud of.”**

*His Excellency James D. Pettit  
U.S. Ambassador to Moldova*



*His Excellency Ambassador Pettit congratulates Minister of Justice Cebotari*

In June 2017, USAID’s Open Justice Project conducted its official Launch Event. The Project aims to strengthen and improve the administration and transparency of institutions in the justice sector by using modern technologies accessible to citizens.

The U.S. Ambassador, James D. Pettit, USAID Country Director, Karen Hilliard, Minister of Justice, Vladimir Cebotari, and the Superior Council of Magistracy Chair, Victor Micu, attended the event. Numerous judiciary representatives, development partners, NGOs, and mass media representatives attended as well.

In his opening speech, Minister of Justice Cebotari emphasized the need to use modern technologies in the justice sector. "The cybernetic system has many undiscovered miracles, but, today, we need to also digitize the services we offer to the community," the Minister declared. The Minister also noted that Open Justice will contribute to the efficient management of court costs and facilitate court optimization efforts.

In his turn, Ambassador James D. Pettit noted that the Government of the United States of America looks forward to continuing the partnership between the two countries to promote the rule of law and improve judicial efficiency and accountability in Moldova.

At the event, Superior Council of Magistracy Chair Micu thanked the US Government for the technical assistance provided to Moldova over the years. "We expect that the upgraded Integrated Case Management System (ICMS) will optimize the workflow and eliminate bottlenecks in order to bring more efficiency into judicial processes and procedures."

Under the two-year \$4.9 million Open Justice Project, USAID will provide technical assistance to local partners to develop the ICMS. The ICMS is an electronic tool to reduce corruption, and it will promote transparency in the justice system by utilizing data and case management, as well as tracking judiciary performance indicators.



## ONLINE ACCESS TO JUDICIARY INFORMATION — KEY TO TRANSPARENCY AND EFFICIENCY

On July 28, 2017, Open Justice kicked off the implementation of the project by conducting a public forum on access to information in the judiciary. The purpose of the public dialogue was to identify information of public interest that various target groups, including lawyers, judges, civil society organizations, and mass media feel they have a right to know to better monitor the actions of the judiciary and to access its services. The first public consultation that Open Justice conducted in July focused on explaining the current and future functionalities of the Case Management System (CMS) that all Moldovan courts of law use. Over 25 participants gathered to discuss the type of information that CMS generates that should become available online to increase the transparency and extend the range of publicly available information. The participants asserted that wider information on the judiciary is critical for people's trust in the transparency and accountability of the justice sector. As a result, Open Justice noted a large list of recommendations pertaining to information of public interest that CMS can generate and that should become available online on the Courts' Portal ([instante.justice.md](http://instante.justice.md)).



*Focus group participants discuss the information generated by the CMS that should become available online*

In addition, Open Justice presented the e-Filing system, which is a modern IT tool that lawyers, prosecutors and parties will soon use to submit cases electronically. Currently, e-Filing is being tested and is scheduled for

piloting in November 2017. Once it becomes operational, the system will allow electronic submission of complaints, online payment of court fees, attaching court case evidence, and online access to audio and video recordings case trials.

On August 10, the Open Justice team invited key groups to constructively discuss the improvements needed to upgrade the judiciary websites of the Superior Council of Magistracy, the Agency for Court Administration, and the Courts' Web Portal. Open Justice presented the current websites of the above-mentioned judiciary institutions and gave the workshop participants the opportunity to contribute with practical advice and recommendations on ways to enhance the information available for the public on the internet.

Having worked in small groups, the workshop guests formulated and presented concrete improvement proposals for upgrading the information and functionality of the judiciary websites. Among the most requested changes was the adjustment of all websites for people with special needs, to allow functionalities such as changing colors, text zooming, and easy search tools.

The participants also noted that the content of the websites should be made available in Romanian, Russian, and English. The inclusion of a Frequently Asked Questions section with up-to-date policies and regulations, and a special area on "Judicial Career" to increase the transparency of selection of judges, were among the requests made.



*Lawyers, civil society representatives and judges present recommendations for enhancing judiciary websites*



## OPEN JUSTICE LEADS THE WAY AND SIGNS A NEW MEMORANDUM OF UNDERSTANDING

On August 4, Open Justice signed a Memorandum of Understanding (MoU) with its key stakeholders - the Ministry of Justice and the Superior Council of Magistracy. The MoU sets the foundation for the cooperation between the main judicial bodies over the next two years. The signatory parties committed to work together closely on justice sector reform implementation to reduce corruption and strengthen the accountability and transparency of the justice sector and the judiciary. Open Justice will introduce innovative web-based technological tools and solutions for strengthening the justice system.

The main objectives highlighted in the MoU reflect priority achievements, including enhancing the efficiency of the judiciary, improving the reorganization and optimization of courts, upgrading ICMS, streamlining case flow, applying performance standards, and increasing public access to justice sector information.

In partnership with the Ministry of Justice and the Superior Council of Magistracy, Open Justice is working to deliver a range of results benefiting judges, court users, and the public at large. These include:

- ✓ All courts will be equipped with the upgraded Integrated Case Management System (ICMS)
- ✓ All judges and court staff will be trained in the use of the ICMS
- ✓ E-notification and e-Filing services will be integrated into ICMS and made available to the public
- ✓ Implementation of new judiciary performance indicators will be made available online
- ✓ Upgraded judiciary websites will enable all members of society, particularly people with special needs, to access the newly enhanced information from the judiciary.

The representatives of the justice sector noted their strong support for improving the justice sector and the judiciary to more effectively serve the interests of the Moldovan people.



*Open Justice Chief of Party Cristina Malai, Minister of Justice Vladimir Cebotari, and Superior Council of Magistracy Chair Victor Micu exchange the signed Memorandum of Understanding*

## WORKING GROUPS — CATALYSTS OF CHANGE

Within the first three months of the Project's implementation, the Open Justice team led in the creation of two Working Groups to spearhead improvements on the existing Case Management System (CMS) and the new overarching Integrated Case Management System (ICMS) and enhanced judicial performance indicators. Both Working Groups include senior members representing the Superior Council of Magistracy, the Agency for Court Administration, judges, and court staff.

The main role of the ICMS Working Group is to provide recommendations to improve the legal framework amendments for ICMS and offer advice regarding the functional changes needed. The ICMS will strengthen court administration processes and systems in such areas as case flow management, the collection and use of court performance data, courts' budgeting, and human resource development. The new ICMS will offer citizens easy access to various electronic services offered by the courts and to information about the courts and their performance.

Open Justice also supported the Superior Council of Magistracy in establishing a Working Group on implementing judicial performance indicators that are concurrent with the recommendations of the European Commission for the Efficiency of Justice (CEPEJ).

Overall, the judiciary performance indicators serve as monitoring tools to evaluate different areas of the courts' performance and provide reliable data for administrative decision-making. Among the most common indicators are cost per case, number of cases per judge, and duration of proceedings. Open Justice will make judiciary performance indicators available online, thus promoting the quality, transparency, accountability and accessibility of judicial statistics collected.



*Working Group on ICMS convene upon the upgraded functionalities of the new IT system*

The Working Groups proved to be an efficient mechanism for accomplishing results. Open Justice will be establishing similar Working Groups on court reorganization and optimization reform and on enhancing judicial nomination and promotion criteria.



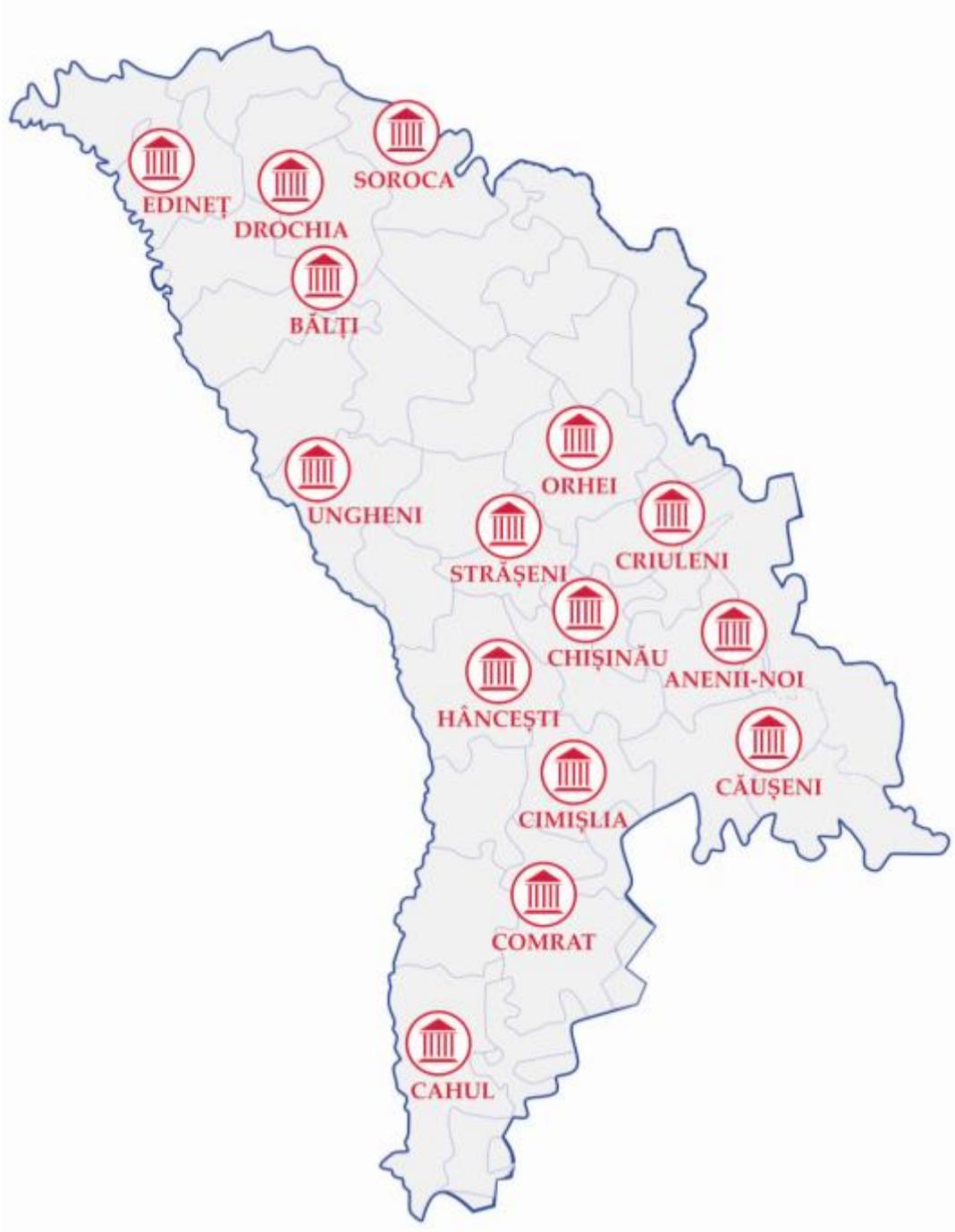
*Members of the CEPEJ Working Group discuss the judicial performance indicators*



**USAID**  
FROM THE AMERICAN PEOPLE

# Open Justice Project

## MOLDOVAN COURTS ASSISTED BY OPEN JUSTICE



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## **ANNEX IV. SUCCESS STORY**



**USAID**  
FROM THE AMERICAN PEOPLE

# SUCCESS STORY

## EASILY ACCESSIBLE ONLINE JUSTICE SECTOR INFORMATION

**USAID Open Justice Project improves public access to transparent justice sector information on the internet**



Photo: Open Justice Project

*Civil society and lawyers provide recommendations for improving access to judiciary information online*



Photo: Open Justice Project

*Judge Veronica Cupcea from Orhei district court discusses courts' performance indicators with Dumitru Visternicean, member of the Superior Council of Magistracy*

“More information posted on judiciary webpages will generate more public trust. People will be able to see the judges' performance, case resolution rate, deferred hearing rate, the rate of judgment publication on the courts web portal, information about the cases under review, random distribution of cases, the audio and video recordings of the sessions. As a result, the use of information technology will help to fairly measure the credibility of the judiciary.

*Valentina Grigoris  
Director, Agency for Court Administration*

Public access to justice sector information is key to building public trust in the judiciary. It is, in fact, a key element of a free and democratic nation.

USAID is the leader in helping the Government of Moldova to implement justice sector reforms and harness modern technology in the courts of law. Since 2007, the American people have provided strong support for Moldova's path towards a strong, independent, and transparent justice system. The first major achievements were the institutionalization of the Case Management System (CMS) in all courts around the country, as well as the publication of court decisions online. Thanks to these improvements, thousands of court users, including journalists and civil society, can access the courts' hearing schedule, summons, and decisions on the internet.

However, in the recent year, both civil society and mass media publicly expressed concerns about the need for further openness within the judicial system. The requests put forward focused on the lack of public data regarding up-to-date information on each case managed through the CMS, the paucity of information about the performance of courts, and the difficulty in browsing judiciary websites, particularly the Courts' Web Portal and the Agency for Court Administration and the Superior Council of Magistracy websites. In addition, these websites are not particularly user-friendly for people with special needs and require significant enhancement.

In connection with improving the public's access to justice sector information, the USAID Open Justice Project conducted a series of public consultations, collecting recommendations and suggestions from a total of 60 members of civil society, judges, lawyers, journalists, and justice sector representatives.

As a result of the public consultations, the Open Justice Project collected an extensive list of improvement recommendations. These are now being incorporated into the Project's development of comprehensive and user-friendly websites for Moldova's justice sector institutions. The new websites, which will be available by mid-2018, will offer a variety of up-to-date information and reports on the activity of the Agency for Court Administration and the Superior Council of Magistracy, the courts' work, simplified access to news and press releases, archived live streamed SCM sessions, and more. Website visitors will have access to real-time information and factual data to aid different purposes: writing justice research reports, conducting journalistic investigations, monitoring the status of lawsuits online, and ascertaining the performance of courts throughout the country. USAID's support to provide online access to justice sector information empowers Moldovan citizens to hold the judiciary accountable and improves courts' services for citizens.

## **ANNEX V. BEST PRACTICES**

## BEST PRACTICES ON JUSTICE SECTOR REFORMS

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During the reported period, USAID's Open Justice Project identified the following studies as primary sources of best practice and innovations:

1. The Analysis of the Legislation and Practice Concerning the Disciplinary Liability of Judges 2015–2016, prepared by the Legal Resource Center of Moldova (LRCM) and issued in November 2016
2. The Monitoring Report on the Judges' Selection and Career Board and the Judicial Performance Evaluation Board (September 2016 – May 2017), prepared by the Center for the Analysis and Prevention of Corruption (CAPC) and published in May 2017
3. The Final Report on the Implementation of Selected CEPEJ Tools in Pilot Courts of the Republic of Moldova, drafted by the European Commission for the Efficiency of Justice (CEPEJ) and prepared in March 2017.

Below is a short summary of the most important findings and recommendations that the Open Justice Project is considering for implementation.

### I. The Analysis of the Legislation and Practice Concerning the Disciplinary Liability of Judges

This Analysis is a report prepared by the LRCM following their monitoring of the sessions of the Disciplinary Board from 2015 through October 2016. The document includes an analysis of decisions on disciplinary cases and discussions with the Disciplinary Board and the Judicial Inspection Board.

The **main recommendations** reference legal amendments that simplify the disciplinary procedure applied to judges, strengthening of the status of the Judicial Inspection Board, modifications of the stages and entities involved in the examination of allegations regarding disciplinary violations committed by judges, and revisions of certain regulated disciplinary violations. Additionally, the report recommends improving investigation procedures, providing substantiation of disciplinary decisions, and publishing full decisions on all examined disciplinary cases.

The reports highlights and recommends the following **best practices and innovations**: 1) a revised model for judicial disciplinary procedure; 2) exclusion of the legal concept of “clearly not based allegations” and of the procedure related to the “examination of allegation admissibility”; 3) strengthening the status of the Judicial Inspection Board and “appeals procedure” and replacing members of the Disciplinary Board and self-recused or recused Panel members; 4) introducing practical tools (standard forms, guides, etc.) to ensure the consistency and predictability of the Disciplinary Board's activity; and 5) best practices to ensure the proper and appropriate substantiation of decisions.

Open Justice will contract with a team of one international and one local consultant to assist the Superior Council of Magistracy (SCM), the Disciplinary Board, and the Judicial Inspection Board in the process of ensuring fair, transparent, and accountable disciplinary proceedings, as well as to build the skills of these bodies' representatives and improve their efficiency in overseeing judicial performance. The team of consultants will review the LRCM's recommendations and will develop

several scenarios to improve internal operations and the decision-making process of the Disciplinary Board and the Judicial Inspection Board. The proposed scenarios will be discussed with the SCM, the Disciplinary Board, and the Judicial Inspection Board during a two-day workshop in order to decide on the final improvements.

## **2. The Monitoring Report on the Judges' Selection and Career Board and the Judicial Performance Evaluation Board**

This Monitoring Report was prepared by CAPC based on the monitoring of the work of both the Judges' Selection and Career Board and the Judicial Performance Evaluation Board from September 1, 2016, through May 21, 2017. The report contains findings made while attending the sessions of the Boards, the preparatory meetings for the working sessions, and the follow-up monitoring of the Boards' decisions.

The **main recommendations** mention regulatory amendments to improve the applied criteria, measures, and scoring for judges' selection, promotion, and evaluation, the procedures for replacing Board members during their term, and the rules for correcting errors and omissions in the Boards' decisions. The report emphasizes the importance of standardizing the working rules of the Boards and ensuring the appropriate substantiation of their decisions.

The highlighted **best practices and innovations** include: 1) the implementation of "E-template" platforms to standardize and regulate the selection and performance review procedures; 2) the development of mechanisms to ensure the fairness of the scoring process and the transparency of promotions and investigations into violations of judicial ethics; and 3) ensuring the proper substantiation of decisions.

Open Justice plans to incorporate the E-templates (checklists of the working procedures) developed by CAPC into the Document Management System that will be developed for the Judges' Selection and Career Board and the Judicial Performance Evaluation Board to streamline working processes and uniform review documents. Additionally, the Project helped set up a Working Group to improve the regulations and practices regarding the selection of judges and judicial career promotions. A team of consultants engaged by Open Justice will assist the Working Group with revising the processes of judicial selection, career advancement, and performance evaluation, and improving the reasoning of the SCM in the selection and promotion of judges.

## **3. The Final Report on the Implementation of Selected CEPEJ Tools in Pilot Courts of the Republic of Moldova**

This Final Report was drafted by CEPEJ based on the results of pilot testing CEPEJ tools in six Moldovan courts.

The **main recommendations** include the optimization of court administration and judicial services by implementing CEPEJ tools in all courts and upgrading ICMS.

The **best practices and innovations** highlighted by the CEPEJ report for improving regulations, capacity, and operations and for developing various tools (guides and guidelines) for the domestic courts include: 1) integrating CEPEJ tools into ICMS with the improvement of the data collection methodologies; 2) using the best practices and lessons learned in the pilot courts; 3) developing electronic tracking and reporting procedures using CEPEJ tools in courts; 4) implementing regular court user satisfaction surveys customized for various target groups, based on consistent

methodology; 5) improving the courts' and the judiciary's outreach policies (i.e., annual online public reports with performance and quality measures to ensure fast, efficient, and nondiscriminatory information of the public and stakeholders); and 6) conducting analyses based on CEPEJ measures to maintain or improve performance and to set single goals for all courts.

Open Justice helped establish a Working Group comprising representatives of the six pilot courts that implemented the CEPEJ methodology during the Council of Europe project "Strengthening the Efficiency of Justice and Support to Lawyer's Profession in Moldova." The Working Group focused its efforts on revising the indicators used by the courts for institutionalizing the CEPEJ methodology and improving court performance. The final list of performance indicators will be incorporated into the ICMS to be developed by the IT Company Soft Technica, under the contract with Open Justice. The Court User Satisfaction indicator is part of the Performance Dashboard that will become part of the ICMS. This indicator measures the percentage of court users who believe that the court provides accessible, fair, accurate, timely, knowledgeable, and courteous judicial services. However, the importance of this indicator has not yet been recognized. Under the Project's Objectives, Open Justice is supporting the SCM and the courts to consolidate gains in implementing performance management standards by incorporating the CEPEJ tools and methodology in all Moldovan courts.

## **ANNEX VI. MASS MEDIA AND SOCIAL MEDIA COVERAGE OF THE OPEN JUSTICE LAUNCHING EVENT**



**USAID**  
FROM THE AMERICAN PEOPLE

# MASS MEDIA AND SOCIAL MEDIA COVERAGE

USAID'S OPEN JUSTICE PROJECT  
LAUNCHING EVENT

June 22, 2017

Chisinau, Moldova

## DISCLAIMER

This document was produced for review by the United States Agency for International Development. It was prepared by Millennium DPI Partners, LLC. The views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

## **A. Introduction**

This report comprises the media appearances of the USAID Open Justice Project launching event. On June 22<sup>nd</sup>, the Open Justice Project was officially launched in Moldova and announced to the public at large. The event was attended by His Excellency James D. Pettit, U.S. Ambassador, Vladimir Cebotari, Minister of Justice and Victor Micu, President of the Superior Council of Magistracy and other judiciary representatives.

Essentially, the media coverage about the launching event was positive. Overall, all articles noted the importance of the U.S. investment in the judiciary in Moldova. The main message communicated by the journalists was that under the two-year \$4.9 million Open Justice Project, USAID provides technical assistance to local partners to upgrade the Integrated Case Management System (ICMS). In particular, the media was interest in informing the public about the new ICMS, noting it is an electronic tool to reduce corruption and promote transparency in the justice system by utilizing data and case management, as well as tracking judiciary performance indicators.

The following two sections highlight the media appearances about the Open Justice Project launch. Section B lists the media reports online, while section C shows the social media posts about Open Justice launching conference.

## B. Mass Media Coverage

### I. Live stream and article on Realitatea.md

<http://www.realitatea.md/a-fost-lansat-programul-pentru-justitie-transparenta-in-moldova--ce-presupune-acesta--video- 59764.html>

The screenshot shows a news article on the website Realitatea.md. The main headline is "A fost lansat programul pentru justiție transparentă în Moldova. Ce presupune acesta (VIDEO)". Below the headline is a sub-headline "Programul pentru Justiție Transparentă a fost lansat oficial în Republica Moldova. Acesta va promova un sistem de justiție mai responsabil și eficient, accesibil tuturor membrilor societății, prin dezvoltarea și implementarea soluțiilor tehnologice bazate pe internet." There is a large image of a conference room with a screen displaying a presentation. Below the image is a video player with a play button. The article text discusses the budget of the program (4.9 million dollars) and the role of USAID. A sidebar on the right contains "Alte stiri din Societate" with several news items and a "Realitatea TV" section with a video player.

## 2. Article on the national TV's website

<http://trm.md/ro/social/in-moldova-a-fost-lansat-un-program-pentru-justitie-transparenta/>

The screenshot shows a news article on the TRM website. The main headline is "În Moldova a fost lansat un program pentru justiție transparentă" (In Moldova a transparent justice program was launched). The article features a photo of a golden statue of Lady Justice holding scales. The text discusses the launch of a program to improve the judicial system, mentioning that by 2019, courts will be fully functional and integrated with a case management system. It also notes that the program is funded by USAID and aims to increase transparency and efficiency in the justice system.

**SOCIAL** Leading

22 Iunie 2017 | 16:26

### În Moldova a fost lansat un program pentru justiție transparentă



Până în 2019, în instanțele judecătorești din țară va fi funcțional Programul Integrat de Gestionare a dosarelor. Cauzele vor fi înregistrate electronic, iar cetățenii vor putea să primească înștiințări despre ședințe în mod automat prin e-mail. Toate acestea vor fi puse în practică prin intermediul Programului pentru Justiție Transparentă în Moldova. Programul are un buget total de 4,9 milioane de dolari și este finanțat de poporul american, relatează Messenger.

Prin proiectul pentru justiție transparentă va fi extins la nivel național sistemul de „Dosar Judiciar”, care până în decembrie este doar testat la unele judecătorești. Mai mult, va fi actualizat și Programul Integrat de gestionare a dosarelor, deja pus în aplicare.

„La momentul actual nici nu ne închipuim cum ar funcționa sistemul judecătoresc fără un asemenea program. Acest program a dat un plus valoare la transparența sistemului judecătoresc, nimeni nu mai pune îndoieli că deja un dosar poate fi repartizat de un președinte”, a declarat președintele Consiliului Superior al Magistraturii, Victor Măcuș.

Temp de doi ani, în toate instanțele va funcționa Programul Integrat de Gestionare a dosarelor actualizat, iar judecătorii și personalul instanțelor vor fi instruiți cum să-l utilizeze. Acesta va include și implementarea serviciului „e-notificare”, care va permite cetățenilor să primească înștiințări despre ședințe în mod automat prin e-mail, toate dosarele vor fi digitalizate și va fi posibilă desfășurarea ședințelor prin intermediul conferințelor video.

„Lumea nu va mai trebui să stea pe coridoare pentru a face cunoștință cu dosarele, va fi suficient persoana să dețină o semnătură electronică și să se înregistreze în acel sistem după care să expedieze materiale, asta înseamnă că se scurtează timpul instanței de judecată de distribuire a materialelor, se reduc costurile tuturor părților de a avea acces la dosar sau de a transmite acele materiale către instanțele de judecată și, bineînțeles, că acesta va crește calitatea actului de justiție”, a declarat ministrul Justiției, Vladimir Cebotari.

„Atât pentru Republica Moldova cât și pentru Statele Unite este important ca reformele în sectorul justiției să se duca la capăt, programul pentru justiție transparentă va permite să avansăm în conturarea acestor reforme prin integrarea sistemului de gestionare a dosarelor cu alte sisteme de guvernare electronică precum și oferirea mai multor servicii cetățenilor”, a declarat ambasadorul SUA, James Pettit.

Programul pentru Justiție Transparentă în Moldova are un buget total de 4,9 milioane de dolari și este finanțat de USAID.

Postat de: Ecaterina Năcoșescu

**Cuvinte cheie:**  
moldova program justiție transparentă

**Știri**

- 23 Iunie 2017 | 11:08  
Mama minorei, depăstată recent fără supraveghere, a fost găsită
- 23 Iunie 2017 | 10:30  
Theresa May: Cetățenii din UE vor putea rămâne în Marea Britanie după Brexit
- 23 Iunie 2017 | 10:00  
Dosarele pentru studii în România în acest an se pot depune on-line
- 23 Iunie 2017 | 08:43  
Invățământul dual va fi dezvoltat în Moldova

mai multe știri

**Promo**

- Moldova | Ungaria – în luptă pentru libertate. Int-un nou documentar „New Octopark”
- Doi luni de operațiuni militare, un război nepublic în România și un război în Europa și în...
- Cupa Confederațiilor 2017 Portugalia a învins Rusia, la Cupa Confederațiilor
- Portugalia a câștigat toate cele trei puncte în prima rundă de la Cupa...

mai multe evenimente: TV | RADIO

**Curs BNM**

**Abonare la ȘTIRI**

E-mail

**Live Stream**

### 3. Article on the Epoch Times Romania

<http://epochtimes-romania.com/news/programul-pentru-justitie-transparenta-lansat-in-moldova-urmeaza-sa-reduca-coruptia--262325>



**Transmisie LIVE:** 23 luni orele 10:00. - Zhanna Nemțova la București. Conferința ESG: Media rusă - perspective de stagnare sau schimbare în timpul ultimului mandat al președintelui Vladimir Putin

## Programul pentru Justiție Transparentă lansat în Moldova urmează să reducă corupția

Equipele proiectului Programului pentru Justiție Transparentă va efectua schimbări și va implementa tehnologii informaționale prin internet, care să permită accesul tăbăturilor cetățenilor la serviciile judiciare de înaltă calitate.

15:46:56

22.06.2017



Video: Mănușă în cadrul lansării programului pentru Justiție Transparentă în Moldova pe 22.06.2017

**Pe scurt**

Ministerul Justiției în colaborare cu Agenția Statelor Unite pentru Dezvoltare Internațională (USAID) au lansat oficial programul pentru Justiție Transparentă în Republica Moldova. Acesta are ca scop să promoveze un sistem de justiție mai responsabil și eficient, servind interesele societății, prin dezvoltarea și implementarea soluțiilor tehnologice bazate pe internet.

În cadrul Programului pentru Justiție Transparentă de 4,4 milioane USD, USAID va acorda asistență tehnologică pentru a lansa proiectul integral de Gestionare a Dosarelor (PGD) în colaborare cu alți actori guvernamentali. PGD ar servi drept instrument de acțiune pentru reducerea corupției și pentru promovarea transparenței în domeniul judiciar: prin utilizarea funcțiilor de gestionare electronică a dosarelor, prevenirea și monitorizarea standardelor de performanță.

Ministerul Justiției, Vladimir Cebotari, a afirmat că programul va actualiza sistemul PGD, va extinde funcționalitățile acestuia și va apăna lucrul instanțelor de judecată. Totodată, va fi un instrument excepțional de util pentru justițiarilor, ce va face posibilă depășirea problemelor sale. De asemenea, PGD va genera economii și va crea oportunități de activități inițiale, pentru a lăsa evaluarea a sistemului și pentru procedurile disciplinare.

Venerabilul Președintele Consiliului Superior al Magistraturii din R. Moldova (CSM) a spus în mesaj de mulțumiri Guvernului Statelor Unite ale Americii pentru susținerea inițiativii oficiale Moldovenești pe parcursul anilor. „Avem așteptări de la noul Program Integral de Gestionare a Dosarelor, încălcându-l cu optimismul fiindu-ne încrederea și alături de soluțiile tehnologice pentru a introduce mai multă eficiență în procesul și procedurile judiciare”.

PGD va include servicii e-soluții, care va permite cetățenilor să primească actualizări de instanțelor judecătorești prin altele online, pe e-mail, sau să îl înregistreze online pentru a introduce și documente scanate. De asemenea, va fi implementat serviciul e-filing, care va permite înregistrarea electronică a dosarelor.

Magistrații și studenții „Cognoscere et alibi” din Republica Moldova” rezultat de către Transparența Internațională Moldova, asociația pentru Dezvoltare Participativă „ADEPT”, Institutul pentru Dezvoltare și Inițiativa Socială „Viziuni” și Centrul pentru Resurse Juridice, stabilite ca grupul de interes care coordonează Legislativul și reglementarea activității din R. Moldova și a fost controlat și în sistemul judiciar.

„Sistemul în sistemul judiciar a implicat o mare finanțare considerabilă. În special, de la parlamentul de dezvoltare. Așteptările de la implementarea reformei au fost mari, însă acesta a fost în mare măsură realizat de instanțele, întrucât în sistem au rămas practic aceleași activități și servicii de instanțelor și instanțelor. Există multe exemple de activități similare a instanțelor de instanțelor și instanțelor care demonstrează legitimitatea judiciară și performanța de PGD”.

Pentru a asigura performanța și implementarea Strategiei de reformă a sistemului judiciar în R. Moldova pentru anii 2015 - 2018, Centrul Analitic Independenț „Open-Group” a scris în soluțiile rapide de transparență și a construit și sectorul justiției rămân în continuare cu un nivel de încredere și popularitate înaltă de către cetățeni.

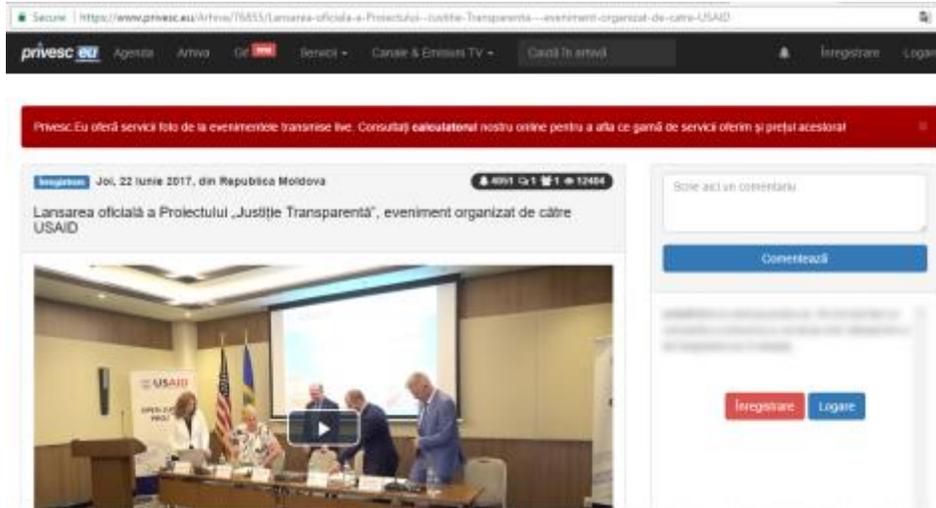
**Dacă v-a plăcut acest articol, vă invităm să vă abonați, cu un Like, comentariile de cititori de pe pagina noastră de Facebook.**

#### alte articole



#### 4. Live stream on Privesc.eu

<https://www.privesc.eu/Arhiva/76855/Lansarea-oficiala-a-Proiectului--Justitie-Transparenta---eveniment-organizat-de-catre-USAID>



#### 5. Article on Bizlaw

<http://www.bizlaw.md/2017/06/22/justitiabilii-vor-primi-alerte-pe-e-mail-despre-sedintele-de- judecata-dosarele-vor-fi-inregistrate-electronic/>



## 6. Article on the Superior Council of Magistrates' website

<http://csm.md/noutati/2632-comunicat220617.html>

The screenshot shows the website of the Superior Council of Magistrates (CSM) in Moldova. The header features the Romanian flag and the CSM logo. The main navigation bar includes links for 'DESPRE CSM', 'STRUCTURA', 'ACTIVITATEA', 'ȘEDINȚE', 'HOTĂRÂRI', 'ORGANE SUBORDONATE', 'INFORMAȚII', and 'CONTACTE'. The article title is 'A FOST LANSAT PROGRAMUL PENTRU JUSTIȚIE TRANSPARENTĂ ÎN MOLDOVA'. The text describes the launch of a program for transparent justice in Moldova, funded by USAID. It mentions the integration of the Integrated Case Management System (PIGD) with other government software to reduce corruption and improve transparency. The program includes e-notification services and e-filing. A quote from Victor Năcu, President of the CSM, is included. The article also notes the consolidation of administration and the use of modern technologies. At the bottom, there are logos for the Parliament of the Republic of Moldova, the Government of the Republic of Moldova, the Ministry of Justice of the Republic of Moldova, and the Superior Council of Magistrates.

Consiliul Superior al Magistraturii  
www.csm.md

DESPRE CSM STRUCTURA ACTIVITATEA ȘEDINȚE HOTĂRÂRI ORGANE SUBORDONATE INFORMAȚII CONTACTE

• Arhiva noutăților 2013  
• Arhiva noutăților 2012  
• Arhiva noutăților 2011  
• Arhiva noutăților 2010  
• Arhiva noutăților 2009

### A FOST LANSAT PROGRAMUL PENTRU JUSTIȚIE TRANSPARENTĂ ÎN MOLDOVA

Programul pentru Justiție Transparentă a fost lansat oficial în Republica Moldova. Acesta va promova un sistem de justiție mai responsabil și eficient, accesibil tuturor membrilor societății, prin dezvoltarea și implementarea soluțiilor tehnologice bazate pe internet.

În cadrul Programului pentru Justiție Transparentă de 4,9 milioane USD, USAID va acorda asistență tehnică partenerilor locali pentru a actualiza Programul Integrat de Gestionare a Dosarelor (PIGD) interconectat la alte softuri guvernamentale. PIGD va servi drept instrument de automatizare pentru reducerea corupției și pentru promovarea transparenței în sistemul judecătoresc prin utilizarea datelor și gestionarea electronică a dosarelor, precum și monitorizarea standardelor de performanță.

PIGD va include serviciul e-notificare, care va permite cetățenilor să primească actualizări ale instanțelor judecătorești prin alerte automate pe e-mail, cum ar fi înregistrări despre pedize și termenele limită. De asemenea, va fi implementat serviciul e-filing, care va permite înregistrarea electronică a dosarelor.

Prezent la eveniment, dl Victor Năcu, Președinte al Consiliului Superior al Magistraturii a adus un mesaj de mulțumire Guvernului Statelor Unite pentru asistența tehnică oferită Moldovei pe parcursul anilor. „Avem așteptări de la noul Program Integrat de Gestionare a Dosarelor, încât acesta să optimizeze fluxul de lucru și să elimine blocajele pentru a introduce mai multă eficiență în procesele și procedurile judiciare”.

Prin consolidarea și îmbunătățirea administrării, transparenței instituțiilor din sectorul Justiției și prin utilizarea tehnologiilor moderne, Programul pentru Justiție Transparentă va contribui la îmbunătățirea accesului cetățenilor la serviciile judiciare de înaltă calitate.

Notă: Programul USAID pentru Justiție Transparentă este implementat de Millennium DPI Partners în parteneriat cu Ministerul Justiției și Consiliul Superior al Magistraturii.

## 7. Article on All Moldova website

<http://www.allmoldova.com/ro/news/in-moldova-a-fost-lansat-un-program-pentru-justitie-transparenta>



www.allmoldova.com/ro/news/in-moldova-a-fost-lansat-un-program-pentru-justitie-transparenta

all moldova ȘTIRILE · ȘTIRILE COMPANIILOR · CATALOGUL COMPANIILOR · REVISTE

Acesă / Știri

22 Iunie 2017, 19:04

### În Moldova a fost lansat un program pentru justiție transparentă

*Până în 2019, în instanțele judecătorești din țară va fi funcțional Programul Integrat de Gestionare a dosarelor. Cauzele vor fi înregistrate electronic, iar cetățenii vor putea să primească înștiințări despre ședințe în mod automat prin e-mail. Toate acestea vor fi puse în practică prin intermediul Programului pentru Justiției Transparente în Moldova. Programul are un buget total de 4,9 milioane de dolari și este finanțat de poporul american, relatează Mesager.*

Prin proiectul pentru justiție transparentă va fi extins la nivel național sistemul de „eDosar judiciar”, care până în decembrie este doar testat la unele judecătoria. Mai mult, va fi actualizat și Programul integrat de gestionare a dosarelor, deja pus în aplicare.

„La momentul actual nici nu ne închipuim cum ar funcționa sistemul judecătoresc fără un asemenea program. Acest program a dat un plus valoare la transparența sistemului judecătoresc, nimeni nu mai pune îndoială că deja un dosar poate fi repartizat de un președinte”, a declarat președintele Consiliului Superior al Magistraturii, Victor Micu.

Timp de doi ani, în toate instanțele va funcționa Programul Integrat de Gestionare a dosarelor actualizat, iar judecătorii și personalul instanțelor vor fi instruiți cum să-l utilizeze. Acesta va include și implementarea serviciului „e-notificare”, care va permite cetățenilor să primească înștiințări despre ședințe în mod automat prin e-mail, toate dosarele vor fi digitalizate și va fi posibilă desfășurarea ședințelor prin intermediul conferințelor video.

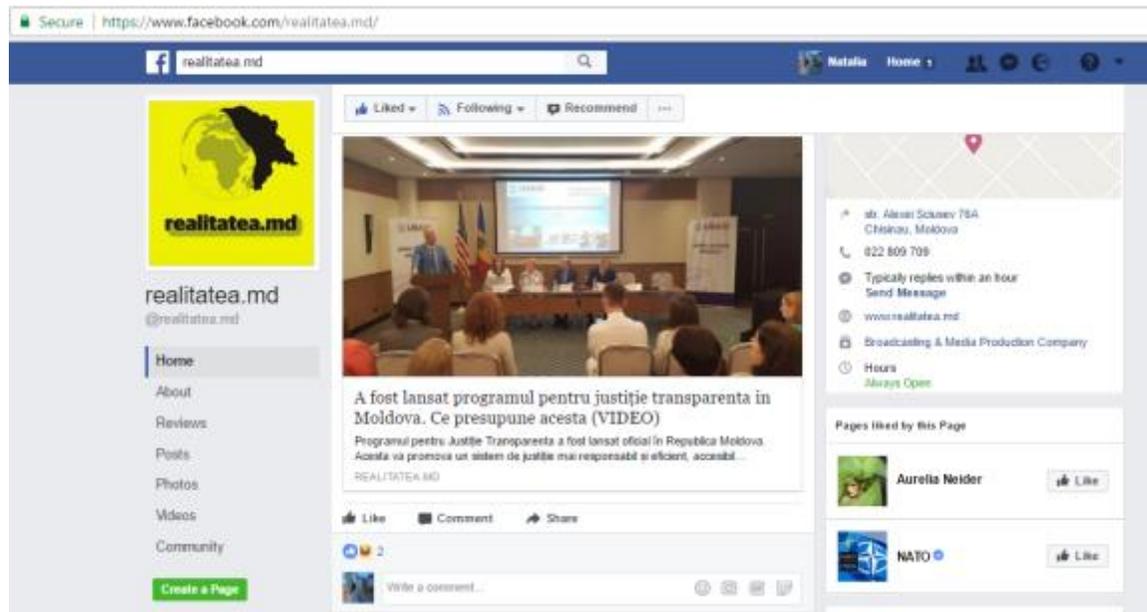
„Lumea nu va mai trebui să stea pe coridoare pentru a face cunoștință cu dosarele, va fi suficient persoana să dețină o semnătură electronică și să se înregistreze în acel sistem după care să expedieze materiale, asta înseamnă că se scurtează timpul instanței de judecată de distribuire a materialelor, se reduc costurile tuturor părților de a avea acces la dosar sau de a transmite acele materiale către instanțele de judecată și, bineînțeles, că acesta va crește calitatea actului de justiție”, a declarat ministrul Justiției, Vladimir Cebotari.

„Atât pentru Republica Moldova cât și pentru Statele Unite este important ca reformele în sectorul justiției să fie durabile, programul pentru justiție transparentă va permite să avansăm în continuare aceste reforme prin integrarea sistemului de gestionare a dosarelor cu alte sisteme de guvernare electronică precum și oferirea mai multor servicii publicului larg”, a declarat ambasadorul SUA, James Pettit.

## C. Social Media Coverage

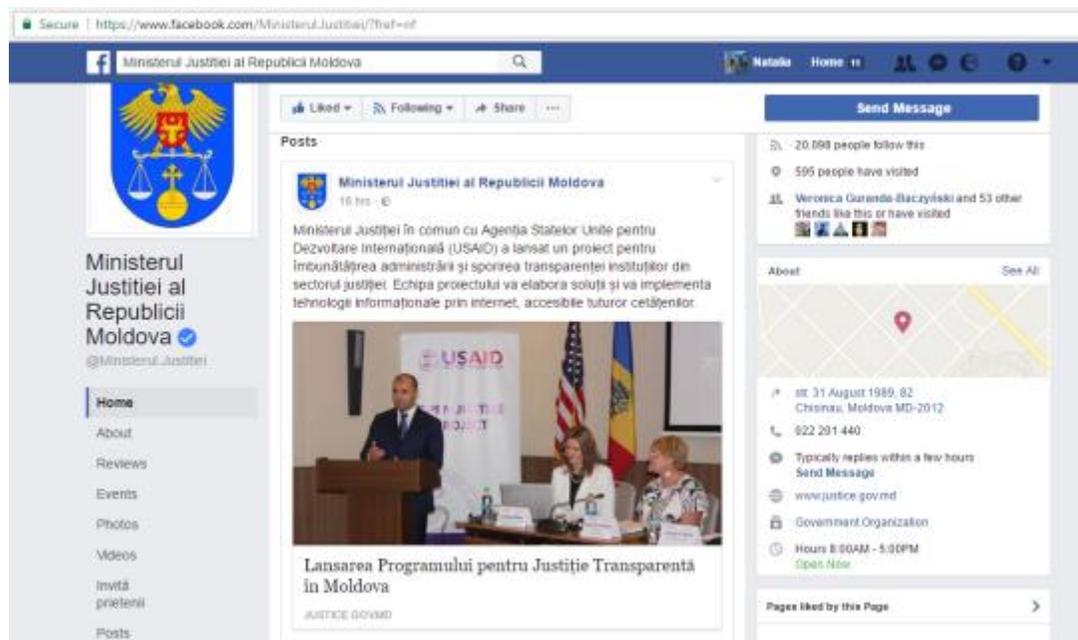
### 8. Re-transmitted live stream on Realitatea.md Facebook page

<https://www.facebook.com/realitatea.md/>



### 9. Ministry of Justice Facebook page

<https://www.facebook.com/Ministerul.Justitiei/>



## I0. Superior Council of Magistrates Facebook page

<https://www.facebook.com/www.csm.md/>

The screenshot shows the Facebook profile of the Superior Council of Magistrates (CSM MD). The page features a red profile picture with a gold emblem. The main content is a post from the page, dated 'Yesterday at 4:48pm - Chisinau'. The post title is 'A FOST LANSAT PROGRAMUL PENTRU JUSTIȚIE TRANSPARENTĂ ÎN MOLDOVA'. Below the title is a photograph of a conference room with a large screen displaying a presentation. The post text reads: 'Programul pentru Justiție Transparentă a fost lansat oficial în Republica Moldova. Acesta va promova un sistem de justiție mai responsabil și eficient...'. The right sidebar shows a list of pages liked by this page, including 'Unirea Avocaților din...', 'Universitatea de Studii...', 'Consiliul Superior al...', 'Centrul de Analiză și E...', and 'Biroul politic de reint...'. The language settings at the bottom right are set to English (US).

**ANNEX VII. MEMORANDUM OF UNDERSTANDING  
BETWEEN THE MINISTRY OF JUSTICE, THE  
SUPERIOR COUNCIL OF MAGISTRACY, AND  
MILLENNIUM DPI PARTNERS LLC  
FOR CONSOLIDATING AND STRENGTHENING  
THE JUSTICE SECTOR AND THE JUDICIARY**



## **MEMORANDUM OF UNDERSTANDING**

### **Between the Ministry of Justice of the Republic of Moldova, the Superior Council of Magistracy, and the Representative Office of the Millennium DPI Partners LLC for consolidating and strengthening the justice sector and the judiciary**

The Ministry of Justice of the Republic of Moldova (hereinafter referred to as “the MOJ”), the Superior Council of Magistracy (hereinafter referred to as “the SCM”), and the Representative Office of the Millennium DPI Partners LLC (hereinafter referred to as “Millennium Company”), herein collectively referred to as Parties,

*Acknowledging* good cooperation relations between the three Parties;

*Aware* of the importance of implementing reforms in the field of justice to reduce corruption and strengthen the accountability and transparency of the justice sector and the judiciary;

*Willing* to create a justice sector and a judiciary that is efficient and accountable to citizens;

*Having regard to* the importance of innovative Web-based technological tools and solutions for strengthening the judiciary and the justice system on the whole;

Now agreed as follows:

#### **Article 1**

##### **The Purpose of Cooperation**

- (1) This Memorandum of Understanding (hereinafter referred to as “the MOU”) sets forth the above-mentioned Parties' understanding of the mutual effort to implement a development assistance program offered by the Government of the United States of America to the Government of the Republic of Moldova. The purpose of this MOU is: a) to establish the parameters of the technical assistance to be offered to the MOJ and the SCM as described below to implement reforms in support of the judicial authorities' efforts to strengthen the judiciary and the justice sector on the whole, including by promoting advanced technological solutions, and b) to provide a cooperation framework at the national level by the MOJ and the SCM in order to capitalize on the assistance provided by Millennium Company through Open Justice Program.
- (2) This MOU is concluded under the “Agreement between the Government of the United States of America and the Government of the Republic of Moldova regarding Cooperation with a View to Facilitating the Assistance,” dated March 21, 1994, and the “Development Assistance Agreement between the Government of the Republic of Moldova and the Government of the United States of America to Support a More Effective and More Accountable Democratic Governance,” dated September 28, 2016.

#### **Article 2**

##### **Objectives of Cooperation**

- (1) The primary objective of this MOU is to establish a productive cooperation between the Parties in order to ensure proper conditions for a successful implementation of Open Justice Program by May 14, 2019.
- (2) The main aim of the cooperation is to create a more accountable and more efficient justice sector that is accessible to all members of society, and to strengthen the judiciary by promoting the use of advanced technological tools and solutions.

#### **Article 3**

##### **Millennium Company's Commitments**

- (1) Millennium Company will assist the MOJ and the SCM in establishing uniform practices,



policies and procedures in the areas listed below and / or in areas where the Parties may additionally agree. The descriptions below are intended to be illustrative and not exhaustive.

- (2) The Parties to this MOU will cooperate in the implementation of the technical assistance to achieve the following priority objectives:

**Objective 1: Enhanced efficiency of the judiciary:**

Millennium Company, through Open Justice Program, will update the Case Management System (hereinafter referred to as “CMS”) and will develop a new Integrated Case Management System (hereinafter referred to as “ICMS”). ICMS is an electronic tool for reducing corruption and promoting transparency in the justice sector. The use of ICMS will strengthen court administration processes and systems in such areas as case flow management, the collection and use of court performance data, courts’ budgeting and human resource. ICMS will also provide citizens with easy access to the various electronic services of the courts and to information about the courts and their performance. Under Objective 1, Millennium Company will work with the MOJ and the SCM to deliver actions in the following areas of activity:

- 1) **The reorganization and optimization of courts of law:** Millennium Company will assist the SCM and the Courts Administration Agency (hereinafter referred to as “the CAA”), an administrative authority subordinated to the MOJ, in streamlining the reorganization and optimization of the courts by performing an assessment of the impact of reorganization and optimization on the courts, and in implementing actions relevant to the reorganization process. Millennium Company will also offer assistance in evaluating the cost-benefit of courthouses merger and the state of the merged secondary courts’ premises to identify the premises’ infrastructure and determine the costs of their maintenance and operation. Millennium Company also intends to introduce advanced information and communication technologies to accelerate and improve the courts reorganization and optimization processes, and to strengthen the professional and institutional capacities of the justice sector to implement the reorganization of the courts. Additionally, Millennium Company will assist in informing the public about the courts reorganization. For that end, Millennium Company will identify and assess publicly available information materials on the courts reorganization, and will develop video and printed materials to inform the public and the court visitors about the reorganization.
- 2) **The redesigning, upgrading, and implementing of ICMS:** Millennium Company intends to assist the MOJ and the SCM in upgrading CMS as well as in designing, developing, testing, and implementing a new functional ICMS system. Millennium Company will offer assistance to identify the functional requirements for ICMS, to integrate E-Case module, to pilot-test E-Case module, and to train lawyers how to navigate this module to file and access court case files. Millennium Company also intends to assist the MOJ and the SCM in institutionalizing ICMS management at the national level by assessing the compliance of ICMS with the legislative and regulatory framework in force, as well as by helping to develop amendments to the relevant legislative, regulatory, and institutional framework for the implementation of ICMS. To institutionalize the management of ICMS, Millennium Company will also provide support for the training of CAA’s representatives on ICMS’ functionalities. Millennium Company will also ensure the maintenance and debugging of ICMS during the period of Open Justice Program. Additionally, Millennium Company will contribute to improving citizens’ access to information on the judiciary by means of Web resources and will make sure that ICMS and other technological upgrades serve citizens’ needs.
- 3) **The streamlining of case flow and the optimization of court administration and management based on updated ICMS’ data:** Millennium Company intends to offer assistance in strengthening the SCM’s and the CAA’s capacity to collect and analyze statistical data on the work of the judiciary by improving existing court performance measurement and management



systems. Millennium Company will also offer support to monitor the way ICMS is administered by the Special Telecommunications Center and used by the courts to identify possible abuses and manipulations of ICMS and of the random case assignment system. Additionally, Millennium Company will offer assistance to the SCM and the CAA in identifying interactive functionalities that should be included in ICMS to improve the work of court staff.

- 4) **The functional integration of ICMS with all relevant information systems of government entities:** Millennium Company will offer assistance to the MOJ to ensure the interoperability and compatibility of ICMS with other relevant governmental information systems with a view to enabling data exchange. Millennium Company also intends to assist in developing an interagency plan to strengthen the capacity of judicial entities to implement and manage ICMS.

**Objective 2: Enhanced transparency and accountability of the judiciary, and citizens' participation in judicial reform processes:**

Millennium Company, through Open Justice Program, will increase the transparency and accountability of the judiciary and the justice sector on the whole, including by supporting the MOJ and the SCM in developing, improving, and fully enforcing the judicial performance standards, by strengthening the functional capacities of the entities subordinated to the SCM, and by improving public access to information on the work of the judiciary. Under Objective 2, Millennium Company intends to offer the MOJ and the SCM technical assistance in the following areas of activity:

- 1) **The application of performance management standards based on ICMS-generated management data:** Millennium Company intends to offer assistance to the SCM with a view to extending the use of procedural time limits standards by judges, including by revising the SCM's guidelines and decisions, by organizing judicial trainings, by upgrading CMS, and by developing ICMS. Millennium Company will also offer assistance in implementing judges' performance management standards (including the CEPEJ's quality indicators) and in institutionalizing the implementation of the Institutional Court Excellence Framework within the courts. Millennium Company will also offer support for organizing training sessions for members of the justice sector on the use of the data generated by the Electronic Statistical Reporting Module (ESRM) and the Performance Measurement Module. Additionally, Millennium Company intends to offer support to the MOJ, the SCM, and courts in making the data on judicial performance standards available to the public and partners through Web links and other electronic applications.
- 2) **The institutionalization of the court performance monitoring:** Millennium Company intends to offer assistance to the SCM in assessing the work and improving the capacity of the Judicial Inspectorate to receive, investigate and settle complaints and petitions regarding judges' work. Millennium Company will develop tools and will automate the work of the Judicial Inspectorate to streamline the examination of complaints and petitions filed at the SCM / Judicial Inspectorate. Millennium Company also intends to offer assistance to the SCM in improving and automating the work of the Commission on Judges' Ethics and Professional Conduct, as well as in capacity building and evaluating and automating the work of the Board for Judges' Selection and Careers, and of the Board for the Assessment of Judges' Performance, including with a view to the use of CMS, ICMS, and other management data.
- 3) **Public access to justice sector information:** Millennium Company will offer assistance to the MOJ / CAA and the SCM in improving their Web sites and the courts' Web portal to increase the transparency and accountability of the judiciary and courts by ensuring greater access of citizens to information of public interest and improving the public perception of the activity of the judiciary and the courts. Millennium Company will offer assistance in updating the Web Report



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Card of the courts of the Republic of Moldova by integrating additional performance indicators to inform the public on the courts' performance. Additionally, Millennium Company will support the MOJ, the CAA, the SCM, and courts in providing citizens with access to ICMS-generated public information, including the court hearings agenda, court judgments, and case materials, in accordance with the law, as well as in implementing e-summoning, processing court fees, etc. Millennium Company will also offer assistance to improve the access of socially vulnerable groups to information on the work of the judiciary and the courts.

#### **Article 4**

##### **The MOJ's and the SCM's Commitments**

To achieve the objectives of this MOU, the MOJ and the SCM will undertake the following actions:

- 1) Appoint responsible persons in each agency to offer the information required for the monitoring and assessment process carried out by Millennium Company for reporting to USAID; fill out the forms developed by Millennium Company and submitted to the Parties to collect the information required for assessment and monitoring.
- 2) At Millennium Company's request, revise the documents and deliverables produced by Millennium Company to confirm or verify the described facts and to develop recommendations.
- 3) Appoint relevant members to working groups on all components of the project.
- 4) Participate in workshops, in the process of requirements analysis, and in the development of reports and recommendations.
- 5) Test the IT systems developed as part of the project, validate the requirements, and report non-conformities.
- 6) Ensure the continuity of training for all users of the systems developed as part of the project, as far as possible and in collaboration with other competent agencies.
- 7) Ensure the sustainability of the IT systems developed as part of Open Justice Program (budgeting, maintenance, continuous development and adaptation to legal requirements, repeated training, etc.).
- 8) Ensure the use of digital signature devices by judges in CMS and ICMS when signing procedural documents.
- 9) Ensure the legislative, regulatory, and institutional framework required for a proper functioning of the systems developed as part of the project.
- 10) Offer operating support during the development of the interoperability of the information systems developed as part of the project with other relevant governmental information systems.
- 11) Provide necessary staff units to continuously monitor the random case assignment in courts and the audio recording of court hearings by developing and analyzing monthly random case assignment reports and monthly reports on audio recording of court hearings, and by verifying the compliance with legislative and regulatory provisions on the random case assignment and audio recording of court hearings, including by notifying competent government entities.
- 12) Offer assistance in implementing planned activities and addressing the challenges and difficulties that may arise.
- 13) Inform Millennium Company of any irregularities that might arise as to the application of the provisions of this MOU.

#### **Article 5**

##### **Competent Authorities**

- (1) To achieve the goals of this MOU, the Parties shall designate the following subordinate administrative authorities or entities to directly cooperate with Millennium Company:

For the Ministry of Justice of the Republic of Moldova:

- Courts Administration Agency

For the Superior Council of Magistracy:

- Judicial Inspectorate
- Board for the Assessment of Judges' Performance



- Board for Judges' Selection and Careers
  - Commission on Judges' Ethics and Professional Conduct
  - SCM's secretariat
- (2) Any changes made to the competent authorities or entities will be notified without delay to the other Parties.

## **Article 6**

### **Collaboration methods**

- (1) To achieve the objectives of this MOU, the MOJ and the SCM will make such effort as may be necessary to implement the Millennium Company's assistance in the areas of activity outlined above and to institutionalize the processes, procedures, best practices, and information technologies developed and transmitted by Millennium Company.
- (2) Millennium Company, the MOJ, and the SCM will provide each other with such information as may be necessary to facilitate the assistance, and assess the effectiveness and sustainability of this assistance. The Participants may also use letters to clarify further details and confirm mutual understanding regarding the implementation of this MOU.
- (3) For a proper implementation of this MOU, the Parties will participate in joint meetings, set up working groups and appoint responsible persons to enable mutual exchange of specific information and data.
- (4) The cooperation will also be achieved through the organization of training sessions, workshops, study visits, exchange of best practices, etc.

## **Article 7**

### **Monitoring and Assessment**

Throughout the implementation of this MOU, Millennium Company intends to monitor and assess the support and commitment of the judicial entities of the Republic of Moldova to the changes required by the terms of this MOU for reporting to USAID. The MOJ and the SCM will offer such support and assistance as may be necessary for monitoring and assessment, and will provide Millennium Company, in accordance with the law, with data on the work of the MOJ, the SCM and courts, and the necessary documents and all other information related to the implementation of this MOU, which Millennium Company may reasonably require, including for reporting to USAID. Millennium Company will inform the MOJ and the SCM about the results of the assessment and monitoring process and will provide any other information requested by the MOJ and the SCM.

## **Article 8**

### **Publicity**

The Parties to this MOU agree to acknowledge the role and contribution of each entity in any public information documents that refer to the Parties' cooperation. Each Party will use the name and logo of the other Party in the cooperation documentation, in accordance with the policies in force in each entity and in prior coordination with the other Party.

## **Article 9**

### **Financial Aspects**

The obligations to finance the activities described herein will be set out in separate written agreements and will be subject to the availability of funds for these purposes.

## **Article 10**

### **Settlement of Disputes**

Any dispute regarding the interpretation or application of the provisions of this MOU shall be settled amicably through consultations between the competent authorities of the Parties.



**Article 11**  
**Final Provisions**

- (1) This MOU shall become effective on the date of signing by the Parties and shall remain in force until May 14, 2019.
- (2) This MOU may be amended only by written agreement of the Parties, which shall form an integral part thereof.
- (3) This MOU may be terminated by one of the Parties in case of factors that create the impossibility of fulfilling the commitments assumed under this MOU and in circumstances beyond the control of the Parties.
- (4) This MOU is drawn up in both English language and Romanian language. Should any differences arise while interpreting any of the MOU's provisions, the English language version will prevail.
- (5) Any acts subsequent to this MOU will be subject to the same legal regime for concluding, amending and supplementing of this MOU.

Signed on “ \_\_\_ “ \_\_\_\_\_ 2017 in three original copies.

**For**  
**Ministry of Justice of the**  
**Republic of Moldova**

Vladimir CEBOTARI  
Minister of Justice

\_\_\_\_\_

**For**  
**Superior Council of Magistracy**

Victor MICU  
Chairman

\_\_\_\_\_

**For**  
**Representative office of Millennium**  
**DPI Partners, LLC**

Cristina MALAI  
Chief of Party  
Open Justice Project

\_\_\_\_\_

## **ANNEX VIII. PROJECT DELIVERABLES**

### **OBJECTIVE I**

1. Draft Assessment Report of the Impact of Law No. 76 of 21.04.2016 on the Reorganization of the Courts in Moldova (Activity 1.1.1.1)
2. Superior Council of Magistracy Decision No. 558/25 dated August 8, 2017 on Establishing the Working Group for Streamlining the Reorganization of the Courts (Activity 1.1.1.3)
3. Ministry of Justice Letter No. 01/10415 dated September 19, 2017 on Delegating Representatives to the Working Group for Implementing Relevant Actions Related to Court Reorganization and Optimization (Activity 1.1.1.3)
4. Feasibility Study for Implementing a Videoconferencing Solution in the Courts to Ensure Remote Communication of the Parties to a Trial (Activity 1.1.2.3)
5. Report on the Study Trip to Odessa, Ukraine (Activity 1.1.2.6)
6. Functionality Requirements for the Case Management System and Changes to the Integrated Case Management System 4.1.2 (Activity 1.1.2.7)
7. Report on the ICMS Public Information Focus Group (Activity 1.2.2.1)
8. Action Plan for Development and Implementation of the Integrated Case Management System (ICMS) in Moldovan Courts of Law 2017–2019 (Activity 1.2.2.3)
9. Superior Council of Magistracy Decision No. 518/24 dated August 1, 2017 on the Amendment of the Regulation on Case Weights for Civil, Administrative, and Criminal Cases, and on the Updating of the Nomenclature of Case Weights Levels, Provided in Those Regulations (Activity 1.2.3.4)
10. Ministry of Justice Order on the Establishment of the Working Group for Improving the Case Management System (CMS) and Identifying the Functionalities of the Integrated Case Management System (ICMS)
11. Assessment of the Public Information Materials Available on the Benefits of the CRO, ICMS, and E-file (Activity 1.2.4.1)

*(Continued below)*

## **OBJECTIVE 2**

12. Superior Council of Magistracy Decision No. 510/23 of July 18, 2017 Regarding the Appointment of Representatives of the SCM and the Courts to the Working Group for the Implementation of the CEPEJ-Compliant Judicial Statistics (Activity 2.1.2.1)
13. Ministry of Justice Decision No. 570/23 of July 25, 2017 on the Establishment of the Working Group for Implementing the Judicial Statistics Spreadsheet Based on CEPEJ Indicators (Activity 2.1.2.1)
14. Report on the Website Information Workshop (Activity 2.3.2)
15. Report on the Breakfast for Journalists to Discuss Ways to Improve Access to Information about the Judiciary through Judicial Bodies' Webpages (Activity 2.3.2)
16. Superior Council of Magistracy Decision No. 557/25 of August 8, 2017 on the Establishment the Working Group for Revising the Judicial Selection and Promotion Criteria (Activity 2.2.4.6)
17. Report on the Workshop on Court Performance Indicators of Public Interest (Activity 2.1.2.1)
18. Report on the Anonymization of Published Court Decisions in Various Countries of the World (Activity 2.3.12)

**I. Draft Assessment Report of the Impact of Law No. 76 of  
21.04.2016 on the Reorganization of the Courts in Moldova  
(Activity I.I.I.I)**

DRAFT

ASSESSMENT REPORT

OF THE IMPACT OF LAW NO. 76 OF 21.04.2016  
ON THE REORGANIZATION OF COURTS IN  
MOLDOVA



OPEN JUSTICE PROJECT

October 30, 2017

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## **LIST OF ACRONYMS**

|            |  |
|------------|--|
| ACA        | Agency for Court Administration                                  |
| AAIJ       | Agency for the Administration of Judicial Institutions           |
| CMS        | Case Management System   |
| CRO        | Court Reorganization and Optimization                            |
| CST        | Center for Telecommunication Services                            |
| EU         | European Union   |
| ICMS       | Integrated Case Management System                                |
| IT         | Information Technology   |
| MOJ        | Ministry of Justice  |
| SCM        | Superior Council of Magistracy                                   |
| SCJ        | Supreme Court of Justice   |
| SRS Femida | Software Program and Equipment for audio recording in the courts |

## **I. PREFACE**

The international consulting company Millennium DPI Partners, LLC Company, with its headquarters in the USA, is carrying out the implementation in the Republic of Moldova of the Open Justice Project, funded by USAID. The main goal of the program is to promote a transparent, efficient and accessible justice for all members of the society, by strengthening the institutional framework and implementation of advanced solutions and technologies.

The assessment of the impact of Law No.76 of 21.04.2016 on the reorganization of courts in Moldova was conducted within the Open Justice Project. The data gathered from the assessment form the basis of this report, which aims to present a synthesis of the most frequent challenges faced by the Moldovan courts following the implementation of the Law No. 76. The report also aims to identify several solutions for improving the implementation of the court reorganization reform.

The report focuses on identifying existing constraints on the court infrastructure (operation and maintenance of buildings), the working conditions of judges and court staff, the existence of public transport facilities available to court and court personnel, the automation of courts (use of ICMS and SRS Femida) as well as the need to improve the content of the courts' national web portal and the websites of the Superior Council of Magistracy (SCM), the Ministry of Justice (MOJ) and the Agency for Court Administration (ACA/MOJ) with additional information on the reorganization of the courts. The report also aims to identify issues concerning communication between central offices and secondary offices of the courts, the transporting of documents/files, the escorting of detainees to attend court hearings and identifying the training needs of judges and court personnel with regard to the courts' reorganization process.

Open Justice will also use the results of the report to provide assistance to the SCM and ACA/MOJ in order to strengthen the professional and institutional capacities of the justice sector to implement the reorganization and optimization of the courts. The results of this report will be presented and discussed within the Working Group on improving the judicial reorganization process, during which necessary changes will be identified to the existing regulatory, legislative and institutional framework for the reorganization of the courts.

The report is also intended for decision-makers within the judiciary who have the power to decide on whether further changes should be made to the existing legislative and institutional framework for the reorganization of the courts.

## **II. THE GOAL AND OBJECTIVES OF THIS REPORT**

On 21 April 2016, the Parliament of the Republic of Moldova adopted Law No. 76 on the reorganization of courts. On July 1,2016, the Law entered into force following its publication in the Official Gazette.

Both the MOJ Informative Note to the draft Law on the reorganization of courts, and the later wording of the Law, highlight the following primary goals:

- I. Strengthening the institutional capacities of courts

2. Strengthening the independence of the judiciary
3. Improving of the quality of the judicial process and enhancing the effectiveness of the courts
4. Ensuring effective use of public funds by the courts
5. Increasing the quality of justice via a uniform workload allocation among the courts of the country
6. Creation of conditions for specialization of judges

The Year I Open Justice Project Work Plan provides for a rapid, participatory assessment of the impact of CRO on court operations, case flow, judicial review, and case management (Activity I.I.I.).

Consequently, this report includes a presentation of the perception of representatives of the justice sector's key institutions regarding the impact of the Law No. 76 on the operation of the judiciary as well as a presentation of the results obtained via the opinion survey of the court presidents, court judges, heads of secretariats, court assistances and court clerks.

The report also seeks to identify and analyze the main difficulties faced by **representatives of the key institutions in the judiciary** during the court reorganization process as well as to identify recommendations/solutions for the courts, SCM and ACA/MOJ.

We also reiterate that the Government of the Republic of Moldova in its 2015-2018 Plan of Actions, in *Chapter V, Justice and Human Rights*, assigns to the MOJ the task of carrying out the actions required for the reorganization of courts, as follows:

- Streamline the map of courts and specialization of judges, along with the creation of specialized panel of judges, also in the first instance courts, seeking to secure the quality of decisions, the efficient random allocation of cases, improved management and cost optimization of the courts' maintenance
- Promotion of the draft Law on the reorganization of courts
- Development of a new courts' location plan
- Gradual implementation of the new courts' location plan
- Development and implementation of the necessary configurations for the Integrated Case Management System (ICMS) able to ensure the creation of specialized panel of judges

In accordance with the Strategy of the 2011-2016 justice sector reform, approved by Law No. 231 of 25 November 2011, and in accordance with the Plan of Action for the implementation of the Strategy of the 2011-2016 justice sector reform, approved by the Parliament decree No. 6 of February 16, 2012, several actions to optimize the court map were set forth:

- Strategic direction I.I - Ensuring accessibility and independence of judiciary
- Action I.I.I. - Streamlining the courts' location map aimed at strengthening the institutional capacities of the courts, streamlining the number of judges and ensuring a highly efficient use of available resources.

### **III. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

The impact assessment of Law No. 76 on the reorganization of the courts conducted by the Open Justice Project identified several difficulties faced by the judiciary following the initiation of the reform in January 2017. The evaluation also revealed that judges received the necessary assistance from the ACA/MOJ and the SCM to promote the reform. The report presents several solutions to address the administrative and organizational challenges faced by the courts.

We consider that the difficulties encountered by the courts are largely due to the effects of a two-staged implementation of the reform. In the first stage of implementation, the newly formed courts from the merger, had several offices. Only in the second stage of the implementation of Law No. 76 will judges be able to carry out their activity in a single office. Until then, judges of a court will sit in different court locations.

As a result of the reorganization of the judiciary, the merged courts have ceased to exist as legal entities. As a result, the positions of president and vice president have disappeared from the secondary offices. Currently, there is only one president and one vice-president working in the central office of the court. An exception to this rule is the Chisinau District Court, which, due to a large number of judges, has one vice-president at each court office. The lack of a person with a leading position in the secondary offices has created a number of administrative difficulties in these premises, which undermine court efficiency and cause delays.

In order to partially remedy this problem, following the reorganization of the courts, the position of administrator for each building was established. The administrator is appointed by the president of the court and has a technical function. This unit is temporary and will disappear in the second stage of the reorganization of the judiciary, with the unification of the court premises. Also, on January 17, 2017, the SCM Plenum adopted the Decision No. 36/2 related to the courts' reorganization in the context of Law No. 76, which established that, in order to ensure the quality of justice, the safety of the judiciary and the efficient organization of the courts' offices, until the unification of the courts in single headquarters is completed, the court presidents are granted the right to delegate to a judge from the secondary office, by internal act, attributions related to the organizational activity of the respective office.

However, looking at the answers received from the presidents, judges and court staff, we conclude that this problem has not been fully remedied, with secondary offices continuing to face organizational / administrative difficulties.

Below, based on the findings of this assessment, we present the most pressing issues that courts face following the reorganization process. Our assessment is based on the assumption that, with the full implementation of Law No. 76, and the endowment of single-seat courts, many of the identified problems will be removed, since they are largely characteristic of the transition period.

- The workload in the offices of the same court is not uniform. This is due to the fact that the law allows legal persons to file a petition for legal action at any court office in whose territorial jurisdiction the defendant is domiciled or where the legal entity has its premises.

- Random distribution of cases through the ICMS is done separately for each court office. Thus, in secondary courts where a small number of judges (one to three judges) operate, the random electronic distribution of cases becomes inefficient and predictable.
- Lack of space is a problem within the central offices of the courts for staff transferred from secondary offices. Also, central headquarters are not always prepared to receive a large volume of archives from their secondary offices.
- The working conditions of judges and court personnel did not undergo substantial changes following the reorganization process because court staff, except for transferred persons, continue to work on the same premises and under the same conditions.
- The evaluation identified the existence of appropriate communication processes between the courts and the SCM and ACA/MOJ. However, communication between the courts' central and secondary offices needs to be improved. The survey respondents from secondary offices frequently mentioned the existence of inadequate and slow communication with the courts' central offices as well as a lack of coordination on important issues between central and secondary offices.
- As a result of the judicial reorganization, the need to ensure the transport of cases and case documents has increased considerably, but the budgetary resources available to the courts for this purpose are lacking. Thus, the existence of several headquarters for the same court often creates the need for the transmission of documents and files both between the courts of law and to the Courts of Appeal. The assessment found that the courts are experiencing budgetary constraints in their efforts to ensure the secure and efficient transport of documents and files.
- Following the reorganization of the courts and the setting up of the ICMS in accordance with the provisions of Law No. 76, the courts reported the difficulty of entering data and using ICMS, as well as the existence of multiple system errors.
- Some judges reported the lack of audio recording equipment (SRS Femida) as well as office equipment, which is often in poor condition or obsolete. We mention that this problem does not necessarily represent an effect of the reorganization of the courts, but was encountered in the course of the survey.
- The evaluation identified the existence of difficulties in escorting detained persons to court hearings. Some penitentiaries are located at a great distance from the courts' secondary offices, which can lead to delays in the hearings and trials.
- In some cases, difficulties were encountered in public procurement and ensuring the timely delivery of the goods and services purchased by the central office to the secondary offices.

Most of the problems identified can only be solved by providing courts with single offices or headquarters and the unification of the ICMS in the random assignment of cases (ensuring the distribution of files between all judges of the court and excluding the random assignment per premises/office). Also, in order to remedy some of the difficulties encountered, we propose the following solutions, which, we believe, will facilitate the process of implementing the court reorganization reform:

- Improve the means of communication between the courts' offices (between central and secondary premises). This can also be achieved by training staff in communication techniques and providing updated communication technology. It is also advisable to equip courts with

technical equipment for videoconferencing, which will reduce the need to move to secondary offices in order to attend staff meetings. At the same time, we note that creating public maps for the transmission of files and documents would facilitate the communication between headquarters as well as reduce the need for materials to be transported.

- Provide additional information for the court users on the effects of CRO, the stages of implementation of the Law No. 76, the way in which the courthouses were merged, and the territorial jurisdiction of the courts and courts of appeal following the reorganization process, etc. We believe that providing additional information to citizens on this process will significantly increase the successful implementation of the law and the public's understanding of the effects of the reorganization reform. At present, because court staff continues to work in the same courthouses, court users and the public at large do not perceive the existence of a reform or change.
- Equipping courts with IT equipment (computers, scanners, etc.) and other office equipment to be able to implement the automation of administrative processes.
- Establishing of additional ways of managing and controlling staff in secondary offices and providing operational support in addressing administrative issues. Permanent consultation is needed to gauge the needs and difficulties encountered by secondary establishments.
- Reviewing the criteria for merging the courthouses and identifying the possibility of amending the legislative framework (Law No. 76) with a view to merging some offices so that court users have easy access to the court and to eliminate situations in some court offices where more than one judge is operating.

## IV. DATA COLLECTION METHODOLOGY

For the preparation of this Report, the Open Justice Project has used the following research methods:

- Interviews (focus groups) with representatives of some judiciary institutions
- Online questioning of court presidents, judges, chiefs of the secretariats, judiciary assistants and clerks
- Study of the applicable normative/legislative / institutional framework

As a first step for assessing the impact of Law No. 76 on the reorganization of the courts, the representatives of the Open Justice Project participated in structured interviews with representatives of the judiciary, mainly: SCM, ACA/MOJ, Chisinau Court of Appeal, Chisinau District Court, Orhei District Court (central office/headquarters), Orhei District Court (Rezina office) as well as the Drochia District Court. The interviews were based on lists of carefully designed questions elaborated for this purpose. The results obtained from the meetings were analyzed and presented in this report in the form of summaries categorized by topics discussed.

Following the interviews, the representatives of the Open Justice Project developed online questionnaires to assess the impact of the Law on courts' reorganization and coordinated them with SCM and ACA/MOJ. The questionnaires were then submitted online by the SCM to be filled in by the presidents of the courts, judges, chiefs of the secretariats, judiciary assistants and clerks. The questionnaires were sent out online to all courts in the Republic of Moldova (District Courts, Courts

of Appeal and the Supreme Court of Justice). The questionnaires were completed during July 20-28, 2017. Subsequently, at the request of the Open Justice Project, the SCM extended the period for their completion until August 4, 2017.

In total, 15 replies were received from the court presidents, 77 replies received from judges, 15 replies from chiefs of the secretariats and 261 responses from judicial assistants and clerks. The Open Justice Project also analyzed the applicable regulatory/legislative and institutional framework. The results of this analysis were presented in separate chapters of this report. They also served to analyze the responses gathered from the focus groups and electronic questionnaires, as well as to describe the problems faced by the judiciary following the implementation of the courts' reorganization.

## **V. INTRODUCTORY THOUGHTS REGARDING THE IMPLEMENTATION OF THE LAW NO. 76 OF 21.04.2016**

### **A. ANALYSIS OF THE MAIN AMENDMENTS OF LEGISLATION AIMED AT FACILITATING IMPLEMENTATION OF THE LAW NO. 76 OF 21.04.2016**

On April 21, 2016, with the aim of ensuring the accessibility and independence of the judiciary, the Parliament of the Republic of Moldova adopted the Law No. 76 on the reorganization of the courts, published in the Official Gazette of the Republic of Moldova nos. 184-192, which came into force on July 1, 2016, with some exceptions. This law regulates the reorganization process of the court system, including the organization and functioning of newly created courts. The legislative act provides for the merger of the 46 district courts, thus creating 15 new courts, which started their activity on January 1, 2017.

Initially, the reorganized courts will have several headquarters. Their unification will take place over a period of 10 years, between 2017-2027. For some courts, it will be necessary to build new headquarters, and for others to renovate the existing premises. Thus, in order to implement the provisions of Law No. 76/2016 regarding the reorganization of the courts, on 31.03.2017, in the Official Gazette of the Republic of Moldova, was published Decision of the Parliament No. 21 of 03.03.2017 for the approval of the *Plan for the construction of new buildings and/or renovation of the existing buildings, necessary for the proper functioning of the court system*. The Decision entered into force on 03.03.2017. Implementation of the Plan is foreseen for a period of 10 years. This decision imposed on the SCM and the local public administration authorities the approval of institutional action plans for the implementation of the Construction Plan and the provision of the necessary conditions for its implementation.

Once Law No. 76 came into force, it was necessary to make amendments and completions to some normative acts, in order to adjust the existing legislative and normative framework to the provisions of the new law. Thus, we mention the following relevant changes made to the normative and legislative framework:

1. *Law no. 514-XIII of 6 July 1995 on Judicial Organization*, as amended. The amendments brought by the legislator refer to the fact that the courts may have one or more premises and the presidents are assisted in their activity by a single deputy chairman (with the exception of the Chisinau District Court, where the number of vice-presidents is established depending on the number of the headquarters for the court). The amendments made to this law include the principle that *"a court cannot be reorganized or its work cannot cease if its jurisdiction has not been transferred to another court"*. Also, Annex No. 2 of the Law was amended to read *"List of courts and localities in their constituency"*, as well as Annex No. 3 *"Courts of Appeal and District Courts"*.
2. *Law No. 544-XIII of July 20, 1995 on the status of the judge*, with subsequent amendments which excluded the provisions regarding the appointment of military judges as well as the provisions regarding the salary and other rights to the military and civilian personnel of the military courts. This provision was necessary in the context in which through Law No. 76 dissolved the Military Court and the Commercial Court of Circumscription.
3. *The Civil Procedure Code of the Republic of Moldova (CPC) Ns. 225-XV of 30 May 2003*, as subsequently amended. As a result of the entry into force of Law No. 76, the general territorial jurisdiction provided by Art. 38 of the CPC was changed. Thus, as is apparent from the current provisions of this article, *the claimant may bring an action in any of the offices of the court in whose territorial jurisdiction the defendant is domiciled. An action against a legal entity is filed in one of the offices of the court in whose territorial jurisdiction the respective legal entity is located.* Also, according to art. 39 of the CPC: *(1) An action against a defendant whose domicile is unknown or not domiciled in the Republic of Moldova may be brought in any of the courts offices/premises where his property is located or at any of the offices of his last residence in the Republic of Moldov;. (2) An action against a legal entity or another organization may also be brought in any of the courts offices/premises of the place where their property is located.*

We believe that inclusion of these provisions in the CPC was necessary in order to facilitate access to justice for the public and to relieve them of the additional expenses caused by travel to the central offices of the court.

