

Foreign Policy Association together with Friedrich-Ebert-Stiftung offer you a newsletter on foreign policy and European integration issues of the Republic of Moldova. The newsletter is part of the "Foreign Policy Dialogue" joint Project.

NEWSLETTER

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Synthesis and Foreign Policy Debates

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News in Brief



On April 25, the Russian authorities declared a Moldovan diplomat persona non grata and banned three deputies and the Minister of the Interior, Ana Revenco, from entering Russia. The Ministry of Foreign Affairs and European Integration of the Republic of Moldova forced an employee of the Embassy of the Russian Federation to leave the territory of the country, after declaring him persona non grata. The Russian newspaper Kommersant wrote that the Minister of the Interior, Ana Revenco, and the deputies of the Action and Solidarity Party, Oazu Nantoi, Olesea Stamate and Lilian Carp are no longer allowed to enter the Russian Federation. "I'm not going to go to the Russian Federation as long as the Putin criminal regime exists in the Russian Federation!" said MP Lilian Carp. For his part, deputy Oazu Nantoi said that this decision is not new for him, because he had had problems entering the territory of the Russian Federation before. "In 2019, when I participated in the act of political hypocrisy and went to Moscow together with the delegation that included Zinaida Grecianii, Ion Ceban and Alexandr Slusari, the official delegation had to wait an hour and a half because it was found that I was blacklisted by the Russian Federation," Nantoi said.



The Superior Council of the Magistracy (SCM) is to hear 14 judges participating in the competition for the temporary secondment to the Supreme Court of Justice (SCJ). They will be running for 12 vacancies left at the Supreme Court of Justice, following the recent mass resignations from this court. More precisely, it is about five judges from the Chisinau Court of Appeal: Sergiu Dagața, Igor Minăscuță, Nelea Budăi, Boris Talpă and Alexandru Gafton. The judge from the Comra Court of Appeal t Dmitrii Fujenco also participates in the competition. Three other judges, who entered the competition, work in the Chisinau Court: Irina Ţonov, Viorica Puica and Oxana Parfeni. Two magistrates work in the Bălți Court: Aliona Donos and Ghenadie Eremciuc. Judges also participate in the contest: Veronica Cupcea (Orhei Court), Valeriu Arhip (Strășeni Court) and Ion Malanciuc (Criuleni Court).



President Maia Sandu declared on April 25th that the Republic of Moldova is preparing to launch a new national program- "European Express Village". The programme will respond to the immediate needs to improve the rural infrastructure in the Republic of Moldova. The existing "European Village" program remains active and will be focused on large-scale projects. "I requested the Government, in the immediate period, to open the call for a new "Express European Village" project competition, which would meet the following conditions. To allow villages to implement projects fast, with a maximum completion time of 6 months, and to solve urgent needs in our villages. The procedure for registering projects in the competition should be simplified", said Maia Sandu.

Justice reform first but only by consensus



The Republic of Moldova cannot continue its European path without a profound reform of the justice sector. This reform is by far Moldova's most important touchstone. Currently, we are witnessing a game of egos, a game behind the scenes, in which even the current government is not skillful enough to push the right buttons.

There exist interest circles that want to see this justice system reform fail so that Moldova cannot get closer to the EU. All this is to maintain a status quo of the gray area where such reprehensible characters, now under general prosecution, can return and thrive.

The political class and the magistrates should sit at

the negotiating table and speak openly. They should stop threatening each other and use the levers they have at hand behind the scenes. Such tactics from both camps can only be counterproductive.

The frictions between the two actors now that are on opposite sides are also being instrumentalized by foreign actors

▶ such as the Russian Federation.

A virtual failure of this reform and the obstruction of the window of opportunity of the Republic of Moldova in the relations with the EU is exactly what Moscow wants. We are talking about a Russia that laundered, with the help of the Moldovan judicial system, more than USD 20 billion of black money in the generically called “Laundromat” case, which is far from being completed even today.

The most important thing now in the justice reform process is the election of new members for the Superior Council of Magistracy (CSM), the Superior Council of Prosecutors (CSP), as well as for the colleges of these institutions

with a self-regulatory role in the justice sector. These is the basis for building a healthy system of self-control free from political interference.

To this end, it is necessary that the core of magistrates, who also believe in such a reform to achieve the ultimate goal of EU integration, be more numerous and more influential than the judicial groups that work to sabotage this imperative initiative.

Thus, two actors are needed for this waltz that can put the Republic of Moldova on this irreversible path towards the EU, which has been discussed for so many years, starting with the April 7th protests. The dialogue

must be the main mechanism for such an unprecedented target to be achieved in the justice sector. Everyone needs to understand that Brussels cannot leave indefinitely this window of opportunity open for Moldova.

