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# NEWSLETTER

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## Synthesis and Foreign Policy Debates

The materials are realized by Lina Grau, foreign policy expert and programme coordinator with APE.

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### The last period was marked by several important events in Moldova.



The Association Agreement between the Republic of Moldova and the EU was ratified on November 26th by Italy, the last country out of 28 EU Member States to ratify the document. The Agreement having been provisionally implemented from 1 September 2014, will shortly enter fully into force. "The EU support has been conditioned by reforms and policies agreed under the Association Agreement", have stressed the MEPs in a debate on the situation of Moldova, which took place in the European Parliament on November 25th. The Commissioner for Humanitarian Aid and Crisis Management, Christos Stylianides, said the EU urges to conduct urgent investigations into the bank fraud, find the culprits and recover the money. "Decisive steps should be taken against corruption, which means that especially the banking and public sectors such as the justice sector should be reformed. The IMF support and the resumption of the European funding are conditioned by these reforms," said the European Commissioner.



President Nicolae Timofti has conferred the "Order of the Republic" to the German Chancellor Angela Merkel. The award was conferred "as a sign of deep gratitude for the outstanding contribution to the strengthening of the Moldovan-German relations of friendship and constant support of Moldova's European integration."



In Tiraspol, the Sheriff holding supporters and the Obnovlenie Party obtained a two-thirds majority in the Supreme Soviet, the legislative body of the Transnistrian separatist region. The Obnovlenie Party represents the interests of the business community, in particular of the Sheriff holding, and is in strong opposition to the current president of the region, Yevgeny Shevchuk. The results of the elections have generated protests by Shevchuk's supporters, but the local security body, KGB, warned the residents to abstain from provocations and not to go to protest actions if the latter have not been announced at least 10 days in advance.



A protocol on the establishment of a joint check point at the Pervomaisk-Cuciurgan border starting from January 1st, was signed earlier this month by the Chisinau and Kiev authorities. Moldova and Ukraine have been already having for several years a joint check point in Northern Moldova –Mamaliga-Criva, but it is for the first time that such a joint check point will be set up on the Transnistrian segment of the border. Tiraspol has protested against this agreement.



The leader of the Russian party "Spravedlivaya Rosia", the deputy Sergei Mironov, said in his speech given at the Congress of the Socialist Party (PSRM) in Chisinau that "Moldova needs early elections." At the Congress which took place on November 29th, Igor Dodon was re-elected president of PSRM, the party which being openly supported by Russia, calls for early elections in the spring of 2016.

A group of EU experts started on Monday, November 30th, an evaluation mission of the Moldovan legal institutions. The group of 15 European experts includes the head of the National Anticorruption Department (DNA) of Romania, Laura Kovesi Codruța, who will be responsible for assessing the effectiveness of the National Anti-Corruption Center and of the National Commission for Integrity in Moldova.



## The fight against corruption and the judicial reform – are these objectives achievable in Moldova?



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in Moldova. At the end of the mission, by the end of March 2016, the group of experts will make recommendations aimed at contributing to a de facto justice reform, eradication of corruption and fight against money laundering.

The experts will evaluate also the activity of the Constitutional Court, the Prosecutor General, the Superior Council of Magistracy, the Ministry of Justice, the National Institute of Justice, the Supreme Court and ombudsman.

“The ultimate goal of this exercise is to offer advice and recommendations on the structure and activities of the key legal institutions of Moldova in three areas: justice, anti-money laundering and anti-corruption systems”, it is mentioned in a statement of the EU Delegation to Moldova.

The exercise is organized within the European Union TAIEX instrument – an instrument for exchanging information and technical assistance of the European Union through which the EU provides support to the public authorities in implementing the EU law.

The Head of the EU Delegation to Moldova, Pirkka Tapiola, who presented the programme of the evaluation mission in the presence of the interim prime minister, Gheorghe Brega, said the European experts will not solve the problems in the justice sector, but will diagnose the real state of the legal institutions, while “the treatment can be applied only by doctors from Moldova,” said Pirkka Tapiola.

Because of the lack of progress in the justice reform, the EU has not allocated the third tranche of 15 million EUR for this area. According to the Head of the EU Delegation, the tranche has not been allocated not so much because of the lack of an agreement with the IMF, but because of the flaws of Chisinau, including the Prosecution Office reform.



