

Justice Sector Challenges Undermine the Rule of Law in the Republic of Moldova

Key challenges

Justice sector reform has continually been on Moldova's agenda since the political changes in 2009, but with very little impact. Moldova's reform of the justice sector has stalled, with many critical areas unresolved regardless of the implementation of the Justice Sector Reform Strategy (JSRS, 2011 – 2017). Even the loss of EU budgetary support caused by unfulfilled commitments in the justice sector did not change the attitude of the authorities. The JSRS was part of the EU-Moldova Association Agenda for 2014-2016. Independence of the judiciary is among the key priorities of the EU-Moldova Association Agenda for 2017-2019, including a series of crucial short and medium-priorities to strengthen judicial independence and accountability. Respect for rule of law is a pre-condition for EU macro-financial assistance to be provided to Moldova, agreed upon in 2017.

Several issues seriously affect rule of law and independence of the judiciary in Moldova. The selection and promotion of judges is still not merit-based, mainly due to selective approach and promotion of several candidates with serious integrity issues. Judges are still nominated for an initial mandate of 5 years, condition that may seriously affect their independence. The Parliament continues to play a dominant role in appointing judges of the Supreme Court, which politicizes the appointment of Supreme Court judges. The Superior Council of Magistracy takes most of the decisions behind closed doors and poorly reasons them. Signs of selective justice became visible, in particular after 2015. This refers to the use of criminal justice against outspoken judges and political opponents, enhanced prosecutorial bias in the judiciary and closed hearings in several high profile cases for no legitimate reasons. The public trust in the judiciary decreased in recent years and remains at a low level today, in spite of the implementation of the JSRS during 2011-2017. According to public opinion surveys, the share of distrust in the judiciary was 76% in November 2011 and reached 79% in November 2017 (Institute for Public Policies, Public Opinion Barometer, November 2011 and November 2017: www.ipp.md). Urgent measures

to ensure judiciary and law enforcement bodies' impartiality and professionalism are necessary. Only real reforms with proven results can restore the credibility of the justice sector in Moldova.

Recommendations for EU

The Moldovan authorities failed to show sufficient will for justice sector reform, which endangers all other reforms. Therefore, we call on the EU not to resume any justice sector budget support unless the Moldovan authorities show evidence-based improvements and fulfillment of the key short-term priorities included in the EU-Moldova Association Agenda, in particular:

- 🔍 **Amend the primary and secondary legislation to ensure merit-based appointment and promotion of judges and provide track-record of merit-based appointments and promotion of judges;**
- 🔍 **Amend the legislation to ensure an effective disciplinary mechanism for judicial accountability, including an accessible mechanism for public complaints and a functionally independent and accountable Judicial Inspection;**
- 🔍 **Amend the Constitution in line with Venice Commission recommendation (remove the initial 5-year appointment for judges, change the composition and strengthen the role of the SCM and remove the Parliament appointment of judges of the Supreme Court);**
- 🔍 **Amend the legislation to provide for transparent decision-making process of the Superior Council of Magistracy;**
- 🔍 **Ensure transparency of courts by ensuring the right to a public hearing and publishing of all court judgments, except legitimate exceptions;**
- 🔍 **Effectively implement the safeguards of judicial independence and equal application of the law, including by excluding any selective justice elements.**

We also call on the EU to continue following closely the individual cases that deepen and expose significant dysfunctions of the justice system.