



NATIONAL FORUM



JUSTICE FOR ALL

Agenda 2030



The opinions expressed during the Forum and in the Report belong to the participants and do not reflect in any way the position of the organizers and partners.

Photo: Kreyon Motion

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The event was organized by INVENTO, with the joint effort of the American people, the US State Department through Freedom House and Sweden through the United Nations Development Programme (UNDP) Moldova, in partnership with the Hanns Siedel Moldova Foundation.

Acronyms

ABA ROLI – American Bar Association Rule of Law Initiative

SCJ – Supreme Court of Justice

SCM – Superior Council of Magistracy

SCP – Superior Council of Prosecutors

SDG – Sustainable Development Goal

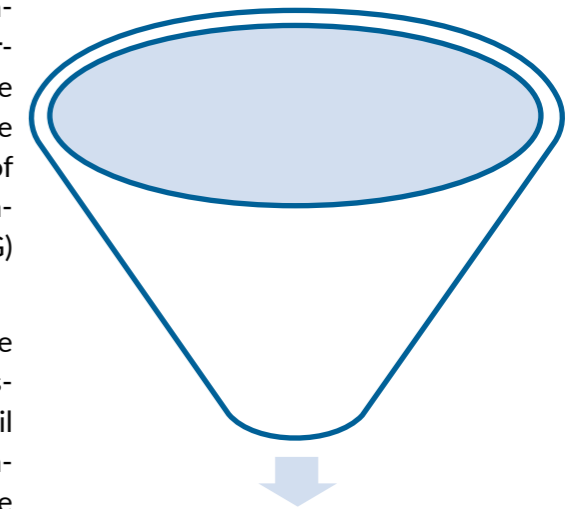
Foreword

The National Forum “Justice for All – Agenda 2030” was an event focusing on the justice sector and the role of civil society organizations and the academic field. The event was organized in order to enhance social responsibility mechanisms and build more partnerships, with the ultimate aim of promoting the effectiveness of public policies relating to the justice system, transparency and the rule of law. This ultimately supports the implementation of Sustainable Development Goal (SDG) 16.

At the event, the representatives of the Government, the judiciary system, the prosecution, the academic community and civil society met for dialogue on the mutual commitments made for the implementation of the 2030 Agenda for Justice (SDG 16).

Forum objectives:

1. Establishment of a dialogue on the level of implementation of SDG Goal 16 “Peace, Justice and Strong Institutions” between representatives of state institutions, civil society, international partners and the media.
2. Participatory evaluation of the degree of achievement of the sustainable development indicators that are relevant to the justice sector.
3. Elaboration of a series of recommendations for advancing the National Agenda for Sustainable Development in the justice sector.



SDG16

- **Target 16.1** – Significant reduction of all forms of violence and related death rates.
- **Target 16.3** – Promote the rule of law and ensure equal access to justice for all.
- **Target 16.5** – Significant reduction of corruption in all its forms.

The expected results:

- I. Development of a set of recommendations regarding the implementation of SDG 16 “Peace, Justice and Strong Institutions”.
- II. Increasing the awareness and understanding of the governmental structures, the self-administration bodies of the prosecutor’s office, and courts of justice, regarding the existing barriers in the justice system to achieving the SDGs.
- III. Streamlining the communication and cooperation between the actors from the justice sector.

The National Forum “Justice for All – Agenda 2030” brought together 122 professionals from the justice system, including judges from courts of first degree of jurisdiction, courts of appeal, the Supreme Court of Justice, the Constitutional Court, prosecutors and lawyers, and representatives of the Government, civil society and the academic community.



Martin MCDOWELL,
Deputy Head of the
US Mission in Chişinău

“An issue that is not discussed, but which manifests itself today in the Republic of Moldova, is the “lack of hope”, as a large part of the young citizens of the Republic of Moldova have emigrated precisely because of this aspect. Thus, in 2020, it is necessary to rebuild a future for this generation of young people, on which action will be taken, therefore giving hope to the citizens of the Republic of Moldova. Certainly,

the majority already know that the efficiency of the justice sector is an important goal of the US Embassy in Chişinău. Even if there has been progress in this sector compared to June 2019, there are still many things that require improvement.

That is why the Forum is a unique opportunity, but also a responsibility to take a step towards the development of the justice sector.”



Nicolae EȘANU,

Counsellor, Prime Minister's Office, the Government of the Republic of Moldova

"Justice is a priority on the Government's agenda, and the reforms in this area will be visible and felt by citizens. However, in order for changes to be made in the justice sector they must be both desired and carried out mainly by those within the sector. In turn, the Government must ensure the independence of the judiciary, but this is only possible when there is cooperation between the executive and the justice system. The country's economic growth also depends directly on judicial reforms. In order to ensure a continuous growth rate of the economy of the Republic of Moldova, firm measures are required, and the path to new investors will be favourable only when an independent justice system is

ensured. The Government will make every effort to make this happen.

The Ministry of Justice is currently working on a new strategy on justice (the "Strategy for Ensuring the Independence and Integrity of the justice Sector 2020-2023"). Involvement in the elaboration of this document includes not only the institution's employees, but also its partners, because identifying the best solutions will not be possible without very broad cooperation with civil society, actors from the justice system, etc. I want to assure you that the Government is open to a sincere dialogue, our goal being to establish an independent, efficient and accessible justice system for all."