Consensus and action are needed, and this must be achieved in the coming months without wasting time and energy on endless talk of arrogance, translated under the screen of separation of powers in the state. Both camps must understand they are serving the citizens, so they should sit at the negotiating table and resolve this thorny issue without any delay.

Madalin Necsutu

The dialogue in the judiciary is intentionally jammed, those who want to prevent the reform are trying to block it

T*he Chair of the Legal, Appointments and Immunities Committee of the Parliament, Olesia Stamate, spoke in an interview for the FES/APE foreign policy newsletter about the problems in the judiciary and the solutions for the crises in this sector. We have also discussed about large-scale corruption cases, Moscow instrumentalizing the crises in the justice sector and the interests of fugitive oligarchs, as well as the EU requirements for the justice reform for advancing the European course of the Republic of Moldova. We invite you to read the interview in the following lines:*

■ **Ms. Stamate, how can be resolved the situation in which not all members of the new Superior Council of Magistracy (SCM) can be elected?**

■ The situation can be unlocked this week, if the judges act in good faith and elect their members for the SCM. This is the first



step to take and I hope this will happen on April 28th. After that, the SCM will be able to take more decisions. I understand that the SCM, in its current composition, has a limited mandate and can take decisions more of administrative nature.

SCM is hesitating to take decisions regarding the temporary secondment of judges to the Supreme Court of Justice

(SCJ). They announced that they placed the ad, but I understand they will take decisions after April 28th regardless of whether the SCM members will be elected or not. This will give them greater legitimacy and a fair justification if there was a General Assembly of Judges on April 28th. If the members for the SCM are elected it is fine, and if not, we will move forward.

■ **You posted recently in the social network regarding a ruling of the Constitutional Court on the pre-vetting process and the involvement of the Supreme Court of Justice (SCJ) in this process. What exactly did you want to convey with that message?**

■ I personally find it strange the rulings of the Constitutional Court according to which the referral is inadmissible. So, the articles challenged are *a priori* constitutional, because the decision is inadmissible, but at the same time, the text of the rulings gives certain explanations or interpretations. This decision, in fact, is not binding. This is to make it clear, but the Constitutional Court understands very well that the judges, when they judge certain cases and have to apply this law, will also look at the Court reasoning of the inadmissibility decision, because that is what the judges do in our country.

We do not yet have a judicial body brave enough to say that the inadmissibility decision is not binding. That is why I tried to explain in my post on the social networks that it is strange the practice of the Court to give decisions of inadmissibility, and at the same time, to provide explanations, as they did in the case of the Legal Profession Law.

Eligibility criteria

■ **How do you see the situation of the Supreme Court of Justice? We know that a series of judges there have submitted their resignations. And then there was the decision of the Commission for Emergency Situations (CES) to suspend those resignations, and for the judges to be replaced by judges from the first level courts who do not have enough experience. How do you assess this situation?**

■ First, we have to say that this secondment is a temporary. It is not about filling the positions with a permanent mandate. Secondly, it is not only about the judges of the first

level. This announcement is valid for all judges, regardless of court level, who have the required experience of 10 years as a judge under the old law or 8 years as a judge under the new law.

This is to cope with the position at the SCJ, so we are not talking about judges who have two or three years of experience in lower courts. We are talking about experienced judges who qualify for this position. This is a very good temporary solution and I do not think a better one can be found.

■ **We know there have been a series of rounds of talks between the political class and the magistrates. Can you understand each other or maybe there is need for mediation by neutral actors, like some NGOs, as this idea has also been advanced?**

■ In general, I think we are doing well here, but also the Minister of Justice, Veronica Mihailov, is doing a very good job by talking to the judges. Recently she was also in the region, in Anenii Noi, and met with judges and prosecutors, so I think the dialogue is going very well.

However, this dialogue is intentionally jammed, it is tried to be blocked by those who want to prevent the reform, that is it. I think it is about a smaller group of interests, which, however, has a voice and is somehow more influential. At least at the first General Assembly of Judges, this group managed to influence a good part of their colleagues.

I am quite optimistic about April 28th and I hope that things will move in the right direction at the upcoming General Assembly, and that the judges will be able to elect the members for the SCM. There is also a very active dialogue conducted by the minister, but at the same time, there exist internal discussions among judges. The latter understand that the situation should be corrected and things should be brought back to normality, and that the SCM does not represent them and they want

to be represented in the SCM. And there was time for all parties to reflect and identify solutions until the General Assembly.

Justice reform and the EU recommendations

■ **We know that six of the nine EU requirements refer to the justice sector. What is the current situation concerning the EU requirements? What is the degree of their approval or implementation?**

■ We are on track with most of these requirements. It also depends on the EU how it will assess the fulfillment of these actions. I am referring in particular to the one related to deoligarization, because a draft law was developed, which was examined by the Venice Commission with certain criticism. It was a better opinion than in the case of Georgia, however, the Venice Commission was quite reserved. Also the EU Delegation is reserved about the adoption of a framework law on deoligarization. Rather, they would like changes to sectorial laws.