4. *The Criminal Procedure Code of the Republic of Moldova (CPP) No. 122-XV of March 14, 2003*, as amended. Due to the fact that, through Law No. 76 on the reorganization of the courts cessation of the activity of the Military Court and the District Commercial Court was ordered, starting with 1 April 2017, it was necessary to repeal the Art. 37 of the CPP which provided for the jurisdiction of the military court. The CPP provisions in the case of a competition between the court of first instance and the military court were also repealed (Article 42 (6) CPP).

## **B. EVALUATION OF THE SET INSTITUTIONAL FRAMEWORK AND OF THE ACTIONS UNDERTAKEN BY THE SUPERIOR COUNCIL OF MAGISTRACY AND THE AGENCY FOR COURT ADMINISTRATION AIMED AT FACILITATING IMPLEMENTATION OF THE LAW NO. 76 OF 21.04.2016**

### **AGENCY FOR COURT ADMINISTRATION (ACA/MOJ)**

ACA/MOJ, in order to coordinate the court reorganization process, has undertaken a number of activities in this respect. The ACA/MOJ has undertaken the following measures for the purpose of implementing art. 12(3) and (2) of Law No. 76 of 21.04.2016 on the Reorganization of Courts:

#### **I. Performed activities and issued orders and instructions**

On 07.07.2016 a roundtable discussion was organized, together with representatives of the SCM, dedicated to "the steps undertaken for the purpose of implementing Law No. 76 of 21.04.2016 on the Reorganization of Courts as of the date of its entry into force". As a result of the event, the priority steps have been established to be undertaken for the purpose of the efficient implementation of this Law. Thus, CSM was supposed to establish the total number of staff of the newly created courts while the MOJ was supposed to develop a plan of construction/refurbishing of the newly created courts.

On 18.07.2016, the ACA/MOJ submitted to the SCM a proposal regarding the appointment of a number of SCM representatives, along with a number of Presidents of courts, to act as members of the Working Group, available to be actively involved in the realization of the respective exercise.

On 02.08.2016, the ACA/MOJ received the answer of the SCM via which four representatives of SCM were appointed to the membership of the working group.

On 02.08.2016, the ACA/MOJ submitted a request to the Superior Council of Magistracy to speed up the procedure of establishing the final number of judges in the newly created courts.

On 02.08.2016 a working meeting was held, attended also by representatives of the state enterprise Center for Special Telecommunications (CTS), during which several aspects related to the consistency of information and adjustment of ICMS were discussed for the purpose of ensuring further functioning in line with the stipulations of the Law No. 76. Representatives of the CTS informed, during this meeting, of extra costs involved in carrying out the program adjustments and the need for a signed contract to perform these tasks. In view of the stipulation of Art. 12 (5) of the Law No. 76 of 21.04.2016 on the Reorganization of Courts, which specifies that "...the *Special Telecommunications Center shall provide the corresponding configuration of the integrated file management Program*", steps were undertaken to carry out the procurement procedure, which was held via *negotiations, with no prior publication of an announcement of participation*, in accordance with Art. 54 of the Law on Public Procurements No.131 of 03.07.2015.

For the purpose of ensuring the proper functioning of the judicial system the ACA/MOJ also developed a preliminary draft of the Parliament Decree, a draft of a Construction Plan of the new buildings and/or a draft of the Refurbishment Plan for the existing necessary buildings.

On 05.08.2016, a working meeting was held, attended also by representatives of the Legal Resource Center from Moldova, for the purpose of discussing the content of the developed draft Court Construction Plan, in particular, the estimated costs of the construction works.

The draft of the Parliament Decree, and the draft of the Construction Plan were also consulted with representatives of the SCM, who had been appointed as members of the working group.

By 15.08.2016 the draft of the Parliament Decree was submitted to the Parliament for consultation/notification and promotion.

The Agency developed the Terms of Reference specifying the necessary adjustments to the ICMS in connection with the reorganization of courts and concluded an additional agreement under the maintenance contract signed with the CTS for the purpose of ensuring the development and the test implementation of adjustments within all courts.

From 26.12.2016 to 15.01.2017 the adjusted ICMS version 4.1.1 was installed in all district courts and courts of appeal, with the exception of the Chisinau District Court.

On 03.03.2017 the Parliament Decree No. 21 was adopted and entered into force regarding the Construction Plan for the new buildings and/or the refurbishment Plan of the existing buildings, necessary for the proper functioning of the judicial system.

By the end of December 2016 an amendment of Art. 12 (6) of the Law No. 76 of 21.04.2016 was made, stipulating that *"Before the creation of the necessary conditions for the functioning of courts in reorganized offices, the deed, filed by a defendant pursuant to art. 38 or 39 of the Civil Procedure Code, shall be assigned to the judge or, where appropriate, to the Panel of judges working within the venue of the respective court."* Also, on 27.12.2017 section 31 was added to the Regulation on the random distribution of files for examination in courts, and adopted via the decision of the Superior Council of Magistracy No. 110/5 of 05.02.2013, which stated:

Before the creation of the necessary conditions for the operation of courts in reorganized offices, as requested by Law No. 76 of 21 April 2016 on the Reorganization of Courts, the responsible persons performing the registration of applications/files within ICMS, shall tick as incompatible the judges from other branches of a particular court office, thus ensuring the application of the random distribution principle exclusively with respect to judges from the respective office. In case of courts with 25 and more judges, the recommendations annexed to the SCM Resolution No. 945/38 of 27 December 2016 shall apply.

Pursuing the aim to avoid blocking some additional ticks during distribution of files per offices, the ACA/MOJ contracted the CTS company with the task to develop within the ICMS the "offices" feature, to be selected during distribution of files.

Following the successful test within the Hincesti District Court the adjusted version 4.1.2 was installed on 7-8 April 2017 in the Chisinau District Court, as well as in all the other courts, according to a schedule adopted in April 2017.

## **2. Created working groups**

On July 4, 2017 the inter-ministerial order was signed regarding the creation of the Working Group for the development of "the draft standard requirements to be met by a Court of law operating in the Republic of Moldova".

## **3. Training of judges/court personnel in issues referring to CRO**

The ATRECO project supported in February-March 2017 the field trips (roadshows) to several districts, including to courts of law, for the purpose to discuss issues referring to the court reorganization and its implementation. Also representatives of ACA/MOJ were actively involved in these activities.

In addition, ACA/MOJ distributed to courts informative letters regarding the settlement of a number of issues referring to CRO (11 informative letters were sent to courts, including to the SCM).

## **4. Visits to courts**

Representatives of ACA/MOJ, together with representatives of the SCM, during February and March 2017, made trips to the new courts that had been created as a result of the merging of courts. The aim of these trips was to transmit to the newly created courts, the assets and liabilities, the tangible goods and other assets, as specified by the delivery-receipt documents drawn up in accordance with the Regulation on the Way of Transmission of the public property goods, approved by Government Decision No. 901 of 31 December 2015.

During May and June 2017 a number of visits were made to courts to identify the land plots for the construction of new premises, thus executing the Parliament Decree No. 21 on Approval of the construction plan of the buildings and/or of the refurbishment plan of the existing buildings necessary for the proper operation of the judiciary courts.

From February to March 2017, with the support of the ATRECO project, discussions were held and trips were made to a number of districts, including to district courts, regarding CRO and its implementation. Representatives of the ACA/MOJ actively participated in the above mentioned activities.

## **5. Procurement of equipment**

By the end of December 2016, the ACA/MOJ had purchased scanners and distributed them free of charge to all judges working in district courts and courts of appeal.

## **6. Activities carried out by the CTS at the request of Agency for the Administration of Judicial Institutions (AAIJ) and the MOJ**

CTS developed, piloted, tested and installed in all district courts and courts of appeal version 4.1.1 of the ICMS, and at a later date, version 4.1.2 of the ICMS.

Thus, Pursuing the aim ensuring the quality of Justice, the efficiency of the judiciary, the fair distribution of workloads among courts, the efficient use of public funds and the creation of conditions for the specialization of judges the CTS carried out reconfigurations of the. *Thus, in line with Law No. 76 of 21.04.2016 on the reorganization of courts*, the following reconfigurations of the ICMS were performed:

- Data incorporated in the ICMS databases of the Centru, Buiucani, Riscani, Ciocana and Botanica courts of the Chisinau municipality were merged, creating a single ICMS database - party of the Chisinau Court database.
- Data incorporated in the ICMS databases of the Fălești and Singerei district district were merged with the database of the Balti Court ICMS, creating a single ICMS database of the Balti Court.
- Data incorporated in the ICMS databases of the Bender Court were merged with the database of the Anenii Noi Court ICMS, creating a single ICMS database of the Anenii Noi district Court.
- Data incorporated in the ICMS databases of the Basarabeasca and Leova district Courts were merged with the database of the Cimișlia Court ICMS, creating a single ICMS database of the Cimișlia district Court.
- Data incorporated in the ICMS databases of the Briceni, Dondușeni and Ocnița district courts were merged with the database of the Edineț Court ICMS, creating a single ICMS database of the Edineț district Court.
- Data incorporated in the ICMS databases of the Cantemir and Taraclia district courts were merged with the database of the Cahul Court ICMS, creating a single ICMS database of the Cahul district Court.
- Data incorporated in the ICMS database of the Călărași court were merged with the database of the Strășeni Court ICMS, creating a single ICMS database of the Strășeni district Court Court.
- Data incorporated in the ICMS database of the Ștefan Vodă court were merged with the database of the Căușeni Court ICMS, creating a single ICMS database of the Căușeni district Court.
- Data incorporated in the ICMS database of the Ceadir-Lunga and Vulcanesti courts were merged with the database of the Comrat Court ICMS, creating a single ICMS database of the Comrat district Court.
- Data incorporated in the ICMS database of the Dubasari Court were merged with the database of the Criuleni Court ICMS, creating a single ICMS database of the Criuleni district Court.
- Data incorporated in the ICMS databases of the Glodeni and Riscani courts were merged with the database of the Drochia Court ICMS, creating a single ICMS database of the Drochia district Court.
- Data incorporated in the ICMS database of the Florești Court were merged with the database of the Soroca Court ICMS, creating a single ICMS database of the Soroca district Court.
- Data incorporated in the ICMS database of the Ialoveni Court were merged with the database of the Hîncești Court ICMS, creating a single ICMS database of the Hîncești district Court.
- Data incorporated in the ICMS database of the Nisporeni Court were merged with the database of the Ungheni Court ICMS, creating a single ICMS database of the Ungheni district Court.

- Data incorporated in the ICMS database of the Șoldănești, Rezina and Telenești courts were merged with the database of the Orhei Court ICMS, creating a single ICMS database of the Orhei district Court.

## **SUPREME COUNCIL OF MAGISTRACY**

The SCM undertook a number of actions to implement Law No. 76 regarding the reorganization of the courts. We list below the most important decisions adopted by the SCM Plenum in order to fulfill the obligations under the new law.

- On September 6, 2016, by decision No. 546, the SCM Plenum approved the Action Plan on the implementation of Law No. 76. The approval of the action plan was necessary in order to carry out a well planned and organized process of reorganizing the courts, ensuring their efficient functioning, and thus fulfilling the tasks of the SCM under Law No. 76.
- On September 6, 2016, by decision No. 547, the SCM Plenum approved the staff limit for the 2017 units of the courts. Subsequently, the SCM adopted a series of Decisions regarding the requests for transfer of judges in the context of SCM Decision no. 547/23 of September 6, 2016. According to the Law No. 76, the SCM will approve, until January 1, 2017, the number of judges in the courts of law, and oversee their placement within the courts. At the same time, the Council will establish and approve the number of staff units for the district secretariats as well as the allocation of staff to all headquarters.
- On September 6, 2016, by decision No. 548, the SCM Plenum requested judges affected by the merger to submit applications for a transfer to the position of judge in the newly created courts. It was also proposed that in cases where the judges' positions were reduced, following the reorganization of the courts, that they submit applications for the transfer to the position of judge in other courts of the same level, according to the list of vacant positions of judge.
- On 13 September 2016, by decision No. 585, the SCM Plenum approved the new structure of the newly established courts, which will start their activity on January 1, 2017. Under this decision, the SCM proposed a plan for the new structure of the courts, with a number of different employees from one court transferring to another, which will be taken into account in the development of staffing and the establishment scheme.
- On September 29, 2016, the SCM Plenum adopted the Decision No. 624 regarding the implementation of art. 3 par. (1) of the Law No. 76 of 21 April 2016 on the reorganization of the courts. By that decision it was decided that the judges of the merged courts would be considered judges of the newly created courts according to art. 1 par. (1) of the Law no. 76, as of January 1, 2017.
- On September 29, 2016, the SCM Plenum adopted the Decision No. 630/26 regarding the Working Group for the elaboration of strategies and regulations regarding the specialization of judges, in order to fulfill the provisions of Law No.76 on the reorganization of the courts.
- On October 4, 2016, by decision No. 661, the SCM Plenum announced a competition to fill the position of president and vice-president in the newly created courts.
- On November 1, 2016, by decision No. 718/30, the SCM Plenum approved some organizational aspects related to the application of the legal normative framework to the

personnel procedures in the courts, in order to fulfill the provisions of the Law No.76 . This decision clarified certain issues regarding:

- The way of recruiting non-judicial staff in the secretariats of the newly created courts (on a priority basis and per the number of the vacancies);
  - The redundancy procedure if civil servant units are not found in the staff of the court for 2017 and the person refuses to transfer to another vacant unit;
  - Procedure for dismissal of technical and auxiliary personnel.
- On December 27, 2016, the SCM Plenum adopted the decision no. 931/38 regarding the preservation of several attributions of the chairmen of the newly created courts in order to implement the provisions of the Law no. 76 on the organization of the courts. By that decision it was decided that the chairmen of the merged courts would be responsible for the following actions: initiating the procedure of transfer, dismissal, and acquittal of court personnel; transmission of files and other documents in the archive; transmission of assets and liabilities, fixed assets and other tangible assets; preparing and presenting the financial statements for the year 2016 and the merger financial statements; drawing up and presenting the statistical report for 2016; and closing the bank account (s) and nullifying the stamp.
  - On December 27, 2016, the SCM Plenum adopted the decision No. 945/38 on the request of the ACA/MOJ concerning case assignment methods via ICMS between the premises of the newly created courts. By this decision, the SCM Plenum, in order to ensure the examination of the cases according to the provisions of the Law No. 76, ordered the Regulation on the random distribution of cases in the courts to be amended and provided for the following content: *“Until the conditions for the functioning of the merged courts in a single headquarters according to the Law No. 76 on the reorganization of the courts, the persons responsible for registering the summons/files in the ICMS, will check as incompatible the judges from other offices of the same court, ensuring the application of the principle of random assignment only to the judges of the respective office”*.
  - On January 10, 2017, the SCM Plenum adopted Decision No. 3/1 on the establishment of pilot courts for the specialization of judges in civil and criminal matters.
  - On January 10, 2017, the SCM Plenum adopted the Decision no. 4/1 regarding the distribution of judges within the courts, in order to fulfill the provisions of Law No. 76. Thus, the number of judges' units was approved for each court premises and the way in which the judges were assigned to the courts was established.
  - On January 10, 2017, the SCM Plenum adopted the decision No. 19/1 of 10 January 2017 on the transmission of files and other documents, assets and liabilities, and fixed assets and other material goods of the merged courts of law. The representatives of the commissions for the transmission of files and other documents in the archives were appointed.
  - On January 17, 2017, the SCM Plenum adopted the decision no. 36/2 on some issues related to the judicial organization in the context of Law no. 76. By this decision, the SCM attributed to the presidents of the newly created courts the right to delegate to a judge from the secondary office, by internal act, tasks related to the organizational activity of the respective office.
  - On January 17, 2017, the SCM Plenum adopted the decision No. 48/2 on some organizational aspects related to the application of the legal framework to the personnel procedures within

the courts, in order to fulfill the provisions of Law No. 76. By this decision it was established that the court's prerogative, the transfer/ dismissal, as the case may be, the appointment and payment of all social guarantees to the employees of the Court's Secretariat, rests with the president of the newly created court.

- On March 7, 2017, the SCM Plenum adopted the decision No. 176/9 regarding certain issues related to the issuance of judgments by the courts in the context of Law No. 76. It was established that until the unification of the courts in single headquarters the newly created courts, upon the issuing of judgments, decisions, and sentences, will indicate in the introductory part of the written decision, the court and the office of the issuing court.
- On March 28, 2017, the SCM Plenum adopted the decision No. 241/12 regarding the preservation of some attributions of the court presidents who had ceased their activity on the basis of Law No. 76 which had primarily affected presidents of the Military District Court and the Commercial District Court.
- On August 8, 2017, the SCM Plenary adopted the Decision No. 558/25 establishing a Working Group to streamline the implementation of CRO. The text of the judgment states that the persons appointed as members of the Working Group will take the necessary steps to improve the reorganization processes of the courts, that is, they will analyze the results of the evaluation undertaken by the Open Justice Project on the impact of CRO and the cost-benefits of merging the courts' offices, and inspect the status of the headquarters of the merged secondary courts. At the same time, they will formulate recommendations to modify the existing legislative and institutional framework, to among other things, facilitate the use of advanced IT within the judicial system, and identify additional actions relevant to ensuring the effective implementation of Law No. 76 on the reorganization of the courts.

## **SUPREME COURT OF JUSTICE**

The Supreme Court of Justice (SCJ), in its turn, issued the Recommendation No. 90 of July 15, 2016 on the implementation of Law No. 76 on the reorganization of the courts, adopted in connection with the necessity of correct and uniform application of the norms contained in Law No. 76. Under this recommendation, the SCJ drew courts' attention to the amendments made by the legislature regarding the general territorial jurisdiction set out in Art. 38 of the Civil Procedure Code, according to which a plaintiff may bring an action in any of the offices of the court in whose territorial jurisdiction the defendant is domiciled, and that an action against a legal entity may be brought in one of the offices of the court in whose territorial jurisdiction the headquarters of the legal entity is placed. The amendments to the Art. 38 of the Civil Procedure Code were entered into force on July 1, 2016. However, the newly created courts as distinct legal entities would not become active until January 1, 2017 according to Law No. 76. Thus, the SCJ found it necessary to explain that until the unification of the courts and the proper configuration by the CTS of the ICMS by January 1, 2017, the courts will operate in accordance with the rules of general territorial jurisdiction enshrined in Art. 38 of the Civil Procedure Code.

## **VI. DATA ANALYSIS AND DATA COMPILATION BY USE OF THE DEVELOPED METHODOLOGY**

### **A. PRESENTATION OF THE PERCEPTION OF REPRESENTATIVES OF KEY JUSTICE SECTOR INSTITUTIONS REGARDING THE IMPACT OF LAW NO. 76.**

In order to identify the opinion of the representatives of the key justice sector institutions the representatives of the Open Justice Project visited the institutions indicated below with the purpose of organizing focus groups:

1. The Agency for Court Administration /Ministry of Justice
2. Superior Council of Magistracy
3. Court of Appeals of the Chişinău municipality
4. Court of the Chişinău municipality (Headquarters)
5. Orhei District Court (Headquarters)
6. Orhei District Court (Rezina branch)
7. Drochia District Court (Headquarters)

See below a summary of responses received in the focus groups.

#### **I. Has the adoption and implementation of Law No. 76 on the Reorganization of Courts affected the activity of the Superior Council of Magistracy?**

- The SCM had to adopt a number of decisions aimed at facilitating the implementation of the provisions of Law No. 76 and this affected the activity of the SCM. Thus, in accordance with the law, the SCM was supposed to undertake a number of actions, namely:
  - To make decisions on the approval of the number of judges in a particular court and their distribution among court premises, depending on the workload per system;
  - To facilitate the transfer of judges;
  - To approve the basic rules referring to specialization of judges;
  - To organize contests to fill in the vacancies of Presidents and Deputy Presidents of courts;
  - To establish and approve the number of employees for the position of the court secretariat, and establishing a process for distributing the personnel among all premises of the courts.
- At the same time, for the purpose of implementing the provisions of Law No.76, and of ensuring the efficient functioning of the courts, SCM has developed a Plan of Actions in due time and in optimum conditions. The latter was approved by the plenum of the SCM via Decision No. 546/23 of 06 September 2016.
- SCM mentioned a number of difficulties they came across during this process, among them the liquidation of existing legal entities and the transmission of their assets and liabilities, tangible capital goods and other assets of the merged courts to the newly created courts.

- Other difficulties faced by SCM in the realization of provisions of Law No.76 referred to ensuring the specialization of judges and the need to approve the respective rules for this purpose. Thus, the SCM indicated that, at present, specialization of judges can be done exclusively in the courts with a big number of judges. Specialization of judges in civil and criminal matters cannot be done in the courts within which only a minimum number of judges work.
- Members of the SCM had a number of meetings in working groups with representatives of the MOJ, ACA/MOJ and non-governmental organizations to discuss the implementation of Law No. 76 and the consequences thereof.

## **2. Has the adoption and implementation of Law No. 76 on the Reorganization of Courts affected the activity of ACA/MOJ?**

ACA/MOJ has undertaken the following measures for the purpose of implementing art. 12(3) and (2) of Law No. 76 of 21.04.2016 on the Reorganization of Courts:

- Conducted one roundtable, together with representatives of the SCM, in order to identify the steps to be undertaken for the purpose of implementing Law No. 76.
- Organized one working meeting with representatives of the state enterprise Center for Special Telecommunications (CTS), during which several issues related to consistency of information and adjustment of ICMS were discussed for the purpose of ensuring further functioning in line with the stipulations of the Law No. 76.
- ACA/MOJ developed a draft Construction Plan for new buildings and/or a draft Refurbishment Plan of existing buildings which was coordinated with representatives of the SCM and the Legal Resource Center from Moldova. On March 3, 2017 the Parliament Decree No. 21 was adopted and entered into force approving the Construction plan and/or the Refurbishment plan, necessary for the proper functioning of the judicial system.
- The ACA/MOJ undertook a series of actions to carry out the necessary changes in the ICMS in connection with the CRO and signed an additional agreement under the maintenance contract with CTS, to ensure the development, testing and the implementation of necessary adjustments of ICMS in all the courts. In the period December 26, 2016 to January 1, 2017 the adjusted ICMS version 4.1.1 was installed in all district courts and courts of appeal, with the exception of the Chişinău Court.
- On July 4, 2017 the inter-ministerial order was signed regarding the creation of the Working Group for the development of "the draft standard requirements to be met by a Court of law operating in the Republic of Moldova".
- Representatives of the AAIJ, together with representatives of the SCM, during February and March 2016, made trips to the new courts that had been created as a result of merging of the previous courts. The aim of these trips was to transmit to the newly created courts, the assets and liabilities, the tangible goods and other assets, as specified by the delivery-receipt documents drawn up in accordance with the Regulation on the Way of Transmission of the public property goods, approved by Government Decision No. 901 of December 31, 2015.
- From May to June 2017 a number of visits were made to courts to identify the land plots for the construction of new premises, thus, executing the Parliament Decree No. 21 that had

approved the construction plan of the buildings and/or of the refurbishment plan of the existing buildings as necessary for the proper operation of the judiciary.

- ACA/MOJ purchased some IT equipment (scanners) and distributed them free of charge to all judges working in district courts and in courts of appeal.

### **3. Opinions regarding merging the courts' premises and regarding the criteria used in the selection of courts to be merged.**

- The criteria are not considered the most suitable ones. Thus, one of the criteria used in deciding which courts to merge involved an analysis of the existing infrastructure in a number of districts, the road conditions and the accessibility to public transportation. It is thought that this criterion should not be of a major importance in deciding which courts to merge, given the fact that public transportation is easily accessed by the local public administration bodies.
- The working conditions of a number of courts was not taken into account. Courts recently refurbished and with better conditions than the central offices, have become secondary offices as a result of the reorganization. This is the case of the Rezina district Court which merged with the Orhei district Court creating the Orhei district court. The office of the Rezina Court was recently refurbished and possesses sufficient space to carry out its judicial functions; it did not need to be merged to improve its judicial functions.
- Also, the location of prisons was not taken into account in the merging of courts. This fact will bring about a host of difficulties such as additional costs for the transportation of prisoners.
- Another important criterion which was not taken into account was the distance to be covered by citizens to reach a court after the creation of the unified offices of the merged courts. By making courts less accessible to citizens due to distance and travel involved there is greater likelihood that parties will fail to attend hearings which will lead to postponement of the Court proceedings and costly delays. .
- In this context, a revision of the court location map is considered appropriate, which should result into the modification of the way certain courts are merged.
- Other respondents thought that the criteria used in deciding how to merge the courts could be re-evaluated later, once the implementation of Law No. 76 is completed.

### **4. Quality of Justice following the reorganization of courts.**

- It is considered to be premature to do an evaluation of the quality of justice following the reorganization of the courts.
- No data or information indicates a deterioration of the quality of justice. Following the specialization in criminal and civil issues of a number of offices of the Chisinau Court and of the Bălți Municipal Court the quality of justice is perceived to have improved, with fewer delays in disposing of cases.

## **5. Identified beneficial effects and difficulties following the implementation of Law No. 76 on the Reorganization of Courts.**

The following long-term benefits of the reorganization of courts were mentioned:

- A more independent judiciary as a result of increased accessibility of citizens to realization of justice
- Improved quality of justice due to new administrative efficiencies, specialization of judges, and greater access to courts
- Reduced costs for maintenance and management of courts (efficient use of public funds)
- Conditions for judicial fairness and transparency achieved through the random, centralized distribution of case files (via CMS/ICMS)
- Uniform distribution of the workload in courts.
- Judges of the merged courts have been incorporated into the staff of the newly-created courts, without the need of their re-evaluation.

Given the fact that, at present, the courts operate in the same premises and conditions in which they used to work before the reorganization, one may say that the goal of this Law was not achieved. A number of *difficulties* faced by the judiciary were revealed, namely:

- The workload of the secretariat of the newly created courts has been increased. Law No. 76 provides that the President, the deputy-President and the Head of the Court Secretariat are supposed to work in the Court central headquarters. Following the change of staffing in the organization chart, the personnel of the merged court secretariat and the personnel of no longer operational courts were employed in the secretariat of the newly-created courts depending on available vacancies. Now, that the central offices have been given extra space, there is an increase in the court management workload. In spite of the fact that a building manager position was created to address this extra workload, including for the secondary offices, the perception is that the workload of the heads of the secretariat has increased.
- Specialization of judges seems impossible for the reason that in most courts the number of working judges is relatively small.
- Another difficulty is connected with the creation of panels of judges, especially in offices where there is a small number of judges.
- Lawyers, or parties in the proceedings, can still file a complaint in any court that is entitled to do the examination of a case. This brings about the increase of the workload in a number of offices of the courts.
- The distribution of files via ICMS is carried out from each office, rather than in a centralized way. Thus, distribution of files via ICMS is done in a random way and involves all judges from a specific office of a particular Court. Later, once the unification of offices is completed, ICMS will distribute the files within the same court. At present, this option is not performed.
- Transmission of procedural documents, including through the mail, from the central office to the secondary offices constitutes another problem. For example, parties to proceedings submit documents, petitions, letters to the central office of the Court, although the case is being examined at a secondary office of the Court. Later, the Central office submits to a

secondary office the documents filed by participants to the trial. This procedure is highly inefficient and requires additional transportation costs.

## **6. Effective access to justice for parties to a trial.**

- The parties in the proceedings lack the correct information regarding the territorial jurisdiction of courts and of their secondary offices. Thus, certain parties to a trial believe, erroneously, that the secondary offices were liquidated and only the central offices operate. This is the reason why the parties to a trial lodge their applications to initiate proceedings, more frequently, at the central offices.

## **7. The interaction of law enforcement bodies with the courts following the reorganization of the courts.**

- In order to facilitate the interactions of the courts with the prosecution offices it seems that the later will have to be reorganized according to the court reorganization process.
- In the situation when the random electronic distribution of files via the ICMS shall be done in a centralized way and shall cover all judges from all offices of a particular court, one should expect that this will have a negative effect on the interactions between the courts and the law enforcement bodies escorting the detained persons. Thus, it will be necessary to provide transportation of detained persons at larger distances, meaning involvement of additional costs.

## **8. Escorting the detained persons for their participation to the court sessions.**

- Certain courts are facing difficulties in connection with escorting the prisoners for their participation to the court sessions, action carried out by the specialized services, under the Department of Penitentiary Institutions. Escorting is often refused for the reason that the court lacks special cells in which the escorted persons can be held.
- Escorting of prisoners often takes place with a delay. In some courts, escorting is carried out only in the second half of the day.

## **9. The workload of judges and court staff following the implementation of Law No. 76 on the reorganization of courts.**

- Following the implementation of the Law on the Reorganization of Courts the workload of judges in a court office is not a uniform one. Thus, in accordance with the provisions of the Civil Procedure Code of the Republic of Moldova (article. 38, 39 CPC) *parties to the proceedings may submit an application of suing in court to any offices of a court entitled to do the examination of a case*. There is an assumption that the parties to the proceedings take advantage of this legal provision and choose the office where the examination of their application may take place. This causes an increase of the workload in certain offices of the court, usually in the central office, and a reduction of the workload in other offices. It is thought that an equitable way of the workload distribution among courts could be achieved with the creation of a unique office for courts and with the performance of a fair distribution of files, via ICMS, in a centralized, random way (rather than within a court office).

- It is expected that, once achieved, the random distribution of files via ICMS among all judges from all court offices shall generate additional costs and efforts for ensuring the movement of files among the court offices.
- The volume of the workload is also affected by the fact that the communication process among the central offices and the secondary ones is faulty (in some cases) and needs to be improved. For example, when the need arises to examine the objection/abstention applications or the request of an accelerated examination of the case by a judge or a panel of judges from the central office (when it is impossible to transmit the examination application to another judge or to a panel of judges of the same court office), this is done, sometimes, with a delay, which causes a delay of the court sessions and an increase of the workload (pursuant to article no. 53 (2) of the CPC, *the application for objection shall be handled within 5 days from the time of filing. Pursuant to art. 35 (2), any application for objection or declaration of abstention is made on the same day. If a new panel of judges cannot be created in the same court, the objection shall be handled by a superior court, not later than 10 days since the receipt of the file.*).
- It is thought that the workload of the technical personnel, particularly that of the secretariats of the courts, has substantially increased.

## **10. The working conditions of judges and of the judiciary personnel.**

- The working conditions of judges and of the court staff underwent no changes after the reorganization of the courts for the reason that they continue working within the same offices (with the exception of persons who were transferred from secondary offices to central offices).
- Staff persons who were transferred from the secondary offices to the central offices have to cover a bigger distance to reach their workplace.
- The need was mentioned to make a number of additional closures of judicial offices, namely the ones where a small number of judges operate, the building infrastructure is seriously damaged and excessive costs are necessary for their maintenance and operation.

## **11. Management of human resource in courts following the reorganization.**

Following the reorganization of the courts some staff from the secondary offices was transferred to the central offices. Thus, the categories of personnel indicated below was transferred to the central offices:

- Head of the records and procedural documentation Section
- Secretariat of the Court
- Financial-economic service
- Human resources service
- Service monitoring, systematization, generalization of judicial practice and public relations: Head of the Service and the Chief Specialist
- Service responsible for the civil, commercial and administrative courts of law: Chief Specialist, Senior Specialist, Senior Inspector responsible for the supervision of execution of decisions

- Service responsible for the criminal and civil actions: Chief Specialist, Senior Specialist, Senior Inspector responsible for the supervision of execution of decisions
- The function of the deputy head of the Secretariat was institutionalized in the Chişinău courts.
- Management of each court office is carried out by a building administrator, appointed by the President of the Court, with the exception of the central office.

## **12. Communication between central offices and secondary offices following the reorganization of the courts.**

- The communication process between the central offices and the secondary offices it is thought to be a good one to a great extent. Most courts carry out the communication by use of the electronic mail.

## **13. Specialization of judges in civil and criminal issues following the reorganization.**

- The initiative of the ATRECO project regarding specialization of judges in civil and criminal issues was admitted based on the *CSM Decision no. 235/10 of 24 March 2015*. Thus, in the Buiucani and Rîscani courts of the Chişinău municipality and in Bălţi city, pilot courts were established, for three years period of time as of 01.04.2015, responsible to carry out the specialization of judges in civil and criminal issues.
- Through *Resolution of the CSM No. 3/1 of 10 January 2017* it was decided to expand specialization of judges and perform it in all offices of the Chisinau Court (Centru, Buiucani, Botanica, Rîscani and Ciocana) until their unification. Specialization was ordered to be performed in civil, commercial and administrative court issues, including the specialization of a panel of judges for administrative court issues. Additionally, it was decided to carry out specialization of judges for handling secret causes as well as in criminal, instruction and administrative issues, including specialization of a panel of judges in criminal cases involving minors. Based on the mentioned decision specialization of judges was upheld at the Bălţi Court (in the central office), taken by resolution CSM No. 235/10 of 24 March 2015, until the unification of the Balti Court offices. Specialization was ordered to be performed in civil, commercial and administrative court issues, including the specialization of a panel of judges for administrative court issues. Additionally, it was decided to carry out specialization of judges for handling secret causes as well as in criminal, instruction and administrative issues, including specialization of a panel of judges in criminal cases involving minors.
- Also, in accordance with *the Decision of the CSM No. 279/13 of 11 April 2017* it was ordered to designate judges for specialization and later examination of criminal cases involving minors (defendants, victims, witnesses). This action was aimed at the creation of a child-friendly justice system, able to ensure the efficient observance of the rights of children entering into contact with this system.
- The Law on the reorganization of the courts stipulates the need of ensuring specialization of all judges. However, specialization was carried out only for a number of courts, for the reason that the courts haven't got unique offices.
- Another identified problem, connected with the realization of specialization of judges, lies in the need to provide the courts with the necessary cells for prisoners (the need to create special conditions for prisoners).

#### **I4. Automation of the courts following the implementation of the Law on the Reorganization of Courts (use of the ICMS, Femida SRS).**

- Following the reorganization of the courts and updating of ICMS, the connection, via ICMS, of the SRS Femida audio recording system was affected in a number of courts.
- It is thought that the random distribution of files via the ICMS is not uniform. The random distribution of files is done inside the offices.

#### **I5. The availability of equipment in the courts.**

- The courts lack modern equipment. The existing equipment is obsolete.
- In the reorganization process, at the request of some courts, the AAIJ provided additional endowment including the "SRS Femida" audio recording equipment for the court sessions.
- AAIJ also supported the acquisition of scanners by a number of courts and courts of appeal.

#### **I6. Operation and maintenance of the court buildings following the reorganization of the courts.**

- The **building manager** is supposed to ensure the operation and maintenance of the buildings of the secondary offices. This staff position was established by the CSM decision No. 585/24 of 13.09.2016 regarding the approval of the unique structure of courts, in line with the provisions of the Law No. 76 of 21 April 2016 on the Reorganization of Courts. Once the unification of offices and the redistribution of positions is done, the administrator of the building position will be liquidated. Currently, the job description of the building administrator provides the following tasks:
  - Ensure the administration of the court building (monitor the proper functioning of the sanitary, electrical and thermal installations of the court and proposes measures to solve the deficiencies in the systems for supplying electric, thermal and water systems);
  - Coordinate the activity of the building staff (plan and coordinate the work of the technical staff in the court (the secondary court premises) and organize working sessions in order to establish, plan, and elaborate proposals and solutions for improving their activity);
  - Ensure the efficient management of the movable and immovable property of the court (participates in the annual inventory of assets held by the court (secondary headquarters), puts forward proposals on the necessary assets and presents opportunities for efficient capitalization of the institution's heritage, receives from the head of the department goods and materials necessary for the proper performance of the court's activity (supplies, furniture, computer equipment, detergents, tools, etc.) and allocates them to the employees of the institution, draws up and checks the necessary documents regarding the receipt and transmission of movable and immovable goods, ensures the functionality of anti-fire systems of the building).
  - Ensure the execution of procurement contracts concluded by the court (collaborates with service providers to carry out procurement contracts, pursues the execution of all contracts concluded with different service providers in order to carry out the efficient activity of the court, reports on the realization of the contracts by service providers)

- The need was mentioned of carrying out an assessment of the infrastructure of the courts and of establishing the costs necessary for their maintenance and operation. Such an analysis will provide information about the maintenance needs of the reorganized courts, in accordance with Law No. 76 of 21.04.2016 until their unification and creation of conditions specified in the Plan for the construction of new buildings and/or renovation of existing buildings, necessary for the proper functioning of the judiciary system, approved by the Parliament Decree No. 21 of 03.03.2017.

### **17. Ensuring access to the courts for people with special needs following the reorganization of courts.**

- Access ramps were installed in a number of courts.
- Since court buildings have remained the same, therefore there have been no changes regarding the access of persons with special needs.
- The new offices, to be built/renovated in line with *the Plan for the construction of new buildings and/or renovation of existing buildings, necessary for the proper functioning of the judiciary system, approved by the Parliament Decree No. 21 of 03.03.2017*, shall have the necessary conditions for access to the courts for people with special needs.

### **18. Budget planning and budget execution as a result of reorganization of courts. Endowment of courts with the financial resources.**

- Assessment of the impact of Law No. 76 on the financing of the courts with budget resources is thought premature.
- Following the reorganization, the courts do not have sufficient financial resources. The funding allocated in 2017 is of the same amount as before the reorganization. At present, the central offices use the allocated financial resources also for ensuring the maintenance and operation of the secondary offices. In developing the draft budget the Court President and the Head of the secretariat are supposed to also take into account the needs of the secondary offices.
- Although the efficient use of public funds constitutes one of the objectives of Law No. 76, it is thought that this objective hasn't been achieved.

### **19. Training needs of judges and of the court staff following the reorganization of courts.**

- It is necessary to ensure training of the personnel in the field of the ICMS functionalities. These trainings are also necessary for the reason of existence of a permanent personnel turnover within the courts. It would be useful to organize such training on the site, i.e. within the courts premises.
- In case of the Chişinău court, it would be useful to carry out training of judges taking into account their specialization.
- Before the liquidation of the District Commercial Court applications for civil cases and criminal cases used to be within the jurisdiction of this court. At present these applications are submitted to the courts in accordance with territorial jurisdiction. In this context, training of judges in the field of commercial litigations appears necessary.

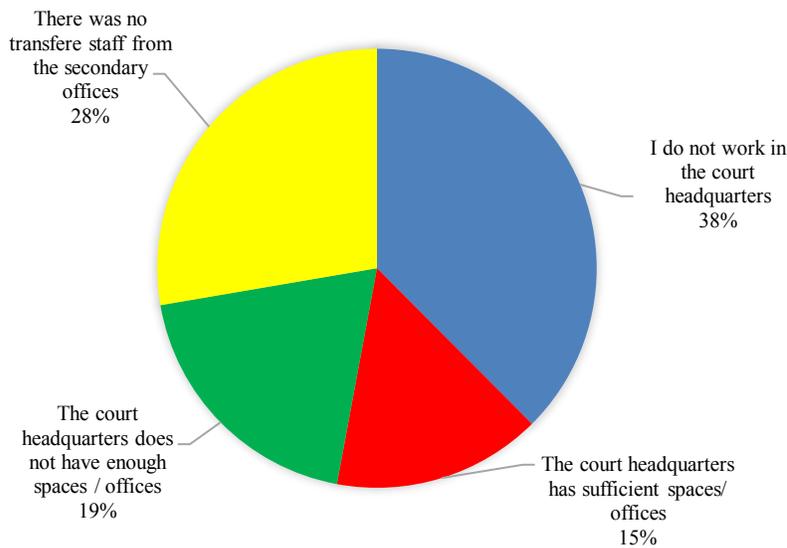
## **20. The need to update the web sites of the CSM, of the AAIJ/MJ and of the courts' portals with additional information on the reorganization of the courts.**

- The need to update the web sites and the portal of courts with detailed information on the reorganization of the courts was reiterated. It is thought that parties to proceedings haven't got sufficient information regarding the undertaken reform. This can be also explained by the fact that the Law on civil procedure and the Law on criminal procedure stipulate the possibility of lodging applications initiating proceedings in any court office located within the territory of the defendant's domicile. Therefore, the parties to proceedings did not feel the effects of this reform.
- The SCM, in partnership with the ACA/MOJ, Ministry of Justice, National Institute of Justice, Chişinău District Court, the State Chancellery, non-governmental organizations and mass media representatives, benefitting of the support of the European project "Increased Efficiency, Accountability and Transparency of Courts in Moldova (ATRECO)", plans to organize information campaigns dedicated to the optimization of the courts' mapping and to the identification of benefits and of the social impact on the society following the sizing down of the number of judges from 44 to 15. The information campaigns are planned to take place in September-October 2017, in localities where the newly created courts are operating after the reorganization. The information campaigns shall target both the general public and the professionals (judges, prosecutors, lawyers, legal assistants, clerks). Issues to be discussed during these information campaigns relate to the impact of the reorganization on judges; changes to the judiciary; discussion of challenges, benefits and impediments; identification of the impact on litigants as a result of the judiciary reform; identification of the impact of specialization of judges (benefits and challenges); implementation of the electronic file, etc.
- It is recommended to update the web-sites and portals of the courts with information relating to the territorial jurisdiction of the newly created courts and of the courts of appeal. We believe that this information is useful for the litigants.

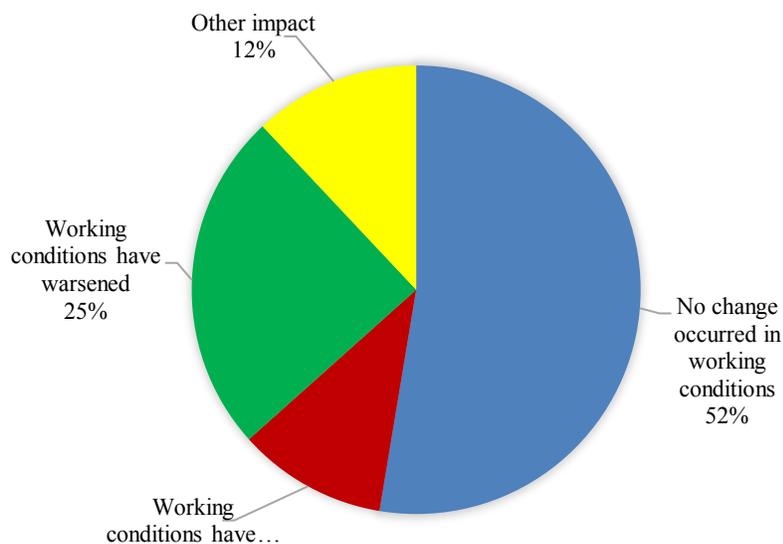
## B. PRESENTATION OF RESULTS OBTAINED VIA THE OPINION SURVEY OF THE COURT PRESIDENTS, COURT JUDGES, HEADS OF THE SECRETARIAT, COURT ASSISTANTS AND CLERKS

### I. COURT INFRASTRUCTURE

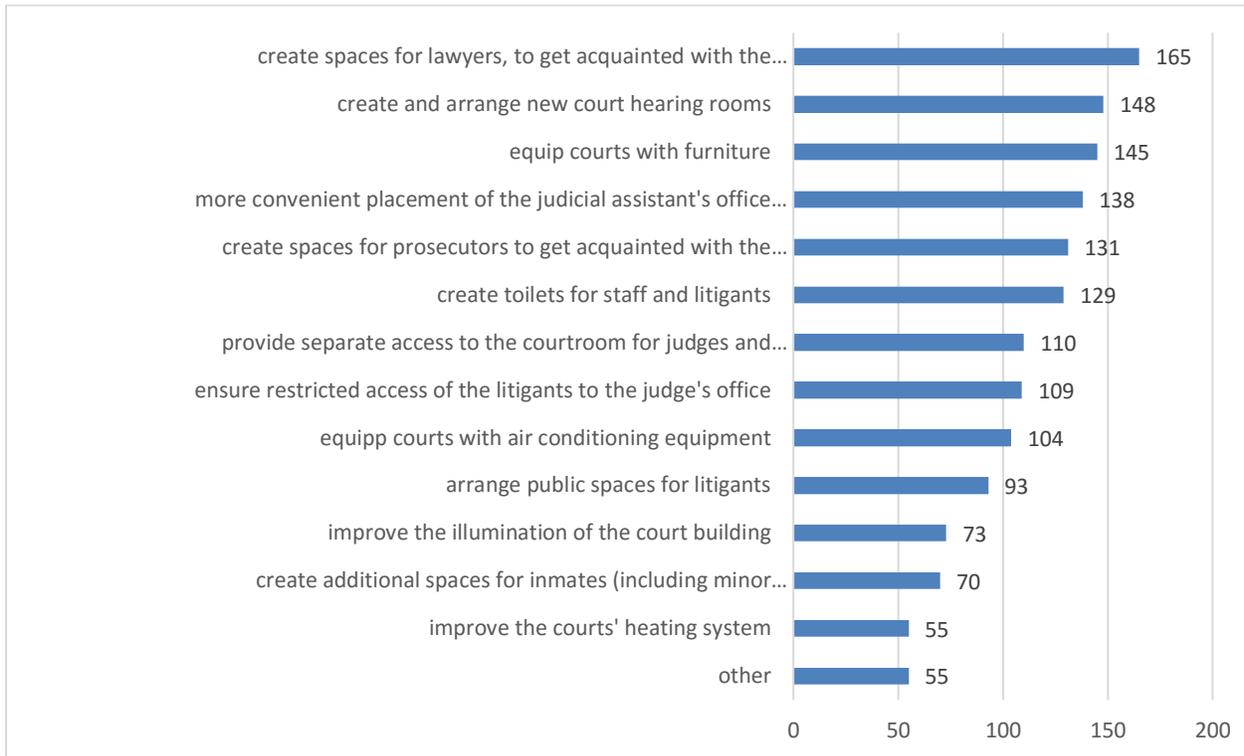
#### a. Does the court headquarters has sufficient spaces to accommodate the new court staff (transferred from the secondary offices)



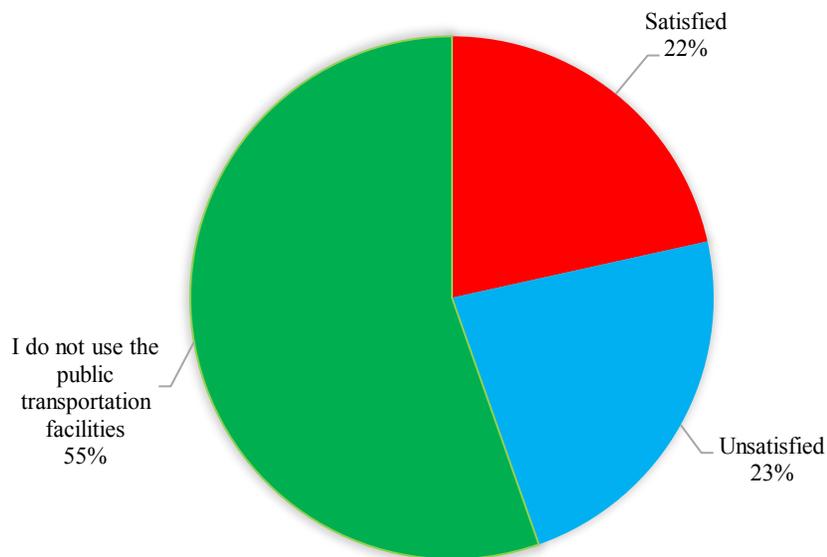
#### b. How did court reorganization affect your working conditions within the court of law?



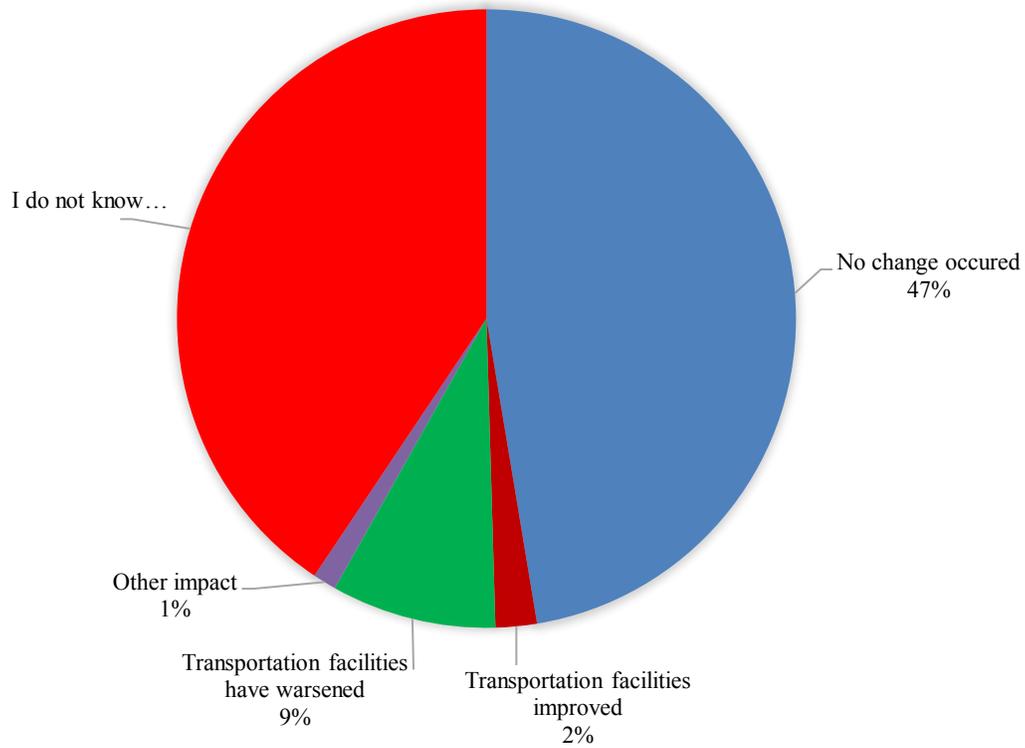
**c. What improvements are needed within the court office where you activate?**



**d. Are you are satisfied with the transportation facilities made available by the Local Public Authorities to reach the court?**



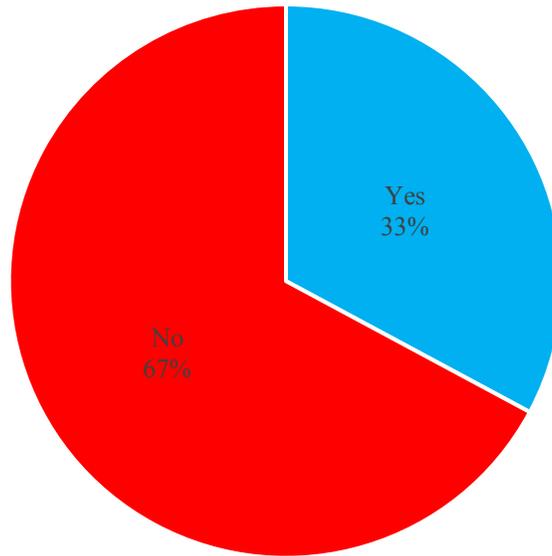
**e. What was the impact of the reorganization of the courts on the transport facilities made available to the court?**



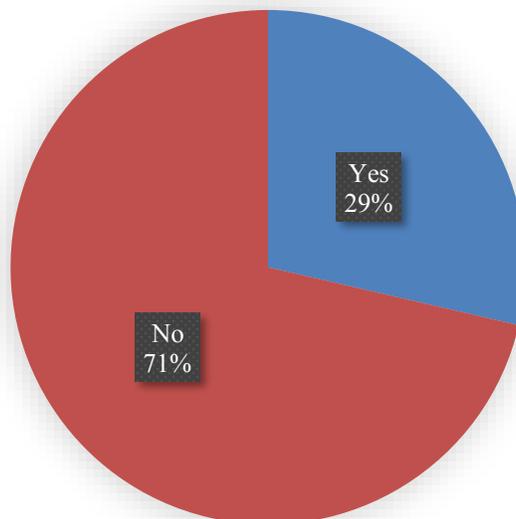
## 2. AUTOMATIZATION OF THE COURT OF LAW

### Courts' web portal

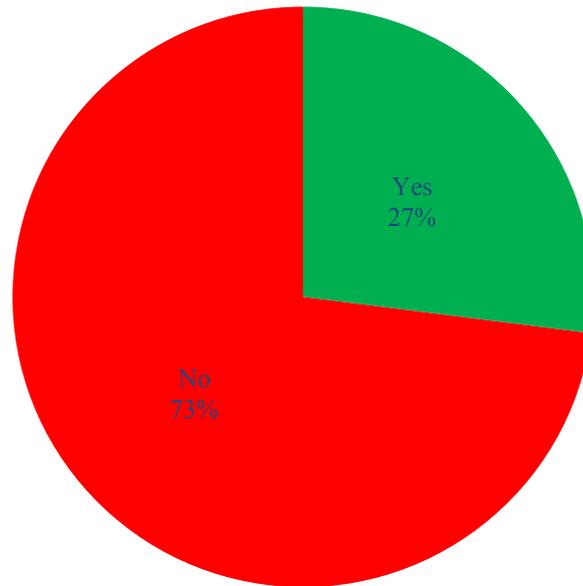
- a. Do you consider it necessary to modify the court portal (webpage) as a result of the reorganization of the courts?



- b. Do you think it necessary to update the SCM web site with information on the reorganization of the courts?

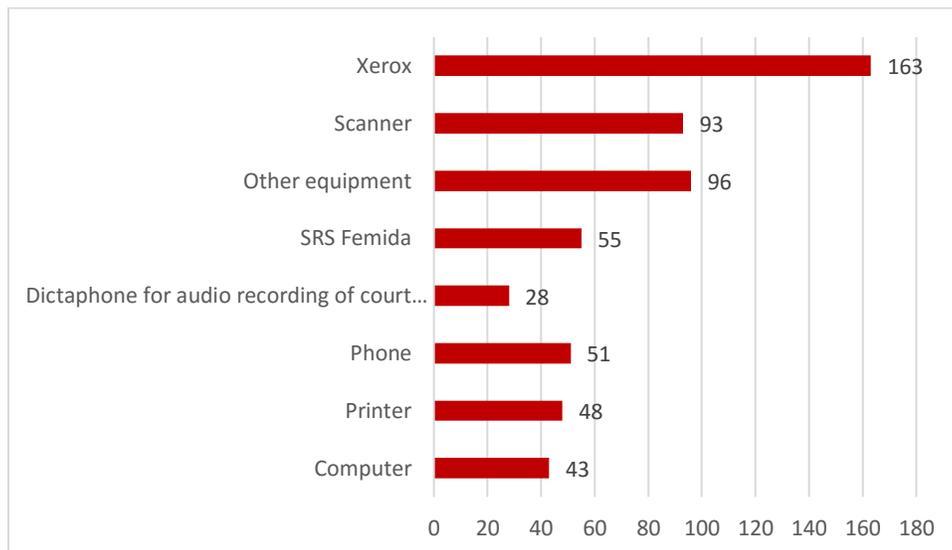


**c. Do you think it necessary to update the MOJ and ACA/MOJ web site with information on the reorganization of the courts?**

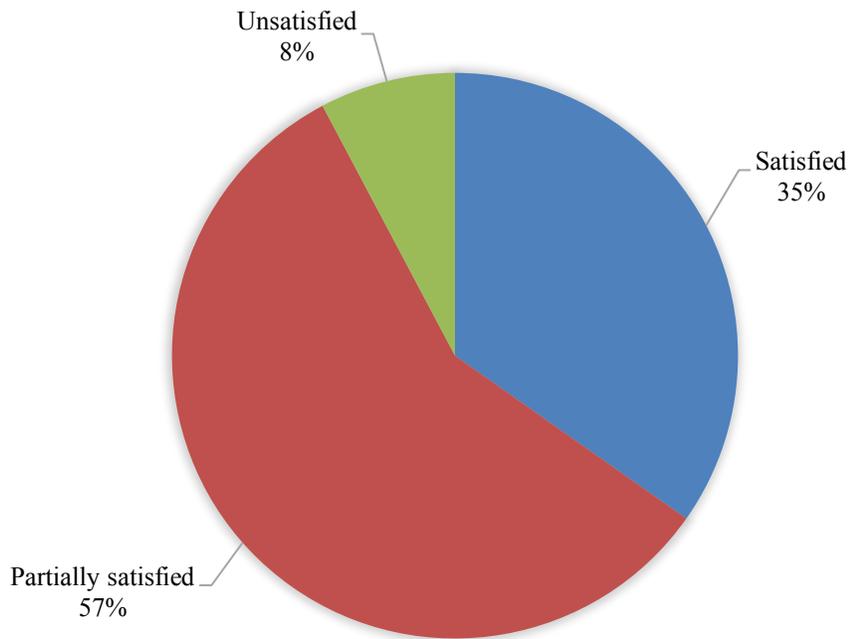


**Court Equipment**

**a. Specify the equipment you lack in your professional activity**

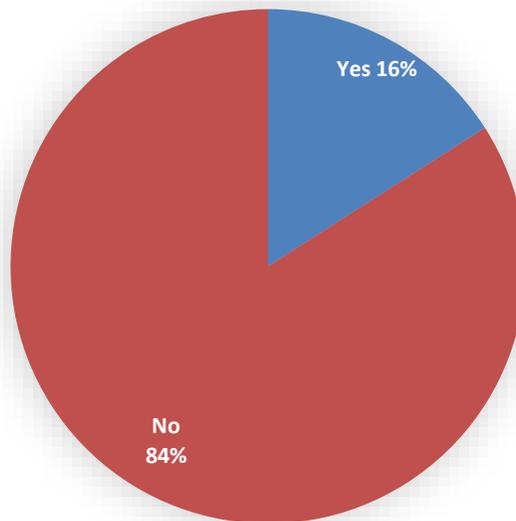


**b. To what extent are you satisfied with the state of the office equipment?**

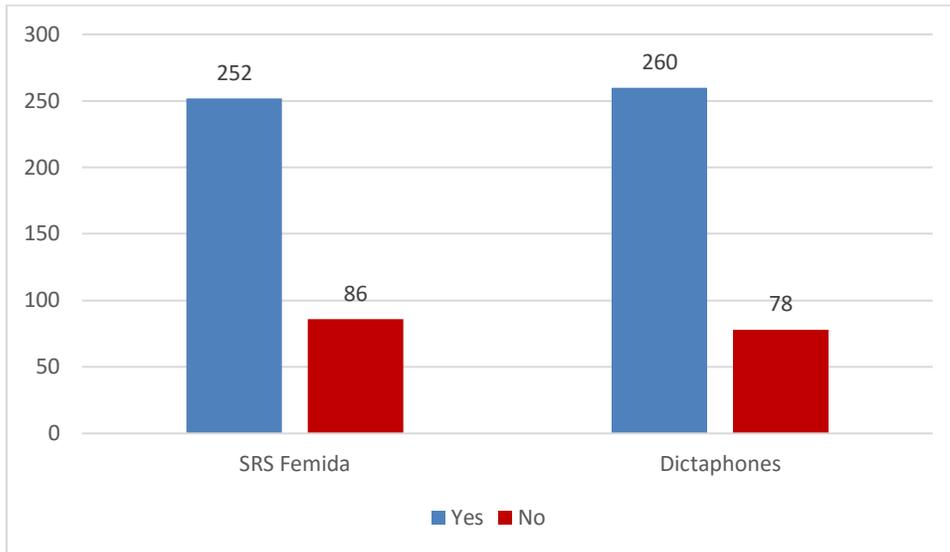


**ICMS**

**a. Difficulties in using the ICMS as a result of the reorganization of the courts**

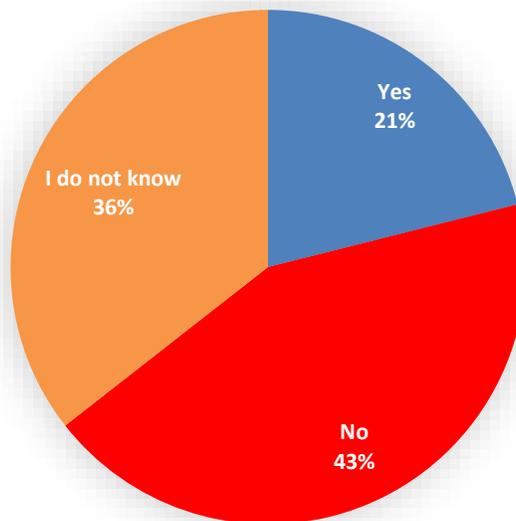


**b. Rate of use of audio recording equipment (SRS Femida and Dictaphones)**

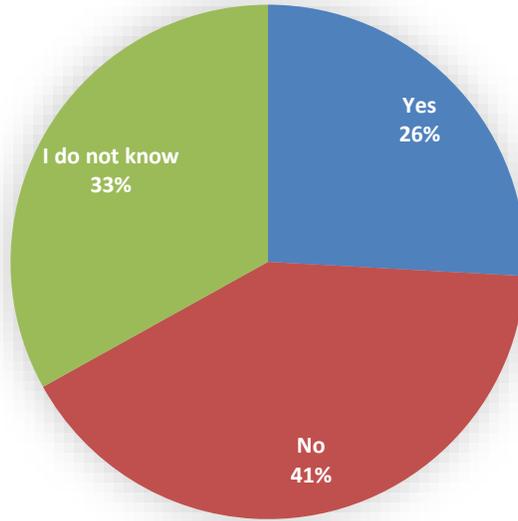


**3. COURT OF LAW ACTIVITY**

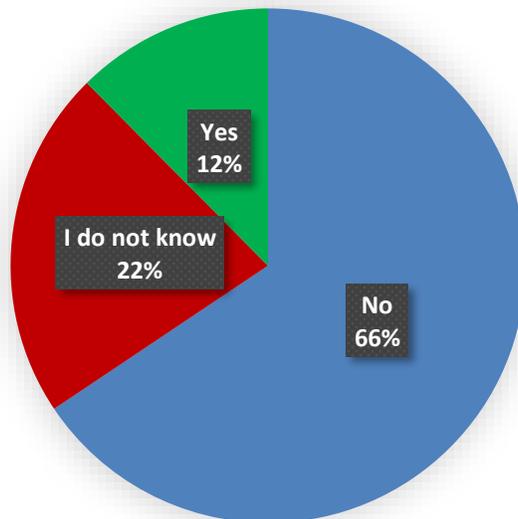
**a. Did you encounter difficulties in communicating and transmitting information between the headquarters and the secondary offices as a result of the reorganization of the courts?**



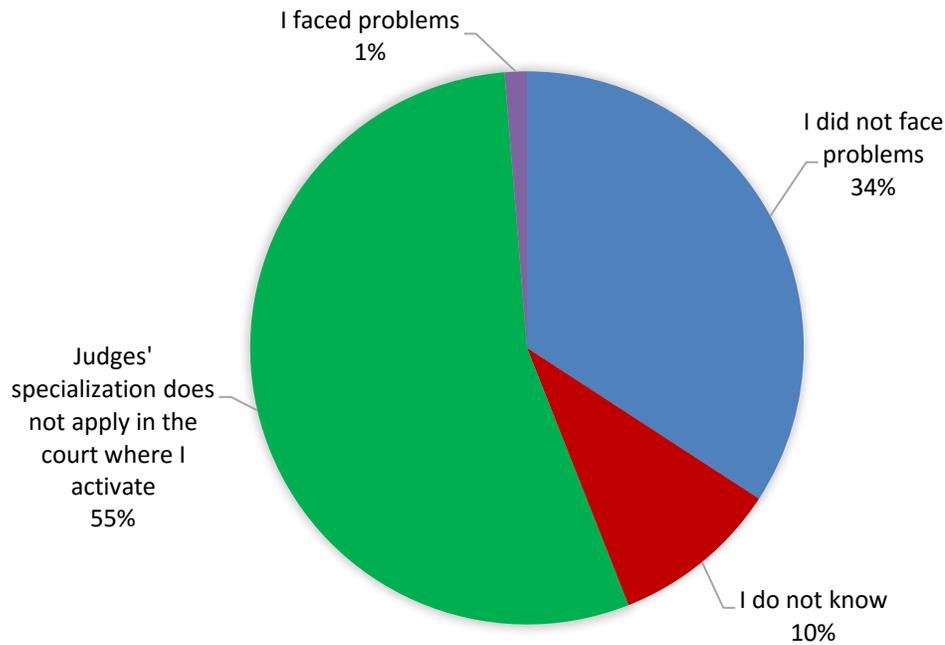
**b. Have you encountered difficulties / problems in transporting files / documents as a result of the reorganization of the courts?**



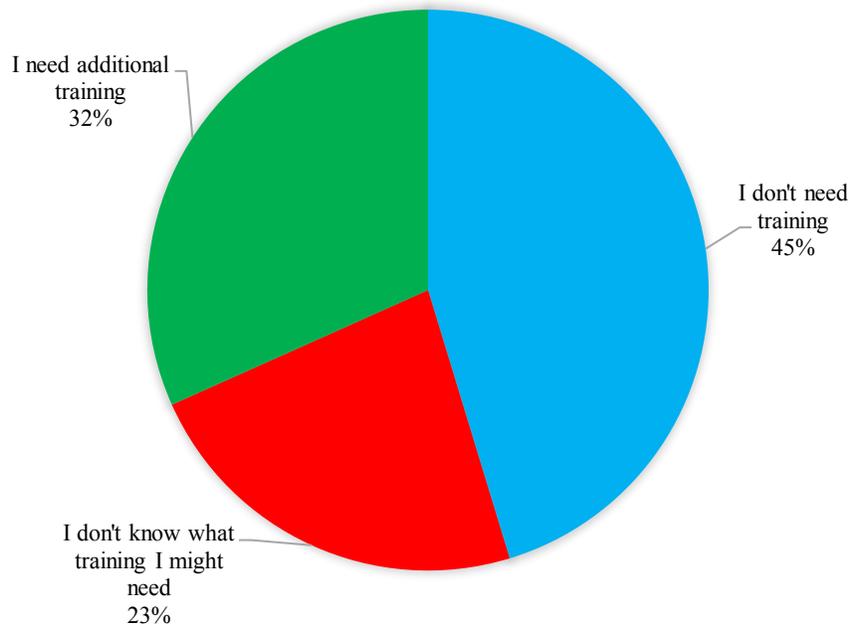
**c. Have you encountered difficulties / problems in transporting / escorting inmates to ensure their attendance at court hearings?**



**d. Specify if you encountered problems (if any) as a result of specialization of judges in civil and criminal matters**



**e. Identify your training needs as a result of the reorganization of the courts**



## **VII. CONCLUSIONS REGARDING THE MAIN DIFFICULTIES FACED BY REPRESENTATIVES OF THE KEY INSTITUTIONS OF THE JUSTICE SECTOR IN THE PROCESS OF REORGANIZATION OF THE COURTS**

### **A. OPERATION AND MAINTENANCE OF THE BUILDINGS OF THE COURT OFFICES**

#### **1. Central offices of the newly created courts do not have sufficient space to accommodate the new staff transferred from the secondary offices, nor space to store archives.**

On average, 33.6 percent of surveyed persons mentioned that the central office of the court they work in does not provide sufficient space to accommodate the transferred staff from secondary offices following the reorganization of the courts.

Law No. 76 on the reorganization of courts stipulates that the head of the Court Secretariat shall work exclusively in the court central office. The staff of the merged courts secretariats and the one of the courts that ceased their activity was employed by the Secretariat of the newly-created courts (depending on the available personnel vacancies). In this situation, the files and other documents kept by the archive of the merged courts are transmitted to the newly created courts for storage.

Thus, most central court offices do not have sufficient space to accommodate the transferred staff from the secondary offices. Also, the section responsible for endowment of the court (the archive Service) does not have the necessary space to store the archives from the secondary offices. The court reorganization assumes that each of the 15 courts will have a single archive, irrespective of the number of offices that the court has, which will be located in the court headquarters. Through the SCM Decision No. 19/1 of January 10, 2017 the transmission of case files and other documents in the archives of the courts headquarters was disposed. According to the existing standards, each court is required to have rooms specially arranged for the storing archives. The headquarters of some courts do not have room for archived case files.

#### **2. The central offices face difficulties in carrying out the management and supervision of the secondary offices' staff.**

Art. 2 of Law No. 76 on the reorganization of courts stipulates that, until the establishment of operation in one single venue, *the President, the Deputy President and the Head of the Court secretariat shall work in the central office of the newly created court.* Given the absence of senior staff in the secondary offices the management and control of the secondary offices' staff has to be performed by the central office of the court. This cannot be always done in an operative way and, therefore, certain aspects connected with the organization of the work of the secondary offices' staff are performed by the central office with delay. In view of this it is necessary that weekly meetings are organized with the secondary offices' staff.

## **B. THE WORKLOAD OF THE COURTS**

Following the implementation of the Law on the reorganization of courts, it was found that judges from certain courts do not have a uniform workload.

Thus, judges and technical staff working in different offices of the same court have different workloads. This is due to the fact that the law allows litigants to file complaint or application to initiate proceedings in any court located within the territory of the defendant's domicile or of the legal person's headquarters.

There is an assumption that the parties to the proceedings take advantage of this legal provision to select the court where most convenient or favorable to their application. This results in some courts — usually the central court — having a greater workload than others.

Thus, it is expected that the workload will be distributed in an equitable manner among judges once the new courts are established and once the fair distribution of files by the ICMS in a random, centralized way (rather than within the same office) is ensured.

As a result of the courts' reorganization, the court administration and its secretariat are placed in the court headquarters. Some of the staff of the secretariat were assigned to central court office. Also, as a result of the merger of the courts, the number of judges within court headquarters has expanded, which has increased the workload for the employees of the secretariats. Currently, the post of Deputy Chief of the Secretariat was established only for the Chişinău District Court.

## **C. WORKING CONDITIONS IN COURTS**

An average percentage of 27.5% of respondents think that the working conditions in courts worsened as a result of the reorganization process. 11.6% of respondents think that the working conditions have improved and 42.7% of respondents think that there has been no change of the working conditions.

Given the fact that after the reorganization process the judges and the technical staff of the courts continue working in the same premises (with the exception of persons transferred to the central office), it is presumed that the working conditions remained the same.

Some of the respondents, working in the secondary offices of the court, have noted that the Court lacks an adequate supply of office supplies, especially paper and household goods.

## **D. THE CONDITIONS OF THE OFFICE EQUIPMENT, AUTOMATION OF THE COURTS, ELECTRONIC RANDOM DISTRIBUTION OF FILES THROUGH THE ICMS**

### **I. Office equipment status**

An average of 7.4 percent of respondents mentioned that they are not satisfied with the level of the office equipment (computer, printer, scanner, and copier). Although Law No. 76 does not provide for an endowment of funds for the refurbishments of the courts, nevertheless, the respondents thought that the modernization of the technical equipment in the courts will facilitate a better

collaboration among the court offices and will improve the courts' performance. Thus, the following problems regarding the automation of the courts were reiterated:

- A number of courts do not have got the "SRS Femida" equipment for ensuring the audio recording of all meetings (not all courtrooms are equipped with such equipment);
- Lack of copy machines and scanners;
- Use of ICMS is problematic given the obsolete status of computers;
- Central offices of some courts do not have safes for storage of files.

## 2. Use of the ICMS

Judges and the staff of the courts mentioned the difficulties indicated below, connected with the use of the ICMS. One should note that certain problems mentioned here are not necessarily the result of the reorganization of the courts.

- Following the reorganization of the courts and the development of the ICMS configuration, in line with Law No. 76, the courts reported difficulties in data entry and in using the ICMS, as well as the existence of multiple system errors.
- Persons employed in the position of the ICMS manager have their working station in the central office of the Court. Thus, the secondary offices are facing difficulties in carrying out operative changes in the system, something that requires the assistance of the central office of the Court.
- It is necessary to review the ICMS electronic reporting of statistical data so that it produces comprehensive electronic data. At present, the courts carry out the collection and analysis of statistical data in a manual way.
- The algorithm at the basis of the distribution of applications initiating proceedings /or files (civil, criminal and administrative) is not applied in line with the stipulations of the Law No. 137 of 03.07.2015 on Mediation.
- The ICMS module, used for publication of decisions/sentences/conclusions on the web site and on the portal of the courts, operates with errors. Anonymity of personal data is carried out with difficulty and it is often performed manually.
- The module for the automated electronic distribution of files constitutes the most frequently mentioned difficulty, both during the focus groups discussions and in the completed electronic questionnaires. The *Regulation regarding the random distribution of cases before the courts, approved by the Decision of SCM No. 110/5 of 5 February 2013, item 31, stipulates that before the creation of the necessary conditions for the operation of courts in reorganized offices, as requested by Law No. 76, the responsible persons performing the registration of applications/files within ICMS, shall indicate as incompatible the judges from other premises of a particular court office, thus ensuring the application of the random distribution principle exclusively with respect to judges from the respective office. **Consequently, we note the following problems identified following the realization of the random distribution of files to judges of each separate office:**
  - The increase of workload in some offices of the courts, following the introduction of the stipulation of the law according to which litigants are allowed to lodge complaints to*

- initiate proceedings in any court office located within the territory of the defendant's domicile or of the legal person's headquarters (article. 38, CPC). Article 40 of the CPP, specifies that the criminal case is examined by the Court in the territory in which the alleged infringement was committed.
- In the secondary offices of the courts with a small number of judges (1-3 judges), the electronic random distribution of cases becomes **ineffective and predictable**. Thus, we believe that a court, consisting of such a small number of judges, cannot contribute to enhancing the confidence of citizens in the judicial system.

The electronic random distribution of files within a unique office shall be conducted following the full implementation of Law No. 76 on the Reorganization of Courts and the creation of conditions for the operation of courts reorganized in a unique office.

### **3. Use of the SRS Femida and dictaphones**

Surveyed persons indicated that they use the "SRS Femida" audio recording equipment and the portable dictaphones". A number of difficulties were identified in connection with this issue:

Some courts, following the process of reorganization and transfer of Presidents and Deputy Presidents to the central offices, do not have any additional session rooms or sets of the SRS Femida equipment.

## **E. COMMUNICATION AND TRANSMISSION OF INFORMATION AMONG THE COURTS HEADQUARTERS AND THE SECONDARY OFFICES**

An average of 35 percent of surveyed persons indicated that they haven't experienced difficulties in the realization of communication among the court central office and the secondary offices while 27.7 percent of respondents indicated that they are facing difficulties in their communications with the central office.

The following problems were identified by the respondents:

- Communication between the courts is not efficient and is not carried out in a speedy manner. Transmission of information from the central office to the secondary office is frequently delayed. Often, the information received by the secondary offices is not veridical— there are mistakes and the information is sometimes not completely accurate. Also, in some courts, the weekly meetings with the staff are held only in the central office, without the participation of the staff from secondary offices.
- There is no coordination between courts on important aspects of court activity. Thus, for example, in carrying out public procurement procedures the financial department of the central office does not take into account the needs of the secondary offices.
- In some cases, it is perceived that the central office employees due to a sense of superiority, fail to show respect towards the employees belonging to other different offices creating a sense of division. Despite the merger and establishment of new courts following reorganization, this divisiveness has persisted.

- Communication with the employees of the human resources department is a difficult one. Following the reorganization of the courts, the department of human resources operates only in the central office of the courts. This creates difficulties for the interaction of the secondary office employees with this department (access to the personal folder, lodging applications, etc.).

The remedies that are already used for the improvement of communication or transmission of information between offices are as follows:

- E-mail and/or phone calls. Thus, the electronic mail is used for the transmission of various procedural acts, such as final conclusions of the President of the Court on the creation of the panel of judges, the appointment of judges to do examination of applications for objection or abstention, etc.
- Transmission of documents/files via the court transportation vehicles or via the state enterprise "Post Office of Moldova".
- Visits of the court management to the court secondary offices to attend planning meetings with the secondary offices.

Absence of an effective inter-institutional communication system creates difficulties for the rapid settlement of a number of problems arising in the work of the Court. Also, the need to carry out the transmission of judicial documents and files from one office to another, in the absence of operational means at the disposal of the Court for that purpose, causes a delay of the examination of applications/petitions submitted by judges (in situations where the Law provides a short-term examination). Good communication and the rapid transmission of documents between offices require extra costs and extra time spent by the court employees. Among other things, we note that the failure to coordinate the important aspects of the Court activity with the entire court personnel could result in the use of different practices in the settlement of certain problems.

## **F. TRANSPORTATION OF CASEFILES/DOCUMENTS BETWEEN THE COURT OFFICES**

About 25.8% of respondents indicated that they are facing difficulties connected with the transportation of documents/files between different Court offices. Following the reorganization, the activity of the courts involves the need of transmission of casefiles and other judicial acts from one court office to other premises. This creates difficulties for the realization of the operative examination of certain applications or petitions, submitted by the parties to proceedings, and of the organization /administrative problems faced by the Court. The court staff reported that the budget funds of the Court, earmarked to cover the transportation costs, were not increased after the reorganization of the courts, in spite of the substantial growth of the need to use the court vehicles for transportation of documents/files. Often, the files are transported to the secondary offices via services provided by the S.E. "Post Office of Moldova", in which cases the transportation takes several days. This represents a major problem with respect to examination of issues for which the Law provides short term examination. Difficulties have been also reported regarding transmission of files from the first instance courts to the Courts of Appeal, this action often being performed in violation of the terms provided for by the legislation.

## **G. ESCORTING OF DETAINED PERSONS TO ENSURE THEIR PRESENCE IN THE COURT SESSIONS**

Following the reorganization of the courts, courts reported some difficulties related to ensuring the presence of inmates at the court hearings. While, 65.6% of respondents reported that they did not encounter problems with the escorting of persons under arrest, 12.4% reported that they had encountered such problems. Here are some issues identified by courts in this regard:

- The escort service gives priority to the escort needs of the Chisinau district court, serving the district courts later, causing delays in the holding of hearings in those courts.
- Escorting detainees, in some courts, is only done after 12.00 p.m.
- Some penitentiaries are located at a great distance from the secondary offices of the courts, which influences the timely presence of the detainees at the court hearings.
- Lack of financial resources for the transportation and safety of detainees
- Lack of spaces designed for detainees at several court headquarters

## **H. TRAINING NEEDS OF JUDGES AND THE COURT STAFF FOLLOWING THE REORGANIZATION OF THE COURTS**

A total of 31.7% of respondents stated that they need additional training following the reorganization of the courts. One should note that while CRO brought attention to the need for training of judges and court staff, most of the areas proposed for additional training were identified prior to the reorganization of courts. The following areas have been identified for the future training:

- Training of the court chancellery specialists on issues connected with lodgment and registration of applications and files;
- Communication with litigants
- Development of statistical reports
- Use of information technologies
- Time management
- Types of communication
- Methodology to be followed in the development of criminal procedure and administrative acts
- Methodology to be followed in the development of civil procedure
- Examination of cases by instruction judges
- Examination of insolvency disputes
- Legal qualification of criminal offences
- Examination of offences of the transportation area
- Examination of sexual offences

- Ownership rights
- Civil contracts
- The compulsory judicial mediation procedure
- Examination of disputes concerning ownership and succession rights
- Specialization of judges in civil and criminal matters. Organization of training courses in area relevant to specialization of judges.
- The succession law.

## **I. INFORMATION OF LITIGANTS REGARDING THE REORGANIZATION OF THE COURTS**

Based on the analysis of the questionnaires completed by the courts' staff during the survey dedicated to the issue of modifying the courts' portal and the web sites of the CSM, the MoJ and ACA/MoJ via the introduction of additional information on the reorganization of the courts, in order to inform citizens on the initiated reform, one can conclude that most respondents do not believe that a modification of web pages is necessary. The results of the survey showed that 67.1 percent of the respondents think that there is no need to modify the courts' portal and only 29.5 percent of the respondents think that it requires additional changes. One should also note that, on average, 73 percent of the respondents think that the web sites of CSM, MOJ and ACA/MOJ do not need to be modified via the introduction of additional information regarding the reorganization of the courts.

The following is a list of recommendations frequently mentioned by the respondents with reference to this issue.

### **I. Recommendations related to the courts' portal:**

- It was recommended to display information on the courts' portal, separately, for each Court office. Thus, pursuing the goal of ensuring easy access of the parties in a case to published information, it was recommended that each court office publish the agenda of the court sessions separately. At present, the list of all sessions is published together, making it hard for the public to separate out a particular court's activities. At present, the portal contains no search criteria of particular information based on the Court premises.
- It was recommended that a survey of citizens dedicated to the reorganization of the courts focusing on the impact and benefits of the reform be conducted and the findings published on the courts' portals.
- It was recommended that a search criterion be included for court decisions based on the name/surname(s) of the participants to the proceedings.
- It was recommended that a search criterion be included for court decisions based on the title of the file (keywords). One should note that at present, the portal provides the possibility to search the decisions based on the article in the Code the case was brought under.
- It was recommended that the list of pending applications to the Court be displayed.
- It was recommended that the the web portal interface be modified to be more user-friendly

- It was recommended that a separate heading be included for the publication of vacant positions/ contests to fill in vacant positions in the courts.