Daniela VIDAICU,

Programme Coordinator, Swedish Embassy in Moldova

"If we notice how many people are at the Forum, how many ideas and how many opportunities for discussion have been proposed, we realize that it is an important event for us all. Sweden supports the promotion of the 2030 Agenda in the Republic of Moldova and is also very active globally in promoting the United Nations SDGs. For the sustainable development of the Republic of Moldova, and in particular of the

justice sector (peace and public institutions), as provided by SDG 16, a very strong partnership and dialogue is required, because only in a dialogue involving all the target groups, can sustainable solutions be found and the objectives that have been set met."



Alla SKVORŢOVA,

Programme Specialist, Effective Governance, United Nations Development Programme (UNDP) Moldova

“Injustice in one part of the world is a threat to justice in all parts of the world,” said Martin Luther King.

This idea is the base of the whole Agenda for Sustainable Development 2030, that promotes a tolerant, fair, open and inclusive world.

Without justice, poverty cannot be eradicated, sustainable economic growth cannot be achieved, inequalities cannot be reduced and

inclusion cannot be promoted. In the past, the institutions that were promoted were often distanced from the needs of women and men. Through objective no. 16 “Peace, Justice and Strong Institutions”, a new approach is launched, which emphasizes the person and not the institution, the person being placed at the centre of the justice system, and of justice – at the centre of sustainable development.”



Tatiana PUIU,

Freedom House Representative in the Republic of Moldova

“Both the public sector and the representatives of the civil society must consolidate their efforts, because only through a dialogue will it be possible to achieve SDG 16 ‘Peace, Justice and Strong Institutions’, which aims to develop accountable, efficient and transparent institutions.

The right to access to information in the Republic of Moldova continues to be violated, and this is a current and constant problem. The outdated regulatory framework and existing practices leave room for abuses by state institutions, which

constantly ignore the right to access to information, thus limiting one of the fundamental rights of the person. More recently, the adoption of the Administrative Code has generated a series of ambiguities regarding the impact of these provisions on the procedures for exercising and claiming access to information that is of public interest. In this regard, concrete actions are needed to comply with the legislation on access to information of public interest in the Republic of Moldova, so as to achieve SDG 16.”

Session I

Discussion panel:

Moldova 2030 Agenda in the field of justice:
what worked, what was missing, what should we achieve in the next 10 years?



Aliona Ursoi,
Main Consultant,
State Chancellery

“In July 2020, 51 states will present their National Voluntary Reports (NVRs) on implementing the 2030 Agenda in their home countries. These reports will be presented at the United Nations High-Level Political Forum for Sustainable Development. This year, the Republic of Moldova will also present a report of this kind for the first time.

As a result of the commitment assumed in 2015, the level of implementation of the 17 SDGs, which integrate 169 targets, can be assessed through over 340 global indicators.

Voluntary national reporting facilitates the exchange of experience,

highlighting not only successes, but also barriers to, and the need for support for, implementing the global goals.

Thus, we are interested in collecting relevant information to prepare the voluntary national reporting for international presentation. I assure you that the recommendations and conclusions of this event will be integrated into the report that we are preparing, so that in the end we will have a complex document which will illustrate the progress of the Republic of Moldova in implementing the sustainable development objectives.”



Nadejda Cojocari,

Consultant, General Directorate of Social Statistics and Demography, National Bureau of Statistics

“The data available for monitoring the progress of the implementation of the 2030 Agenda for Sustainable Development is aggregated by our institution. Most of the indicators for the 17 SDGs are global, while others have been adapted to the national context, including SDG 16. All of this data on the Sustainable Development Agenda will be available on a platform created by the National Bureau of Statistics, and we will all contribute by 2030 in

collecting data that is not available yet. This data will also be included in the National Voluntary Report, and will become reference data.”



Lilia Rusu,

Head, Analysis, Monitoring and Evaluation Department, Ministry of Justice

“Although the society has now reached an advanced stage of development, in which fundamental rights and freedoms constitute values and are at the epicentre of all discussions and actions that are undertaken, certain negative phenomena still seriously harm these values. Increasing access to justice for all people is a key element, as it is not only a right in itself but is also an instrument for the effective protection of all the other rights.

The progress made so far in the field of combating domestic violence has been significant. In 2017, Moldova signed the Istanbul Convention and we want the Parliament to ratify this shortly. The current legislation

has been amended in conjunction with the Convention, but an analysis of the compliance of the regulatory framework with this international document has not yet been carried out.”



Gheorghe Bălan,
State Secretary,
Ministry of Internal Affairs

“The Ministry of Internal Affairs makes considerable efforts to prevent and reduce all forms of violence and related death rates, this activity being one of the targets of SDG 16. There has been a continuous decrease in the number of domestic violence crimes in the period 2010–2019, from 4,000 cases in 2012 to 2,500 in 2019.

An important contributor to efforts to reduce this phenomenon is cooperation with non-governmental and international organizations, which provide us with support on this dimension.

In the future, the Ministry intends to amend the *Practical Guide on Police Intervention in Preventing and Combating Domestic Violence*, as well as to unify the procedures for intervening in and reporting cases of domestic violence by developing effective cross-sectoral mechanisms that will allow us, in the long run, to ensure effective risk assessment, coordinated planning of the actions of prevention, ensuring the nominal record of the aggressors, and supervising the execution of protective measures.”