## **Laura Ștefan: If citizens don't demand changes from the political class, the changes will not occur regardless of the recommendations of international experts**

**O**ne of the experts closely monitoring the situation of the Moldovan justice is Laura Ștefan, coordinator of anti-corruption projects with the Expert Forum of Romania. The organization produced a report within a European project about how Romania's experience in combating corruption can be applied in the neighbouring countries - Moldova, Ukraine and Georgia. Prior to making the conclusions of this report public, I have discussed with Laura Ștefan about the way she sees the situation in Moldova in the area of fighting against corruption and the judiciary reform.

■ **Lina Grău:** Some time ago there were very many in the West - officials and high-ranking politicians - who insisted that the Republic of Moldova do reform. It seemed to be an attitude of people and institutions who care about what happens in Moldova. Lately these voices have become rarer. However, at present, only the Western experts are still talking about this. The

impression is that the West understood that at present, drawing Moldova on the right path is a difficult task to achieve. Why does it happen?

■ **Laura Ștefan:** I believe there was a greater interest on behalf of the EU in previous years due to the fact that there were hot and intense discussions about the visa liberalization process, which ended successfully for Moldova. On the other hand, the external pressure coming from the international partners work to a certain point. If a country does not want to change and does not want to move in a certain direction, no one in this world can oblige it to do it.

I think that what is particular about Moldova is the lack of public ownership of a clear reform agenda. We rather discuss proposals that have been discussed in previous years and make analyses than take decisions. This perpetual search for perfect models ends up in generating negative results, because, ultimately, what should Moldova do, in my opinion, is to

use the models that have proven to work in countries with a similar experience and legal framework.

And here I bring the Romanian experience, because I feel that we have many things in common, including in terms of the legal and institutional framework. A search for perfect solutions is actually blowing in the wind, because there are no perfect solutions. There is only workable solutions, solutions that produce results. And I think it's a trap to seek eternal perfect applicable solutions that have no vulnerabilities at all. Nowhere on this planet there are institutions to live in a vacuum. There are institutions that have to coordinate with other institutions in the country and produce results.

I think the example of Romania, Spain, and Italy are examples that can be followed when trying to build institutions to combat such phenomena as corruption.

■ **Lina Grâu:** How are the things seen in Moldova from Romania, where the fight against corruption and judicial reform have advanced a lot?

■ **Laura Ștefan:** I can tell you that Romania's experience does not come from nowhere. Romania's experience in the last 10 years is based on consistency and experience. Once we have adopted an institutional and legislative model, we have not changed it and that was not called into question every week. So, once adopted the law that was setting up the structure called the National Anticorruption Department (DNA) or the National Integrity Agency (ANI), the efforts have been directed towards further building these structures and not changing every month or every year the legal structure or the way in which the matter was regulated.

We should understand that the anti-corruption institutions cannot achieve results unless they enjoy a legislative stability and a clear status. It's not by accident that in Romania, the prosecutors are magistrates, similar to the judges. That means they enjoy independence from the political factor and a status that

allows them to investigate into the matter whenever there are indications that the law was violated.

So, there is need for legislative and institutional stability. Don't merge or destroy institutions after they have been set up, and obviously, good people, people of quality who could lead these institutions and bring with them other people are an essential element in this construction. But no one will come to work for an institution that is daily threatened with extinction.

■ **Lina Grâu:** To what extent the political influence factor is important? You are speaking about people of quality here. But people, at least in Moldova, are appointed based on political criteria, serving the interests of the party they represent.

■ **Laura Ștefan:** It is impossible to imagine a similar situation in Romania and at the same time, I cannot imagine that an institution headed by a person appointed according to such an algorithm could be effective in the fight against high-level corruption.

■ **Lina Grâu:** What could be then the suggestions of good practice that could be "exported" from Romania to Moldova? In Chisinau people are joking that DNA would be the best good to be exported from Romania in Moldova.

■ **Laura Ștefan:** We are now in the course of preparing a report within one of our projects that will be ready and published in December, which looks at best practices that can be borrowed from Romania and applied in the countries of the region - Moldova, Ukraine and Georgia. The project is financed by the Black Sea Trust.

Yes, this is the conclusion we also came to – the Romanian experience is important in the construction of anti-corruption institutions, whether it is DNA, ANI, the Superior Council of Magistracy or the judicial inspection as independent bodies, managing the magistrates' career.