## **2. Recommendations for the websites of CSM, MoJ and ACA/Moj:**

- It was recommended that the the web site be updated with information regarding the judiciary of the Republic of Moldova following the implementation of provisions of Law No. 76 on Reorganization of Courts (presentation of the information regarding the newly created courts, indicating the location of the secondary offices).
- It was recommended that the website of the CSM and AAJ include information about the actions undertaken to implement the Law No. 76 on the Reorganization of the Courts.
- It was recommended that information useful for the public be included regarding the reorganization of the courts (the effects and benefits following the implementation of the reform, the process followed in merging the court premises, and future actions).

## **J. PUBLIC PROCUREMENT CHALLENGES FACED BY THE COURTS**

On average, 66.7% of the respondents said they did not encounter any difficulties in carrying out public procurements as a result of the reorganization of the courts, and 26.7% said they had encountered such difficulties. We will continue to summarize the most frequently encountered challenges on this issue:

- Law on public procurement no. 131 of 03.07.2015 provides that only the legal entity governed by public law may have the status of contracting authority. Following the reorganization of the courts the liquidation of legal persons (secondary offices) took place and the transfer of assets and liabilities to the newly created courts. Also, following the reorganization of the courts, the head of the secretariat and the president of the court moved to the headquarters of the court. Accordingly, public procurement is carried out only by the court headquarters. Secondary offices no longer have legal authority and, respectively, cannot carry out independent public procurement.
- The respondents noted, in some cases, the need to include representatives from the secondary offices in the public procurement commissions established by the headquarters. This is necessary due to the fact that in some cases, the needs of secondary offices are not taken into account / consulted before public procurement is carried out.
- The courts (headquarters) encounter difficulties in concluding contracts for the purchase of goods and services and ensuring their delivery in the secondary offices.

## **VIII. SOLUTIONS AND RECOMMENDATIONS FOR ADDRESSING THE ENCOUNTERED DIFFICULTIES/PROBLEMS**

Law No. 76 on the reorganization of the courts, as well as the Information Note issued by the MOJ to the law stipulates that the reorganization process will take place in two stages (Art. 2 of the Law). The first stage, the merger of the courts, began on 1 January 2016. The second stage involves the unification of court offices, the establishing of a single headquarters and elimination of secondary offices), which will be completed by 31 December 2027.

We conclude that some of the problems and difficulties faced by the courts in the reorganization process will be removed when the last stage of reorganization is completed, namely the unification of court premises.

The assessment undertaken by Open Justice found that court staff face difficulties in organizing the court's work, and that there has been a substantial increase in workload for some of the headquarters. We believe that these difficulties could have been avoided if the reform had provided, from the start, unified offices for the courts of law and the incorporation of the ICMS to effect random distribution of cases among all court judges. In this way, Law No. 76 would have achieved the objective of equitable distribution of tasks between courts, effective use of public funds, and the creation of premises for the specialization of judges.

Given that the second phase of the reorganization is planned by 2027, we consider necessary to identify solutions to facilitate the transition process envisaged by the reorganization reform. In this context, we propose below some solutions identified by the Open Justice Project.

### **A. IMPROVING THE COMMUNICATION ASPECTS BETWEEN COURT PREMISES**

As the courts will have more offices before the completion of the second stage of the reorganization process, it is necessary to establish an effective system of communication between court headquarters and secondary offices. For this purpose it is useful to create common public maps between the courts' offices for the purpose of transmitting documents, and procedural acts, as well as to provide the court staff with access to information needed carry out their tasks in a thorough, accurate and timely manner. It is also advisable to equip courts with technical equipment for videoconferencing. This would reduce the need for the court administrative staff to travel to the secondary offices for weekly planning meetings. In the case of the impossibility of organizing video sessions with secondary offices, it is recommended that planning meetings with the staff of the secondary offices be organized regularly. Given that the assessment carried out by the Open Justice Project identified that the needs of the secondary headquarters are often not consulted in time by the court headquarters, some organizational problems are not resolved in a timely fashion which contributes to inefficiencies and delays in the courts. Thus we recommend that regular meetings be held either by videoconferencing or by visits to the secondary courts by headquarter staff to improve the quality of court administration and the efficiency of the courts.

## **B. IMPROVING THE PROCESSES OF ENSURING THE TRANSPORT OF CASEFILES/DOCUMENTS BETWEEN COURT PREMISES**

Due to the fact that the reorganization of the courts has considerably increased the necessities of using the court vehicles for the transmission of case files and other court documents between court offices, there is a need to increase the allocated budgetary means for purchasing fuel. Also, in order to reduce transportation costs, it is advisable to equip the judges, in particular the president of the court, with digital signatures. The court president often has to go to the secondary offices to sign various documents. This is highly inefficient and time consuming and can be easily remedied by using the digital/electronic signature.

## **C. USING THE INTEGRATED CASE MANAGEMENT SYSTEM (ICMS)**

Within each secondary office, by order of the president of the court, a judge is appointed in to be in charge of the organizational activity of the court. This measure was necessary because the administration of the court (the president and the deputy chairman) is located in the court headquarters. The judges from the secondary offices, responsible for the organizational activity of their respective office, require access to the ICMS and the support provided by the ICMS manager. At present, the ICMS manager carries out his professional activity at the court headquarters, which makes it difficult to solve technical needs regarding the use of ICMS within the secondary offices.

The most frequently mentioned challenge during this assessment was the need to unify ICMS for the random assignment of cases among all court judges, in order to more systematically and evenly disperse the workload between offices. We consider that such a change will not be feasible until a single headquarters is established for the courts. Otherwise, substantial financial expenses will be required to carry out the transport of casefiles between the courts.

## **D. INFORMING THE PUBLIC ABOUT THE COURTS REORGANIZATION**

We believe that a more concerted action should be taken to inform the public about the courts' reorganization. Given that the reorganization process as it is currently being carried out also affects the litigant to a large extent (by altering the territorial jurisdiction of the courts and courts of appeal), we consider that litigants and the public in general require detailed information about the decision making process for merging the courts, the territorial jurisdiction of the courts, and how random distribution of cases works, etc. Moreover, by improving the public's understanding of this reform initiative, and by positing its short-term difficulties against its long-term benefits, public support for the reform will strengthen. This support will be critical to the success of the Court Reorganization effort and the establishment in Moldova of a more efficient, fair, and transparent court system.

**2. Superior Council of Magistracy Decision No. 558/25 dated August 8, 2017 on Establishing the Working Group for Streamlining the Reorganization of the Courts (Activity 1.1.1.3)**

## SUPERIOR COUNCIL OF MAGISTRACY

2009, 5, M. Eminescu St., Chişinău, [www.csm.md](http://www.csm.md); email: [aparatul@csm.md](mailto:aparatul@csm.md) tel.:  
022-990-990, fax: 022-22-73-20

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### DECISION

on the motion from the Open Justice Project regarding the establishment of a  
Working Group for streamlining the reorganization of the courts

August 8, 2017  
No. 558/25

Chişinău

After deliberations on the motion from the Open Justice Project regarding the establishment of a working group for streamlining the reorganization of the courts, taking note of the SCM's Chairman Victor Micu, the Plenum of the Superior Council of Magistracy

### FOUND:

The Superior Council of Magistracy received a motion from the Open Justice Project's Chief of Party (COP) Cristina Malai regarding the appointment of two representatives of the SCM and five representatives of the judiciary (including from the regions) to a working group for streamlining the reorganization of the courts.

The working group would facilitate the courts reorganization process, namely, it would review the results of the assessments carried out by the Open Justice Project to identify the impact of the courts reorganization and the cost-benefit of the courts' merger, and would assess the condition of the offices of the merged secondary courts. The working group would recommend amendments to applicable laws and regulations, and to the current institutional framework to ensure, among other things, a better use of advanced information technologies by the judiciary, and would help to identify other actions necessary for an efficient implementation of Law No. 76 "On the Reorganization of the Courts."

The motion proposes to approve the working group members by a consensus of the Superior Council of Magistracy and the Ministry of Justice of the Republic of Moldova.

In addition to the members designated by the SCM, the working group would have representatives of the Ministry of Justice, the Agency for Courts Administration, the Open Justice Project, and the donor community.

The Plenum of the Superior Council of Magistracy accepts the motion of the Open Justice Project's COP Cristina Malai and will appoint its representatives, and representatives of the courts, to the working group for streamlining the reorganization of the courts.

Considering the above, pursuant to Articles 4, 17, 24, and 25 of the Law on the Superior Council of Magistracy, the Plenum of the Superior Council of Magistracy

### **RULES:**

1. To accept the motion from the Open Justice Project's COP Cristina Malai regarding the establishment of the working group for streamlining the reorganization of the courts.

2. To appoint the following persons to the working group for streamlining the reorganization of the courts:

- Nina Cernat, Member of the SCM;
- Dorel Musteață, Member of the SCM;
- Radu Țurcanu, Chief Judge, Chișinău Court;
- Veronica Cupcea, Chief Judge, Orhei Court;
- Sergiu Osoianu, Chief Judge, Strășeni Court;
- Ghenadie Măra, Judge, Anenii Noi Court;
- Dmitrii Fugenjo, Chief Judge, Cahul Court;
- Henryk Montygierd, Key Expert, ATRECO Project;
- Nadejda Plămădeală, Legal Consultant for Objective 1, Open Justice Project;
- Natalia Ionel, Communications and Outreach Specialist, Open Justice Project

3. This decision may be subject to an appeal at the Supreme Court of Justice only with respect to the issue of adoption procedure, by any interested party within 15 days from the date of communication.

4. This decision shall be published on the SCM's website ([www.csm.md](http://www.csm.md)) and its copies shall be sent to the Open Justice Project and to the Ministry of Justice of the Republic of Moldova for information.

**Chairman of the Plenary Session of the  
Superior Council of Magistracy**

**Victor MICU**

**3. Ministry of Justice Letter No. 01/10415 dated September 19, 2017  
on Delegating Representatives to the  
Working Group for Implementing Relevant Actions Related to  
Court Reorganization and Optimization (Activity 1.1.1.3)**

**MINISTRY OF JUSTICE OF THE REPUBLIC OF MOLDOVA**

*September 19, 2017, No. 01/10415*

**To Ms. Cristina MALAI**  
**Chief of the Open Justice Project**  
Chişinău, 27 Armeneasca St., 2<sup>nd</sup> floor,  
MD-2012

The Ministry of Justice has received your request regarding the appointment of representatives of the Ministry of Justice and of the Court Administration Agency to the Working groups

1. for streamlining the courts reorganization
2. for improving the judicial selection and promotion procedures

The Ministry of Justice has appointed the following representatives:

The Working group for streamlining the courts reorganization:

- I. **Raisa Moroza**n, Advisor to the Cabinet of the Minister of Justice
- II. **Valentina Grigoriş**, Chief of the Court Administration Agency

The Working Group for improving the judicial selection and promotion procedures:

- I. **Elena Corolevschi**, Chief of the Directorate for Court Administration and Judicial Information Systems, Court Administration Agency

Sincerely yours,

**Minister of Justice** *[signature]*

**Vladimir CEBOTARI**

**4. Feasibility Study for Implementing a Videoconferencing Solution in the Courts to Ensure Remote Communication of the Parties to a Trial (Activity 1.1.2.3)**



**USAID**  
FROM THE AMERICAN PEOPLE

# FEASIBILITY STUDY

## IMPLEMENTING A VIDEOCONFERENCING SOLUTION IN COURTS TO ENSURE REMOTE COMMUNICATION OF THE PARTIES TO A TRIAL

September 11, 2017

### **DISCLAIMER**

This document was produced for review by the United States Agency for International Development. It was prepared by Millennium DPI Partners, LLC. The views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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## ACRONYMS

|            |   |
|------------|---|
| ACA        | Agency for Court Administration                                   |
| CTS        | Center for Special Telecommunications                             |
| DPI        | Department of Penitentiary Institutions                           |
| EGC        | e-Government Center   |
| ICMS       | Integrated Case Management System                                 |
| IOM        | International Organization for Migration                          |
| MCloud     | Shared Government technological platform based on cloud computing |
| MOJ        | Ministry of Justice   |
| SCM        | Superior Council of Magistracy                                    |
| SRS Femida | Software used in Moldovan courts of law to record court hearings  |
| USAID      | United States Agency for International Development                |

# I.0 INTRODUCTION

## I.1 Purpose of the Study

Millennium DPI Partners, LLC, an international development firm based in the United States of America, is currently implementing the United States Agency for International Development's (USAID's) Open Justice Project in Moldova. The Open Justice Project is assisting the Government of Moldova to improve the efficiency and transparency of the Moldovan judicial system and improve access to justice for the citizens of Moldova. Under Objective I of the project (increased efficiency of the justice system), Sub-Objective I.1 (Court reorganization and optimization implemented), the Open Justice Project is aiming to “consolidate services and processes such as on-line payment of court fees, video and audio recording of court sessions or meetings, **conducting court hearings via videoconferencing**, and electronic filing of court documents.”

According to the Government of Moldova's Action Plan for 2016–2018<sup>1</sup>, the Ministry of Justice (MOJ) is planning to ensure extended functionality of the Integrated Case Management System (ICMS), including compulsory audio-video recording of court proceedings and the use of videoconferencing in conducting court hearings.

At the same time, according to the Strategy for the Development of the Penitentiary System for the years 2016–2020 and the Action Plan for its implementation<sup>2</sup>, the Department of Penitentiary Institutions (DPI) is responsible for the optimization of interaction of the penitentiary institutions with the courts of law and for creating infrastructure for conducting online court hearings.

Therefore, the establishment of a common videoconferencing solution will enhance the process of planning, organizing, and conducting court sessions, ensure proper celerity of judicial procedures, and reduce the costs currently incurred by the penitentiary system to escort detainees to the courts of law.

The purpose of this feasibility study is to assess the practicability of implementing a videoconferencing solution between the central offices of the courts of law and penitentiaries as well as other related institutions and actors (e.g., experts, translators, witnesses). The study looks into the experience and best practices of other countries in ensuring remote participation in trials, evaluates current technological enablers and constraints (including the current equipment and software used in courts and related institutions), and tries to identify practical and sustainable solutions for using modern technical means in court proceedings.

Since the MOJ and the DPI are already planning to introduce videoconferencing for remote participation in trials, the study will not analyze the changes required to the legal framework and the

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<sup>1</sup> Government Decision no. 890 of 20.07.2016 (<http://lex.justice.md/md/365929/>)

<sup>2</sup> Government Decision no. 1462 of 30.12.2016 (<http://lex.justice.md/md/368928/>)

feasibility of promoting such changes because this analysis already has been conducted as part of preparing and promoting the relevant strategies and action plans.

## 1.2 Benefits

Ensuring court presence of parties using videoconferencing systems has many advantages, among which are the following:

- Protection of the anonymity of witnesses and convicts
- Better security for the participants in the case
- Significantly lower costs related to transportation of detainees to the courts and associated logistics
- Fewer delays related to unavailability of parties and, as a result, an increased number of cases processed within the deadlines for hearing
- Fewer cases brought by detainees to the courts (the practice of other states shows that after the introduction of videoconferencing systems, the number of calls to leave the penitentiary under the pretext of visiting the court decreased considerably)
- Increased number of witnesses who file depositions
- Increased level of satisfaction of the parties and trust in the judicial process
- Reduction of cases of inhuman or degrading treatment of convicts while being transported to the courts

## 1.3 Scope

| Inclusions  |
|---|
| Analysis of experience and best practices of other countries in using videoconferencing for remote participation in court proceedings   |
| Analysis of current technological enablers and constraints within both the courts and penitentiaries but also generally available on the market   |
| Identification of potential technical solutions for ensuring remote participation in trials, taking into account the experience of other countries and the existing technical enablers  |
| Exclusions  |
| Analysis of existing legal framework and required changes. This study assumes that the analysis of the legal framework has been performed separately as part of preparing and promoting the relevant government strategies and action plans outlined in the introductory section.   |
| Human resource availability and capabilities. This study assumes that there is sufficient capability within the Agency for Court Administration (ACA), the DPI, and the courts of law to ensure operation of the videoconferencing solution, based on previous experience using ICMS, audio recording of trials using SRS Femida software, and the videoconferencing solution operating in the DPI. |

## **I.4 Relationship to Other Documents**

This study is in alignment with the Work Plan for the Open Justice Project in Moldova, the Government of Moldova's Action Plan for 2016–2018, and the Strategy for the Development of the Penitentiary System for the years 2016–2020.

## 2.0 PROBLEM STATEMENT

### 2.1 Environment

#### 2.1.1 Legal Framework

For the purposes of this study, we will define “court hearing” as a structured process of retrieving information on investigated cases by the court judge. It is important to note for the use of videoconferencing that the interview involves direct contact of at least two actors, which ensures that both subjects are able to see and hear each other. This means that other technical solutions like phone conversations and/or photography are not sufficient to ensure a fair and unbiased hearing.

As far as the technical means used for court hearings are concerned, both the Code of Civil Procedure<sup>3</sup> and the Code of Criminal Procedure<sup>4</sup> allow using technical means, including video recording in court proceedings, including remote hearings of witnesses, under provisions of the Law on Protection of Witnesses and Other Participants to Criminal Proceedings.<sup>5</sup>

However, the Superior Council of Magistracy (SCM) regulation<sup>6</sup> only covers the digital audio recording of court hearings and does not touch upon specific procedures for using audio-video technologies for remote participation to court hearings.

It is also notable that the MOJ is currently in the process of amending the Code of Criminal Procedure in order to expressly allow detainees to participate in trials using videoconferencing.

At this point, even though the legal pre-conditions for remote appearances in court are in place, the use of technical means like videoconferencing to ensure this presence in court in the Republic of Moldova has reduced applicability due to lack of equipment in courts and is only being used for the hearing of witnesses in specially equipped rooms, where available.

#### 2.1.2 Institutional Setup

The following institutional actors are relevant in the context of using videoconferencing for remote participation in the courts:

- **Superior Council of Magistracy (SCM)**, as the body of judicial self-administration tasked with, among other things, ensuring good governance of courts.
- **Ministry of Justice (MOJ)**, as the authority that sets the vision and develops the strategy for the reform of the justice sector and as the policy maker in this field.

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<sup>3</sup> Code of Civil Procedure no. 225 of 30.05.2003, (<http://lex.justice.md/md/286229/>)

<sup>4</sup> Code of Criminal Procedure no. 122 of 14.03.2003 (<http://lex.justice.md/md/350171/>)

<sup>5</sup> Law on Protection of Witnesses and Other Participants to Criminal Proceedings no. 105 of 16.05.2008 (<http://lex.justice.md/md/328268/>)

<sup>6</sup> Regulation on digital audio recording of court hearings, approved by Decision of Superior Council of Magistracy, no. 338/13 of 12.04.2013 ([http://csm.md/files/Acte\\_normative/REGinregistrarea%20audio.pdf](http://csm.md/files/Acte_normative/REGinregistrarea%20audio.pdf))

- **Agency for Court Administration (ACA)**, as the administrative authority that ensures organizational activity of the courts of law and courts of appeal.
- **Courts of law and courts of appeal**, as the institutions conducting the trials.
- **Department of Penitentiary Institutions (DPI)**, as the authority that is in charge of administering the penitentiary institutions and management of detainees.
- **Center for Special Telecommunications (CTS)**, as the institution currently ensuring technical maintenance of the courts of law and courts of appeal and the videoconferencing solution of the DPI.

### 2.1.3 Geographic Location of the Parties

Even though the SCM, MOJ, ACA, and CTS are located in Chisinau, the courts of law and courts of appeal as well as the penitentiary institutions are dispersed geographically throughout Moldova. The technical solutions for videoconferencing should take this aspect into account as well as any other potential constraints of remote locations (e.g., network bandwidth, network availability and resilience, etc.).

Moreover, the experts, witnesses, and other participants in the trial could be geographically located outside the Republic of Moldova, and this scenario, though less common than the others, should be accounted for as well.

### 2.1.4 Technical Capabilities

#### 2.1.4.1 Courts of Law and Courts of Appeal

**IT equipment:** Generally, the courts of law and appeal are modestly equipped. The computers are typically in sufficient quantity but for the most part they are quite old and slow.<sup>7</sup> Configurations include fifth generation Intel Core i3 or lower CPUs with 2–4 GB of RAM. In the case of a software videoconferencing solution that would rely on PCs to run, the existing computers would need to be replaced.

**Audio-video solutions:** Most courts are equipped with the SRS Femida software system for audio recording. Even if this solution supports video recording, that capability has not been used so far.

Since 2012, the Courts of Appeal in Balti, Cahul, and Chisinau have witness rooms, equipped with videoconferencing kits installed as part of the project "Capacity Building for the Investigation and Prosecution of Human Trafficking Crimes in Moldova" funded by the US State Department and implemented by the International Organization for Migration (IOM).

#### 2.1.4.2 Superior Council of Magistracy

**Audio-video solutions:** SCM uses a Polycom HDX 8000-720 videoconferencing system with a Polycom RSS 4000 Recording and Streaming Solution to record and stream its ordinary meetings on the institution's website.

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<sup>7</sup> This statement is backed up by a recent survey conducted by the Open Justice Project in September 2017.

### 2.1.4.3 Department of Penitentiary Institutions

**Audio-video solutions:** The DPI is using a software-based video conferencing system on *TrueConf Server*<sup>8</sup> platform provided and maintained by CTS.

## 2.2 Problems and Challenges

By far, the biggest problem perceived by both the courts of law and the penitentiary institutions is the transportation of detainees to the courts for trial. This poses significant logistical and financial challenges as outlined below:

- In the case of the distribution of criminal cases to other headquarters than the one where the criminal prosecution has been completed, the need for escorts is doubled, which involves additional expenses and delays in the completion of the cases. For instance, in 2016 alone, the DPI had over 1 million MDL in escorting expenses, which accounts for more than 4,000 escorts.<sup>9</sup>
- As a result of the courts' reorganization and optimization, detainees must be escorted greater distances than before which is more expensive.
- An escort typically begins from 11:30 a.m. to 12:00 p.m. at the earliest, which is often a cause for delays. Also, there is a particular inconvenience for the territorial courts because the courts in Chisinau are always serviced before the regional courts.
- Some courts lack enough cells to hold detainees attending court hearings.
- In some cases, one detainee is requested by several courts on the same date, which makes it physically impossible for that detainee to be present in multiple locations.
- In some cases the transportation is not possible due to the health condition of detainee.
- There are few to no technical supports for escorting persons with disabilities.
- The means of transportation sometimes do not allow the separation of detainees, which raises personal safety issues.
- Sometimes transportation is not possible due to external factors such as weather conditions, etc.
- The computers in the courts of law are often obsolete, which makes them unsuitable for everyday tasks and prevents them for being potentially reused for software-based videoconferencing systems.
- Finally, the existing system in the courts of appeal for remote witness hearing is under-used, which is most likely due to the current legal framework, which does not prescribe situations in which videoconferencing should be used.

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<sup>8</sup> <https://trueconf.com/>

<sup>9</sup> Data from DPI information note to the draft amendments to Code of Criminal Procedure no. 122-XV of 14.03.2003



## **2.4 Proposed Vision, Technology, and Processes**

Taking into account the technological advancement, experience, and best practices of the European Union and other countries, this study outlines an approach for the Moldovan justice system to implement a modern cross-institutional and cross-functional videoconferencing system that would fulfill the following functions.

### **2.4.1 Videoconferences between the courts of law and penitentiary institutions**

ACA together with the DPI should optimize the interaction of the penitentiary institutions with the courts of law and to create the infrastructure for conducting online court hearings, which, besides significant cost savings, will contribute to a more transparent and inclusive judicial process.

Moreover, the DPI is currently using a videoconferencing system based on *TrueConf Server*. The same solution could be extended to equip penitentiaries with video equipment and connect them with the courts of law at relatively low cost (see the Cost section below for details).

### **2.4.2 Videoconferences to allow remote participation of witnesses, experts, translators, etc., in court hearings**

The videoconferencing solution installed in the courts of law could be re-used by ACA to allow the remote participation of witnesses, experts, translators, etc., in court hearings. With the proper legal framework in place, the process could allow witnesses and experts to use their personal computers /laptops and even smartphones to connect to the courts.

### **2.4.3 Video conferences between SCM and courts of law**

SCM could use the existing Polycom videoconferencing system to connect via videoconference between its central office and the courts of law and courts of appeal. Existing equipment could be reused to reduce costs and avoid re-training of staff using other technologies.

### **2.4.4 Video recording of court hearings**

Since, according to item 3 of the Moldovan Government Action Plan for years 2016-2018, the MOJ would like to ensure extended functionality of the ICMS by including compulsory audio-video recording of court proceedings and the use of videoconferencing in conducting court hearings, the same videoconferencing solution could be used for video recording of court sessions.

As the courts of law are currently using SRS Femida to audio record and manage the court hearings, most judges are familiar with its interface, so the best solution would be to upgrade SRS Femida to be able to record video as well.

## 2.4.5 Broadcasting public court hearings on the web portal of the courts of law

Last but not least, the same solution could be reused to ensure the transparency of judicial processes by allowing live streaming of court hearings on the web portal of the courts of law.

## 2.4.6 Overall system architecture

The general architecture of a videoconferencing system that would cover all the above scenarios and processes while reusing existing infrastructure is depicted in the below diagram. As one can see, it relies on existing infrastructures to connect existing nodes and is based on a central node that stores the address book of all locations and ensures connectivity with all locations. Such a design would allow for a simple user interface for connecting nodes.

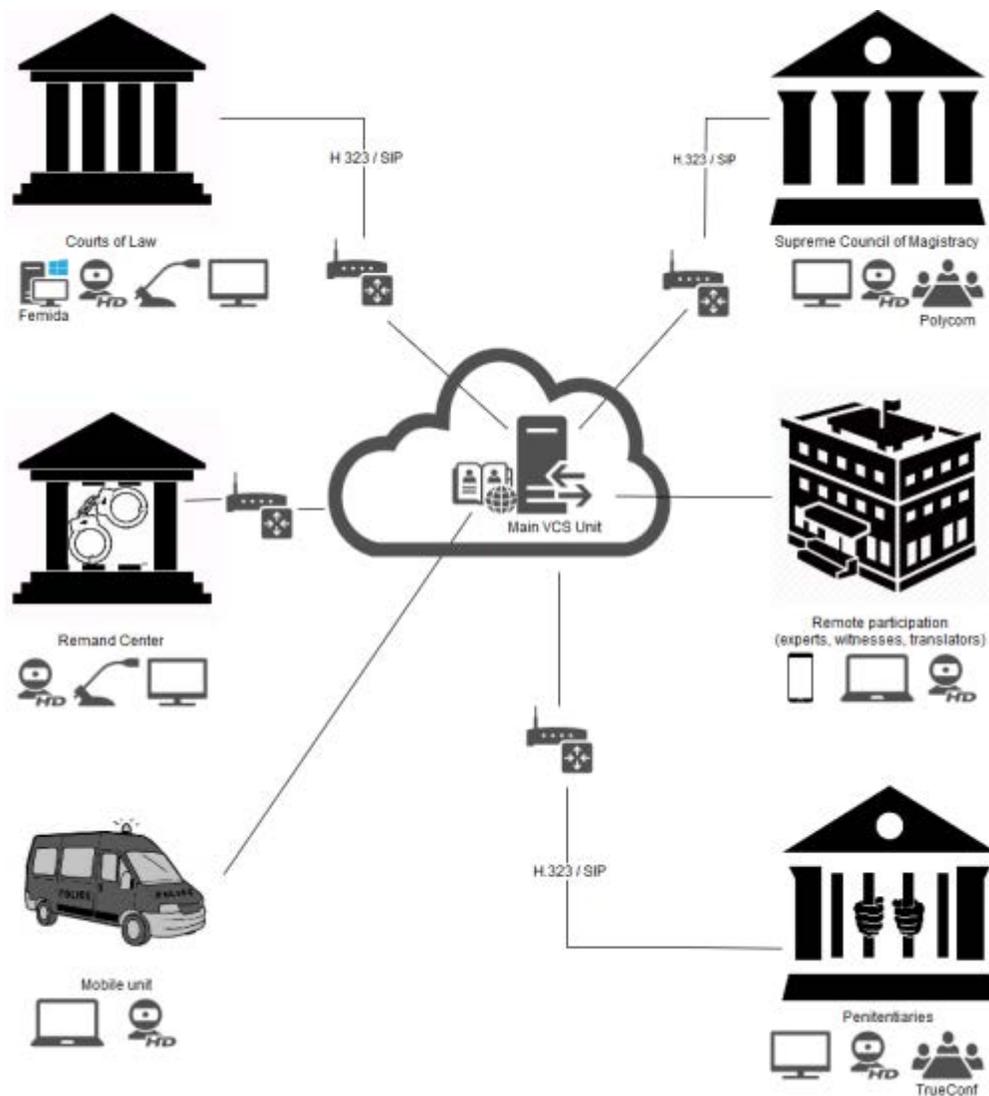


Figure 2. Architecture of the shared videoconferencing system for the justice sector

## 3.0 SOLUTION REQUIREMENTS

### 3.1 Implementation Drivers

The following are the most notable drivers for implementing a videoconferencing solution to allow the remote participation of parties in a trial:

- Savings in the budget
- Ensuring the privacy and safety of witnesses
- Protecting the rights and privacy of the detainees
- Reducing the time required for case examination
- Ensuring transparency in the judicial process

### 3.2 Technical Requirements

In order to ensure that the implemented videoconferencing solution is future-proof and interoperable across all involved actors, the technical requirements should be in line with the recommendations of the European Union's Guide on Videoconferencing in Cross-border Proceedings.<sup>11</sup>

Other specific requirements include:

- The ability to video record court hearings using SRS Femida, including video from penitentiaries or other external connections (e.g., experts, translators, etc.).
- The ability to store recordings of videoconferences and court hearings for archiving purposes both on premises and in the Government Cloud (MCloud).
- The ability to broadcast public hearings on the web portal of the courts of law.
- The ability to apply video and voice distortion options for anonymous witnesses.
- Support for mobile stations in remote locations, and also for disabled persons or people with limited means for travel. This will ensure access to justice for all categories of people. The mobile equipment could also be used in districts where, because of the reorganization of the courts, courts of law will not have offices. In this way, trial participants from these districts will save time and money.

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<sup>11</sup> [http://www.consilium.europa.eu/en/documents-publications/publications/2013/pdf/QC3012963ENC\\_pdf/](http://www.consilium.europa.eu/en/documents-publications/publications/2013/pdf/QC3012963ENC_pdf/)

## 4.0 COST CONSIDERATIONS

Taking into account the existing infrastructures and their condition, as well as potential cost savings from implementing a videoconferencing solution in courts to ensure remote communication of the parties to a trial, from a financial perspective this initiative is fully achievable and sustainable in the long run.

The study cannot offer exact cost calculations for such a solution, as it will depend on the exact technologies, setup, and vendor chosen. However, some general cost estimates are presented below.

| #  | Item   | Cost  |
|----|--|---|
| 1. | Upgrading the desktop PCs in the courts of law and appeal  | US\$ 750 each x 20 courts<br>= US\$ 15,000        |
| 2. | Extending existing videoconferencing systems used by the DPI (TrueConf) in all penitentiaries (20 clients) | US\$ 5,000  |
| 3. | Equipping penitentiaries with videoconferencing terminals  | US\$ 300 each x 17 penitentiaries<br>= US\$ 5,100 |
| 4. | Implementing a videoconferencing solution in the courts of law and appeal                                  | US\$ 50,000                                       |
| 5. | Upgrading SRS Femida to support audio-video recording of court hearings                                    | US\$ 40,000                                       |
|    | <b>TOTAL</b>   | <b>US\$ 115,100</b>                               |

## 5.0 RECOMMENDATIONS AND CONCLUSIONS

In order to leverage all the advantages of a modern videoconferencing solution, the following recommendations are proposed:

- Adapt the legal framework to allow all scenarios identified under section 2.4 Proposed Vision, Technology, and Processes.
- Develop clear rules for storing audio-video recordings of meetings with clear retention policies so as to make it financially and technically feasible to store audio-video recordings of court hearings (clearly identify cases when audio-video recordings are required, store active recordings in the system, archive older recordings on tape library, and delete records according to clearly defined rules).
- Conduct a large-scale communication campaign in order to minimize resistance to change within the judiciary and promote the advantages of the solution.
- Ensure proper training of the judiciary and prepare training materials that are easy to understand and suitable for self-study. Also ensure proper technical support at all stages so as not to compromise the solution due to malfunctions or user errors.
- Pilot the solution on several courts and penitentiaries and gradually expand to cover all courts and penitentiaries as well as roll-out all identified scenarios.
- Ensure proper maintenance of the technical infrastructure either by ACA, CTS, or other capable actors.
- Reuse existing infrastructures, where and if appropriate. This will reduce the required budget, speed up system implementation, and make user adoption easier.
- Although currently there is no viable speech recognition software for speech-to-text conversion for the Romanian language, attention should be paid to evolving technologies such as deep machine learning and artificial intelligence which could make this possible in a foreseeable timeframe. Such a functionality exists already for English, German, Spanish, and some other languages and greatly simplifies the generation, accuracy, and completeness of protocols in the meetings.

## **5. Report on the Study Trip to Odessa, Ukraine (Activity 1.1.2.6)**



**USAID**  
FROM THE AMERICAN PEOPLE

# REPORT ON THE STUDY TRIP TO ODESSA, UKRAINE

SEPTEMBER 12–15, 2017

USAID'S OPEN JUSTICE PROJECT  
IN MOLDOVA

October 30, 2017

## **DISCLAIMER**

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# REPORT ON THE STUDY TRIP TO ODESSA, UKRAINE SEPTEMBER 12–15, 2017

## USAID'S OPEN JUSTICE PROJECT IN MOLDOVA

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## INTRODUCTION

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On September 12-15, 2017, the Open Justice Project organized a study visit to Odessa, Ukraine for representatives of the Project's counterparts involved in promoting and implementing court automation in Moldova. Delegation members included: two representatives of the Superior Council of Magistracy (SCM), two representatives of the Ministry of Justice's (MOJ) Agency for Court Administration (ACA), one representative of the Center for Special Telecommunications (CTS), and one representative of the IT company Soft Tehnica that the Project contracted to develop an overarching Integrated Case Management System (ICMS) for the Moldovan courts. Two Open Justice representatives, Chief of Party, Cristina Malai, and Key Expert, Mihai Grosu were part of the delegation as well. The list of participants is attached in Annex 2 to this Report.

The aim of the study visit was to familiarize the Moldovan counterparts with the results of a successful E-court pilot project implemented in three courts in the Odessa region during years 2015-2017, with technical assistance from the USAID-funded FAIR Justice Project in Ukraine.

The Ukrainian experience is valuable for the Moldovan judiciary in light of an upcoming piloting in Moldovan courts of a new E-file module that will allow online submission of complaints and online real-time communication between courts and case parties. The E-file module will also be integrated into the overarching ICMS that will ensure data exchange among courts and other state agencies, which will significantly increase court efficiency and will be an important step towards setting up time and cost saving paperless courts in Moldova.

As part of the study trip, the Moldovan delegation met with the representatives of the following agencies: the State Judicial Administration Agency (JAA) for the Odessa region, the Prosecutor's Office of Odessa, the State Legal Aid Center under the Ministry of Justice, Kyivskiy District Court of Odessa, the Commercial Appellate Court, and the Odessa Region Court of Appeals. The agenda for the study trip is included in Annex 1.

## E-COURT PROJECT BACKGROUND

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In the fall of 2015, the regional State JAA in Odessa, in cooperation with three courts from the region and several state agencies and law enforcement bodies from the region, developed the E-court pilot project concept.

The E-court pilot project was inspired by the experience of Dubai and Singapore courts, which have streamlined the administrative work processes through the use of advanced information and communication technology (ICT).

The main idea behind the E-court project was to improve the exchange of documents between the justice authorities, state authorities, other external partners and the courts by reducing the time between submitting and receiving documents from the courts.

The **Kyivskiy district court**, the **Ovidiopol district court** and the **Odessa Court of Appeals** are three pilot courts for the E-court project. The Commercial Appellate Court for the Odessa

region is the fourth court that started to implement the E-court project tools on its own initiative, without officially being nominated as a pilot court.

Below there is a brief description of the meetings that the Moldovan delegation had at each hosting entity in Moldova.

## MEETINGS CONDUCTED

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### THE JUDICIAL ADMINISTRATION AGENCY FOR THE ODESSA REGION

The first visit on the agenda was to the JAA for the Odessa region, which is the entity responsible for implementing the E-court project in the region.

At the meeting, Mr. Volodymyr Kutsenko, the JAA Chair, gave a detailed overview of the aim, the implementation stages and the results of the E-court pilot project.

According to Mr. Kutsenko, besides the three pilot courts identified above, the following numerous partner agencies took part in implementing the E-court project: the Ministry of Justice, the Prosecutor's Office, the Bailiff Department, the Judicial Expert Bureau (Forensic Institute), the Migration Service Department, the Police, the Fiscal Service Department, the State Border Guard Service of Ukraine, and the Legal Aid Center of Odessa.

The electronic documents (mostly scanned documents in PDF format) are exchanged through a secured email system between the external partners of the courts and the three pilot courts. The person submitting the file applies his/her electronic signature, in order to guarantee the authenticity of the document and to secure information about the addressee submitting the file. The registry of the courts receives the files and adds them into the case management system.

The costs for the project included the purchase of equipment (email server, high-speed scanners, printers and workstations) for the pilot courts, training of courts' judges and staff, and conducting awareness raising campaigns for the public and participating agencies.

**The implementation of the E-court project brought about two major benefits: 1) a significant reduction in case processing time and 2) a decrease in the cost per case.**

The three tables below, which the JAA provided, illustrate the benefits of the E-court project based on an evaluation of the cost and time saving generated by the electronic exchange between the migration service, the pre-trial investigation and the document exchange with the forensic institute (judicial expertise bureau).

*Note: 1 US Dollar (USD) equals 26.54 Ukrainian Hrivnas (UAH), as mentioned in the tables below.*

**Table 1. Exchange of information between migration service and courts**

| Number of requests to the State Migration Service sent within the e-Court Project and the responses received | Kyiv District Court – 5723<br>Ovidiopil Rayon Court – 89<br>Migration Service - 5 812 | Total number of requests from the local trial courts in 2015 (before piloting E-court project)<br>Courts – 90 000<br>State Migration Service – 90 000 |
|--|---|---|
| Average cost of sending one request (UAH)  | UAH 0   | UAH 10 per request (postal costs)   |
| Average length of processing one request (days)  | 1-2 days (compared to the previous 20-30 days duration)                               | 20-30 days  |
| State funds saved through the implementation period of the e-Court project                                   | UAH 116,240   |   |
| Potential money savings in the region  |   | UAH 1,800,000   |
| Reduction of the average length of court proceedings   | 20-30 days  |   |

The cost and time savings in Table 1 above resulted in eliminating postal costs and significantly reducing the times for sending/receiving documents.

**Table 2. Exchange of information between the office of the prosecutor and the courts**

| Number of Claims, Complaints, Statements sent through the e-Court Project         | Kyivskiy District Court – 364<br>Ovidiopil Rayon Court - 1 | Total number of claims, complaints, statements sent by the courts of the region in 2015 - 39 000 |
|---|--|--|
| Cost of document shipment (UAH, per piece)  | UAH 0  | UAH 5  |
| Average duration of document shipment   | immediately  | 3 hours  |
| State funds saved through the implementation period of the e-Court project        | UAH 1,820  |  |
| Potential savings within the region   |  | UAH 195,000  |
| Reduction of the average length of court proceedings                              | by 1-2 days  |  |
| Document processing (registration, random case assignment, transfer to the judge) | 5 minutes  | 20 minutes   |

Instead of sending paper files to the court (warrants, sanctions and other requests made by the investigator), prosecutors submit these files to the courts electronically.

**Table 3. Electronic exchange of documents between forensic institute and court**

| №  | Document exchange between Kyivskiy Court and the Forensic Institute |                                  | Reduction of court proceedings | Financial savings | Potential financial savings |
|----|---|----------------------------------|--------------------------------|-------------------|-----------------------------|
| 1. | Sent to forensic institute  | Received from forensic institute |                                |                   |                             |
| 2. | 7   | 4                                | From 1 year to 2 months        | UAH 1 000         | Approximately UAH 50 000.   |

As illustrated in the table above, there is a significant reduction of the duration of the court proceedings, due to the fact that documents can be exchanged more swiftly between the experts and the courts. An estimation made by the E-court pilot is that the duration can be reduced from one year to two months. With regard to the potential financial savings it is expected that 50,000 UAH can be saved when the E-court is implemented at a regional level in all courts.

## KYIVSKIY DISTRICT COURT OF ODESSA

At the Kyivskiy District Court of Odessa, the Moldovan delegation met with Mr. Serhii Chvankin, the Court's Chair, and several court representatives (judges and court staff).

Following a background presentation describing the stages of E-court project implementation, the Moldovan team attended a practical demonstration on how the electronic exchange of documents takes place.

When the courts' registry office receives the e-documents, it registers them in the Case Management System, which, in turn, assigns the case, accompanied with the incoming documents, via a random case distribution module. The judges use the electronic files to prepare for the case trial and electronically exchange documents with parties, lawyers and relevant state agencies. The document exchange takes place via a secured virtual private network. Judges can also display the electronic documents on the LED-screens installed in the courtrooms.



*Demonstration of the electronic document exchange*

The judges and court staff emphasized the clear advantages that the e-court system has over traditional exchange of paper documents. Time saving advantages are impressive, as court staff and judges receive documents from their counterparts immediately, without having to wait to receive the paper versions. This has reduced delays related to the traditional delivery of documents via postal and courier services.



*The group in front of the Kyiskiy District Court of Odessa*

## **THE ODESSA APPELLATE AND COMMERCIAL APPELLATE COURTS**

The primary focus of the E-court pilot was on the first level/ district courts. However, from the beginning of the project, the Odessa Appellate Court has been participating in this initiative as well. The Commercial Appellate Court joined the project at its own initiative in late 2016.

Similar to the first instance pilot courts, the two appellate courts have responded positively to the e-court initiative. However, both appellate courts are only to a limited extent involved in the E-court pilot, as the electronic document exchange occurs only between district and appellate courts, and not between the appellate courts and the Supreme Court. Ukraine currently is undergoing a selection and recruitment of new Supreme Court judges, which has slowed the process of developing the IT solutions to ensure the electronic transfer and exchange of case files between the Odessa Appellate courts and the Supreme Court.

Both appellate courts that the Moldovan delegation visited demonstrated how the e-court system works, how the files received from the district courts are received and registered and how the courts turned most of their paper court case registries into electronic registries.

## **ODESSA PROSECUTOR'S OFFICE**

The Moldova delegation also visited the Odessa Region Prosecutor's Office to learn about the implementation of the E-Prosecutor Case Management System (CMS) and how it interacts with the courts under the framework of the E-Court Project.

The public prosecutor is one the key partners for the e-court pilot project. Since there is a large volume of criminal cases that must be exchanged between the courts and the Prosecutor's Office, there is a need for replacing the paper based files with electronic files. Therefore, the Prosecutor's Office is a very important partner in the e-court pilot project. The Prosecutor's Office has developed its own case management-type system, known as the *e-prosecutor system*.

The e-prosecutor system allows for the electronic registration of incoming correspondence, the creation of electronic documents, archiving, electronic reference materials and databases. Similar to the E-courts, the Odessa Prosecutor's Office is equipped with a secure computer network, computers and high speed scanners. This makes it possible when the Prosecutor's Office receives paper based documents from the police, for example, to scan these documents and register them

swiftly in the e-prosecutor system. Currently, the Odessa Prosecutor's Office receives approximately 50,000 incoming documents per year out of which 44,000 documents are being sent to external partners, including the courts.

Prosecutors can prepare their indictments efficiently, by making use of standard templates and electronic databases.

With regard to the exchange of documents between the Odessa regional public prosecution and the e-courts, the public prosecutors present at the meeting clearly indicated the benefits of the E-court pilot. Since certain parts of the criminal procedure are time bound (e.g. a decision about pre-trial detention and custody of a suspect), it is of vital importance that documents from the public prosecutor are swiftly send to the court (e.g. to the investigating judge) in order to make a timely decision about the (temporary) release of a suspect or a prolongation of the pre-trial detention of a suspect.

Also, for the preparation of the court hearings, the E-court system has clear advantages, since all relevant electronic documents can be exchanged with the court without undue delay.

The only limitation that the E-court system currently has, is that the document exchange is limited to sending and receiving electronic files (PDF files with digital signatures) and that the technical platforms used for the E-prosecution system and the E-court system are different. This makes it at the moment difficult to introduce a full electronic exchange of *information*, where key data about the case and the suspects (including personal data) are automatically exchanged and registered in the case management systems of the courts.

## LEGAL AID CENTER IN ODESSA

The Moldovan delegation visited the Odessa Legal Aid Center's office. According to the current Ukrainian legislation, citizens (and companies) can only submit a case to the court through the intervention of lawyers. Citizens do not have direct access to the court system in Ukraine. In order to facilitate the citizens with a low degree of legal knowledge and who cannot afford a private lawyer, legal aid centers are established to help citizens with their legal problems.



*Meeting at the Prosecutor's office*



*Information for citizens on how to electronically submit cases*

The legal aid centers in the Odessa region are participating in the e-court pilot. Also, they have the possibility to exchange legal documents with the courts in an electronic manner. As is the situation with the private lawyers, the E-court initiative is seen by the lawyers of the legal aid centers as a positive development, since it saves time and reduces the need and cost of traveling to and from the courts.

The advantages of reducing the time spent by lawyers of the legal aid centers (and private lawyers) on a case are even more visible in remote and rural areas outside Odessa. For example, the Ovidiopol rayon court covers several rural communities which are not easy to reach by public transportation. Without the e-court initiative, lawyers and parties must spend considerable time traveling to the court to arrange the necessary administrative requirements to submit and register cases at the court or, for example, in obtain documents from the court. With the E-court system in place, there is less need for travelling to the courts. Another advantage of the E-court system is related to the improvement of access to justice. In the Ovidiopol rayon legal assistance can be obtained through the help of lawyers working for local community councils.

## MAIN TAKEAWAYS FROM THE STUDY VISIT

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The visit was very valuable for the Moldovan delegation, as it allowed delegation members to get first-hand information about the costs, advantages, and steps necessary for the implementation of such a complex project.

Upon return, in close consultations with the delegation members, Open Justice developed the following list of main takeaways from the study visit:

1. There is a need to clearly define a list of equipment needed to ensure the secure exchange of documents between courts and other agencies involved in file exchanges with the courts. Clear budgets and procurement plans for purchase and installation of such equipment should be defined as well.
2. It was useful to see the interface for the website for the E-case pilot project: ([Court.gov.ua/ecourt](http://Court.gov.ua/ecourt)).
3. It was useful to learn how data exchange between the courts and the prosecution works.
4. It was useful to receive the list of state agencies and law enforcement bodies that are connected to the courts via the E-court module.
5. Getting to learn about how the electronic signature is used to sign documents and to email documents to case participants, including to bailiffs to enforce court judgments was valuable.
6. The documents that are signed electronically contain a Quick Response (QR) code, which must be implemented in Moldova as well.
7. The judicial panels are automatically formed via the Case Management System and published online, unlike in the Moldova Case Management System, where the panels are formed by the court president at the beginning of every year and are not changed during the year.

8. Publication of the history of the random case distribution, including the information about the pool of eligible judges that were considered for the distribution is a very good practice that must also be implemented in Moldova.
9. The use of LED-screens connected to video-conferencing equipment to share electronic documents and evidence among case trial participants and the court should also be implemented in Moldovan courts.
10. Connection of the Case Management System to the Civil Persons' Registry is paramount to a good functioning of an E-courts project.
11. The practice of summoning parties by email, instead of summoning parties by regular mail saves considerable time and money.
12. The use of summoning of parties by email allowed a savings of 800000 UAH during the first year of piloting the E-court project.
13. Ensuring that everyone is equipped with a free-of-charge electronic signature will significantly speed up implementation of the E-file module in Moldova.
14. Free Wi-Fi in all courts is a an excellent practice to ensure court visitors' comfort while in court.
15. In the Odessa region, all law enforcement agencies are interconnected via a single informational network, which reduced time spent on data exchange.

## CONCLUSIONS

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The study visit to the Odessa region was a very useful and valuable opportunity for the Moldovan judicial representatives to see a successful E-court project in action, as well as to establish strong working relationships with the Ukrainian counterparts. The insight and knowledge received will be applicable when the Moldova judiciary pilots the E-file module and implements the overarching ICMS.

## ANNEX I. STUDY VISIT AGENDA

### AGENDA September 12 – 15, 2017

#### TUESDAY, SEPTEMBER 12

|              |   |
|--------------|---|
| <b>14:00</b> | Leave Chisinau and travel to Odessa   |
| <b>18:00</b> | <b>Arival at the Bristol Hotel</b><br><u>Hotel adress:</u><br>15, Pushkinska str., Odessa, 65026<br>Tel.: +38 048 796 55 44<br>Mob.: +38 050 405 26 55<br>web-site: <a href="http://bristol-hotel.com.ua/en/">http://bristol-hotel.com.ua/en/</a><br><u>Hotel contact person:</u><br>Olga Rachek<br>Deputy Director of Sales Department Londonskaya and Bristol |

#### WEDNESDAY, SEPTEMBER 13

|                      |   |
|----------------------|---|
| <b>09:30 - 10:00</b> | Leave Bristol Hotel and travel to Odessa Agency for Judicial Administration   |
| <b>10:00 – 11:45</b> | Odessa Agency for Judicial Administration<br><br>Meeting with <i>Mr. Volodymyr Kutsenko</i> , Chairman of the Odessa Agency for Judicial Administration<br><br>Introduction on the activity of the Odessa Agency for Judicial Administration and history of the E-Court Project                                     |
| <b>12:00 – 13:30</b> | Lunch   |
| <b>14:00 – 16:15</b> | Kyivskiy District Court of Odessa<br><br>Meeting with <i>Mr. Volodymyr Kutsenko</i> , Chairman of the Odessa Agency for Judicial Administration and <i>Mr. Serhii Chvankin</i> , Chairman of the Kyivskiy District Court of Odessa<br><br>Presentation of the E-Court Project followed by a practical demonstration |

|                      |   |
|----------------------|---|
|                      |   |
| <b>16:15</b>         | Depart Kyivskiy District Court of Odessa and travel to Commercial Appellate Court   |
| <b>16:30 – 17:30</b> | Commercial Appellate Court<br><br>Meeting with <i>Ms. Bogatko Natalia</i> , Chairman of the Commercial Appellate Court<br><br>Discuss activities of the court |
| <b>17:30</b>         | Depart for the hotel  |
| <b>19:00</b>         | Dinner  |

**THURSDAY, SEPTEMBER 14**

|                      |  |
|----------------------|--|
| <b>09:30 – 10:00</b> | Leave Bristol Hotel and travel to the Odessa Prosecutor's Office   |
| <b>10:00 – 11:45</b> | Odessa Prosecutor's Office<br><br>Discussion on the E-Prosecutor Case Management System (CMS) as well as work with the courts under the framework of the E-Court Project |
| <b>12:00 – 13:30</b> | Lunch  |
| <b>13.30 – 14.00</b> | Travel to the State Legal Aid Council / Ministry of Justice  |
| <b>14:00 - 15:30</b> | State Legal Aid Council / Ministry of Justice<br><br>Meeting with the Council representatives. Discussions on the E-Court Project  |
| <b>15:30 - 16:00</b> | Depart to Odessa Oblast Court of Appeals   |
| <b>16:00 - 17:15</b> | Odessa Oblast Court of Appeals<br><br>Discussions on the E-Court Project   |
| <b>17:30</b>         | Travel to the hotel  |

| <b>FRIDAY, SEPTEMBER 15</b> |  |
|-----------------------------|--|
| <b>09:30</b>                | Leave hotel and travel to the Odessa Agency for Judicial Administration                          |
| <b>10:00 – 12:00</b>        | Wrap-up meeting at the Odessa Agency for Judicial Administration. Questions and answers sessions |
| <b>12:00 -13:30</b>         | Lunch  |
| <b>13:30</b>                | Leave Odessa and travel to Chisinau  |

## **ANNEX 2. STUDY VISIT PARTICIPANTS**

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### **List of Study Visit Participants:**

1. Victor MICU, Chairman, Supreme Council of Magistrates (SCM)
2. Dorel MUSTEATA, SCM Member
3. Eugen LUPUSOR, Administrator, IT Company "Soft Tehnica"
4. Alexandru MECINEANU, Administrator of Information Systems, Center for Special Telecommunications
5. Diana PROCOP – Chief, Department of legislation and jurisprudence, Agency for Court Administration / Ministry of Justice
6. Victoria PALANCIUC, Chief, Unit of judicial administration and information systems, Agency for Court Administration / Ministry of Justice
7. Cristina MALAI, Chief of Party, USAID Open Justice Project
8. Mihai GROSU, Key Expert, USAID Open Justice Project

## **6. Functionality Requirements for the Case Management System and Changes to the Integrated Case Management System 4.1.2 (Activity 1.1.2.7)**

APPROVED

APPROVED

\_\_\_\_\_  
Vladimir Cebotari  
Minister of Justice

\_\_\_\_\_  
Victor Micu  
Chairman of the Superior Council  
of Magistracy

" \_\_\_\_ " \_\_\_\_\_ 2017

" \_\_\_\_ " \_\_\_\_\_ 2017

***FUNCTIONALITY REQUIREMENTS TO THE CASE MANAGEMENT  
SYSTEM***

***CHANGES TO THE INTEGRATED CASE MANAGEMENT SYSTEM 4.1.2***

| No. | Menu  | Court of law                                    | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|---|---|---|---|
| 1.  | <b>Claims — the menu<br/>“Registration of claims<br/>— civil cases”</b><br><br><b>Case files — the menu<br/>“Registration of case<br/>files — civil / criminal /<br/>contraventional cases”</b> | All courts<br>(first-level<br>and<br>appellate) | ICMS will have a different assignment algorithm for civil claims, and civil, criminal, and contraventional case files in line with <i>LAW No. 134 of June 14, 2007, “On Mediation.”</i><br><br>According to <b>Article 182<sup>1</sup></b> (1) of the <a href="#">Civil Procedure Code</a> , judicial mediation is a mandatory procedure for amicable settlement of the claims brought before the court, carried out with its assistance and under its authority, in the following cases:<br><br>a) consumer protection;<br>b) family disputes;<br>c) property ownership disputes between individuals and / or legal entities under private law;<br>d) labor disputes;<br>e) litigations arising from tort liability; | <b>1</b>  |

| No. | Menu   | Court of law                           | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|--|--|---|---|
|     |  |  | <p>f) probates;</p> <p>g) other civil litigations worth less than MDL 200,000, except the litigations in which an enforceable decision to initiate insolvency proceedings has been pronounced.</p> <p>At the request of the parties, judicial mediation may also take place in other cases than those described in par. (1).</p>  |   |
| 2.  | <p><b>Claims — the menu “All claims” and the Claims menu “Orders”</b></p> <p><b>Case files — the menu “All case files” and the Case file menu “Orders”</b></p>             | All courts (first-level and appellate) | <p>In the menu “Orders,” after clicking on the “Add” button and the “Select an order” field, the nomenclature will be extended with:</p> <ul style="list-style-type: none"> <li>• order to reject a statement of claim,</li> <li>• order to drop a case,</li> <li>• order for an expert examination,</li> <li>• order on the settlement of a dispute and the termination of the action by judicial mediation,</li> <li>• order on the refusal to settle a dispute and the termination of the judicial mediation.</li> </ul> | <b>1</b>  |
| 3.  | <p><b>Claims — the menu “All claims” and the Claims menu “General data”</b></p> <p><b>Case files — the menu “All case files” and the Case file menu “General data”</b></p> | All courts (first-level and appellate) | ICMS will have a different / extended list of statuses for the assignment of civil claims, and civil, criminal, and contraventional case files in line with <i>LAW No. 134 of June 14, 2007, “On Mediation.”</i>  | <b>1</b>  |

| No. | Menu   | Court of law                           | Description  | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|--|--|--|---|
| 4.  | <b>Claims — the Claims menu “General data”</b>                                 | All courts (first-level and appellate) | ICMS will have a different functionality for the reinitiating of civil claims. The claims with the status <i>Appeal, Closed</i> will get tagged as <i>Assigned</i> .   | <b>1</b>  |
| 5.  | <b>Case files — Case files menu “Court hearings / Court hearing outcomes”</b>  | All courts (first-level and appellate) | <p>ICMS will have a different list of court hearing outcomes for first-level and appellate courts. The newly added court hearing outcomes will appear in the Statistical Reporting Module (MRS).</p> <p>Extending the nomenclature of court hearing outcomes in the part related to the <i>reasons for adjournment</i>.</p> <p>The list in the menu “Court hearing outcomes”, civil cases, special proceedings, will be extended with “dismissed without a hearing on the merits pursuant to Article 280 (3) of the Civil Procedure Code of the RM.”</p> <p>The list of court hearing outcomes will be provided by the ACA and the courts.</p> | <b>1</b>  |
| 6.  | <b>Claims — the menu “Transfer”</b><br><b>Case files — the menu “Transfer”</b> | All courts (first-level and appellate) | <p>ICMS users will be able to transfer a case to other courts (judges, appellate courts, and the Supreme Court of Justice) when the case has more than 500 participants and contains documents taking much memory.</p> <p>The menus Claims / Transfer and Case files / Transfer will have a link to the transferred case file. ICMS will generate this link automatically immediately after the transfer of the case file. Clicking on the link will display the general information about the transferred case file.</p>  | <b>1</b>  |

| No. | Menu  | Court of law                           | Description  | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|---|--|--|---|
|     |   |  | <p>The option “<i>Electronic transfer of claims and case files</i>” needs to be improved to make data exchange between courts easier so that users can continue working with electronic case files, which will exclude data duplication and will spare the staff’s effort by using already saved information about the claim / case file (<i>general data, case participants, documents</i>).</p> <p>Thus, using the option “<i>Electronic transfer of claims / case files</i>” during the registration in ICMS — when the staff enter general data about case files, participants, and scan file documents — will relieve the civil / criminal departments of considerable workload and will save their time.</p> |   |
| 7.  | <b>Case files — the Case file menu “<i>Admission for proceedings — contraventional cases</i>”</b> | All courts (first-level and appellate) | <p>In the menu “Admission for proceedings,” the section “Transfer” under contraventional case files, users should be able to select articles of the Contraventional Code to justify transfers.</p> <p>The list of such articles (grounds for transfers) will be provided by the ACA and the courts.</p>  | <b>1</b>  |
| 8.  | <b>Case files — the Case file menu “<i>Court hearings</i>”</b>                                    | All courts (first-level and appellate) | In the Case file menu “Court hearings,” the dates set for court hearings will appear in chronological order from the oldest to the latest, the most recent coming first.   | <b>1</b>  |
| 9.  | <b>Case files — the menu “<i>Registration of case files — criminal cases</i>”</b>                 | All courts (first-level and appellate) | ICMS will have a different case assignment algorithm that will distinguish between the cases with indices 7, 8, and 21, which may go to an investigating judge and to a common-law judge.  | <b>1</b>  |

| No. | Menu  | Court of law                           | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|---|--|---|---|
| 10. | <b>Case files — the menu “Registration of case files — civil / criminal / contraventional cases”</b>  | All courts (first-level and appellate) | ICMS will have a different case assignment algorithm that will consider the complexity of cases, and will allocate investigating judges 50% fewer cases from other categories.  | <b>1</b>  |
| 11. | <b>Claims — the menu “Registration of claims — civil cases”</b><br><br><b>Case files — the menu “Registration of case files — civil / criminal / contraventional cases”</b>       | All courts (first-level and appellate) | ICMS will have a different assignment algorithm for civil claims, and civil, criminal, and contraventional case files in accordance with the formula from the new SCM’s Regulations on case complexity levels, and will have a new category nomenclature corresponding to the same Regulations. When a user enters a case index in the “General data” field, ICMS will display case categories distinctly by criminal, civil, administrative, special and contraventional cases, and special and summary proceedings. | <b>2</b>  |
| 12. | <b>Claims — the menu “All claims” and the Claims menu “Claims assignment”</b><br><br><b>Case files — the menu “All case files” and the Case file menu “Case files assignment”</b> | All courts (first-level and appellate) | ICMS will have a different assignment algorithm for civil claims, and for case files within insolvency judicial panels from appellate courts so that the members of a panel may also receive cases related to the main case.  | <b>2</b>  |
| 13. | <b>Claims — the Claims menu “Publish an order”</b><br><br><b>Case files — the Case file menus “Publish a judgment” and “Publish an order”</b>                                     | All courts (first-level and appellate) | ICMS users will be able to publish manually uploaded orders and judgments in PDF format.<br><br>ICMS will anonymize judgments and orders automatically. There were requests to change the anonymization module for sanitizing documents of personal data.   | <b>2</b>  |

| No. | Menu   | Court of law                           | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|--|--|---|---|
| 14. | <b>ICMS notifications — the menu “<i>My notifications</i>”</b>   | All courts (first-level and appellate) | <p>ICMS will have a different list of notifications for judges and their teams, generated automatically following internal and external users' actions (for example, data sent from E-Case).</p> <p>The notifications list will be provided by the ACA and the courts.</p>  | <b>2</b>  |
| 15. | <p><b>Claims — the Claims menu “<i>Recusals / abstentions</i>”</b></p> <p><b>Case files — the Case file menu “<i>Recusals / abstentions</i>”</b></p> | All courts (first-level and appellate) | <p>ICMS will automatically / randomly assign recusal / abstention applications saved in it for civil claims, and civil, criminal and contraventional case files.</p> <p>The change of the assignment sheet for recusal / abstention applications in claims and case files.</p>  | <b>2</b>  |
| 16. | <p><b>ICMS notifications — the menu “<i>My notifications</i>”</b></p> <p><b>Emails of the officers from the MOJ / ACA, and the SCM</b></p>           | All courts (first-level and appellate) | <p>ICMS will have an alert system for notifying responsible judges, chief judges, the SCM, and the ACA about irregularities and technical breaches connected to its use, and about procedural breaches connected to motions, claims, procedural actions, or case hearings. Thus, ICMS will automatically notify chief judges, the SCM, and the ACA about the noncompliance with judicial timeframes, including for special cases, claims and motions that must be solved within 24 hours, 48 hours, etc.</p> <p>ICMS will notify judges and chief judges about the expiry of procedural time limits regulated by the law.</p> <p>The ACA and SCM will provide the emails of the recipients of ICMS notifications. The list and texts of the notifications will be provided by the ACA and the courts.</p> | <b>2</b>  |

| No. | Menu  | Court of law                           | Description  | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|---|--|--|---|
| 17. | <b>Case files — the Case file menu “<i>Summonses</i>”</b>   | All courts (first-level and appellate) | <p>ICMS will email summonses (Case file &gt; Summonses) to lawyers and other participants. The MOJ will create the email accounts in www.justice.md domain. The email addresses will be inserted into ICMS.</p> <p>Summonses emailed to case participants will always contain the correct address of the court or its central office according to the location selected in “General data” during the registration of the claim / case file. The text of the summonses will be saved in ICMS.</p> | <b>2</b>  |
| 18. | <b>Case files — the Case file menu “<i>Orders, judgments</i>”</b><br><br><i>Note about dispatch of a court document</i>   | All courts (first-level and appellate) | The text of the note regarding the dispatch of a judgment, order, decision, or sentence should be editable, and changes to it should be registered in the record sheet of claim / case file actions.   | <b>2</b>  |
| 19. | <b>Claims — the Claims menu “<i>Information about transfers</i>”</b><br><br><b>Case files — the Case file menu “<i>Information about transfers</i>”</b><br><br><i>Cove letter</i> | All courts (first-level and appellate) | <p>ICMS will automatically insert the recipient’s address in cover letters.</p> <p>The ACA and / or the courts will provide updated template <i>cover letters</i> for judges and appellate courts.</p>   | <b>2</b>  |

| No.    | Menu   | Court of law                           | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|--------|--|--|---|---|
| 20.    | <b>Case files — the Case file menu</b><br><b><i>“Enforcement”</i></b>  | All courts (first-level and appellate) | It was proposed to develop the menu “Enforcement” with revised template letters, with sections and fields for saving enforcement actions and outcomes, including voluntary payment of fines by debtors, and to change the nomenclature in the menu “Bailiff” so that users could enter entities that are not listed, as well as the location of those entities, including bailiffs’ names and surnames.<br><br>All actions would be registered in the Actions sheet.  | <b>3</b>  |
| 21.    | <b>Claims — the Claims menu</b><br><b><i>“General data”</i></b><br><br><b>Case files — the Case file menu</b><br><b><i>“General data”</i></b>                    | All courts (first-level and appellate) | ICMS will facilitate the viewing of consolidated claims / case files and of the main claim / case file. It was requested to add links to consolidated claims / case files in the menu “Claims / General data” and “Case file / General data.” Only judges in charge of the main claim / case file and their teams will be able to use such links.   | <b>3</b>  |
| 22. X` | <b>Claims — the menu</b><br><b><i>“Consolidation of claims”</i></b><br><br><b>Case files — the Case file menu</b><br><b><i>“Consolidation of case files”</i></b> | All courts (first-level and appellate) | Consideration will be given to another consolidation option: the insolvency law requires that, when a debtor files a claim, all earlier registered case files connected to that claim must to be consolidated with it. So, the ICMS consolidation algorithm needs to be revised. The ACA, the SCM, and the courts will provide a list of the claims / case files (case type, hearing procedure / indices / case categories) for which ICMS will allow consolidation under other rules than those developed in ICMS. | <b>3</b>  |
| 23.    | <b>Case assignment — menus:</b><br><b><i>Repeated assignment — contraventional case files</i></b>  | All courts (first-level and appellate) | During the repeated assignment, ICMS will prompt the user to upload the order confirming the need for repeated assignment, or to enter the number / date of that order. Without this information, the system will not   | <b>3</b>  |

| No. | Menu  | Court of law                           | Description  | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|---|--|--|---|
|     | <p><i>Repeated assignment — civil case files</i></p> <p><i>Repeated assignment — criminal case files</i></p> <p><i>Repeated assignment — civil claims</i></p> |  | allow a repeated assignment.   |   |
| 24. | <p><b>Claims — the Claims menu “<i>Appeals</i>”</b></p> <p><b>Case files — the Case file menu “<i>Appeals</i>”</b></p>  | All courts (first-level and appellate) | It was proposed to develop the “Appeals” menu (to remove the incorrectly included “appealed” option, to introduce the date of sending a case file without reloading the section when the case has multiple appellants / appeals, to display the “Send the case” button without the need to reload the section, to introduce a field displaying the decision of the SCJ, etc.). | <b>3</b>  |
| 25. | <p><b>Case files — the Case file menu “<i>Assignment of case files</i>”</b></p> <p><b><i>Case assignment sheet</i></b></p>                                    | All courts (first-level and appellate) | To confirm the registration of a civil case, the registration date and time in the ICMS' case assignment sheet will be changed to reflect the date and time of the assignment of the corresponding statement of claim, since cases go to the same judge who examined the corresponding statement of claim and do not need to be assigned again.                                | <b>3</b>  |
| 26. | <b>Administration — the menu “<i>Employees</i>”</b>   | All courts (first-level and appellate) | It was requested to create the menu “ <i>Employees,</i> ” where users could generate the information on the number of judges, judicial assistants, court clerks, and non-judicial staff, expressed in Full Time Equivalents or FTEs (CEPEJ tools), and to retrieve this information in the desired format ( <i>Word, PDF, Excel / XLS, or CVS</i> ).                           | <b>3</b>  |
| 27. | <b>Administration — the menus “<i>Employees</i>” and “<i>Judges excluded from the assignment</i>”</b>   | All courts (first-level and appellate) | It was proposed to introduce the option for deactivating judges’ roles in ICMS to allow the search for files and “old” claims assigned to a deactivated reporting judge by   | <b>3</b>  |

| No. | Menu   | Court of law                           | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|--|--|---|---|
|     |  |  | checking off the “judge” criterion in the menu “Claims / All claims” and “Case files / All case files”. This will stop the courts’ practice of blocking judges deactivated for 50 years.  |   |
| 28. | <p><b>Claims — the Claims menu “Registration — Record sheet”</b></p> <p><b>Case files — the Case file menu “Registration — Record sheet”</b></p> | All courts (first-level and appellate) | <p>ICMS will autocomplete the <i>Electronic record sheet of claims and case files</i> to relieve court chancelleries of the need to fill it out manually.</p> <p>Autocompletion of the fields in the <i>Electronic record sheet of claims and case files</i> with the outcomes of court hearings, information on the transfer of claims / case files to appellate / cassation courts and with other information.</p> <p>The addition of all fields filled out manually by the staff to the ICMS’ <i>Electronic record sheet of claims and case files</i>.</p>   | <b>3</b>  |
| 29. | <b>Statistical reporting — the menu “Reports”</b>  | All courts (first-level and appellate) | <p>The ICMS Statistical Reporting Module (MRS) will contain a statistical report on the modified judgments and quashed judgments at the national level, at the level of individual courts, and at the level of individual judges, because the two solutions passed by higher courts are considerably different in terms of their importance and consequences. Accordingly, they must be interpreted differently and distinctly during the analysis of the quality of judicial acts. Tracking and statistical reporting will inform, among other things, on the data disaggregated by judges, the number of upheld and quashed judgments, the duration of court proceedings, the duration of procedural acts, including by case types, etc.</p> <p>The ACA and / or the courts will provide a template statistical report.</p> | <b>3</b>  |

| No. | Menu   | Court of law                           | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|--|--|---|---|
| 30. | <b>Statistical reporting — the menu “Reports”</b>  | All courts (first-level and appellate) | <p>MRS will be improved to reflect all the data entered in ICMS accurately, fully, and effectively, synchronizing it with the data from claims and case files across all its sections and reports. MRS will reflect incoming claims (allocated, but not admitted in proceedings when the statistical report is generated), dismissed claims, and returned claims in ICMS' electronic reports. This information is necessary for a thorough analysis of the entire workload of judges.</p> <p>The change of the statistical reports as follows:</p> <ul style="list-style-type: none"> <li>• <i>Statistical report on the civil proceedings in first-level courts;</i></li> <li>• <i>Statistical report on the commercial proceedings in first-level courts;</i></li> <li>• <i>Statistical report on the proceedings carried out under the Administrative Litigation Law No. 793-XIV of February 10, 2000;</i></li> <li>• <i>Statistical report on the summary proceedings in first-level courts;</i></li> <li>• <i>Statistical report on the insolvency proceedings in appellate courts.</i></li> </ul> | <b>3</b>  |
| 31. | <b>Claims — the menu “All claims”</b><br><br><b>Case files — the menu “All case files”</b> | All courts (first-level and appellate) | The alignment of ICMS to the provisions of the legislation in force and to the draft amendments to the Civil / Criminal Procedure Codes.  | <b>3</b>  |

| No. | Menu   | Court of law                           | Description   | Priority level<br>1 - critical<br>2 - medium<br>3 - minor |
|-----|--|--|---|---|
| 32. | <p><b>Claims — the menu</b><br/><i>“Publish an order”</i></p> <p><b>Case files — the menus</b><br/><i>“Publish a judgment”</i> and<br/><i>“Publish an order”</i></p> | All courts (first-level and appellate) | <p>A new ICMS functionality for users (courts) to be able to enter <b>parties’ names before publishing a document</b>:</p> <ul style="list-style-type: none"> <li>– anonymization (for individuals / persons whose personal data should be removed from the judgment); or</li> <li>– full (for legal entities / persons whose personal data does not need to be removed from the published judgment).</li> </ul> <p><i>This is necessary to allow the unrestricted search by name for judgments regarding legal entities or individuals whose personal data does not need to be protected within the national Courts’ Web Portal. Now, it is impossible to search the Portal for judgments by parties’ names because, in ICMS, names are registered in full whereas published judgments are anonymized.</i></p> | <b>3</b>  |
| 33. | <p><b>Case files — the Case file menu</b><br/><i>“Judgments”</i></p>   | All courts (first-level and appellate) | A new ICMS functionality (Web service) to allow authorized third-party operators of personal data, authenticated by digital signature, access to the database of full (non-anonymized) judgments, except for judgments that refer to the cases heard in secret / confidential sittings.   | <b>3</b>  |

## **7. Report on the ICMS Public Information Focus Group (Activity 1.2.2.1)**



**USAID**  
FROM THE AMERICAN PEOPLE

# REPORT ON THE ICMS PUBLIC INFORMATION FOCUS GROUP

JULY 28, 2017

USAID'S OPEN JUSTICE PROJECT  
IN MOLDOVA

October 30, 2017

## **DISCLAIMER**

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# REPORT ON THE ICMS PUBLIC INFORMATION FOCUS GROUP

JULY 28, 2017

## USAID'S OPEN JUSTICE PROJECT IN MOLDOVA

**Prepared by:** Cristina Malai, COP  
**Activity Office:** USAID/Moldova  
**COR:** Diana Cazacu

Submitted on October 30, 2017

**Contract:** AID-OAA-I-13-00029  
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**Implemented by:**

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## INTRODUCTION

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The focus group is part of the Open Justice Project's assistance to its beneficiaries (the Superior Council of Magistracy [SCM] and courts system, the Ministry of Justice [MOJ], and the Agency for Court Administration [ACA]) aiming to improve public information content available on the courts' web portal, E-file module and the courts' Web Report Card. This is a Year I Work Plan activity, and focuses mainly on Activity 1.2.2.1, "Engage stakeholders, including lawyers and NGOs (including those representing persons with disabilities), to assess their needs and include their input in ICMS development, including incorporating the E-file Module and web-based tools."

The general objectives of the focus group were to:

- Present the information provided by the ICMS, courts' web portal, E-file module, and the courts' Web Report Card
- Identify public needs for information that the ICMS must generate and which will be reflected on the courts' web portal, E-file module, and the courts' Web Report Card
- Identify the type of information and tools needed to better serve the information needs of people with disabilities who will access the courts' web portal, E-case module, and the courts' Web Report Card.

## METHODS

In the first stage, Open Justice delivered a presentation on the judicial information systems and their role in optimizing the work of the courts. The participants received details related to public information generated by the ICMS that can be accessed through the courts' web portal, E-case, and the Web Report Card. Further, Open Justice moderated the group's discussions to identify participants' feedback on public information that needs to be generated by the judiciary's web pages and the format that would be accessible for people with special needs.

## DATE

The half-day focus group was organized on July 28, 2017.

## PARTICIPANTS

Participants from Moldovan NGOs (including those representing persons with special needs), the mass media, lawyers, judges, SCM leadership and, representatives of the ACA/MOJ.

## SPEAKERS/MODERATORS

- Mihai Grosu, Key Expert, Objective I, Open Justice Project
- Nadejda Plamadeala, Objective I Staff Attorney, Open Justice Project
- Valentina Grigoris, Director, ACA/MOJ

## REPORT

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**On the focus group to identify the public information generated by the Integrated Case Management System (ICMS), which will be accessible through the Courts' Web Portal ([instante.justice.md](http://instante.justice.md)), E-case, and the Web Report Card ([statistica.instante.justice.md](http://statistica.instante.justice.md))**

The focus group started with a general presentation of the Project, where the Open Justice COP explained the objectives and expected results of the activity. The purpose of these public discussions was to identify what information is needed by the public at large, as well as by various specific target groups, including lawyers, judges, civil society organizations, and the media.

Further, the Open Justice team delivered a presentation of the information provided by the ICMS, the E-case information system, the courts' web portal, and the Web Report Card. During the next stage, the participants were involved in a group discussion which allowed Open Justice to collect their feedback on challenges they had encountered in searching for case-related information on the courts' web portal.

The event was attended by representatives of NGOs that advocate for the rights of persons with special needs. One of the participants made a short presentation regarding visual aspects and tools that can be used to display information for people with visual impairments and physical disabilities. Two representatives of the IT company Soft Tehnica participated in the focus group discussion. Under the contract with Open Justice, Soft Tehnica is reviewing the focus group results and recommendations in order to develop the ICMS and upgrade the courts' web portal.

In total, the event was attended by 23 persons, including 3 representatives of NGOs that advocate for the rights of persons with special needs.

Following the focus group, the Open Justice Project developed a list of requirements and recommendations summarizing the participants' proposals.

## SUMMARY OF DISCUSSIONS

### Identified Aspects and Recommendations

#### E-case:

- Provide the ability to select all pages of a document for signing. Currently, E-case users can sign only one page at a time, which is time-consuming.
- Provide the ability to scan and upload multiple pages in one PDF file. Currently, to file an electronic statement of a claim, E-case users have to scan and upload one page at a time, which is difficult, especially when the claim contains numerous pages and appendices.
- Clarify the difference between the buttons "Upload a document" and "Upload evidence."
- Provide an option that would allow clients to pay the state fee through their attorneys by means of a dedicated button in E-case.

## **CMS:**

- The current version of the Case Management System (CMS) does not provide for judicial mediation. This procedure should also be included in the Regulation on Case Weights for Civil, Administrative, and Criminal Cases.
- The courts' web portal provides information about the name of the judge assigned to hear a case only after he/she decides on the case's admissibility.
- It is impossible to change the case type (civil, criminal, administrative). The only workaround is to create a new case. Civil, criminal, and administrative cases that are created by mistake remain in CMS and impact its statistics.

## **The Courts' Web Portal:**

- The court staff must publish all court orders (including those that do not entail the closure of the case) on the courts' web portal.
- The courts' web portal does not allow users to search court cases by individuals and by legal entities, by the first and last name of case parties, by keywords and by the tags for an "accepted" or "dismissed" case.
- It is necessary to change the practice of full anonymization of personal data and the names of legal entities in court decisions published on the courts' web portal.
- It is necessary to unify the terminology related to case identification numbers. It is necessary to rename the column "Case identification number" as "Electronic identification number of the case" in the tables on the sub-pages "Hearings schedule," "Judgments," and "Orders."
- It is necessary to keep the same identification number given to a case by ICMS throughout the lifecycle of this case (including when cases go to higher courts).
- It is necessary to create a search option by the first and the last name of the judge assigned to hear a case in the courts' web portal section "Hearings schedule."
- The explanatory note in the information about the hearings (PDF file) in the section "Hearings schedule" is not clear. It explains that the information is preliminary and may change. However, the actual outcome of a hearing cannot change because this information is final.
- It is necessary to develop a new option that will generate the hearings schedule of individual judges.
- There is a need to generate information about the "Result of the hearing" as soon as possible after the hearing. In the outcomes of hearings involving deliberations, it is particularly important to identify whether the case has been accepted or dismissed. At this moment, parties that do not appear in court when judges pronounce the ruling can get this information only by calling the clerk. Consequently, it is important to add a new column "Result of the hearing" in the sub-page "Hearings schedule" and post the reasons for a hearing's adjournment on the web page.
- The participants requested that the interval of synchronizing between the courts' web portal and CMS be shortened. Currently, the sync interval is set to 24 hours, which means that some information fed into CMS appears on the web portal only the following day.
- It is necessary to archive the court hearings for a minimum of one month.

**The recommendations to adjust the courts' web portal and CMS/ICMS to the needs of people with disabilities were the following:**

- Allow highlighting of information categories / subcategories to make them more visible
- Use of a font that is easy to read
- Integrate a magnifier tool that can zoom in on an area without losing sight of the image margins
- Reduce the number of clicks necessary to reach to the desired information
- Use of alternative options to present the same information such as text, videos, or images.