Lidia Chireoglo,
Ex-Deputy Director,
National Anti-corruption Centre

“One of the desiderata of SDG no. 16 is strong institutions. Based on this, one of the objectives of the National Anti-corruption Centre is to strengthen and consolidate the capacities for prevention and fighting corruption of both the Centre and other authorities with which the Centre cooperates in this regard.

The main policy document in the field of corruption prevention is the National Integrity and Anti-Corruption Strategy for 2017–2020.

From my previous experiences as a criminal investigation officer until now I considered that the best method for beating corruption was to fight it when it occurs. Now I firmly believe that the most appropriate method is to prevent it before it happens. Thus, together with our development partners, we have intensified public

presence, through trainings which aim to sensitize not only the civil society, but also civil servants.

I would like to mention that the proactive role of the civil society will be essential in the implementation of the sectoral anti-corruption plans and the Integrity and Anti-Corruption Strategy.

To the question of when corruption will disappear, I can answer that it will be when we have an educated citizenry and consolidated anti-corruption authorities who are able to intervene promptly. It will be when both sides are educated – the one who gives and the one who takes bribes – because the act of corruption involves two actors. If one of them lacks integrity, then there will be corruption in society.



Jan Schuermann,
International Expert
in Justice Reform, Germany

“What I want to mention is that the topic of today’s Forum is not a specific issue for Moldova. You can also identify these difficulties in Germany, Sweden, Spain, and this should encourage you to develop feasible solutions for your country.

Everything related to indicators, development goals and the monitoring process is aimed, in the last analysis, at benefiting the public.

Let me give an example in this regard: when we refer to crimes of domestic violence, after an arrest is made by the police, what happens next? The question refers to the network that needs to function

between the police, the local public administration, the prosecutor’s office, the court – and possibly the probation officer.”

Session II. Workshops

Workshop I: Increasing access to justice for all



Participants in the workshop discussed issues and barriers that prevent equal access to justice for women, men and children.

Facilitator:

Mihaela Vidaicu,
Director, ABA ROLI Moldova

General context and reference data:

The justice system in the Republic of Moldova faces several problems related to the functioning of the rule of law and citizens' access to justice. Moreover, citizens' perceptions of how justice functions (or does not function) are based on interactions they may or may not have had with the justice system. In a World Bank report from 2018 it was stated that 76 per cent of the general public and 76 per cent of the business community expressed negative opinions about the functioning of the courts.¹ Moreover, the International Commission of Jurists has noted that despite the implementation of the Justice Sector Reform Strategy from 2011 to 2017, public confidence in the judiciary has declined in recent years and continues to remain low. According to a national survey conducted in December 2017, for the Superior Council of Magistracy (SCM), 81 per cent of the general population and 81 per cent of respondents who have interacted with the courts do not trust the judiciary.²

At the same time, the volume of state-guaranteed legal aid is increasing. According to the annual report of the Council for State-Guaranteed Legal Aid (2019), during 2019 a total of 60,327 cases of state-guaranteed legal aid were registered, which is 97 cases more than in 2018. Regarding the evolution of the number of beneficiaries of state-guaranteed legal aid over the last five years, there has been a steady increase in this indicator in the period 2015–2017. The peak, with the highest number of cases of state-guaranteed legal aid, was registered in 2017, with 65,322 cases. Thereafter, in the period 2018–2019, the number of cases decreased, so that in 2019 4,995 fewer cases were registered than in 2017 (though it was 40,231 more cases than in 2009). In 2019, 472 lawyers have been involved in state-guaranteed legal aid, of which 11 were public lawyers, 34 were lawyers specializing in cases involving children, 13 were lawyers specializing in providing qualified legal assistance on asylum cases, nine were lawyers specializing in providing qualified legal assistance to persons with intellectual and psychosocial disabilities, and eight were lawyers specializing in providing qualified legal assistance to victims of crimes.³

The participants in the Forum's first workshop, "Increasing access to justice for all", discussed several issues and structural barriers that obstruct the achievement of SDG target 16.3, **Promoting the rule of law and ensuring equal access to justice for all women, all men and children.**

¹ <http://documents.worldbank.org/curated/pt/295451537501885223/pdf/UPDATED-Moldova-JSPEIR-Final-Romanian.pdf>

² https://crjm.org/wp-content/uploads/2019/03/2019-ICJ-Raport-Independenta-Justitiei-RM_RO.pdf

³ https://cnaigs.md/uploads/asset/file/ro/1466/Raport_de_activitate_al_CNAIGS_2019__2_.pdf

At the level of systemic barriers, divided by field, the following were identified:

State-guaranteed legal aid:

- The quality of this service is one of the basic problems of the state-guaranteed legal aid system.
- Citizens' access to legal services is often hampered by the overly complex procedure for collecting the documents required for free legal aid.
- Judges and beneficiaries both note an insufficient number of lawyers providing state-guaranteed legal aid in some regions of the country.
- The mechanism for compensating the transport expenses of lawyers from other regions who provide legal assistance, as guaranteed by the state, is complex and inefficient.
- There is a lack of appropriate conditions for ensuring meetings between lawyers and clients in several penitentiaries in the Republic of Moldova, and those responsible for the legal defence of the defendant may not even present themselves during trial, sometimes

Efficiency of justice:

- The image of justice has suffered lately. Citizens' perceptions of how justice works, and the problems facing this sector, are partly formed based on segmented reflection by some media institutions.
- Poor functioning of some courts, across a number of regions⁴, including the lack of adequate working conditions for judges and court staff, negatively influences the quality of justice.
- There are personnel shortages, both in the courts and in the prosecutor's office.
- Prosecutors and judges face professional stress.
- The poor quality of judicial acts is a long-standing problem within the judicial system. Insufficient motivation of court rulings as well as the lack of a uniform judicial practice, has a direct impact on the quality of judicial acts. The participants in the workshop also considered the mechanism for unifying judicial practices applied by the Supreme Court of Justice to be inefficient.
- The mechanism for ensuring the disciplinary liability of judges does not correspond to the current challenges, and judicial inspection is perceived to be inefficient.
- Professional ethics are neglected by most judges and prosecutors.
- There are not enough platforms for professional dialogue among judges, prosecutors and lawyers.

⁴ For example, at the Chisinau Court of Appeal, professionals report inefficient activity from an organizational perspective. In the same context, the workshop participants also indicated deplorable physical conditions, with court rooms having outdated infrastructure.

- Judicial mediation, an institution recently introduced in the legislation of the Republic of Moldova, is not fully exploited. Thus, some judges do not possess the knowledge and skills required of a mediator. At the same time, mediation is sometimes misused by the parties and hinders the activity of judges.

Legal education:

- At the university level, the study of the law focuses on memorization, with no courses to develop critical thinking and analytical skills.
- Faculties of law do not offer courses on the technique of legal writing and legal expression.
- The admissions process for legal professions is not sufficiently objective, competitive and transparent.
- People have low levels of legal knowledge, which affects their ability to exercise their fundamental rights.

Respect of the rights of people with disabilities:

Access for people with disabilities to courts / buildings housing the prosecutor's office is limited because buildings are not adapted for this purpose. Moreover, there are no specialized lawyers to provide state-guaranteed legal assistance to people with different types of disabilities, and the attitude of legal professionals towards this group of people is not one that is focused on the beneficiary.



Participants in the workshop analyzed the problems and structural barriers that prevent the reduction of corruption.

Workshop II: Reducing corruption

Facilitator:

Lilia Ionița,
Project Coordinator, Centre for Corruption
Analysis and Prevention

General context and reference data

The public sector is subject to systemic corruption. **The population considers the fight against corruption in Moldova to be inefficient⁵.** Thus, 82 per cent of the population and over three-quarters of the business world (79 per cent in 2019) mention that the fight against corruption is currently **not at all / not very effective**.

Studies⁶ indicate that the Presidency, Parliament and the Government are not transparent in their activity. A public opinion poll indicates that only 27 per cent of the population have a favourable opinion about the Government of the Republic of Moldova.⁷

⁵ "Impact Assessment Study of the National Integrity and Anticorruption Strategy – Moldova 2019", UNDP (https://www.undp.org/content/dam/moldova/docs/Studiu_CBS_CNA_final%20clean_ROM.pdf)

⁶ Ibidem, 5

⁷ http://www.iri.org/sites/default/files/iri_moldova_poll_march_2017.pdf

At the same time, neither the population nor economic agents report the corruption they face in their interactions with public agents. The main reasons for this failure to report acts of corruption are: because they believe that it would be useless to do so (24 per cent of the population and 39 per cent of economic agents); they do not have the necessary evidence (23 per cent of the population and 15 per cent of economic agents); and the belief that there are no protection mechanisms for those who report acts of corruption (22 per cent of the population and 15 per cent of economic agents).

The ambitious reform of the justice system, which began at the end of 2011, seeks to ensure the long-term consolidation of the independence, accountability, efficiency, impartiality and transparency of the judiciary, as well as the professionalism and independence of the prosecution authorities⁸. Legislative and institutional changes have taken place. A number of judges and prosecutors (who had previously been immune) have been convicted of corruption offences, with actual custodial sentences. Despite these achievements, national and international surveys show a decline in trust in the judiciary, with the Moldova public sector perceived to be one of the most corrupt in the world. Respectively, about 75 per cent of the population and 83 per cent of businesses state that justice is influenced by political interests; 66 per cent of the population and 73 per cent of businesses consider justice to be influenced by the Government; and 69 per cent of the population and 73 per cent of businesses consider justice to be influenced by judges' desire to enrich themselves.⁹

The self-governing bodies in the justice sector are often criticized for the way they manage issues relating to integrity within the system. These deficiencies aggravate the perception of the lack of professionalism and impunity of magistrates, and also raise suspicions about corporate agreements.

If five to 10 years ago society mainly discussed the phenomenon of justice realized on the phone (by influence trafficking), today there is more discussion about selective justice. This phenomenon has been defined as a *justice that chooses and distinguishes between litigants, although it should be fair, meaning applying the law equally for everyone*.¹⁰ A generally expressed perception¹¹ is that the laws in the Republic of Moldova are not applied equally to all citizens. This opinion, is shared by 84 per cent of the population and 85 per cent of business people.

In the opinion¹² of public agents, the main cause of corruption remains the *low salaries in the public sector* (66 per cent), as well as the *mentality of asking and giving bribes in money and / or goods* (45 per cent). About four out of 10 public officials consider as causes of corruption the *gaps in the legislation that allow acts of corruption*, and the fact that *corrupt people are not sanctioned / punished*. Also mentioned are the *lack of ethics / moral values*

⁸ Justice sector reform strategy for 2011–2016, approved by Law no. 231/2011, and the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016, approved by Parliament Decision no. 6/2012.