There is an action plan regarding deoligarization that has to be formalized through an approval by the Government or the National European Integration Commission. We are trying to do our homework there too, although the issue is more delicate and complex.

Otherwise, we are doing quite well. It remains to complete the evaluation of the SCM, SCP and their colleges, which is one of the EU requirements. By and large, we have solved the other issues.

■ **A resolution of the European Parliament was voted recently on applying sanctions to Vladimir Plahotniuc and Ilan Shor. Are you optimistic that the EU will sanction them based on the same model as the USA or Great Britain?**

■ Voting of that resolution was an important step and somehow I understand that there will be actions following it.

It will not remain at the level of only an act voted by the European Parliament. Another thing is that the EU will have to develop the mechanism, because at the level of the European Union, there is no such mechanism. Nevertheless, I believe this will happen in the near future.

Solutions for speeding up large-scale corruption cases

■ Regarding the large-scale corruption cases, do you see solutions that could be taken more quickly in the near future, thinking also about the recent sentence in the case of Ilan Shor? What does this depend on?

■ One of the options we are preparing now is the Anti-Corruption Court. The establishment of this court would enable the fastest solutions, because especially in the first-level courts judging is slow.

The workload of judges in the first-level courts, especially if we refer to Chisinau, is extremely high. They are not able physically to have sittings with a higher frequency and otherwise prioritize the cases. They are randomly assigned through the system and have the same weight as any other case.

If you have specialized judges, whether they are organized in specialized panels or courts, they will be able to prioritize and take the large-scale corruption cases into consideration. Then things should move faster, although some delays cannot be completely avoided, as lawyers will try any method to drag on the time.

However, we are also intervening on certain procedural rules, such as the simplification of the criminal procedure, and the draft law will soon be presented by the Ministry of Justice. In addition to the establishment of these specialized anti-corruption teams, we are working on

mechanisms that will limit the possibility of delaying the processes in court.

Politics and Moscow's interests

■ Do you think that outlawing of the Shor Party is still relevant? Would this at least be an important political signal given that this party is already migrating to alternatives like the Movement for the People?

■ It is indisputably still relevant. As far as I understand, the Constitutional Court will issue a ruling regarding this in May. I think it is a very important signal for any other political party that may decide to follow the same path.

The rules are clear for everyone, and they must be observed. When a party abuses and flagrantly violates almost all rules related to party financing, tries to destabilize the situation and seize power by overthrowing the current democratically elected government, these facts must be sanctioned.

■ Do you see any correlation between the fact that former president Igor Dodon has officially returned to the helm of the PSRM? Could he, from this position, play the card of political victimization, taking into account the criminal cases opened in his name?

■ I do not necessarily think so, probably these could be Moscow's games. The decisions about who will lead the PSRM were not made here, but in Moscow. I do not think it's necessarily related to his lawsuits. Rather we are talking about political perspective for the party or certain actions that need to be taken within the party and someone else has not taken them or might not have had enough courage to take them.

■ How do you see the use of corruption as an element in the hybrid war that Russia is waging in the Republic of Moldova? Could this judicial deadlock also be orchestrated in his favor by Russia?

■ Absolutely, and I think things are kind of mixed up. There are different interests here. On the one hand, judges who want to completely avoid the vetting, because we also have judges who are at the mercy of the fugitives Shor, Plahotniuc and others, who want to delay this reform as much as possible, hoping it will change at some point given the government, and they will be able to avoid justice. On the other hand, Moscow has its own interests, trying to destabilize the situation. To that end, Russia needs these actors, who are now punished by justice, to be able to use them in their own interests.

Strengthening institutions

■ Ms. Stamate, how do you see the possibility of the Republic of Moldova to establish a National Anti-Corruption Department based on the model of the Romanian institution?

■ I believe that the Anti-corruption Prosecutor's Office must be strengthened in the sense that the limit of cases managed and the number of prosecutors, and investigation and prosecution officers that the Anti-Corruption Prosecutor's Office must have are estimated very clearly and precisely for it to be able to handle those cases. This is key to the strengthening of this institution, in addition to the aspects related to the own budget and so on.

Whether this should be based on the model of the Romanian National Anti-Corruption Department or not, I do not know. This is only one element, albeit an important one, and it is not the only one. The Anticorruption Prosecutor's Office needs quality prosecutors who work in the interest of the state. This aspect is the most important.

From my observations, at the Anticorruption Prosecutor's Office, there is a handful of prosecutors who work in the interest of the state, while the others work in the interest of someone else or have their own agendas.