## ANNEX I. AGENDA

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**Focus group to identify the public information generated by the Integrated Case Management System (ICMS), which will be accessible through the Courts' Web Portal ([instante.justice.md](http://instante.justice.md)), E-case, and the Web Report Card ([statistica.instante.justice.md](http://statistica.instante.justice.md))**

*Chişinău, July 28, 2017  
Summit Events Business Center  
4913 Tighina St., ground floor*

**Participants: NGOs, lawyers, journalists, representatives of the SCM, MOJ / ACA**

- |               |  |
|---------------|--|
| 09:30 – 10:00 | Check-in<br>Coffee break   |
| 10:00 – 10:05 | The objectives of the USAID Open Justice Project<br><i>Cristina Malaj, COP, Open Justice Project</i>   |
| 10:05 – 10:15 | Filling out of a preliminary questionnaire about the perception of the IT solutions used by the judicial system  |
| 10:15 – 11:00 | A brief presentation of the judicial information system and its role in optimizing the work of the courts <ul style="list-style-type: none"><li>• <i>The Case Management System (CMS) and the Integrated Case Management System (ICMS);</i></li><li>• <i>E-case information system (a module of CMS); the information available for lawyers and participants to proceedings;</i></li><li>• <i>The Courts' Web Portal (<a href="http://instante.justice.md">instante.justice.md</a>); the list of public information;</i></li><li>• <i>The web report card (<a href="http://statistica.instante.justice.md">statistica.instante.justice.md</a>); the list of public information;</i></li></ul> <p><i>Presenter: Mihai Grosu, Objective 1 Key Expert, Open Justice Project<br/>Valentina Grigoriş, Acting Director, Agency for Courts Administration</i></p> |
| 11:00 – 11:45 | Group discussions to identify ICMS-generated public information that could be accessed through the Courts' Web Portal, E-case, and the Web Report Card<br><i>Moderators: Mihai Grosu, Objective 1 Key Expert and Nadejda Plămădeală, lawyer, Open Justice Project;</i>   |
| 11:45 – 12:00 | Conclusions  |
| 12:00 – 12:10 | Filling out of a final questionnaire about the perception of the IT solutions used by the judicial system  |
| 12:10 – 13:00 | Lunch, socializing and discussions   |

## ANNEX 2. PHOTOS



PHOTO: USAID Open Justice Project

*Presentation of the Open Justice Project and Workshop Agenda*

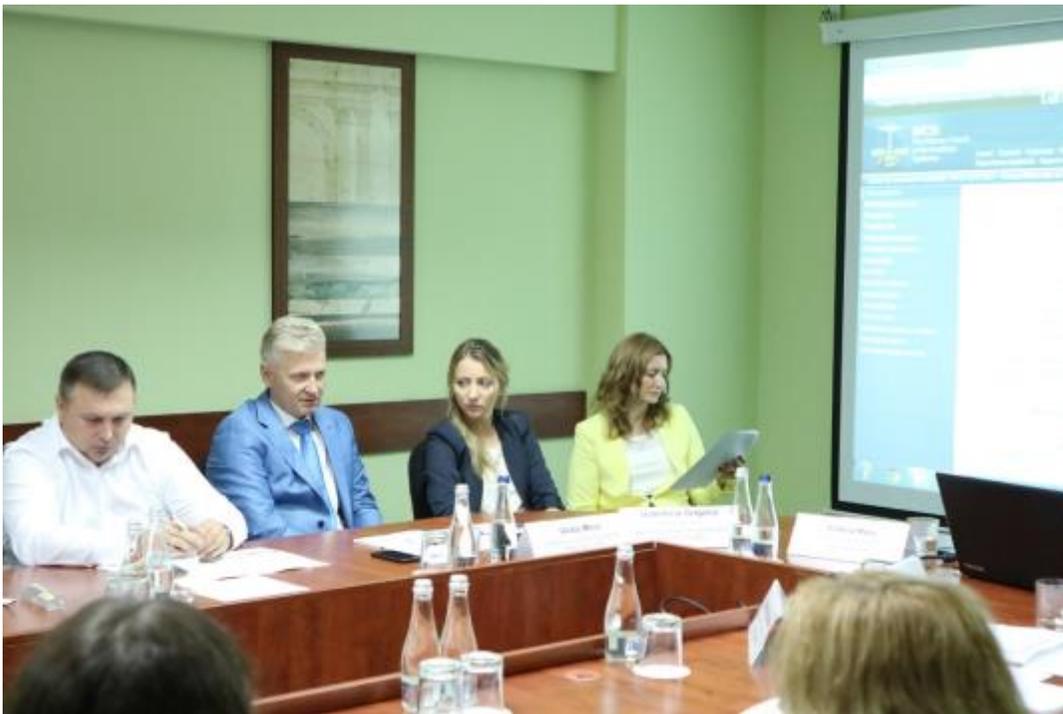


PHOTO: USAID Open Justice Project

*Participants discuss in group the improvements needed for the Web Court Portal*



PHOTO: USAID Open Justice Project

*Presentation on accessibility of information for people with special needs placed in ICMS and web courts' portal*



PHOTO: USAID Open Justice Project

*Participants discuss in group the improvements needed for the web courts' portal*

## **ANNEX 3. LIST OF TOPICS ADDRESSED DURING THE FOCUS GROUP**

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### **E-case information system (an CMS module); the information available for attorneys and case participants:**

- I. Extending the list of information accessible through E-case

### **Web Report Card ([statistica.instante.justice.md](http://statistica.instante.justice.md)):**

1. Changing the current indicators in the web report card, and replenishing them with new data;
2. Changing the way of presenting data in the web report card;
3. The need for data export / import functions in the web report card;
4. The necessity of data refresh in the web report card and of presenting this data for specific reporting periods (similarly to the Performance Dashboard).

### **Adjustment of the Courts' Web Portal, E-case, and the web report card to the needs of people with special needs:**

- I. The ways the courts' web portal, E-case and the Web Report Card can be adapted to the needs of people with special needs.

### **The Courts' Web Portal ([instante.justice.md](http://instante.justice.md)):**

- I. What other information should be posted on the courts' web portal.
  - a. Do the current search criteria meet the information needs of attorneys and case participants? The necessity of additional search criteria;
  - b. The information in the section "Hearings schedule"; the necessity of additional information;
  - c. The information in the section "Judgments"; the necessity of additional information;
  - d. The information in the section "Orders"; the necessity of publishing orders that do not close the case.
2. Feedback about the previous practice of publishing the list of cases (criminal, civil, and contraventions) on the courts' web portal; pros and cons;
3. Feedback about the necessity of publishing the list of claims in civil cases on the courts' web portal; pros and cons;
4. The anonymization of judgments published on the courts' web portal. Opinions and recommendations on access to information for attorneys, journalists, and case participants; the protection of personal data.

## ANNEX 4. LIST OF PARTICIPANTS

| Civil Society / Donors |                    |                                  |  |
|------------------------|--------------------|----------------------------------|--|
| 1.                     | Daniela Josanu     | Coordinator of the legal service | Women's Law Center<br>27, Sfatul Țării str., office no. 4, MD-2012, Chisinau, RM<br>Tel. +373 22 237 306<br>e-mail: <a href="mailto:daniela.josanu@outlook.com">daniela.josanu@outlook.com</a>   |
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|---|----------------------|--|---|
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| 16.                                     | Vladimir Palamarciuc | Lawyer   | The Association of Young Lawyers<br>Tel: 069049566<br>e-mail: <a href="mailto:ata.avocat@gmail.com">ata.avocat@gmail.com</a>  |
| <b>Representatives of the judiciary</b> |                      |  |   |
| 17.                                     | Valentina Grigoriș   | Director   | Agency for Court Administration (ACA)<br>124 B Ștefan cel Mare bd., Chisinau, RM<br>Tel: +373 22 27 18 14<br>e-mail: <a href="mailto:valentina.grigoris@justice.gov.md">valentina.grigoris@justice.gov.md</a>               |
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| 23.                               | Catalin Profir     | Co-founder  | Soft Tehnica<br>4, A. Puşkin, str., Chişinău, RM<br>e-mail: <a href="mailto:catalin.profir@soft-tehnica.com">catalin.profir@soft-tehnica.com</a>  |
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| 26.                               | Mihai Grosu        | Objective 1, Key Expert 2                               | Open Justice Project<br>e-mail: <a href="mailto:mgrosu@openjustice.md">mgrosu@openjustice.md</a><br>Tel: +373 69 255 325  |
| 27.                               | Nadejda Plamadeala | Objective 1 Staff Attorney                              | Open Justice Project<br>e-mail: <a href="mailto:nplamadeala@openjustice.md">nplamadeala@openjustice.md</a><br>Tel: +373 69359944  |
| 28.                               | Natalia Ionel      | Communication and Public relations Specialist           | Open Justice Project<br>e-mail: <a href="mailto:nionel@openjustice.md">nionel@openjustice.md</a><br>Tel: +373 68 918 899  |
| 29.                               | Elina Petrovici    | Monitoring, Evaluation, Knowledge and Learning Director | Open Justice Project<br>e-mail: <a href="mailto:epetrovici@openjustice.md">epetrovici@openjustice.md</a><br>Tel: +373 68 296 136  |

**8. Action Plan for Development and Implementation of the Integrated Case Management System (ICMS) in Moldovan Courts of Law 2017–2019 (Activity 1.2.2.3)**

## ANNEX

**Action Plan  
for the  
Development and Implementation of the  
Integrated Case Management System (ICMS)  
in Moldovan Courts of Law  
2017 – 2019**

August 2017

| No<br>. | Activity  | Responsible<br>entities            | Estimated period<br>for the<br>implementation | Targets / Deliverables  | Implement<br>ation status |
|---------|---|------------------------------------|---|---|---------------------------|
| 1       | 2   | 3                                  | 4   | 5   | 6                         |
| 1.      | Perform a business analysis for the development of the Integrated Case Management System (ICMS) | Open Justice Project, Soft Tehnica | July 1, 2017 – September 30, 2017             | <ul style="list-style-type: none"> <li>• ICMS Business Analysis with appendices, including the mapping of the updated workflows on the current ones</li> <li>• Acceptance test plan</li> <li>• Data migration plan</li> <li>• Maintenance plan and future development opportunities for the system</li> <li>• Final report</li> </ul> |                           |

| No . | Activity   | Responsible entities               | Estimated period for the implementation | Targets / Deliverables   | Implementation status |
|------|--|------------------------------------|---|--|-----------------------|
| 1    | 2  | 3                                  | 4                                       | 5  | 6                     |
| 2.   | Design system architecture and graphical user interfaces | Open Justice Project, Soft Tehnica | October 1, 2017 – November 30, 2017     | <ul style="list-style-type: none"> <li>• System architecture document (servers, workstations, communication infrastructures and protocols, data sources, data storage, etc.)</li> <li>• System Design Document (SDD)</li> <li>• Graphical user interface (GUI)</li> </ul>  |                       |
| 3.   | Develop the system                                       | Open Justice Project, Soft Tehnica | November 30, 2017 – April 30, 2018      | <ul style="list-style-type: none"> <li>• <b><i>SUB-PHASE 1 (December 15, 2017)</i></b> <ul style="list-style-type: none"> <li>○ Test scenarios for Sub-phase 1</li> <li>○ Release Notes for ICMS V.1.0 (<i>User Management Module (User Roles, Permissions, User Profiles, User Add/Edit/Delete) User Court Assignment, Court Management Modules, Court Rooms Module, Vocabularies Module, Notifications Module + Notification Engine, Administration Module, UAT Testing</i>)</li> <li>○ UAT test report for Sub-phase 1</li> </ul> </li> <li>• <b><i>SUB-PHASE 2 (January 15, 2018)</i></b> <ul style="list-style-type: none"> <li>○ Test scenarios for Sub-phase 2</li> <li>○ Release Notes for ICMS V.1.0 (<i>User Management Module (Workflow Management Module, Document Management Module (Document Revisions, Electronical Document Sign, Templating), File Storage</i>)</li> <li>○ UAT test report for Sub-phase 2</li> </ul> </li> <li>• <b><i>SUB-PHASE 3 (February 15, 2018)</i></b> <ul style="list-style-type: none"> <li>○ Test scenarios for Sub-phase 3</li> <li>○ Release Notes for ICMS V.1.0 (<i>Request for Summons Management Module, UAT Testing</i>)</li> <li>○ UAT test report for Sub-phase 3</li> </ul> </li> <li>• <b><i>SUB-PHASE 4 (March 15, 2018)</i></b></li> </ul> |                       |

| No . | Activity                   | Responsible entities  | Estimated period for the implementation | Targets / Deliverables   | Implementation status |
|------|----------------------------|---|---|--|-----------------------|
| 1    | 2                          | 3   | 4                                       | 5  | 6                     |
|      |                            |   |   | <ul style="list-style-type: none"> <li>○ Test scenarios for Sub-phase 4</li> <li>○ Release Notes for ICMS V.1.0 (<i>Case Management Module (Add/Edit/Delete Cases, Intelligent case Allocation, Workflow integration), Court Scheduling, UAT Testing</i>)</li> <li>○ UAT test report for Sub-phase 4</li> <br/> <li>● <b>SUB-PHASE 5 (April 15, 2018)</b> <ul style="list-style-type: none"> <li>○ Test scenarios for Sub-phase 5</li> <li>○ Release Notes for ICMS V.1.0 (<i>Case Management Module (Financial Management Module, Case Analytic/Reporting Modules, User Dashboard, Integration services (MPass, MSign, MPay, MConnect, MLog), UAT Testing</i>)</li> <li>○ UAT test report for Sub-phase 5</li> </ul> </li> <li>● <b>SUB-PHASE 6 (April 30, 2018)</b> <ul style="list-style-type: none"> <li>○ Test scenarios for Sub-phase 6</li> <li>○ Release Notes for ICMS V.1.0 (<i>Video Audio Module (Integration of Femida + Repository Settings), Interoperability Module, E-Case Data WareHouse reengineering, E-Case(Court) Reengineering, Public Platform Instante.Justice.MD reengineering, UAT Testing</i>)</li> <li>○ UAT test report for Sub-phase 6</li> </ul> </li> </ul> |                       |
| 4.   | Prepare for data migration | Open Justice Project, Soft Tehnica<br><br>Special Telecommunications Center | May 1, 2018 – May 15, 2018              | <ul style="list-style-type: none"> <li>● Data migration plan</li> <li>● Detailed reports with the results of data integrity tests (<i>Create Migration Plan, Create Migration application, Users Migration script, Vocabularies Migration script, Cases Migration script, Requests for Summons Migration script, Files Migration (Documents), Audio/Video Files Migration</i>).</li> </ul>   |                       |

| No . | Activity                              | Responsible entities  | Estimated period for the implementation | Targets / Deliverables  | Implementation status |
|------|---------------------------------------|---|---|---|-----------------------|
| 1    | 2                                     | 3   | 4                                       | 5   | 6                     |
| 5.   | Purchase data host equipment for ICMS | Open Justice Project<br>Ministry of Justice<br>Court Administration Agency<br>Special Telecommunications Center | January 1, 2018 – May 1, 2018           | <ul style="list-style-type: none"> <li>Equipment purchase report (servers and another network equipment)</li> <li>Equipment Transfer Agreement, and Transfer and Acceptance Act</li> </ul>            |                       |
| 6.   | Purchase equipment for the courts     | Open Justice Project<br>Ministry of Justice<br>Court Administration Agency<br>Special Telecommunications Center | January 1, 2018 – May 1, 2018           | <ul style="list-style-type: none"> <li>Equipment purchase report (computers, Femida Audio Systems, other equipment)</li> <li>Equipment Transfer Agreement, and Transfer and Acceptance Act</li> </ul> |                       |
| 7.   | Migrate data                          | Open Justice Project, Soft Tehnica  | May 15, 2018 – May 31, 2018             | <ul style="list-style-type: none"> <li>Final data migration report (15 trial courts, 4 appellate courts, 1 Supreme Court of Justice).</li> </ul>  |                       |

| No  | Activity                                   | Responsible entities  | Estimated period for the implementation | Targets / Deliverables   | Implementation status |
|-----|--|---|---|--|-----------------------|
| 1   | 2  | 3   | 4                                       | 5  | 6                     |
|     |  | Special Telecommunications Center   |   |  |                       |
| 8.  | Perform the final system test              | Open Justice Project, Soft Tehnica<br><br>Special Telecommunications Center | June 1, 2018 – June 30, 2018            | <ul style="list-style-type: none"> <li>Final ICMS test report (<i>UAT, Regression testing, Functional testing, Performance Testing, Security Testing, Bug Fixing</i>)</li> </ul>   |                       |
| 9.  | Implement the system and train court staff | Open Justice Project, Soft Tehnica<br><br>Special Telecommunications Center | July 1, 2018 – September 1, 2018        | <ul style="list-style-type: none"> <li>Final ICMS implementation report</li> <li>ICMS administration guide</li> <li>ICMS administration guide</li> <li>ICMS implementation and configuration guide</li> <li>Final training report</li> <li>ICMS Documentation according to Order No. 78 of June 1, 2006 (Software lifecycle processes) RT 38370656-002:2006</li> </ul> |                       |
| 10. | Provide maintenance of the system          | Open Justice Project, Soft Tehnica<br><br>Special Telecommunications Center | September 1, 2018 – May 31, 2019        | <ul style="list-style-type: none"> <li>Monthly system maintenance report</li> <li>Monthly system maintenance report</li> </ul>   |                       |

**9. Superior Council of Magistracy Decision No. 518/24 dated August 1, 2017 on the Amendment of the Regulation on Case Weights for Civil, Administrative, and Criminal Cases, and on the Updating of the Nomenclature of Case Weights Levels, Provided in Those Regulations (Activity 1.2.3.4)**

## DECISION

On the amendment of the Regulations on case weights (the single national complexity levels of civil, criminal, and contravention cases, and on the updating of the Nomenclature of complexity levels, provided in those Regulations)

August 1, 2017  
No. 518/24

Chişinău

The Superior Council of Magistracy has considered amending the Regulations on single national complexity levels of civil, criminal, and contravention cases, and updating the Nomenclature of complexity levels, provided in those Regulations, and, taking note of the comments of Ms. Vera Toma,

### FOUND:

By Decision No. 165/6 of February 18, 2014, the Superior Council of Magistracy approved the Regulations on single national complexity levels of civil, criminal, and contravention cases, and the Nomenclature of complexity levels, provided in those Regulations.

Since then some courts of law have requested the Superior Council of Magistracy to amend and extend the Regulations on single national complexity levels of civil, criminal, and contravention cases, and to update the Nomenclature of complexity levels, provided in those Regulations, and the lists of case categories from the Integrated Case Management System (ICMS) to accommodate them to various legislative amendments and additions.

In response, by Decision No. 60/3 of January 24, 2017, the Superior Council of Magistracy set up a working group for amending the Regulations on single national complexity levels of civil, criminal, and contravention cases, and updating the Nomenclature of complexity levels, provided in those Regulations in accordance with the law.

The current complexity levels system integrated in ICMS has been repeatedly criticized for inaccurate estimation of the complexity of cases and for failing to ensure a balanced distribution of cases.

The courts argue that the complexity levels should be increased for some cases and decreased for others, and that recent amendments of certain regulations require new case categories, with corresponding complexity levels, in the Nomenclature.

Currently, the complexity of a case is determined by a fixed component and a variable one. The fixed component refers to the primary subject matter, whose complexity is scored as an integer between 1 and 10. It is set on the merits, and remains unchanged during all procedural stages.

The variable component, according to the formula in point 16 of the Regulations, refers to the secondary subject matters, the number of parties, and the number of the trial bundles.

Additionally, the working group found that the formula adjusting the case complexity during court proceedings misses other key factors, such as the number of witnesses, the number of passed orders, the joinder of cases, the resolution of a case through mediation, etc.

Since most criminal proceedings have a civil aspect to solve, the courts proposed to introduce a new subject matter called “*civil aspect*.”

Based on the courts' feedback, the working group developed a new, more accurate case complexity formula with corresponding amendments to the Regulations and the Nomenclature, and submitted them to the SCM Plenum for approval.

The Plenum of the Superior Council of Magistracy reviewed the proposed amendments and, finding that they enable a better estimation of case complexity, meet legal requirements, and satisfy the caseload estimation needs, concluded that the amendments were justified and appropriate, and decided to approve them.

The Plenum of the Superior Council of Magistracy considers that the single national system for determining the complexity of cases must be revised, and that the Integrated Case Management System must be changed to accommodate the new formula.

Based on the voting results, pursuant to Articles 4, 17, 24, and 25 of the Law on the Superior Council of Magistracy, the Plenum of the Superior Council of Magistracy

### **R U L E S:**

1. To approve the amendments proposed by the working group to the Regulations on single national complexity levels of civil, criminal, and contravention cases, approved by Decision No. 165/6 of February 18, 2014, of the Superior Council of Magistracy.

2. To approve the new Nomenclature of complexity levels, included in the amended Regulations.

3. The amendments to the new Regulations shall become effective upon publication in the Official Gazette of the Republic of Moldova.

4. This Decision shall be sent to the Agency for Courts Administration and to all courts for information and enforcement, and shall be published on the Web site of the Superior Council of Magistracy and in the Official Gazette of the Republic of Moldova.

**Chairman of the Plenary Session of the  
Superior Council of Magistracy Victor Micu**

**Regulations**  
**on single national complexity levels of**  
**civil, criminal and contravention cases, approved by SCM Decision No. 165/6 of**  
**February 18, 2014**

*As amended and supplemented by SCM Decision No. 518/24 of August 1, 2017*

\* \* \*

**I. GENERAL PROVISIONS**

1. The concept paper on the financing for the judiciary, approved by Parliament's Decision No. 39 of March 18, 2010, provides, among other things, for objective and transparent court budgeting regulations that would consider the weighted analysis of the caseload in each court over a certain period. Such a weighted analysis would help to streamline budget allocations, compare courts' workloads, determine the optimal caseload per judge, optimize and redistribute judges and staff within the system, and ensure a fairer randomized assignment of cases among judges in different courts.

2. The weighted caseload analysis shall factor in both the number and the complexity of cases, since judges' workload varies with every case. These circumstances impose the need for these Regulations establishing single national complexity levels of criminal, contravention, and civil cases.

3. The single national complexity levels are set out in the Nomenclature of complexity levels of criminal, contravention, and civil cases, appended to these Regulations. The new case categories introduced before the corresponding amendments to the Nomenclature shall receive a provisional average complexity level determined individually for each section and shall be listed in the Nomenclature under the position "*Other new categories*" without a subject matter or an article.

**II. THE CALCULATION OF COMPLEXITY LEVELS**

4. The case complexity levels reflect the intellectual, psychological, and moral effort of the judge, the time it takes to solve a case, and the circumstances of the case (the number of subject matters, the number of parties, the number of bundles, etc.).

5. The Superior Council of Magistracy shall improve the Nomenclature as may be required by new amendments to the legislation of the Republic of Moldova to keep the categories of criminal, contravention, and civil cases up to date.

The Nomenclature shall list the complexity levels on a scale of 1 to 10 (where 1 is the lowest and 10 is the highest level).

The Superior Council of Magistracy may increase or decrease the complexity of certain cases in the Nomenclature when such a change is justified by the courts' practice or is imposed by legislative amendments.

### III. THE INITIAL, INTERMEDIATE, AND FINAL COMPLEXITY OF CASES

6. Integrated Case Management System (ICMS) shall calculate the complexity of a case based on a fixed component and a variable component of the case.

The **initial fixed complexity of a case** is the score expressed as an integer between 1 and 10 that ICMS shall automatically assign to the case on its registration in the system, in accordance with the primary subject matter of the case, and it shall remain unchanged during all procedural stages.

7. When a case has only one subject matter (count / charge), one bundle and two parties, upon the registration, ICMS shall assign to it the score provided for its subject matter in the Nomenclature of complexity levels, except for the situations described in these Regulations. After the registration, ICMS shall randomly assign the case to a judge.

8. If the case has several subject matters (counts / charges), the primary subject matter of the case shall be registered first, followed by the secondary subject matters, after which ICMS shall randomly assign the case to a judge.

9. Pursuant to these Regulations, ICMS shall consider that the **primary subject matter** of a case is such its subject matter that is scored highest according to the Nomenclature of complexity levels.

10. The **secondary subject matter** of a case is the subject matter that scores lower than the primary subject matter according to the Nomenclature of complexity levels.

11. Thus, on the registration of a case with one primary and several secondary subject matters in ICMS, the system shall automatically calculate its initial complexity according to the formula indicated in par. 16 below.

12. If, on the registration in ICMS, the case has one primary and several secondary subject matters, and multiple parties and bundles, ICMS shall automatically calculate its initial complexity according to the formula indicated in par. 16 below and shall randomly assign the case to a judge.

13. If during the proceeding, new subject matters, parties, or bundles emerge, the responsible person shall register them in ICMS. ICMS shall automatically adjust the score of the case according to the formula indicated in par. 16 below. This way, a pending case shall get **intermediate complexity**.

14. ICMS shall factor in the intermediate complexity of a pending case when assigning future cases to the same judge.

15. The **final complexity** of a case is the score that describes the complexity of a case upon the delivery of the judgment. The final complexity shall not influence the assignment of cases to the same judge by means of ICMS, but shall provide input for the calculation of the caseload (the score) that the case added to that judge.

16. ICMS shall automatically calculate the complexity of a case by the following formula that factors in the fixed and the variable components:

**Complexity of a case =**

the complexity of the primary subject matter +  
[the complexity of the secondary subject matters x 10%] +  
[the complexity of the primary subject matter x (the number of parties x 5%)] +  
[the complexity of the primary subject matter x (the number of bundles x 20%)] +  
[the complexity of the primary subject matter x (the number of witnesses x 2%)] +  
[the complexity of the primary subject matter x (the number of orders x 2%)] +  
[the complexity of the primary subject matter x (ruling x 2%)] +  
[the complexity of the primary subject matter x (full judgment x 20%)] –  
[the complexity of the primary subject matter x (mediation settlement order x 25%)] –  
[the complexity of the primary subject matter x (mediation refusal order x 50%)] +  
[the complexity of the primary subject matter x (civil action (secondary category in criminal cases) x 50%)] +  
[the complexity of the primary subject matter x (consolidated case file x 50%)] –  
[the complexity of the primary subject matter x (refusal / remand / transfer order x 50%)] –  
[the complexity of the primary subject matter x (dismissal order x 75%)] –  
[the complexity of the primary subject matter x (consolidated case file with the Consolidated status x 50%)].

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**Note:** The **case complexity** formula shall factor in:

- The *complexity of the primary subject matter* — the complexity level assigned to the main category of the case;
- The *complexity of the secondary subject matter* — the complexity level assigned to the secondary category of the case;
- The *number of parties* — the number of participants in the proceedings (without witnesses);
- The *number of bundles* — the number of bundles that make up the case file. One bundle has 250 pages;
- The *number of witnesses* — the number of the participants saved in ICMS as *witnesses*;
- The *number of orders* — the number of *orders* saved in the case file with the *definitive* status;
- *Ruling* — a document saved in the case file with the status of *definitive ruling*;

- *Full judgment* — a document saved in the case file with the status of *definitive judgment*;
- *Mediation settlement order* — a document saved in the case file with the status of *definitive mediation settlement order*;
- *Mediation refusal order* — a document saved in the case file with the status of *definitive mediation refusal order*;
- *Civil action (secondary category in criminal cases)* — the complexity level assigned to the secondary category of a criminal case of the civil action type;
- *Consolidated case file* — the number of joined case files. The complexity level assigned to the main category of the consolidated case file;
- *Refusal / remand / transfer order* — a document saved in the case file with the status of *definitive refusal / remand / transfer order*;
- *Dismissal order* — a document saved in the case file with the status of *definitive dismissal order*;
- *Consolidated case file with the Consolidated status* — the complexity level assigned to the main category of the consolidated case file;

On the receipt of a case, the judge shall receive 100% of the final complexity level of the electronic case file, and in the following cases, the judge shall receive 50%.

On the registration of an order in ICMS, the complexity shall increase by 0.25 points, and on the registration of a judgment / decision, the complexity of the case shall increase by 0.50 points.

If two or more pending cases are joined, ICMS shall automatically calculate the complexity of the consolidated case file according to the formula indicated in point 16, provided that all the actions related to the joinder have been entered in ICMS.

If a case is severed, ICMS shall automatically calculate the complexity of the resulted cases based on the formula indicated in point 16, provided that all the actions related to the severance of the case have been entered in ICMS (the complexity of the original case shall be distributed between the resulted cases).

### **The complexity of cases under appeal and in cassation**

**17.** For cases under appeals or in cassation, ICMS shall automatically calculate the initial complexity as, respectively, 75% and 65% of the complexity for the corresponding case in trial proceedings, established in the Nomenclature of complexity levels.

**18.** For retrials in appellate courts, the person responsible for registering case files in ICMS shall select the option “*Quashing of a judgment*” in the section “*Received case file*” of “*General data.*” Thus, ICMS will assign the initial complexity level established for that

case in the Nomenclature of complexity levels according to the rules established for courts of first jurisdiction.

#### **IV. FINAL PROVISIONS**

**19.** ICMS shall calculate the initial, intermediate, and final complexity of cases automatically. In case of temporary malfunction of ICMS or the equipment, in weekends, and on holidays, the registration of cases and calculation of complexity levels according to the formula shall be done on the first working day or as soon as the operation of the equipment or ICMS is restored.

**20.** The case complexity levels set out in the Nomenclature of complexity levels shall be integrated into the ICMS random assignment module to ensure a balanced distribution of the work among judges and to optimize the work of the courts. The indices of categories in ICMS shall correspond to the category indices listed in the Nomenclature.

**21.** The case complexity levels set out in the Nomenclature of complexity levels shall also be used to calculate and recommend the optimal caseload for judges, as well as to develop and implement public policies in the justice sector.

**ANNEX**

to the Regulations on single national complexity levels of civil, criminal, and contravention cases, approved by Decision No. 165/6 of February 18, 2014, of the SCM  
*As amended and supplemented by SCM Decision No. 486/19 of June 23, 2015*  
*As amended and supplemented by SCM Decision No.518/24 of August 1, 2017*

**THE NOMENCLATURE OF COMPLEXITY LEVELS****1. CRIMINAL CASES**

| No.   | Article in the Code      | Article name / position  | Complexity level |
|---|--------------------------|--|------------------|
| <b>1. CRIMES AGAINST PEACE AND PEOPLES' SAFETY, CRIMES OF WAR</b> |                          |  |                  |
| 1.1.1   | Article 135              | Genocide   | 10               |
| 1.1.2   | Article 135 <sup>1</sup> | Crimes against humanity  | 10               |
| 1.1.3   | Article 136              | Ecocide  | 10               |
| 1.1.4   | Article 137              | Crimes of war against persons  | 10               |
| 1.1.5   | Article 137 <sup>1</sup> | Crimes of war against property and other rights  | 10               |
| 1.1.6   | Article 137 <sup>2</sup> | Use of forbidden means of warfare  | 10               |
| 1.1.7   | Article 137 <sup>3</sup> | Use of forbidden methods of warfare  | 10               |
| 1.1.8   | Article 137 <sup>4</sup> | Self-assumed use of distinctive signs of international humanitarian law  | 8                |
| 1.1.9   | Article 138              | Issue or enforcement of a manifestly illegal order. Failure or inappropriate exercise of due control   | 8                |
| 1.1.10  | Article 139              | Planning, preparation, triggering or waging of war   | 10               |
| 1.1.11  | Article 140              | Propagation of warfare   | 10               |
| 1.1.12  | Article 140 <sup>1</sup> | Use, development, production, otherwise obtaining, processing, possession, storage, or preservation, direct or indirect transfer, storage, and transportation of weapons of mass destruction | 10               |
| 1.1.13  | Article 141              | Activities of mercenaries  | 9                |
| 1.1.14  | Article 142              | Attack on a person enjoying international protection   | 8                |
| 1.1.15  | Article 144              | Cloning  | 8                |
| 1.1.16  |                          | Other new categories   | 9                |
| <b>2. CRIMES AGAINST THE LIFE AND HEALTH OF A PERSON</b>          |                          |  |                  |
| 1.2.1   | Article 145              | Intentional murder   | 10               |
| 1.2.2   | Article 146              | Killing in the heat of passion   | 9                |
| 1.2.3   | Article 147              | Infanticide  | 8                |
| 1.2.4   | Article 148              | Putting to death at the will of the person (euthanasia)  | 7                |
| 1.2.5   | Article 149              | Reckless homicide  | 7                |
| 1.2.6   | Article 150              | Pushing to suicide   | 8                |
| 1.2.7   | Article 151              | Severe intentional injury to body or health  | 9                |
| 1.2.8   | Article 152              | Moderate intentional injury to body or health  | 8                |
| 1.2.9   | Article 155              | Threat with death or serious injury to body or health  | 7                |
| 1.2.10  | Article 156              | Severe or moderate injury to body or health in the heat of passion   | 7                |
| 1.2.11  | Article 157              | Severe or average injury to body or health caused by imprudence  | 7                |
| 1.2.12  | Article 158              | Trafficking in human organs, tissues, and cells  | 8                |
| 1.2.13  | Article 159              | Illegal abortion   | 6                |
| 1.2.14  | Article 160              | Illegal surgical sterilization   | 6                |

|   |                          |   |    |
|---|--------------------------|---|----|
| 1.2.15  | Article 161              | Artificial fertilization or embryo implantation without the consent of the patient  | 6  |
| 1.2.16  | Article 162              | Failure to assist a sick person   | 6  |
| 1.2.17  | Article 163              | Leaving in danger   | 5  |
| 1.2.18  |                          | Other new categories  | 7  |
| <b>3. CRIMES AGAINST FREEDOM, REPUTATION, AND DIGNITY OF A PERSON</b>                       |                          |   |    |
| 1.3.1.  | Article 164              | Kidnapping  | 9  |
| 1.3.2   | Article 164 <sup>1</sup> | Kidnapping of a juvenile by close relatives   | 8  |
| 1.3.3.  | Article 165              | Trafficking in human beings   | 10 |
| 1.3.4.  | Article 165 <sup>1</sup> | Exploiting the work or services of a victim of trafficking in human beings  | 7  |
| 1.3.5.  | Article 166              | Illegal deprivation of freedom  | 8  |
| 1.3.6.  | Article 166 <sup>1</sup> | Torture, inhuman or degrading treatment   | 8  |
| 1.3.7.  | Article 167              | Slavery and slavery-like conditions   | 8  |
| 1.3.8.  | Article 168              | Forced labor  | 7  |
| 1.3.9.  | Article 169              | Illegal commitment to a psychiatric institution   | 5  |
| 1.3.10  |                          | Other new categories  | 8  |
| <b>4. SEX CRIMES</b>  |                          |   |    |
| 1.4.1   | Article 171              | Rape  | 9  |
| 1.4.2   | Article 172              | Violent actions of sexual nature  | 9  |
| 1.4.3   | Article 173              | Sexual harassment   | 8  |
| 1.4.4   | Article 174              | Sexual intercourse with a person who has not reached the age of 16  | 8  |
| 1.4.5   | Article 175              | Perverse actions  | 8  |
| 1.4.6   | Article 175 <sup>1</sup> | Seduction of a juvenile for sexual purposes   | 9  |
| 1.4.7   |                          | Other new categories  | 9  |
| <b>5. CRIMES AGAINST POLITICAL, EMPLOYMENT, AND OTHER CONSTITUTIONAL RIGHTS OF CITIZENS</b> |                          |   |    |
| 1.5.1   | Article 176              | Violation of citizens' equality   | 5  |
| 1.5.2   | Article 177              | Violation of privacy  | 5  |
| 1.5.3   | Article 178              | Violation of the secrecy of correspondence  | 5  |
| 1.5.4   | Article 179              | Violation of the inviolability of a dwelling  | 6  |
| 1.5.5   | Article 180              | Intentional violation of the legislation on access to information   | 4  |
| 1.5.6   | Article 180 <sup>1</sup> | Intentional hindering of the business of media outlets or intimidation for the critique   | 6  |
| 1.5.7   | Article 180 <sup>2</sup> | Censorship  | 6  |
| 1.5.8   | Article 181              | Obstruction of the free exercise of voting rights or of the activity of electoral bodies  | 4  |
| 1.5.9   | Article 181 <sup>1</sup> | Corruption of voters  | 6  |
| 1.5.10  | Article 181 <sup>2</sup> | Illegal financing of political parties or electoral campaigns, and illegal administration of political parties' or electoral funds    | 6  |
| 1.5.11  | Article 182              | Falsification of voting results   | 6  |
| 1.5.12  | Article 183              | Violation of workplace safety rules   | 7  |
| 1.5.13  | Article 184              | Violation of freedom of assembly  | 4  |
| 1.5.14  | Article 185              | Encroachment on a person and citizens' rights on the pretext of preaching of religious beliefs and the performance of religious rites | 5  |
| 1.5.15  | Article 185 <sup>1</sup> | Infringement of copyright and related rights  | 6  |
| 1.5.16  | Article 185 <sup>2</sup> | Infringement of industrial property   | 4  |
| 1.5.17  | Article 185 <sup>3</sup> | Intentional misrepresentation in intellectual property documents  | 4  |
| 1.5.18  |                          | Other new categories  | 5  |
| <b>6. CRIMES AGAINST PROPERTY</b>   |                          |   |    |

|   |                          |  |    |
|---|--------------------------|--|----|
| 1.6.1   | Article 186              | Theft  | 5  |
| 1.6.2   | Article 187              | Robbery  | 6  |
| 1.6.3   | Article 188              | Robbery with extreme violence  | 7  |
| 1.6.4   | Article 189              | Blackmail  | 8  |
| 1.6.5   | Article 190              | Fraud  | 7  |
| 1.6.6   | Article 191              | Embezzlement of foreign property   | 7  |
| 1.6.7   | Article 192              | Pickpocketing  | 6  |
| 1.6.8   | Article 192 <sup>1</sup> | Hijacking  | 5  |
| 1.6.9   | Article 192 <sup>2</sup> | Hijacking of animal-drawn vehicles and draft animals   | 4  |
| 1.6.10  | Article 193              | Criminal trespass  | 4  |
| 1.6.11  | Article 194              | Misappropriation or misuse of electricity, heating, or natural gas   | 4  |
| 1.6.12  | Article 196              | Infliction of material damage through deception or abuse of trust  | 6  |
| 1.6.13  | Article 199              | Acquisition or sale of goods known to have been obtained by criminal means   | 5  |
| 1.6.14  | Article 199 <sup>1</sup> | Damage or destruction of cultural heritage   | 6  |
| 1.6.15  | Article 199 <sup>2</sup> | Unauthorized works in archaeological sites or areas of archaeological value  | 6  |
| 1.6.16  | Article 199 <sup>3</sup> | Concealment or illegal keeping of movable archaeological objects   | 7  |
| 1.6.17  | Article 199 <sup>4</sup> | Unauthorized sale of mobile archaeological objects and classified mobile cultural assets   | 5  |
| 1.6.18  | Article 199 <sup>5</sup> | Unauthorized access with metal detectors or other remote sensing devices and their use in archaeological sites or areas with archaeological value                                      | 4  |
| 1.6.19  |                          | Other new categories   | 6  |
| <b>7. CRIMES AGAINST FAMILY AND JUVENILES</b>             |                          |  |    |
| 1.7.1   | Article 201              | Incest   | 8  |
| 1.7.2   | Article 201 <sup>1</sup> | Domestic violence  | 8  |
| 1.7.3   | Article 201 <sup>2</sup> | Inappropriate performance of parental duties   | 5  |
| 1.7.4   | Article 204              | Disclosure of adoption secret  | 4  |
| 1.7.5   | Article 205              | Abuse of parents and other persons in adopting children  | 5  |
| 1.7.6   | Article 206              | Trafficking in children  | 10 |
| 1.7.7   | Article 207              | Illegal expatriation of children   | 8  |
| 1.7.8   | Article 208              | Recruitment of juveniles to criminal activity or pushing them to commit immoral acts   | 8  |
| 1.7.9   | Article 208 <sup>1</sup> | Child pornography  | 8  |
| 1.7.10  | Article 208 <sup>2</sup> | Recourse to child prostitution   | 8  |
| 1.7.11  | Article 209              | Recruitment of juveniles to the illicit use of narcotic drugs, medical drugs, and other psychotropic substances  | 7  |
| 1.7.12  |                          | Other new categories   | 8  |
| <b>8. CRIMES AGAINST PUBLIC HEALTH AND COMMUNITY LIFE</b> |                          |  |    |
| 1.8.1   | Article 211              | Transmitting venereal diseases   | 5  |
| 1.8.2   | Article 212              | Infection with HIV / AIDS  | 5  |
| 1.8.3   | Article 213              | Violation of medical assistance rules and methods due to negligence  | 4  |
| 1.8.4   | Article 213 <sup>1</sup> | Advertisements for illicit procurement or donation of human organs, tissues, and cells   | 4  |
| 1.8.5   | Article 214              | Illegal practice of medical or pharmaceutical activity   | 4  |
| 1.8.6   | Article 214 <sup>1</sup> | Production or sale of counterfeit drugs  | 4  |
| 1.8.7   | Article 215              | Spreading of epidemic diseases   | 5  |
| 1.8.8   | Article 216              | Production, transportation, storage, sale, offering for payment or free of charge of products (goods), or provision of services, that are dangerous to the life or health of consumers | 6  |

|                                |                          |   |   |
|--------------------------------|--------------------------|---|---|
| 1.8.9                          | Article 217              | Illegal trafficking in drugs, ethnobotanical plants, or their analogs without the purpose of disposal                                     | 5 |
| 1.8.10                         | Article 217 <sup>1</sup> | Illegal trafficking in drugs, ethnobotanical plants, or their analogs with the purpose of disposal  | 7 |
| 1.8.11                         | Article 217 <sup>2</sup> | Illegal trafficking in precursors for producing or processing of drugs, ethnobotanical plants, or their analogs                           | 7 |
| 1.8.12                         | Article 217 <sup>3</sup> | Illicit trafficking in materials and equipment for the production or processing of drugs, ethnobotanical plants, or their analogs         | 7 |
| 1.8.13                         | Article 217 <sup>4</sup> | Stealing or extortion of drugs or ethnobotanical plants   | 5 |
| 1.8.14                         | Article 217 <sup>5</sup> | Illegal public consumption or organization of illegal consumption of drugs, ethnobotanical plants, or their analogs                       | 5 |
| 1.8.15                         | Article 217 <sup>6</sup> | Deliberate illegal introduction of drugs, ethnobotanical plants, or their analogs into the body of another person, against his / her will | 5 |
| 1.8.16                         | Article 218              | Illegal prescription, or violation of the rules regarding the circulation, of drugs   | 5 |
| 1.8.17                         | Article 219              | Organization or keeping of drug or ethnobotanics dens   | 6 |
| 1.8.18                         | Article 220              | Pimping   | 6 |
| 1.8.19                         | Article 222              | Profanation of graves and monuments   | 4 |
| 1.8.20                         |                          | Other new categories  | 5 |
| <b>9. ENVIRONMENTAL CRIMES</b> |                          |   |   |
| 1.9.1                          | Article 223              | Violation of environmental safety requirements  | 4 |
| 1.9.2                          | Article 224              | Violation of the rules on the movement of radioactive, bacteriological, or toxic substances, materials, and waste                         | 5 |
| 1.9.3                          | Article 225              | Concealment of information regarding, or intentional misrepresentation on, environmental pollution  | 4 |
| 1.9.4                          | Article 226              | Default of the obligations regarding environmental damage control   | 4 |
| 1.9.5                          | Article 227              | Soil pollution  | 4 |
| 1.9.6                          | Article 228              | Violation of subsoil protection requirements  | 4 |
| 1.9.7                          | Article 229              | Water pollution   | 4 |
| 1.9.8                          | Article 230              | Air pollution   | 4 |
| 1.9.9                          | Article 231              | Illegal deforestation   | 4 |
| 1.9.10                         | Article 232              | Destruction or deterioration of woodlands   | 4 |
| 1.9.11                         | Article 233              | Illegal hunting   | 4 |
| 1.9.12                         | Article 234              | Illegal fishing, hunting or other exploitation of the waters  | 4 |
| 1.9.13                         | Article 235              | Violation of the administration and protection of state-protected nature reserves   | 4 |
| 1.9.14                         |                          | Other new categories  | 4 |
| <b>10. ECONOMIC CRIMES</b>     |                          |   |   |
| 1.10.1                         | Article 236              | Publishing or putting into circulation of false banknotes or false securities   | 8 |
| 1.10.2                         | Article 237              | Issuing or putting into circulation of cards or other false payment instruments   | 8 |
| 1.10.3                         | Article 238              | Acquisition of credits, loans, or compensations / insurance indemnities by deception  | 5 |
| 1.10.4                         | Article 239              | Violation of credit rules, loan policies, or rules for granting compensations / insurance indemnities                                     | 5 |
| 1.10.5                         | Article 239 <sup>1</sup> | Incorrect or fraudulent management of a bank, investment company, or insurance company  | 6 |
| 1.10.6                         | Article 239 <sup>2</sup> | Obstruction of banking supervision  | 5 |
| 1.10.7                         | Article 240              | Misuse of domestic loans or foreign funds   | 5 |
| 1.10.8                         | Article 240 <sup>1</sup> | Sale or misuse of diesel imported for own consumption   | 4 |

|  |                           |   |   |
|--|---------------------------|---|---|
| 1.10.9   | Article 241               | Illegal entrepreneurship  | 4 |
| 1.10.10  | Article 241 <sup>1</sup>  | Illegal financial activity  | 8 |
| 1.10.11  | Article 242               | Fictitious entrepreneurship   | 4 |
| 1.10.12  | Article 242 <sup>1</sup>  | Manipulation of an event  | 6 |
| 1.10.13  | Article 242 <sup>2</sup>  | Arranged bets   | 6 |
| 1.10.14  | Article 243               | Money laundering  | 7 |
| 1.10.15  | Article 244               | Tax evasion by businesses, institutions, and organizations  | 6 |
| 1.10.16  | Article 244 <sup>1</sup>  | Tax evasion by individuals  | 6 |
| 1.10.17  | Article 245               | Abuses in issuing securities  | 5 |
| 1.10.18  | Article 245 <sup>1</sup>  | Manipulation of stock exchanges   | 5 |
| 1.10.19  | Article 245 <sup>2</sup>  | Violation of the legislation in keeping the security holders register   | 5 |
| 1.10.20  | Article 245 <sup>3</sup>  | Insider trading   | 5 |
| 1.10.21  | Article 245 <sup>4</sup>  | Violation of the provisions regulating transactions with the assets of a company  | 5 |
| 1.10.22  | Article 245 <sup>5</sup>  | Deliberate refusal to disclose and / or offer the information required by the non-banking or banking financial market legislation | 5 |
| 1.10.23  | Article 245 <sup>6</sup>  | Business in the non-banking financial market without a license  | 4 |
| 1.10.24  | Article 245 <sup>7</sup>  | Violation of the requirements regarding business in the non-banking financial market  | 4 |
| 1.10.25  | Article 245 <sup>8</sup>  | Violation of the legislation in valuating securities and related assets   | 4 |
| 1.10.26  | Article 245 <sup>9</sup>  | Obstruction of the rights of shareholders in a commercial company and illegitimate deprivation of such rights                     | 5 |
| 1.10.27  | Article 245 <sup>10</sup> | Illegal acquisition and / or disclosure of trade or banking secrets   | 4 |
| 1.10.28  | Article 245 <sup>11</sup> | Violation of the legislation on private pension funds   | 5 |
| 1.10.29  | Article 245 <sup>12</sup> | Violation of the legislation on credit bureaus  | 4 |
| 1.10.30  | Article 246               | Restriction of free competition   | 5 |
| 1.10.31  | Article 246 <sup>1</sup>  | Unfair competition  | 5 |
| 1.10.32  | Article 246 <sup>2</sup>  | Falsification and counterfeiting of products  | 5 |
| 1.10.33  | Article 247               | Forcing to a transaction or to its refusal  | 5 |
| 1.10.34  | Article 248               | Smuggling   | 8 |
| 1.10.35  | Article 249               | Customs evasion   | 7 |
| 1.10.36  | Article 250               | Transportation, storage, or sale of excisable goods without excise stamps labeling  | 6 |
| 1.10.37  | Article 250 <sup>1</sup>  | Illegal manufacturing, putting into circulation, and use of state hallmarks   | 5 |
| 1.10.38  | Article 251               | Appropriation, illegal alienation, and concealment of pledged, frozen, leased, seized, or confiscated assets                      | 5 |
| 1.10.39  | Article 252               | Intentional insolvency  | 5 |
| 1.10.40  | Article 253               | Fictitious insolvency   | 5 |
| 1.10.41  | Article 255               | Customer deception  | 4 |
| 1.10.42  | Article 256               | Unlawful remuneration for work related to public service  | 4 |
| 1.10.43  | Article 257               | Defective construction work   | 5 |
| 1.10.44  | Article 258               | Violation of the rules for the use, repair, and remodeling of dwellings in residential buildings                                  | 5 |
| 1.10.45  |                           | Other new categories  | 5 |
| <b>11. CYBERCRIMES AND TELECOMMUNICATIONS CRIMES</b> |                           |   |   |
| 1.11.1   | Article 259               | Illegal access to computerized information  | 4 |
| 1.11.2   | Article 260               | Illegal manufacturing, import, sale or offering of equipment or software  | 4 |

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| 1.11.3   | Article 260 <sup>1</sup> | Illegal interception of electronic data   | 4  |
| 1.11.4   | Article 260 <sup>2</sup> | Alteration of electronic data stored in a computer system   | 5  |
| 1.11.5   | Article 260 <sup>3</sup> | Disruption of the operation of a computer system  | 5  |
| 1.11.6   | Article 260 <sup>4</sup> | Illegal generation, import, sale or provision of passwords, access codes or other similar data                                      | 5  |
| 1.11.7   | Article 260 <sup>5</sup> | Data forgery  | 5  |
| 1.11.8   | Article 260 <sup>6</sup> | Computer fraud  | 5  |
| 1.11.9   | Article 261              | Violation of cybersecurity rules  | 5  |
| 1.11.10  | Article 261 <sup>1</sup> | Unauthorized access to telecommunications networks and services   | 4  |
| 1.11.11  |                          | Other new categories  | 5  |
| <b>12. TRANSPORT CRIMES</b>                              |                          |   |    |
| 1.12.1   | Article 262              | Violation of flight rules   | 6  |
| 1.12.2   | Article 263              | Violation of traffic safety or rules of operation in rail, naval or air transport   | 6  |
| 1.12.3   | Article 264              | Violation of traffic safety or rules of transport operation by the person in charge of steering                                     | 6  |
| 1.12.4   | Article 264 <sup>1</sup> | Driving in a state of advanced intoxication from alcohol or other substances  | 4  |
| 1.12.5   | Article 265              | Putting into service of transport with obvious technical defects  | 4  |
| 1.12.6   | Article 266              | Leaving the place of a traffic accident   | 4  |
| 1.12.7   | Article 267              | Substandard repair of communication routes, railway, naval or air transport, or putting them into service despite technical defects | 5  |
| 1.12.8   | Article 268              | Intentional damaging or destruction of communication routes and transport   | 4  |
| 1.12.9   | Article 269              | Violation of order and traffic safety rules   | 4  |
| 1.12.10  | Article 270              | Arbitrary, needless halting of a train  | 4  |
| 1.12.11  | Article 271              | Deliberate blocking of thruways   | 5  |
| 1.12.12  | Article 272              | Compulsion to nonfeasance of a worker of a rail, naval, air or car transport  | 5  |
| 1.12.13  | Article 275              | Hijacking or capture of a train, or an air, sea, or river ship  | 7  |
| 1.12.14  | Article 276              | Counterfeit of car identification elements  | 4  |
| 1.12.15  |                          | Other new categories  | 5  |
| <b>13. CRIMES AGAINST PUBLIC SAFETY AND PUBLIC ORDER</b> |                          |   |    |
| 1.13.1   | Article 278              | Terrorist act   | 10 |
| 1.13.2   | Article 278 <sup>1</sup> | Delivery, placement, putting into operation, or detonation of an explosive device or other lethal device                            | 10 |
| 1.13.3   | Article 279              | Financing of terrorism  | 10 |
| 1.13.4   | Article 279 <sup>1</sup> | Recruitment, training, or other support for terrorism   | 10 |
| 1.13.5   | Article 279 <sup>2</sup> | Incitement to terrorism or public justification of terrorism  | 9  |
| 1.13.6   | Article 280              | Taking of hostages  | 9  |
| 1.13.7   | Article 281              | Sham reporting of a terrorist act   | 6  |
| 1.13.8   | Article 282              | Organization of, or participation in, an illegal paramilitary formation   | 7  |
| 1.13.9   | Article 283              | Banditry  | 10 |
| 1.13.10  | Article 284              | Establishment or directing of a criminal organization   | 10 |
| 1.13.11  | Article 285              | Mass rioting  | 9  |
| 1.13.12  | Article 286              | Actions that disrupt penitentiary activity  | 10 |
| 1.13.13  | Article 287              | Hooliganism   | 7  |
| 1.13.14  | Article 288              | Vandalism   | 6  |
| 1.13.15  | Article 289              | Piracy  | 8  |
| 1.13.16  | Article 289 <sup>1</sup> | Crimes against aviation security and airport security   | 7  |
| 1.13.17  | Article 289 <sup>2</sup> | Crimes against naval security   | 7  |

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| 1.13.18   | Article 289 <sup>3</sup> | Crimes against the security of fixed platforms   | 6 |
| 1.13.19   | Article 290              | Illegal wearing, storage, purchase, manufacture, repair or sale of weapons and ammunition; their theft   | 5 |
| 1.13.20   | Article 291              | Careless storage of firearms and ammunition  | 4 |
| 1.13.21   | Article 292              | Manufacture, purchase, processing, storage, transportation, use or neutralization of explosive substances or radioactive materials                     | 5 |
| 1.13.22   | Article 293              | Violation of the rules for recording, storage, transportation and use of flammable or corrosive substances   | 5 |
| 1.13.23   | Article 295              | Theft of radioactive materials or devices, or nuclear facilities, threats with theft or requests to transmit such materials, devices, or installations | 6 |
| 1.13.24   | Article 295 <sup>1</sup> | Ownership, manufacture or use of radioactive materials or devices, or of nuclear facility  | 7 |
| 1.13.25   | Article 295 <sup>2</sup> | Attack on a nuclear facility   | 8 |
| 1.13.26   | Article 296              | Violation of fire safety rules   | 5 |
| 1.13.27   | Article 297              | Noncompliance with the regulations of state authorities for civil protection   | 4 |
| 1.13.28   | Article 298              | Violation of the rules for the operation of power facilities   | 4 |
| 1.13.29   | Article 300              | Violation of rules in mining activity  | 5 |
| 1.13.30   | Article 301              | Violation of safety rules in businesses or departments subject to explosion hazard   | 5 |
| 1.13.31   | Article 301 <sup>1</sup> | Illegal manufacture and sale of, or trade in, special equipment for a secret acquisition of information  | 6 |
| 1.13.32   | Article 302              | Organization of begging  | 6 |
| 1.13.33   |                          | Other new categories   | 7 |
| <b>14. CRIMES AGAINST JUSTICE</b>                                     |                          |  |   |
| 1.14.1  | Article 303              | Interference in justice administration and in criminal prosecution   | 5 |
| 1.14.2  | Article 306              | Deliberate criminal prosecution against an innocent person   | 7 |
| 1.14.3  | Article 307              | Issue of an illegal sentence, decision, order, or judgment   | 7 |
| 1.14.4  | Article 308              | Illegal detention or arrest  | 6 |
| 1.14.5  | Article 309              | Compulsion to testify  | 7 |
| 1.14.6  | Article 310              | Tampering with evidence  | 7 |
| 1.14.7  | Article 311              | False denunciation or false complaint  | 6 |
| 1.14.8  | Article 312              | False testimony, false conclusion, or mistranslation   | 5 |
| 1.14.9  | Article 313              | Refusal or evasion to testify by a witness or an injured party   | 4 |
| 1.14.10   | Article 314              | Compulsion to false testimony, false conclusions, or mistranslation  | 5 |
| 1.14.11   | Article 315              | Disclosure of criminal prosecution data  | 4 |
| 1.14.12   | Article 316              | Disclosure of information on the safety of a judge, bailiff, party in a criminal case, or employee of a witness protection authority                   | 5 |
| 1.14.13   | Article 317              | Escape from places of detention  | 4 |
| 1.14.14   | Article 318              | Facilitation of escape   | 4 |
| 1.14.15   | Article 319              | Evasion of imprisonment  | 4 |
| 1.14.16   | Article 320              | Noncompliance with a court judgment  | 6 |
| 1.14.17   | Article 320 <sup>1</sup> | Non-enforcement of a protection order for a victim of domestic violence  | 6 |
| 1.14.18   | Article 321              | Violent noncompliance with the administration of a penitentiary  | 5 |
| 1.14.19   | Article 322              | Illegal transmission of prohibited items to prisoners  | 4 |
| 1.14.20   | Article 323              | Facilitation of a crime  | 5 |
| 1.14.21   |                          | Other new categories   | 5 |
| <b>15. CRIMES AGAINST THE NORMAL PERFORMANCE OF PUBLIC ACTIVITIES</b> |                          |  |   |
| 1.15.1  | Article 324              | Passive corruption   | 8 |
| 1.15.2  | Article 325              | Active corruption  | 8 |

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| 1.15.3  | Article 326              | Use of power for personal interests   | 8  |
| 1.15.4  | Article 327              | Malfeasance   | 8  |
| 1.15.5  | Article 328              | Excess of power or of authority   | 8  |
| 1.15.6  | Article 329              | Neglect of duty   | 6  |
| 1.15.7  | Article 330 <sup>1</sup> | Violation of the confidentiality of statements of wealth and personal interests   | 5  |
| 1.15.8  | Article 330 <sup>2</sup> | Illegal enrichment  | 7  |
| 1.15.9  | Article 332              | Falsifications in public documents  | 4  |
| 1.15.10   | Article 332 <sup>1</sup> | Fraudulent acquisition of funds from foreign funds  | 7  |
| 1.15.11   | Article 332 <sup>2</sup> | Embezzlement of foreign funds   | 7  |
| 1.15.12   |                          | Other new categories  | 7  |
| <b>16. CORRUPTION CRIMES IN THE PRIVATE SECTOR</b>              |                          |   |    |
| 1.16.1  | Article 333              | Taking bribes   | 8  |
| 1.16.2  | Article 334              | Giving bribes   | 8  |
| 1.16.3  | Article 335              | Abuse of office power   | 8  |
| 1.16.4  | Article 335 <sup>1</sup> | Falsification in accounting documents   | 8  |
| 1.16.5  |                          | Other new categories  | 8  |
| <b>17. CRIMES AGAINST PUBLIC AUTHORITIES AND STATE SECURITY</b> |                          |   |    |
| 1.17.1  | Article 337              | Homeland betrayal   | 8  |
| 1.17.2  | Article 338              | Espionage   | 10 |
| 1.17.3  | Article 339              | Usurpation of state power   | 10 |
| 1.17.4  | Article 340              | Armed rebellion   | 10 |
| 1.17.5  | Article 341              | Calls to the overturning or a violent change of the constitutional order of the Republic of Moldova   | 8  |
| 1.17.6  | Article 342              | Attack on the lives of the President of the Republic of Moldova, the President of the Parliament, or the Prime Minister   | 10 |
| 1.17.7  | Article 343              | Diversion   | 10 |
| 1.17.8  | Article 344              | Disclosure of state secret  | 8  |
| 1.17.9  | Article 345              | Loss of documents containing state secrets  | 5  |
| 1.17.10   | Article 346              | Intentional incitement to national, ethnic, racial, or religious hatred, differentiation, or division   | 7  |
| 1.17.11   | Article 347              | Profanation of state symbols  | 6  |
| 1.17.12   | Article 349              | Threat or violence against an official or a person serving public duty  | 6  |
| 1.17.13   | Article 351              | Usurpation of official status   | 5  |
| 1.17.14   | Article 352              | Arbitrariness   | 5  |
| 1.17.15   | Article 352 <sup>1</sup> | Misrepresentation   | 4  |
| 1.17.16   | Article 353              | Evasion of mandatory military service, of shortened mandatory military service or of the military service as concentrated or mobilized reservists                           | 4  |
| 1.17.17   | Article 354              | Evasion of mobilization   | 4  |
| 1.17.18   | Article 355              | Evasion or refusal of alternative service   | 4  |
| 1.17.19   | Article 356              | Evasion of military duties during war   | 5  |
| 1.17.20   | Article 357              | Arrangement or directing of an illegal strike, as well as obstruction of the business of an enterprise, institution, or organization in a state of emergency, siege, or war | 5  |
| 1.17.21   | Article 359              | Purchase or sale of official documents  | 4  |
| 1.17.22   | Article 360              | Taking, theft, concealment, damage or destruction of documents, stamps, or seals  | 4  |
| 1.17.23   | Article 361              | Making, keeping, sale or use of counterfeit official documents, stamps, or seals  | 4  |
| 1.17.24   | Article 362              | Illegal crossing of the state border  | 4  |

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| 1.17.25  | Article 362 <sup>1</sup> | Organization of illegal migration   | 6 |
| 1.17.26  | Article 363              | Illegal use of Red Cross signs  | 4 |
| 1.17.27  |                          | Other new categories  | 6 |
| <b>18. MILITARY CRIMES</b>                               |                          |   |   |
| 1.18.1   | Article 364              | Intentional noncompliance with an order   | 4 |
| 1.18.2   | Article 365              | Resistance to a chief or his / her compulsion to malfeasance  | 5 |
| 1.18.3   | Article 366              | Insult of a member of the military  | 4 |
| 1.18.4   | Article 367              | Threat of a member of the military  | 4 |
| 1.18.5   | Article 368              | Violence against the military   | 4 |
| 1.18.6   | Article 369              | Violation of statutory rules on relations between members of the military where there are no subordination relationships between them | 4 |
| 1.18.7   | Article 370              | Malfeasance, excess of power, or dereliction of duty  | 5 |
| 1.18.8   | Article 371              | Desertion   | 4 |
| 1.18.9   | Article 372              | Evasion of military service   | 4 |
| 1.18.10  | Article 373              | Violation of the rules of arms handling, or of handling of substances and objects that pose high danger to those around               | 5 |
| 1.18.11  | Article 374              | Violation of statutory guard service rules  | 4 |
| 1.18.12  | Article 375              | Violation of rules on combat alert duty   | 5 |
| 1.18.13  | Article 376              | Violation of statutory internal service rules   | 4 |
| 1.18.14  | Article 377              | Violation of rules on maintaining public order and public safety  | 4 |
| 1.18.15  | Article 378              | Negligent attitude toward military service  | 4 |
| 1.18.16  | Article 379              | Intentional destruction or damage to military assets  | 5 |
| 1.18.17  | Article 380              | Reckless destruction or damage to military assets   | 5 |
| 1.18.18  | Article 381              | Waste or loss of military assets  | 5 |
| 1.18.19  | Article 382              | Violation of the rules for driving or vehicle operation   | 4 |
| 1.18.20  | Article 383              | Violation of flight or preflight rules  | 5 |
| 1.18.21  | Article 384              | Violation of navigation rules   | 5 |
| 1.18.22  | Article 385              | Transmission or leaving of warfare means to the enemy   | 4 |
| 1.18.23  | Article 386              | Unauthorized leave of the battlefield or refusal to act with the weapon   | 5 |
| 1.18.24  | Article 387              | Voluntary surrender   | 5 |
| 1.18.25  | Article 388              | Criminal actions of prisoners   | 5 |
| 1.18.26  |                          | Other new categories  | 4 |
| <b>19. MATERIALS EXAMINED BY THE INVESTIGATING JUDGE</b> |                          |   |   |
| 1.19.1   |                          | Complaints against the actions, inactions and acts of a criminal prosecution authority and special investigation authority            | 6 |
| 1.19.2   |                          | Limitation of the inviolability of a person   | 4 |
| 1.19.3   |                          | Limitation of the inviolability of domicile   | 4 |
| 1.19.4   |                          | Limitation of the secrecy of correspondence   | 3 |
| 1.19.5   |                          | Limitation of the secrecy of phone conversations  | 3 |
| 1.19.6   |                          | Limitation of the secrecy of telegraphic communication  | 3 |
| 1.19.7   |                          | Limitation of the secrecy of other communications   | 3 |
| 1.19.8   |                          | Search  | 4 |
| 1.19.9   |                          | On-site investigation   | 4 |
| 1.19.10  |                          | Forced physical examination   | 4 |
| 1.19.11  |                          | Commitment to a medical institution for an expert examination   | 5 |
| 1.19.12  |                          | Taking of evidence for comparative research   | 3 |
| 1.19.13  |                          | Delay of the notification of relatives about the arrest of a person for up to 12 hours  | 2 |
| 1.19.14  |                          | Application of a judicial fine  | 3 |

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| 1.19.15                     |  | Seizure of goods   | 3 |
| 1.19.16                     |  | Home search  | 3 |
| 1.19.17                     |  | Installation of audio and video surveillance and recording devices, and of photo and video cameras   | 3 |
| 1.19.18                     |  | Home surveillance by means of audio or video recording equipment   | 3 |
| 1.19.19                     |  | Interception of telephone calls and other conversations  | 4 |
| 1.19.20                     |  | Interception telegraphic communication and other conversations   | 5 |
| 1.19.21                     |  | Monitoring or control of financial transactions and access to financial information  | 5 |
| 1.19.22                     |  | Collection of data from providers of electronic communications services  | 5 |
| 1.19.23                     |  | Documentation using technical methods and equipment, and location or tracking through the Global Positioning System (GPS) or other technical means | 4 |
| 1.19.24                     |  | Issue of a warrant of arrest   | 6 |
| 1.19.25                     |  | Application of provisional arrest  | 6 |
| 1.19.26                     |  | Application of home arrest   | 6 |
| 1.19.27                     |  | Extension of a provisional arrest  | 6 |
| 1.19.28                     |  | Extension of a home arrest   | 6 |
| 1.19.29                     |  | Release on probation   | 5 |
| 1.19.30                     |  | Release on bail  | 5 |
| 1.19.31                     |  | Provisional lifting of a driving license   | 4 |
| 1.19.32                     |  | Prosecutor's motion regarding the relief from criminal liability   | 6 |
| 1.19.33                     |  | Seizure of objects and documents   | 3 |
| 1.19.34                     |  | Seizure of correspondence  | 3 |
| 1.19.35                     |  | Temporary suspension from office   | 4 |
| 1.19.36                     |  | Recognition and enforcement of sentences of other states   | 3 |
| 1.19.37                     |  | Enforcement of a sentences   | 4 |
| 1.19.38                     |  | Release on parole (Article 91 of the Criminal Code)  | 5 |
| 1.19.39                     |  | Respite of sentence for pregnant women and women with children aged up to 8 (Article 96 of the Criminal Code)                                      | 5 |
| 1.19.40                     |  | Extradition  | 5 |
| 1.19.41                     |  | Acceptance of the transfer of a convict from foreign penitentiaries to penitentiaries of the Republic of Moldova                                   | 2 |
| 1.19.42                     |  | Transfer of convicts to another penitentiary   | 3 |
| 1.19.43                     |  | Hearing of witnesses   | 5 |
| 1.19.44                     |  | Commutation of sentence  | 3 |
| 1.19.45                     |  | Inclusion of a convicted person on the wanted list   | 3 |
| 1.19.46                     |  | Replacement, revocation or expiration of a provisional measure   | 5 |
| 1.19.47                     |  | Amnesty  | 6 |
| 1.19.48                     |  | Other new categories   | 4 |
| <b>20. OTHER CATEGORIES</b> |  |  |   |
| 1.20.1                      |  | Application of punishment in cases of multiple crimes (Article 84 of the Criminal Code)  | 2 |
| 1.20.2                      |  | Application of punishment in cases of multiple sentences (Article 85 of the Criminal Code)   | 2 |
| 1.20.3                      |  | Consideration of commutation for a defendant as a compensation for a violation of his / her rights   | 4 |
| 1.20.4                      |  | Motions for transfer   | 2 |
| 1.20.5                      |  | Conflict of competence   | 2 |
| 1.20.6                      |  | Recusal  | 2 |

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| 1.20.7  |  | Self-recusal                  | 2 |
| 1.20.8  |  | Judicial rehabilitation       | 7 |
| 1.20.9  |  | Civil action                  | 5 |
| 1.20.10 |  | Correction of material errors | 2 |
| 1.20.11 |  | Other new categories          | 2 |

## **2. CONTRAVENTIONAL CASES**

| No.  | Article in the Code     | Article name / position   | Complexity level |
|--|-------------------------|---|------------------|
| <b>1. CONTRAVENTIONS AGAINST POLITICAL, EMPLOYMENT, AND OTHER CONSTITUTIONAL RIGHTS OF AN INDIVIDUAL</b> |                         |   |                  |
| 2.1.1  | Article 47              | Obstruction of voting rights  | 2                |
| 2.1.2  | Article 48              | Use of undeclared, noncompliant, or foreign funds for political parties   | 2                |
| 2.1.3  | Article 48 <sup>1</sup> | Violation of the legislation on the administration of the funds of political parties and electoral funds                  | 2                |
| 2.1.4  | Article 48 <sup>2</sup> | Noncompliance with the order of the Central Electoral Commission  | 2                |
| 2.1.5  | Article 49              | Obstruction of the work of an electoral authority   | 2                |
| 2.1.6  | Article 50              | Unauthorized posting of electoral information   | 1                |
| 2.1.7  | Article 51              | Registration in multiple lists of candidates  | 1                |
| 2.1.8  | Article 52              | Campaigning on the day before voting or on the day of voting  | 1                |
| 2.1.9  | Article 53              | Violation of the electoral legislation by members of the electoral authority  | 2                |
| 2.1.10   | Article 54              | Violation of the legislation on religious denominations   | 1                |
| 2.1.11   | Article 54 <sup>1</sup> | Unauthorized practice of a profession or a business   | 2                |
| 2.1.12   | Article 54 <sup>2</sup> | Violation of labor equality   | 2                |
| 2.1.13   | Article 55              | Violation of the legislation on employment, workplace safety, and occupational health                                     | 3                |
| 2.1.14   | Article 55 <sup>1</sup> | Use of undeclared work  | 2                |
| 2.1.15   | Article 55 <sup>2</sup> | Payment of salaries or other payments without reflecting them in accounting records                                       | 2                |
| 2.1.16   | Article 56              | Violation of the legislation on employment and social protection of jobseekers  | 2                |
| 2.1.17   | Article 56 <sup>1</sup> | Violation of the legislation on the employment of people with disabilities  | 2                |
| 2.1.18   | Article 57              | Violation of the schedules of salaries, pensions, scholarships, allowances, and other regular payments established by law | 1                |
| 2.1.19   | Article 58              | Employment or involvement of juveniles in jobs posing danger to life and health   | 2                |
| 2.1.20   | Article 59              | Avoidance of negotiations on a collective employment agreement or breach of the deadline for its conclusion               | 1                |
| 2.1.21   | Article 60              | Unjustified refusal to enter into a collective employment agreement   | 1                |
| 2.1.22   | Article 61              | Obstruction of the right to found and unite in trade unions   | 1                |
| 2.1.23   | Article 63              | Dereliction of the obligation to maintain, educate, and train a child   | 1                |
| 2.1.24   | Article 63 <sup>1</sup> | Admission of unaccompanied persons who have not reached the age of 16 to recreation facilities outside specified hours    | 1                |
| 2.1.25   | Article 64              | Obstruction of the right to communicate with, and to educate, a child   | 1                |
| 2.1.26   | Article 65              | Failure to communicate about danger to the child's life or health   | 1                |

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| 2.1.27   | Article 65 <sup>1</sup> | Discrimination in education  | 2 |
| 2.1.28   | Article 66              | Violation of rules for adoption and guardianship of children left without parental care  | 2 |
| 2.1.29   | Article 67              | Violation of assembly legislation  | 1 |
| 2.1.30   | Article 68              | Compulsion to, or obstruction from participating in a strike   | 1 |
| 2.1.31   | Article 69              | Insults  | 2 |
| 2.1.32   | Article 70              | Defamation   | 2 |
| 2.1.33   | Article 71              | Violation of the legislation on access to information and on petitioning   | 2 |
| 2.1.34   | Article 71 <sup>1</sup> | Discrimination in access to public services and goods  | 3 |
| 2.1.35   | Article 71 <sup>2</sup> | Obstruction of the work of the Council for Preventing and Eliminating Discrimination and Ensuring Equality   | 2 |
| 2.1.36   | Article 72              | Illegal obstruction of access to documents from the Archive Fund   | 1 |
| 2.1.37   | Article 73              | Violation of the procedure for handing over of mandatory copies of legal documents, and intentional destruction or damage to the library collection  | 1 |
| 2.1.38   | Article 74              | Violation of the legislation on cultural heritage and monuments in public places   | 2 |
| 2.1.39   | Article 74 <sup>1</sup> | Processing of personal data in violation of the legislation on the protection of personal data   | 3 |
| 2.1.40   | Article 74 <sup>2</sup> | Denial of information or obstruction of access to the personnel of the National Center for the Protection of Personal Data   | 2 |
| 2.1.41   | Article 74 <sup>3</sup> | Noncompliance with the decisions of the National Center for the Protection of Personal Data  | 2 |
| 2.1.42   |                         | Other new categories   | 2 |
| <b>2. CONTRAVENTIONS AGAINST PUBLIC AND PERSONAL HEALTH, AND EPIDEMIOLOGICAL STATE</b> |                         |  |   |
| 2.2.1  | Article 75              | Disclosure of confidential information on HIV / AIDS tests   | 1 |
| 2.2.2  | Article 76              | Evasion of treatment or of the prescribed regimen by patients spreading tuberculosis bacilli   | 1 |
| 2.2.3  | Article 77              | Illegal medical and pharmaceutical practice  | 2 |
| 2.2.4  | Article 77 <sup>1</sup> | Dereliction of the commitment regarding drug supply for a healthcare facility  | 2 |
| 2.2.5  | Article 78              | Physical injury  | 3 |
| 2.2.6  | Article 78 <sup>1</sup> | Domestic violence  | 2 |
| 2.2.7  | Article 78 <sup>2</sup> | Persecution  | 3 |
| 2.2.8  | Article 79              | Violation of the blood donation legislation  | 1 |
| 2.2.9  | Article 80              | Violation of hygiene and anti-epidemic rules and regulations   | 1 |
| 2.2.10   | Article 80 <sup>1</sup> | Preparation, sale, or distribution of food contraindicated for preschoolers and students in general and vocational technical education establishments, as well as in summer camps for children and adolescents | 3 |
| 2.2.11   | Article 81              | Employment of personnel in food or body care business without medical examination and / or without hygienic training and / or without the required hygiene qualification                                       | 1 |
| 2.2.12   | Article 82              | Marketing of new, non-approved types of food and food-contact materials  | 1 |
| 2.2.13   | Article 83              | Failure to act to stop the marketing of new, non-approved types of food and food-contact materials   | 1 |
| 2.2.14   | Article 84              | Production, marketing and / or sale of products and provision of services that are harmful for the life and health of consumers  | 2 |

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| 2.2.15                                       | Article 85               | Illegal purchase or storage of drugs, precursors, ethnobotanical plants, and their analogs in small quantities or use of drugs without medical prescription         | 1 |
| 2.2.16                                       | Article 86               | Failure to ensure the protection of plant cultures containing drugs, precursors, and their analogs  | 1 |
| 2.2.17                                       | Article 87               | Illegal cultivation of plants containing drugs, precursors and their analogs and production of ethnobotanical plants  | 1 |
| 2.2.18                                       | Article 88               | Intoxicating a juvenile with alcohol or other substances  | 2 |
| 2.2.19                                       | Article 89               | Prostitution  | 1 |
| 2.2.20                                       | Article 90               | Production, sale, distribution, or storage of pornographic materials  | 2 |
| 2.2.21                                       | Article 90 <sup>1</sup>  | Public activities with negative impact on juveniles   | 2 |
| 2.2.22                                       | Article 91               | Consumption of alcoholic beverages in places where it is prohibited and sale of alcoholic beverages to juveniles  | 2 |
| 2.2.23                                       | Article 91 <sup>1</sup>  | Violation of the legislation regulating the marketing and consumption of tobacco products   | 2 |
| 2.2.24                                       |                          | Other new categories  | 2 |
| <b>3. CONTRAVENTIONS AGAINST REAL RIGHTS</b> |                          |   |   |
| 2.3.1  | Article 92               | Concealing information about the available land   | 1 |
| 2.3.2  | Article 93               | Violation of the legislation on geodesy, cartography, and topography  | 2 |
| 2.3.3  | Article 94               | Violation of the rules for construction on land containing useful deposits  | 2 |
| 2.3.4  | Article 95               | Violation of the regulations for exploitation of timberland, logging, timber transportation, and resin harvesting   | 1 |
| 2.3.5  | Article 96               | Violation of copyright and related rights   | 2 |
| 2.3.6  | Article 97               | Illegal use of trademark  | 2 |
| 2.3.7  | Article 97 <sup>1</sup>  | Illegal use of the name of origin and geographical indication of a product  | 2 |
| 2.3.8  | Article 97 <sup>2</sup>  | Illegal use of traditional specialties guaranteed   | 2 |
| 2.3.9  | Article 98               | Use of false or deceitful indications in product labeling   | 1 |
| 2.3.10                                       | Article 99               | Violation of patentees' exclusive rights or utility model   | 1 |
| 2.3.11                                       | Article 100              | Violation of exclusive industrial design rights   | 1 |
| 2.3.12                                       | Article 101              | Violation of exclusive plant patent rights  | 1 |
| 2.3.13                                       | Article 102              | Violation of exclusive rights in integrated circuit topography  | 1 |
| 2.3.14                                       | Article 103              | Violation of copyrights in invention, integrated circuit topography, or industrial design   | 2 |
| 2.3.15                                       | Article 104              | Intentional destruction of, or damage to, foreign assets  | 1 |
| 2.3.16                                       | Article 105              | Petty theft   | 1 |
| 2.3.17                                       | Article 106              | Infliction of material damage through deception or abuse of trust   | 1 |
| 2.3.18                                       | Article 107              | Obtaining or disclosing of trade, banking, or tax secrets   | 1 |
| 2.3.19                                       | Article 107 <sup>1</sup> | Issuing unregistered public periodical publications   | 2 |
| 2.3.20                                       |                          | Other new categories  | 1 |
| <b>4. ENVIRONMENTAL CONTRAVENTIONS</b>       |                          |   |   |
| 2.4.1  | Article 109              | Violation of water protection regulations   | 2 |
| 2.4.2  | Article 110              | Violation of water use rules  | 1 |
| 2.4.3  | Article 111              | Noncompliance with the rules and instructions on the use of constructions, facilities and measurement equipment for the supply, management, and protection of water | 2 |
| 2.4.4  | Article 112              | Damage to constructions and facilities for the supply, management, and protection of water  | 2 |
| 2.4.5  | Article 113              | Violation of the rules regulating business in water protection areas  | 1 |