⁹ Ibidem, 5

¹⁰ Criminal Justice Selectivity Monitoring Report, Freedom House, 2019 (https://freedomhouse.org/sites/default/files/2020-02/Judicial_Integrity_Selective-Criminal_Justice_ROMANIAN_FINAL.pdf)

¹¹ Ibidem, 5

¹² Ibidem, 5

(30 per cent), the fact that *the wealth obtained by officials through acts of corruption is not confiscated* (30 per cent) and the *lack of control in state institutions* (30 per cent).

The workshop participants referred to several problems and structural barriers that prevent the achievement of target **16.5. Reducing corruption**.

At the level of systemic barriers, the following were identified:

A lack of transparency in the financing of political parties, and political clientelism

Among the problems identified are: the financing of parties through “tax havens”, the financing of election campaigns and the almost non-existent control of these processes; disparities at the legislative and institutional level in terms of the authority responsible for exercising control over funding; and the lack of reaction to journalistic investigations regarding party funding, election campaigns and cases of voter corruption.

Managerial incompetence in the public sector

Although the legislation has strict rules of meritocracy, professionalism and integrity in the process of the selection and appointment of managers in the public sector, analysis of the profiles of managers of these institutions, including in journalistic investigations, shows that incompetent people, and those with doubtful and negative reputations, reach leadership positions.

Abuse in performing managerial duties in the justice sector

According to the Law on the Organization of the Judiciary, court presidents should only carry out certain administrative tasks, which do not allow interference in the activity of judges. In reality, however, some of them exceed these legal limits, intervening through indications on specific cases, applying practices that undermine the independence of judges, engaging in retaliatory actions, etc.

Presumption of the legality of property

The constitutional provisions enshrine the presumption of the lawfulness of acquiring property, which makes it practically impossible to apply legal provisions related to extended confiscation, civil confiscation, illegal enrichment, etc. This generates a feeling of impunity for those who acquire illegal assets, and at the same time leads to a sense of injustice within the society. There have been attempts to review the constitutional provisions, but they have not been successful. Interpretations provided by the Constitutional Court have been ineffective in ensuring more frequent and efficient confiscation of illicit property.

Influence on the justice system

The justice system still remains vulnerable to internal and external influences. Actors in the sector still do not have a full sense of independence, and the self-governing bodies (SCM, SCP, etc.) are not strong enough to respond and maintain independence both inside and outside the system.

Lack of political will to develop an effective regulatory framework

Although most political platforms / party governance programmes and policy documents refer to the need to prevent and fight corruption, and although laws have been adopted and specialized institutions created to this end, practice shows that these have a more declarative status. Many of the laws adopted do not have a clear enforcement mechanism or are “flawed” in the process of review in the parliamentary committees and plenary sitting of the Parliament. Political will is only declared: it is not effectively enforced and there is no determination on the part of politicians to reduce corruption.

The dysfunctional mechanism of integrity whistleblowers

Although the mechanism has been in force since 2018, public authorities have not yet managed to create a secure and efficient space for reporting illegal practices. About two years after its adoption, there are still no cases of integrity warnings being registered and actually examined by the competent authorities. The guarantees of protection offered by the legislation do not offer enough confidence to potential whistleblowers.

Malfunctions of the public procurement system

The electronic public procurement system is not fully functional. At the same time, there are a multitude of dubious aspects regarding the capitalization of public funds, programmes such as “Good Roads for Moldova”, etc. The allocation of public funds is not monitored – in particular, field monitoring is absent. The poor and non-transparent management of these funds and programmes contributes to the diversion of funds and money-laundering, and the funds from these illegal actions are subsequently used to finance election campaigns.

At the level of *barriers related to attitudes*, the following aspects were referred to:

Insufficient continuous professional training in public institutions

The role of public service in public institutions, which should be oriented towards serving the public interest, is not fully realized. At the same time, a culture of integrity is not cultivated in an adequate and sufficient way, and some employees in the public sector are not aware of all the legal mechanisms for ensuring a climate of integrity in the institution.

Low level of social awareness of corruption

Awareness campaigns regarding the danger and long-term consequences of corruption are sporadic and usually cover only one sector or are of a general nature and are not likely to bring about changes in the mentality / attitudes of the population. At no stage of education do the curricula contain any anti-corruption training modules. On the contrary, illegal practices, such as informal payments in the education system, seem to increase the sense of a tolerance of corruption.

Tolerance of corruption

According to the participants in the workshop, even if citizens declare themselves against any illegal transactions, when personal interests are at stake, they are more likely to tolerate corruption.

A tendency towards abuse of the system

Some people in the public service perceive their position as being a source of income, and a way to promote their interests and to solve their personal problems and the problems of people that are close to them. Abuses seem to be tolerated by the authorities and the messages and approaches conveyed by decision makers contribute to the perpetuation of a vicious circle.

Public distrust in the fight against corruption

While the issue of fighting corruption is frequently raised, the messages do not always correspond with the actions. There are no resonance cases involving conviction of corrupt people, and when there were such files, the way they were managed generated multiple suspicions, including the lack of transparency. This contributes to a state of apathy in the society towards the problem of corruption, as long as it does not directly affect them.