■ Thank you!

Tower of Babel

**Editorial by Mariana Rata,
investigative journalist, TV8**

The developments of the last year and a half in the Moldovan justice system remind us more and more of the biblical myth of the Tower of Babel. Although in the beginning all those involved had common goals and messages, after some time, their voices (and visions) got mixed up. They ended up in accusing each other of torpedoing the reforms. Is there a conspiracy here or are we talking about mistakes made by both sides – the politicians and the judiciary?

**From a common goal,
to different languages**

In the summer of 2021, every second Moldovan who went to the polls voted for the Action and Solidarity Party, which promoted a strong electoral message of anti-corruption and justice reform. In the autumn of 2021, the need to reform justice was shared by all camps – political class (in the first instance, we had a joint vote of the opposition and the government on an important package of constitutional amendments in the field of justice), and the justice sector (judges, prosecutors, lawyers).

While the government was preparing the legal framework for cleaning up the judiciary, the system seemed to have started cleaning from within. Right after the suspension of the Prosecutor General Alexandru Stoianoglo, several criminal cases followed regarding important figures from the prosecutor's office and the judicial system, suspected of illicit enrichment or false income declarations. The society exalted. Expectations have risen to an all-time high. However, suddenly, their "languages" got mixed up, the reforms initiated by the politicians began to be challenged by actors in the judiciary, and the two camps entered a



long phase of confrontation and mutual accusations.

**When did judges and government
become enemies?**

Over the past year and a half, I have talked to dozens of politicians, judges, prosecutors, and lawyers to understand their views on justice reform, why they're angry with the other actors involved, and what "truth" is on each side. Everyone I spoke to was adamantly in favour of reforming and cleaning up the system, and I tend to think they were sincere. What they lack in order to cooperate is mutual trust and consensus on what these reforms should look like.

Today it is complicated to determine when and how the erosion of this trust began. Perhaps the politicians were the first who got disappointed. In all the euphoria due to the detentions and cases opened to the so-called elite of the judiciary, all of the sudden they realised that all was just a trivial settling of accounts between clans in the judiciary. Or maybe the judiciary were the first to get disappointed as judges expected that the new government would promote meritocracy and honest people in the judiciary. Instead, they could watch the advancement in the career of controversial figures among the judges of

the Superior Council of Magistracy and former prosecutors.

It is certain that the first public signals about communication problems between politicians and judicial actors came at the beginning of 2022. Several judges then publicly complained that the opinion of the judiciary was only formally consulted by the Ministry of Justice when drafting the pre-vetting legal framework.

The poor communication between politicians and the judicial system regarding all the justice-related laws that followed only deepened the feeling of mutual mistrust. On the website of the Association of Judges from Moldova, I found four public statements from the last year in which the association represented by more than one third of the judges expresses its concern about the reforms and legal initiatives in the field of justice initiated by the government, which, however, were not consulted with the system.

Many tend to believe that the turning point in the relationship between the politicians and judges was after the results of the pre-vetting became known and the draft law regarding the reform of the Supreme Court of Justice (SCJ) appeared on the agenda of the Parliament.

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The truth is that at that time, the relations between the government and the judiciary were already very strained. The SCJ judges agreed to resign as a group half a year before the draft law on the reform of the SCJ was voted, the actions having been coordinated with the SCJ leadership. For their part, the government officials in charge of the justice reform, instead of communicating with the protesting judges, have antagonized the judiciary even more. As a result, this spring, the justice bomb has exploded.

The General Assembly of Judges, the thrown gauntlet, and the vicious circle

What happened at the General Assembly of Judges, convened by the Superior Council of Magistracy (SCM) on March 17th, the day when almost all judges from the SCM resigned, helped me understand several things. I have seen sincere judges who, although they did not pass the pre-vetting, have encouraged their colleagues to vote for the new members of the SCM. I also saw many judges who were very angry and outraged by the activity of the former SCM. By the way, the former SCM chair chose to quit the assembly before being questioned by the judges.

I have seen magistrates with coordinated actions and speeches, who tried to set the tone and dominate during the assembly, but they are nowhere near the most respected persons in the system. I have seen many critical voices regarding the situation in the judiciary system, and that's a good thing - firstly, because the judges took courage, and secondly, because they also don't like the situation they have ended up in.

Of course, I got sad by the postponement of the voting of the new members of the SCM. The legislative changes hastily made before the Assembly in case of a deadlock were treated by the magistrates as a thrown gauntlet. And they responded with another legal invention – “interruption of the session” in order to buy time, prepare

challenges (if we are to believe a judge of the SCJ who presided the March 17th Assembly), and teach the politicians a lesson. The boxing match between the government and the judges is far from over. Today it is already clear that every move by the politicians will be followed by a response from the system and vice versa. Thus we have ended up in a vicious circle.