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| 2.4.6  | Article 114              | Violation of rules on fishery protection and fishing   | 1 |
| 2.4.7  | Article 115              | Land degradation, and tampering with the information about the state and use of land   | 1 |
| 2.4.8  | Article 116              | Unauthorized deviation from land planning or land use projects   | 2 |
| 2.4.9  | Article 117              | Dereliction of the obligation to prime land for its intended use   | 1 |
| 2.4.10 | Article 118              | Failure to cultivate land, to carry out mandatory land improvement, to protect soil against wind and water erosion, to prevent other processes that deteriorate soil   | 1 |
| 2.4.11 | Article 119              | Violation of regulations on the protection and use of subsoil  | 2 |
| 2.4.12 | Article 120              | Unauthorized removal and destruction of the layer of fallen leaves, ground vegetation, and upper fertile soil  | 2 |
| 2.4.13 | Article 121              | Illegal use of forests   | 1 |
| 2.4.14 | Article 122              | Illegal cutting of, or damage to, trees and shrubs   | 1 |
| 2.4.15 | Article 123              | Destruction and damage to forest plantations, saplings from natural forest regeneration, and natural and preexisting seeds   | 1 |
| 2.4.16 | Article 124              | Destruction and damage to saplings and cuttings from nurseries and forest plantations  | 1 |
| 2.4.17 | Article 125              | Violation of the procedure and timelines for afforestation of logged felling areas and treeless land   | 1 |
| 2.4.18 | Article 126              | Intentional destruction or damage to hayfields, pastures, forest drainage ditches, drainage systems, roads, and engineering constructions from woodlands   | 1 |
| 2.4.19 | Article 126 <sup>1</sup> | Illegal pasturing  | 1 |
| 2.4.20 | Article 127              | Violation of woodlands use rules   | 1 |
| 2.4.21 | Article 128              | Violation of regulations on the use and protection of game resources   | 2 |
| 2.4.22 | Article 129              | Intentional destruction or damage to wild habitats   | 2 |
| 2.4.23 | Article 130              | Unauthorized installation of hives and apiaries in woodlands or noncompliance with forestry prescriptions regarding their location   | 1 |
| 2.4.24 | Article 131              | Violation of beekeeping rules and regulations  | 1 |
| 2.4.25 | Article 132              | Intentional destruction or damage to restrictive and forest management signage, fences and walls, and information boards   | 1 |
| 2.4.26 | Article 133              | Use of production sites without facilities to prevent negative impacts on forests  | 2 |
| 2.4.27 | Article 134              | Unauthorized use of woodland and green areas for deforestation, construction of administrative buildings, warehouses, and other objects  | 1 |
| 2.4.28 | Article 135              | Traffic and parking in woodlands and green areas outside public roads and in forbidden areas   | 1 |
| 2.4.29 | Article 136              | Violation of sanitary rules in forests, green areas, public gardens, forest reserves and tree farms  | 1 |
| 2.4.30 | Article 137              | Violation of fire protection rules in forests, green areas, public gardens, forest reserves and tree farms   | 2 |
| 2.4.31 | Article 138              | Violation of the regulations on the foundation and use of zoological collections   | 1 |
| 2.4.32 | Article 139              | Violation of the use of fauna in nature reserves and other state-protected natural areas   | 2 |
| 2.4.33 | Article 140              | Collection or destruction of plants, catching or killing of animals included in the Red Book of the Republic of Moldova and in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) | 2 |

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| 2.4.34   | Article 141              | Violation of the protection of objects and facilities of state-protected nature reserves  | 1 |
| 2.4.35   | Article 142              | Violation of the regulations for exploitation of timberland, logging, and timber transportation and export                          | 1 |
| 2.4.36   | Article 143              | Default on payments for environmental pollution   | 1 |
| 2.4.37   | Article 144              | Violation of ecological requirements for construction, commissioning, and use of enterprises, facilities, and other assets          | 3 |
| 2.4.38   | Article 145              | Obstruction of assets inspection or concealment of information about the state of the environment                                   | 1 |
| 2.4.39   | Article 146              | Failure to use equipment for depollution, emissions control, and waste water treatment  | 1 |
| 2.4.40   | Article 147              | Noncompliance with the regulations on admissible environmentally harmful actions and unauthorized emission of pollutants            | 2 |
| 2.4.41   | Article 148              | Violation of the regulations on the use of halogenated hydrocarbons destroying the ozone layer                                      | 2 |
| 2.4.42   | Article 149              | Environment pollution with infliction of damage   | 2 |
| 2.4.43   | Article 150              | Failure to register operations with hazardous substances and mixtures in logbooks   | 2 |
| 2.4.44   | Article 151              | Violation of technical and environmental testing rules  | 1 |
| 2.4.45   | Article 152              | Putting into service of land vehicles, ships and aircraft that do not comply with pollutant and noise emissions standards           | 2 |
| 2.4.46   | Article 153              | Use of land vehicles, ships and aircraft that do not comply with pollutant and noise emissions standards                            | 2 |
| 2.4.47   | Article 154              | Violation of waste management rules   | 2 |
| 2.4.48   | Article 155              | Violation of the rules for tracking, transportation, storage, use and burial of biological, chemical, and other toxic substances    | 2 |
| 2.4.49   | Article 155 <sup>1</sup> | Violation of the rules of nuclear and radiological operations   | 3 |
| 2.4.50   | Article 156              | Noncompliance with the legislation on state environmental expert inspection and environmental impact assessment                     | 2 |
| 2.4.51   | Article 157              | Cruelty to animals  | 2 |
| 2.4.52   | Article 158              | Violation of the rules for keeping dogs, cats, and other pets   | 1 |
| 2.4.53   | Article 158 <sup>1</sup> | Violation of the rules on animal identification and registration, and zootechnical rules  | 2 |
| 2.4.54   |                          | Other new categories  | 2 |
| <b>5. CONTRAVENTIONS IN THE FIELD OF INDUSTRY, CONSTRUCTION, ENERGY, HOUSING AND UTILITIES, AND SITE IMPROVEMENT</b> |                          |   |   |
| 2.5.1  | Article 159              | Violation of the regulations and technical instructions regarding the safe performance of works liable to cause damage or incidents | 3 |
| 2.5.2  | Article 160              | Violation of rules, regulations, and instructions regarding the storage, transportation, use and tracking of explosive materials    | 3 |
| 2.5.3  | Article 161              | Unauthorized shutdown of power, heating, or natural gas   | 1 |
| 2.5.4  | Article 162              | Intentional damage to power grids with a voltage of up to 1000 volts  | 2 |
| 2.5.5  | Article 163              | Violation of the Regulations on the protection of power grids   | 3 |
| 2.5.6  | Article 163 <sup>1</sup> | Noncompliance with the prescriptions of the State Energy Inspectorate   | 2 |
| 2.5.7  | Article 164              | Illegal use of power, heating, or natural gas   | 1 |
| 2.5.8  | Article 165              | Violation of right of access to measuring equipment   | 1 |
| 2.5.9  | Article 166              | Unauthorized use of gas-operated facilities   | 1 |
| 2.5.10   | Article 167              | Damage to heat networks when performing works   | 2 |

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| 2.5.11.  | Article 168              | Violation of the rules on the protection of gas grids or heat networks   | 2 |
| 2.5.12   | Article 169              | Violation of the rules for electricity, gas, and petroleum business  | 2 |
| 2.5.13   | Article 170              | Unauthorized connection to water and sewage systems  | 1 |
| 2.5.14   | Article 171              | Deliberate damage to water and sewage systems when performing works  | 1 |
| 2.5.15   | Article 172              | Violation of the rules for protection water mains, and water and sewage systems  | 1 |
| 2.5.16.  | Article 173              | Unauthorized disconnection of consumers from water and sewage systems  | 1 |
| 2.5.17   | Article 174              | Deliberate damage to measurement equipment for tracking the consumption of drinking water and the amount of evacuated sewage   | 2 |
| 2.5.18   | Article 175              | Presentation of erroneous data on consumed drinking water and sewage evacuated into the public sewerage  | 1 |
| 2.5.19   | Article 176              | Failure to ensure free access of water and sewerage service providers to the dwellings and to economic agents' premises  | 1 |
| 2.5.20   | Article 177              | Violation of construction legislation and regulations  | 3 |
| 2.5.21   | Article 178              | Violation of the rules for building single-level houses in rural areas and allotment cottages in horticultural societies   | 2 |
| 2.5.22   | Article 179              | Unauthorized construction and interventions in existing buildings  | 2 |
| 2.5.23   | Article 180              | Violation of housing legislation   | 2 |
| 2.5.24   | Article 181              | Violation of the rules for cleanliness in urban and rural areas  | 1 |
| 2.5.25   | Article 182              | Damage to, or arbitrary cutting of, vegetation in the green areas of localities  | 1 |
| 2.5.26   |                          | Other new categories   | 2 |
| <b>6. AGRICULTURAL AND VETERINARY CONTRAVENTIONS</b> |                          |  |   |
| 2.6.1  | Article 183              | Bringing into country, production, sale, promotion, repackaging and use of phytosanitary products, fertilizers and veterinary pharmaceuticals that do not have conformity certificates, or are not approved or registered, or are forbidden or counterfeit | 2 |
| 2.6.2  | Article 184              | Violation of technical regulations on the production, processing, storage, and sale of seeds   | 2 |
| 2.6.3  | Article 185              | Production, sale, import, export of vine or horticultural propagating material without the documents required by law, or falsification thereof   | 2 |
| 2.6.4  | Article 186              | Establishment of plantations with a surface area of over 0.5 hectares without a project design, with uncertified propagating material, or with azonal varieties and rootstocks   | 2 |
| 2.6.5  | Article 187              | Unauthorized cutting of fruit and berry plantations  | 1 |
| 2.6.6  | Article 188              | Noncompliance with phytosanitary quarantine, breeding technology for fruit and berry plantations   | 2 |
| 2.6.7  | Article 189              | Violation of the rules for the control of quarantine pests, plant pathogens and weeds  | 2 |
| 2.6.8  | Article 189 <sup>1</sup> | Violation of the rules for tracking, transportation, storage or use of phytosanitary products or fertilizers   | 2 |
| 2.6.9  | Article 189 <sup>2</sup> | Omission to apply, or inadequate application, of the legal requirements of persons in charge of governmental supervision and control of plant protection   | 2 |
| 2.6.10   | Article 189 <sup>3</sup> | Containment of information or misrepresentation on phytosanitary products or on fertilizers that pose hazard to humans, animals, or the environment  | 2 |

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| 2.6.11  | Article 189 <sup>4</sup>  | Pollution of agricultural produce, feed, or agricultural raw material with phytosanitary or fertilizer residues above the maximum admissible limit   | 2 |
| 2.6.12  | Article 189 <sup>5</sup>  | Violation of mandatory phytosanitary or environmental protection standards, regulations, or rules, or of other regulations during the production, import, transportation, storage, sale or use of phytosanitary products, fertilizers, and technical means for their application | 2 |
| 2.6.13  | Article 189 <sup>6</sup>  | Dumping of unused phytosanitary solutions, waste water left after the washing of transport, machinery or special equipment, and packages from phytosanitary products or fertilizers into soil, ponds, or other water reservoirs  | 2 |
| 2.6.14  | Article 189 <sup>7</sup>  | Violation of the methodology for researching, testing, experimenting with, and ensuring state registration of phytosanitary products or fertilizers  | 2 |
| 2.6.15  | Article 190               | Clearance of the production subject to phytosanitary control at border crossing points without phytosanitary documents for import / export   | 1 |
| 2.6.16  | Article 191               | Obstruction of the phytosanitary surveillance and control carried out by inspectors of the National Food Safety Agency   | 1 |
| 2.6.17  | Article 192               | Violation of the prescribed procedure for testing and zoning of vine varieties   | 1 |
| 2.6.18  | Article 193               | Production and / or sale of propagating and planting material that does not comply with technical standards  | 1 |
| 2.6.19  | Article 194               | Violation of the prescribed procedure for planting vineyards   | 2 |
| 2.6.20  | Article 195               | Violation of the prescribed procedure for writing off and assart of vineyards  | 2 |
| 2.6.21  | Article 196               | Violation of veterinary rules and regulations  | 1 |
| 2.6.22  | Article 196 <sup>1</sup>  | Violation of the requirements for veterinary pharmaceuticals   | 2 |
| 2.6.23  |                           | Other new categories   | 2 |
| <b>7. CONTRAVENTIONS AGAINST TRANSPORT MODE</b> |                           |  |   |
| 2.7.1   | Article 197               | Violation of the rules for the carriage of persons and goods by road   | 2 |
| 2.7.2   | Article 198               | Violation of safety rules in rail transport  | 1 |
| 2.7.3   | Article 199               | Violation of navigation rules  | 1 |
| 2.7.4.  | Article 199 <sup>1</sup>  | Operation of a ship that is not registered or is registered in violation of the rules on state registration of vessels   | 1 |
| 2.7.5   | Article 199 <sup>2</sup>  | Violation of ship identification rules   | 1 |
| 2.7.6   | Article 199 <sup>3</sup>  | Operation of a ship in violation of the legislation regarding the crew   | 1 |
| 2.7.7   | Article 199 <sup>4</sup>  | Violation of onboard security and safety rules   | 2 |
| 2.7.8   | Article 199 <sup>5</sup>  | Violation of the rules on ship operation security and safety   | 2 |
| 2.7.9   | Article 199 <sup>6</sup>  | Violation of the ship piloting mode  | 2 |
| 2.7.10  | Article 199 <sup>7</sup>  | Violation of the rules on the security and safety in ports   | 2 |
| 2.7.11  | Article 199 <sup>8</sup>  | Violation of the organization and maintenance of hardstands and winter parking shelters  | 1 |
| 2.7.12  | Article 199 <sup>9</sup>  | Violation of the regime of construction, reconstruction, repair or dismantling of a ship   | 2 |
| 2.7.13  | Article 199 <sup>10</sup> | Violation of the regime of construction on inland waterways  | 2 |
| 2.7.14  | Article 199 <sup>11</sup> | Violation of the document storage regime   | 1 |
| 2.7.15  | Article 199 <sup>12</sup> | Violation of the ship security and safety control and surveillance regime  | 1 |
| 2.7.16  | Article 200               | Violation of traffic rules for dangerous, bulky, or very heavy cargo   | 2 |

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| 2.7.17                                | Article 201              | Violation of cargo integrity rules   | 1 |
| 2.7.18                                | Article 202              | Intentional damage to public transport and indoor equipment  | 1 |
| 2.7.19                                | Article 203              | Violation of the rules of conduct by passengers and drivers  | 1 |
| 2.7.20                                | Article 204              | Travel without a ticket  | 1 |
| 2.7.21                                | Article 205              | Forgery of tickets and coupons and / or sale of fake tickets and coupons   | 1 |
| 2.7.22                                | Article 206              | Violation of the rules for ship registration and tracking, and for use of ships and piers                                  | 2 |
| 2.7.23                                | Article 207              | Use of vehicles, locomotives and wagons, and ships contrary to operation rules   | 2 |
| 2.7.24                                | Article 208              | Violation of flight safety rules   | 2 |
| 2.7.25                                | Article 209              | Violation of restrictions to access to an airport (airfield) and to objects on such territory                              | 2 |
| 2.7.26                                | Article 210              | Violation of the rules of conduct in an aircraft   | 1 |
| 2.7.27                                | Article 211              | Violation of the rules for the operation of aviation technology  | 2 |
| 2.7.28                                | Article 212              | Violation of the initial requirements for avia operator certification / authorization and violation of operation standards | 2 |
| 2.7.29                                | Article 213              | Violation of aircraft ground handling rules  | 2 |
| 2.7.30                                | Article 214              | Violation of the rules for authorizing aircraft staff  | 2 |
| 2.7.31                                | Article 215              | Violation of the rules for tracking the work time, flight times and rest time of aircraft staff                            | 2 |
| 2.7.32                                | Article 216              | Violation of the rules for air transportation of dangerous cargo   | 2 |
| 2.7.33                                | Article 217              | Violation of the rules on the maximum take-off mass and aircraft center of gravity   | 2 |
| 2.7.34                                | Article 218              | Obstruction of access to aircraft operation documents  | 1 |
| 2.7.35                                | Article 219              | Violation of insurance requirements by avia operators  | 1 |
| 2.7.36                                | Article 220              | Failure to inform competent authorities about aviation incidents   | 1 |
| 2.7.37                                | Article 220 <sup>1</sup> | Practice of civil aviation without certification / authorization documents   | 2 |
| 2.7.38                                | Article 220 <sup>2</sup> | Noncompliance with inspector's precepts  | 2 |
| 2.7.39                                | Article 220 <sup>3</sup> | Obstruction of aircraft inspection   | 1 |
| 2.7.40                                | Article 220 <sup>4</sup> | Violation of operating rules for ultra-light and light aircraft  | 1 |
| 2.7.41                                | Article 220 <sup>5</sup> | Performance of job duties in a state of alcoholic intoxication   | 2 |
| 2.7.42                                | Article 220 <sup>6</sup> | Use of lighting devices posing flight hazard   | 1 |
| 2.7.43                                | Article 221              | Violation of the rules for the technical operation of self-propelled machinery and the technical safety of vehicles        | 2 |
| 2.7.44                                | Article 221 <sup>1</sup> | Violation of the legislation on ensuring access of people with disabilities to public transport                            | 2 |
| 2.7.45                                | Article 222              | Violation of security rules in the construction, operation, and repair of main pipelines                                   | 3 |
| 2.7.46                                | Article 223              | Damage to roads, railway crossings, road traffic control equipment, and other road installations                           | 1 |
| 2.7.47                                | Article 224              | Violation of rules for road use by vehicles  | 1 |
| 2.7.48                                | Article 225              | Deliberate blocking of thruways  | 1 |
| 2.7.49                                | Article 226              | Violation of the rules for the use of roads and road side areas, and for the use and protection of road reserves           | 1 |
| 2.7.50                                | Article 227              | Noncompliance with the rules for road maintenance, repair, and reconstruction  | 1 |
| 2.7.51                                |                          | Other new categories   | 2 |
| <b>8. ROAD TRAFFIC CONTRAVENTIONS</b> |                          |  |   |

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| 2.8.1  | Article 228              | Violation of vehicle use rules  | 2 |
| 2.8.2  | Article 228 <sup>1</sup> | Tampering with odometer data  | 2 |
| 2.8.3  | Article 229              | Violation of the rules for state registration and technical inspection of vehicles  | 1 |
| 2.8.4  | Article 230              | Driving in violation of number plate rules or without a number plate  | 1 |
| 2.8.5  | Article 231              | Driving in violation of driving license rules   | 1 |
| 2.8.6  | Article 232              | Driving without a driving license   | 2 |
| 2.8.7  | Article 233              | Driving in a state of alcoholic intoxication, handing the driving over to a person intoxicated by alcohol or other substances   | 3 |
| 2.8.8  | Article 234              | Refusal to communicate the identity of the person entrusted with driving  | 1 |
| 2.8.9  | Article 235              | Violation of the rules regarding safety belts, helmets, safety vests, child restraint systems, and radio and telephone conversations  | 1 |
| 2.8.10   | Article 236              | Exceeding the traffic speed allowed within a road sector  | 1 |
| 2.8.11   | Article 237              | Violation of railway crossing rules   | 1 |
| 2.8.12   | Article 238              | Violation of stop rules and failure to prioritize pedestrians and other traffic participants  | 2 |
| 2.8.13   | Article 239              | Noncompliance with traffic rules in residential areas   | 1 |
| 2.8.14   | Article 240              | Noncompliance with road and traffic priority signs, and other traffic rules   | 2 |
| 2.8.15   | Article 241              | Noncompliance with the legal indication to stop the vehicle and to give the right of way  | 2 |
| 2.8.16   | Article 241 <sup>1</sup> | Drivers' violation of road traffic and preventive driving rules by aggressive behavior  | 1 |
| 2.8.17   | Article 242              | Violation of road traffic rules resulting in damage to property or light physical injuries  | 3 |
| 2.8.18   | Article 243              | Leaving the place of road accident  | 1 |
| 2.8.19   | Article 244              | Violation of road traffic rules that caused the risk of a traffic accident  | 2 |
| 2.8.20   | Article 245              | Violation of road traffic rules by pedestrians and other traffic participants   | 2 |
| 2.8.21   |                          | Other new categories  | 2 |
| <b>9. CONTRAVENTIONS IN THE FIELDS OF ELECTRONIC AND POSTAL COMMUNICATIONS, AND INFORMATION TECHNOLOGY</b> |                          |   |   |
| 2.9.1  | Article 246              | Unauthorized provision of electronic communications or information technology networks or services  | 2 |
| 2.9.2  | Article 247              | Noncompliance with the general authorization requirements   | 1 |
| 2.9.3  | Article 248              | Use of channels, radio frequencies, and numbering resources without a license and a technical permit  | 1 |
| 2.9.4  | Article 249              | Noncompliance with the requirements set out in licenses for the use of channels, radio frequencies, and numbering resources   | 1 |
| 2.9.5  | Article 250              | Noncompliance with the regulations and technical regulations in the field of electronic and postal communications, and information technology   | 2 |
| 2.9.6  | Article 251              | Violation of broadcasting and industrial interference regulations for radio reception, obstruction of the reception of audio and video programs or of the operation of electronic communications equipment and networks | 2 |
| 2.9.7  | Article 252              | Unauthorized connection or admission of unauthorized connection to electronic communications networks   | 1 |

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| 2.9.8  | Article 253              | Unjustified refusal of an authorized network or service provider to connect to another authorized network or service provider to networks or services  | 2 |
| 2.9.9  | Article 254              | Performance of works in the field of electronic communications without the consent of the owner of the land or of another immovable good or without a court decision regarding the performance of such works | 2 |
| 2.9.10   | Article 255              | Intentional damage to electronic and postal communication lines, facilities, and equipment   | 2 |
| 2.9.11   | Article 256              | Franking of postal items with used or unauthorized postage stamps  | 1 |
| 2.9.12   | Article 257              | Deliberate production for sale or sale of fake postage stamps, franking machine plates or postage stamps   | 1 |
| 2.9.13   | Article 258              | Handing over of dangerous or obscene objects to dispatch   | 2 |
| 2.9.14   | Article 259              | Unjustified refusal to provide public services in the field of electronic communications and information technology  | 2 |
| 2.9.15   | Article 259 <sup>1</sup> | Unjustified refusal to provide public services in the field of postal communications   | 1 |
| 2.9.16   | Article 261              | Illegal designing, production without the purpose of sale, possession or use of special equipment for a secret acquisition of information  | 2 |
| 2.9.17   | Article 262              | Violation of the rules for the import, export, designing, manufacture and sale of special equipment for a secret acquisition of information, noncompliance with other licensing requirements                 | 2 |
| 2.9.18   |                          | Other new categories   | 2 |
| <b>10. CONTRAVENTIONS AFFECTING ENTREPRENEURSHIP, TAX COLLECTION, CUSTOMS COLLECTION, AND SECURITIES</b> |                          |  |   |
| 2.10.1   | Article 263              | Illegal entrepreneurship   | 2 |
| 2.10.2   | Article 263 <sup>1</sup> | Organization of illegal financial structures   | 3 |
| 2.10.3   | Article 264              | Illegal participation of a civil servant or a dignitary in a business  | 2 |
| 2.10.4   | Article 265              | Illegal purchase, storage, transportation, and sale of securities  | 2 |
| 2.10.5   | Article 266              | Violation of the legislation and rules on mandatory health insurance   | 1 |
| 2.10.6   | Article 266 <sup>1</sup> | Violation of the rules for the management of mandatory health insurance funds  | 2 |
| 2.10.7   | Article 267              | Trade in, or transportation of, goods whose sale is prohibited or limited  | 1 |
| 2.10.8   | Article 268              | Illegal attribution of prophylactic or curative properties to products   | 2 |
| 2.10.9   | Article 269              | Marketing, exposure for sale, sale, or storage of perishable food without an indication of the expiry date or after such date  | 1 |
| 2.10.10.   | Article 270              | Use of raw material with expired shelf life for the production (preparation) of food   | 1 |
| 2.10.11  | Article 271              | Marketing of food for which enrichment was prescribed but which was not enriched   | 1 |
| 2.10.12.   | Article 272              | Violation of the mode of purchase, transportation, storage and sale of excise stamps and state trademarks  | 1 |
| 2.10.13.   | Article 273              | Violation of trade rules   | 1 |
| 2.10.14  | Article 274              | Violation of market trading rules  | 1 |
| 2.10.15.   | Article 275              | Noncompliance with market trading regulations  | 2 |
| 2.10.16  | Article 276              | Non-traceability   | 1 |
| 2.10.17  | Article 277              | Violation of oil market legislation  | 2 |
| 2.10.18  | Article 277 <sup>1</sup> | Violation of gambling legislation  | 2 |
| 2.10.19  | Article 278              | Violation of legal requirements on consumers' economic interests   | 2 |

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| 2.10.20  | Article 279              | Misrepresentation or presentation of incomplete information about the characteristics of products and services   | 2 |
| 2.10.21  | Article 280              | Illegal use of the bar code  | 1 |
| 2.10.22  | Article 281              | Sale of products subject to mandatory conformity assessment without a certificate of conformity, without a declaration of conformity or with the illegal use of the national conformity mark | 1 |
| 2.10.23  | Article 282              | Violation of the rules for the buying up, manufacture and sale of metals and precious stones from jewelry items and scrap  | 2 |
| 2.10.24  | Article 283              | Falsification and counterfeiting of products   | 2 |
| 2.10.25  | Article 284              | Violation of the legislation on the production and circulation of ethyl alcohol and alcoholic beverages  | 2 |
| 2.10.26. | Article 285              | Violation of the legislation on the documents regarding alcohol products   | 1 |
| 2.10.27. | Article 286              | Violation of the rules for the retail sale of alcoholic beverages  | 1 |
| 2.10.28  | Article 287              | Violation of customs rules   | 3 |
| 2.10.29  | Article 287 <sup>1</sup> | Obstruction of subsequent control  | 4 |
| 2.10.30  | Article 287 <sup>2</sup> | Obstruction of the forced payment of customs payments  | 3 |
| 2.10.31  | Article 287 <sup>3</sup> | Violation of vignette rules  | 2 |
| 2.10.32  | Article 288              | Violation of insolvency legislation  | 4 |
| 2.10.33. | Article 289              | Refusal to accept as payment bank notes or coins issued by the National Bank of Moldova  | 2 |
| 2.10.34. | Article 289 <sup>1</sup> | Illegal reproduction of bank notes or coins issued by the National Bank of Moldova   | 3 |
| 2.10.35  | Article 290              | Unauthorized banking business  | 1 |
| 2.10.36  | Article 291              | Violation of foreign exchange rules  | 2 |
| 2.10.37  | Article 291 <sup>2</sup> | Non-identification of customers by reporting entities  | 2 |
| 2.10.38  | Article 291 <sup>3</sup> | Non-identification of a politically exposed persons and failure to apply risk-based procedures   | 2 |
| 2.10.39  | Article 291 <sup>4</sup> | Failure to keep the data on the transactions of individuals, legal entities, and their beneficiaries   | 2 |
| 2.10.40. | Article 291 <sup>5</sup> | Failure to report activities or transactions   | 2 |
| 2.10.41  | Article 291 <sup>6</sup> | Failure to protect confidentiality   | 2 |
| 2.10.42  | Article 291 <sup>7</sup> | Refusal to present information by reporting entities   | 2 |
| 2.10.43  | Article 291 <sup>8</sup> | Failure to ensure internal control by reporting entities   | 2 |
| 2.10.44  | Article 291 <sup>9</sup> | Failure to apply injunctive measures by reporting entities   | 2 |
| 2.10.45. | Article 293              | Violation of cash payment rules  | 1 |
| 2.10.46  | Article 293 <sup>1</sup> | Violation of the rules regarding cash registers  | 1 |
| 2.10.47  | Article 293 <sup>2</sup> | Violation of the legislation on payment services and issue of electronic money   | 3 |
| 2.10.48  | Article 294              | Violation of the rules for the submission of statements on the calculation and use of mandatory state social insurance contributions and for the use of personal social insurance numbers    | 1 |
| 2.10.49  | Article 294 <sup>1</sup> | Violation of the rules for the calculation and payment of mandatory state social insurance contributions   | 3 |
| 2.10.50  | Article 295              | Violation of the rules for the organization and keeping of accounting records, and the preparation and submission of financial statements  | 2 |
| 2.10.51  | Article 295 <sup>1</sup> | Violation of the reporting procedure required to monitor public sector debt  | 2 |
| 2.10.52  | Article 296              | Receipt and release of funds as remuneration for work without transferring social insurance contributions  | 2 |

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| 2.10.53  | Article 297              | Violation of the rights, interests and obligations of taxpayers or other participants of tax operations               | 2 |
| 2.10.54  | Article 297 <sup>1</sup> | Admission of overdue receivables  | 2 |
| 2.10.55  | Article 298              | Violation of the procedure for the calculation, approval, and use of budget funds and management of public assets     | 2 |
| 2.10.56  | Article 299              | Violation of the rules of storage and tracking of accountable forms   | 1 |
| 2.10.57  | Article 300              | Insider trading   | 2 |
| 2.10.58  | Article 301              | Tax evasion by individuals  | 2 |
| 2.10.59.   | Article 301 <sup>1</sup> | Violation of the tax reporting procedure by taxpayers   | 1 |
| 2.10.60.   | Article 302              | Violation of the rules on the obligations of issuers and holders of securities  | 3 |
| 2.10.61  | Article 303              | Violation of the rules on public offering of securities   | 2 |
| 2.10.62  | Article 304              | Violation of the rules on the disclosure obligation on stock exchanges  | 2 |
| 2.10.63  | Article 304 <sup>1</sup> | Violation of the rules on the register of registered security holders   | 2 |
| 2.10.64  | Article 304 <sup>2</sup> | Noncompliance with the requirements regarding professional participants in non-banking financial markets              | 2 |
| 2.10.65  | Article 304 <sup>3</sup> | Noncompliance with the rules on business in non-banking financial markets   | 2 |
| 2.10.66  | Article 304 <sup>4</sup> | Violation of the provisions regulating transactions with the assets of a company                                      | 3 |
| 2.10.67.   | Article 305              | Violation of the rules for insurance business   | 2 |
| 2.10.68  | Article 306              | Violation of the rules for increasing or reducing qualifying holdings in the share capital of the insurer (reinsurer) | 2 |
| 2.10.69  | Article 307              | Violation of the rules for insurance and / or reinsurance brokerage   | 2 |
| 2.10.70  | Article 308              | Violation of the procedure for determining solvency margin  | 2 |
| 2.10.71  | Article 309              | Violation of the procedure for the establishment and maintenance of technical reserves                                | 2 |
| 2.10.72  | Article 310              | Violation of the legislation on the business of savings and loan associations and microfinance organizations          | 2 |
| 2.10.73  | Article 310 <sup>1</sup> | Violation of the legislation on private pension funds   | 2 |
| 2.10.74  | Article 310 <sup>2</sup> | Violation of the legislation on credit bureaus  | 2 |
| 2.10.75.   | Article 311              | Violation of the deadline for the refund of value added tax   | 1 |
| 2.10.76  |                          | Other new categories  | 2 |
| <b>11. CONTRAVENTIONS AGAINST PUBLIC AUTHORITIES</b> |                          |   |   |
| 2.11.1   | Article 312              | Malfeasance   | 3 |
| 2.11.2   | Article 312 <sup>1</sup> | Failure of public authorities to offer people with hearing disabilities a sign language interpreter                   | 2 |
| 2.11.3   | Article 313              | Excess of power or of authority   | 3 |
| 2.11.4   | Article 313 <sup>1</sup> | Favoritism  | 3 |
| 2.11.5   | Article 313 <sup>2</sup> | Concealment of, or failure to resolve, a conflict of interest   | 3 |
| 2.11.6   | Article 313 <sup>3</sup> | Excess of power on authorization documents  | 3 |
| 2.11.7   | Article 313 <sup>4</sup> | Violation of the legal treatment of the restrictions on civil servants or public dignitaries                          | 2 |
| 2.11.8   | Article 314              | Concealment of an act of corruption or other related act, or failure to respond appropriately                         | 4 |
| 2.11.9   | Article 314 <sup>1</sup> | Failure to protect a civil servant  | 4 |
| 2.11.10  | Article 315              | Receipt of illegitimate reward or material benefit  | 3 |
| 2.11.11.   | Article 316              | Failure to meet the legitimate requirements to a Parliament deputy  | 1 |
| 2.11.12  | Article 317              | Contempt of a court of law or of the Constitutional Court   | 3 |
| 2.11.13  | Article 318              | Noncompliance with a court judgment   | 2 |

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| 2.11.14  | Article 318 <sup>1</sup> | Failure to enforce an urgent restraining order   | 3 |
| 2.11.15.   | Article 319              | Dereliction of the obligations under the Enforcement Code  | 2 |
| 2.11.16.   | Article 319 <sup>1</sup> | Obstruction of the work of the National Integrity Authority  | 3 |
| 2.11.17  | Article 319 <sup>2</sup> | Noncompliance with the decisions of the Court of Accounts  | 2 |
| 2.11.18  | Article 320              | Interference in the work of the Ombudsman and of the Ombudsman for Children  | 2 |
| 2.11.19  | Article 321              | Violation of the rules for the use of diplomatic and service passports of the Republic of Moldova  | 1 |
| 2.11.20  | Article 322              | Violation of the way of use of public symbols  | 1 |
| 2.11.21  | Article 323              | Illegal actions against state distinctions   | 1 |
| 2.11.22  | Article 324              | Usurpation of official status  | 3 |
| 2.11.23  | Article 325              | Disclosure of security measures  | 3 |
| 2.11.24  | Article 326              | Violation of the Law on Real Estate Cadaster   | 2 |
| 2.11.25.   | Article 326 <sup>1</sup> | Violation of the Law on Local Governments<br><i>Note: Effective October 28, 2018</i>   | 1 |
| 2.11.26  | Article 327              | Violation of deadlines for submission of reports to the Material Reserves Agency   | 1 |
| 2.11.27  | Article 327 <sup>1</sup> | Violation of rules for initiating and carrying out public procurement procedures   | 2 |
| 2.11.28  | Article 327 <sup>2</sup> | Illegal sale of goods that are part of humanitarian aid  | 1 |
| 2.11.29  | Article 328              | Violation of the rules for storage, filling out, tracking, and use of archive documents  | 1 |
| 2.11.30  | Article 329              | Destruction and damage to documents from the Archive Fund  | 2 |
| 2.11.31  | Article 330              | Failure to present timely statistical data or the communication of erroneous statistical data  | 1 |
| 2.11.32  | Article 330 <sup>1</sup> | Obstruction of the legitimate work of the Competition Council  | 2 |
| 2.11.33  | Article 330 <sup>2</sup> | Violation of the rules for declaring personal property and interests   | 4 |
| 2.11.34  | Article 330 <sup>3</sup> | Violation of state aid legislation and regulations   | 3 |
| 2.11.35  | Article 330 <sup>4</sup> | Publication of tests for secondary school and baccalaureate exams and solutions to them  | 4 |
| 2.11.36  |                          | Other new categories   | 2 |
| <b>12. CONTRAVENTIONS AGAINST THE STATE BORDER REGIME AND THE REGIME OF RESIDENCE ON THE TERRITORY OF THE REPUBLIC OF MOLDOVA</b>                        |                          |  |   |
| 2.12.1   | Article 331              | Intentional damage, destruction, and permutation of state border signs, installation of false border signs                                 | 2 |
| 2.12.2   | Article 332              | Violation of the state border regime, the border area regime, the state border crossing points regime, and the state border crossing rules | 1 |
| 2.12.3   | Article 332 <sup>1</sup> | Violation of the rules for transportation of foreign citizens or stateless persons into the country  | 3 |
| 2.12.4   | Article 333              | Violation of the rules of residence in the Republic of Moldova   | 2 |
| 2.12.5   | Article 334              | Violation of the rules for employment of foreign citizens or stateless persons in the country  | 3 |
| 2.12.6   | Article 334 <sup>1</sup> | Violation of public custody rules  | 2 |
| 2.12.7   |                          | Other new categories   | 2 |
| <b>13. CONTRAVENTIONS AGAINST ADMINISTRATION. CONTRAVENTIONS IN THE FIELD OF MARKET SUPERVISION, METROLOGY, STANDARDIZATION, AND CONSUMER PROTECTION</b> |                          |  |   |
| 2.13.1   | Article 335              | Arbitrariness  | 3 |
| 2.13.2.  | Article 336              | Deliberate noncompliance with the orders or legitimate requests of a member of law enforcement agencies                                    | 3 |

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| 2.13.3   | Article 337              | Failure to act on cases of the violation of legislation  | 2 |
| 2.13.4   | Article 338              | Illegal use of the signs protected by international treaties   | 2 |
| 2.13.5   | Article 339              | Violation of the legislation on civil status acts  | 1 |
| 2.13.6   | Article 340              | Communication of false data for identity documents   | 2 |
| 2.13.7   | Article 341              | Illegal seizure of an identity card by an official   | 2 |
| 2.13.8   | Article 342              | Deliberate sham call of specialized services   | 2 |
| 2.13.9   | Article 343              | Transmission or an attempt to transmit prohibited objects, substances, and products to prisoners   | 1 |
| 2.13.10  | Article 344              | Violation of the prescribed or declared requirements regarding the production, storage, marketing and sale of products, the provision of services, and consumer protection                                     | 2 |
| 2.13.11  | Article 344 <sup>1</sup> | Violation of the legislation on time-sharing agreements, long-term holiday product agreements, brokerage agreements for holiday products and participation in a sharing system, and tourism service agreements | 1 |
| 2.13.12  | Article 345              | Violation of metrology rules   | 1 |
| 2.13.13  | Article 346              | Violation of the right to publish and disseminate regulatory documents in the field of standardization   | 1 |
| 2.13.14  | Article 347              | Violation of accreditation rules   | 1 |
| 2.13.15  | Article 348              | Violation of the rules for assessment and declaration of conformity  | 2 |
| 2.13.16  | Article 349              | Obstruction of the legitimate work of a civil servant  | 2 |
| 2.13.17  | Article 350              | Violation of the legislation on the authorization of entrepreneurship  | 2 |
| 2.13.18  | Article 350 <sup>1</sup> | Violation of the legislation on the register of inspection interventions   | 1 |
| 2.13.19  | Article 350 <sup>2</sup> | Violation of the legislation on governmental control of businesses   | 2 |
| 2.13.20  | Article 351              | Noncompliance with the Law on the languages spoken in the Republic of Moldova  | 1 |
| 2.13.21  | Article 352              | Assault on a member of the military  | 2 |
| 2.13.22  | Article 353              | Assault on a member of the law enforcement agencies, and resistance to them  | 2 |
| 2.13.23  |                          | Other new categories   | 2 |
| <b>14. CONTRAVENTIONS AGAINST PUBLIC ORDER AND PUBLIC SECURITY</b> |                          |  |   |
| 2.14.1   | Article 354              | Mild hooliganism   | 2 |
| 2.14.2   | Article 355              | Consumption of alcoholic beverages in public places and being in such places while in a state of alcoholic intoxication  | 1 |
| 2.14.3   | Article 356              | Gambling and divination in public places   | 2 |
| 2.14.4   | Article 357              | Disturbance of the peace   | 2 |
| 2.14.5   | Article 358              | Violation of fire safety rules   | 1 |
| 2.14.6   | Article 358 <sup>1</sup> | Violation of the regulations and requirements of the civil protection legislation  | 1 |
| 2.14.7.  | Article 359              | Violation of the special emergency regime  | 1 |
| 2.14.8   | Article 360              | Violation of the rules on the sale and / or alienation of personal weapons and related ammunition  | 2 |
| 2.14.9   | Article 361              | Violation of the rules on the ownership, wearing, transportation, use or application of personal weapons and related ammunition  | 2 |
| 2.14.10.   | Article 362              | Violation of the deadline for the registration, re-registration or renewal of the weapons possession and wear license  | 1 |
| 2.14.11  | Article 363              | Use of firearms in public or other improper places, and other improper use of firearms   | 2 |
| 2.14.12  | Article 364              | Violation of the advertisement law   | 2 |

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| 2.14.13  | Article 364 <sup>1</sup> | Violation of the legislation on advertising and sponsorship of tobacco products   | 2 |
| 2.14.14  | Article 365              | Intentional destruction or damage to advertisement media  | 2 |
| 2.14.15  | Article 365 <sup>1</sup> | Violation of confidentiality in the business of public authorities and other legal entities                                 | 4 |
| 2.14.16  | Article 365 <sup>2</sup> | Unreasonable classification / declassification of information   | 4 |
| 2.14.17  |                          | Other new categories  | 2 |
| <b>15. CONTRAVENTIONS IN THE FIELD OF MILITARY RECORDS</b> |                          |   |   |
| 2.15.1   | Article 366              | Dereliction of military registration  | 1 |
| 2.15.2.  | Article 367              | Intentional damage or destruction or negligent loss of military records   | 1 |
| 2.15.3   | Article 368              | Evasion of the military health checkup  | 1 |
| 2.15.4   | Article 369              | Employment or matriculation of young people, recruits, and non-military reservists  | 1 |
| 2.15.5   | Article 370              | Evasion of the conscription in civil (alternative) service  | 2 |
| 2.15.6   | Article 371              | Facilitation of the evasion of military service, illegal conscription, or exemption from conscription                       | 2 |
| 2.15.7   | Article 372              | Illegal introduction into use or wear of the military uniform and insignia of grade, branch, and departmental subordination | 2 |
| 2.15.8   | Article 373              | Violation of the rules for requisition of goods and services in the public interest   | 2 |
| 2.15.9   |                          | Other new categories  | 2 |
| <b>16. OTHER CATEGORIES</b>                                |                          |   |   |
| 2.16.1.  | Article 479              | Problems to be solved during the enforcement of contravention penalties   | 4 |
| 2.16.2   |                          | Motion to change a punishment   | 4 |
| 2.16.3   |                          | Other new categories  | 4 |

### **3. CIVIL, COMMERCIAL, AND ADMINISTRATIVE CASES**

| No.                             | Article in the Code | Article name / position  | Complexity level |
|---------------------------------|---------------------|--|------------------|
| <b>1. ADVERSARY PROCEEDINGS</b> |                     |  |                  |
| 3.1.1                           |                     | Actions for invalidating acts and agreements   | 9                |
| 3.1.2                           |                     | Resolution, rescission, and revocation of agreements                                       | 7                |
| 3.1.3                           |                     | Actions arising from sale / purchase agreements  | 7                |
| 3.1.4                           |                     | Actions arising from the agreements for the sale / purchase of a business                  | 8                |
| 3.1.5                           |                     | Actions arising from donation agreements   | 7                |
| 3.1.6                           |                     | Actions arising from agreements for the transfer of property in exchange for lifetime care | 7                |
| 3.1.7                           |                     | Actions arising from rental agreements   | 6                |
| 3.1.8                           |                     | Actions arising from tenancy agreements  | 6                |
| 3.1.9                           |                     | Actions arising from lease agreements  | 8                |
| 3.1.10                          |                     | Actions arising from finance lease agreements  | 8                |
| 3.1.11                          |                     | Actions arising from works and services agreements   | 8                |
| 3.1.12                          |                     | Actions in disputes relating to the carriage of passengers and cargo                       | 8                |
| 3.1.13                          |                     | Actions arising from proxy agreements  | 7                |
| 3.1.14.                         |                     | Actions arising from fiduciary management agreements                                       | 6                |
| 3.1.15                          |                     | Actions arising from consignment agreements  | 5                |
| 3.1.16                          |                     | Actions arising from shipment agreements   | 8                |

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| 3.1.17  | Actions arising from custodial agreements Stowage  | 8  |
| 3.1.18. | Actions arising from tourism service agreements  | 7  |
| 3.1.19  | Actions arising from security agreements   | 7  |
| 3.1.20  | Actions arising from franchise agreements  | 8  |
| 3.1.21  | Actions arising from brokerage agreements  | 7  |
| 3.1.22  | Actions arising from and banking agreements and operations   | 9  |
| 3.1.23  | Actions arising from factoring agreements  | 9  |
| 3.1.24  | Actions arising from insurance agreements  | 8  |
| 3.1.25  | Actions arising from articles of partnership   | 8  |
| 3.1.26  | Ownership disputes   | 9  |
| 3.1.27  | Invalidation of a title deed for land  | 8  |
| 3.1.28  | Land disputes and complaints   | 8  |
| 3.1.29  | Litigations over equity interests  | 8  |
| 3.1.30  | Litigations over the withdrawal of land from private ownership   | 7  |
| 3.1.31  | Privatization of housing   | 7  |
| 3.1.32  | Actions regarding redemption, foreclosure  | 9  |
| 3.1.33  | Inheritance  | 10 |
| 3.1.34  | Nullity of a will  | 9  |
| 3.1.35  | Actions for the replacement of a successor   | 3  |
| 3.1.36  | Reinstatement  | 8  |
| 3.1.37  | Receipt of salary and other salary payments  | 3  |
| 3.1.38  | Repair of damage by the employer   | 6  |
| 3.1.39  | Material liability of an employee  | 5  |
| 3.1.40  | Litigations regarding the performance of job duties by employees   | 8  |
| 3.1.41  | Other labor disputes of workers and civil servants   | 5  |
| 3.1.42  | Divorce  | 2  |
| 3.1.43  | Divorce of persons with juvenile children  | 4  |
| 3.1.44  | Establishment of the domicile of a juvenile child  | 7  |
| 3.1.45  | Proof of paternity   | 5  |
| 3.1.46  | Challenge of paternity (maternity)   | 5  |
| 3.1.47  | Deprivation of parents of certain rights   | 6  |
| 3.1.48  | Termination of parental rights   | 8  |
| 3.1.49  | Restoration of parental rights   | 7  |
| 3.1.50  | Taking of a child without termination of parental rights   | 7  |
| 3.1.51  | Receipt / recalculation of alimony   | 3  |
| 3.1.52  | Litigations on child education   | 5  |
| 3.1.53  | Division of property   | 8  |
| 3.1.54  | Eviction with the provision of another living space / room   | 6  |
| 3.1.55  | Eviction without the provision of another living space / room  | 6  |
| 3.1.56  | Litigations regarding properties owned by associations of condominium co-owners — ACC (housing construction cooperatives — CCL) and mortgage | 8  |
| 3.1.57  | Other housing litigations  | 7  |
| 3.1.58  | Fulfillment of obligations   | 9  |
| 3.1.59  | Actions arising from pledge relationships  | 7  |
| 3.1.60  | Actions arising from mortgage agreements   | 9  |
| 3.1.61  | Removal of obstacles   | 6  |
| 3.1.62  | Debt collection actions  | 8  |
| 3.1.63  | Actions for collection of material damages, sum  | 8  |
| 3.1.64  | Actions for collection moral damages   | 6  |

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| 3.1.65   |  | Actions regarding the violation of the right to a trial within reasonable time limits or the right to enforcement of a judgment within reasonable time limits and the repair of damages | 9  |
| 3.1.66   |  | Repair of the damage caused by the illicit actions of criminal investigation and preliminary investigation authorities, the prosecutor's office, and courts of law                      | 9  |
| 3.1.67   |  | Copyright   | 9  |
| 3.1.68   |  | Trademark protection actions, invalidation of trademark rights  | 10 |
| 3.1.69   |  | Personal data protection actions  | 5  |
| 3.1.70   |  | Disputes between associates and commercial companies  | 8  |
| 3.1.71   |  | On the defense of honor, dignity, and professional reputation   | 10 |
| 3.1.72   |  | Litigations on discrimination   | 7  |
| 3.1.73   |  | Consumer protection   | 7  |
| 3.1.74   |  | Invalidation of an auction  | 9  |
| 3.1.75   |  | Liquidation of a company  | 9  |
| 3.1.76   |  | Disputes concerning the reorganization of legal entities  | 9  |
| 3.1.77   |  | Incidental actions regarding damages for health injuries or death   | 8  |
| 3.1.78   |  | Litigations regarding damages related to road traffic offenses and transport accidents  | 8  |
| 3.1.79   |  | Litigations regarding the participation in the emergency handling of the accident at CAE Chernobyl  | 6  |
| 3.1.80   |  | Remedy for the violation of legislation on the protection and use of natural resources  | 9  |
| 3.1.81   |  | Litigations regarding material liability for forest offences  | 6  |
| 3.1.82   |  | Litigations regarding material liability for illegal hunting and the violation of fishing rules   | 6  |
| 3.1.83   |  | Import and registration of cars   | 7  |
| 3.1.84   |  | Legal proceedings against individuals for tax default   | 4  |
| 3.1.85   |  | Appeals against bailiffs' acts  | 3  |
| 3.1.86   |  | Restoration of the procedural time limits for a writ of execution   | 3  |
| 3.1.87   |  | Suspension of a writ of execution   | 3  |
| 3.1.88.  |  | Motions for the issue of a duplicate of a writ of execution   | 3  |
| 3.1.89.  |  | Refusal to issue a duplicate of writ of execution   | 3  |
| 3.1.90.  |  | Motions for the invalidation of a writ of execution   | 3  |
| 3.1.91.  |  | Motions for the restoration of an enforcement file  | 3  |
| 3.1.92   |  | Search for and forced return of a debtor  | 2  |
| 3.1.93   |  | Prohibition to leave the country  | 3  |
| 3.1.94   |  | Motions concerning the application of a prohibition   | 3  |
| 3.1.95   |  | Permission to obtain a passport   | 6  |
| 3.1.96   |  | Motion for sanctioning forced entry   | 3  |
| 3.1.97   |  | Motion for the confirmation of the minutes of an auction  | 3  |
| 3.1.98   |  | Motions for the correction of errors and omissions in a writ of execution   | 3  |
| 3.1.99.  |  | Civil cases with extraneous elements  | 8  |
| 3.1.100  |  | Recognition and enforcement of the court judgments and arbitration decisions of foreign states  | 5  |
| 3.1.101  |  | Appeals against arbitration decisions   | 7  |
| 3.1.102  |  | Issue of writs of forced execution of arbitration decisions   | 4  |
| 3.1.103  |  | Confirmation of a transaction preventing a civil proceeding and of the issue of the corresponding writ of execution   | 3  |
| 3.1.104. |  | Reimbursement of legal aid or state fee   | 4  |

|                                      |  |  |    |
|--------------------------------------|--|--|----|
| 3.1.105                              |  | Motions for the invalidation of injunctive measures  | 3  |
| 3.1.106                              |  | Termination of the seizure of assets   | 4  |
| 3.1.107                              |  | Application of a judicial fine   | 3  |
| 3.1.108                              |  | Additional judgment  | 2  |
| 3.1.109                              |  | Explanation of a judgment  | 3  |
| 3.1.110                              |  | Correction of errors in a court act  | 1  |
| 3.1.111                              |  | Postponement or rescheduling of the enforcement of a judgment, change of the manner and / or order of enforcement          | 3  |
| 3.1.112                              |  | Motions for the indexation of the awarded amount   | 3  |
| 3.1.113                              |  | Motions for transfer   | 2  |
| 3.1.114                              |  | Conflict of competence   | 3  |
| 3.1.115.                             |  | Recusal  | 2  |
| 3.1.116                              |  | Self-recusal   | 2  |
| 3.1.117                              |  | Other new categories   | 6  |
| <b>2. ADMINISTRATIVE PROCEEDINGS</b> |  |  |    |
| 3.2.1                                |  | Actions regarding the verification of the legality of the administrative acts of the President of the Republic of Moldova  | 10 |
| 3.2.2                                |  | Actions regarding the verification of the legality of the administrative acts of the Parliament of the Republic of Moldova | 10 |
| 3.2.3                                |  | Actions regarding the verification of the legality of the administrative acts of the Government of the Republic of Moldova | 10 |
| 3.2.4                                |  | Actions regarding the verification of the legality of the administrative acts of the Superior Council of Magistracy        | 10 |
| 3.2.5                                |  | Actions regarding the verification of the legality of the administrative acts of the Superior Council of Prosecutors       | 10 |
| 3.2.6                                |  | Actions regarding the verification of the legality of the administrative acts of ministries                                | 9  |
| 3.2.7                                |  | Actions regarding the verification of the legality of the administrative acts of departments                               | 9  |
| 3.2.8                                |  | Actions regarding the verification of the legality of the administrative acts of customs offices                           | 9  |
| 3.2.9                                |  | Actions regarding the verification of the legality of the administrative acts of the National Social Insurance Fund        | 9  |
| 3.2.10                               |  | Actions regarding the verification of the legality of the administrative acts of ÎS Cadaster                               | 9  |
| 3.2.11                               |  | Actions regarding the verification of the legality of the administrative acts of ÎS Registry                               | 9  |
| 3.2.12                               |  | Actions regarding the verification of the legality of the administrative acts of the Prosecutor's Office                   | 9  |
| 3.2.13                               |  | Actions regarding the verification of the legality of the administrative acts of the National Anti-corruption Center       | 9  |
| 3.2.14                               |  | Actions regarding the verification of the legality of the administrative acts of the National Integrity Authority          | 9  |
| 3.2.15                               |  | Actions regarding the verification of the legality of the administrative acts of the Licensing Chamber                     | 10 |
| 3.2.16                               |  | Actions regarding the verification of the legality of the administrative acts of specialized central public authorities    | 9  |
| 3.2.17                               |  | Actions regarding the verification of the legality of the administrative acts of the Municipality of Chişinău              | 9  |
| 3.2.18                               |  | Actions regarding the verification of the legality of the administrative acts of district public authorities               | 9  |

|  |  |   |    |
|--|--|---|----|
| 3.2.19   |  | Actions regarding the verification of the legality of the administrative acts of public authorities of communes, villages, and towns                  | 8  |
| 3.2.20   |  | Actions regarding the verification of the legality of the administrative acts of TAU with a special status  | 9  |
| 3.2.21   |  | Actions regarding the verification of the legality of the administrative acts of the State Tax Service and of general tax administration directorates | 9  |
| 3.2.22   |  | Actions regarding the verification of the legality of the administrative acts of the Public Procurement Agency  | 9  |
| 3.2.23   |  | Actions regarding the verification of the legality of the administrative acts of the State Registration Chamber                                       | 9  |
| 3.2.24   |  | Actions regarding the verification of the legality of the administrative acts of the Lawyers' Union   | 9  |
| 3.2.25   |  | Actions regarding the verification of the legality of the administrative acts of the National Institute of Justice                                    | 9  |
| 3.2.26   |  | Actions regarding the verification of the legality of the administrative acts of the Committee for Equality and Non-discrimination                    | 9  |
| 3.2.27   |  | Actions against the decisions of the Court of Accounts  | 9  |
| 3.2.28   |  | Actions against the decisions of the National Bank of Moldova   | 10 |
| 3.2.29   |  | Motions for acknowledgment of the circumstances that justify the suspension of a local and / or district council                                      | 6  |
| 3.2.30   |  | Appeals in electoral matters  | 8  |
| 3.2.31   |  | Pleas of illegality   | 7  |
| 3.2.32   |  | Actions against persons under private law who provide public services   | 7  |
| 3.2.33   |  | Actions on access to information / petitioning  | 9  |
| 3.2.34   |  | Other new categories  | 9  |
| <b>3. PROCEEDINGS FOR THE SEIZURE OF UNJUSTIFIED PROPERTY FOR THE BENEFIT OF THE STATE</b> |  |   |    |
| 3.3.1  |  | Procedure for the seizure of unjustified property for the benefit of the state  | 9  |
| 3.3.2  |  | Other new categories  | 9  |
| <b>4. SPECIAL PROCEEDINGS</b>  |  |   |    |
| 3.4.1  |  | Proof of facts of legal significance  | 7  |
| 3.4.2  |  | Authorization of a national adoption  | 6  |
| 3.4.3  |  | Authorization of an international adoption  | 8  |
| 3.4.4  |  | Declaration of the full legal capacity of a juvenile  | 6  |
| 3.4.5  |  | Declaration of a missing person   | 6  |
| 3.4.6  |  | Declaration of a deceased person  | 7  |
| 3.4.7  |  | Application of contractual and judicial protection measures   | 6  |
| 3.4.8  |  | Authorization of compulsory hospitalization and treatment   | 6  |
| 3.4.9  |  | Authorization of a psychiatric examination or of commitment to a psychiatric institution  | 6  |
| 3.4.10.  |  | Application of protection measures in cases of domestic violence  | 5  |
| 3.4.11   |  | Restoration of the rights arising from lost bearer securities and order securities (procedure to declare lost documents void)                         | 7  |
| 3.4.12   |  | Declaration of an abandoned movable property and of the municipal ownership right over an abandoned immovable property                                | 6  |
| 3.4.13   |  | Proof of inaccurate entries in civil status registers   | 5  |

|                                  |  |  |    |
|----------------------------------|--|--|----|
| 3.4.14                           |  | Restoration of a lost legal proceeding (restoration procedure)   | 9  |
| 3.4.15                           |  | Suspension and withdrawal of entrepreneurial licenses / authorizations   | 5  |
| 3.4.16                           |  | Authorization of a professional integrity test and the assessment of the results of such test  | 9  |
| 3.4.17                           |  | Other new categories   | 6  |
| <b>5. SUMMARY PROCEEDINGS</b>    |  |  |    |
| 3.5.1                            |  | Claims arising from legal acts certified by a notary   | 3  |
| 3.5.2                            |  | Claims arising out of a legal act formalized in a simple written form, where the law does not provide otherwise  | 3  |
| 3.5.3                            |  | Claims based on the protest of a bill for in non-payment, non-acceptance, or the absence of acceptance date, certified by a notary   | 4  |
| 3.5.4                            |  | Claims for an alimony that does not require proof of paternity, challenge of paternity (maternity), or the involvement of others in the proceedings  | 2  |
| 3.5.5                            |  | Claims for a salary or other payment entitlements that were calculated but were not paid to an employee  | 2  |
| 3.5.6                            |  | Claims filed by the police, the State Tax Service, or a bailiff to recover the costs of searching for a defendant or a debtor or their property or child taken from the debtor by a court judgment, as well as the costs of keeping the property seized from a debtor and the property of a debtor evicted from their dwelling | 1  |
| 3.5.7                            |  | Claims arising from purchases on credit or finance lease   | 2  |
| 3.5.8                            |  | Claims arising from the failure to return books borrowed from a library  | 1  |
| 3.5.9                            |  | Claims arising from an economic entity's default of debt to the Social Fund  | 2  |
| 3.5.10                           |  | Claims arising from arrears with taxes or state social insurance   | 2  |
| 3.5.11                           |  | Lien claims  | 3  |
| 3.5.12                           |  | Claims arising from individuals' or legal entities' default of payment of mandatory health insurance premiums  | 2  |
| 3.5.13                           |  | Claims arising from Article 99 (4) of the Enforcement Code   | 3  |
| 3.5.14                           |  | Claims arising from invoices maturing on the date of submittal   | 2  |
| 3.5.15                           |  | Claims for overturning the enforcement under Article 158 (2) of the Enforcement Code   | 3  |
| 3.5.16                           |  | Claims brought by a penitentiary for the costs of escorting prisoners to court hearings in civil cases   | 2  |
| 3.5.17                           |  | Other new categories   | 2  |
| <b>6. INSOLVENCY PROCEEDINGS</b> |  |  |    |
| 3.6.1                            |  | Initiation of insolvency / liquidation / insolvency plan proceedings   | 10 |
| 3.6.2                            |  | Subsidiary liability of the members of a debtor's management bodies  | 8  |
| 3.6.3                            |  | Separation of immovable property from a debtor's insolvency estate   | 8  |
| 3.6.4                            |  | Validation of garnishment  | 8  |
| 3.6.5                            |  | Cancellation of legal acts concluded by a debtor   | 8  |
| 3.6.6                            |  | Other new categories   | 8  |

**10. Ministry of Justice Order on the Establishment of the Working Group for Improving the Case Management System (CMS) and Identifying the Functionalities of the Integrated Case Management System (ICMS)**

# MINISTRY OF JUSTICE OF THE REPUBLIC OF MOLDOVA

## ORDER

July 25, 2017

No. 569

### **on the establishment of the Working Group for improving the Case Management System (CMS) and identifying the functionalities of the Integrated Case Management System (ICMS)**

To improve CMS and identify the functionalities of ICMS

#### IT IS HEREBY ORDERED:

1. To approve the membership of the Working Group for improving CMS and identifying the functionalities of ICMS.
2. To appoint the representatives of the Superior Council of Magistracy (SCM) and of the judiciary, nominated to the Working Group by SCM's Decision No. 511/23 of July 18, 2017.
3. The Working Group will have the following members:

| <b>Represented institution</b>                              | <b>Appointee</b>   |
|---|--|
| Ministry of Justice (MOJ)                                   | <i>Raisa Moroza</i> n, Advisor, Cabinet of the Ministry<br><i>Constantin Bragoi</i> , Director, Center for Legal Information                             |
| Ministry of Justice (MOJ)                                   | <i>Raisa Moroza</i> n, Advisor, Cabinet of the Ministry<br><i>Constantin Bragoi</i> , Director, Center for Legal Information                             |
| Ministry of Justice, Agency for Courts Administration (ACA) | <i>Valentina Grigoriș</i> , Acting Director<br><i>Elena Corolevschi</i> , Chief, Directorate for Courts Administration, and Judicial Information Systems |

|  |   |
|--|---|
|  | <p><b><i>Victoria Palanciuc</i></b>, Chief, Division for Courts Administration, and Judicial Information Systems</p> <p><b><i>Alexandru Voloşin</i></b>, Chief, Service of Judicial Financial Management, Control, and Internal Audit</p>   |
| Superior Council of Magistracy (SCM)   | <p><b><i>Dorel Musteață</i></b>, Member of the SCM</p> <p><b><i>Nadejda Popic</i></b>, Chief of Secretariat</p>   |
| E-government Center                    | <p><b><i>Sergiu Bedros</i></b>, E-services Manager</p> <p><b><i>Vlad Manoil</i></b>, Public Services Reengineering Coordinator</p>  |
| I.S. Special Telecommunications Center | <p><b><i>Gheorghe Pantaz</i></b>, Chief, Information Systems Division</p> <p><b><i>Alexandru Crețu</i></b>, Chief Engineer for Information Systems Administration, Information Systems Division</p> <p><b><i>Alexandru Mecineanu</i></b>, Chief Engineer for Information Systems Administration, Information Systems Division</p> |
| Supreme Court of Justice (SCJ)         | <p><b><i>Natalia Lupașcu</i></b>, Chief, Procedural Tracking, and Documentation Directorate</p>   |
| Chișinău Appellate Court               | <p><b><i>Andrei Ojoga</i></b>, Chief, Procedural Tracking and Documentation Directorate, Chișinău Appellate Court</p>   |
| Bălți Appellate Court                  | <p><b><i>Alexandru Gheorghieș</i></b>, President</p> <p><b><i>Marina Tilipet</i></b>, Judicial Assistant</p>  |
| Chișinău Court                         | <p><b><i>Radu Țurcanu</i></b>, President</p> <p><b><i>Alina Valean</i></b>, ICMS Administrator,</p>   |

|                      |   |
|----------------------|---|
|                      | <p>Chişinău Court, Buiucani Office<br/> <i>Zinaida Dumitraşcu</i>, ICMS Administrator,<br/> Chişinău Court, Rîşcani Office<br/> <i>Corina Macarie</i>, ICMS Administrator,<br/> Chişinău Court, Head Office<br/> <i>Tatiana Capaţina</i>, ICMS Administrator,<br/> Chişinău Court, Ciocana Office<br/> <i>Nina Scinglic</i>, ICMS Administrator,<br/> Chişinău Court, Head Office</p> |
| Open Justice Project | <i>Mihai Grosu</i> , Objective 1 Key Expert 2   |

4. The Working Group shall identify and collect additional requirements from the users of CMS and experts' opinions and recommendations, shall review existing best practices, shall offer recommendations regarding functional changes for CMS, shall identify and validate new functionalities for ICMS, and shall develop recommendations for a smooth operation of this system.

5. The Working Group shall set a long-term agenda with topics and practical aspects to be discussed during its meetings.

6. The technical specifications identified for CMS and ICMS by the Working Group shall be subject to the approval by the MOJ and the SCM.

7. The Working Group shall select its chairman to preside the meetings and ensure the observance of the agenda, and a secretary to coordinate and prepare discussion subjects, convene meetings, keep the minutes, and provide technical assistance.

8. The membership of the Working Group may be extended to include such representatives of other institutions and organizations as may be necessary, and to ensure the observance of the agenda. Representatives of the IT company hired by the Open Justice Project to improve CMS and develop ICMS shall also participate in the meetings of the Working Group.

**Minister of Justice**

**Vladimir CEBOTARI**

## Annex:

SCM's Decision No. 511/23 of July 18, 2017, on the appointment of representatives of the SCM and the judiciary to the Working Group for improving the Case Management System (CMS) and identifying the functionalities of the Integrated Case Management System (ICMS)

### **SUPERIOR COUNCIL OF MAGISTRACY**

2009; 5, M. Eminescu St., Chişinău; [www.csm.md](http://www.csm.md); email: [aparatul@csm.md](mailto:aparatul@csm.md); tel.: 022-990-990, fax: 022-22-73-20

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### **DECISION**

on the motion from the Open Justice Project's Chief of Party (COP) Cristina Malai regarding the appointment of representatives of the SCM and the judiciary to the Working Group for improving the Case Management System (CMS) and identifying the functionalities of the Integrated Case Management System (ICMS)

July 18, 2017  
No. 511/23

Chişinău

After deliberations on the motion from the Open Justice Project's COP Cristina Malai regarding the appointment of representatives of the SCM and the judiciary to the Working Group for improving the CMS and identifying the functionalities of the ICMS taking note of the comments of the SCM Member Victor Micu, the Plenum of the Superior Council of Magistracy

### **FOUND:**

The SCM received a motion from the Open Justice Project's COP Cristina Malai informing them about the need to initiate the process of improving the CMS and developing the ICMS for courts of law.

The users of CMS have repeatedly requested the development of additional functionalities for this system. Moreover, the legislation of the Republic of Moldova has undergone multiple amendments that need to be transposed into CMS.

Furthermore, it was decided to develop an upgraded version of ICMS that would strengthen court administration processes and systems in such areas as case flow management, the collection and use of court performance data, courts' budgeting, and human resources.

The Open Justice Project would offer technical assistance for upgrading CMS and developing a new information system (ICMS) that would help to reduce corruption and

promote transparency in the justice sector. ICMS would offer citizens easy access to various electronic services offered by the courts and to information about the courts and their performance.

To achieve these goals, the Open Justice Project proposed to appoint representatives of the SCM and the judiciary to a Working Group that would improve CMS and identify the functionalities of ICMS. The Ministry of Justice of the Republic of Moldova would also appoint its representatives to the Working Group.

The Working Group would identify and collect additional requirements from the users of CMS and from experts' opinions and recommendations, would review existing best practices, offer recommendations regarding functional changes for CMS, identify and validate new functionalities for ICMS, and develop recommendations for a smooth operation of this system.

The Working Group would set a long-term agenda with topics and practical aspects to be discussed during its meetings.

The technical specifications identified for CMS and ICMS by the Working Group would be subject to the approval by the SCM and the Ministry of Justice of the Republic of Moldova.

Considering the importance of this matter, the Plenum of the SCM considers that it should accept the motion of the Open Justice Project's COP Cristina Malai and appoint representatives from the SCM and the judiciary mentioned in the motion on the Working Group.

Given the above, pursuant to Articles 4, 24, and 25 of the Law on the Superior Council of Magistracy, the SCM

### **RULES:**

1. To admit the motion from the Open Justice Project's COP Cristina Malai regarding the appointment of representatives of the SCM and the judiciary to the Working Group for improving the CMS and identifying the functionalities of the ICMS.

2. To appoint the following representatives of the SCM and the judiciary to the Working Group for improving the CMS and identifying the functionalities of the ICMS:

- Dorel Musteață, Member of the SCM;
- Nadejda Popic, Chief of Secretariat, SCM;
- Natalia Lupașcu, Chief, Procedural Tracking and Documentation Directorate, Supreme Court of Justice;
- Andrei Ojoga, Chief, Procedural Tracking and Documentation Directorate, Chișinău Appellate Court;
- Alexandru Gheorghieș, President, Bălți Appellate Court;
- Marina Tilipet, Judicial Assistant, Bălți Appellate Court;
- Radu Țurcanu, President, Chișinău Court;

- Alina Valean, ICMS Administrator, Chişinău Court, Buiucani Office;
- Zinaida Dumitraşcu, ICMS Administrator, Chişinău Court, Rîşcani Office;
- Corina Macarie, ICMS Administrator, Chişinău Court, Head Office;
- Tatiana Capaţina, ICMS Administrator, Chişinău Court, Ciocana Office;
- Nina Scinglic, ICMS Administrator, Chişinău Court, Head Office.

3. This decision may be subject to an appeal at the Supreme Court of Justice only in respect of the issue of adoption procedure, by any interested party within 15 days from the date of communication.

4. This decision shall be published on SCM's website and its copies shall be sent to the Open Justice Project and to the Ministry of Justice of the Republic of Moldova for information.

**Chairman of the Plenary of the  
Superior Council of Magistracy**

**Victor Micu**

## **II. Assessment of the Public Information Materials Available on the Benefits of the CRO, ICMS, and E-file (Activity 1.2.4.1)**



**USAID**  
FROM THE AMERICAN PEOPLE

# ASSESSMENT OF THE PUBLIC INFORMATION MATERIALS AVAILABLE ON THE BENEFITS OF CRO, ICMS, AND E-FILE

USAID'S OPEN JUSTICE PROJECT  
IN MOLDOVA

October 30, 2017

## **DISCLAIMER**

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## **I. INTRODUCTION**

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The purpose of this assessment is to conduct a rapid appraisal of informational materials available to court users and the public at large on the impact and the benefits of the Court Reorganization and Optimization (CRO), the Integrated Case Management System (ICMS) and the E-File system.

This assessment is included in Objective I, under activity 1.2.4 “Inform the public about CRO impact and the benefits of ICMS and E-File”. This activity helps to establish the availability of materials, thus identifying gaps, and provides opportunities for further development of outreach materials for public use. In addition, this assessment will offer a base for Activity 1.1.1.4 that states that Open Justice is to be providing assistance to a Working Group for developing a strategic communication plan to educate the public and court users on CRO. Moreover, this assessment will be used for Activity 1.2.4.2 which notes that Open Justice Project will provide assistance to the Superior Council of Magistracy (SCM) and the Ministry of Justice (MOJ) in developing informational materials, outreach campaigns, public communication activities and public education on CRO and the future redesigned and updated ICMS.

## **2. ASSESSMENT APPROACH**

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The assessment was performed by conducting an initial online research in order to determine the materials available to both court users and the public. Next, a series of meetings, interviews and visits were conducted among project stakeholders – the SCM and the Agency for Court Administration (ACA), donors (EU ATRECO project and UK Embassy), and NGOs for the purpose of establishing whether they have previously developed any public materials on the assessment topics mentioned above.

## **3. FINDINGS**

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Table I below shows a summary of the information available to the public and court users divided by areas pertaining to this assessment. The data collected reflects all assessment methods stated above and indicates an overview of what is made available to the public at large. In the concluding sections, several recommendations are listed which will be up for consideration by relevant stakeholders in developing more outreach materials that will help the public and court users better understand their rights, what information is accessible as a result of CRO implementation and the benefits that the public gains as a result of upgrading ICMS and launching E-File.

Among the key findings is that currently the justice sector is supported by two main donors: USAID and the EU. USAID provides technical assistance through the Open Justice Project, while the EU offers technical assistance via the Increased Efficiency, Accountability and Transparency of Courts in Moldova Project, known as the ATRECO Project.

Furthermore, the UK Embassy used to be an important donor in the justice sector. However, the Embassy leadership decided to shrink their activities in this domain. Although, the UK Embassy has

four short term projects in the justice sector, none of them particularly focus on CRO. Moreover, the UK Embassy decided to concentrate its efforts in other sectors, due to the slow progress of reform in the justice system.

**Table I: Summary of materials available**

| <b>Are</b><br><b>Target</b><br><b>group</b> | <b>CRO</b><br><b>(CRO materials are listed in Annex 1)</b>  | <b>ICMS</b><br><b>(ICMS materials are listed in Annex 2)</b>  | <b>E-File</b>   |
|---|---|---|---|
| <b>Court users and Public</b>               | <ul style="list-style-type: none"> <li>• Online articles published during 2015-2016;</li> <li>• CRO law is available online as of April 2016;</li> <li>• Information note (16 pages) containing Moj's clarifications on CRO law;</li> <li>• Evaluation report on CRO law by CAPC;</li> <li>• Infographic about CRO by CRJM;</li> <li>• Study on CRO about court map optimization by CRJM;</li> <li>• Feasibility Study on CRO financed by USAID;</li> <li>• Scientific article investigating CRO's impact on citizens;</li> <li>• Public information campaign via EU ATRECO Roadshows, expected to be delivered during September – October 2017.</li> </ul> | <ul style="list-style-type: none"> <li>• Informational report about ICMS in Moldova;</li> <li>• Government Decision about approval of random distribution of cases;</li> <li>• Article about random distribution of cases;</li> <li>• Analytical Study on deficiencies in randomizing the distribution of cases;</li> <li>• Court web portal available online for public use;</li> <li>• Former USAID ROLISP project developed video spots highlighting the benefits of court automation via ICMS.</li> </ul> | <p><i>This is a newly developed system and is in the process of being tested, thus has not been marketed to the public yet.</i></p> |

## 4. CONCLUSION

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This assessment has identified a reasonable amount of information that is available to the public. However, as displayed in Table I, most of it is in the form of articles, which tend to be easily archived, and reports and studies that the public or court users are reluctant to read due to their length and legal complexity. .

At the same time, there is little information presented in a short and easy-to-read format. The only exception is an infographic that was developed by the Center for Legal Resources for educating the public on the need for reorganizing and optimizing courts throughout the country. This infographic was widely used by the media, with many media outlets using it to post articles on CRO both in print and online.

In terms of materials designed to specifically highlight CRO impact, there is little available, except short passages included in studies and reports that are not quite readable and understandable by the general public. This is mainly due to the fact that CRO is expected to be fully implemented by 2024, including the building infrastructure. As to benefits of ICMS, the former USAID ROLISP project has conducted a nation-wide campaign informing the public at large and court users about the benefits of court automation via ICMS.

Furthermore, the public at large and court users lack succinct information about their rights in court, as well as the services offered by courts of law. In connection to this, a national “Know Your Rights Campaign” would be quite useful in raising the public’s awareness about their rights and court services.

As a result, the Open Justice Project can play a major role in assisting relevant stakeholders, including MOJ, SCM, ACA and courts in developing attractive outreach materials for the purpose of educating the public about the need of implementing CRO, the benefits and opportunities offered by ICMS and E-File. Thus, Open Justice can help stakeholders take a pro-active approach is communicating with the public and court users instead of reacting to their accusations and criticism.

In conclusion, the recommendation is to develop specific materials and an outreach campaign that would include the following tools.

### A. ON CRO:

- Conduct a series of debates (including national TV) about CRO pros/cons, targeting law students, academia;
- Develop CRO video explaining the reform/ advantages;
- Publish articles/position papers in print and online journals/media highlighting the need of implementing CRO and outlining its benefits;
- Organize visits on the occasion of “Doors Open Days” for TV news reporters in the regions by showcasing the need for CRO implementation;
- Short video testimonials of people who were satisfied with court services provided;
- Develop a brochure explaining how courts work and the services available to court users.

## **B. ON “KNOW YOUR RIGHTS” CAMPAIGN:**

- Develop a brochure/guide describing the rights a person has when attending a court trial, particularly highlighting the rights and services available to vulnerable groups;
- Organize photo essays competition among children on justice, rights, obligations;
- Blog posts on thematic topics;
- Public lectures for youth (inviting prominent guest speakers: Minister of Justice; Supreme Court etc.);
- Infographics for courts displaying the main rights of court users;
- Brief videos to explain each right to justice services.

## **C. ON ICMS:**

- Video spot presenting the ways the new ICMS will contribute to the effectiveness of the judiciary (anti-manipulation tools for genuine random distribution, faster case processing etc.);
- Infographic on ICMS benefits and new features;
- Thematic articles in mass media highlighting the new advantages of ICMS;
- Press tour for mass media to courts showing how the new ICMS works and the innovations it provides.

## **D. ON E-FILE:**

- Video spot highlighting E-File benefits and innovative function;
- Infographic on E-File features and benefits to be displayed in courts;
- Articles in mass media to raise awareness about the existence of the E-File;
- Media tour showcasing E-File features and benefits;
- Video spot about first person to use E-File system.

## ANNEX I. CRO MATERIALS

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### CRO online articles

- <http://www.bizlaw.md/2016/12/08/reorganizarea-instantelor-de-judecata-ar-putea-fi-amanata-motivul-repartizarea-dosarelor/>
- <https://www.zdg.md/editia-print/politic/noua-harta-a-justitiei>
- <http://www.moldova.org/instantele-judecatoaresti-reorganizate-urmatorii-10-ani-moldova-vor-ramane-doar-15-judecatorii/>
- <http://www.politik.md/articles/social/proiectul-de-lege-pentru-reorganizarea-instantelor-judecatoaresti-avizat-pozitiv-de-csm/32860/>
- <https://anticoruptie.md/ro/stiri/de-ce-avem-nevoie-de-mai-putine-instante-de-judecata>

CRO law is available online as of April 2016

<http://lex.justice.md/md/365555/>

Information note (16 pages) containing MoJ's clarifications on CRO law

[http://justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/coordonare/2015/iunie/Nota\\_L\\_reorganizare\\_sistem.pdf](http://justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2015/iunie/Nota_L_reorganizare_sistem.pdf)

Evaluation report on CRO law by CAPC

[www.capc.md/ro/expertise/avizel/nr-678.html](http://www.capc.md/ro/expertise/avizel/nr-678.html)

Infographic about CRO by CRJM

[http://crjm.org/infografic\\_optimizarea\\_hartii\\_judecatoaresti/](http://crjm.org/infografic_optimizarea_hartii_judecatoaresti/)

Study on CRO about court map optimization by CRJM

[http://crjm.org/wp-content/uploads/2014/06/2014-Studiu-Optimiz-HartaJud-MD\\_ro-web.pdf](http://crjm.org/wp-content/uploads/2014/06/2014-Studiu-Optimiz-HartaJud-MD_ro-web.pdf)

Feasibility Study on CRO financed by USAID

[http://www.justice.gov.md/public/files/file/studii/studii\\_srsj/2015/Studiu\\_CRJM\\_Optimiz-costurile.pdf](http://www.justice.gov.md/public/files/file/studii/studii_srsj/2015/Studiu_CRJM_Optimiz-costurile.pdf)

Scientific article investigating CRO's impact on citizens

<http://www.legeasiviata.in.ua/archive/2016/5-1/1.pdf>

Public information campaign via EU ATRECO Roadshows, expected to be delivered during September – October 2017:



PROGRAM

ROADSHOWURI SEPT

I. Schedule



Agenda\_public\_larg.d  
ocx

2. Agenda for the public at large



Agenda\_public\_speci  
alizat.docx

3. Agenda for stakeholders

## ANNEX 2. ICMS MATERIALS

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Informational report about ICMS in Moldova

<https://www.scribd.com/document/200729060/Ce-Este-Programul-Integrat-de-Gestionarea-Dosarelor>

Government Decision about approval of random distribution of cases

<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=347622>

Articles about random distribution of cases

- <http://www.bizlaw.md/2017/01/19/repartizarea-aleatorie-a-dosarelor-problematica/>
- <https://www.zdg.md/editia-print/social/cum-sunt-distribuite-dosarele-in-instantele-de-judecata>
- <http://unimedia.info/stiri/video-zdg-cum-sunt-distribuite-dosarele-in-instantele-de-judecata-63937.html>
- [http://www.realitatea.md/ministerul-justitiei-programul-integrat-de-gestionare-a-dosarelor-va-fi-perfec-ionat\\_43965.html](http://www.realitatea.md/ministerul-justitiei-programul-integrat-de-gestionare-a-dosarelor-va-fi-perfec-ionat_43965.html)
- [http://api.md/upload/files/acti6\\_rom.pdf](http://api.md/upload/files/acti6_rom.pdf)
- [http://www.realitatea.md/aici-poti-afla-totul-despre-sedintele-si-hotararile-instantelor-de-judecata-din-republica-moldova\\_2947.html](http://www.realitatea.md/aici-poti-afla-totul-despre-sedintele-si-hotararile-instantelor-de-judecata-din-republica-moldova_2947.html)
- <https://www.zdg.md/editia-print/justitie/de-ce-ministerul-justitiei-ingradeste-accesul-la-informatii>

Analytical Study on deficiencies in randomizing the distribution of cases

[http://www.cna.md/public/files/studiu\\_pigd.pdf](http://www.cna.md/public/files/studiu_pigd.pdf)

Court web portal available online for public use

<http://www.instante.justice.md/>

Former USAID ROLISP project developed a video spots highlighting the benefits of court automation via ICMS

<https://www.youtube.com/watch?v=JElyv3M2XYY>

**12. Superior Council of Magistracy Decision No. 510/23 of July 18, 2017  
Regarding the Appointment of Representatives of the SCM and  
the Courts to the Working Group for the Implementation of  
the CEPEJ-Compliant Judicial Statistics (Activity 2.1.2.1)**

## DECISION

On the motion from the Open Justice Project's Chief of Party Cristina Malai regarding the appointment of representatives of the Superior Council of Magistracy and the courts to the Working Group for the implementation of the European Commission for the Efficiency of Justice (CEPEJ)-compliant judicial statistics spreadsheet

July 18, 2017  
No. 510/23

Chişinău

After deliberations on the motion from the Open Justice Project's COP Cristina Malai regarding the appointment of representatives of the Superior Council of Magistracy and the courts to the Working Group for the implementation of the CEPEJ-compliant judicial statistics spreadsheet, taking note of the comments of the Superior Council of Magistracy Chairman, Victor Micu, the Plenum of the Superior Council of Magistracy

### FOUND:

The Superior Council of Magistracy has received a motion from the Open Justice Project's COP Cristina Malai regarding the need to institutionalize the statistical data collection and analysis procedure based on the judicial performance indicators developed by the CEPEJ and implemented in six pilot courts during 2015 – 2016.