The following aspects were referred to as financial barriers:

Low wages in the public sector

The problem of the underfunding of the public sector is a constant one. While during recent years the level of wages in the public sector has increased, this has been insufficient and those working in the sector do not have the opportunity to have a decent lifestyle.

Lack of continuity of public policy funding

Although a number of programmes and projects have been launched with the aim of making processes more transparent and streamlined in the public sector, they have usually been initiated with the support of development partners, and have not been continued by national authorities after the external financing has ended.



Participants in the workshop discussed issues and structural barriers that prevent the reduction of all forms of violence.

Workshop III: Safe and secure communities

Facilitator:

Victor Munteanu,

Director, Department of Justice and Human Rights
Soros-Moldova Foundation

General context and reference data

Violence is the first source of danger for rural and urban communities. It obviously affects the level of safety and security in society, starting with the family space, which in some places tolerates and supports such manifestations.

Violence against women and domestic violence are widespread phenomena in the Republic of Moldova. This category of violence is a complex phenomenon, generated by psychological problems and amplified by educational, economic and social conditions. Often, domestic violence is associated only with physical violence, with other forms, such as psychological, economic or sexual violence, less known¹³. National estimations made by the *Violence against Women in the Family* study conducted by the National Bureau of

¹³ <http://lastrada.md/rom/violenta-in-familie-si-violenta-sexuala>

Statistics in 2011, suggests that more than 63 per cent of women and girls aged 15–65 have suffered at least one form of violence.¹⁴

As the main manifestation of gender-based violence, domestic violence is a main area of investigation for the police. Thus, during 2019¹⁵, a total of 969 crimes were recorded under the category “those that violate the values of the family”. This is equal to 3.26 per cent of the total number of crimes recorded that year (29,664).

On 6 February 2017, the Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) was signed. This step involved initiating the process of harmonizing the national legislation with the Convention, to ensure respect for human rights. In this regard, a first policy document was developed – The National Strategy for Preventing and Fighting Violence against Women and Domestic Violence for the years 2018–2023.

Despite the fact that, according to legal the provisions,¹⁶ it is necessary to request the hearing of an offence case involving domestic violence urgently, and especially, when it comes to the application of arrest, the procedure prescribes immediate dispatch of court materials for examination, some inspectorates ignore this rule and the aggressors are not referred to justice as required by the law.

This often creates an impression of indifference regarding the need to examine these cases urgently, and regarding the fate of the victims who still remain under the same roof as the aggressor.

Another area of concern is juvenile justice. Thus, during 2019 1,304 children were registered as victims of crime in 1,239 criminal cases. In the same context, in 2019 664 crimes were committed by minors or with their participation – a decrease of 3.49 per cent, compared to the same period in the previous year¹⁷. In order to ensure the legal framework concerned with juvenile justice handling¹⁸, in 2019 the multidisciplinary teams visited 3,071 children at their home.

However, there is still a low level of professional training of police officers in the field of child safety, including the ability to work with different categories of children and the ability to work effectively with all competent authorities in the field of child protection. Coordination and cooperation at the local level is another challenge in the management of juvenile justice.

¹⁴ Report for 2016 on domestic violence and against women, (https://msmps.gov.md/sites/default/files/document/attachments/raportul_pentru_perioada_anului_2016_cu_privire_la_violenta_in_familie_si_violenta_fata_de_femei.pdf)

¹⁵ Information note on the status of criminality (http://politia.md/sites/default/files/ni_violenta_in_familie_12_luni_2019_pagina_web_a_igp.pdf)

¹⁶ Point 155 of the Methodical Instructions regarding the police intervention in preventing and combating cases of domestic violence, approved by MIA order no. 360 of 08.08.2018, it is stated that, in the cases described in points 124, 125, 153 and 154 of this Instruction, in the file for sending / accompanying the contravention materials to the court, it will be mandatory to refer to the provisions par. (3) art. 454 Contravention Code

¹⁷ Informative note on the state of juvenile delinquency and activity in the field of child safety during the XII months of 2019 (http://politia.md/sites/default/files/ni_ssc_12_luni_anul_2019_finala.pdf)

¹⁸ Law no. 140 of 14.06.2013 on the special protection of children at risk and of children separated from their parents and Government Decision no. 270 of 08.04.2014 on the approval of the Instructions on the intersectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking

Compared to the states of the European Union, crime prevention in the Republic of Moldova is inefficient and underdeveloped. The main reason for this is the lack of trust in the police and the population's reservations about the impact that an interaction with a police officer might have. There are no performance indicators that reflect community work by police officers. The indicators are usually only quantitative.

An issue that is ignored, or rather passed over in silence, is the police's unwillingness to intervene to stop an act of violence: the police are very reserved in this area, because they risk cases being brought against them regarding abuse and exceeding their duties. This is due to the lack of an integrated national decision-making mechanism and precise standard operating procedures regarding the limits of the application of physical force. Also, normative acts in this field are often contradictory, outdated and unjustifiably concealed.