And when I say "magistrates", we are coming inevitably to an absolutely

necessary discussion, in my opinion, about prosecutors and their status. In order for the prosecutors to properly do their job – and that is what the Romanian prosecutors in chorus told us and our partners from Moldova, Ukraine and Georgia - they would need to be magistrates. They told us they cannot imagine to have the freedom to open cases for influential people unless the prosecutors are magistrates and have the guarantees of independence that the status of magistrate grants them and unless they are professionally detached from the political power and influential politicians at some point.

■ **Lina Grâu:** We are looking forward to this report. In Chisinau, an EU evaluation mission on justice and anti-corruption is going on. Do you think these recommendations come on fertile ground in Moldova? How can the situation be changed?

■ **Laura Ștefan:** The ground in Moldova can be changed only by the Moldovan citizens. If the Moldovan citizens don't demand changes from the political class, it is evident that changes will not occur, no matter how many recommendations the international experts will make. I think that what the Republic of Moldova lacks at this moment, it is not expertise and advice, but rather political will.

I was talking about the status of the prosecutor. There is a very good study, conducted by a Moldovan organization - the Legal Resources Centre- about the Prosecutor's office structure and courts optimization. So, information does exist. What is lacking is political will.

■ **Lina Grâu:** In Moldova people are disappointed in the political class that came to power after 2009, and when we talk about good practices in Romania, we would like to know about the risk factors that could compromise the success of positive developments in Moldova, even in a 15-year perspective, as it happened in Romania. Do we have the chance to succeed? Are there any perspectives?

■ **Laura Ștefan:** Yes, there are, but I

have the impression that many people in Moldova focus more on the risk to fail and less on the chance to win and transform the country.

■ **Lina Grău:** This is again because of the deception in the political class and current developments.

■ **Laura Ștefan:** I cannot assess what is happening in Moldova from the political perspective. However, I can tell you that deception is the easiest state of mind. More difficult is to do something, start demanding from your government, get involved, begin to vote for people who you really believe in and even get politically involved.

We in Romania are also disappointed in the political class. The Parliament has the lowest share of trust compare to other state institutions. But this doesn't mean we should give up. Everybody can change something at the place where they work.

## **Cristi Danileț:** *In Romania, we learned a very important lesson - the fight against corruption is not possible without justice reform*



**Cristi Danileț, Judge at the Superior Council of Magistracy of Romania, says Romania's experience in fighting against corruption can be revealing for Moldova and can help it leap several stages. For an efficient justice reform there is need for pressure from the external partners and society, and, especially, for political will of the government. "Corruption is like a disease and the antidote should be administered daily. It has the same effect as the terrorism –it destroys states and lives"; Cristi Danileț mentioned at the European Integration Debate Forum.**

■ **Cristi Danileț:** Romania can be an example of good practice. Most reforms implemented

in Romania can be followed in Moldova as well. And of course, you probably know that for the last few years, Romanian magistrates, specialists, and experts have been assisting Moldova with evaluations and legislative practices.

Some 10 years ago, Romania was in the same situation as Moldova. The fight against corruption had basically begun, but we had not realize that yet. It took us some five years to realize that things started to go into a certain direction, and now we can hardly stop the fight against corruption. Two forms of pressure were needed for it to start - one from the outside - and Moldova does have it, it is about getting closer to the

EU - and pressure from the inside. And it's not just about the pressure coming from the citizens, it is about the forces leading the country. Reform is not possible without political will and the reform of the judiciary and the justice reform in a broad sense is not possible without the desire from within the judiciary. And I must confess that I have not managed yet to identify in Moldova, for five years that I have been regularly visiting the country, a single leader among the judges or prosecutors who would support the reforms and show the colleagues the direction the judiciary should move in.

We also had a big problem with communication. Until 2004, we were accused of covering up cases and protecting the politicians. After 2005-2006 we opened up the justice a lot, giving access to the media to all kinds of information related to our cases. We obliged the prosecutors to inform the civil society through the media, issuing press releases about the procedural stage of certain criminal cases. And later, when the cases reached the stage of judgment, we allowed full access of the mass media to the cases. Sure, there has been criticism of this system too, but we admit it. Now we are being accused of tele-justice - that too much information reaches the public space and that sometimes the right to privacy and the presumption of innocence are violated and, in any case, the mass media and the society tend to do parallel justice.

In Romania, we learned a very important lesson - the fight against corruption is not possible without justice reform. In order to fight against corruption in the society there

is need for efficient judicial bodies. This means that the legal institutions should be independent - mainly independent from the political factor and, secondly, independent from the pressure of the street. Also, we need people of integrity among magistrates. That means you cannot have an effective fight against corruption in the society if there is corruption in the judiciary. And it is essential for an efficient justice to eliminate the corrupt prosecutors and judges. Those who say there is no corruption are lying. In all countries there is corruption, but unfortunately, in the former communist countries, corruption in the judiciary is a downright worrying phenomenon. Only if we have independent judiciary and magistrates, can we have a fair and impartial justice.