To modernize the performance standards for courts and judges, it is important to implement a new statistical data collection tool and the CEPEJ indicators throughout the judicial system.

The Working Group shall work to improve the judicial statistics collection and analysis tool (the Excel spreadsheet developed by CEPEJ) and to develop amendments to the regulations on the collection and analysis of such statistics.

The members of the Working Group shall set their long-term agenda, shall allocate their tasks, and shall choose a deadline for the final deliverables.

The Superior Council of Magistracy and the Ministry of Justice of the Republic of Moldova shall be jointly responsible for the approval of the final deliverables. The Ministry of Justice of the Republic of Moldova shall also appoint other members of the Working Group.

The Open Justice Project shall delegate its representatives to the Working Group to offer expertise and assistance as may be necessary.

Open Justice proposed to establish a cooperation framework and to include representatives of the Superior Council of Magistracy and of the courts in the Working Group, so they could help to adapt the Excel spreadsheet tool to the needs of the judiciary, taking into account the results obtained in the six pilot courts and the optimization of courts distribution, with a view to institutionalizing the CEPEJ performance indicators in all courts.

Considering the above, the Plenum of the Superior Council of Magistracy accepts the motion of the Open Justice Project's COP Cristina Malai and will appoint its representatives, and representatives of the courts, to the Working Group for the implementation of the CEPEJ-compliant judicial statistics spreadsheet.

Thus, pursuant to Articles 4, 17, 24, and 25 of the Law on the Superior Council of Magistracy, the Plenum of the Superior Council of Magistracy

### **R U L E S:**

1. To admit the motion of the Open Justice Project's COP Cristina Malai regarding the appointment of representatives of the Superior Council of Magistracy and the courts to the Working Group for the implementation of the CEPEJ-compliant judicial statistics spreadsheet.

2. To appoint the following representatives of the Superior Council of Magistracy and of the pilot courts to the Working Group for the implementation of the CEPEJ-compliant judicial statistics spreadsheet in all courts:

- Nina Cernat, Member of the Superior Council of Magistracy;
- Vera Toma, Member of the Superior Council of Magistracy;
- Dorel Musteață, Member of the Superior Council of Magistracy;
- Dumitru Visternicean, Member of the Superior Council of Magistracy;
- Nadejda Popic, the Chief of the Secretariat of the Superior Council of Magistracy;
- Irina Muntean, the Chief of the Judicial Statistics Service, Superior Council of Magistracy Secretariat;
- Natalia Lupașcu, the Chief of the Procedural Tracking and Documentation Directorate, the Supreme Court of Justice;
- Tatiana Bradu, the Chief of the Division for Procedural Tracking of Civil, Commercial and Administrative Cases, the Supreme Court of Justice;
- Svetlana Hantea, the Chief of the Secretariat, Cahul Court of Appeals;
- Adela Jurcă, the Chief of the Procedural Tracking and Documentation Division, Cahul Court of Appeals;
- Andrei Ojoga, the Chief of the Procedural Tracking and Documentation Division, Chișinău Court of Appeals;
- Iana Andrușciac-Popovici, Chief Specialist, Procedural Tracking and Documentation Directorate, Chișinău Court of Appeals;
- Adriana Danu, Chief Specialist, Procedural Tracking and Documentation Directorate, Chișinău Court of Appeals;
- Zinaida Dumitrașcu, the Deputy Chief of the Secretariat, Chișinău Court, Râșcani Office;
- Alina Foltea, the Chief of the Procedural Tracking and Documentation Division, Chișinău Court, Râșcani Office;
- Lilia Plugaru, Judicial Assistant, Hâncești Court, Ialoveni Office;
- Maria Bondari, Procedural Tracking and Documentation Division, Hâncești Court, Ialoveni Office;

- Aliona Costin, the Chief of the Judicial Practice Standardization and Public Relations Division, Soroca Court;

- Andriana Muntean, Chief Specialist, Procedural Tracking and Documentation Division, Soroca Court.

3. This decision may be subject to an appeal at the Supreme Court of Justice only in respect to the issue / adoption procedure, by any interested party within 15 days from the date of communication.

4. This decision shall be published on the Superior Council of Magistracy's website, and its copies shall be sent to the Open Justice Project and to the Ministry of Justice of the Republic of Moldova for information.

**Chairman of the Plenary Session of the  
Superior Council of Magistracy**

**Victor MICU**

**13. Ministry of Justice Decision No. 570/23 of July 25, 2017 on the Establishment of the Working Group for Implementing the Judicial Statistics Spreadsheet Based on CEPEJ Indicators (Activity 2.1.2.1)**

# MINISTRY OF JUSTICE OF THE REPUBLIC OF MOLDOVA

## ORDER

July 25, 2017

No. 570

### on the establishment of the Working group for implementing the judicial statistics spreadsheet based on CEPEJ indicators

To modernize the judicial statistics as required by the Government's Action Plan for 2016 – 2018

#### IT IS HEREBY ORDERED:

1. To approve the membership of the Working group for implementing the judicial statistics spreadsheet based on CEPEJ indicators.
2. To appoint the representatives of the Superior Council of Magistracy (SCM) and of the judiciary, nominated to the Working group by SCM's Decision No. 510/23 of July 18, 2017.
3. The Working group will have the following members:

| <b>Represented institution</b>                                    | <b>Appointee</b>  |
|---|---|
| Ministry of Justice / Agency for Court Administration (MOJ / ACA) | <i>Valentina Grigoriș</i> , Acting Director<br><i>Elena Corolevschi</i> , Chief, Directorate for Courts Administration, and Judicial Information Systems<br><i>Victoria Palanciuc</i> , Chief, Division for Courts Administration, and Judicial Information Systems |
| Superior Council of Magistracy (SCM)                              | <i>Dorel Musteață</i> , Member of the SCM<br><i>Nina Cernat</i> , Member of the SCM<br><i>Vera Toma</i> , Member of the SCM<br><i>Dumitru Visterniceanu</i> , Member of the SCM<br><i>Nadejda Popic</i> , Chief, Secretariat  |

|                                 |  |
|---------------------------------|--|
|                                 | <b><i>Irina Muntean</i></b> , Chief, Service for the Analysis of Judicial Statistics, SCM's Secretariat  |
| Supreme Court of Justice (SCJ)  | <b><i>Natalia Lupășcu</i></b> , Chief, Procedural Tracking, and Documentation Directorate<br><b><i>Tatiana Bradu</i></b> , Chief, Division for Procedural Tracking of Civil and Commercial Cases, and Cases in Administrative Court  |
| Chișinău Appellate Court        | <b><i>Andrei Ojoga</i></b> , Chief, Procedural Tracking, and Documentation Directorate<br><b><i>Iana Andrușciac-Popovici</i></b> , Chief specialist, Procedural Tracking, and Documentation Directorate<br><b><i>Adriana Danu</i></b> , Chief Specialist, Procedural Tracking, and Documentation Directorate |
| Cahul Appellate Court           | <b><i>Svetlana Hantea</i></b> , Chief, Secretariat<br><b><i>Adela Jurcă</i></b> , Chief, Procedural Tracking, and Documentation Division   |
| Chișinău Court, Rîșcani Office  | <b><i>Zinaida Dumitrașcu</i></b> , Deputy Chief, Secretariat<br><b><i>Alina Foltea</i></b> , Chief, Procedural Tracking, and Documentation Division  |
| Hâncești Court, Ialoveni Office | <b><i>Lilia Plugaru</i></b> , Judicial Assistant<br><b><i>Maria Bondari</i></b> , Procedural Tracking, and Documentation Division  |
| Soroca Court                    | <b><i>Aliona Costi</i></b> , Chief, Directorate for Case Law Standardization, and Public Relations   |

|                      |  |
|----------------------|--|
|                      | <i>Adriana Muntean</i> , Chief Specialist,<br>Procedural Tracking, and Documentation<br>Division           |
| Open Justice Project | <i>Ruslan Grebencea</i> , Objective 2 Key<br>Expert 1<br><br><i>Mihai Grosu</i> , Objective 1 Key Expert 2 |

4. The Working group shall improve and revise the tool for the collection and analysis of judicial statistics (the Excel spreadsheet developed by the European Commission for the Efficiency of Justice), and develop amendments to the regulations on the collection and analysis of judicial statistics, necessary to implement this tool.

5. The Working group shall agree on its long-term agenda with specific tasks and persons responsible for them, and a deadline for final deliverables (the spreadsheet and the amendment proposals for internal regulations). The final deliverables shall subject to the approval by the SCM and the MOJ.

6. The Working group shall select its chairman to preside the meetings and ensure the observance of the agenda, and a secretary to coordinate and prepare discussion subjects, convene meetings, keep the minutes, and provide technical assistance.

7. The membership of the Working group may be extended to include such representatives of other institutions and organizations as may be necessary, and to ensure the observance of the agenda.

*Annex:*

SCM's Decision No. 510/23 of July 18, 2017, on the appointment of representatives of the SCM and the judiciary to the Working group for implementing the judicial statistics spreadsheet based on CEPEJ indicators.

**Minister of Justice**

**Vladimir CEBOTARI**

## **I4. Report on the Website Information Workshop (Activity 2.3.2)**



**USAID**  
FROM THE AMERICAN PEOPLE

# REPORT ON THE WEBSITE INFORMATION WORKSHOP

AUGUST 10, 2017

USAID'S OPEN JUSTICE PROJECT  
IN MOLDOVA

October 30, 2017

## **DISCLAIMER**

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# REPORT ON THE WEBSITE INFORMATION WORKSHOP

AUGUST 10, 2017

## USAID'S OPEN JUSTICE PROJECT IN MOLDOVA

**Prepared by:** Cristina Malai, COP  
**Activity Office:** USAID/Moldova  
**COR:** Diana Cazacu

Submitted on October 30, 2017

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## INTRODUCTION

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On August 10, 2017, the USAID Open Justice Project conducted a workshop on the type of information that should be made available on Moldova's judicial websites, in particular the websites of the Superior Council of Magistracy (SCM), the Agency for Court Administration (ACA) the Ministry of Justice (MOJ) and the courts' web portal.

The workshop was part of Open Justice's efforts to assist its beneficiaries, the SCM, ACA, MOJ and the ACA to increase public access to judicial information, including information related to the court reorganization and the services that are available to the public, so as to engender the public's trust and confidence in the justice system as a whole.

The general objectives of the workshop were:

- To present to various justice sector stakeholders the existing webpages of the Moldovan judicial bodies and assess their perception of the usefulness and accessibility of the information provided on these webpages
- To collect feedback from participants on what should be improved and what information of public interest should the Moldovan judiciary make available on their webpages

## METHODS

The workshop was structured in a manner that allowed the participants to familiarize themselves with the different judicial webpages and share their perceptions of the webpages' effectiveness in offering information of public interest. The workshop continued with practical group exercises where participants shared their opinions on improvements that could be made and formulated concrete proposals in this respect. The activity ended with each group presenting their proposals and recommendations. The participants also completed a final questionnaire on their perception of the webpages in light of the proposed improvements.

## DATES

The half-day workshop was organized on 10 August 2017.

## PARTICIPANTS

Representatives of Moldovan Non-governmental organizations (NGOs), Freedom House, the Bar Association of Moldova, mass media, the Center for Legal Resources, judges, SCM leadership and representatives of the Agency for Court Administration (ACA)

## SPEAKERS/MODERATORS

- Ruslan Grebencea, Team Leader, Objective II
- Mihai Grosu, Key Expert, Objective I
- Natalia Ionel, Communication and Outreach Specialist

The agenda, photos from the workshop and the list of participants are attached as Annexes 1-3 to this report.

# REPORT

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## **On the Workshop to Improve the Quality of Public Information on the Websites of the Superior Council of Magistracy (SCM) ([www.csm.md](http://www.csm.md)), the Agency of Courts Administration (ACA) ([www.aaij.justice.md](http://www.aaij.justice.md)), and for the Courts' Web Portal ([instante.justice.md](http://instante.justice.md))**

The workshop started with a general presentation of USAID's Open Justice Project, where the Project's Deputy Chief of Party (DCOP), Luciana Iabangi, explained the objectives and expected results of the activity in the context of the Projects' general objective to increase judicial transparency and build public trust in the Moldovan justice system.

The Open Justice Team then delivered a presentation of each webpage, briefly describing each section of the webpage and the information it contained. Next, the participants split into three groups to discuss aspects of the webpages that need improvement and how to increase the quality of and access to public information. Open Justice appointed a team member for each group to moderate the discussions. It is important to note the openness and interest that participants manifested on the topic and the number and variety of proposals that every group generated.

Every group selected a rapporteur who presented the results of discussions at the end of the session. The results were discussed and agreed to by all participants.

The event also was attended by a representative of the IT company contracted by the Project who assessed the feasibility of incorporating the various proposals. It was agreed that the contracted IT company will design website mock-ups to improve visitors' experience with the SCM, ACA/MOJ webpages and court's portal.

Many of the proposals focused on the issue of accessibility, particularly for persons with special needs. Others emphasized the need for more advanced search engines and greater transparency of the judicial decision-making process.

## **RECOMMENDATIONS AND PROPOSALS**

The following is a list of the proposed changes to the webpages:

### **The SCM's Website (presented by Carolina Mangir, SCM), Group I**

- Add an app for smartphones to facilitate access to the Website.
- Ensure online access to the SCM's meetings (audio/video). The SCM has many public and media enquiries regarding access to its meetings. Develop an archive of the SCM's meetings.
- Create a more user-friendly interface like that of the home page of [www.inj.md](http://www.inj.md). Add images to articles to simplify information and improve access to news and press releases.
- Create a database or an intranet accessible from the website only for the employees of the SCM, signed in with a username and a password. The intranet users will include members of the SCM, members of the SCM's Boards, and the administrative staff.

- Add a new section, “Decision Transparency,” for publishing drafts endorsed by the SCM’s Plenum, the working groups’ drafts and good governance statements. It will also be used for information on the cooperation with civil society.
- The website needs to be adapted for people with disabilities. The addition of a Zoom button, and audio playback and color adjustment functionalities are recommended.
- Add the buttons “Supreme Court of Justice,” “Moldovan Judges’ Association,” “CEPEJ,” and “CCJE” in the bottom of the Web site, next to “Parliament of the Republic of Moldova,” “Government of the Republic of Moldova,” “Ministry of Justice of the Republic of Moldova,” and “National Institute of Justice.”
- Create a daily counter of individual visitors, which will count viewer numbers separately for each column, or press release, and systematize them.
- Visitors should be able to view the website in Romanian, Russian, and English.
- Add a built-in calendar of SCM’s events. For example, if the General Assembly of Judges of the Republic of Moldova is scheduled, visitors should be able to read a press release about this event by clicking on the corresponding day in the calendar. Through this calendar visitors should be able to view the activities scheduled for each day.
- A special section called “Judicial Career” was requested for announcements regarding new judicial vacancies, that would include links to application forms, and the list of sitting judges and their public resumes.
- Add a function for searching by keywords or letter combinations. The website should also contain general information on the courts’ work. This information should be complete and should not duplicate the information from the Courts’ Web Portal.
- The discussion group agreed on the addition of a FAQ page, where visitors will be able to enter their questions in a special field and receive answers after a certain period. The website will not contain an online forum.
- The website will contain a banner ad informing the public of the information campaigns involving the SCM. The banner ad will be displayed only during information campaigns and will be hidden in between. The information about the SCM’s campaigns will also be saved in the events calendar. The banners’ purpose, just like that of adds, will be to attract traffic to the website.

### **The ACA’s Web site (presented by Victoria Palanciuc, ACA), Group 2**

- The ACA’s Web site is not adapted to the needs of people with disabilities. It needs to have various colors, fonts, and zooming functions to aid navigation and access to information.
- Visitors should be able to view the website in Romanian, Russian, and English.
- The website should contain a banner ad informing court secretariats about forthcoming training events, including the list of participants.
- The ACA’s website is difficult to find, so it was proposed to direct visitors to it by means of a new banner ad on the website of the MOJ. A similar banner ad should also be added to the Courts’ Web Portal in a visible place.

- Add a new section dedicated to the ACA's decisions, and studies and regulations of public interest.
- Add a FAQ list to decrease the number of phone enquiries. At present, most phone enquiries are about the progress of court proceedings and hearing session dates, which means that citizens confound the ACA with the courts.
- The "Applicable Legislation" section needs to be updated. All legislative amendments related to the reorganization of the judicial system should be published on the ACA's website to ensure a better understanding by the public.
- Post videos about appropriate events and information campaigns.
- Include information about the territorial jurisdiction of the courts. At this time, this information is posted on the Courts' Web Portal, but it should also be posted on the ACA's website to make it more accessible to the public.
- Post an interactive map showing the location of courts (main and, possibly, secondary offices), including their contact information.
- The publication of a guide on the rights of citizens in courts on the webpage is necessary.

### **The Courts' Web Portal, (presented by Guzun Corneliu, Chişinău Court), Group 3**

- A link to the website of the Supreme Court of Justice should be on the home page of the Courts' Web Portal.
- The website needs to be adapted for people with disabilities. The addition of audio playback and content narrator functionalities is recommended.
- The design of the home page should remain unchanged.
- Visitors should be able to view the Web Portal in Romanian, Russian, and English, and instead of national flag banners, the language options should be represented by the abbreviations "Ro," "Ru," and "En."
- The Web Portal should have an engine for searching information within the portal, including on courts' individual webpages. Visitors should be able to search by certain criteria, including by keywords.
- Add the option to search by first and last names in the "Court Judgments" and "Court Orders" sections.
- Add the publication of court orders regarding the admission of civil claims. For example, orders on the admission of claims or orders regarding mediation.
- Add contact information of courts' subdivisions, such as secretariats, procedural tracking and documentation (civil and criminal divisions), and public relations.
- Post information on the progress of the examination of statements of claims/case files, accompanied by corresponding orders.
- Add an app to access the Portal.

- Use the ACA's Report on the improvements to the Courts' Web Portal published in 2017, which can be found on the ACA's website at [http://aaij.justice.md/sites/default/files/document/attachments/raport\\_pnij\\_2017\\_final.docx](http://aaij.justice.md/sites/default/files/document/attachments/raport_pnij_2017_final.docx).

## ANNEX I. AGENDA

---

**Workshop to identify the public information needed for the Web sites of  
the Superior Council of Magistracy (CSM) ([www.csm.md](http://www.csm.md)) and  
the Courts Administration Agency (ACA) ([www.aaij.justice.md](http://www.aaij.justice.md)),  
and for the Courts' Web Portal ([instante.justice.md](http://instante.justice.md))**

*Chisinau, Thursday, August 10, 2017*

*09:00*

*Jolly Alon*

*37, Maria Cebotari St.*

**Participants: judges, representatives of the SCM, MOJ / ACA and NGOs, lawyers, and journalists**

- 09:00 – 09:30 The registration of participants  
Coffee break
- 09:30 – 09:40 The objectives of the USAID Open Justice Project  
*Luciana Iabangi, DCOP, Open Justice Project*
- 09:40 – 09:50 The filling out of a preliminary questionnaire on the perception of the public information posted  
on the websites of the SCM and ACA, and on the Courts' Web Portal
- 09:50 – 10:20 A brief presentation of the websites offering information about the judicial system:  
The website of the SCM ([www.csm.md](http://www.csm.md)); the list of public information;  
The website of the ACA ([www.aaij.justice.md](http://www.aaij.justice.md)); the list of public information;  
The Courts' Web Portal ([instante.justice.md](http://instante.justice.md)); the list of public information.  
*Ruslan Grebencea, Objective 2 Key Expert, Open Justice Project*  
*Natalia Ionel, Communications Specialist, Open Justice Project*  
*Mihai Grosu, Objective 1 Key Expert, Open Justice Project*
- 10:20 – 11:00 Group discussions on the improvement of access to the public information posted on the Web  
sites of the SCM ([www.csm.md](http://www.csm.md)) and the ACA ([www.aaij.justice.md](http://www.aaij.justice.md)), and on the Courts' Web  
Portal ([instante.justice.md](http://instante.justice.md))
- 11:00 – 12:00 Group discussion results
- 12:00 – 12:30 Conclusions
- 12:30 – 12:40 The filling out of the final questionnaire on the perception of the public information posted on the  
websites of the SCM and ACA, and on the Courts' Web Portal
- 12:40 – 13:30 Lunch, socializing and discussions

## ANNEX 2. PHOTOS

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PHOTO: USAID Open Justice Project

*Workshop participants take part in the presentation session*



PHOTO: USAID Open Justice Project

*Participants discuss in group the improvements needed for the Web Court Portal*



PHOTO: USAID Open Justice Project

*Participants present the enhancement recommendations for the judiciary webpages*

## ANNEX 3. LIST OF PARTICIPANTS

| Civil Society / Donors           |                    |   |   |
|----------------------------------|--------------------|---|---|
| 1.                               | Victor Panțiru     | Member of the Council MBA                   | Bar Association of Moldova<br>46 București str., MD-2012, Chisinau, RM<br>Tel. + 373 22 226 152<br>e-mail: <a href="mailto:uniunea.avocatorilor.md@gmail.com">uniunea.avocatorilor.md@gmail.com</a>                   |
| 2.                               | Mihai Lupu         | Member of the Council MBA                   | Bar Association of Moldova<br>46 București str., MD-2012, Chisinau, RM<br>Tel. + 373 22 226 152<br>e-mail: <a href="mailto:uniunea.avocatorilor.md@gmail.com">uniunea.avocatorilor.md@gmail.com</a>                   |
| 3.                               | Nicoleta Hriplivii | Director                                    | Promolex<br>127 Ștefan cel Mare bd., MD-2004, Chisinau, RM<br>Tel: + 373 22 450024<br>+ 373 22 492684<br>+ 373 22 449626<br>e-mail: <a href="mailto:info@promolex.md">info@promolex.md</a>                            |
| 4.                               | Galina Bostan      | Chairperson                                 | Centre for Analysis and Prevention of Corruption (CAPC)<br>27 Sfatul Țării str., 06 office, MD-2012, Chisinau, RM<br>Tel: (373 22) 23 83 84<br>e-mail: <a href="mailto:contact@capc.md">contact@capc.md</a>           |
| 5.                               | Gheorghe Mițu      | Member                                      | Criminal Reforms Institute (IRP)<br>33 M. Lomonosov str., Chisinau, RM<br>Tel.: +373 22 72 25 45<br>+373 22 92 51 71<br>Email: <a href="mailto:info@irp.md">info@irp.md</a>   |
| 6.                               | Xenia Siminciuc    | Communication Officer                       | OHCHR, Chisinau, RM<br>Tel: +373 68 488 663<br>e-mail: <a href="mailto:xenia.siminciuc@one.un.org">xenia.siminciuc@one.un.org</a>   |
| 7.                               | Carmen Mușat       | ATRECO                                      | e-mail: <a href="mailto:elena.musat@giz.de">elena.musat@giz.de</a>  |
| Lawyers                          |                    |   |   |
| 8.                               | Olesea Pisarenco   | Member of the Administration Board          | Association of Moldovan Women (FAM)<br>6 Teilor str., Chisinau, RM, Associated Bureau of lawyers from Botanica<br>Tel.: +373 69 146 953<br>e-mail: <a href="mailto:asociatiafam@gmail.com">asociatiafam@gmail.com</a> |
| 9.                               | Adrian Tăbîrță     | Member                                      | Licensing Commission for the Lawyer; Chisinau, RM<br>e-mail: <a href="mailto:adriant@mail.ru">adriant@mail.ru</a>   |
| Representatives of the judiciary |                    |   |   |
| 10.                              | Valentina Grigoriș | Director                                    | Agency for Court Administration (ACA)<br>124 B Ștefan cel Mare bd., Chisinau, RM<br>Tel: +373 22 27 18 14<br>e-mail: <a href="mailto:valentina.grigoris@justice.gov.md">valentina.grigoris@justice.gov.md</a>         |
| 11.                              | Victoria Palanciuc | Head of courts' administration and judicial | Agency for Court Administration (ACA)<br>124 B Ștefan cel Mare bd., Chisinau, RM<br>Tel: +373 22 27 18 14   |

|                                   |                      |  |  |
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| 13.                               | Nadejda Popic        | Head of Secretariat                              | Superior Council of Magistracy<br>5 Eminescu str., Chisinau, RM<br>Tel: +373 76 777 011<br>e-mail: <a href="mailto:aparatul@csm.md">aparatul@csm.md</a>  |
| 14.                               | Carolina Mangîr      | Head of Protocol and public relations department | Superior Council of Magistracy<br>5 Eminescu str., Chisinau, RM<br>Tel: +373 22 99 19 91<br>e-mail: <a href="mailto:carolina.mangir@csm.md">carolina.mangir@csm.md</a>                         |
| 15.                               | Goinic Daniel        | Legal Adviser                                    | Center for Legal Resources in Moldova (CRJM)<br>33 Şciusev str., MD-2001, Chisinau, RM<br>e-mail: <a href="mailto:daniel.goinic@crjm.org">daniel.goinic@crjm.org</a><br>Tel.: +373 22 84 36 01 |
| 16.                               | Natalia Cioară       | Deputy Chief                                     | The Secretariat of the SCM<br>5 Eminescu str., Chisinau, RM<br>e-mail: <a href="mailto:aparatul@csm.md">aparatul@csm.md</a>  |
| 17.                               | Sergiu Pleşca        | Chairperson                                      | Causeni Court<br><a href="mailto:jca@justice.md">jca@justice.md</a>  |
| 18.                               | Ghenadie Mîra        | Chairperson (candidate)                          | Anenii noi Court<br><a href="mailto:jan@justice.md">jan@justice.md</a>   |
| 19.                               | Sergiu Osoianu       | Chairperson                                      | Straseni Court<br><a href="mailto:jst@justice.md">jst@justice.md</a>   |
| 20.                               | Alexandru Gheorghies | Chairperson                                      | Balti Court of Appeal<br><a href="mailto:cab@justice.md">cab@justice.md</a>  |
| 21.                               | Ecaterina Arseni     | Magistrate                                       | Balti Judge Court<br><a href="mailto:jba@justice.md">jba@justice.md</a>  |
| 22.                               | Lilia Ţurcan         | Judge  | Edinet Court   |
| 23.                               | Angela Bologan       | Judge  | Criuleni Court   |
| 24.                               | Diana Procop         | Department head                                  | AAIJ<br><a href="mailto:diana.procop@justice.gov">diana.procop@justice.gov</a>   |
| 25.                               | Corneliu Guzun       | Judge  | Chisinau Court   |
| 26.                               | Juganari Marcel      | Vice-president                                   | Hincesti Court   |
| <b>Mass-media representatives</b> |                      |  |  |
| 27.                               | Corina Cepoi         | Internews  | 25 Bernadazzi str., Chisinau, RM<br>Tel: +373 22 843 601<br>e-mails: <a href="mailto:ccepoi@yahoo.com">ccepoi@yahoo.com</a><br><a href="mailto:ccepoi@internews.org">ccepoi@internews.org</a>  |
| 28.                               | Tatiana Puiu         | Project coordinator                              | Freedom House<br>Chisinau, RM<br>e-mail: <a href="mailto:puiu@freedomhouse.org">puiu@freedomhouse.org</a>  |
| <b>Open Justice Project</b>       |                      |  |  |
| 29.                               | Luciana Iabangi      | Deputy Chief of Party                            | Open Justice Project<br>e-mail: <a href="mailto:liabangi@openjustice.com">liabangi@openjustice.com</a><br>Tel: +373 69 644 888   |

|     |                  |   |  |
|-----|------------------|---|--|
| 30. | Ruslan Grebencea | Objective 2,<br>Team Leader   | Open Justice Project<br><a href="mailto:rgrebencea@openjustice.md">rgrebencea@openjustice.md</a><br>Tel: +373 68 918 877 |
| 31. | Mihai Grosu      | Objective 1,<br>Expert cheie2                                       | Open Justice Project<br><a href="mailto:mgrosu@openjustice.md">mgrosu@openjustice.md</a><br>Tel: +373 69 255 325         |
| 32. | Natalia Ionel    | Communication<br>and Public<br>relations<br>Specialist              | Open Justice Project<br><a href="mailto:nionel@openjustice.md">nionel@openjustice.md</a><br>Tel: +373 68 918 899         |
| 33. | Elina Petrovici  | Monitoring,<br>Evaluation,<br>Knowledge and<br>Learning<br>Director | Open Justice Project<br><a href="mailto:epetrovici@openjustice.md">epetrovici@openjustice.md</a><br>Tel: +373 68 296 136 |

**15. Report on the Breakfast for Journalists to Discuss Ways to Improve Access to Information about the Judiciary through Judicial Bodies' Webpages (Activity 2.3.2)**



**USAID**  
FROM THE AMERICAN PEOPLE

# REPORT ON THE JOURNALISTS' ACCESS TO INFORMATION WORKSHOP

SEPTEMBER 22, 2017

USAID'S OPEN JUSTICE PROJECT  
IN MOLDOVA

October 30, 2017

## **DISCLAIMER**

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# REPORT ON THE JOURNALISTS' ACCESS TO INFORMATION WORKSHOP SEPTEMBER 22, 2017

## USAID'S OPEN JUSTICE PROJECT IN MOLDOVA

**Prepared by:** Cristina Malai, COP  
**Activity Office:** USAID/Moldova  
**COR:** Diana Cazacu

Submitted on October 30, 2017

**Contract:** AID-OAA-I-13-00029  
**Order:** AID-117-TO-17-00001

**Implemented by:**

**Millennium DPI Partners, LLC**  
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## INTRODUCTION

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This workshop was organized as part of the Open Justice Project's assistance to its beneficiaries (the Superior Council of Magistracy [SCM] and courts system, the Ministry of Justice [MOJ], and the Agency for Court Administration [ACA]). Its purpose was to improve journalists' access to judicial information and increase public trust in justice system.

The general objectives of the workshop were:

- To present the webpages of the Moldovan judiciary bodies and assess the media's perception of the available information of public interest
- To collect suggestions from media representatives on what should be improved on the webpages and what information of public interest the Moldovan judiciary bodies should upload on their webpages.

## METHODS

Open Justice invited representatives of media resources who are interested in monitoring of various aspects of the judiciary's activity and aware of the needs of improvement in the field. This allowed for an interactive event and efficient discussions with journalists focused on specific aspects of judiciary's work.

## DATES

This two-hour meeting was organized on September 22, 2017.

## PARTICIPANTS

Representatives of leading Moldovan mass media, national TV and radio site-based media resources, and investigative journalists.

## SPEAKERS/MODERATORS

- Ruslan Grebencea, Team Leader, Objective 2
- Mihai Grosu, Key Expert, Objective 1
- Natalia Ionel, Communication and Outreach Specialist

## REPORT

---

### **Workshop with journalists to discuss ways to improve access to information about the judiciary through judicial bodies' webpages: the Superior Council of Magistracy (SCM) ([www.csm.md](http://www.csm.md)), the Agency of Courts Administration (ACA) ([www.aiij.justice.md](http://www.aiij.justice.md)), and the Courts' Web Portal ([instante.justice.md](http://instante.justice.md))**

The workshop was carried out in an informal manner and started with a general presentation of the Open Justice Project's objectives. The COP explained the expected results of the activity in the context of the Project's general objective to increase the transparency of and public trust in the Moldovan justice system.

Given the awareness and high involvement of participants, the Open Justice team briefly presented the webpages of the SCM, ACA, and the courts' web portal, highlighting the most important aspects related to transparency in decision-making processes and the availability of judicial information to public. After the presentation, participants had a productive discussion on judicial institutions' openness to the public and media, a faster update of posted news on outcomes of the SCM's meetings, and the availability of the judges' database. Most discussions referred directly to the SCM webpage and the courts' web portal.

The event was attended by one representative of the IT company Soft Tehnica contracted by the Project, who provided comments on the feasibility of the participants' proposals.

As a result of this workshop, Open Justice prepared a list of recommendations that will be further used to update the webpages and to increase public access to justice sector information. Further, the updated websites will provide transparency and easier access to justice sector data to serve the needs of journalists, NGOs, and the public at large.

## RECOMMENDATIONS AND PROPOSALS

Feedback on the websites, offered at the workshop with journalists, included the following recommendations and proposals.

### **SCM webpage:**

- Set up a public archive of the SCM's meetings streamed online, including on YouTube
- Set up a refreshable database with judges' CVs and photos, integrated into the SCM's website
- Publish the SCM meeting memos as soon as possible, before this information gets outdated
- Add a hit counter to the website
- Refresh the websites' content on time
- Indicate the refresh interval on the SCM's website, especially for the Register of candidates on judicial appointment, promotion, or transfer, etc.
- Have the menu item "Public procurement" of the SCM's website refreshed.

### **Courts' Web Portal:**

- Refresh the websites' content on time
- Create an option for searching for cases by litigants' names
- Add a hit counter to the website
- Ensure access to court activity related to the examination of cases, including intermediary orders, such as orders on the acceptance for examination, orders on the reopening of a case, orders on the dismissal of a case, and orders on the dismissal of a claim
- Improve the scan quality of the documents uploaded into the Case Management System
- Publish the case assignment sheets from ICMS on the courts' web portal
- Show the assignment history of cases (including ID numbers and reasons for the recusal or self-recusal of reporting judge) in a new menu called "Pending Claims," which would be posted next to the current menu items "Hearings schedule," "Judgments," and "Orders"
- Follow the Supreme Court of Justice model ([www.csj.md](http://www.csj.md)) for displaying pending cases on the website
- Build stronger public / media relations services in courts and other judicial agencies
- Upload the judges' and court clerks' contact information (phone numbers) on the websites to make journalists' investigations easier.

## ANNEX I. AGENDA

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**Workshop with media representatives to discuss ways to improve access to information about the judiciary through judicial bodies' webpages: Superior Council of Magistracy (SCM) ([www.csm.md](http://www.csm.md)), the Agency of Courts Administration (ACA) ([www.aaij.justice.md](http://www.aaij.justice.md)), and for the Courts' Web Portal ([instante.justice.md](http://instante.justice.md))**

*Chisinau, September 22, 2017*

*Crème de la Crème*

*Alexandru cel Bun 98A*

- 09:00 - 09:30      **Registration of participants**
- 09:30– 09:35      **Objectives of the USAID**  
Cristina Malai, Chief of Party, Open Justice Project
- 09:35 - 09:55      **Brief presentation of web pages that provide information about the judiciary**
- Webpage of the Superior Council of Magistracy ([www.csm.md](http://www.csm.md)); list of publicly available information;  
Ruslan Grebencea, Objective 2 Team Leader, Open Justice Project
  - Webpage of the Agency for Court Administration ([www.aaij.justice.md](http://www.aaij.justice.md)); list of publicly available information;  
Natalia Ionel, Communication and Outreach Specialist, Open Justice Project
  - Courts web-portal ([instante.justice.md](http://instante.justice.md)); list of publicly available information;  
Mihai Grosu, Objective 1 Key Expert, Open Justice Project
- 09:55– 10:30      **Questions and answers. Conclusions**  
Ruslan Grebencea, Objective 2 Team Leader, Open Justice Project

## ANNEX 2. PHOTOS

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*Workshop participants take part in the presentation session*



*Participants discuss in group the improvements needed for the Web Pages*

## ANNEX 3. LIST OF PARTICIPANTS

**Open Justice Project**  
**Workshop discussing with mass media about access to judiciary information**  
**September 22, 2017**  
**Crème de la Crème**

|    | <b>Numele<br/>Prenumele<br/>Name /<br/>Surname</b> | <b>Gen<br/>F/B<br/>Gender</b> | <b>Instituția<br/>Institution</b>                           | <b>Funcția<br/>Job title</b>       | <b>Localitate<br/>District</b> | <b>Date de contact<br/>Contacts</b>  |
|----|--|-------------------------------|---|------------------------------------|--------------------------------|--|
| 1. | Cornelia<br>Cozonac                                | F                             | Centrul de<br>Investigații<br>Jurnalistice                  | Director                           | Chișinău                       | <a href="mailto:cozcor@yahoo.fr">cozcor@yahoo.fr</a><br>069070225                                      |
| 2. | Lilia Zaharia                                      | F                             | Asociația Presei<br>Independente și<br>Moldovacurata.md     | Reporter<br>special                | Chișinău                       | <a href="mailto:lilia.zaharia@api.md">lilia.zaharia@api.md</a><br>069646492                            |
| 3. | Olga<br>Cebanu                                     | F                             | Portal al avocaturii<br>de afaceri<br>Bizlaw.md             | Director                           | Chișinău                       | <a href="mailto:portal@bizlaw.md">portal@bizlaw.md</a><br>069284299                                    |
| 4. | Victor<br>Moșneag                                  | B                             | Ziarul de Gardă   | Reporter<br>Justiție               | Chișinău                       | <a href="mailto:v.mosneag.zdg@gmail.com">v.mosneag.zdg@gmail.com</a><br>069510953                      |
| 5. | Anastasia<br>Nani                                  | F                             | Anticorupție,<br>Centrul de<br>Investigații<br>Jurnalistice | Redactor-șef                       | Chișinău                       | <a href="mailto:anastasia_nani@yahoo.co.uk">anastasia_nani@yahoo.co.uk</a><br>078803017                |
| 6. | Victoria<br>Dodon                                  | F                             | Anticorupție,<br>Centrul de<br>Investigații<br>Jurnalistice | Jurnalist                          | Chișinău                       |  |
| 7. | Nicu Gușan   | B                             | Radio Europa<br>Liberă                                      | Reporter                           | Chișinău                       |  |
| 8. | Catalin<br>Profir                                  | B                             | Soft Tehnica  | Business<br>Development<br>Manager | Chișinău                       | <a href="mailto:catalin.profir@soft-tehnica.com">catalin.profir@soft-tehnica.com</a><br>00 40766372356 |

**16. Superior Council of Magistracy Decision No. 557/25 of  
August 8, 2017 on the Establishment the Working Group  
for Revising the Judicial Selection and Promotion Criteria  
(Activity 2.2.4.6)**

## **D E C I S I O N**

On the setting up of the Working Group for revising the judicial nomination and promotion criteria

August 8, 2017, Chişinău

No. 557/25

After deliberations regarding the setting up of the Working Group for revising the judicial nomination and promotion criteria, taking note of the Superior Council of Magistracy (SCM) Chairman Victor Micu, the Plenum of the Superior Council of Magistracy

### **F O U N D:**

The Superior Council of Magistracy has received a motion from the Open Justice Project's Chief of Party (COP) Cristina Malai requesting assistance in setting up a Working Group to revise the judicial nomination and promotion criteria. The Working Group members would include representatives of the SCM, the Board for Judicial Nominations and Career, and the Open Justice Project.

The Working Group would revise the judicial nomination and promotion criteria, the scoring system, and the competition procedure, and would help to improve the reasoning of the decisions of the Board for Judicial Nominations and Career, and of the Superior Council of Magistracy in this field.

Furthermore, the Working Group would contribute to improving the regulations and practices regarding the selection of judges and judicial career.

The members of the Working Group would set their agenda, allocate their tasks, and will choose a deadline for the final deliverables.

The Superior Council of Magistracy would be responsible for the approval of the final deliverables.

The Open Justice Project would delegate its representatives to the Working Group to offer expertise and assistance as may be necessary.

Considering the above, pursuant to Articles 4, 17, 24, and 25 of the Law on the Superior Council of Magistracy, the Plenum of the Superior Council of Magistracy

### **R U L E S:**

1. To admit the motion of the Open Justice Project's COP Cristina Malai regarding the appointment of representatives of the SCM and the courts to the Working Group for improving the judicial nomination and promotion procedure.

2. To appoint the following persons as members of the Working Group for improving judicial nominations and career procedures:

- Victor Micu, the Chairman of the Superior Council of Magistracy
- Nina Cernat, Member of the Superior Council of Magistracy;
- Dorel Musteață, Member of the Superior Council of Magistracy;
- Liliana Catan, the Chief of the Board for Judicial Nominations and Career;
- Nicolae Craiu, Member of the Board for Judicial Nominations and Career;
- Alexandru Gheorghieș, Member of the Board for Judicial Nominations and Career;
- Mihail Macar, Member of the Board for Judicial Nominations and Career;
- Sergei Țurcan, Member of the Board for Judicial Nominations and Career;
- Nadejda Popic, the Chief of the Secretariat of the Superior Council of Magistracy;
- Natalia Cioară, the Deputy Chief of the Secretariat of the Superior Council of Magistracy;
- Cristina Malai, the COP of the Open Justice Project;
- Ruslan Grebencea, Objective 2 Team Leader, Open Justice Project

3. This decision may be subject to an appeal at the Supreme Court of Justice only in respect of the issue / adoption procedure, by any interested party within 15 days from the date of communication.

4. This decision shall be published on the SCM's Web site and a copy of it shall be sent to the Open Justice Project.

**Chairman of the Plenary Session of the  
Superior Council of Magistracy**

**Victor MICU**

## **17. Report on the Workshop on Court Performance Indicators of Public Interest (Activity 2.1.2.1)**



**USAID**  
FROM THE AMERICAN PEOPLE

# WORKSHOP ON THE DETERMINATION OF COURT PERFORMANCE INDICATORS GENERATING INFORMATION OF PUBLIC INTEREST

SEPTEMBER 6, 2017

USAID'S OPEN JUSTICE PROJECT  
IN MOLDOVA

October 30, 2017

## DISCLAIMER

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# WORKSHOP ON THE DETERMINATION OF COURT PERFORMANCE INDICATORS GENERATING INFORMATION OF PUBLIC INTEREST

SEPTEMBER 6, 2017

## USAID'S OPEN JUSTICE PROJECT IN MOLDOVA

**Prepared by:** Cristina Malai, COP  
**Activity Office:** USAID/Moldova  
**COR:** Diana Cazacu

Submitted on October 30, 2017

**Contract:** AID-OAA-I-13-00029  
**Order:** AID-I17-TO-17-00001

**Implemented by:**

**Millennium DPI Partners, LLC**  
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## INTRODUCTION

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The Workshop is part of the Open Justice assistance to its beneficiaries the Superior Council of Magistracy (SCM) and courts system, the Ministry of Justice (MOJ) and the Agency for Court Administration (ACA) to improve court efficiency measures, provide richer court performance information and communicate it to external stakeholders effectively and in real time.

The general objectives of the Workshop were:

- to present the court performance indicators that are under consideration by the Working on performance indicators and
- to assess the participants needs in information generated by the court performance indicators that should become available online on the Court Report Card ([instante.justice.md](http://instante.justice.md)).

## METHODS

To familiarize participants with the court performance indicators, the Open Justice team developed three presentations supported by PowerPoint slideshows. The speakers introduced participants to the court performance indicators embedded in the Performance Dashboard, the indicators established in the SCM Decision No. 634/26 from September 29, 2016, and the CEPEJ court performance standards piloted in six Moldovan courts during 2015-2016. Open Justice discussed with the participants the use and interpretation of the court performance indicators and their accessibility through an updated Court Report Card, in an easy to understand form.

## DATES

The half-day workshop was organized on September 06, 2017.

## PARTICIPANTS

Representatives of Moldovan NGOs, Bar Association, judges, SCM leadership and representatives of the ACA

## SPEAKERS/MODERATORS

- Ruslan Grebencea, Team Leader, Objective II
- Mihai Grosu, Key Expert, Objective I
- Andrei Ojoga, Chief of Secretariat, Chisinau Appellate Court, Member of the WG on performance indicators

## REPORT

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### **Workshop on determination of court performance indicators generating information of public interest**

The event started with an introductory presentation of the objectives and expected results of the Workshop. The Open Justice Objective 2 Team Leader talked about the aim and the importance of the court performance indicators to the court management and judicial performance evaluation.

The Workshop continued with presentations of court performance indicators that are under consideration by the Working Group recently appointed jointly by the SCM and the MoJ. The presentations were made in three rounds and were focused on the indicators implemented by CEPEJ in six pilot courts during 2015-2016, on those that are currently available in the Performance Dashboard and on the performance indicators approved through the SCM Decision No. 634/26 from September 29, 2016. The participating representatives of judiciary, lawyers' community, civil society, academia and researchers exchanged opinions on each indicator, focusing on indicators' calculation formula, source of data, presentation format and availability to the public.

The openness and interest of participants in the matter allowed the Project team to collect an extended list of recommendations and proposals to be taken into consideration in the further development of the court performance indicators by the Working Group.

The event was attended by a representative of the IT company Soft Tehnica under contract with the Project who contributed to discussions on optimizing the accessibility of court performance data to the public. Open Justice submitted the collected proposals to the contracted IT Company Soft Tehnica that will add court performance indicators to the Performance Dashboard and to the Court Report Card.

## RECOMMENDATIONS

The participants of the Workshop recommended the following:

- Disaggregation of the *Appeal Rate* indicator by appeals to the court of first instance's and appeals to the court of second instance's;
- Creation of an indicator to monitor the entire examination cycle of the case (including irrevocable or remitted rulings);
- Reflection of some additional budget lines in the indicator *Costs per case*, that will present information of public interest, such as: capital investments, wages of employees, training costs, travel expenses, donors' investments, etc.
- Disaggregation of the indicator *Cost per case* by case categories (civil, criminal, administrative offences);
- Revision of the reference period used in the indicator *Age of Pending Cases*;
- addition of a new indicator to measure the monetary contributions to the budget of the judicial system (e.g. state taxes per dossier, confiscations, fines etc.);

- Indication of the reasons for the annulment of court rulings in the indicator *Annulled decision rate*;
- Improving the database of the Government Agent and ensuring its connection to the Performance Dashboard to reflect the data on ECtHR judgments versus Republic of Moldova; at the same time, some participants proposed the exclusion of this indicator;
- Making all indicators publicly available, because the data on performance indicators are of public interest;
- Calculation of some indicators (such as *Clearance rate*) according to the CEPEJ methodology and also based on the working days per calendar year;
- Making available the data on performance of each judge to the public; however, there was no unanimity on this proposal;
- Collecting data about participation of the lawyers in case hearings, to simplify the court procedures where the parties do not need lawyers' assistance;
- Using data generated by the indicator *Commitment of the court staff* for internal measures of court administration, structures, and operations;
- Developing explanatory guidelines for the public on court performance indicators made available in the Court Report Card, including general description of the indicator, calculation formula, comparison grid etc.
- Including in the Court Report Card tools for searching/displaying data by:
  - **“Courts”** – including the list of all domestic courts;
  - **“Types of cases”** – such as criminal; commercial; civil; administrative offences;
  - **“Period”** – option to setup the period for measuring the court performance (by year, quarter, month);
- Presenting data in the Court Report Card in graphs and tables;
- Having a data export tool in the Court Report Card to export information in table format and to generate statistical reports for the public users;
- Including a new indicator on mediation in the Performance Dashboard and the Court Report Card.

## ANNEX I. AGENDA

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### **Workshop on determination of court performance indicators generating information of public interest**

Chisinau, September 06, 2017

Hotel Jolly Alon

37 Maria Cibotari street

09:30 - 10:00 Registration of participants

10:00 - 11:00 Introduction. Objectives and expected outcome of the workshop. Judicial performance indicators - their purpose and importance.

Ruslan Grebencea, Key Expert, Objective 2, Open Justice Project

CEPEJ indicators implemented in pilot courts. Description and application.

Ruslan Grebencea, Key Expert, Objective 2, Open Justice Project

11:00 - 11:15 Coffee break

11:15 - 12:15 Performance indicators available in the Case Management System and the Court Report Card

Mihai Grosu, Key Expert, Objective 1, Open Justice Program

12:15 - 13:15 Lunch, socialization and discussions

13:15 - 13:30 Presentation of indicators approved by the Superior Council of Magistracy by Decision no. 634/26 of September 29, 2016.

Andrei Ojoga, Chief of Secretariat, Chisinau Appellate Court

13:30 - 14:15 Participants' discussion on the most relevant indicators for the court performance measurement that generate information of public interest.

Moderators: Ruslan Grebencea, Key Expert, Objective 2, Open Justice Project

Mihai Grosu, Key Expert, Objective 1, Open Justice Project

Andrei Ojoga, Chief of Secretariat, Chisinau Appellate Court

14:15 - 15:00 Presentation of the participants' discussions results. Conclusions and recommendations.

Moderator: Ruslan Grebencea, Key Expert, Objective 2, Open Justice Project

## ANNEX 2. PHOTOS

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PHOTO: USAID Open Justice Project

The Open Justice Team presents the Court Performance Indicators



PHOTO: USAID Open Justice Project

The Workshop Participants discuss the Court Performance Indicators

## ANNEX III. LIST OF PARTICIPANTS

| List of Participants             |                      |        |                                |  |            |  |
|----------------------------------|----------------------|--------|--------------------------------|--|------------|--|
| No                               | Name / Surname       | Gender | Institution                    | Job title  | District   | Contacts   |
| <b>Stakeholders and partners</b> |                      |        |                                |  |            |  |
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| 2.                               | Dumitru Visternicean | B      | Superior Council of Magistracy | SCM Member   | Chisinau   | aparatul@csm.md<br>022 99 19 91<br>079423400                           |
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| 9.                               | Andrei Mocanu        | B      | Anenii Noi Court (Central)     | Judge  | Anenii Noi | jan@justice.md<br>0265 2 26 41;<br>069384853                           |
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| 11.                              | Andrei Ojoga         | B      | Chisinau Court of Appeal       | Chief, Evidence and Proceedings Documentation Division | Chisinau   | cac@justice.md<br>069946682  |

|                |                    |   |   |  |          |   |
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| 14.            | Ana Gherman        | F | Agency for Court Administration                         | Specialist   | Chisinau | ana.gherman@justice.gov.md  |
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| <b>Lawyers</b> |                    |   |   |  |          |   |
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| 21.            | Cristina Oglinda   | F | AFAM  | Lawyer   | Chisinau | cristina.oglinda@savva.md<br>Oglinda.cristina@yahoo.com<br>069070014    |
| 22.            | Alexandru Turcan   | B | Turcan Cazac Law Firm                                   | Lawyer   | Chisinau | alexander.turcan@turcanlaw.md<br>022 21 18 44; 022 21 18 46             |
| 23.            | Eduard Digore      | B | Law Firm "Digore"                                       | Lawyer   | Chisinau | <a href="mailto:eduard@avvocato.md">eduard@avvocato.md</a><br>068888577 |

## **18. Report on the Anonymization of Published Court Decisions in Various Countries of the World (Activity 2.3.12)**

# REPORT ON ANONYMIZATION OF PUBLISHED COURT DECISIONS IN VARIOUS COUNTRIES OF THE WORLD

OPEN JUSTICE PROJECT IN MOLDOVA

USAID Contract: AID-OAA-I-13-00029/AID-I17-TO-17-00001

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August 22, 2017

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## I. EXECUTIVE SUMMARY

This research report briefly describes the practices that exist in various countries in the area of anonymization of court decisions, especially with regard to redacting case parties' names from the published decisions.

A brief listing of practices in 30 countries, out of which 26 are European Union (EU) member countries, is included as Annex A to this report. We have also included in our research the practices and rules for publishing court decisions of two international courts, the European Court of Human Rights (ECHR), and the Court of Justice of the European Union (CJEU).

Out of 30 countries researched, only in six are court decisions (except those containing sensitive information and/or involving minors/sexual crimes) searchable by using individual parties' names. These countries are: Italy (in certain cases), Malta, Ireland, Cyprus, the United States (US) and Kenya.

It is worth noting that anonymization of published court decision may vary by different court levels in the same country. For instance, in Czech Republic, Constitutional Court decisions contain individual parties' names, while lower courts redact parties' names in the decisions they publish.

The Moldova Ministry of Justice (MOJ) and the National Center for Protection of Personal Data (NCPD) asserts that the Moldova Law on Personal Data Protection requires anonymization of court decisions, and that this practice is in line with European Conventions and Directives that Moldova must comply with. This assertion is being challenged by civil society organizations and journalists who demand greater transparency in the courts. The Superior Council of Magistrates (SCM) is drafting a Regulation on Publishing Court Decisions that will provide for a mechanism that would allow journalists access to full (non-redacted) text of the court decisions in certain cases involving the public interest.

Given the need to resolve this conflict between protecting an individual's right to privacy and the public's right to know, it is paramount that a series of working-level meetings be conducted between the Superior Council of Magistrates (SCM), the MOJ, the National Center for Protection of Data, and journalists to discuss and finalize the provisions in the new SCM draft Regulation on Publishing Court Decisions, so that journalists' access to non-redacted court decisions is not excessively restricted. It is also important to provide Moldovan journalists with access to a search engine that allows them to find cases of interest by using names of parties. It also is paramount that a series of exchanges between Moldovan journalists and journalists from EU countries in which court decisions are fully anonymized, be conducted to assist Moldovan journalist understand the rationale behind anonymization practices and rules.

## II. INTRODUCTION

The timeliness of this report is due to the fact that, since January 2017, court decisions published on the Moldova court webportal (<http://www.instante.justice.md>) are being redacted, i.e., the

names of case parties no longer appear in the text of the decisions, as they did during the years 2008 to 2016. Parties' names are replaced by parties' initials or random characters. Therefore, it is no longer possible to search and find court judgments on the Moldova court webportal by using parties' names.

The Moldova SCM initiated the procedure of amending its Regulation on publishing court decisions on the courts' web portal in order to ensure the implementation of the local and European normative acts related to protection of personal data.

Civil society organizations and journalists in Moldova are very concerned that anonymization of court decisions significantly affects judicial transparency, weakens oversight, and makes it impossible to search and find court decisions using names of parties. The SCM emphasizes, however, that the draft SCM Regulation on Publishing Court Decisions provides for a mechanism that would allow journalists access to full (non-redacted) text of the court decisions, once the journalists register with the NCCPD as authorized "personal data operators." The journalists will be able to easily access any non-redacted court decisions as long as they are able to prove all of the following: 1) the party involved in a case is a public figure (functionary), 2) actions (infringements) that the public functionary committed affect the public interest, and 3) it is in the public interest to know about the outcome of the court case.

The Moldova MOJ and NCCPD claim that anonymization of court decisions is required by the following international conventions and local laws applicable in Moldova:

**1. Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Strasbourg 1981, No. 108**, signed by Moldova in May 1998, and available at the following link: <https://rm.coe.int/1680078b37>

*This Convention protects the individual against abuses which may accompany the collection and processing of personal data and seeks to regulate at the same time the trans-border flow of personal data. This convention obliges the signatories to enact legislation concerning the automatic processing of personal data on a local level.*

**2. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data**, available at the following link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:HTML>

*The purpose of the Data Protection Directive was the harmonization of data protection legislation at national level. It is designed to make concrete the principles of the right to privacy already included in Convention 108 and to extend them.*

**3. Moldovan Law on Protection of Personal Data**, no. 133 dated 08 July 2011, available at <http://lex.justice.md/md/340495/>.

*The national law transposes the provisions of the Directive 95/46/EC at the local level. The notion of personal data is identical to that provided for in this Directive. The law establishes the conditions for processing the personal data, the rights of persons whose personal data are processed and establishes the attributions of the National Center for Personal Data Protection.*

The right to privacy is a highly developed area of law in Europe. All member states of the European Union are signatories of the ECHR. Article 8 of the ECHR provides a right to respect for one's private and family life. In its jurisprudence, the European Court of Human Rights has given this article a very broad interpretation (by including a person's name and surname in the category of personal data).

“The right to be forgotten” is invoked more and more often in the EU. According to this right, an individual’s personal data shall be deleted at the person’s request – provided that there are no legitimate grounds for retaining it. Data subjects may also request to be delisted from online search engines. For more information, please see the European Commission Fact Sheet on the Right to be forgotten, available at the following link:

[http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet\\_data\\_protection\\_en.pdf](http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet_data_protection_en.pdf)

The countries that are part of the Romanian-German law system and signatories to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data have developed guidelines on how to exclude private data from court judgments. Thus, most of the EU countries exclude the name and surname of the participants from the court decisions / judgments.

On the other hand, the countries that are part of the common law legal system and did not sign the above-mentioned Convention (e.g. the US) have different practices regarding the protection of personal data. For example, in the US the names of the trial participants usually are not excluded from court decisions, unless parties request an exception such as for the protection of juveniles or rape victims.. For the most part, the public’s right to know takes precedent over privacy rights as open judicial processes are seen as essential to maintaining a fair and unbiased process.

In addition to the 30 countries surveyed, this report analyses the practices that exist in the European Court of Human Rights (ECHR) and the Court of Justice of the European Union with regard to publishing decisions. **The court decisions of these two courts are published online containing the full names of parties.**

The Legal Resource Center from Moldova (LCRM) recently published online a brief illustrative report entitled “How does the depersonalization of court judgments take place in other states?” which is accessible from the following link: <http://crjm.org/en/infografic/>.

The LCRM report provides information about the practice and rules governing the publishing of court decisions in the United States and in other European countries besides the ones analyzed in this report. The LCRM report is only accessible in Romanian.

*NOTE: This report was developed using sources made available on the Internet (official court pages, official case-law datab ases, legislation, studies and scientific research related to protection of personal data, e tc.*

*On August 9, 2017, Open Justice wrote an email to 20 Embassies in Moldova requesting information about practices that exist in their countries with regard to publishing court decisions. To date, no Embassy responded to the request for information.*

### **III. INTERNATIONAL COURTS**

#### **I. THE EUROPEAN COURT OF HUMAN RIGHTS (ECHR)**

The ECHR has the “HUDOC” database ([www.hudoc.echr.coe.int](http://www.hudoc.echr.coe.int)), where all decisions of the ECHR are published. The online publication of Court decisions is made with the inclusion of the applicants' full name. The full names of the judges, prosecutors or other persons referred to in the judgment are also provided. In cases where the applicant is a legal entity, the Court publishes its full name as well. Thus the HUDOC database provides the means to search court decisions using an applicant's name.

Full publication of decisions is made in all types of cases examined by the ECHR, including in criminal cases. The personal data reflected in ECHR judgments are usually limited to the applicant's name or surname, year and place of birth.

The screenshot below shows how the Court judgments are displayed in the “HUDOC” database. Parties name appear in the text of published decisions.

**AMIHALACHIOAIE v. MOLDOVA - [Romanian Translation] by the Ministry of Justice of the Republic of Moldova**  
 © Published in [Case Reports](#) | 60115/00 | Available in [English](#), [French](#), [4 more...](#) | [Judgment \(Merits and Just Satisfaction\)](#) | [Court \(Second Section\)](#) | 20/04/2004  
 Violation of Art. 10 Non-pecuniary damage - finding of violation sufficient Costs and expenses - claim dismissed  
[Case Details](#) [Case Reports](#) [Language Versions](#) [Press Release](#) [Related](#)

**MANOLE AND OTHERS v. MOLDOVA - [Romanian Translation] by the Ministry of Justice of the Republic of Moldova**  
 © Published in [Case Reports](#) | 13936/02 | Available in [English](#), [French](#), [13 more...](#) | [Judgment \(Merits\)](#) | [Court \(Fourth Section\)](#) | 17/09/2009  
 Preliminary objection dismissed Violation of Art. 10 Just satisfaction reserved  
[Case Details](#) [Case Reports](#) [Legal Summaries](#) [Language Versions](#) [Press Release](#) [Related](#)

**PRODAN v. MOLDOVA - [Romanian Translation] by the Ministry of Justice of the Republic of Moldova**  
 © Published in [Case Reports](#) | 49806/99 | Available in [English](#), [French](#), [3 more...](#) | [Judgment \(Merits and Just Satisfaction\)](#) | [Court \(Fourth Section\)](#) | 18/05/2004  
 Preliminary objections dismissed (non-exhaustion of domestic remedies, victim) Violation of Art. 6-1 Violation of P1-1 Just s... [more...](#)  
[Case Details](#) [Case Reports](#) [Language Versions](#) [Press Release](#) [Related](#)

**CASE OF MEGADAT.COM SRL v. MOLDOVA - [Romanian Translation] by the Ministry of Justice of the Republic of Moldova**  
 © Published in [Case Reports](#) | 21151/04 | Available in [English](#), [French](#), [6 more...](#) | [Judgment \(Just Satisfaction\)](#) | [Court \(Third Section\)](#) | 17/05/2011  
 Struck out of the list  
[Case Details](#) [Case Reports](#) [Legal Summaries](#) [Language Versions](#) [Press Release](#) [Related](#)

**MEGADAT.COM SRL v. MOLDOVA - [Romanian Translation] by the Ministry of Justice of the Republic of Moldova**  
 © Published in [Case Reports](#) | 21151/04 | Available in [English](#), [French](#), [8 more...](#) | [Judgment \(Merits\)](#) | [Court \(Fourth Section\)](#) | 08/04/2008  
 Violation of P1-1 Just satisfaction reserved  
[Case Details](#) [Case Reports](#) [Legal Summaries](#) [Language Versions](#) [Press Release](#) [Related](#)

In specific cases, the ECHR may not publish the names of the applicants. As provided by article 47, point 4, of the Rules of the Court<sup>1</sup>, “applicants who do not wish their identity to be disclosed to the public, shall so indicate and shall submit a statement of the reasons justifying such a departure from the normal rule of public access to information in proceedings before the Court. The Court may authorize anonymity or grant it of its own motion”.

An applicant who does not wish to disclose his identity thus must state his or her reasons and specify the impact that publication would have on him or her. In this regard, the Rules of the Court state the following related to publicity of Court decisions:

“**General principles.** The parties are reminded that, unless a derogation has been obtained pursuant to Rules 33 or 47 of the Rules of Court, documents in proceedings before the Court are public. Thus, all information that is submitted in connection with an application in both written and oral proceedings, including information about the applicant or third parties, will be accessible to the public. The parties should also be aware that the statement of facts, decisions and judgments of the Court are usually published in HUDOC on the Court’s website (Rule 78).

**Requests in pending cases.** Any request for anonymity should be made when completing the application form or as soon as possible thereafter. In both cases, the applicant should provide reasons for the request and specify the impact that publication may have for him or her.

<sup>1</sup> [http://www.echr.coe.int/Documents/Rules\\_Court\\_ENG.pdf](http://www.echr.coe.int/Documents/Rules_Court_ENG.pdf)

**Retroactive requests.** If an applicant wishes to request anonymity in respect of a case or cases published on HUDOC before 1 January 2010, he or she should send a letter to the Registry setting out the reasons for the request and specifying the impact that this publication has had or may have for him or her. The applicant should also provide an explanation as to why anonymity was not requested while the case was pending before the Court. In deciding on the request, the President shall take into account the explanations provided by the applicant, the level of publicity that the decision or judgment has already received and whether or not it is appropriate or practical to grant the request. When the President grants the request, he or she shall also decide on the most appropriate steps to be taken to protect the applicant from being identified. For example, the decision or judgment could, inter alia, be removed from the Court’s website or the personal data deleted from the published document.

**Other measures.** The President may also take any other measure he or she considers necessary or desirable in respect of any material published by the Court in order to ensure respect for private life.”

## 2. THE COURT OF JUSTICE OF THE EUROPEAN UNION (CJEU)

CJEU is the judicial authority of the EU and, in cooperation with the courts of the Member States, ensures the uniform application and interpretation of EU law.

CJEU consists of two major courts:

The Court of Justice, informally known as European Court of Justice (ECJ) hears applications from national courts for preliminary rulings, annulment and appeals. It consists of one judge from each EU member country.

The General Court, which hears applications for annulment from individuals, companies and, less commonly, national governments (focusing on competition law, State aid, trade, agriculture and trade marks).

Most of the judgments, orders and conclusions of the Court of Justice are available on the CJEU’s CURIA website: [www.curia.europa.eu](http://www.curia.europa.eu). This is a searchable database where cases and decisions can be found using the case number, date, name of the parties, reference words in the text, etc.

The picture below illustrates how court judgments / decisions can be searched in the CURIA database (including available search criteria):

### Anonymity in judicial proceedings before the Court of Justice:

Where anonymity has been granted by the referring court or tribunal, the Court of Justice will respect that anonymity in the preliminary ruling proceedings pending before it. At the request of the referring court or tribunal, at the duly reasoned request of a party to the main proceedings or of its own motion, the Court may also, if it considers it necessary, render anonymous one or more persons or entities concerned by the case<sup>2</sup>. These provisions apply, to the procedure before the Court of Justice on an appeal against decisions of the General Court<sup>3</sup>.

Under the preliminary ruling procedure, the Court of Justice will, as a rule, use the information contained in the order for reference, including nominative or personal data. It is, therefore, for the referring court or tribunal itself, if it considers it necessary, to delete certain details in its request for a preliminary ruling or to render anonymous one or more persons or entities concerned by the dispute in the main proceedings<sup>4</sup>. After the request for a preliminary ruling has been lodged, the Court may also render such persons or entities anonymous of its own motion, or at the request of the referring court or tribunal or of a party to the main proceedings. In order to maintain its effectiveness, such a request for anonymity must, however, be made at the earliest possible stage of the proceedings<sup>5</sup>.

<sup>2</sup> Article 95 of the Rules of Procedure of the Court of Justice available at the following link: [https://curia.europa.eu/jcms/upload/docs/application/pdf/2012-10/rp\\_en.pdf](https://curia.europa.eu/jcms/upload/docs/application/pdf/2012-10/rp_en.pdf)

<sup>3</sup> Article 190(3) of the Rules of Procedure of the Court of Justice.

<sup>4</sup> Point 27 of the Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings, available at the following link : <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:338:0001:0006:EN:PDF>

<sup>5</sup> Point 28 of the Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings.

Where a party considers it necessary that its identity or certain information about him/her should not be disclosed in a case brought before the Court of Justice, it may request that the Court “anonymize” the relevant case, in whole or in part.<sup>6</sup>

## IV. EUROPEAN COUNTRIES

### I. ROMANIA

The Romania Supreme Council of Magistrates (SCM) adopted the following decisions related to publication of court decisions:

- Decision no. 884 of 20 August 2013 regarding the terms of publication of courts decisions by Foundation “Romanian Institute for Legal Information – ROLII”<sup>7</sup>
- Decision no. 1431 of 11 December 2014 for endorsing the contract concluded between ROLII and the consultant commissioned for developing the case law extracting and anonymizing tool and the website for publishing the anonymized case law.<sup>8</sup>

According to the 2013 SCM Regulation, the following information will be excluded from a court’s decisions before publishing on the internet:

- Name/surname of the litigants
- Litigants’ address
- Birth dates and places
- Profession
- ID code

In Romania, public access to information on cases pending before courts and case-law is given through the Portal of Courts of Justice, which can be accessed at the following link: <http://portal.just.ro/SitePages/acasa.aspx>.

The portal displays information regarding the courts of law, tribunals and courts of appeal. The High Court of Cassation and Justice is not reflected on the portal, as that Court has its own web page.

The information displayed on the web portal related to cases and court hearings is automatically extracted from the court Case Management System “ECRIS”.

Under the “Cases” heading, the courts of law do not publish the full text of the decisions on the web portal, displaying only a short summary of the case and what the decision on the case was, which includes the names of parties.

The Case search on the portal can be done using the following search criteria:

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<sup>6</sup> Point 8 of the Practice Directions to parties concerning cases brought before the Court available at the following link: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014Q0131%2801%29&from=EN>

<sup>7</sup> [http://old.csm1909.ro/csm/linkuri/16\\_09\\_2013\\_60647\\_ro.PDF](http://old.csm1909.ro/csm/linkuri/16_09_2013_60647_ro.PDF)

<sup>8</sup> [http://old.csm1909.ro/csm/linkuri/07\\_01\\_2015\\_71584\\_ro.PDF](http://old.csm1909.ro/csm/linkuri/07_01_2015_71584_ro.PDF)

- Court's Name
- Case number
- Article
- Participants
- Date or timeframe

When accessing the available information on a particular case file, the portal displays only brief information on that case, as follows:

- General information
- Parties (indicating the full name / surname)
- Court hearings
- Appeals
- Public summoning

Information about court cases can be searched by name of parties, which are displayed in full, as depicted in the image below:

#### Părți

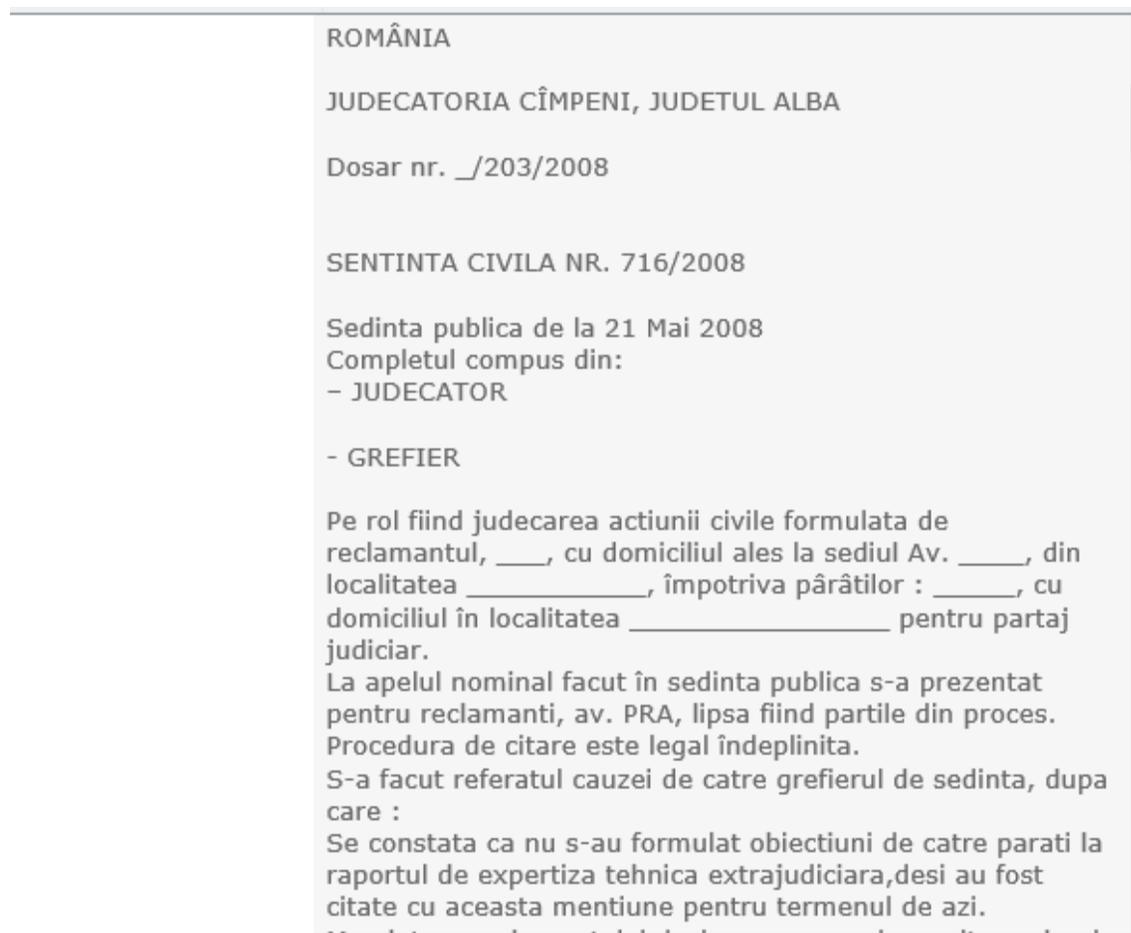
---

| Nume                  | Calitate parte     |
|-----------------------|--------------------|
| IONESCU CONSTANTIN    | Recurent Reclamant |
| IONESCU AURELIA       | Recurent Reclamant |
| LAȚCU AUREL           | Intimat Pârât      |
| SC ARGOS IMPEX 92 SRL | Intimat Pârât      |

#### Ședințe

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On the other hand, the decisions published under the "Jurisprudence" heading are fully redacted and no private data is published. The names/surnames of the litigants and the names of the legal entity party to the proceedings are redacted, as showed in the image bellow:



The data published on the court portal is automatically extracted from the “ECRIS” databases. Individuals who do not want their name to appear on the portal need to inform the court. The courts can apply the data privacy option available in the “ECRIS” application in order to eliminate the name of the litigants from the courts’ web portal.

Case law under the “Jurisprudence” heading can be searched using the decision / judgment title, number and content. The system does not allow the search of cases by participants’ name, as shown in the following screenshot:

## Jurisprudență



Titlu, număr, conținut

Exemple de căutare:

Anulare act

Decizie 123

| <input type="checkbox"/> @ Titlu   | Tip speta       | Numar speta | Data speta | Domeniu asociat   | Institutie       |
|--|-----------------|-------------|------------|-------------------|------------------|
| Lipsa imaginii radar la încheierea procesului verbal de contravenție pentru depășirea vitezei. Consecințe.   | Sentință civilă | 395/2008    | 08.04.2008 | Amenzi            | Judecătoria AIUD |
| Fond funciar. Controlul judecătoresc. Limite.  | Sentință civilă | 305         | 06.03.2007 | Agricultură       | Judecătoria AIUD |
| Fond funciar. Natura juridică a termenului prescris de art. 9 alin. 3 din Legea 18/1991 republicată pentru formularea cererii de reconstituire a dreptului de proprietate. | Sentință civilă | 887/2008    | 02.10.2008 | Fondul funciar    | Judecătoria AIUD |
| Pensie de întreținere. Conținutul noțiunii de mijloace ale debitorului.  | Sentință civilă | 709/2009    | 28.05.2009 | Pensii            | Judecătoria AIUD |
| Răspunderea pentru evicțiune în cursul vânzărilor succesive  | Sentință civilă | 542/2009    | 30.04.2009 | Vânzări-Cumpărări | Judecătoria AIUD |

The High Court of Cassation and Justice of Romania has its own web portal. The Courts' decisions are available under the "Jurisprudence" heading. The decisions are published by excluding the information regarding the name / surname of the parties and other persons.

## 2. GERMANY

The Federal Constitutional Court (hereinafter FCC) shaped Germany's data processing law by subjecting it to the constitutional guarantees of human dignity and free development of one's personality. In 1969, the Court held in the *Micro Census Decision* that it is contrary to human dignity to catalog and register an individual and that there has to be a sphere into which no one can intrude and where the individual can enjoy solitude.

In 1983, the FCC issued its famous *Census Decision* [*Volkszählungsurteil*]. According to the Court, the right of informational self-determination derives from the guarantees of personhood and human dignity of the Constitution, and it generally grants the individual the power to decide about the disclosure of his personal data and their use. **The Court allows exceptions from this principle only if there is an overriding public interest and if this is explicitly stated in specific statutory provisions.**

In addition, the constitutional protection requires that data processing activities live up to the principle of proportionality and give the individual procedural remedies and protections. Moreover, data may not be stored indefinitely for undefined future purposes.

The Higher Regional Courts and District Courts decide on their own whether to publish their judgments or not. Often the decision upon publication is taken incidentally. If a party wishes a judgment to be published, it should apply for an order of publication.<sup>9</sup>

The courts of ordinary jurisdiction also have contributed much to the interpretation of data protection law. They are called upon on a daily basis to apply the principle of proportionality and to balance competing interests, such as privacy versus technical feasibility or freedom of expression.

In May 2012, the Federal Court of Justice balanced the right to be forgotten with the public's right to know, by rejecting a request from two murderers to prohibit an Austrian Internet portal from retaining an article on them in its online archive. The plaintiffs had been convicted of murder in 1990. The Court first obtained an advisory opinion from the European Court of Justice that confirmed German jurisdiction over the case due to the plaintiff's close connection to Germany. The German Court held that under the circumstances of the case, the public's right to know outweighed the interests of the complainants to be shielded from publicity.<sup>10</sup>

Rulings of the Federal Court of Justice, in particular appeal judgments in civil and criminal cases, are usually published in law journals. Significant rulings are also added to the Court's so-called "official collections" – "Rulings of the Federal Court of Justice in Civil Cases" and "Rulings of the Federal Court of Justice in Criminal Cases". Furthermore, all rulings of the Federal Court of Justice that contain grounds are published via the electronic legal information system "Juris." Rulings made by the Federal Court of Justice since 1 January 2000 can also be accessed by the public via its website.

With Germany's strong emphasis on privacy and the right to be forgotten in general, all published judgments are depersonalised.<sup>11</sup> The Documentation Office, established especially for the Federal Court of Justice, plays a central role in publishing the Court's rulings.<sup>12</sup> Although there is not specific legal framework covering the anonymisation of court decisions, there is a consensus that constitutional rights of the individual require full anonymisation.

Most courts have internal anonymisation guidelines with details on what and how to anonymise; these guidelines are not published. If necessary, the respective authority documenting court decisions anonymises decisions.

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<sup>9</sup> [http://ec.europa.eu/competition/antitrust/actionsdamages/national\\_reports/germany\\_en.pdf](http://ec.europa.eu/competition/antitrust/actionsdamages/national_reports/germany_en.pdf), page 26, "How transparent is the procedure"

<sup>10</sup> "Online Privacy Law : Germany, IV Court decisions", [https://www.loc.gov/law/help/online-privacy-law/germany.php#\\_ftnref122](https://www.loc.gov/law/help/online-privacy-law/germany.php#_ftnref122)

<sup>11</sup> <http://transblawg.eu/2008/09/08/names-in-court-decisionsnamen-in-gerichtsentscheidungen/>

<sup>12</sup> The brochure of the Federal Court of Justice of Germany, 2014, page 21, available at the following link : [http://www.bundesgerichtshof.de/SharedDocs/Downloads/DE/DasGericht/broschuere2014\\_NurTextEnglisch\\_D.pdf?\\_\\_blob=publicationFile](http://www.bundesgerichtshof.de/SharedDocs/Downloads/DE/DasGericht/broschuere2014_NurTextEnglisch_D.pdf?__blob=publicationFile)

**Anonymisation is not required for court decision involving public figures.**<sup>13</sup> If the text cannot be fully understood without names, a lower level of anonymisation is applied (e.g. place names may be written out).

In general, anonymisation of names of persons and geographical places is achieved by replacing them by their initials. If data protection so requires (e.g. in very sensitive cases and/or if the initials are very common), random initials can be used.<sup>14</sup>

English-language portal for German case law is available at: <http://www.rechtsprechung-im-internet.de/jportal/portal/page/bsjrsprod.psm1>.

### 3. LATVIA

As of 1 January 2007, all the judgments of Latvian administrative courts are published online on the National Courts Portal; the identity of the individuals are not published. Judgments are available at the following link: <https://www.tiesas.lv/>

The Latvian Law on Judicial Power regulates the following regarding availability of court decisions: “Judgments taken during open court shall be published on the Internet homepage after entering into effect thereof, unless it has been laid down otherwise in the law. Similarly, procedural decisions shall be published in the amount stipulated by the Cabinet of Ministers. In publishing decisions, the information which discloses the identity of a natural person shall be hidden.”

A selection of judgments of all courts in civil and criminal cases are published, particularly if they are of potential public interest.

If a case is heard in open court, the court ruling or judgment (comprising an introductory part, descriptive part, grounds and operative part) becomes generally accessible information from the date on which it is delivered.

If no ruling or judgment is delivered in court (if a case is considered only by written procedure, for instance), the decision is considered generally accessible from the date on which it is received.

If a case is heard in closed session, and if the introductory and operative parts of the court ruling or judgment are read out in open session, those parts of the respective court ruling or judgment are considered generally accessible information and may be published.