A sand castle?

Today, the judicial system has a Superior Council of Magistracy made up of three non-judge members, voted by the Parliament, and one judge, member of the old SCM panel, challenged by the majority of magistrates. The legal changes, the interpretation of the Constitutional Court, and the arguments of the government related to the legitimacy of the SCM activity with such a small composition, have been criticized not only by judges, but also by a part of civil society, experts, and the opposition.

Today, the justice reform has reached the point where it started. Therefore, the final goal of this reform was not the selection of the most honest candidates for the SCM, but the election of a professional and credible SCM with both the public and judges. I do not know what we can achieve in the situation where the judges will not trust the future SCM. With massive internal resistance, any reform risks being compromised, and the chances of the General Assembly to withdraw its support for the newly elected SCM members as soon as they sense favourable political conditions are high.

The need to examine appeals

It is fair and honest that until April 28th, when the General Assembly of Judges continues, all appeals submitted by those who did not pass the pre-vetting should be examined - objectively, fairly, and impartially.

Despite the fact that they are angry with the government for being strained

through a too fine sieve by the pre-vetting commission, judges have no right to neglect the will of the people they serve, and the citizens have made it clear that they want a cleaning up of the judiciary and a genuine fight against corruption.

Who wins when power clashes with justice?

For a year and a half since the beginning of the justice reform, several mistakes have been made. The government was wrong when it chose its allies from within the system; the president was wrong when she did not explain very clearly why she rejected the judges who were not promoted to the ceiling; the SCM cheated by dodging its obligations and promoting its own agenda; the Constitutional Court was wrong by applying double standards related to the powers of the SCM and SCP members after expiry of their term.

Judges are guilty of being carried away by emotions, acting out of frustration, resentment, and some may even be influenced by obscure political or business circles. The SCJ magistrates acted unprofessionally (and some also in bad faith) by announcing their resignation when they understood that their departure would cause blockages. Today, to the public opinion, the judicial system looks more hideous than ever. While in the opinion of the judicial system, the political class is more intrusive and abusive than ever.

The war between government and justice only benefits the vindictive forces in politics and the criminal world. They are trying to take advantage of the judges and prosecutors' resentment towards the government, drawing them into far more dangerous games.

A restart is needed. I believe that if trust is regained, judges will be able to isolate their “toxic elements” on their own. The “legislative shortcuts” introduced overnight to prevent a possible deadlock or failure only complicate the situation, and the Venice Commission is making it even clearer.

This deadlock was generated by the adoption of several laws in a speedy and inexplicable way

The judge of the Chisinau Court of Appeal, Angela Bostan, gave the newsletter an interview in which she expressed her view on the deadlock in the justice reform and how the current dispute between the political class in power and the magistrates should be settled so as to solve this tense situation. We discussed about the justice reform and the ingredients that could ensure a symbiosis between the political class and the magistrates, so that the two powers could continue the European path of the Republic of Moldova. We invite you to read the interview below:

■ Ms Bostan, how do you see the current deadlock in the justice system, especially the election of future members of the Superior Council of Magistracy? What should be done to unlock the situation?

■ In my opinion, with certainty, this impasse is not due to the judiciary that are currently in office as they are trying to present the situation that we are hindering the European path of the Republic of Moldova. Blaming us for this blockage is unfounded.

The deadlock is obvious, but this has been generated by the adoption of laws at a very high speed, in an inexplicable way.

First, the reform should be together with those who are reformed. In our case, however, a reform about us is being promoted, but without us, the magistrates. Only the Superior Council of Magistracy (SCM) was involved in this reform, a body with very limited powers, according to the decision of the Constitutional Court.



The SCM has done everything possible to remove the magistrates from the discussion and analysis of this reform.

Visions and solutions on equal footing

■ At one point, the option was advanced that an NGO could mediate between the political class and the magistrates. How do you see this idea? Can a bilateral consensus be reached?

I will tell you honestly that I haven't had any peace in the last week, because of the April 28th that is approaching, when the General Assembly of Judges will take place. I'm telling you openly and objectively, that as a judge, not as a person who participated in the pre-vetting process, I am very concerned with the format of the SCM.

With this date approaching, the uncertainty is growing and I understand that any decision that is going to be adopted by the General Assembly of Judges can be contested, the decision being affected. The only hope and

solution I see is for us to discuss with the politicians on equal footing.

If they take one step back, we are ready to take two steps back, and so on. I mean concessions by steps back, to have constructive discussions with mediation of either development partners, NGOs or the Ministry of Justice. Only they should be impartial and trusted partners.