What were the challenges that we faced in Romania? First, the immense media pressure. Because the politically controlled mass media does not correspond to its mission. The media was used to wage war with magistrates by the troubled politicians, businessmen, criminals etc.

Secondly, the duration of cases should not be very long. If the process takes a lot of time since the offense until the implementation of the final judgment, the people lose confidence in the justice. In addition, if in the end the person is found guilty and the sentence imposed is insufficient and inadequate, we have another big problem.

And fourthly, if the person stays at home with the stolen money, there is no point in applying penalties. Some go "on vacation" for six months, a year or two in jail and after they return home and keep the money. Therefore one of the dictums applicable in the fight against corruption is "follow the money" and in Romania we have laws that allow for extended confiscation, including when the assets are registered with the relatives or are hidden in offshore.

We have another big problem with politicians that we haven't been able to solve until today. It is about the misuse of immunity. The ministers and former ministers, and lawmakers in Romania have immunity. The prosecutors cannot carry out research and cannot propose

taking precautionary measures unless the Parliament lifts the immunity. So, the situation we are facing now in Parliament is that when the MPs are discussing about lifting the immunity, they start discussing case evidences. Basically, the case is resolved in Parliament. And then, what happens is that the person in question comes to the Parliament and says: "I am not guilty," "Prosecutors have no evidence," "The evidence was obtained unlawfully" or "The procedures were not followed correctly." We have turned the Parliament into a kind of extraordinary court or there should be no place in Parliament for such things.

So, in Romania, after 10 years of effort - and I'm not saying that it Moldova it should last that long as you may be able to skip some steps - we have condemned dozens of MPs, some 25 ministers, very many businessmen, including media owners. More than 70 judges and prosecutors were convicted of corruption, I do not know how many military, policemen, including special service officers, mayors, prefects, chairmen of local and district councils ...

Mention should be made that the public trust in the Romanian justice is now twice as high as in the Government and three times higher than in that of Parliament. People saw that things happen in justice, appreciated that as positive and want justice to happen. So people regard justice as a hope to improve life.

In fact, justice is not an end in itself. When we talk about social progress, we need to talk about the economic aspects. In fact, the society makes progress when the economy is functional. And the economy works if there is a guarantor, if one secures the normal functioning of certain procedures, activities and so on - this is about justice.

On the other hand, justice always intervenes post-factum. It is repressive and penalizes the acts that occurred. And if we want the society to develop, we should take care that the law is observed by all citizens and that they understand the value of law. Therefore, in Romania we are conducting preventive activities. We have started to visit schools and high schools and talk to young people and students. The magistrates often

talk through the media and explain to the citizens the importance of respecting laws and, especially, translate the laws. Ordinary people do not know and understand the laws. And then, I said we should explain the procedures and laws and, in particular, show that justice is on the side of those who abide the law.

Finally, I think we should realize the huge danger posed by corruption. As I said, we would be hypocrites if we said that we have no corruption and that there are sectors free of corruption - there is none. In fact, in the long term, corruption produces the same results as terrorism - it destroys the society and lives.

I would encourage my Moldovan colleagues and citizens to be more optimistic. I am amazed every time I come to Moldova how whiny you can be - everyone is complaining and everyone has problems. I would like to talk more about solutions. You are complaining about politicians - well, do you have people to replace them? Moldova is small. Unite with Romania and we can bring some from Romania. If you want to get rid of your justice, we can bring judges from Romania. Or we could modernize your state so that you can resist. That is what democracy is about - you have the occasion to elect other politicians in the next elections. You have the opportunity to get yourself involved in politics if you don't like the politicians. I do not think it is normal for the civil society to be at war with politicians, for the government to be at war with Parliament or with the justice, for the justice to be at war with everyone. You should think more about partnership and co-operation.

And the last aspect - do not make the mistake to think that the reform is only about changing certain laws, developing strategies, and publishing action plans. These are just matters of form. You can make as many laws as you can and nothing will change if the people from the justice sector are recruited based on subjective criteria and if they are someone's relatives and so on. You cannot reform a system if people are not reformed and if they are not convinced that they have a mission. Justice is not about business. If you came to work for the Moldovan justice, you do it because you have a mission - to apply the law in order to do justice.