The Cabinet Regulation No. 123 (adopted on 10 February 2009 and entered into force on 18 February 2009) states that *before a court ruling or judgment is published, some data belonging to physical persons is to be erased and replaced by an appropriate indicator:*

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<sup>13</sup> On-line Publication of Court Decisions in the EU “Report of the Policy Group of the Project - Building on the European Case Law Identifier“ , page 71, available at <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>

<sup>14</sup> *Idem*

- 1) A person's name and surname are replaced by the person's initials;
- 2) A person's personal identification number is replaced by the words 'personal identification number';
- 3) A person's home address is replaced by the words 'place of residence';
- 4) The address of a person's immovable property is replaced by the word 'address';
- 5) The reference number of any immovable property in the property register is replaced by the words 'register reference number';
- 6) A vehicle registration number is replaced by the words "registration number".

The details given in court rulings and judgments related to judges, prosecutors, certified lawyers, certified notaries and certified bailiffs is published.

The judgments and decisions that are to be published (in the relevant circumstances) are selected by the Case-law Department of the Supreme Court, which selects the most important and topical judgments.<sup>15</sup>

## 4. FRANCE

France, like Germany, emphasizes privacy rights over the public's right to know in the publishing of decisions by most of its courts. In France, the web page <https://www.legifrance.gouv.fr/> can be consulted for legislative search, important court rulings, international treaties to which France is a party, etc.

Since 2002, most of the court decisions published can be accessed via this legal portal "Legifrance". The Supreme Court<sup>16</sup>, the Council of State, Court of Auditors and the Constitutional Court also have their own online database. The highest jurisdictions publish all or most of their decisions; the number of decisions from lower courts is very limited.

The decisions / judgments published in this database are made with partial depersonalization of the name / surname of the parties.

Thus, in the published decisions, the full name of the parties and the first letter of their surnames is visible. Please see an example at the following link: <https://www.legifrance.gouv.fr/rechJuriJudi.do?reprise=true&page=1>

However, while the legal portal provides advanced case law search criteria, there is no possibility to search court decisions using participant's name, as reflected in the following image:

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<sup>15</sup> [https://e-justice.europa.eu/content\\_member\\_state\\_case\\_law-13-lv-en.do?init=true&member=1](https://e-justice.europa.eu/content_member_state_case_law-13-lv-en.do?init=true&member=1)

Recherche simple dans la jurisprudence judiciaire

Critères de recherche

|   |   |   |
|---|---|---|
| Nom de la juridiction                         | -- Toutes les juridictions --   | <input type="checkbox"/> Arrêts publiés au bulletin (Cour de cassation)     |
| Numéro d'affaire                              | <input type="text"/> Ex: 06-81968   | <input type="checkbox"/> Arrêts non publiés au bulletin (Cour de cassation) |
| Date de décision                              | Jour Mois Année<br><input type="text"/> <input type="text"/> <input type="text"/> (1)<br>Ex: 2017 | Mots recherchés <input type="text"/>  |
| <input type="checkbox"/> Période de (1) à (2) | Jour Mois Année<br><input type="text"/> <input type="text"/> <input type="text"/> (2)<br>Ex: 2017 | Autres mots recherchés <input type="text"/>                                 |

Rechercher Effacer Aide

The case law of the Court of Cassation is published on the Court's website. The jurisprudence of the court is published in the form of summaries of court decisions with partial depersonalization of the name and surname of the parties. The court indicates the full name of the parties and the first letter of their surnames. Please see some examples at the following link:

[https://www.courdecassation.fr/jurisprudence\\_2/chambre\\_criminelle\\_578/](https://www.courdecassation.fr/jurisprudence_2/chambre_criminelle_578/)

There is no case law search engine available on the website of the Court of Cassation:

Arrêts 

| Date           | Numéro                               | Rubrique                       | Résultat            |
|----------------|--------------------------------------|--------------------------------|---------------------|
| 6 juillet 2017 | <a href="#">16-19.354 FS-P+B+R+I</a> | Avocat                         | Cassation partielle |
| 6 juillet 2017 | <a href="#">16-17.788 FS-P+B+R+I</a> | Avocat - Aide juridictionnelle | Rejet               |
| 6 juillet 2017 | <a href="#">16-15.299 FS-P+B+R+I</a> | Avocat                         | Rejet               |
| 15 juin 2017   | <a href="#">16-12.551 FS-P+B+R+I</a> | Sécurité sociale               | Cassation           |
| 15 juin 2017   | <a href="#">16-19.198 F-P+B+I</a>    | Sécurité sociale               | Cassation           |
| 8 juin 2017    | <a href="#">16-19.973 F-P+B+I</a>    | Assurances                     | Cassation partielle |
| 2 juin 2017    | <a href="#">17-60.248 F-P+B+I</a>    | Elections                      | Rejet               |
| 1er juin 2017  | <a href="#">16-14.300 FS-P+B+I</a>   | Appel civil                    | Cassation           |
| 24 mai 2017    | <a href="#">16-18.372 F-P+B+I</a>    | Sécurité sociale, contentieux  | Rejet               |
| 11 mai 2017    | <a href="#">16-18.464 FS-P+B+I</a>   | Appel civil                    | Rejet               |
| 11 mai 2017    | <a href="#">16-15.481 F-P+B+I</a>    | Surendettement                 | Rejet               |
| 11 mai 2017    | <a href="#">15-27.467 FS-P+B+I</a>   | Appel civil                    | Cassation           |
| 11 mai 2017    | <a href="#">16-14.868 FS-P+B+I</a>   | Appel civil                    | Rejet               |
| 5 mai 2017     | <a href="#">17-60.143 F-P+B+I</a>    | Elections                      | Rejet               |
| 27 avril 2017  | <a href="#">16-15.525 F-P+B+I</a>    | Assurance responsabilité       | Cassation           |

The Conseil d'État<sup>17</sup> is the institution with competence in settling disputes over public freedoms, administrative police, taxes, public contracts, public service, public health, etc. Its published decisions can be searched on the “ArianeWeb” database using case number and timeframe. Decisions are published online only after the name / surname of the parties are removed and replaced with initials, as shown in the picture below. There is no possibility to search judgments using participants' name.

<sup>17</sup> <http://english.conseil-etat.fr/Judging>

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**Conseil d'État**

N° 404406

ECLI:FR:CECHS:2017:404406.20170531

Inédit au recueil Lebon

**7ème chambre**M. **Marc Pichon** de Vendeuil, rapporteur

M. Olivier Henrard, rapporteur public

**Lecture du mercredi 31 mai 2017****REPUBLIQUE FRANCAISE****AU NOM DU PEUPLE FRANCAIS**

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Vu la procédure suivante :

Par une ordonnance n° 1600429-2 du 6 octobre 2016, enregistrée le 11 octobre 2016 au secrétariat du contentieux du Conseil d'Etat, le président du tribunal administratif de Besançon a transmis au Conseil d'Etat, en application de l'article R. 351-2 du code de justice administrative, la requête présentée à ce tribunal par M. A...B....

Par cette requête, enregistrée au greffe du tribunal administratif de Besançon le 16 mars 2016, et par un mémoire en réplique enregistré au secrétariat du contentieux du Conseil d'Etat le 15 novembre 2016, M. B...demande au Conseil d'Etat :

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Access a selection of the Conseil d'Etat's judgments in our database in English :

Full translations for access to the legal reasoning behind judge's decisions. Regular updates of both recent and older decisions !

Case number  ? Hand-down date between  and  ?

**Search**

**No result found.**

The Decree No. 2002-1064 of 7 August 2002 on the public dissemination of legal information law on the internet, establishes an obligation to publish case law on the internet. According to this Decree, the following decisions have to be published:

- a) Decisions and judgments of the Constitutional Court, the Council of State, the Supreme Court and the Court of Conflicts;

- b) Judgments of the Court of Auditors and other administrative, judicial and financial jurisdictions which were selected according to the rules of each court order;

In France the National Commission on Informatics and Liberty (Commission Nationale de l'Informatique et des Libertés) published an opinion in 2001 on the dissemination of personal data in internet case law databases.<sup>18</sup>

The opinion calls for anonymization of identifying data of natural persons in published court decisions. Legal persons and names of persons professionally involved do not have to be anonymized.

## 5. GEORGIA

In Georgia, protection of personal information is given priority over the public's right to know with the courts adopting a very broad anonymization interpretation. The Institute for Development of Freedom of Information (IDFI) conducted, in 2017, a detailed assessment of public access to decisions in the Common Courts of Georgia, along with the legislative and practical causes of existing problems in this area<sup>19</sup>.

Results showed that the following issues exist when it comes to accessing court decisions in Georgia:

- *Legislation gives unconditional priority to personal data protection over disclosure of public information;*
- *Legislation does not take into account any possible public interest in relation to specific court cases;*
- *Decisions made during open court hearings are not being disclosed, even though any interested person may attend court proceedings (except special cases);*
- *Courts do not disclose decisions made on cases of former high-ranking officials;*
- *Courts employ a broad interpretation of the depersonalization obligation, making the disclosure of court decisions impossible;*
- *Courts extend the right to personal data protection to legal entities.*
- *Common Courts, most likely, have pre-agreed refusal templates that they use when receiving requests to disclose court decisions.*

The uniform online database of court decisions is [www.info.court.ge](http://www.info.court.ge). The search categories of cases in the database are the following: by court, case number, date of adoption, administrative body, judge, court composition. The system does not allow to search cases by the name of the parties.

Other relevant facts resulted from the study conducted by the IDFI:

- As a general rule, judgments announced during open hearings containing personal data are not accessible;

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<sup>18</sup> <https://www.legifrance.gouv.fr/affichCnil.do?oldAction=rechExpCnil&id=CNILTEXT000017653503>

<sup>19</sup> [https://idfi.ge/en/increasing\\_access\\_to\\_judicial\\_decisions\\_in\\_georgia\\_presentation\\_of\\_project\\_results](https://idfi.ge/en/increasing_access_to_judicial_decisions_in_georgia_presentation_of_project_results)

- Existing legislation grants the interest of protecting personal data absolute priority. There is no rule provided for disclosure of court decisions containing personal data of special category.
- Upon depersonalization of disclosed decisions, in certain cases names of high ranking public officials and state representatives are covered;
- General Courts apply the right of personal data protection to legal persons;
- General Courts refuse to disclose court decisions due to lack of sufficient resources;<sup>20</sup>

Because there are no unified regulations concerning disclosure of personal data in Georgia, the practice is inhomogeneous. In compliance with the Order of the Supreme Court Chairperson a working group was formed to develop some main directions and principles for establishing a unified standard to improve court decision accessibility. The objective of the working group is to work out recommendations on the rules concerning issuance of general court decisions, also concerning the rules for anonymization of personal data for transferring them to the third person.<sup>21</sup>

## 6. BELGIUM

Belgium is another country that has adopted the practice of anonymization of published decisions over the public right's to know. On 10 August 2005 the Federal Legislative Power enacted the Act on the Phenix information system, which states that:

- There should be a publicly available database with judicial decisions;
- Containing the decisions which are important for society and the development of the law;
- Each court makes its own selection of decisions to be published.<sup>22</sup>

The Belgium courts' portal provides access to case law, Belgian law and the Belgian Official Gazette. The portal can be accessed at the following link: <http://www.juridat.be/>.

Case law search can be done according to the following criteria: type of court (jurisdiction), date, keywords. The database does not offer search criteria by participants' name.

Online publication of decisions is done after the depersonalization of private data, including the participants' names. The picture below reflects how decisions are depersonalized when published:

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<sup>20</sup> [https://idfi.ge/en/increasing\\_access\\_to\\_judicial\\_decisions\\_in\\_georgia\\_presentation\\_of\\_project\\_results](https://idfi.ge/en/increasing_access_to_judicial_decisions_in_georgia_presentation_of_project_results)

<sup>21</sup> Power Point presentation developed by IDFI "Access to court decisions in Georgia. Situation analysis", available at: <https://www.opengovpartnership.org/current-commitments/10-establishing-unified-regulations-publish-court-decisions>

<sup>22</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 59

Détails Numéro Justel: F-20170309-8

Sélectionner Décision précédente Imprimer Décision suivante

Numéro de rôle: C.16.0180.F

Jurisdiction: Cour de cassation, Belgique

Date : 09/03/2017 Type de décision: Arrêt Document PDF

**Sommaire(s)** Texte Conclusions

N° C.16.0180.F  
**M. A.,**  
**demandeur en cassation,**  
représenté par Maître Caroline De Baets, avocat à la Cour de cassation, dont le cabinet est établi à Bruxelles, avenue Louise, 149, où il est fait élection de domicile,  
contre  
C. F., avocat, agissant en qualité d'administrateur provisoire des biens et de la personne de M.-T. D.,  
défenderesse en cassation,  
représentée par Maître Michèle Grégoire, avocat à la Cour de cassation, dont le cabinet est établi à Bruxelles, rue de la Régence, 4, où il est fait élection de domicile.

I. La procédure devant la Cour  
Le pourvoi en cassation est dirigé contre le jugement rendu le 13 novembre 2015 par le tribunal de première instance de Liège, statuant en degré d'appel.

FR NL DE

## 7. THE NETHERLANDS

The Netherlands does not have specific legislation concerning the anonymization and publication of court decisions. The policies regarding this issue have therefore been based on the general rules regarding free access to government information on the one hand and the protection of personal data on the other hand. In practice, this has led to the selective publication of decisions, all of which are anonymized.

The courts themselves have developed two guidelines on the publication of case law. One guideline is on anonymization (removing personal details), and the other one on selective publishing.

These guidelines are based on the Recommendation R (95) 11, “Concerning the selection, processing, presentation and archiving of court decisions in legal information retrieval systems”<sup>23</sup> issued by the Council of Europe: the highest jurisdictions publish all cases, unless they are clearly not of legal or societal interest, but other courts only publish those cases that are of clear legal or societal interest.<sup>24</sup>

In the Netherlands, anonymization of published court decisions is the rule rather than the exception. Anonymization of published court decisions is required for privacy reasons, but only to the extent that doing so does not seriously violate the principle of free access to government information.

<sup>23</sup> [https://pure.uva.nl/ws/files/2086020/134881\\_16\\_Bijlage2.pdf](https://pure.uva.nl/ws/files/2086020/134881_16_Bijlage2.pdf)

<sup>24</sup> [https://e-justice.europa.eu/content\\_member\\_state\\_case\\_law-13-nl-en.do?init=true&member=1](https://e-justice.europa.eu/content_member_state_case_law-13-nl-en.do?init=true&member=1)

The Anonymization Guideline requires that all data pertaining to individuals mentioned in court decisions be anonymized. For example, name and address of parties, witnesses and victims, but also named mentions of relatives, neighbors, friends etc. The names of legal entities are not anonymized in civil and administrative cases, unless the name can be traced back to an individual. The names of government entities are never anonymized, not even when they are a party to the case. Names of legal entities are anonymized in criminal cases, except in the case of monopolists (when identification is inevitable anyway). Data of employees are anonymized unless they were carrying out a specific function, such as accountant or investigating officer. Data of expert witnesses and advisers are not anonymized, nor are data of those professionally involved with the case, such as judges and attorneys.

The data to be removed are those data that directly identify an individual. This is further specified as:

- name, address and place of birth
- date of birth (to be replaced by year of birth)
- social security numbers, passport numbers, identity card numbers and tax assessment numbers
- cadastral designations (except in environmental / town planning cases)
- amounts in tax cases (if they make it easier to identify an interested party)
- weapon numbers, vehicle registration numbers and similar number and/or letter combinations on the basis of which an individual can be identified<sup>25</sup>

The Dutch judiciary system is available at the following link: <https://uitspraken.rechtspraak.nl/>

## 8. CROATIA

In 2003, the Rules of Anonymization of Court Decisions were adopted by the Supreme Court of Croatia, regulating the method of anonymization for court decisions published on the web pages of the Croatian Supreme Court. Under the Rules, decisions of the court have been published on the web page of the Supreme Court of the Republic of Croatia, and certain personal data pertaining to the parties and their attorneys and representatives is replaced or omitted.

A more recent database of case law, entitled “SupraNova” is under development. The database will provide the decisions of municipal courts, county courts, commercial courts, the High Commercial Court, the High Misdemeanor Court and the Supreme Court of the Republic of Croatia.

The following information is accessible for each decision: the name of the court that adopted the decision, the name of the department, the type of case, the date of the decision and the date of publication. The full text that is published for the general public differs from the original text in

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<sup>25</sup> Expert Report on Access to Court Decisions and Protection of Personal Data in the former Yugoslav Republic of Macedonia, Koen Versmissen, October 2011, page 13-14, available at <https://dzlp.mk/sites/default/files/u972/20111130%20ENG%20Final%20Assessment%20Report%20int%20expert.pdf>

order to protect the privacy of the parties to the proceedings. This is done by taking out all information on the identity of physical and legal persons in accordance with the Rules of Anonymization.

The Rules adopted on the Publication of Court Decisions state that:

- 1) The courts themselves are to select the most significant decisions to make public, and
- 2) The decisions of lower courts that are referred to by the Supreme Court of the Republic of Croatia are to be published, in accordance with the Civil Procedure Act.26

These Rules also state that in decisions from civil, commercial and administrative proceedings shall be anonymized with regard to the following information:

a) Party – appearing in a proceeding as:

- Physical person (suspect, defendant, accused, injured person, appellant, plaintiff, respondent, intervener, enforcement creditor, enforcement debtor, applicant of insurance, opponent to insurance, testator, supporter and similarly),
- Legal person – company
- Physical person acting as representative of legal person – company – member of Management Board, Supervisory Board, representative of employees and similarly.

c) Party's proxy – appearing in a proceeding as:

- Attorney-at-law – physical person in attorney's office, Attorney's Company,
- Public Notary – physical person in the Public Notary's office
- Some other physical person.

d) Legal representative of a party

e) Witness

f) Relative, friend, party's neighbor and similarly

g) Official person employed in the state body, institution, association, etc., whose activity and participation in the proceeding represents performing of an official duty – court expert, court interpreter, social worker, psychologist, pedagogue, etc.

The data shall be anonymized by omitting and replacing data with initials and dots.

In court decisions the following data of judicial bodies are not to be anonymized:

- a) Judicial body – the name of the courts which bring decisions in preliminary proceedings
- b) Files' codes – numbers of decisions
- c) Judges/members of Court Panel that renders decision and recording secretaries of the Panel
- d) Other judicial bodies and its representatives – the Republic of Croatia State Attorney Office, Chief State Attorney, deputy State Attorney,
- e) Administrative bodies - police administration.<sup>27</sup>

<sup>26</sup> [https://e-justice.europa.eu/content\\_member\\_state\\_case\\_law-13-hr-en.do?init=true&member=1](https://e-justice.europa.eu/content_member_state_case_law-13-hr-en.do?init=true&member=1)

<sup>27</sup> <http://pak.hr/cke/propisi.%20zakoni/en/AnonymizationofJudgementsRules/Anonymization.pdf>

## 9. LITHUANIA

Historically, the first rules to anonymize court decisions were introduced in Lithuania in 2005, by the resolution of the judicial council that provided the rules for public access to the court decisions. These rules underwent several changes and as of January 2016 the new version of the resolution came into force. Other relevant legal framework that regulates publication of court decisions and protection of personal data can be found in the Law on Courts and the Personal Data Protection Act.

In accordance with the Lithuania Rules for public access to the court decisions, the following data about physical persons is not made public (it must be automatically removed):

- secrets (state, commercial, bank and etc.)
- identification codes
- date and place of birth,
- living places
- date of death
- marriage and divorce
- information allowing to identify movable and immovable property owned or managed by other legal background.

In case the names and surnames of physical persons are provided in the procedural documents (which is the case in Lithuania), before announcing the documents publicly these are to be changed into initials, i.e. first letters of names and surnames (example, John Smith to J.S.)

The list of data that is not publicly announced in court decisions is not final. The court is empowered to remove any data based on a personal request of a person (subject of personal data), that is grounded on the possible infringement of privacy rights.<sup>28</sup>

Court decisions and judgments in Lithuania are published in the Information System of the Lithuanian Courts (LITEKO), and are available at the following link: <http://www.teismai.lt/en/>. The system provides the following search criteria: Case number, Court name, Case type, Document type, Date, Judge, Key words. There is no possibility to search court decisions by a participant's name.

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I. <sup>28</sup> Anonymization of Court Decisions in Lithuania - De Gruyter, available at <https://www.degruyter.com/downloadpdf/j/bjlp.2016.9.issue-2/bjlp-2016-0016/bjlp-2016-0016.pdf>

**LITEKO Lietuvos teismų informacinė sistema****Public search solutions**

Quick Search   Advanced search   Help

Background to the case

---

**The file number**  A sequence number.:

**Court**

**Type of file**

**Type of document**

**Date** From:   To:

**Judge**

**Search in text**

Attention !!! The procedural decisions of the first and appellate court cases can be reviewed and replaced by the higher court. Only valid court decisions have legal effect.

## 10. ITALY

Italy has a body of rules and guidelines for publishing court decisions and protecting personal data contained in those decisions. The primary law is the Personal Data Protection Code which requires that decisions of courts at all levels and instances that have been filed at the court's clerk's office shall be made accessible also by means of the information systems and the institutional sites on the Internet, in compliance with the provisions referred to in Chapter III "Legal information Services" of the Personal Data Protection Code. In addition, in 2010, the Italian Data Protection Authority drafted the Guidelines on personal data protection in the reproduction of judicial decisions for the purpose of legal information communication.

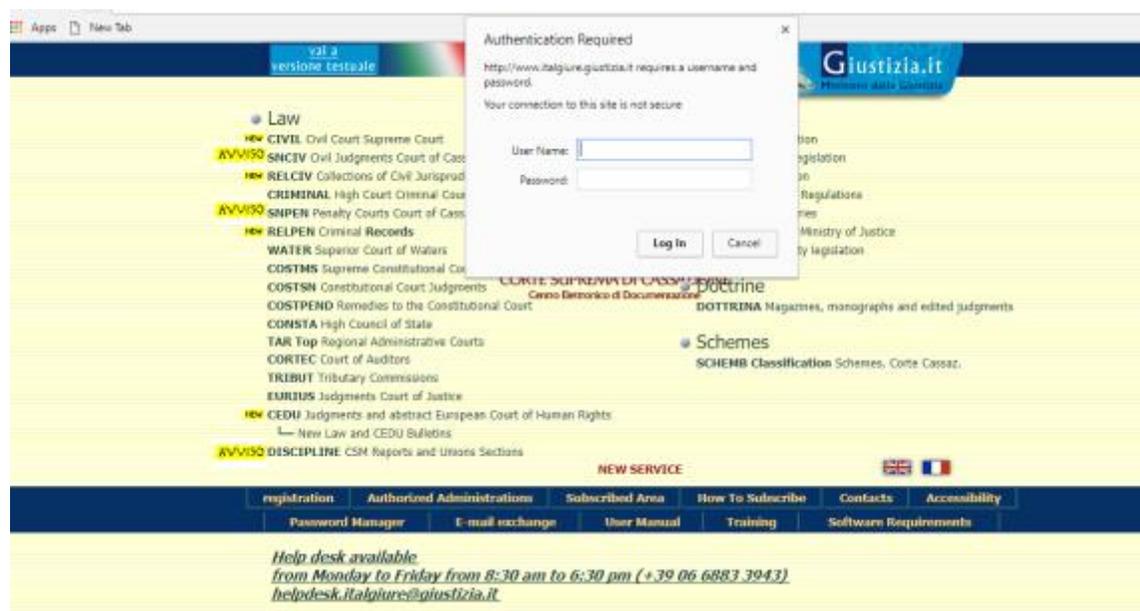
The Personal Data Protection Code determines the rules for anonymization of court decisions. Anonymization provided by this code does not have an effect on the judgment, but is only for dissemination purposes. Court decisions are anonymized in the following situations:

- On request of the data subject before the decision is published in order to protect data subjects' rights or dignity.
- On initiative of judicial authority issuing the judgment and/or taking the measure at stake.
- Always in cases of data regarding the identity of children and of parties to proceedings concerning family law and civil status. In these cases the provision requires the omission, not only the identity and other identifying data of the protected persons, but also other data related to third parties from which it may be inferred indirectly the identity of these data subjects
- Always in cases of sexual offenses and prostitution.<sup>29</sup>

<sup>29</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 94-95

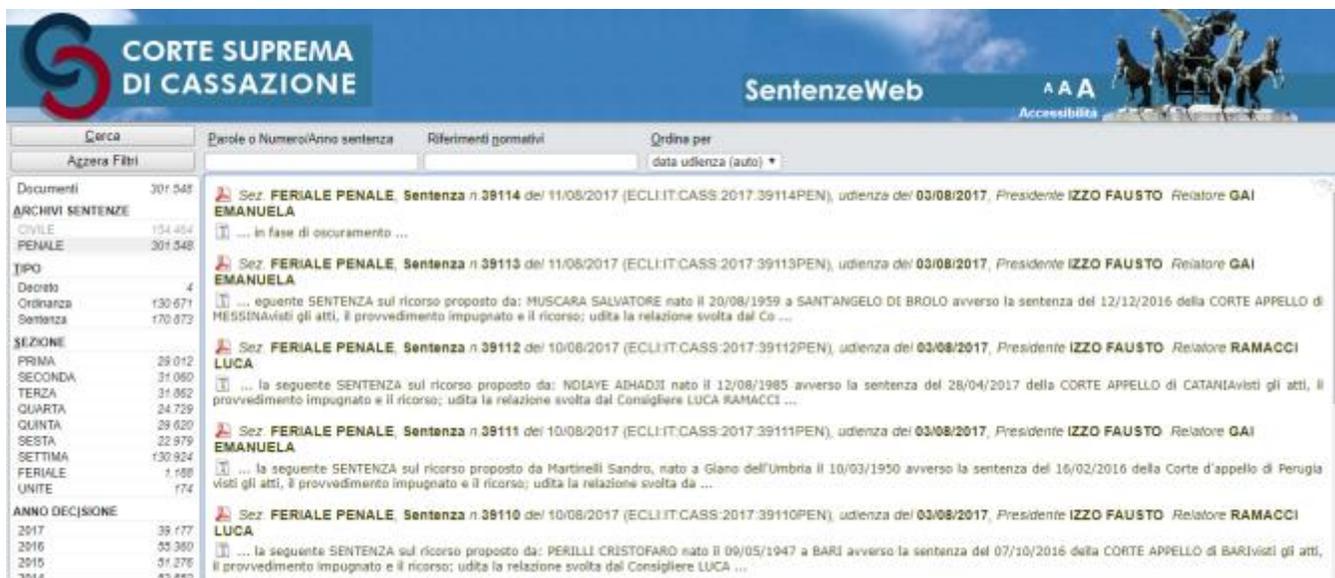
Specific rules for accessing online data are provided by the administrative courts and the Council of State. These rules state that the identification data of pending issues before the administrative courts shall be made accessible to those interested by online publication. The decisions of the administrative court, made public by the deposit in the office, are simultaneously published on the internal information system and on the website, observing the provisions required by the legislation on protection of personal data, in compliance with the Personal Data Protection Code.

Most of the court decisions published can be accessed via the legal information retrieval system “ItalgiureWeb” ([http://www.italgiure.giustizia.it/index\\_it.asp?lang=en](http://www.italgiure.giustizia.it/index_it.asp?lang=en)), managed by the Electronic Documentation Centre of the Supreme Court. “ItalgiureWeb” is accessible free of charge only for judges, lawyers and civil servants. Other users are charged.



Furthermore, the Electronic Documentation Centre of the Supreme Court gives access, free of charge to all (contrary to “ItalgiureWeb”), to full text judgments rendered by the Supreme Court from the last five years, through “SentenzeWeb”, which is implemented by the “ItalgiureWeb” database. The system offers a watermarked copy of the original image with indexable text.

“SentenzeWeb” does not provide the possibility to search court decisions / judgments using participants’ name:



Some court decisions are published without anonymizing the name of participants, as shown in the following image (more examples are available at the following link, webpage of the Supreme Court of Cassation: <http://www.italgiure.giustizia.it/sncass/>):

**SENTENZA**

sul ricorso 16120-2015 proposto da:

CAPPELLI DOMENICO C.F. CPPDNCC59R23H501D,  
 elettivamente domiciliato in ROMA, VIA L.  
 SETTEMBRINI, 28, presso lo studio dell'avvocato  
 ULPIANO MORCAVALLO, che lo rappresenta e difende,  
 giusta delega in atti;

**- ricorrente -**

**2017**

**contro**

**1287**

TELECOM ITALIA INFORMATION TECHNOLOGY S.R.L. (già  
 SHARED SERVICE CENTER S.R.L.) C.F. 07578860152, in  
 persona del legale rappresentante pro tempore,

## II. SPAIN

In Spain, the Personal Data Protection Law is applicable on the publication of all court decisions. All decisions are anonymised before being published. Names and other data that can identify a person are removed. Legal entities and people professionally involved with the proceedings are not anonymised.

The Organic Law on the Judiciary provides that the General Council of the Judiciary is responsible for the official publication of judicial decisions of the Supreme Court and other courts.

The Judicial Documentation Centre (el Centro de Documentación Judicial, CENDOJ<sup>30</sup>) was appointed as the technical body of the General Council of the Judiciary responsible for the selection, sorting, processing, distribution and publication of legislative, jurisprudential and doctrinal legal information.

The Supreme Court, the National Criminal and Administrative Court, the seventeen High Courts of the Autonomous Communities and the fifty Provincial Courts publish all their decisions. Of the first instance courts, only a small selection is published; criteria for this selection are not published.

As mentioned above, anonymization is across the board for all decisions published by the courts.

The case-law of the Supreme Court is published in full online and free of charge. The full texts are available, with personal data removed and with an efficient search engine which works on the texts of all decisions.

Regarding the decisions published by other courts, the “CENDOJ” database provides the public, free of charge, with the orders and sentences issued by the Audiencia Nacional (National High Court), the Tribunales Superiores de Justicia (High Courts of Justice) and the Audiencias Provinciales (Provincial Courts).<sup>31</sup>

The “CENDOJ” database provides the following search criteria: “Case type”, “Document type”, “Institution”, “Locality”, “No of the document”, “Language”, “Date”, “Key words”. There is no search criteria using the Name/Surname of parties (litigants).

The names of the parties in court decisions are anonymized by providing only the name and the first letter of the surname.

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<sup>30</sup> <http://www.poderjudicial.es/search/index.jsp>

<sup>31</sup> [https://e-justice.europa.eu/content\\_member\\_state\\_case\\_law-13-es-en.do?member=1](https://e-justice.europa.eu/content_member_state_case_law-13-es-en.do?member=1)

**CENDOJ**  
 CENTRO DE DOCUMENTACIÓN JUDICIAL

CONSEJO GENERAL DEL PODER JUDICIAL  


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Jurisdicción

Tipo res.

Tipo de órgano

Sección

Localización

Nº Resolución

Nº ROJ

Fecha resolución    

Nº Recurso

ECLI

Idioma

---

Texto libre

Y | O | No | Próximo

Ponente

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Resultados

Buscar solo  [Histórico del Tribunal Supremo](#)

Ordenar por

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Roj: STS 3036/2017 - ECLI: ES:TS:2017:3036

Id Cendoj: **28079110012017100462**

Órgano: **Tribunal Supremo. Sala de lo Civil**

Sede: **Madrid**

Sección: **1**

Fecha: **20/07/2017**

Nº de Recurso: **2980/2014**

Nº de Resolución: **487/2017**

Procedimiento: **Casación**

Ponente: **FRANCISCO MARIN CASTAN**

Tipo de Resolución: **Sentencia**

**SENTENCIA**

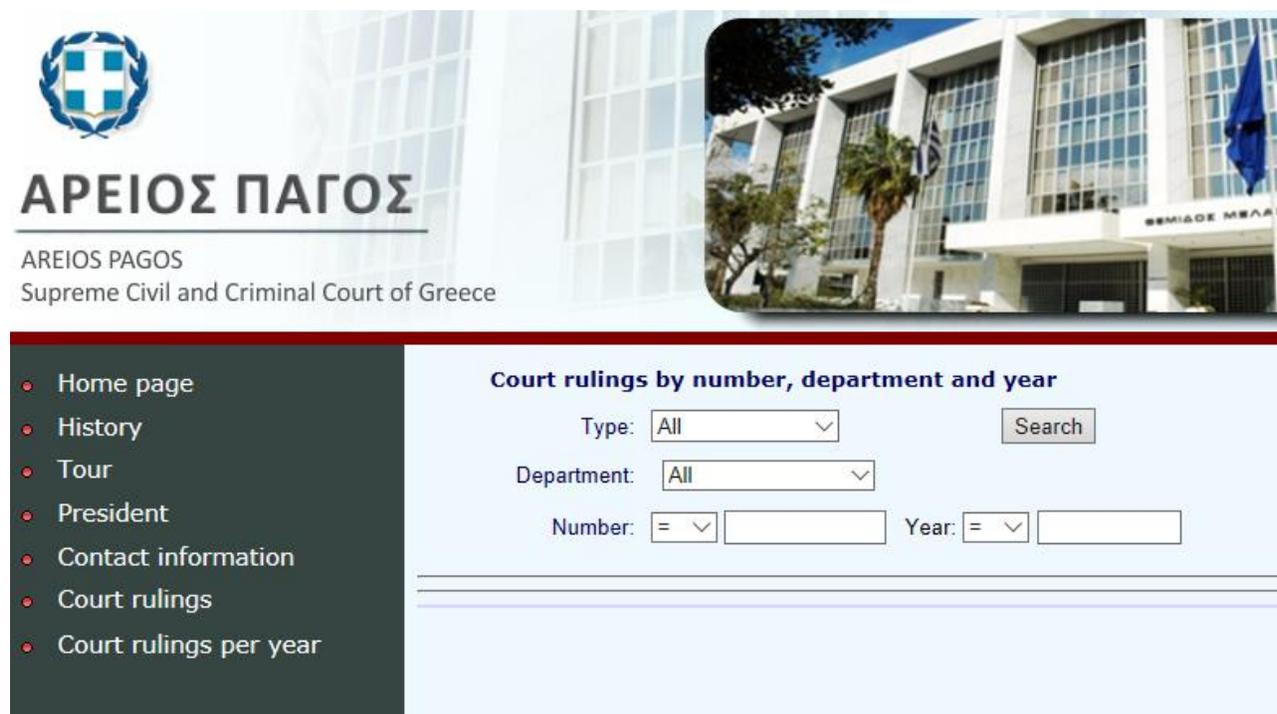
En Madrid, a 20 de julio de 2017

Esta sala ha visto el recurso de casación interpuesto por la entidad demandada NCG Banco S.A (en la actualidad, Abanca Corporación Bancaria S.A.), representada por el procurador D. Rafael Silva López bajo la dirección letrada de D.ª Carmen Campos Baz, contra la sentencia dictada el 24 de septiembre de 2014 por la sección 2.ª de la Audiencia Provincial de Lleida en el recurso de apelación n.º 670/2013, dimanante de las actuaciones de juicio ordinario n.º 65/2013 del Juzgado de lo Mercantil n.º 1 de Lleida sobre nulidad de cláusula suelo y sus efectos restitutorios. Han sido parte recurrida los demandantes D.ª Elisa y D. Bernardo, representados por la procuradora D.ª María Ángeles Fernández Aguado bajo la dirección letrada de D. Enric Rubio Gallart.

## 12. GREECE

In Greece, there is no specific legal or policy framework on the anonymization of published court decisions. Nevertheless, according to a decision of the Hellenic Data Protection Authority, decisions published on the internet should not contain any information that could help the public to identify the parties involved. For the decisions of the Council of State, anonymization is carried out by the Athens Bar Association. The decisions of the Supreme Court and other courts made available on the web are anonymized (names removed).<sup>32</sup>

For judgments of the Council of State and the Athens Administrative Court of Appeal, case law with headlines is available only to judges. The Athens Court of Appeal does not post civil or criminal judgments online. Civil judgments are posted on the corresponding administrative websites with numbers and summaries, but are not categorized. Neither the numbers nor the results of criminal judgments are posted. The Supreme Criminal and Civil Court of Greece is available at the following link: <http://www.areiospagos.gr/en/INDEX.htm>. The database does not provide the possibility to search case law by participants' name, as shown in the following image.



## 13. SLOVAKIA

Slovakia has adopted the practice of anonymization of personal data for all court decisions. With regard to names of persons indicated in a citation of an international court, if the decision of a court refers to such a decision, the person's name can be published. Through a legislative act, courts

<sup>32</sup> Idem

have been given a general instruction to anonymize all decisions before they are published. This instruction prescribes which personal data must be anonymized and includes names, date of birth, address, identification number, etc (listed in detail below.) Case law of all courts of the Slovak justice system can be accessed, in Slovak language, from the online legal database “JASPI”, available at the following link: ([http://jaspi.justice.gov.sk/jaspiw1/htm\\_sudr/jaspiw\\_maxi\\_sudr\\_fr0.htm](http://jaspi.justice.gov.sk/jaspiw1/htm_sudr/jaspiw_maxi_sudr_fr0.htm))

The Supreme Court's case law can be accessed, in Slovak language, from the website of the Supreme Court, available at the following link: <http://www.supcourt.gov.sk/press-releases/>. The search criteria for case law does not provide the possibility to search documents by name/surname of litigants. In court decisions, names of litigants are completely anonymized.

The screenshot displays the website of the Supreme Court of the Slovak Republic. The header includes the court's name and logo, along with navigation links like 'Domov', 'Štátne organizácie', 'Galérie', 'Kontakty', and 'Súdna rada SR'. A search bar is present with the text 'fulltextové vyhľadavanie' and an 'OK' button. The main content area is titled 'Rozhodnutia' and contains a search form with the following fields:

- Merito veci:
- Dátum rozhodnutia: od:  do:
- Kolégium:
- Číslo rozhodnutia:
- Spisová značka:
- Obsah rozhodnutia:

An 'Odoslať' button is located below the search form.

Najvyšší súd  
Slovenskej republiky

6 Ndt 16/2017

### U Z N E S E N I E

Najvyšší súd Slovenskej republiky v senáte zloženom z predsedu senátu JUDr. Daniela Hudáka a sudcov JUDr. Štefana Michálika a JUDr. Viliama Dohňanského na neverejnom zasadnutí konanom dňa 10. augusta 2017 v Bratislave, v trestnej veci obvineného E. P. pre zločin podvodu podľa § 221 ods. 1, ods. 2, ods. 3 písm. c/ Tr. zák. a iné, vedenej na Okresnom súde Nitra pod sp. zn. 1T/128/2013, o návrhu obvineného na odňatie a prikázanie veci podľa § 23 ods. 1 Tr. por., takto

### r o z h o d o l :

Trestná vec obvineného E. P. vedená na Okresnom súde Nitra pod sp. zn. 1T/128/2013, sa tomuto súdu ani Krajskému súdu v Nitre **n e o d n í m a**.

### O d ô v o d n e n i e

Proti obvinenému E. P. je na Okresnom súde Nitra pod sp. zn. 1T/128/2013, vedené trestné konanie pre zločin podvodu podľa § 221 ods. 1, ods. 2, ods. 3, písm. c/ Tr. zák. s použitím § 138 písm. j/ Tr. zák. a § 127 ods. 12 Tr. zák. Obžaloba bola podaná 9. decembra 2013. Podstata obvinenia spočíva v tom, že obvinený v období od začiatku februára 2007

Act no. 757/2004 on courts specifies that all courts are obliged to publish all final decisions, decisions ending the main proceedings and decisions on interim measures when they become final (meaning the term for appeal has expired without an appeal being filed).

Publication has to take place within fifteen days and also relates to all decisions taken at earlier stages of the proceedings, whether by the same or other courts.

According to aforementioned act, decisions in proceedings in which the public was excluded from the whole or part of the hearing does not have to be published.

Act no. 757/2004 on courts contains a general instruction to anonymize all decisions before they are published. This instruction prescribes which personal data must be anonymized:

- a. Birth number (specific number issued to every person upon birth)
- b. Date of birth
- c. Number of ID, passport or any other document identifying a person
- d. Residence
- e. Communication details: telephone, fax, e-mail address, IP address, URL address
- f. Name/code of bank, number and name of bank account, IBAN, client number
- g. Cadastral code
- h. Property identifier

- i. Classified information and trade secrets
- j. Name and surname of natural persons
- k. Name and surname of legal guardians

The instruction also enumerates which data must **not** to be anonymized:

- a. The court that issued the decision, names of other courts, names and details of judge or court clerks
- b. Name of arbitration court
- c. Names of public authorities, their statutory representatives, including notaries, executors, mediators, insolvency trustees and arbitrators
- d. Information on legal persons, names and surnames of their statutory bodies and their members
- e. Names of entrepreneurs if the case is about the object of the business conducted
- f. Names of legal representatives
- g. Tax and other identification numbers of companies
- h. Amounts of money, including the way of their determination
- i. Numbers of invoices, contracts, insurances or similar documents
- j. Indications of specific times, including date when the decision was issued
- k. Case and file numbers, including those of other courts or public bodies
- l. Names of persons indicated in a citation of an international court, if the decision of a court refers to such a decision

Anonymization is realized by replacing names and other words by initials and numbers by ‘X’.<sup>33</sup>

## 14. BULGARIA

All judgments of the Supreme Administrative Court ([www.sac.government.bg/pages/bg/reports](http://www.sac.government.bg/pages/bg/reports)) and all other judicial acts enacted by the courts in Bulgaria are published on the website of the respective court. The publishing of personal data of the parties is prohibited by the Judiciary System Act of Bulgaria.

There is no title or headline introducing decisions or other activities of the Supreme Administrative Court available on the web. An Act appears with its number, date of issue and the number of the case it refers to, for example: “Решение №5908 от 23.06.2005 по Дело №4242/2005”.

All court judgements / decisions are also accessible through the website of the Supreme Judicial Council (<https://legalacts.justice.bg>).

In the website of the court accessible to all citizens, personal data of the parties shall be not published. This is done by a special computer program created and maintained by a special department in court.<sup>34</sup>

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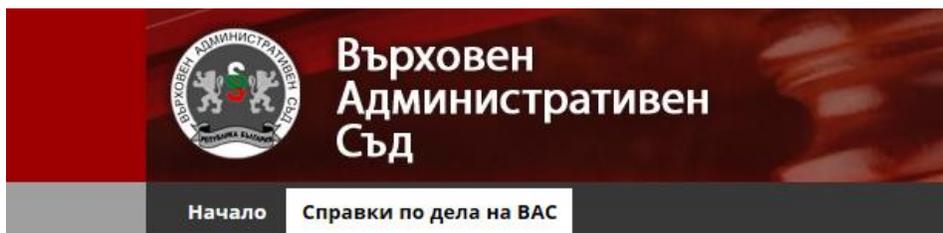
<sup>33</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 132-133

<sup>34</sup> Colloquium organized by Supreme Administrative Court of the Czech Republic and ACA-Europe, Answers to Questionnaire: Bulgaria, May 2016, available at the following link: <http://www.aca-europe.eu/colloquia/2016/Bulgaria.pdf>

All available case law search engines do not provide the possibility to search cases by litigants' name/surname. The names of litigants are completely anonymized in all court decisions (usually by replacing them with initials). Other personal identifiers are excluded from court decisions as well.

The Supreme Court of Cassation ([http://www.vks.bg/vks\\_p10\\_02.htm](http://www.vks.bg/vks_p10_02.htm)) has a website that provides direct access to the information database of the Supreme Court.

Judgements in cases of high public interest are published in this section and also in the information database of the Supreme Court of Cassation.



## Търсене

**1** Посочете документите, които ще търсите:

Жалби  
 Дела  
 Решения  
 Протоколи  
 Във всички изброени

**2** Търсене по номер на жалба, дело или съдебен акт:

Въведете номер

Година   
 Период

**3** Търсене на текст:

Възможност за варианти:  Да  Не  
Приближено:  Да  Не

## ОПРЕДЕЛЕНИЕ по хода на делото

София, 07.03.2016

Върховният административен съд на Република България - Трето отделение, в закрито заседание в състав:

**ПРЕДСЕДАТЕЛ:** ПАНАЙОТ ГЕНКОВ

**ЧЛЕНОВЕ:** МИРА РАЙЧЕВА

АЛБЕНА РАДОСЛАВОВА

при секретар  
на прокурора  
от председателя ПАНАЙОТ ГЕНКОВ  
по адм. дело № 2207 / 2016. 

и с участието  
изслуша докладваното

Производството по делото е образувано по жалба на Е. Г. П. от [населено място], Б. Г. Д. от [населено място] и М. З. А. от [населено място] против решение № 55 от 28.01.2016 г. на Министерски съвет за отчуждаване на имоти и части от имоти – частна собственост, за държавна нужда за изграждане на обект „Модернизация за съществуващо трасе на път I-8 " К. – Софийски околовръстен път" от км. 1+000 до км 48+270, участък от км 1+000 до км 32+447.20

Жалбоподателите обжалват административното решение в частта, в която е определен размера на паричното обезщетение за отчуждаващ се имот, представляващ част от ПИ 001075 по КВС за землището на [населено място] с ЕКАТТЕ 67372, [община], описан в приложение по точка 1 от решение № 55 по номер 39 (землище [населено място], земеделска територия, стр. 20 от приложението), а именно – 433 лева, както



Висш съдебен съвет  
Република България

Търсене  
на съдебни  
актове

|                            |                                     |                  |
|----------------------------|-------------------------------------|------------------|
| Съд:                       | Върховен административен съд        | ▼                |
| Вид дело:                  | Всички                              | ▼                |
| Дело №:                    | 013                                 | Година: Всички ▼ |
| Ключови думи:              | <input type="text"/>                |                  |
| Търсене на производни думи | <input checked="" type="checkbox"/> |                  |
| Код:                       | <input type="text" value="9468"/>   |                  |

[Разширено търсене](#)

**ТЪРСИ**

№ 34/ 2016 година град Бургас  
 АПЕЛАТИВЕН СЪД гражданска състав  
 На двадесет и първи януари 2016 година  
 В закрито заседание в следния състав ПРЕДСЕДАТЕЛ: Зл.Иванова  
 ЧЛЕНОВЕ: С.Цолова  
 Р.Манкова

Секретар  
 Прокурор  
 като разглежда докладваното от Зл.Иванова  
 частно гражданско дело 20 по описа за 2016 година и за да се произнесе взе предвид:

Производството по делото е по реда на чл.274, ал.1, т.1 ГПК и е образувано по частна жалба подадена от М. Д. Д. от гр. С., лично и в качеството му на пълномощник на М. М. ова Д. против определение от 05.11.2015 год., постановено по гр.д. №1852/2015 год. по описа на Бургаски окръжен съд, с което е прекратено производството по делото на осн. чл.126 ГПК. В частната жалба се прави оплакване за неправилност и незаконосъобразност на определението, както и постановяването му при използване на служебното положение, с крайна цел прекратяване на делото, а също и при поредно налагане на корупционни практики. Исква отмяна на определението на БОС, като неправилно и връщане на делото на първоинстанционния съд за продължаване на съдопроизводствените действия.

Частната жалба е подадена в срока по чл.275 ал.1 ГПК и отговаря на изискванията по чл.275, ал.2 ГП, поради което се явява допустима.

Производството по гр.д. №1852/2015 година по описа на Бургаски окръжен съд е образувано след постановяване и изпълнение в сила на определение 2303/16.12.2014 год. по гр.д. №1377/2014 год. по описа на районен съд гр. К. и изпращане на делото по компетентност на Бургаски окръжен съд на 03.11.2015 год. С исквата молба подадена първоначално до РС К. е предявен иск от М. Д. и Д. Д., последният починал в хода на процеса и на негово място са конституирани наследниците му по закон М. Д. Д. и С. А., против ответника А., с правно основание чл.108 ЗС. Видно от определението №2544/05.11.2015 год., постановено в з.д. по гр.д. №1852/2015 год., съдията докладчик е констатирал при извършена служебна справка, че в БОС е образувано гр.д. №680/2014 година, със същите страни и същия предмет на иска, приел е че е налице хипотезата на чл.126, ал.1 ГПК, поради което е прекратил производството по делото. Апелативен съд Б. при извършена служебна справка в деловодството на БОС, констатира, че действително е образувано пред БОС посоченото гражданско дело, което е със същите страни и предмет на иска.

The Judiciary System Act of Bulgaria provides the following aspects related to protection of personal data when publishing court decisions:

1. Judicial acts shall be published on the website of the respective court as soon as they are adopted, subject to the requirements of the Personal Data Protection Act and to the Classified Information Protection Act.
2. The acts referred to in paragraph 1 shall be published in a way not making it possible to identify the individuals mentioned in such acts.
3. Case acts affecting the civil or health status of individuals shall be published without their reasoning.

The policy framework of the Supreme Judicial Council also specifies that:

1. The published judicial acts shall not contain the names, PIN and addresses of the individuals involved in the process.
2. The judicial acts shall be published without the reasoning part, whereas the operative part shall be published without the names, PIN and addresses of the individuals involved in the process.<sup>35</sup>

## 15. HUNGARY

The legal basis for the publication of court decisions in Hungary is Act CLXI of 2011 on the Organization and Administration of the Courts. The Register of Court Decisions is available via the website of the National Office for the Judiciary, available at the following link: <http://birosag.hu/ugyfelkapcsolati-portal/birosagi-hatarozatok-gyjutemenye>.

<sup>35</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 64-65

The legal basis for data protection regarding court decisions is formulated in the aforementioned Act on the Organization and Administration of the Courts.

All the parties' personal data must be deleted from the decisions, and the parties must be identified according to the role played by them in the proceedings.

The act regulates the following:

1. Where any reference is made to a person in a decision published in the Register of Court Decisions, it shall be consistent with his role in the proceedings, however, the identification data of a person shall be erased in a manner so as not to prejudice the relevant facts of the case.
2. Unless otherwise provided for by law, in the published decision it is not necessary to erase the following:
  - a) the surname and forename or forenames (hereinafter referred to collectively as name) and title of any person, unless otherwise provided for by law, performing any State or municipal government function, or performing other public duties, acting as such, if this person is involved in the proceedings in connection with discharging his public function;
  - a. name of any lawyer acting as an agent or defense counsel;
  - b. name of the respondent being a natural person, who loses the lawsuit, and the name and registered office of legal person or unincorporated organization if the decision was adopted in a case where there is legal recourse in the public interest in accordance with the relevant legislation;
  - c. name and address of the association or foundation, and the name of its representative;
  - d. information of public interest.
3. If the hearing was held in part or in whole in closed session, and there is no other way to ensure the protection of the interest defined by law, underlying the demand that the public be not admitted, certain parts of the decision or the whole of the decision shall not be published in the register, or certain parts of the published decision or the whole of the published decision shall be removed from the register.<sup>36</sup>

**The Hungarian Supreme Court of Justice** also publishes its case-law on its own web page ("CURIA") available at the following link: <http://www.kuria-birosag.hu/en/criminal-law-cases>.

All case-law is sorted by years and key words, as shown in the following image:

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<sup>36</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 110 - 111



Home · Selected case-law

## Criminal law cases

Month:  Year:

**I A**

**C**

**II A**

**reform**

**Criminal case - April 2017**  
Keyword(s): violence against a member of a community on grounds of their racial, national and ethnic discrimination

**Criminal case - February 2017**  
Keyword(s): criminal sanctions for legal persons, legal representation of legal persons before the criminal court

**Criminal case - September 2016**  
Keyword(s): failure to duly summon an accused person to attend the second instance court's panel session

The text of court decisions does not provide any personal identifiers, as shown in the next image (This is a Decision issued in a Criminal case “qualified homicide, robbery, armed attacks on Roma families”):

Communication concerning the decision of the Curia of Hungary  
in criminal case n° Bhar.I.1320/2015

The imposition of real life imprisonment on the perpetrators of qualified homicide.

In its judgement resulting from criminal proceedings initiated against the first accused and his co-perpetrators, the Budapest Surroundings High Court found the followings:

The first, second and third accused agreed to get weapons in order to carry out attacks on individuals belonging to the Roma minority and “chastise” them.

To that end, they drew up a plan on how to get weapons and chose a number of municipalities as the locations of their armed attacks. They acquired cell phones, two-way VHF radiotelephones, military garments, a pair of field glasses and a night vision equipment, furthermore, they surveyed and photographed the locations of their planned actions.

On the night of 7 March 2008, they broke into the house of a professional hunter and his family. They threatened and used violence against the hunter and his partner to get their firearms – three bullet firing hunting rifles and four hunting shotguns – and ammunition, and upon completion of their raid, they left the couple and their two minor-aged children tied up in the house.

On 2 June 2008, the first accused led an attack on a Debrecen-based refugee camp in which several refugees were accommodated. One of the shots fired by the first accused caused injuries to a Serbian citizen with Roma ethnic origin.

## 16. MALTA

The courts in Malta are divided into Superior and Inferior courts.

Judges sit on the Superior Courts, which, in Malta, are made up of the Constitutional Court, the Court of Appeal, the Court of Criminal Appeal, the Criminal Court and the Civil Court. The Inferior Courts are the Court of Magistrates (Malta) and the Court of Magistrates (Gozo). The latter court has a both superior and an inferior jurisdiction.

In Malta published court decisions are anonymized in the following cases:

1. if they concern minors,
2. violent indecent assault and if they are family cases.

In other cases anonymization can be granted by the judge on request of the data subject.

Anonymization is done by replacing names with random initials. In some cases, the judge can decide to exclude certain parts of the decision (the text ‘omissis’ will be displayed instead).

All Family Court judgments are anonymized. Moreover, if the presiding judge orders the non-publication of the name of anyone of the litigants involved or accused, the judgment in this case is also anonymized.<sup>37</sup>

As part of the eGovernment initiative, “Sentenzi Online” (Judgements Online, <http://www.justiceservices.gov.mt/courtservices/Judgements/>) is a free service that brings together a collection of judgements given by the Courts of Justice of Malta.

The “Sentenzi Online” offers, the facility to search court judgements using the name of parties as well, as shown in the image bellow. All the documents related to the search will be displayed and the user can view any document's details.

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<sup>37</sup> Ibidem, page 112

**JUSTICE SERVICES**  
 Court Services | Legal Services  
 15th August 2017 | Help | Verżjoni bil-Malti

**SEARCH CASES TERMINATED LAST YEAR**

Reference:  /  /

Court: Choose an item

Judiciary: Choose an item

Parties:  vs

Registration Date:  To  [dd/mm/yyyy]

Terminated Date:  To  [dd/mm/yyyy]

Act Type: Choose an item

Other Parties:

Lawyer:

Expert:

**JUSTICE SERVICES**  
 Court Services | Legal Services  
 15th August 2017 | Help | Verżjoni bil-Malti

**REFERENCE 21/2017** Print

**Court**: Rent Regulation Board - Malta

**Judiciary**: Josette Demicoli

**Names**: Magro Hermann Et Vs Galdes Maria Carmela Sive Carmen

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|                          |            |                         |            |
|--------------------------|------------|-------------------------|------------|
| <b>Registration Date</b> | 01/03/2017 | <b>Termination Date</b> | 04/07/2017 |
| <b>Value</b>             | -          | <b>Appealed</b>         | -          |

Qorti tal-Appell Kriminali

Onor. Imhalled Dr. Edwina Grima LL.D.

Appell Nru: 566/2016

Il-Pulizja

Vs

Nicole Anne Testa

Illum 31 ta' Meju, 2017

Il-Qorti,

Rat l-akkuzi dedotti kontra Nicole Anne Testa detentrici tal-karta tal-identita' Maltija bin-numru 194098M, akkuzata quddiem il-Qorti tal-Magistrati (Malta) bhala Qorti ta' Gudikatura Kriminali talli:

## 17. SLOVENIA

The full text of judgments of the Supreme Court of the Republic of Slovenia, all four higher courts of general jurisdiction, the Higher Labour and Social Court and the Administrative Court of the Republic of Slovenia are available free-of-charge on the website of the Slovenian Judiciary, available at the following link: <http://www.sodisce.si/>.

The names of parties are not given, as the judgments are redacted before publication. As well as the original text and keywords, detailed information is provided on the legal basis for a decision and a summary of the judgment.

A selection of the most important decisions of the Supreme Court is also available in English at Supreme Court Key Decisions.

All decisions in civil, criminal and administrative cases are anonymized before being published. the Anonymization Rules of the Supreme Court provide guidance to the courts on items to be listed or removed.

In general everything that might identify a person is anonymized. The only exception are the names of the companies in the disputes relating to these names. In these disputes, the name of a company is the very essence of the dispute and the decision would hardly be understandable without the name itself. Anonymization is realized by the use of (actual or randomized) initials.

With regard to decisions of the Constitutional Court, the Constitutional Court Act regulates the following:

- 1) Constitutional Court decisions and orders state the full names of participants in proceedings, their legal representatives, and persons authorized by the participants, as well as the names of the participating legal entities and authorities and where they reside or are based.
- 2) In order to protect the privacy of participants in proceedings, the Constitutional Court may itself or upon the motion of an applicant or a petitioner decide that the personal data of a participant in proceedings or the personal data of other individuals not be stated in a decision or order. Such motion must be submitted at the same time as the request or petition.
- 3) The motion referred to in the preceding paragraph is decided by the Constitutional Court. If the Constitutional Court dismisses the motion, such order must include a statement of reasons.<sup>38</sup>

The next image shows a decision issued by the Supreme Court of Slovenia in a **criminal case**. The name of defendant is anonymized by indicating only the initials:

## **RULING**

### **Headnote:**

If the police have a court warrant to carry out a search at a suspect, they cannot request from the suspect notifications pursuant to the second paragraph of Article 148 of the Criminal Procedure Act, they should rather act pursuant to the second paragraph of Article 215 of the same Act.

### **Reasoning**

In the aforementioned ruling the District Court of Kranj found D. E. guilty of committing the criminal offence of negligent homicide pursuant to Article 129 of the Penal Code (hereinafter: the PC). She was given a suspended sentence with the custodial sentence of eight months and the probation period of two years. Furthermore, the court decided that she had to pay 150,000 toolars for the cost of the criminal proceedings and 100,000 toolars as a lump-sum court fee. The Higher Court in Ljubljana partly granted the appeal by the district state prosecutor and amended the challenged ruling in the part on the penal sanction and in the provision on the cost of the criminal proceedings by extending the suspended sentence to the probation period of three years and by increasing the amount of the criminal proceeding cost that the defendant has to pay to 445,469 toolars, whereas the court rejected the remaining part of the appeal by the district state prosecutor and the entire appeals of both defence lawyers as unfounded and confirmed the unamended part of the ruling by the first

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<sup>38</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 129

The next image shows a decision issued by the Supreme Court of Slovenia in a **civil case**. The name of litigants is not provided. The court refers to the parties as “the defendant” and “the plaintiff”:

#### **RULING**

**The revision is rejected.**

#### **Headnote:**

The claim for emptying and handing over of the apartment, which the plaintiff is justifying with changed circumstances, cannot fall under the statute of limitation, due to the continuing legal relation between the litigating parties.

The plaintiff – the lessor, acting with due care and diligence, used the currency clause to insure itself against inflation (normal risk); insurance against structural changes and the increase of non-profit rent (a risk that could not be expected at the time when the lease contract or its annex was concluded) and the insurance by referring to its own legal acts (insurance against all risks) would exceed its due diligence.

Changed circumstances may be given also in the case when at the time of concluding the contract for various reasons partial non-equality of contractual performance exists and the rent is lower than an adequate market rent, and in the course of time this initial non-equality increases to the extent that the standard of changed circumstances is met.

## **18. ESTONIA**

The legal framework in Estonia consists of the following relevant acts related to publication of court decisions / judgments:

1. The Courts Act provides the legal basis for courts administration and court service.
2. The Code of Administrative Court Procedure states that court judgment is publicly announced through the court office or pronounced in a court session; a judgment which has become final is published in the designated location of the computer network. This does not affect the entry into force of the judgment.
3. The Code of Civil Procedure provides that a court judgment which has entered into force is published in the computer network at a place prescribed for such purpose. This does not affect the entry into force of the judgment. The court publishes on its own initiative or at the request of the data subject only the conclusion of the judgment or does not publish the judgment if the

judgment contains sensitive personal data and publication of the judgment together with the personal data may materially breach the inviolability of private life of the person.

4. The Code of Criminal Procedure provides that a court judgment and a court ruling which have entered into force and which terminate proceedings shall be published in the computer network in the place prescribed therefor, except in the case pre-trial proceedings continue in the criminal matter in which the court ruling was made.<sup>39</sup>

All finalized judgments in criminal proceedings are published, but only the personal details of the defendant (name and personal identification code or date of birth) are made public.

As a general rule, the personal details of under-age defendants are not disclosed (their name and personal identification code or date of birth are replaced by initials or other characters).

At the request of an individual or on their own initiative, courts may, in criminal proceedings, publish only the introduction and operative part or the final part of a given judgment, if the judgment contains sensitive personal data.

Case law of the Supreme Court can be searched on the Supreme Court's website (<https://www.riigikohus.ee/>) by year, type of case, case number, date of judgment, court composition, type of proceeding, type of offence, annotation and content. On the Supreme Court's website case law can also be searched by keyword.

Judgments of courts of first and second instance can be searched by case number, courthouse, judgment type and date, the date of the proceedings and the content of the ruling. In criminal cases judgments can also be searched by the number of the pre-trial proceedings, case and judgment type, type of claim, type of sentence or, for example, by grounds for acquittal. Judgments in civil and administrative cases can also be searched by category and type of case, type of claim and case resolution.

**The Supreme Court** publishes only a selection of its case-law.

The selection is made on the basis of the following:

- 1) the judgment must have entered into force;
- 2) the judgment may be published if:
  - a) (*in civil and administrative cases*) it contains no sensitive personal data; the judgment is published with names replaced by initials or other characters and in such a way as not to prejudice the privacy of the individual in question; the judgment contains no information legally subject to some other access restriction;
  - b) (*in criminal cases*) it does not contain sensitive personal data or personal data legally subject to some other access restriction, or if names and other personal details are replaced in the judgment

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<sup>39</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 75

with initials and other characters, such that the individual in question cannot be identified; the judgment contains no information legally subject to some other access restriction.

**Other Courts** publish only a selection of their case-law as well.<sup>40</sup>

## 19. IRELAND

Irish case law is available to the public free of charge on the Courts Service of Ireland (<http://www.courts.ie/>).

Case law for the Supreme Court is also available on the Supreme Court of Ireland website (<http://www.supremecourt.ie>).

Case law for the Supreme Court, the Court of Criminal Appeal and the High Court is also available free on the BAILII database (British and Irish Legal Information Institute, available at the following link: <http://www.bailii.org/>) and the IRLII database (Irish Legal Information Initiative, available at the following link: <https://www.ucc.ie/law/irlII/index.php>).

The following decisions are available through the BAILII website:

- Supreme Court of Ireland Decisions
- Irish Court of Criminal Appeal Decisions
- High Court of Ireland Decisions
- Irish Competition Authority Decisions
- Irish Competition Authority Decisions (Notice Decisions)
- Irish Information Commissioner's Decisions
- Irish Data Protection Commission Case Studies

Content made available on the web about court decisions is not anonymized unless so required by statute or directed by the court. Certain cases are required by law to be heard other than in public, and certain statutory provisions require that the name of the victim may not be disclosed. In such judgments, names are anonymous. All decisions containing sensitive personal data about a party or witness are also anonymized.<sup>41</sup>

The following images reflect two court decisions published on the webpage of the Irish Supreme Court. In the first image the names of litigants are not anonymized. In the second image the names are anonymized (family law case).

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<sup>40</sup> [https://e-justice.europa.eu/content\\_member\\_state\\_case\\_law-13-ee-en.do?member=1](https://e-justice.europa.eu/content_member_state_case_law-13-ee-en.do?member=1)

<sup>41</sup> Ibidem



Appeal No. 225/2011

Denham C.J.  
MacMenamin J.  
Laffoy J.

Between/

Martin Horan

Plaintiff

and

Frank O'Reilly, Michael McHale, John Joyce,  
Seamus O'Brien and An Post National Lottery Limited

Defendants

**Judgment of the Court delivered on the 16th day of December, 2016 by Denham C.J.**

1. This is an appeal brought by Martin Horan, referred to as Mr. Horan, from the judgment and order of the High Court (Kearns P.) dated the 14th April, 2011, and perfected on the 11th May, 2011.
2. Mr. Horan had brought a motion before the High Court requesting an order pursuant to Order 99, r.38(3) of the Rules of the Superior Courts, seeking a review of taxation of costs. The costs in issue were solicitor and client costs incurred by Mr. Horan's solicitors, Crean, O'Clérigh and O'Dwyer, Solicitors, in the High Court and Supreme Court.
3. The President of the High Court held, on the 14th April, 2011, that, having read the notice of motion, the affidavit of Mr. Horan, filed on the 3rd August, 2010, the affidavit of John O'Dwyer filed on the 17th February, 2011, and the documents and exhibits referred to therein, and upon hearing said counsel and counsel for Crean Clérigh and O'Dwyer, Solicitors, that the motion would be refused.
4. The President refused the relief sought stating that there was no sustainable case made by Mr. Horan for him to consider. In particular, he stated that the motion to review was incorrect, and that there was no evidence to support it by way of a legal costs accountant, or any other expert evidence.

[Supreme Court Appeal No. 128/2011; 130/2011; 135/2011]

Denham C.J.  
O'Donnell J.  
Clarke J.  
MacMenamin J.  
Laffoy J.  
Charleton J.  
O'Malley J.

BETWEEN:

H.A.H.

APPLICANT

AND

S.A.A.

RESPONDENT

AND

THE ATTORNEY GENERAL

1ST NOTICE PARTY

AND

BY ORDER OF THE COURT

S.A.H.

2ND NOTICE PARTY

**JUDGMENT of Mr. Justice Clarke delivered the 15th day of June 2017.**

**1. Introduction**

1.1 I fully agree with the judgment of by O'Malley J. and with the order she proposes. I write this concurring judgment solely for the purpose of adding two observations of my own. Nothing in this concurring judgment should be taken as suggesting any difference from the conclusions proposed by O'Malley J. in her judgment or in the analysis which leads to those conclusions.

The database of the British and Irish Legal Information Institute publishes court judgments and decisions, some with the anonymization of the participants' name / surname and others not, as shown in the following image:

|   |             |
|---|-------------|
| Gladney -v- Daly  | 19 May 2017 |
| The Governor and Company of the Bank of Ireland -v- Corrigan & Anor                               | 19 May 2017 |
| DK -v- GY   | 17 May 2017 |
| English -v- Promontoria (Aran) Limited (No.2)   | 17 May 2017 |
| Bennett -v- Minister for Justice and Equality   | 10 May 2017 |
| O'Halloran -v- The Governor of Limerick Prison  | 10 May 2017 |
| Ward v- Dermody & Anor  | 10 May 2017 |
| Cooke -v- Hackett   | 09 May 2017 |
| DE -v- Minister for Justice and Equality  | 09 May 2017 |
| EBS Limited -v- Kean  | 09 May 2017 |
| James Elliot Construction Limited -v- Lagan & Ors   | 09 May 2017 |
| Maloney -v- The Member In Charge of Finglas Garda Station & Ors                                   | 09 May 2017 |
| Morrissey -v- Governor of Midlands Prison   | 09 May 2017 |
| Park Magic Mobile Solutions Limited -v- Companies Act   | 09 May 2017 |
| Selim -v- Governor of Midlands Prison   | 09 May 2017 |
| Djamba & Ors -v- The Minister for Justice and Equality  | 08 May 2017 |
| MAK -V- Minister for Justice and Equality   | 08 May 2017 |
| Rathmond Ireland Limited & Companies Act 2014   | 08 May 2017 |
| WS -v- Minister for Justice and Equality  | 08 May 2017 |
| Bennett & Anor -v- Minister for Justice and Equality  | 05 May 2017 |
| Cirpaci -v- Judge O'Neill & Anor  | 05 May 2017 |
| Dooley -v- Director of Public Prosecutions & ors; Owens -v- Director of Public Prosecutions & ors | 05 May 2017 |
| Dundon & ors (p/a Dundon Callanan Solicitors) & ors -v- Butler Homes Limited                      | 05 May 2017 |
| Fides Capital Limited -v- Alchemy Products Limited  | 05 May 2017 |
| Lyons -v- Longford Westmeath Education and Training Board   | 05 May 2017 |
| Moore -v- Dublin City Council   | 05 May 2017 |
| Mulhare & Anor -v- Cork County Council  | 05 May 2017 |
| Rooney -v- Ireland & Anor   | 05 May 2017 |
| Rooney -v- Minister for Agriculture and Food & Ors  | 05 May 2017 |
| Ryanair Limited -v- The Revenue Commissioners & Ors   | 05 May 2017 |
| Ryan -v- Commissioner of An Garda Siochana  | 05 May 2017 |
| Bride -v- Oliver  | 04 May 2017 |

The database of the British and Irish Legal Information Institute provides the possibility to search court decisions by litigant's name/surname and year, as shown in the following image:

## Supreme Court of Ireland Decisions

Search this section

Or browse titles beginning with ...

[A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [J](#) [K](#) [L](#) [M](#) [N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#) [X](#) [Y](#) [Z](#) [other](#)

Or browse the years ...

[1965](#) [1973](#) [1976](#) [1977](#) [1980](#) [1981](#) [1982](#) [1983](#) [1984](#) [1985](#) [1986](#) [1987](#) [1988](#) [1989](#) [1990](#) [1991](#) [1992](#) [1993](#) [1994](#) [1995](#) [1996](#) [1997](#) [1998](#) [1999](#) [2000](#) [2001](#) [2002](#) [2003](#) [2004](#)  
[2005](#) [2006](#) [2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#)

This database contains decisions of the Irish Supreme Court. The database contains decisions from 1998 to date (and is reasonably comprehensive from February 2001). The database also includes a number of landmark decisions from earlier years from UCC Law Faculty's [Leading Irish Cases](#) database.



The decisions have been processed by John Mee and his team at the [University College Cork, Faculty of Law](#). Recent cases have been provided by the Irish Courts Service. The Courts Service emphasises that these are not the authoritative versions (which continue to be the hard copies of the judgments). Many thanks to Joe Doonnelly of the Judges' Library and to the Supreme Court Office. Thanks also to Jennifer Aston of the Bar Council of Ireland.

## 20. FINLAND

There are binding rules for the publication of case law at the national level and at the level of courts.

Full case law is published by the Supreme Courts and special courts. In other courts, only a selection of the case law is published, depending on the importance of the case, the implementation of new or changes to legislation, and the need to harmonize implementation.

All published court decisions can be found in “Finlex”, the Finnish legal information website of the Ministry of Justice, available at the following link: <http://finlex.fi/fi/>.

Summary information is also published on the website of the Finnish judiciary.

All decisions are anonymized before publication. Names and other identifying elements are replaced by random initials.

The search criteria for case law does not provide the possibility to search documents by name/surname of litigants. Usually court case-law is organized by years, as shown in the following image:

The screenshot shows a webpage with the following elements:

- Viimeisimmät ratkaisut** (Latest decisions):
  - Viemisin aineistopäivitys 15.8.2017.
  - Helsingin HAO 07.08.2017 17/0685/3**: Henkilökohtaisen tulon verotus - Luovutusvoitto - Pääomanpalautus - SVOP-rahasito - Hankintameno-oletama - Erityissäännös
  - Hämeenlinnan HAO 04.08.2017 17/0446/4**: Oikeusapu - Ratkaisupyynnö - Vammispalveluasial - Vajavaltaisen oikeus oikeusapuun - Oikeusavun hakeminen - Puhevalta
  - Itä-Suomen HAO 07.07.2017 17/0698/1**: Perustevalitus - Pysäköintivihemaksu - Korotus - Tiedokissaanti
  - Hämeenlinnan HAO 06.07.2017 17/0235/2**: Itäeläki - Vastiräken määräyksen antaminen - Hallintoalakko - Vianhahda - Toimivaista -
- Aineistoon liittyvä muu materiaali** (Other material related to the case files):
  - Hallinto-oikeuksien uusimmat ratkaisut ([www.oikeus.fi](http://www.oikeus.fi))
- Ratkaisut vuosittain** (Decisions by year):
 

|      |      |      |      |      |
|------|------|------|------|------|
| 2017 | 2016 | 2015 | 2014 | 2013 |
| 2012 | 2011 | 2010 |      |      |
| 2009 | 2008 | 2007 | 2006 | 2005 |
| 2004 | 2003 | 2002 | 2001 | 2000 |
| 1999 | 1998 | 1997 | 1996 | 1995 |
| 1994 | 1993 | 1992 | 1991 | 1990 |
| 1989 | 1988 | 1987 | 1986 | 1985 |
| 1984 | 1983 | 1982 | 1981 |      |

## 21. LUXEMBOURG

The case law of the Supreme Court, the Constitutional Court and the Administrative Court and Tribunal is published on Luxembourg's Justice Portal (<http://www.justice.public.lu/fr/index.html>) and on the website of the administrative courts (<http://www.justice.public.lu/fr/organisation-justice/juridictions-administratives/index.html>).

The only search engine available is by “key words”.

## Juridictions administratives



Recherchez un numéro de jurisprudence, ou un plusieurs mots clés contenu dans le document.

Mots clés : |

Rechercher

Sélection par défaut :

Mises à jour des 4 dernières semaines

Some published decisions are anonymized, other not. Some names are replaced by initials, other personal data are generally replaced by a series of dots, as reflected in the following images:

**Tribunal administratif  
du Grand-Duché de Luxembourg  
chambre de vacation**

Numéro 39981 du rôle  
Inscrit le 3 août 2017

### Audience publique extraordinaire du 11 août 2017

Recours formé par Monsieur ....., .....,  
contre une décision du ministre de l'Immigration et de l'Asile  
en matière de rétention administrative (art. 120, L. 29.8.2008)

### JUGEMENT

Vu la requête inscrite sous le numéro 39981 du rôle et déposée le 3 août 2017 au greffe du tribunal administratif par Maître Nicky Stoffel, avocat à la Cour, inscrite au tableau de l'Ordre des avocats à Luxembourg, au nom de Monsieur ....., né le .... à .... (Kazakhstan), apatride, actuellement retenu au Centre de rétention au Findel, tendant principalement à la réformation et subsidiairement à l'annulation d'une décision du ministre de l'Immigration et de l'Asile du 11 juillet 2017 ordonnant son placement au Centre de rétention pour une durée d'un mois à partir de la notification de la décision en question ;

Vu le mémoire en réponse du délégué du gouvernement déposé au greffe du tribunal administratif le 4 août 2017 ;

Vu les pièces versées en cause et notamment la décision critiquée ;

Le juge-rapporteur entendu en son rapport, ainsi que Maître Anne De Bourcy, en remplacement de Maître Nicky Stoffel, et Madame le délégué du gouvernement Christiane Martin en leurs plaidoiries respectives à l'audience publique du 9 août 2017.

**Tribunal administratif  
du Grand-Duché de Luxembourg  
1<sup>re</sup> chambre**

N° 27048 du rôle  
Inscrit le 29 juin 2010

**Audience publique du 16 février 2011**

Recours formé par  
Monsieur et Madame Francis WILHELM-SMITH, Brighton (Etats-Unis)  
contre une décision du directeur de l'administration des Contributions directes,  
en matière d'impôt sur le revenu

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**JUGEMENT**

Vu la requête inscrite sous le numéro 27048 du rôle et déposée au greffe du tribunal administratif le 29 juin 2010 par Maître Jean-Pierre WINANDY, avocat à la Cour, inscrit au tableau de l'Ordre des avocats à Luxembourg, au nom de Monsieur Francis WILHELM et son épouse, Madame Wendy SMITH, demeurant ensemble à USA 48116 Brighton, Mi, 3888, Aberdeen Lane et ayant élu domicile en l'étude de Maître WINANDY, sise à L2540 Luxembourg, 18-20, rue Edward Steichen, tendant à la principalement à la réformation et subsidiairement à l'annulation d'une décision sur réclamation du directeur de l'administration des Contributions directes du 7 mai 2010 ;

Vu le mémoire en réponse du délégué du gouvernement déposé au greffe du tribunal administratif le 9 juillet 2010 ;

## **22. DENMARK**

No case law database exists in Denmark at this moment.

The legal framework for the publication of court decisions is formulated in the Act on Court Administration, stating that the Council for the Judiciary is to create and operate a database for the publication of court decisions. Additional rules are under preparation by the Council for the judiciary, but have not yet been defined.

The Council for the Judiciary is in the process of implementation of a case law database.

The Supreme Court of Denmark and the Maritime and Commercial Court already publish a limited number of their decisions on their own websites.

Currently published court decisions are anonymized in accordance with applicable law, and for the aforementioned database in the making, internal anonymization guidelines will be drafted. The details of these guidelines have yet to be developed.<sup>42</sup>

## 23. AUSTRIA

In Austria, similar to Germany, there are strict rules for the publication of judgments and all publicized decisions are anonymized.<sup>43</sup>

The Supreme Court Acts of Austria stipulate that the full text version as well as abstracts of decisions of the Supreme Court are published, except in cases where an appeal is rejected without substantial reasoning.

The Supreme Court Act contains two specific instructions:

- Section 2 stipulates that in cases without a public hearing in all stages of the proceedings the Court can decide not to publish the decision if the anonymity of the person concerned cannot be guaranteed.
- Section 4 prescribes that personal data have to be anonymized in such a way that the transparency of the decision is not lost.<sup>44</sup>

According to the Judicial Organisation Act decisions of other courts are to be published if their significance exceeds the individual case.

Court judgments in Austrian are published in the Legal Information System of the Republic of Austria (“RIS”), available at the following link: <http://www.ris.bka.gv.at/>.

The case-law search criteria available on the Legal Information System of the Republic of Austria (“RIS”) does not provide the possibility to search case decisions by participants’ name.

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<sup>42</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 69

<sup>43</sup> 10th meeting of the joint council on constitutional justice conference on “the anonymity requirement in publishing court decisions”, available at the following link: [http://www.venice.coe.int/webforms/documents/?pdf=CDL-JU\(2011\)010-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-JU(2011)010-e)

<sup>44</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 119

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BUNDESKANZLERAMT  RECHTSINFORMATIONSSYSTEM

Bundesrecht Landesrecht Gemeinderecht EU-Recht **[Judikatur]** Erlässe SV-Recht G

**Justiz (OGH, OLG, LG, BG, OPMS, AUSL)**

|                        |   |
|------------------------|---|
| Dokumenttyp            | <input checked="" type="checkbox"/> Rechtssätze (RS) <input type="checkbox"/> Entscheidungstexte (TE) |
| Suchworte              | <input type="text"/>  |
| Entscheidungsdatum von | <input type="text" value="TT.MM.JJJJ"/> <input type="text" value="16.08.2017"/> bis                   |
| Neu im RIS seit        | <input type="text"/>  |
| Änderungen seit        | <input type="text"/>  |
| Gericht                | <input type="text"/>  |
| Geschäftszahl          | <input type="text"/>  |
| Fundstelle             | <input type="text"/>  |
| Rechtssatznummer       | <input type="text"/>  |
| Rechtliche Beurteilung | <input type="text"/>  |
| Norm                   | <input type="text"/>  |

Beispiel: ABGB §879 Abs3

## 24. PORTUGAL

In Portugal the right to information on the justice system is a fundamental right of citizens expressly provided for in Portugal's Constitution and implemented by Law No 34/2004 of 29 July 2004, establishing the rules for access to justice and to the courts.

The Ministry manages a number of databases of legal documents that can be found at <http://www.dgsi.pt/>. They are also published in the Official Gazette and available at <http://www.dre.pt/>.

The databases available at <http://www.dgsi.pt/> contain case-law of the following courts/entities:

- Supreme Court of Justice
- Courts of Appeal
- Constitutional Court
- Supreme Administrative Court
- Central Administrative Courts (North and South)
- Court of Conflicts of Jurisdiction
- Opinions of the Public Prosecutor's Office
- Justices of the Peace

This database does not provide search criteria, as shown in the following image. Case-law is sorted by courts of law and by years.