That would be the only solution, otherwise, if we do not find a legal solution to unlock the situation of total collision in the system, the Republic of Moldova will bear the consequences as an EU candidate country and as a country that has to provide justice to its citizens. These elements could be compromised.

Negotiated compromises, no deadlocks

■ What should we expect from the General Assembly of Judges from April 28th? Do you think certain processes will be unlocked or not?



■ Whatever happens at the General Assembly of Judges on April 28th, based on the current premises, the situation will not be unlocked, it will block things even more.

A logical string of my arguments should be made in order to understand why this is so. I assure you this is happening, because the examination of appeals has been blocked. What we are seeing in the current situation, even after the first General Assembly of Judges, is a well-organized process aimed at doing everything possible to have these appeals rejected. How the delegation of the judges to the Supreme Court of Justice will be done is not clear to me.

We are getting into much bigger troubles, because some politicians pretend that there is neither their fault nor interference with the process. I don't want to find faults, but we all have a stake in this situation. We should not just point out to one side. We need to mobilize our efforts to find a compromise solution, because the system has shown it does not want a deadlock, it just wants a fair process. The standards should be observed, not the ones like "these are ours, these are not ours" as it was until 2019.

■ **Do you think the political class is interfering with the justice now in the same way, for example, as it was during the times of Vlad Plahotniuc or earlier, during those of Vlad Filat?**

■ I don't want to refer in any way to those times or to say those people designated an "era" in the justice, but if we talk about interference of the politicians with the judiciary then and now, probably now this takes place much more "delicately".

Do you know why? Because then, the politicians you named, directly or indirectly, exercised control through someone in particular – through certain members of the SCM and heads of courts. Now, with the dissolution and

departure of the previous SCM, this control situation has disappeared.

If those who until now said they were controlling the situation, now there must be someone else in the SCM, who will be equally receptive to control the situation. Why is then such a fight now for the SCM? So, the same tools and the same practices are being used again. Nothing new under the sun.

Questionable practice

■ **What benefits can the establishment of an Anti-corruption Court bring, that the President Maia Sandu recently spoke about?**

■ I see it as a specialized court and as having constitutional coverage. Furthermore, it is absolutely unrealistic to create such a specialized court, because the judges are also to be selected and the related legislative framework must also be modified. I am referring to the Criminal Procedure Code, the Criminal Code and last but not least, I want to tell you that starting from procedural implementations, the respective Court will be competent to judge certain cases that will be reflected in the Civil Procedure Code from a certain moment.

More specifically, crimes already committed can no longer be brought under the jurisdiction of this Court, as long as we have some principles in the Civil Procedure Code regarding the application of procedural and criminal law in space and time.

■ **So the Court will not be able to take over those high-profile cases already pending?**

■ Certainly not. The general rule is that if a court has retained for trial a case which at the time of submission to the court was within the jurisdiction of that court, that case is to be tried by that court, even if the jurisdiction has been changed.

And already the new crimes under the jurisdiction of this specialized court will be committed after the entry into force of the amended laws. Here is a very thorough legislative activity, to be perceived as the Law on the Reform and Evaluation of the Supreme Court of Justice. They have done the latter and now they don't understand what, who, and when they have to judge.

According to the principles currently valid, one could intervene. So it is quite a serious activity. In my opinion, the legislator and the promoters of this idea should not be guided by certain terms, but by the quality and competences well assigned and reflected in the related legal framework that I have mentioned earlier.

Ambiguous selection criteria

■ **How do you see the secondment of judges to the Supreme Court of Justice (SCJ)? Could this measure unlock the situation at the SCJ?**

■ Regarding the secondment of judges, this was done through changes in the law. I still consider this situation to be quite debatable, but at this point, I have not analysed it deeply enough to be able to discuss legal details.

Here we are talking about some illegal selection criteria. We have some selection criteria for both the Courts of Appeal and the SCJ: not every person can simply be seconded to the SCJ based on a request. The person must meet certain professional quality criteria, the competence belonging to certain bodies: the Selection Board, the Career Board, the CSM, etc.

I would have liked it not to have come to that. With regard to this legislative intervention, I have to do some analysis before I can express my opinion about it.

■ **Thank you!**

SECURITY & DEFENCE DIGEST



Platform for Security and Defence Initiatives

The impact of corruption and injustice on the security sector

Fighting corruption was declared by the government as the main priority of the Republic of Moldova. Thematic actions to counter corruption can be found in the most important strategies and national policy documents, including the Moldova-European Union Association Agreement. After obtaining the status of a candidate for accession to the European Union, the Moldovan authorities adopted a plan to implement the nine recommendations formulated by the European Commission. This plan contains 60 actions. Out of the nine conditions put forward by the European Commission, four are related to the justice reform. The commission requested the Republic of Moldova to ensure the successful implementation of the justice sector reform, in order to guarantee the independence, integrity, efficiency, responsibility and transparency of the system; fulfil the commitment to fight corruption at all levels by taking decisive action for proactive and effective investigations and a credible record of prosecutions and convictions; to ensure “deoligarization”, by eliminating the influence of private interests in the economic, political and public life; as well as to carry out reforms that provide quality public services for citizens.