The workshop participants referred to several problems and structural barriers that impede the achievement of target **16.1. Continuous and dynamic reduction of all forms of violence, in particular domestic violence and sexual violence.**

At the level of systemic barriers, the following aspects were identified:

- Law enforcement agencies do not have effective protocols on the detention of minors, so that their rights are fully ensured and violence against them is stopped.
- There are insufficient financial means to ensure the presence of psychologists in the process of criminal investigation. The same can be said about the mandatory presence of translators and the provision of specific expertise, all of which are provided formal, but not meaningfully – in a hurry.
- Multidisciplinary teams are dysfunctional and it is impossible to effectively manage cases in this format. At the same time, the regulatory framework on the prevention of juvenile delinquency does not provide the functional mechanisms that are necessary to implement the prevention policy.
- The tools applied in preventing and reducing violence, including in cases involving children, are not adjusted to meet the challenges imposed by migration and depopulation in the rural areas.
- The actions law enforcement agencies need to carry out in order to reduce and stop violence, especially domestic violence, involve prevention and information activities, but these are carried out sporadically and only with the support of the non-governmental sector.
- The fluctuation of police personnel and insufficient professional training represents a barrier, especially because the number of young people who want to become police officers is low.
- There is inefficient coordination between public health services and law enforcement agencies, especially in cases where victims and suspects have medical needs during their detainment.

- There is inefficient application of social reintegration mechanisms for former offenders, especially children who have been in conflict with the law.
- There is a lack of protection for victims of violence, who are exposed to repeated direct or non-direct criminal actions by aggressors. Victims are under pressure and are subject to intimidation, including during hearings, and they do not benefit from protection under the justice system.
- The whole stage of criminal prosecution is characterized by excessive bureaucratization. There is a perception that prosecuting officers, prosecutors, state-guaranteed legal aid defenders, investigating judges and other judges are only interested in enforcing bureaucratic conditions, and the formal completion of documents, and less in finding out the truth or effectively protecting victims.

At the level of attitude barriers, the following issues were referred to:

- There is an ignorance of violence as a phenomenon, at the family level, in the education system and in the criminal enforcement system.
- The participants perceive there to be an encouragement of violence and a culture of violence, especially in the penitentiary environment.
- Special attention was paid by workshop participants to violence among children. Although this phenomenon is widely known and widespread, the authorities are tolerant of children who commit acts of violence or incite such actions.

Recommendations



Participants made several recommendations to the Government, the judiciary/prosecutor's office, civil society and academia.

The recommendations made during the Forum belong to the participants and do not reflect in any way the position of the organizers and partners.

Improving access to justice for all

Recommendations for the Government:

State-guaranteed legal aid:

1. Review and improve the mechanism of case distribution of lawyers from the state-guaranteed legal aid system.
2. Introduce mandatory pro bono legal services to be provide by all lawyers.
3. Increase the financial allowance for lawyers that provide state-guaranteed legal aid services.
4. Simplify the mechanism for reimbursing transport expenses for lawyers providing state-guaranteed legal aid services.
5. Create secure conditions for regular communication between lawyers and clients in prisons, including online.

Justice efficiency:

1. Review and adjust the judicial map and the map of prosecutor offices.
2. Create adequate working conditions in courts and offices of the prosecutor (construction/renovation of buildings).
3. Ensure courts and the prosecutor's office have sufficient staff.
4. Increase the salaries of staff of the courts and the prosecutor's office.
5. Carry out obligatory mediation on certain categories of cases outside the courts.
6. Strengthen the capacities of the Mediation Council and elaborate a methodology for calculating mediators' fees.

Legal education:

1. Create adequate study conditions within universities.
2. Exclude the restriction on the employment of teachers with graduate studies, exclusively among those with a doctors' degree in law.
3. Exclude grid tests from the admissions exams for legal professions.

Respecting the rights of people with disabilities:

1. Adapt the buildings of courts and the prosecutor's office to the needs of people with disabilities.
2. Ensure access by people with disabilities to the existing information systems, by adapting them to their needs (e.g. web, e-files, etc.).

3. Create a mechanism for persons with disabilities to receive personal assistance (e.g. a person responsible for the guidance and assistance of persons with disabilities) in the courts and offices of the prosecutor.

Recommendations for the judiciary / prosecutor's office:

Efficiency of justice:

1. Review the workload of judges and prosecutors, in order to balance and possibly reduce it.
2. Streamline the mechanism for the unification of the legal practices applied by the Supreme Court of Justice.
3. Exclude *de jure* members from the SCM and Superior Council of Prosecutors and improve the activity of the SCM.
4. Improve the cooperation of the SCM with the Ministry of Justice, as well as with other authorities.
5. Strengthen a continuous inter-professional dialogue between all legal professions.
6. Ensure an effective dialogue with the media.

Respect for the rights of people with disabilities:

1. Adapt the premises of courts of law and the prosecutor's office to the needs of people with disabilities.

Recommendations for civil society:

1. Provide training for journalists in the field of law.
2. Implement education programmes on the law for the general public.

Recommendations for academia:

1. Review the university curricula of legal studies, in order to encourage analytical thinking.
2. Introduce in the university curricula for the discipline the study of the technique of legal writing and legal expression.
3. Ensure the conditions for academic mobility are present in the Faculties of Law.