### **Bases de dados jurídicas**

[Acórdãos do Supremo Tribunal de Justiça \(57354 doc.\)](#)  
[Reclamações para o Presidente do Supremo Tribunal de Justiça](#)  
[Acórdãos do Tribunal Constitucional \(até 1998\) \(6107 doc.\)](#)  
[Link para o Tribunal Constitucional \(Acórdãos\)](#)  
[Link para o Tribunal Constitucional \(Decisões Sumárias\)](#)  
[Acórdãos do Supremo Tribunal Administrativo \(76834 doc.\)](#)  
[Acórdãos do Tribunal dos Conflitos \(724 doc.\)](#)  
[Pareceres da Procuradoria Geral da República \(9309 doc.\)](#)  
[Acórdãos do Tribunal da Relação do Porto \(50397 doc.\)](#)  
[Acórdãos do Tribunal da Relação de Lisboa \(45420 doc.\)](#)  
[Acórdãos do Tribunal da Relação de Coimbra \(10783 doc.\)](#)  
[Acórdãos do Tribunal da Relação de Guimarães \(6220 doc.\)](#)  
[Acórdãos do Tribunal da Relação de Évora \(8250 doc.\)](#)  
[Acórdãos do Tribunal Central Administrativo Sul \(14602 doc.\)](#)  
[Acórdãos do Tribunal Central Administrativo Norte \(9109 doc.\)](#)  
[Ministério Público - Tribunal Central Administrativo Sul \(3974 doc.\)\(325 doc.\)](#)  
[Registo de Cláusulas Contratuais Abusivas julgadas pelos tribunais \(315 doc.\)](#)  
[Portal para o Direito da União Europeia](#)  
**JUSTIÇA DE PROXIMIDADE**  
[Jurisprudência dos Julgados de Paz \(5476 doc.\)](#)

### **Bases de dados documentais**

[Biblioteca do Supremo Tribunal de Justiça \(10107 doc.\)](#)  
[Biblioteca do Supremo Tribunal Administrativo \(21384 doc.\)](#)  
[Biblioteca da Procuradoria Geral da República \(262922 doc.\)](#)  
[Biblioteca do Conselho Superior da Magistratura \(2202 doc.\)](#)  
[Biblioteca do Tribunal da Relação do Porto \(2465 doc.\)](#)  
[Biblioteca do Tribunal da Relação de Lisboa \(7311 doc.\)](#)  
[Biblioteca do Tribunal da Relação de Coimbra \(1352 doc.\)](#)

## Acórdãos do Tribunal dos Conflitos

[Pesquisa Livre](#) | [por Termos](#) | [por Campo](#)  
[Anterior](#) | [Seguinte](#) | [Principal](#)

| SESSÃO     | PROCESSO               | RELATOR                  | DESCRIPTOR   |
|------------|------------------------|--------------------------|--|
| 06/20/2017 | <a href="#">025/16</a> | SALRETA PEREIRA          |  |
| 06/20/2017 | <a href="#">040/16</a> | COSTA REIS               |  |
| 06/01/2017 | <a href="#">05/17</a>  | MANSO RAINHO             | CONFLITO NEGATIVO DE JURISDIÇÃO  |
| 06/01/2017 | <a href="#">02/16</a>  | FRANCISCO CAETANO        | CONFLITO NEGATIVO DE JURISDIÇÃO  |
| 06/01/2017 | <a href="#">08/17</a>  | SÃO PEDRO                | PRÉ - CONFLITO   |
| 05/24/2017 | <a href="#">01/17</a>  | LEONES DANTAS            | CONFLITO DE JURISDIÇÃO   |
| 05/24/2017 | <a href="#">033/16</a> | ALEXANDRE REIS           |  |
| 05/24/2017 | <a href="#">030/16</a> | NUNO GOMES DA SILVA      |  |
| 05/04/2017 | <a href="#">035/16</a> | COSTA REIS               | RESPONSABILIDADE CIVIL EXTRA CONTRATUAL                                |
| 04/27/2017 | <a href="#">038/16</a> | MARIA DO CÉU NEVES       |  |
| 04/27/2017 | <a href="#">037/16</a> | FONSECA DA PAZ           | PRÉ-CONFLITO   |
| 04/05/2017 | <a href="#">024/16</a> | ROSA TCHING              |  |
| 03/30/2017 | <a href="#">022/16</a> | ISABEL SÃO MARCOS        | CONFLITO NEGATIVO DE JURISDIÇÃO  |
| 03/30/2017 | <a href="#">031/16</a> | MANUEL AUGUSTO DE MATOS  | CONFLITO NEGATIVO DE JURISDIÇÃO  |
| 03/16/2017 | <a href="#">026/16</a> | MARIA DO CÉU NEVES       | CONFLITO NEGATIVO DE JURISDIÇÃO  |
| 03/08/2017 | <a href="#">034/16</a> | FERREIRA PINTO           |  |
| 03/08/2017 | <a href="#">012/15</a> | MADEIRA DOS SANTOS       | DIREITO A SEGURO DE SAUDE. RELACÃO LABORAL. INSTITUTO DE HABITAÇÃO E F |
| 03/08/2017 | <a href="#">032/16</a> | MADEIRA DOS SANTOS       | ACÇÃO DE INDEMNIZAÇÃO CONTRA O ESTADO.                                 |
| 01/31/2017 | <a href="#">023/16</a> | FERNANDES DO VALE        |  |
| 01/26/2017 | <a href="#">052/14</a> | CARLOS CARVALHO          | ACÇÃO DE REIVINDICAÇÃO. CONFLITO DE JURISDIÇÃO. RESPONSABILIDADE CIVIL |
| 01/25/2017 | <a href="#">028/16</a> | LEONES DANTAS            | UNIÃO DE FACTO   |
| 01/19/2017 | <a href="#">010/16</a> | CARLOS CARVALHO          | CONFLITO DE JURISDIÇÃO   |
| 01/19/2017 | <a href="#">014/16</a> | NUNO GOMES DA SILVA      |  |
| 01/11/2017 | <a href="#">020/16</a> | SÃO PEDRO                | CONFLITO DE JURISDIÇÃO.  |
| 01/11/2017 | <a href="#">016/16</a> | SÃO PEDRO                | ACIDENTE DE TRABALHO.  |
| 01/11/2017 | <a href="#">020/14</a> | ALBERTO AUGUSTO OLIVEIRA | CONFLITO DE JURISDIÇÃO   |
| 01/11/2017 | <a href="#">027/16</a> | ANA PAULA BOULAROT       | CONFLITO DE JURISDIÇÃO.  |
| 01/11/2017 | <a href="#">037/15</a> | JOSÉ VELOSO              | CONFLITO DE JURISDIÇÃO. ACIDENTE RODOVIÁRIO. CONCESSIONÁRIA.           |

In Portugal there is no legal or policy framework regarding the publication of court decisions. Only selected case-law is published. All decisions are anonymized if published.

Anonymization is done in various ways: by deleting personal data or by replacing them with initials or labels.

The following image presents how a judgment of the Court of Appeal of Lisbon is depersonalized:

They agreed at the 6th Civil Court of the Lisbon Court of Appeal.

#### **I - Report**

##### **Author / Applicant:**

C ... , residing at Rua ....

##### **Ré / defendant:**

D ... , domiciled ....

##### **Requests:**

- a) condemnation of Ré in the payment to the A of the guaranteed capital in the amount of 250,000.00 €, plus accrued interest and due from date to full and effective payment;  
 B) declaration of nullity of the segment of the clause invoked by Ré, limiting the law of A. and on which it is based to invoke breach of contract, with the consequent conviction under paragraph a).

##### **Grounds:**

A. has subscribed and adhered to a life insurance group contract and intends to be given the capital to which he is entitled. Following the diagnosis of an acinar adenocarcinoma of the prostate and subsequent radical surgery of this organ, whose sequels resulted in the attribution by a medical committee of an IPP of 77.47%, later reassessed by another entity in 63.55%, exceeding the minimum contractually Of 60%.

Ré, for the purposes of assessing the present appeal, excepted the limitation period for more than five years between the knowledge of the incapacity on the part of A., on a date necessarily prior to 04/26/2011, and the filing of this Action on 09/12/2016; And argued in particular that it would only carry out an assessment of the clinical situation of A through its services after 180 days, *Only then being possible to analyze its possible framework in the " Complementary Total and Permanent Disability "*.

##### **Judgment: It**

upheld the objection of limitation and consequently acquitted Re of the claims.

## 25. CYPRUS

In Cyprus there is no legal framework on the publication of court decisions.

Important decisions of the Supreme Court and a small number of decision from district courts are published on the website of the Supreme Court. There are no search criteria available.

The Supreme Court website is available at the following link:  
[http://www.supremecourt.gov.cy/judicial/sc.nsf/DMLresentJud\\_gr/DMLresentJud\\_gr?OpenDocument](http://www.supremecourt.gov.cy/judicial/sc.nsf/DMLresentJud_gr/DMLresentJud_gr?OpenDocument)

In Cyprus court decisions are not anonymized by default, but only if minors or very sensitive data are involved. The data protection framework is generally not held applicable, although the matter has never been addressed by the supreme court of the data protection authority.<sup>45</sup>

Free access to all (including for re-use) is also provided on the website Cylaw.org, run by the Cyprus Legal Information Institute, on behalf of the Cyprus Bar Association.

A number of private websites offer access to case-law (Cylaw.org, available at the following link:  
<http://cylaw.org/index.html>).

<sup>45</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 98

## 26. CZECH REPUBLIC

Decisions of the Supreme Court of Czech Republic are published in its database, which can be searched with a variety of parameters. The database is available at the following link: [http://nsoud.cz/JudikaturaNS\\_new/ns\\_web.nsf/WebSpreadSearch](http://nsoud.cz/JudikaturaNS_new/ns_web.nsf/WebSpreadSearch).

Decisions of district, regional, and appellate courts are barely published.

The Constitutional Court has its own database, with a wide variety of search options (<http://nalus.usoud.cz/Search/Search.aspx>).

The High Administrative Court publishes all of its decisions as well as a substantial collection of the lower administrative courts on its website (<http://nssoud.cz/Uvod/art/1>).

The Office Code of the Supreme Court of Czech Republic provides the following rules related to personal data protection;

- 1) Information identifying natural persons, as well as confidential information like trade secrets are anonymized before decisions are published;
- 2) Legal persons and people professionally involved with the case are not anonymized.

While in most cases names are replaced by their initials, specific rules apply to criminal proceedings regarding minors, where name and surname are to be replaced by an alias.

Different rules apply to the decisions of the Constitutional Court. These decisions are anonymized on request of the data subject or on the initiative of the judge.<sup>46</sup>

The search engine available on the Supreme Court of Czech Republic database provide advance search criteria. There is no possibility to search case law using the name of participants.

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<sup>46</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 66-67

Rozšířené vyhledávání

Spisová (senátní) zn.    /

ECLI

Datum zveřejnění od   do

Datum rozhodnutí od   do

Hesla  civilní  trestní  logické  AND  OR

## 27. SWEDEN

In Sweden, with regard to court decisions, privacy rights are given precedence over issues of transparency and the public’s right to know. The collection and use of personal data is strictly regulated by the Swedish Personal Data Act (PDA). This implements Directive 95/46/EC on data protection (Data Protection Directive). In addition to the PDA, supplementary regulations are found in the Personal Data Ordinance and the statute book (DIFS) of the Data Protection Authority (DPA).

Anonymization of published decisions is established in Regulation on Legal Information. It stipulates that personal data have to be anonymized except when it regards dead people, data that are necessary to understand the decision, and names of judges, court staff, court experts and those used for citing legal literature or foreign decisions. There is an explicit prohibition on the use of personal identification numbers anywhere in the legal information system.<sup>47</sup>

The legal basis for the publication of court decisions in Sweden can be found in Regulation on legal information, which mandates that the legal information system shall contain information about significant judgments from the Supreme Court, the High Administrative Court, the Courts of Appeal, the Administrative Courts, the Land and Environmental Courts, the Patent and Market court, the Patent and Market Court of Appeal, the Migration Court and the Labor Court. The courts themselves decide which decisions are considered to be significant.

Court decisions can be found in the “Lagrummet” database (<https://lagrummet.se/English>), maintained by the Swedish national court administration. It cannot be searched full-text, and contains just a limited number of decisions. The number of search criteria is quite limited as is the number of decisions, also from the highest jurisdictions.

<sup>47</sup> <http://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>, page 137

Most decisions do not contain the text of the decision.

The Supreme Court publishes a small collection of important decisions on its own website. There are no search options.

The high administrative court publishes the decisions in full on its own website, also without search options.

## 28. KOSOVO

In Kosovo, anonymization of published decisions in most courts is mandated by law. According to the Administrative instruction on anonymization and publication of final court judgments<sup>48</sup>, approved by Kosovo Judicial Council the clear rules have been set related to anonymization of court decisions which results in the removal of all personal data in criminal, civil, administrative and commercial final judgments.

Pursuant to Article 2 of the Law no. 05/L-032 amending the Law no. 03/L-199 on Courts, and Administrative Instruction of the Kosovo Judicial Council No. 02/2016 on Redaction and Publication of Final Decisions (hereinafter Instruction), this document is aimed at setting standard procedures to be implemented by the relevant court personnel in publishing final decisions of the courts.

The Instruction provides that responsible officers for the redaction of final decisions are professional associates, while for their publication, the responsible officers are public information officers. In case a court does not have a public information officer, then IT officers should be the responsible ones.

The Instruction does not provide any procedures for identifying which of the decisions are final. Similarly, Article 6 provides that the publication deadline is 60 days, but not internal timelines for departments/responsible officers.

In consultation with responsible court officers, the following practical steps are set out to enable publication of decisions:

### 1. Decision's identification procedure:

- a. The Case Management Office (CMO), with its recording clerks, identifies finality of cases/ decisions.

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<sup>48</sup>Administrative instruction on anonymization and publication of final court judgments in Kosovo, available at: [file:///C:/Users/User/Downloads/Administrative%20Instruction%2002-2016%20on%20Anonymization%20Publication%20of%20Final%20Judgments%20\(2\).pdf](file:///C:/Users/User/Downloads/Administrative%20Instruction%2002-2016%20on%20Anonymization%20Publication%20of%20Final%20Judgments%20(2).pdf)

- b. Upon identification of decisions, the responsible recording clerk scans the original decision (signed and stamped) that have become final within a month, and sends them to the responsible redaction professional associate, not later than the fifth day of the month. This can be done also by the court interns, assigned by the court administrator or the CMO chief, to help in the process.
- c. In case a court does not have a scanner, or the scanner is not operational, the relevant clerk photocopies the decisions and sends them in paper to the responsible professional associate for redaction, not later than the fifth day of the month for the previous month.

## **2. Redaction of decisions for the public:**

- a. Upon receipt of scanned decision for redaction and publication, the responsible professional associate performs redaction as per the Instruction.
- b. When decisions for redaction are scanned, the redaction officer edits the scanned document with a relevant software application, thereby ensuring that personal data are omitted as per instruction.
- c. When decisions for redaction are only photocopied, the redaction is made with a white corrector in sections that must be redacted.
- d. Upon redaction of decisions received by the CMO, the redaction officer submits them to the information office for further publication, not later than 15 days from the receipt by the CMO.

## **3. Publication of Decisions:**

- a. Upon receipt of redacted decisions, information offices ensure their publication in the website <http://www.gjyqesori-rks.org/>, website of the Basic Court or relevant branches.
- b. Publication of decisions must be made not later than 15 days from the receipt from the professional associate for redaction.
- c. In line with the website template, the column of the DATE must contain the date of issuance of decision, not the publication date.

## **4. Process monitoring:**

- a. Upon publication of decisions, the information officer sends an informing email related to the number of decisions published in the website of the relevant court. The information email must include:
  - i. President of the Basic Court;
  - ii. Relevant branch supervisor;
  - iii. Basic Court administrator;
  - iv. Assistant Administrator of the relevant branch.
  - v. Head of CMO, and
  - vi. Responsible person for redaction;
- b. Although according to the Instruction, the President of the Court and others permanently monitor court progress in terms of publication, each quarter, information officers prepare formal and detailed reports on publication of decisions in such a period. Such reports must be submitted to the President and others as per item 4. a. of the document, not later than the fifth day of the following month of the reporting quarter.
- c. Main information such report must contain are;
  - i. Total number of decisions issued by a court in a reporting period;
  - ii. Division of all decisions by areas of judicial review;
  - iii. Division of decisions by judges making a decision, and;
  - iv. Number of decisions published during the reporting quarter.

According to the Administrative instruction on anonymization and publication of final court judgments<sup>49</sup>, approved by Kosovo Judicial Council the following rules have been set related to anonymization of court decisions:

1. Personal data in criminal, civil, administrative and commercial final judgments that shall be anonymized are as follows:
  - Party's names and surnames, addresses, date and place of birth, ID or passport number, driver's license or vehicle registration of plates, or any other personal document number.
  - The authorized of the party such as legal representatives of parties, such as lawyers or law practitioners, notaries excluding state lawyer
  - Bankruptcy trustees and debtors.
  - Execution creditors and debtors.
  - Personal number or fiscal number.

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<sup>49</sup>Administrative instruction on anonymization and publication of final court judgments in Kosovo, available at: [file:///C:/Users/User/Downloads/Administrative%20Instruction%2002-2016%20on%20Anonymization%20Publication%20of%20Final%20Judgments%20\(2\).pdf](file:///C:/Users/User/Downloads/Administrative%20Instruction%2002-2016%20on%20Anonymization%20Publication%20of%20Final%20Judgments%20(2).pdf)

- Email or web address or other social media address/site.
  - Decedent, testator and his/her heirs, witnesses, relatives and others having a relationship with decedent.
  - Court experts and interpreters, and court witnesses, including but not limited to someone associated with the party (family, friend, etc.), social workers, psychologists, teachers, doctors, etc.
  - Municipality (except the town or municipality is party to the case)
  - The victim, convicted, witnesses, and other persons accused but acquitted or against whom the indictment is rejected; and
  - Forensic experts and investigative experts as well.
2. The following data shall not be anonymized according to the Administrative instruction on anonymization and publication of final court judgments:
- Name of the court and names of judges;
  - Prosecutors;
  - Members of the Judicial panel, legal secretaries, professional associates, translators, etc;
  - State authorities and their representatives;
  - Number and date of the judgment.
  - Public enterprises
  - Name and number of business registration owned by the legal person.

The Kosovo Judicial Council webpage, where all court decisions are published, does not provide the possibility to search case law using the name of participants, as shown in the following image:

Supreme Court

## Decisions list

From:  To:  Case number:  Judge:

Keyword:   All courts

| Case number        | Date       | Judge      |                          |
|--------------------|------------|------------|--------------------------|
| PML-Pml.nr.75/2016 | 30/03/2016 | Avdi Dinaj | <a href="#">Download</a> |
| PML-Pml.nr.78/2016 | 07/04/2016 | Avdi Dinaj | <a href="#">Download</a> |
| PML-Pml.nr.87/2016 | 07/04/2016 | Avdi Dinaj | <a href="#">Download</a> |
| PML-PML.nr.93/2016 | 28/04/2016 | Avdi Dinaj | <a href="#">Download</a> |
| PML-PML.nr.97/2016 | 28/04/2016 | Avdi Dinaj | <a href="#">Download</a> |

1 2 3 4 5 6 7 8 9 10 >>

## 29. KENYA

The courts under the Constitution operate at two levels, namely; Superior and Subordinate courts.

The Court system has been decentralized with the Supreme Court and the Court of Appeal having their own Presidents and the High Court having a Principal Judge as heads of the respective institutions.

The subordinate courts consist of the Magistrates’ Courts, Kadhis Courts, Court Martial, and any other court or local Tribunal established by an Act of Parliament.<sup>50</sup>

All courts from Kenya publish only a selection of court decisions / judgments on the judiciary portal, available at the following link: <http://www.judiciary.go.ke/portal/page/court-decisions>

The portal does not provide search engine, all decisions are sorted by years, as reflected in the following image. Court decisions are not anonymized, unless so prescribed by the law (in specific situations, as specified bellow)

**REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA AT NAIROBI**

**APPLICATION NO. 10 OF 2016**

*(Coram: Wanjala and Njoki, SCJJ)*

**COMMUNITY UPLIFT MINISTRIES INC.....APPLICANT**

**VERSUS**

**1. NATHAN CHESANG MOSON.....**

**2. JOSEPHINE CHELANGAT.....**

**3. SERVANTHOOD & LIGHT DEVELOPMENT**

**FOUNDATION.....**

**RESPONDENTS**

*(Being an Application for stay of execution of the part of the Judgment and Consequential Orders of the Court of Appeal of Kenya (Musinga, Gatembu, and Murgor JJA) delivered at Kisumu on 27<sup>th</sup> May, 2016)*

<sup>50</sup> <http://www.judiciary.go.ke/portal/page/about-the-judiciary>

**Application No. 7 of 2016.** Wilson Ngatia Karungaru (Suing as the personal representative of the estate of Geoffrey Karungaru Kabua) Vs Mbau Saw Mills & Hon. Attorney General. (Being an application for extension of time to file an application for Review of the Ruling of the Court of Appeal denying leave to appeal to the Supreme Court in Civil Appl. Sup. No. 2 of 2015 (Waki, Nambuye & Kiage JJ.A), delivered on 2nd December, 2015). (Coram: Ibrahim & Lenaola, SCJJ). In the Supreme Court of Kenya, Nairobi. Ruling delivered on March 24, 2017. [ [Download Ruling](#) ]

**Application No. 7A of 2016.** Edward Akong'o Oyugi Vs Zacharia Okoth Obado, IEBC & Others. (Being an application for extension of time to file an application for review and setting aside of part of the Judgment of the Supreme Court in Petition No. 4 of 2014 delivered on 17th July, 2014 at Nairobi (Mutunga C.J&P, Rawal DC.J & V.P, Tunoi, Ibrahim, Ojwang, Wanjala & Njoki, SCJJ). (Coram: Ibrahim & Lenaola, SCJJ). In the Supreme Court of Kenya, Nairobi. Ruling delivered on March 24, 2017. [ [Download Ruling](#) ]

**Application No. 19 of 2016.** Mutanga Tea & Coffee Limited Vs Shikara Limited & Municipal Council of Mombasa. (Now County Government of Mombasa). (Being an application for extension of time to file an application for review of the Court of Appeal decision denying leave to appeal to the Supreme Court in Civil Appeal No. 54 of 2014 (Makhandia, Ouko, M'Inoti, JJ.A), delivered on 17th June, 2016). (Coram: Njoki & Lenaola, SCJJ). In the Supreme Court of Kenya, Nairobi, ruling delivered on March 24, 2017. [ [Download Ruling](#) ]

**Civil Application No. 8 of 2015.** Enock Irungu Vs Benson Irungu Mbaria, Muchangi Nduati Ngingo , (for and on behalf of Embakasi Welfare Society). (An application to strike out the notice of appeal in the intended appeal against the Judgement of the Court of Appeal delivered on 25th March 2015, under Rules 37 of the Supreme Court Rules, 2012). (Coram: Ojwang & Ndungu, SCJJ). In the Supreme Court of Kenya, Nairobi, ruling delivered on March 23, 2017. [ [Download Ruling](#) ]

**Criminal Application No. 34 of 2014.** Director of Public Prosecutions Vs Ahmed Mohammed Omar & Others. (Coram: Ojwang & Njoki, SCJJ). In the Supreme Court of Kenya, Nairobi, ruling delivered on March 23, 2017. [ [Download Ruling](#) ]

**Misc. Application No. 26 of 2015.** Stephen Wanyee Roki Vs K-Rep Bank Limited & Others. (An application for extension of time to file a notice of appeal under Sections 15 & 16 of the Supreme Court Act, 2011. (Coram: Ojwang & Ndungu, SCJJ). In the Supreme Court of Kenya, Nairobi, ruling delivered on March 23, 2017. [ [Download Ruling](#) ]

**Petition No. 14 of 2016.** In The Matter of an Application for Stay of Proceedings in Criminal Case No. 122 of 2013 before the Principal Magistrate's Court Butere – and – In The Matter of Criminal Appeal No 14 of 2016 Pending before This Honourable Court between Wycliffe Oparanya Ambetsa Vs Director of Public Prosecutions. (Coram: Ojwang & Lenaola SCJJ). In the Supreme Court of Kenya, Nairobi. Ruling delivered on March 2, 2017. [ [Download Ruling](#) ]

The National Council for Law Reporting in Kenya adopted Guidelines on the protection of the privacy and confidentiality of persons in judicial opinion<sup>51</sup>.

According to these Guidelines it is the responsibility of the National Council for Law Reporting to redact personal information from decisions in the following circumstances:

- a) In compliance with an order banning publication of specific information received together with a specific document;
- b) In response to a user's request for anonymization;
- c) In compliance with statutory provisions on publication;
- d) When inventorying sensitive cases;
- e) When a document contains personal identifiers.

<sup>51</sup> [https://www.africanlii.org/sites/default/files/Monica\\_Achode\\_3.%20KLR%20Anonymization%20Guidelines.pdf](https://www.africanlii.org/sites/default/files/Monica_Achode_3.%20KLR%20Anonymization%20Guidelines.pdf)

Particular care is given in cases of sexual offences and family law (adoption of infants/children, divorce, custody, maintenance and succession cases). The names of litigants are anonymized in these cases.

Personal data identifiers according to the aforementioned Guidelines include the following:

1. contact information: address (division, sub-division, village street name and number) postal code, phone, fax, e-mail address;
2. unique personal identifiers:
  - a. national identity card numbers;
  - b. passport number;
  - c. passwords and access codes;
  - d. any serial/registration/admission/membership numbers, etc;
  - e. medical records;
  - f. bank accounts or credit card numbers and accounts.
3. personal possession identifiers:
  - a. motor vehicle registration number;
  - b. item serial numbers;
  - c. license numbers.

The name of litigants are not considered personal data identifiers according to these Guidelines and are anonymized only in particular cases as mentioned above.

### **30. UNITED STATES OF AMERICA**

The United States has parallel court systems, one at the federal level, and another at the state level. Both systems are divided into trial courts and appellate courts. Generally, trial courts determine the relevant facts of a dispute and apply law to these facts, while appellate courts review trial court decisions to ensure the law was applied correctly.

In the US legal system, judicial decisions create legal precedents that guide judges in deciding similar future cases. The decisions of the highest court in a jurisdiction create mandatory precedent that must be followed by lower courts in that jurisdiction. For example, the US Supreme Court creates binding precedent that all other federal courts must follow. Similarly, intermediate appellate courts (such as the federal circuit courts of appeal) create mandatory precedent for the courts below them.

In the Federal Courts System, the **Freedom of Information Act (FOIA)** is the relevant legislative framework which provides citizens with access to court records and other records of government agencies.

There are NGO's such as Judicial Watch<sup>52</sup> that provide detailed information about what citizen's rights are and even help arrange for gaining access to information and cases from the courts.

## I. Relevant US legislation related to privacy protection and electronic public access to court record

### A. Excerpt from the Federal Rules of Civil Procedure

<https://www.pacer.gov/privacy/ev.html>

#### Rule 5.2. Privacy Protection For Filings Made with the Court

(a) **Redacted filings.** Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:

- (1) the last four digits of the social-security number and taxpayer-identification number;
- (2) the year of the individual's birth;
- (3) the minor's initials; and
- (4) the last four digits of the financial-account number.

(b) **Exemptions from the redaction requirement.** The redaction requirement does not apply to the following:

- (1) a financial-account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
- (2) the record of an administrative or agency proceeding;
- (3) the official record of a state-court proceeding;
- (4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
- (5) a filing covered by Rule 5.2(c) or (d); and
- (6) a pro se filing in an action brought under 28 U.S.C. §§ 2241, 2254, or 2255.

(c) **Limitations on remote access to electronic files; Social security appeals and immigration cases.** Unless the court orders otherwise, in an action for benefits under the Social Security Act, and in an action or proceeding relating to an order of removal, to relief from removal, or to immigration benefits or detention, access to an electronic file is authorized as follows:

(1) the parties and their attorneys may have remote electronic access to any part of the case file, including \_\_\_\_\_ the \_\_\_\_\_ administrative \_\_\_\_\_ record;

(2) any other person may have electronic access to the full record at the courthouse, but may have remote electronic access only to:

- (A) the \_\_\_\_\_ docket \_\_\_\_\_ maintained \_\_\_\_\_ by \_\_\_\_\_ the \_\_\_\_\_ court; \_\_\_\_\_ and
- (B) an opinion, order, judgment, or other disposition of the court, but not any other part of the case file or the administrative record.

(d) **Filings made under seal.** The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a

<sup>52</sup> <http://www.judicialwatch.org/open-records-laws-and-resources/>

redacted version for the public record.

(e) **Protective orders.** For good cause, the court may by order in a case:

- (1) require redaction of additional information; or
- (2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

(f) **Option for additional unredacted filing under seal.** A person making a redacted filing may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record.

(g) **Option for filing a reference list:** A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.

(h) **Waiver of protection of identifiers.** A person waives the protection of Rule 5.2(a) as to the person's own information by filing it without redaction and not under seal.

## **B. Excerpt from the Federal Rules of Criminal Procedure**

<https://www.pacer.gov/privacy/cr.html>

### Rule 49.1. Privacy Protection For Filings Made with the Court

(a) **Redacted Filings.** Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, a financial-account number, or the home address of an individual, a party or nonparty making the filing may include only;

- (1) the last four digits of the social-security number and taxpayer-identification number;
- (2) the year of the individual's birth;
- (3) the minor's initials;
- (4) the last four digits of the financial-account number; and
- (5) the city and state of the home address.

(b) **Exemptions from the Redaction Requirement.** The redaction requirement does not apply to the following:

- (1) a financial-account number or real property address that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
- (2) the record of an administrative or agency proceeding;
- (3) the official record of a state-court proceeding;
- (4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
- (5) a filing covered by Rule 49.1(d);
- (6) a pro se filing in an action brought under 28 U.S.C. §§ 2241, 2254, or 2255;
- (7) a court filing that is related to a criminal matter or investigation and that is prepared before the filing of a criminal charge or is not filed as part of any docketed criminal case;
- (8) an arrest or search warrant; and
- (9) a charging document and an affidavit filed in support of any charging document.

(c) **Immigration Cases.** A filing in an action brought under 28 U.S.C. § 2241 that relates to the petitioner's immigration rights is governed by Federal Rule of Civil Procedure 5.2.

**(d) Filings Made Under Seal.** The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record.

**(e) Protective Orders.** For good cause, the court may by order in a case:

- (1) require redaction of additional information; or
- (2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

### C. Excerpt from the Federal Rules of Bankruptcy Procedure

<https://www.pacer.gov/privacy/bk.html>

#### Rule 9037. Privacy Protection for Filings Made with the Court

**(a) Redacted filings.** Unless the court orders otherwise, in an electronic or paper filing made with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual, other than the debtor, known to be and identified as a minor, or a financial-account number, a party or nonparty making the filing may include only:

- (1) the last four digits of the social-security number and taxpayer-identification number;
- (2) the year of the individual's birth;
- (3) the minor's initials; and
- (4) the last four digits of the financial-account number.

**(b) Exemptions from the redaction requirement.** The redaction requirement does not apply to the following:

- (1) a financial-account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
- (2) the record of an administrative or agency proceeding unless filed with a proof of claim;
- (3) the official record of a state-court proceeding;
- (4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
- (5) a filing covered by subdivision (c) of this rule; and
- (6) a filing that is subject to § 110 of the Code.

**(c) Filings made under seal.** The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the entity that made the filing to file a redacted version for the public record.

**(d) Protective orders.** For cause, the court may by order in a case under the Code:

- (1) require redaction of additional information; or
- (2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

**(e) Option for additional unredacted filing under seal.** An entity making a redacted filing may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record.

**(f) Option for filing a reference list.** A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.

**(g) Waiver of protection of identifiers.** An entity waives the protection of subdivision (a) as to the entity's own information by filing it without redaction and not under seal

**D. The Judicial Conference<sup>53</sup> Policy on Privacy and Public Access to Electronic Case Files<sup>54</sup>, March 2008** addresses civil, criminal, bankruptcy and appellate case files and states important aspects regarding public access to electronic case files and privacy protection.

According to this Policy, **the personal identifiers to be redacted by the parties when filing a case are Social Security numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home address.**

Courts making electronic documents remotely available to the public shall make electronic transcripts of proceedings remotely available to the public if such transcripts are prepared. Prior to being made electronically available from a remote location, however, the transcripts must conform to Fed. R. Civ. P. 5.2(a), Fed. R. Crim. P. 49.1(a), or Fed. R. Bankr. P. 9037(a).

The following documents in a criminal case shall not be included in the public case file and should not be made available to the public at the courthouse or via remote electronic access:

- unexecuted summonses or warrants of any kind (e.g., search warrants, arrest warrants);
- pretrial bail or presentence investigation reports;
- statements of reasons in the judgment of conviction;
- juvenile records;
- documents containing identifying information about jurors or potential jurors;
- financial affidavits filed in seeking representation pursuant to the Criminal Justice Act;
- ex parte requests for authorization of investigative, expert or other services pursuant to the Criminal Justice Act; and
- sealed documents (e.g., motions for downward departure for substantial assistance, plea agreements indicating cooperation or victim statements).

Once a prepared transcript is delivered to the clerk's office the attorneys in the case or the party is responsible for reviewing it for the personal data identifiers required by the federal rules to be redacted, and providing the court reporter or transcriber with a statement of the redactions to be made to comply with the rules. The attorney or the party must review the following portions of the transcript:

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<sup>53</sup> The **Judicial Conference of the United States**, created by the United States Congress in 1922 has the principal objective of framing policy guidelines for administration of judicial courts in the United States. The Conference is headed by the Chief Justice of the United States and consists of the Chief Justice, the chief judge of each court of appeals federal regional circuit, a district court judge from various federal judicial districts, and the chief judge of the United States Court of International Trade

<sup>54</sup> Privacy Policy for Electronic Case Files, available at: <http://www.uscourts.gov/rules-policies/judiciary-policies/privacy-policy-electronic-case-files>

1. opening and closing statements made on the party's behalf;
2. statements of the party;
3. the testimony of any witnesses called by the party;
4. sentencing proceedings; and
5. any other portion of the transcript as ordered by the court.

Within seven calendar days of the delivery by the court reporter or transcriber of the official transcript to the clerk's office, each attorney must inform the court, by filing a notice of redaction with the clerk, of his or her intent to direct the redaction of personal data identifiers from the electronic transcript of the court proceeding. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers from the transcript is not necessary.

A party is to submit to the court reporter or transcriber, within 21 calendar days of the transcript's delivery to the clerk, or longer if a court so orders, a statement indicating where the personal data identifiers to be redacted appear in the transcript. The court reporter or transcriber must redact the identifiers as directed by the party.

These procedures are limited to the redaction of the specific personal data identifiers listed in the rules. During the 21-day period, or longer if the court so orders, an attorney may move the court for additional redactions to the transcript. The transcript shall not be made available on the internet until the court has ruled upon any such motion.

The court reporter or transcriber must, within 31 calendar days of the delivery of the transcript to the clerk of court, or longer if the court so orders, perform the requested redactions, and file a redacted version of the transcript with the clerk of court. The original unredacted electronic transcript should be retained by the clerk of court.

**E. The Guidance for Implementation of the Judicial Conference Policy on Privacy and Public Access to Electronic Criminal Case Files**<sup>55</sup> (hereinafter "The Guidance") was adopted by the Judicial Conference in order to address issues related to public access to electronic criminal case files and privacy protection for criminal case files.

The Guidance was adopted following a Report issued by the Federal Judicial Center, that is the research and education agency of the judicial branch of the U.S. government.<sup>56</sup> The study showed that there may be more advantages to remote public access to electronic criminal case documents than disadvantages or potential harm and that the majority of federal judges in the study favor access.<sup>57</sup>

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<sup>55</sup> [file:///C:/Users/User/Desktop/USA\\_publicare%20hotariri%20si%20depersonalizare/Guidelines%20for%20implementation%20of%20the%20Judicial%20Conference%20Policy.pdf](file:///C:/Users/User/Desktop/USA_publicare%20hotariri%20si%20depersonalizare/Guidelines%20for%20implementation%20of%20the%20Judicial%20Conference%20Policy.pdf)

<sup>56</sup> The Federal Judicial Center conducts research and issues reports on judiciary activities including case management and court administration.

<sup>57</sup> <https://www.fjc.gov/content/remoted-public-access-electronic-criminal-case-records-report-pilot-project-eleven-federal>

The Guidance treats criminal case file documents in much the same way civil and bankruptcy case file documents are treated. The case parties, when filing court documents, have the obligation to partially redact specific personal identifying information from documents before they are filed.

Parties are requested to remove any sensitive information in any document filed with the court. Any personal information not otherwise protected and removed by the parties is made available over the Internet via “WebPACER”<sup>58</sup>. The Guidance states that the following personal data identifiers must be partially redacted from the document whether it is filed traditionally or electronically:

- Social Security numbers to the last four digits;
- financial account numbers to the last four digits;
- names of minor children to the initials;
- dates of birth to the year;
- and home addresses to the city and state.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above **may file an un-redacted document under seal**. This document shall be retained by the court as part of the record. The court may, however, also require the party to file a redacted copy for the public file. Until the court has ruled on any motion to seal, no document that is the subject of a motion to seal, nor the motion itself or any response thereto, will be available electronically or in paper form. Usually, parties request a motion to seal when filing a document that contains any of the following information:

- any personal identifying number, such as driver’s license number;
- medical records, treatment and diagnosis;
- employment history;
- individual financial information;
- proprietary or trade secret information;
- information regarding an individual’s cooperation with the government;
- information regarding the victim of any criminal activity;
- national security information; and
- sensitive security information

Courts also maintain the discretion to seal any document or case file by their own consideration.

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<sup>58</sup> <https://www.pacer.gov/>

## II. Analysis of relevant practices related to privacy protection and electronic public access to court record at the Supreme Court of Justice, Appellate Courts and District courts

### I. Supreme Court of Justice

The US Supreme Court's website (<https://www.supremecourt.gov>) provides access to opinions, orders, docket, Court calendars, transcripts, schedules, rules and other general information. Opinions are typically accessible on the website within five minutes of their release from the Bench.

Orders are published without excluding the name/surname of the parties:  
**(ORDER LIST: 582 U.S.)**

**MONDAY, JULY 17, 2017**

#### **REHEARINGS DENIED**

|         |  |
|---------|--|
| 15-1139 | MERRILL, ROBERT V. MERRILL, DIANE                    |
| 16-1069 | SHIPP, D. TROY V. ESTATE OF CHRISTIAN KING, ET AL.   |
| 16-1122 | BELL, EDWIN E., ET UX. V. DYCK-O'NEAL, INC.          |
| 16-1184 | ARUNACHALAM, LAKSHMI V. USDC DE                      |
| 16-1226 | HUBBARD, MYRON V. MO DEPT. OF MENTAL HEALTH          |
| 16-7576 | ZAGORSKI, EDMUND V. TENNESSEE                        |
| 16-7908 | AYER, DANIEL E. V. ZENK, WARDEN                      |
| 16-7929 | IN RE RALPH W. ROGERS                                |
| 16-7941 | LINDSAY, THEODUS V. CASTELLOE, TOMMY                 |
| 16-7989 | BROCATTO, CARLOS R. V. FRAUENHEIM, WARDEN            |
| 16-7998 | MORGAN, DENESHIA J. V. UNIVERSITY OF ARKANSAS        |
| 16-8036 | ABDULHADI, ILYAS V. SMITH, SUPT., HOUTZDALE, ET AL.  |
| 16-8080 | BYNUM, TRAVIS K. V. FL GAS TRANSMISSION CO.          |
| 16-8099 | BRINSON, RONALD A. V. DOZIER, COMM'R, GA DOC, ET AL. |

The Supreme Court’s docket system contains information about cases, both pending and decided, that have been filed at the Court. The docket provided here contains complete information regarding the status of cases filed since the beginning of the 2001.

Users can search for the docket in a particular case by using a Supreme Court docket number, a case name, or other words or numbers included on a docket report. The name/surname of the parties is published in the docket list.

Search for:

500+ items found for your search: **012**. This search has been limited to the last 5 years of the docket.

Please refine your search if you need older items.

Page: 1 of 100

[<< First](#) [< Previous](#) [Next >](#) [Last >>](#)

Search Results:

 [Docket for 17A59](#)

Title: Ernest Cadet, Applicant v. Florida Department of Corrections  
United States Court of Appeals for the Eleventh Circuit Application (17A59) to extend the time to file a petition for a writ of certiorari from July 27, 2017 to September 25, 2017, submitted to

 [Docket for 16-9164](#)

Title: Leon Scarlett, Petitioner v. United States  
United States Court of Appeals for the Second Circuit Petition for a writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due June 16, 2017)

 [Docket for 16-9133](#)

Title: Christopher A. Jones, Petitioner v. Dwight Neven, Warden, et al.  
United States Court of Appeals for the Ninth Circuit Petition for a writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due June 14, 2017)

 [Docket for 16-8993](#)

Title: Douglas Wilson, Petitioner v. Susan Jones, Warden, et al.  
United States Court of Appeals for the Tenth Circuit Application (16A688) to extend the time to file a petition for a writ of certiorari from January 23, 2017 to CSP A-7-**12**, P.O. Box 777

 [Docket for 16-8183](#)

Title: Alexandero Santiago-Borrero, Petitioner v. United States  
United States Court of Appeals for the First Circuit Petition for a writ of certiorari and motion for leave to proceed in forma

## II. Appellate courts

### A. United States Court of Appeals for the First Circuit ([www.ca1.uscourts.gov](http://www.ca1.uscourts.gov)):

Excerpt from the “United States Court of Appeals For the First Circuit Rulebook”:

**Rule 12 – Privacy Protections and Public Access** “Filers, whether filing electronically or in paper form, must refrain from including or must redact certain personal data identifiers from all documents filed with the court whenever such redaction is required by Fed. R. App. P. 25(a)(5). The responsibility for redacting these personal 116 identifiers rests solely with counsel and the parties. The clerk will not review any document for compliance with this rule. Filers are advised that it is the experience of this court that failure to comply with redaction requirements is most apt

to occur in attachments, addenda, or appendices, and, thus, special attention should be given to them”.

**Internal Operating Procedure IX. Opinions & Judgments** “C. Electronic Access. The Court’s dockets and opinions are available electronically through the PACER network supported by the Administrative Office for the United States Courts. Details are available in the Clerk’s Office. Opinions are also available on the court’s website at [www.ca1.uscourts.gov](http://www.ca1.uscourts.gov).”<sup>59</sup>

The CA website for the First Circuit provides the following search criteria for court’s opinions: “Case number”, “Short Title”, “Published date”.

The screenshot shows the website for the United States Court of Appeals for the First Circuit. The header features the court's seal and the text "UNITED STATES COURT OF APPEALS for the First Circuit". A navigation bar includes links for "About the Court", "Attorneys & Litigants", "Opinions & Oral Arguments", "Case Information", "Forms & Fees", "Rules & Procedures", and "Crim". The main content area is titled "Opinions" and includes a search bar, a breadcrumb trail "Home » Case Information » Opinions & Oral Arguments", and a "General Search" section. The search section has three input fields: "Case Number begins with" (containing "02"), "Short Title contains", and "Date Published from" to "to". Below these are "Submit Search" and "Clear all fields" buttons. A "Quick links" section offers buttons for "Recently Posted", "Last Week", and "Last Month". A left sidebar contains links for "CM/ECF (Electronic Filing)", "PACER (Viewing Dockets)", "Filing Instructions", "Monitoring Cases of Interest", "Opinions & Oral Arguments" (with a dropdown arrow), "Court Calendar", and "Opinion Search" (highlighted). A "Sign Up for Opinions and Oral Argument Feed" link is also present.

<sup>59</sup> United States Court of Appeals For the First Circuit Rulebook: <http://www.ca1.uscourts.gov/sites/ca1/files/rulebook.pdf>

| <b>Date of Issuance</b> | <b>Click for Opinion</b>     | <b>Click for DocketSheet</b> | <b>Short Title/District</b>                          |
|-------------------------|------------------------------|------------------------------|--|
| 2002/02/08              | <a href="#">99-1790.01A</a>  | <a href="#">02-1085</a>      | US v. Garcia-Torres<br>U.S. District Court of PR     |
| 2002/02/08              | <a href="#">99-1790.01A</a>  | <a href="#">02-1086</a>      | US v. Garcia-Torres<br>U.S. District Court of PR     |
| 2002/02/08              | <a href="#">99-1790.01A</a>  | <a href="#">02-1087</a>      | US v. Ventura-Garcia<br>U.S. District Court of PR    |
| 2002/02/08              | <a href="#">99-1790.01A</a>  | <a href="#">02-1088</a>      | US v. Batiz<br>U.S. District Court of PR             |
| 2002/04/03              | <a href="#">02-1065.01A</a>  | <a href="#">02-1065</a>      | Danaipour v. McLarey<br>U.S. District Court of MA    |
| 2002/04/03              | <a href="#">02-1065.01A</a>  | <a href="#">02-1070</a>      | Danaipour v. McLarey<br>U.S. District Court of MA    |
| 2002/04/08              | <a href="#">01-1737.01A</a>  | <a href="#">02-1095</a>      | Dupont v. Silva<br>U.S. District Court of MA         |
| 2002/04/12              | <a href="#">02-1065A.01A</a> | <a href="#">02-1065</a>      | Danaipour v. McLarey<br>U.S. District Court of MA    |
| 2002/04/12              | <a href="#">02-1065A.01A</a> | <a href="#">02-1070</a>      | Danaipour v. McLarey<br>U.S. District Court of MA    |
| 2002/04/30              | <a href="#">02-1207.01A</a>  | <a href="#">02-1207</a>      | US v. Zenon<br>U.S. District Court of PR             |
| 2002/04/30              | <a href="#">02-1207.01A</a>  | <a href="#">02-1208</a>      | US v. Zenon Encarnacion<br>U.S. District Court of PR |
| 2002/05/17              | <a href="#">01-1196A.01A</a> | <a href="#">02-1580</a>      | U.S. v. Adorno<br>U.S. District Court of MA          |
| 2002/05/30              | <a href="#">02-1583.01A</a>  | <a href="#">02-1583</a>      | US v. Colon-Munoz<br>U.S. District Court of PR       |

## United States Court of Appeals For the First Circuit

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No. 99-1790

UNITED STATES OF AMERICA,  
Appellee,  
v.  
MARCOS MARTÍNEZ-MEDINA,  
Defendant, Appellant.

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No. 99-1999  
No. 01-1318

UNITED STATES OF AMERICA  
Appellee,  
v.  
MANUEL PÉREZ-COLÓN,  
Defendant, Appellant.

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BOUDIN, Chief Judge. This set of appeals grows out of an indictment alleging that the appellants, along with 76 others, were part of a sprawling drug smuggling and distribution network in southwest Puerto Rico between 1994 and 1997. The two-count indictment charged Angela Ayala-Martinez ("Ayala") and Manuel Perez-Colon ("Perez") with conspiracy to possess and distribute multi-kilogram amounts of cocaine, heroin, and marijuana in violation of 21 U.S.C. §§ 841(a)(1) and 846 (1994) and conspiracy to engage in illegal financial transactions involving the drug proceeds in violation of 18 U.S.C. §§ 1956(a)(1) and 1957 (1994). Perez's money laundering charge under 18 U.S.C. § 1957, but not § 1956(a)(1), was later dropped. Appellant Marcos Martinez-Medina ("Martinez") was charged only with participating in the drug conspiracy.

The three appellants were tried along with four other co-defendants: Manuel Garcia-Torres ("Manuel"), his brother Andres Garcia-Torres ("Andres"), Walter Batiz, and Deri Ventura.

## B. United States Court of Appeals for the Third Circuit (<http://www.ca2.uscourts.gov/>):

Excerpts from the "United States Court of Appeals For the Second Circuit Rulebook":

**25.3 Personal Identifiers:** Certain personal identifiers must be excluded or redacted from all documents filed with the court as specified in L.A.R. Misc. 113.12 and Judicial Conference Policy.

**113.12 Public Access:** It is each filer's responsibility to redact information from documents submitted by the filer. Documents containing prohibited personal identifiers must be redacted by the parties so as not to include un-redacted Social Security numbers, financial account numbers, names of minor children, or dates of birth. In criminal cases, home addresses also must be redacted. Information should be provided in shortened form, rather than completely omitted, with Social Security numbers represented as XXX-XX- 1234, financial account numbers reduced to the last four digits, names of minor children represented as initials, dates of birth represented by year, and home addresses listed only by city and state.<sup>60</sup>

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<sup>60</sup> United States Court of Appeals For the Second Circuit Rulebook: [http://www2.ca3.uscourts.gov/legacyfiles/2011\\_LAR\\_Final.pdf](http://www2.ca3.uscourts.gov/legacyfiles/2011_LAR_Final.pdf)

The CA website for the First Circuit provides the following search criteria for court’s opinions: “Date posted”, “Case Title”, “Docket number or party name”, “Key words”.

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with the **exact phrase**

with **at least one** of the words

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|  UNITED STATES COURT OF APPEALS<br>for the <b>Second Circuit</b><br>Chief Judge Robert A. Katzmann |  |
|---|--|
| Search results  |  |
| Documents 1 to 10 of 146  |  |
| <a href="#">Next 10 documents</a>   |  |
| Docket #  | Caption  |
| <a href="#">15-1815-cr</a>  | United States of America v. Ulbricht   |
| <a href="#">15-3525-cv</a>  | Spak v. Phillips   |
| <a href="#">16-815-cv</a>   | Pyskaty v. Wide World of Cars, LLC   |
| <a href="#">16-1296-bk (L)</a> , <a href="#">16-1360-bk</a> , <a href="#">16-1361-bk</a> , <a href="#">16-1363-bk</a> , <a href="#">16-1365-bk</a>                                  | In re: Lehman Bros.  |
| <a href="#">15-3364-cv</a>  | In re ACTOS End-Payor Antitrust Litigation                                   |
| <a href="#">15-288-cv</a>   | Physicians Healthsource, Inc. v. Boehringer Ingelheim Pharmaceuticals, Inc., |
| <a href="#">15-3124-cv</a>  | Trustees of the Upstate New York Engineers Pension Fund v. Ivy Asset         |
| <a href="#">16-1231-cv</a>  | McCullough v. World Wrestling Entertainment                                  |
| <a href="#">14-4208-cr(L)</a>   | United States v. Greenberg   |
| <a href="#">13-4022</a>   | Corporación Mexicana De Mantenimiento Integral, S. De R.L. De C.V. v.        |
| Documents 1 to 10 of 146  |  |
| <a href="#">Next 10 documents</a>   |  |

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*Defendant-appellee.*

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JOHN M. WALKER, JR., *Circuit Judge:*

Plaintiff-appellant Paul Spak appeals a decision of the United States District Court for the District of Connecticut (Jeffrey A. Meyer, J.) granting summary judgment in favor of the defendant-appellee Shane Phillips, an officer with the Plainville Police Department in Plainville, Connecticut. In 2010, Spak was arrested by Phillips and charged under Conn. Gen. Stat. § 53a-155 with destroying evidence related to the alleged discharge of illegal fireworks. The prosecuting attorney subsequently dismissed those charges by entering a *nolle prosequi*. More than three years after the entry of the *nolle*, Spak brought suit against Phillips for malicious prosecution in violation of the Fourth Amendment, under 42 U.S.C. § 1983. The district court

- v -  
DANIEL GREENBERG,

*Defendant-Appellant.*

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Before: STRAUB, LIVINGSTON, and CHIN, *Circuit Judges.*

Defendant-Appellant Daniel Greenberg appeals from a corrected judgment of conviction, entered on November 7, 2014, in the United States District Court for the Eastern District of New York (Spatt, J.). Following a jury trial, Greenberg was convicted of all thirteen counts in the Superseding Indictment, including wire fraud, access device fraud, aggravated identity theft, and money laundering. A summary order issued concurrently with this opinion addresses and rejects most of Greenberg’s claims on appeal. This opinion addresses two of Greenberg’s challenges to his conviction. First, we consider whether the district court erred in denying Greenberg’s motion to

### III. District courts

The main type of record the federal courts create and maintain is a case file, which contains a docket sheet and all documents filed in a case. Case files and court records can be found on PACER.gov.

According to the USA Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure and Federal Rules of Bankruptcy Procedure the court requires the following information to be excluded from the casefiles, both when casefiles are submitted to the court and when court judgements or opinions are made publicly available: individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number.

Decisions are published in serial print publications called “reporters,” and are also published electronically on subscription based websites such Lexis and Westlaw.

Most state and federal trial courts websites contain recent case decision. The amount of time that these cases are kept on the website varies. Since a court decision is considered a court record, both the federal system and the state court system legislate which cases cannot be published or should be anonymized and what information is to be redacted.

For example in Maryland the courts want to take the discretion of choosing which court records are available to the public out of the hands of the clerical staff of the courts, therefore they have developed the Maryland Rules on Access to Public Records.<sup>61</sup>

These rules make it clear that most records (which includes case decisions) are available for public inspection and copying. There are certain narrow exceptions. In Maryland as in most states, any records and case decisions pertaining to juveniles (adoption, child neglect and abuse, juvenile criminal cases) are sealed and not available for public review. In addition, cases pertaining to attorney and judge grievances are not available for public review as well. There are also certain criminal offenses of the misdemeanor type which can be expunged if they are first offense. Closed traffic cases also get removed. The Maryland rules prohibit access to any records and decisions in those cases. An example of this is a drunk driving offense.

Most courts provide open access to all records related to traffic, criminal, and civil case records. Circuit Court criminal and civil case records are also available<sup>62</sup>. The amount of historical data may vary by jurisdiction based on when an automated case management system was deployed and how the system in that jurisdiction has evolved.

Information related to most cases is not anonymized and decisions are not redacted. They routinely carry addresses, names and personal information. However as mentioned above the rules governing the access to court records and the rules governing freedom of information do provide exceptions that are outlined above. In Maryland these are cases pertaining to juveniles, attorney grievances, and expungement and cases which are either wholly not available and carry redacted or anonymized information.

For example juvenile cases will be called State vs. Jerome B. So the first name is included, but the last name only carries the initial of the child.

Most courts do have search engines on their website for cases and records. For example the Maryland website provides searching criteria by litigants' name.<sup>63</sup>

Some courts also have indexes of cases on their website, for example Maryland Court of Appeals<sup>64</sup>

#### **IV. Government database available for public access to court decisions / opinions / judgements**

Public Access to Court Electronic Records - “PACER” database, available at <https://www.pacer.gov/>

Public Access to Court Electronic Records (PACER) is an electronic public access service that allows users to obtain case and docket information online from federal appellate, district, and

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<sup>61</sup> [http://www.courts.state.md.us/access/rules16\\_1001\\_1011\\_wmarkup.pdf](http://www.courts.state.md.us/access/rules16_1001_1011_wmarkup.pdf)

<sup>62</sup> <http://www.courts.state.md.us/casesearch2/faq.html>

<sup>63</sup> <http://casesearch.courts.state.md.us/casesearch//processDisclaimer.js>

<sup>64</sup> <http://www.mdcourts.gov/cgi-bin/indexlist.pl?court=both&year=2017&order=bydate&submit=Submit>

bankruptcy courts, and the “PACER” Case Locator. “PACER” is provided by the Federal Judiciary in keeping with its commitment to providing public access to court information via a centralized service.<sup>65</sup>

As stated on “PACER” platform, some case information is protected. Certain personal identifiers are removed or redacted before the record becomes public, including Social Security number, financial account numbers, the name of a minor, date of birth, and home addresses in a criminal case. In addition, some documents may be unavailable to the general public, including: pre-2003 bankruptcy case documents and criminal case documents older than Nov. 1, 2004.

Access to case information is not free of charge, it costs \$0.10 per page.

“PACER” provides several case-law search criteria, such as by participants’ name, attorney’s name, case number, case title and date ranges.

### **Report annexes:**

1. Power Point presentation developed by IDFI “Access to court decisions in Georgia. Situation analysis”.
2. The Romanian version of the study carried out by Legal Resource Center from Moldova “How does the depersonalization of court judgments take place in other states”, accessible at the following link: <http://crjm.org/en/infografic/>.
3. Report on “The anonymity requirement in publishing court decisions” by Ms. Krisztina Kovács (counsellor, Constitutional Court of Hungary), 10th Meeting of the Joint Council on Constitutional Justice Conference on “The anonymity requirement in publishing court decisions”, Ankara, 1 July 2011.
4. European Conference on Courts and Communication. Workshop I – Data management with regard to judicial activity.

## **V. CONCLUSION**

The Moldova Ministry of Justice the National Center for Protection of Personal Data invoke the provisions of the Law on Personal Data Protection and the *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Strasbourg 1981, No. 108*, signed by Moldova in May 1998, and the *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data* as legal basis for redacting the names of parties from the published court decisions.

It is paramount that a series of working-level meetings be conducted between the SCM, MOJ, National Center for Protection of Data and journalists to discuss and finalize the provisions in the

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<sup>65</sup> <https://www.pacer.gov/>. (last visited on August 18, 2017)

new SCM draft Regulation on Publishing Court Decisions, so that journalists' access to non-redacted court decisions is not excessively censored.

It also paramount that a series of exchanges between Moldovan journalists and journalists from EU countries in which court decisions are fully anonymized, be conducted.

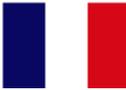
## ANNEX A. ONLINE PUBLICATION OF COURT DECISIONS

### INTERNATIONAL EXPERIENCE

*International practices on anonymization of court decisions:*

| Country  | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name   |
|--|--|---|
| <p>Romania</p>  | <p>Court decisions published under "<i>Jurisprudence</i>" on the courts' web portal are fully redacted and no personal data is published. <b>Names/surnames of the litigants and the names of the legal entity party to a case are fully redacted.</b></p> <p>The Romanian Court Webportal is available at the following link:<br/> <a href="http://portal.just.ro/SitePages/acasa.aspx">http://portal.just.ro/SitePages/acasa.aspx</a>.</p> | <p>Case law under "Jurisprudence" can be searched using by decision subject-matter number and key word. <b>The system does not allow searching court decisions by parties' names.</b></p> |
| <p>Germany</p>  | <p>All published decisions / judgments are fully redacted (including litigants' names). Courts decide on their own whether to publish judgments online or not.</p> <p>English-language portal for German case law is available at:<br/> <a href="http://www.rechtsprechung-im-internet.de/jportal/portal/page/bsjrsprod.psml">http://www.rechtsprechung-im-internet.de/jportal/portal/page/bsjrsprod.psml</a>.</p>                           | <p>Court decisions cannot be searched by parties' names.</p>  |

| Country  | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name  |
|--|--|--|
| <p>Estonia</p>  | <p>Court decisions in civil and administrative cases are published only if there is no sensitive personal data.</p> <p><b>Parties names are redacted (names are replaced by initials or other characters).</b></p> <p>Case law of the Supreme Court can be searched on the Supreme Court's website (<a href="https://www.riigikohus.ee/">https://www.riigikohus.ee/</a>)</p> | <p>Case law of the Supreme Court can be searched on the Supreme Court's website by keyword, year, type of case, case number, date of judgment, court composition, type of proceeding, type of offence, annotation and content.</p> <p>Judgments of courts of first and second instance can be searched by case number, courthouse, judgment type and date, the date of the proceedings and the content of the ruling. In criminal cases, judgments can also be searched by the number of the pre-trial proceedings, case and judgment type, type of claim, type of sentence or, for example, by grounds for acquittal. Judgments in civil and administrative cases can also be searched by category and type of case, type of claim and case resolution.</p> <p><b>Court decisions cannot be searched by parties' names.</b></p> |

| Country  | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name  |
|--|--|--|
| Latvia<br>    | <p><b>A person's name and surname is replaced by the person's initials before a court decision is published.</b></p> <p>Court decisions are published, particularly if they are of potential public interest.</p> <p>All the judgments of Latvian administrative courts are published online on the National Courts Portal, available at the following link: <a href="https://www.tiesas.lv/">https://www.tiesas.lv/</a>.</p>  | <p>Court decisions cannot be searched by parties' names.</p>   |
| France<br>    | <p>Partial depersonalization of the name / surname of the parties. The full name and the first letter of the last name appears.</p> <p>The web page <a href="https://www.legifrance.gouv.fr/">https://www.legifrance.gouv.fr/</a> can be consulted for legislative search, important court rulings, international treaties to which France is a party.</p> <p>The web page of the Court of Cassation is available at: <a href="http://www.courdecassation.fr/jurisprudence">www.courdecassation.fr/jurisprudence</a></p> | <p>The legal portal "Legifrance" provides advanced case law search criteria. There is no possibility to search court decisions / judgments using participants' names.</p> <p><b>The webpage of the Cassation Court and State Council does not provide the possibility to search decisions / judgments using participants' names.</b></p> |
| Georgia<br> | <p>Existing legislation grants the interest of protecting personal data absolute priority. As a general rule, judgments announced during open hearings containing personal data are not accessible. Courts extend the right to personal data protection to legal entities.</p> <p>The uniform online database of court decisions is <a href="http://www.info.court.ge">www.info.court.ge</a>.</p>  | <p><b>The system does not allow to search decisions by the participants' name.</b></p>   |

| Country  | Anonymization of litigants' name in court decisions   | Availability of search engines by litigants' name   |
|--|---|---|
| Belgium<br>         | <p><b>Online publication of decisions is done after the depersonalization of private data, including the name and surname of the participants (they are replaced with initials).</b></p> <p>The Belgium courts' portal be accessed at the following link:<br/> <a href="http://www.juridat.be/">http://www.juridat.be/</a>.</p>   | <p>The search of case law can be done according to the following criteria: type of court (jurisdiction), date, keywords. <b>The database does not provide possibility to search court decisions using the name / surname of the participants.</b></p> |
| The Netherlands<br> | <p>The highest jurisdictions publish all cases, unless they are clearly not of legal or societal interest. <b>Online publication of decisions is done after the depersonalization of private data, including the name and last name of the participants.</b></p> <p>The Dutch judiciary system is available at the following link:<br/> <a href="https://uitspraken.rechtspraak.nl/">https://uitspraken.rechtspraak.nl/</a></p>   | <p>The Dutch judiciary system does not provide search engines. Selective case-law is organized by years.</p>  |
| Croatia<br>         | <p>Courts themselves select the most significant decisions to make them public. <b>All information on the identity of physical and legal persons is taken out from court decisions. Personal data is anonymized by ways of omitting and replacing it with initials and dots.</b></p>  | <p>No information available. A case-law database "SupraNova" is under development.</p>  |
| Lithuania<br>     | <p><b>The name / surname of litigants are replaced with initials before the decision is published, including when public persons are involved.</b></p> <p>Names and surnames of physical persons from court decisions are changed into initials (first letters of names and surnames).</p> <p>Court decisions / judgments are published in the Information System of the Lithuanian Courts (LITEKO), available at the following link:<br/> <a href="http://www.teismai.lt/en/">http://www.teismai.lt/en/</a>.</p> | <p>The system provides the following search criteria: Case number, Court name, Case type, Document type, Date, Judge, Key words. <b>A search criterion by Name/Surname of participants is not available.</b></p>                                      |

| Country   | Anonymization of litigants' name in court decisions   | Availability of search engines by litigants' name  |
|---|---|--|
| <p>Italy</p>   | <p>Court decisions are anonymized in situations prescribed by the Italian legislation (on request of the data subject, on initiative of judicial authority issuing the judgment, in cases of data regarding the identity of children and of parties to proceedings concerning family law, in cases of sexual offenses and prostitution).</p> <p><b>Some court decisions are published without anonymizing the name of participants</b></p> <p>Most of the court decisions published can be accessed via the legal information retrieval system “ItalgiureWeb”<br/> <a href="http://www.italgiure.giustizia.it/index_it.asp?lang=en">http://www.italgiure.giustizia.it/index_it.asp?lang=en</a></p> <p>The Electronic Documentation Centre of the Supreme Court (SentenzeWeb) is available at the following link:<br/> <a href="http://www.italgiure.giustizia.it/sncass/">http://www.italgiure.giustizia.it/sncass/</a></p> | <p>“ItalgiureWeb” is accessible free of charge only for judges, lawyers and civil servants. Other users are against a fee.</p> <p>“SentenzeWeb” is free of charge and can be used by the public in general. <b>It does not provide the possibility to search court decisions / judgments using participants' name.</b></p> <p>The web page of the Supreme Court of Cassation provides court decisions without anonymizing the participants' names.</p> |
| <p>Spain</p>  | <p><b>All decisions are anonymized before being published. Names and other data that can identify a person are removed by providing only the name and the first letter of the surname.</b> Legal entities and people professionally involved with the proceedings are not anonymized.</p> <p>The Spain Judicial Documentation Centre is available at the following link: <a href="http://www.poderjudicial.es/search/index.jsp">http://www.poderjudicial.es/search/index.jsp</a></p>  | <p>“CENDOJ” database provides the following search criteria: “Case type”, “Document type”, “Institution”, “Locality”, “No of the document”, “Language”, “Date”, “Key words”. <b>A search criterion by Name/Surname of participants is not available.</b></p>   |

| Country   | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name   |
|---|--|---|
| Greece<br>     | <p><b>Published court decisions on the internet do not contain any information that could help the public identify the parties involved.</b> The <u>Athens Court of Appeal</u> does not post civil or criminal judgments online. <b>The decisions of the Supreme Court and other courts made available on the web are anonymized (names removed).</b></p> <p>The Supreme Criminal and Civil Court of Greece is available at the following link: <a href="http://www.areiospagos.gr/en/INDEX.htm">http://www.areiospagos.gr/en/INDEX.htm</a></p>  | <p>The database of the Supreme Criminal and Civil Court of Greece <b>does not provide the possibility to search case law by participants' name.</b></p>   |
| Slovakia<br>   | <p>Courts are obliged to publish all final decisions (the term for appeal has expired without an appeal being filed). <b>In court decisions names of litigants are completely anonymized.</b></p> <p>Case law of all courts of the Slovak justice system can be accessed from the online legal database “JASPI”, available at the following link: (<a href="http://jaspi.justice.gov.sk/jaspiw1/htm_sudr/jaspiw_maxi_sudr_fr0.htm">http://jaspi.justice.gov.sk/jaspiw1/htm_sudr/jaspiw_maxi_sudr_fr0.htm</a>).</p> <p>The Supreme Court's case law can be accessed from the website of the Supreme Court, available at the following link: <a href="http://www.supcourt.gov.sk/press-releases/">http://www.supcourt.gov.sk/press-releases/</a>.</p>                    | <p><b>A search criterion by Name/Surname of participants is not available.</b></p>  |
| Bulgaria<br> | <p><b>Published judicial acts do not contain the names of the individuals involved in the process (usually names are replaced with initials).</b> Other personal identifiers are excluded from court decisions as well.</p> <p>All judgments of the Supreme Administrative Court are available at: <a href="http://www.sac.government.bg/pages/bg/reports">www.sac.government.bg/pages/bg/reports</a>.</p> <p>All court judgements / decisions are also accessible through the website of the Supreme Judicial Council (<a href="https://legalacts.justice.bg">https://legalacts.justice.bg</a>).</p> <p>Information database of The Supreme Court of Cassation is available at: (<a href="http://www.vks.bg/vks_p10_02.htm">http://www.vks.bg/vks_p10_02.htm</a>)</p> | <p>There is no title or headline introducing decisions of the Supreme Administrative Court available on the web. An Act appears with its number, date of issue and the number of the case it refers to. <b>A search criterion by Name/Surname of participants is not available.</b></p> |

| Country  | Anonymization of litigants' name in court decisions   | Availability of search engines by litigants' name  |
|--|---|--|
| Hungary<br>   | <p><b>Court decisions do not provide any personal identifiers, including the names of the individuals.</b></p> <p>The Register of Court Decisions is available via the website of the National Office for the Judiciary, available at the following link: <a href="http://birosag.hu/ugyfelkapcsolati-portal/birosagi-hatarozatok-gyujtemenye">http://birosag.hu/ugyfelkapcsolati-portal/birosagi-hatarozatok-gyujtemenye</a>.</p>  | <p><b>A search criterion by Name/Surname of participants is not available.</b> Usually court case-law is organized by years.</p> |
| Malta<br>     | <p>In Malta, published court decisions are anonymized if they concern minors, violent indecent assault or family cases. In other cases, anonymization can be granted by the judge on request of the data subject. Anonymization is done by replacing names with random initials.</p> <p><b>Decisions that do not fall under the incidence of above mentioned cases are published with the name of the participants in the process.</b></p> <p>The collection of judgements given by the Courts of Justice of Malta can be found at the following link: <a href="http://www.justiceservices.gov.mt/courtservices/Judgements/">http://www.justiceservices.gov.mt/courtservices/Judgements/</a>)</p> | <p><b>Case law database offers the facility to search court decisions by participants' name.</b></p>                             |
| Slovenia<br> | <p><b>Everything that might identify a person is anonymized (including names). The only exception are the names of the companies.</b></p> <p>In criminal cases, the names of individuals are replaced with initials. In civil cases the court refers to participants as “plaintiff” and “defendant.” The website of the Slovenian Judiciary, available at the following link: <a href="http://www.sodisce.si/">http://www.sodisce.si/</a>.</p>  | <p>There is no possibility to search court decisions by participants' name.</p>  |

| Country  | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name   |
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| <p data-bbox="205 305 306 337">Ireland</p>  <p data-bbox="205 492 394 557"><i>Common-law system</i></p> | <p data-bbox="443 269 1386 337"><b>Content made available on the web about court decisions is not anonymized unless so required by law or directed by the court.</b></p> <p data-bbox="443 380 1386 483">Certain cases are required by law to be heard other than in public, and certain statutory provisions require that the name of the victim may not be disclosed. In such judgments, names are anonymous.</p> <p data-bbox="443 526 1386 594">All decisions containing sensitive personal data about a party or witness are also anonymized.</p> <p data-bbox="443 636 1386 704">Irish case law is available on the Courts Service of Ireland (<a href="http://www.courts.ie/">http://www.courts.ie/</a>).</p> <p data-bbox="443 747 1386 815">Case law for the Supreme Court is available on the Supreme Court of Ireland website (<a href="http://www.supremecourt.ie">http://www.supremecourt.ie</a>).</p> <p data-bbox="443 857 1386 1073">Case law for the Supreme Court, the Court of Criminal Appeal and the High Court is also available on the BAILII database (British and Irish Legal Information Institute, available at the following link: <a href="http://www.bailii.org/">http://www.bailii.org/</a>) and the IRLII database (Irish Legal Information Initiative, available at the following link: <a href="https://www.ucc.ie/law/irlII/index.php">https://www.ucc.ie/law/irlII/index.php</a>).</p> | <p data-bbox="1411 269 1896 451"><b>The database of the British and Irish Legal Information Institute provides the possibility to search court decisions by litigant's name/surname and year.</b></p> |
| <p data-bbox="205 1081 306 1114">Finland</p>    | <p data-bbox="443 1081 1386 1149"><b>All decisions are anonymized before publication. Names and other identifying elements are replaced by random initials.</b></p> <p data-bbox="443 1192 1386 1295">All published court decisions can be found in “Finlex”, the Finnish legal information website of the Ministry of Justice, available at the following link: <a href="http://finlex.fi/fi/">http://finlex.fi/fi/</a>.</p>  | <p data-bbox="1411 1081 1896 1182"><b>A search criterion by Name/Surname of participants is not available.</b></p>  |

| Country   | Anonymization of litigants' name in court decisions   | Availability of search engines by litigants' name  |
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| Luxembourg<br> | <p><b>Some published decisions are anonymized, other are not.</b></p> <p>The case law of the Supreme Court, the Constitutional Court and the Administrative Court and Tribunal is published on Luxembourg's Justice Portal (<a href="http://www.justice.public.lu/fr/index.html">http://www.justice.public.lu/fr/index.html</a>) and on the website of the administrative courts (<a href="http://www.justice.public.lu/fr/organisation-justice/juridictions-administratives/index.html">http://www.justice.public.lu/fr/organisation-justice/juridictions-administratives/index.html</a>).</p> | <p>The only search engine available is by “key words”.</p>   |
| Denmark<br>    | <p>Internal anonymization guidelines are being drafted.</p>   | <p>No case law database exists in Denmark at this moment. the Council for the Judiciary is to create and operate a database for the publication of court decisions.</p>                                |
| Austria<br>    | <p>There are binding rules for the publication of judgments. <b>All published court decisions are anonymized.</b></p> <p>Court judgments are published in the Legal Information System of the Republic of Austria (“RIS”), available at the following link: <a href="http://www.ris.bka.gv.at/">http://www.ris.bka.gv.at/</a>.</p>  | <p><b>The case-law search criteria available on the Legal Information System of the Republic of Austria (RIS) does not provide the possibility to search case decisions by participants' name.</b></p> |
| Portugal<br>  | <p>Only selected case-law is published in Portugal. <b>All decisions are anonymized if published. Anonymization is done in various ways: by deleting personal data or by replacing them with initials.</b></p> <p>A number of data bases of legal documents that can be found at <a href="http://www.dgsi.pt/">http://www.dgsi.pt/</a>. They are also published in the Official Gazette and available at <a href="http://www.dre.pt/">http://www.dre.pt/</a>.</p>   | <p><b>Available case-law data base does not provide search by name of parties.</b> Case-law is sorted by courts of law and by years.</p>   |

| Country   | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name  |
|---|--|--|
| <p>Cyprus</p>          | <p>In Cyprus, there is no legal framework on the publication of court decisions. Important decisions of the Supreme Court and a small number of decision from district courts are published on the website of the Supreme Court.</p> <p>Court decisions are not anonymized by default, but only if minors or very sensitive data are involved.</p> <p>The Supreme Court website is available at the following link:<br/> <a href="http://www.supremecourt.gov.cy">http://www.supremecourt.gov.cy</a>.</p> <p>A number of private websites offer access to case-law (Cylaw.org, available at the following link: <a href="http://cylaw.org/index.html">http://cylaw.org/index.html</a>).</p>  | <p>There are no search criteria available. Only a selection of recent judgments is published.</p>  |
| <p>Czech Republic</p>  | <p>Names of case participants are anonymized.</p> <p>Different rules apply to the decisions of the Constitutional Court. These decisions are anonymized on request of the data subject or on the initiative of the judge.</p> <p>Decisions of the Supreme Court of Czech Republic are published in its database, available at the following link:<br/> <a href="http://nsoud.cz/JudikaturaNS_new/ns_web.nsf/WebSpreadSearch">http://nsoud.cz/JudikaturaNS_new/ns_web.nsf/WebSpreadSearch</a>.</p> <p>The Constitutional Court has its own database, available at:<br/> <a href="http://nalus.usoud.cz/Search/Search.aspx">http://nalus.usoud.cz/Search/Search.aspx</a>.</p> <p>The High Administrative Court publishes all of its decisions as well as a substantial collection of the lower administrative courts on its website (<a href="http://nssoud.cz/Uvod/art/1">http://nssoud.cz/Uvod/art/1</a>).</p> | <p>The search engine available provide advance search criteria, but there is no possibility to search case law using the name of participants.</p> |

| Country   | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name  |
|---|--|--|
| Sweden<br>   | <p>According to Swedish legislation, personal data have to be anonymized (including participants names), except when it regards dead people, data that are necessary to understand the decision, and names of judges, court staff, court experts and those used for citing legal literature or foreign decisions.</p> <p>Court decisions can be found in the “Lagrummet” database (<a href="http://lagrummet.se/English">http://lagrummet.se/English</a>).</p> | <p>Court decisions can be found in the “Lagrummet” database, maintained by the Swedish National Court Administration. It cannot be searched full-text, and contains just a limited number of decisions. The number of search criteria is quite limited as is the number of decisions, also from the highest jurisdictions.</p> <p>The Supreme Court publishes a small collection of important decisions on its own website. There are no search options.</p> <p>The High Administrative Court publishes the decisions on its own website, also without search options.</p> |
| Kosovo<br> | <p>According to Kosovo legislation, personal data in criminal, civil, administrative and commercial final judgments <b>should be anonymized, including party's names and surnames.</b></p> <p>Website of the Basic Court or relevant branches is available at: <a href="http://www.gjyqesori-rks.org/">http://www.gjyqesori-rks.org/</a>.</p>  | <p>The Kosovo Judicial Council webpage, where all court decisions are published, does not provide the possibility to search case law using the name of participants.</p>   |

| Country  | Anonymization of litigants' name in court decisions  | Availability of search engines by litigants' name                                   |
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| <p>Kenya</p>  | <p>All courts from Kenya publish only a selection of court decisions / judgments on the judiciary portal.</p> <p>Particular care is given in cases of sexual offences and family law (adoption of infants/children, divorce, custody, maintenance and succession cases). The names of litigants are anonymized in these cases.</p> <p><b>The name of litigants are not listed as personal data identifiers according to Kenya legislation and are anonymized only in particular cases.</b></p> <p>The judiciary portal, available at the following link: <a href="http://www.judiciary.go.ke/portal/page/court-decisions">http://www.judiciary.go.ke/portal/page/court-decisions</a></p> | <p>The portal does not provide search engine, all decisions are sorted by year.</p> |

| Country   | Anonymization of litigants’ name in court decisions   | Availability of search engines by litigants’ name   |
|---|---|---|
| <p>U.S.A.</p>  <p><i>Common law system</i></p> | <p>Selective publication online is the rule in the federal district courts, as it is in the circuit courts of appeals. Cases pertaining to juveniles, attorney grievances, and expungement <b>carry redacted or anonymized information</b> or may not be available for the public.</p> <p><b>Usually, the participants’ names are not redacted in court decisions / opinions (only when provided for by law, requested by trial participants or so decided by the court).</b></p> <p>Public Access to Court Electronic Records, “PACER” database, available at <a href="https://www.pacer.gov/">https://www.pacer.gov/</a>.</p> <p>The US Supreme Court’s website is available at: <a href="https://www.supremecourt.gov">https://www.supremecourt.gov</a></p> <p>United States Court of Appeals for the First Circuit is available at: <a href="http://www.ca1.uscourts.gov">www.ca1.uscourts.gov</a>.</p> <p>United States Court of Appeals for the Third Circuit is available at: <a href="http://www.ca2.uscourts.gov">http://www.ca2.uscourts.gov</a>.</p> | <p>The CA website for the First Circuit provides the following search criteria for court’s opinions: “Case number”, “Short Title”, “Published date”.</p> <p>The CA website for the First Circuit provides the following search criteria for court’s opinions: “Date posted”, “Case Title”, “Docket number <b>or party name</b>”, “Key words”.</p> <p>“PACER” provides several case-law search criteria, <b>such as by participants’ name</b>, attorney’s name, case number, case title and date ranges.</p> |
| <p>International Courts</p>   |   |   |

| Country  | Anonymization of litigants’ name in court decisions  | Availability of search engines by litigants’ name  |
|--|--|--|
| <p><b>The European Court of Human Rights (ECHR)</b></p>           | <p>The European Court of Human Rights (ECHR) has the HUDOC database (<a href="http://www.hudoc.echr.coe.int">www.hudoc.echr.coe.int</a>), where all decisions of the ECHR are published.</p> <p>Full publication of decisions is made in all types of cases examined by the ECHR, including in criminal cases. The personal data reflected in ECHR judgments are usually limited to the <b>applicant's name or surname</b>, year and place of birth.</p> <p>As an exception, in specific cases, the European Court of Human Rights may not publish the names of the applicants <i>offering the participants the possibility to submit a request for anonymity, stating the reasons justifying such a departure from the normal rule.</i></p> <p>The Court may also grant anonymity of participants names it of its own motion.</p> | <p>The “HUDOC” database provides the possibility to search court decisions using participants’ name, this being the most used criterion for searching Court decisions.</p> |
| <p><b>The Court of Justice of the European Union (ECJ)</b></p>  | <p>Most of the judgments, orders and conclusions of the Court of Justice are available on the Court's website <a href="http://www.curia.europa.eu">www.curia.europa.eu</a>.</p> <p>Under the preliminary ruling procedure, the Court of Justice will use the information contained in the order for reference, <b>including nominative or personal data</b>. It is, therefore, for the referring court or tribunal itself, if it considers it necessary, to delete certain details in its request for a preliminary ruling. If anonymity has been granted by the referring court or tribunal, the Court of Justice will respect that anonymity.</p> <p>Court may also render the anonymity of persons or entities of its own motion or participants’ request.</p>  | <p>In the “CURIA” database research can be done depending on the case number, date, <b>name of the parties</b>, reference words in the text, etc.</p>                      |

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