The commitments assumed by these acts come as a response to the multiple citizens’ requests. According to the national survey, Public Opinion Barometer, in recent years, the fight against corruption has become the most important issue for the citizens of the Republic of Moldova. Also, according to a study conducted by PISA in 2022, 43.6 percent of respondents consider corruption as a serious risk/threat to the security of the Republic of Moldova.

The cost of corruption exceeds by far the amount of bribes paid, funds embezzled, and taxes avoided. Corruption hinders development, increases inequality, undermines the legitimacy of governments, and weakens public confidence in democracy. The impact of corruption can be felt from poor educational outcomes to low response

efforts to threats, being a major impediment in achieving the national goals.

In recent decades, the focus on the impact of corruption has steadily increased. International conventions and standards have been implemented as well as laws and policies in the field of integrity and anti-corruption; institutions have been established and reforms focused on strengthening integrity have been implemented.

Corruption hinders, in particular, the progress of countries in transition, such as the Republic of Moldova, stealing the necessary resources from the efforts to build the rule of law. Resources provided through corrupt practices are often transformed into economic and political influence, thereby

weakening the democratic institutions and further expanding corruption. The national security and defence sector are not isolated from corruption, and manifestations of corruption can take many forms, such as: bribery, awarding of non-competitive contracts, influence peddling, rigging of public procurement, shoe-horning [the transfer from the state to the private sector of officials -ed.], and improper use of budgets.

What is the impact of corruption on the security and defense sector?

Corruption is costly. Corruption obstructs the effective functioning of the security sector because the processes of implementing public policies are compromised. Corruption in the defence and security sector can take different forms: protectionism, acceptance of non-competitive contracts without organizing public tenders or manipulation of payment funds.

Corruption has always been a significant challenge to Moldova’s efforts to achieve economic growth and democratic consolidation. However, turning corruption into a tool of Russia’s hybrid war against Moldova has complicated the country’s security challenges. Below we are analysing the transformation of corruption into a tool of Russia’s hybrid war against Moldova and its implications for national security.

Turning corruption into a tool of hybrid warfare

Russia has used corruption as a tool to influence Moldova's politics, including foreign policy, ever since its independence from the Soviet Union. However, in recent years, the transformation of corruption into a tool of Russian hybrid warfare has become more intense, involving the use of corrupt practices to achieve strategic foreign policy goals.

Russia has used corruption in Moldova to undermine the country's pro-Western political forces, to prevent Moldova's integration and cooperation in the European and Euro-Atlantic structures, and to maintain its sphere of influence in the region. The transformation of corruption into a tool of Russia's hybrid war in Moldova includes the following tactics: bribing politicians and officials to influence political decisions in favour of Russia; co-opting Moldovan businesses through corrupt practices to exercise economic influence; financing political parties that support Russian interests; engaging in money laundering and other financial crimes to undermine Moldova's economy.

Implications for the national security

The instrumentalization of corruption and kleptocratic interests in Moldova represents a significant threat to the national security of the country, which has the following consequences: political instability - the use of corruption to influence political decisions and to co-opt political actors leads to political instability and can undermine the legitimacy of democratic institutions of Moldova; economic harm - the use of corruption

to undermine Moldova's economy can lead to a decrease in economic growth, job losses and increased poverty, which can ultimately affect the national security; security threats - Russia's efforts to maintain its sphere of influence in Moldova lead to security threats, including the use of military force, cyber attacks, and other forms of aggression; erosion of trust - the instrumentalization of corruption leads to the loss of trust in government institutions and can undermine the efforts of the Republic of Moldova to build a more democratic and prosperous society.

The need for efficient and accessible justice

Moldova launched a comprehensive anti-corruption reform. Part of it consists in the vetting process of judges and prosecutors. The reform began in 2022 with the evaluation of candidates for the self-governing bodies of judges and prosecutors. The evaluation of candidates for the position of member of the self-governing bodies of judges (SCM) and prosecutors (SCP) involves the verification of their financial and ethical integrity, carried out on the basis of Law no. 26/2022. This mechanism was positively appreciated by the Venice Commission

During the process, 40 judge and non-judge candidates were evaluated by the Pre-Vetting Commission in the competition for the position of member of the Superior Council of Magistracy (CSM). The evaluation process involved 28 judicial candidates, enrolled in the competition for the SCM, and 12 non-judge candidates admitted to the competition by the Parliament. However, only 31 candidates went through the entire evaluation process, as 9 candidates either withdrew from the competition or did not submit

the mandatory documents required by law within the established terms, which led to their failure to pass the evaluation.