Reducing corruption

Recommendations for the Government:

- Create an effective mechanism for **supervising and controlling the activities of political parties**: financing, the structure of self-governing bodies, the financing of election campaigns, the exact establishment of control bodies and a clear distribution of competences in verifying the activities of parties, especially outside of election campaigns.
- Ensure a transparent and **participatory process of drafting legal acts**, promoting a normative commitment for policymakers.
- Elaborate and **establish an effective accountability mechanism in relation to a lack of transparency**: amendments to the contravention law and regarding decisional transparency, the exact establishment of facts that represent a violation of the decisional transparency, and of the bodies empowered to ascertain violations, etc.
- **Ensure the transparency of the activities of public civil servants**, including through digitization, interoperability of databases, institutionalized civilian control of the integrity and interests of the public civil servants. Ensure transparency in the decision-making process in the public sector, including the stage of selection of officials, in particular those from management.
- **Strengthen the tax discipline**, including ensuring the digitization of retail transactions, VAT collection procedures, etc., based on the experience of states that are advanced in this field.
- **Ensure the overarching, consistent and sustainable financing of public policies**. Public policies and integrity instruments must be sustainable.
- Provide the **Ombudsman with tools and levers for more effective protection of integrity**, including also through amending the legislation on the organization and functioning of the Office of the People's Advocate.
- Include **training modules on corruption prevention in the educational package at all levels**.
- **Develop corruption prevention programmes** that can increase the level of social awareness about acts of corruption.
- **Extend the powers of the authorities to start an inquiry** on the basis of public disclosures of illegalities, journalistic investigation materials, including examining the option of establishing the obligation to act *ex officio*.
- **Strengthen the independence of the media**, including by establishing, respecting and monitoring access to information, the obligation to publish data about the founders of all the media institutions, their sources of funding. And examine the option of providing financial support to the investigative media.
- **Examine the opportunity of repeated referral to the Constitutional Court** in order to review the interpretation of the constitutional clause regarding the presumption of the lawfulness of the acquisition of property (art. 46 par. (3) of the Constitution), to

ensure a more efficient process of obtaining evidence and enforcing the confiscation of property (civil and extended).

- **Promote changes in order to strengthen the independence and the integrity of the judiciary**, including constitutional changes regarding the probationary period for the appointment of judges, the competence and powers of the SCM, etc.

Recommendations for the judiciary / prosecutor's office:

- **Strengthen the self-administration of the judiciary.** Organizing and conducting objective and transparent elections of the members of the self-administration state bodies, excluding the norms of art. 82 of the Law on the SCM.
- **Revise the provisions of the normative acts regulating the competence of the presidents of courts / chief prosecutors** in order to exclude unjustified pressure and interference in the activity of judges / prosecutors.
- At the level of the judiciary / prosecutor's office, develop practices (e.g. methodological landmarks, institutional communication) aimed at **eliminating cases of selective justice** and ensuring the transparency of processes.
- **Ensure extra evaluation of judges and prosecutors**, in order to exclude from the system people with issues related to integrity, and non-professionals.

Recommendations for civil society:

- Monitor policymakers in order to make them accountable and ensure transparency in the administration of public affairs, excluding elements of interference and political pressure in the justice system.

Safe and secure communities

Recommendations for the Government:

- Increase the number of women employed in the police and trained in the field of preventing and combating domestic violence. This is especially important when it comes to assisting and hearing victims of sexual violence.
- Elaborate systematic research and studies in the field of victimization, in order to build an adequate response to violent crimes in both rural and urban areas.
- Develop and implement formal education programmes for children under the age of criminal responsibility about the consequences of committing crimes.
- Develop formal education programmes on zero-tolerance towards sexual violence, violence against girls / women at preschool and school levels.



Discussions during the workshop dedicated to safe and secure communities.

- Elaborate mechanisms for inter-institutional and interdepartmental cooperation in order to respond adequately to the criminal phenomena that result in violence and victimization. Develop and implement procedures that will lead to interaction between criminal investigation bodies, the public health system and the social assistance system.
- Establish a mechanism to ensure the financial sustainability of the mediation institution and the development of programmes for the continuous training and evaluation of mediators.
- Develop opportunities and conditions for the employment of detainees who want to work.
- Reassess the role and mechanism of interventions by psychologists and legal representatives in the process of achieving justice in cases involving children that are in conflict with the law.
- Improve the efficiency of the statistical data-collection mechanism and the way in which this data influences criminal policies, in particular the response to the need to prevent and counter violent acts.
- De-bureaucratize the entire criminal prosecution system and create a balance between the effective protection of the rights of suspected, accused and convicted persons, on the one hand, and the victims of crime, on the other.
- Carry out a study to assess the financial needs required to ensure procedural guarantees and respect for the rights of all participants in criminal proceedings.

- Develop community mechanisms to ensure community security and safety, with the involvement of local public administrations, religious organizations, local non-governmental organizations and the population.
- Institutionalize a training programme for teachers regarding the early detection and prevention of violent actions among children.

Recommendations for civil society:

- Conduct systematic research and victimization studies in order to come up with an appropriate answer to the problem of violence in both rural and urban areas.
- Develop non-formal training programmes for children under the age of criminal responsibility regarding the consequences of committing crimes.
- Conduct information campaigns on the rights and protection of victims of crime.
- Develop community mechanisms in order to ensure community security and safety, with the involvement of local public administrations, religious organizations, local non-governmental organizations and the population.
- Carry out community awareness-raising campaigns on the needs of victims of crime and of people from vulnerable groups in general.
- Develop non-formal education programmes on zero-tolerance towards sexual violence, violence against girls / women at preschool and school levels.

Recommendations for academia:

- Carry out systematic research and studies in the field of victimization in order to develop an adequate response to the problem of violence in both rural and urban areas.
- Develop formal education programmes for children under the age of criminal responsibility about the consequences of committing crimes.