Parliament recently appointed three non-judge members of the Superior Council of Magistracy (SCM). The next meeting of the General Assembly of Judges is scheduled for April 28th, where the permanent members of the SCM will be elected from among the judges. On Monday, the members of the SCM approved a decision regarding the organization of a competition to fill the vacancies at the Supreme Court of Justice, in the situation where, in February, 20 of its 25 magistrates resigned. "Important progress has been made, but the deadlocks in the justice system remain a serious impediment for the consolidation of the Republic of Moldova as a state, for attracting investors, for economic growth and for the time when we will succeed in joining the EU. That's why all this focus on the justice system is absolutely key", noted the head of Moldovan diplomacy.

In the given context, the President of the Republic of Moldova, Maia Sandu, convened on March 20th, the Supreme Security Council related to the emergency situation in the judiciary, namely the blockages that the corrupt judges in the system put in the way of the cleaning and functioning of the judiciary. "We need a judiciary that is independent from corruption, that does justice, in order to succeed in building a European Moldova and to restore people's trust in the judiciary and in their own country", said the head of state.

On Thursday, 13 April 2023, the Chisinau Court of Appeal pronounced the decision in the Shor case, which is part of the bank fraud, by which Ilan Shor was found guilty, being

definitively sentenced to 15 years in prison, in the penitentiary of closed type, with the deprivation of the right to hold positions in the banking system for a period of 5 years. Based on the decision, Ilan Shor has to pay back over MDL 5.2 billion to the Savings Bank, according to a press release from the Anticorruption Prosecutor's Office.

Instrumentalization of corruption as part of the hybrid war, led to consequences such as the organization of protests and destabilization attempts by the fugitive oligarch Ilan Șor, with the support of Russia, against the pro-Western Moldovan government led by President Maia Sandu. Over several months, Russia directed its two main political proxies in Moldova – the Socialist Party and the Shore Party – to implement its push-pull strategy of coercion.

The dire situation in the justice sector is due to intentional neglect by political actors and political influence in the judiciary. Until the 2022 reform, the country's mechanisms created to verify the wealth of state officials, investigate their personal connections, and punish them for violating integrity laws, were unable to ensure the effective administration of justice and accountability. The process of ensuring

integrity in the judicial system is multi-contextual and transversal.

Social trust in state authorities depends on trust that elected officials will carry out their duties in accordance with the public interest, promote the necessary regulations to ensure institutional and professional integrity, identify and eliminate corruption risks, impose accountability, and apply punitive measures appropriate to those who violate these standards.

Promoting integrity in the public sector in the Republic of Moldova at a practical level has not produced major results. In large part, this is because the most corrupt still have the opportunity to exert political influence over the legal system, – not just by obtaining selective justice for themselves, but also by weakening the system in general, affecting its ability to identify and sanction violations of integrity legislation.

International experts and development partners mentioned that the ambitious reforms regarding justice and the fight against corruption, announced in the Republic of Moldova, are ongoing processes. Citizens' trust in these initiatives is essential, and the speed

of reform implementation plays a substantial role. However, quality is the determining factor. In the sensitive context in which the Republic of Moldova finds itself regarding the war in Ukraine and the intensification of the hybrid war, corruption is used as a tool to destabilize and influence democratic processes.

Public institutions must continue efforts to combat corruption and ensure justice reform through integrity and ethics verification mechanisms (pre-vetting and vetting). There are different methods to fight corruption and one of them is responsible asset recovery. This is an essential step to prevent corruption in the future.

Recovered assets can be invested in the rule of law and aspects of civil society that serve as corruption checkers. The instrumentalization of corruption against Moldova represents a significant threat to the country's national security. Moldova's government and civil society must work together to fight corruption and strengthen democratic institutions. The international community has a role to play in supporting Moldova's efforts to fight corruption and build a truly democratic and prosperous society.

Opiniile exprimate de experți în cadrul editorialelor nu reflectă în mod necesar punctul de vedere al Friedrich-Ebert-Stiftung (FES) și al Asociației pentru Politică Externă (APE).



Asociația pentru Politică Externă (APE) este o organizație neguvernamentală angajată în susținerea procesului de integrare a Republicii Moldova în Uniunea Europeană și facilitarea procesului de soluționare a problemei transnistrene în contextul europenizării țării. APE a fost constituită în toamna anului 2003 de un grup proeminent de experți locali, personalități publice, de foști oficiali guvernamentali și diplomați de rang înalt, toți fiind animați de dorința de a contribui cu bogata lor experiență și expertiză la formularea și promovarea de către Republica Moldova a unei politici externe coerente, credibile și eficiente.



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