## Vladimir Cebotari: Speed of the justice reform depends on each of us



**T**he Minister of Justice, Vladimir Cebotari, is optimistic regarding the justice reform in Moldova. He says that although it is not visible, the reform process has started and it will inevitably lead to fundamental transformations in the justice sector. For a quick success, however, it would require the involvement of the society. "Justice starts from each of us, from the way we relate to the public institutions - how fair we are, how well we know our rights and demand them," said Vladimir Cebotari at the European Integration Debate Forum.

■ **Vladimir Cebotari:** For years we have been talking about fighting against corruption and from outside it would seem that we have many bills and that many draft documents are approved and reapproved. But from another point of view, our society does not feel the effects of those laws that are promoted, publicized, discussed at roundtables, forums and so on. All our reports are becoming more mathematical and statistical, while the quality of justice is the way the ordinary people perceive fairness, justice, and the rule of law.

Since 2011 we have had a justice sector reform strategy and we have a series of reports and evaluations showing that we are making progress. And we are really making progress, given the situation that we have. But why the corruption perception index or the trust in the judiciary is declining? Very often we come to the conclusion that unfortunately, we implement reforms only partially and only in certain sectors, not being able to see the situation as a whole and come up with practical measures and evaluations that can bring the expected results from each law.

I believe that beyond this statistics in Moldova things in the justice reform are getting started. They have already started through seemingly minor things -for example, through this unique programme that manages the cases in courts, through the civil or criminal proceedings that have already been developed, through the simplified defense procedures that we have to develop and present as new projects, through the new bill on the Prosecution office that increases the independence

of bodies and institutions, including from the political factor. We are increasing their functional independence and also their funding so that they do not invoke lack of funds any more.

And you can see, we began to realize that these measures and reforms should bear a complex character. We understand that we need to avoid overlapping of responsibilities and establish accountability on the entire process cycle - from prevention to combatting, holding accountable, recovering of damages and so on. Very often we talk about integrity in the public sector and not just that – we are trying to broaden the circle of people responsible.

But the changes always take time. Having started only in 2011 we cannot expect already very good results. But we have to have good trends. I have big confidence that we will have results rather soon. Like you, I'm a citizen of this country. Like you, I have family here and I want my children to live in this country. Therefore, like you I'm worried about how things happen here and I have all the incentives to move things forward.

I will not stop at the multiple projects that we are having now and I will try to conclude by simply encouraging you all to understand that justice doesn't begin in court. The court is one of the final stages of justice. Justice starts from each of us, in each of our activity, or with what a public institution does in relation to us. When we demonstrate each time that we know our rights, we know the law and respect it, then, believe me, justice will not be late to come.

But when we think that the justice and the fight against corruption should start from the neighbour and not from us, then we will not succeed, on the contrary, we will fail the processes.

## Alexandru Tănase: As in the Soviet times, the Moldovan justice is an instrument of the power protection

**P**resident of the Constitutional Court, Alexandru Tanase, said at the Moldova's European Integration Debate Forum that the disastrous situation in the Moldovan justice is a consequence of the "one step forward, two steps back" strategy adopted by the political class in this sector. According to him, the problems in Moldova stem the time independence was proclaimed, when the old Soviet legal system has been maintained. And the big failure of the current government in which the society invested hopes in 2009, was that it failed a fast and true justice reform.

■ **Alexandru Tănase:** Unfortunately, I have too many reasons not to be optimistic about how things are in the justice sector and have too few good things to say about what currently is happening in the country. I am firmly convinced that the disastrous situation we are having today, and not only in the justice sector, is a consequence of the adoption by those in power of the "two steps forward, three steps back" strategy, or the display of formal objectives, while in reality they have been promoting actions aimed at maintaining the status quo. Just as Caragiale said: "Let's change if it is to change, but don't change anything." This is pretty much our situation, unfortunately.

And this state of affairs did not start in 2009. It is a problem that we have been having since we proclaimed independence. When it was decided that Moldova is a democratic, independent state based on separation of powers it was absolutely necessary to build a judicial system whose primary aim should have been to do justice. Unfortunately, after 1991-1992, the old Soviet system with some adjustments was maintained. Yes, there have appeared appeal instruments that sounded really good, but in reality, did not change the essence of this system. Just as it was in



the Soviet times, when the justice was an instrument of the power protection that, unfortunately, we are still having today.

Things became more acute after 2009, when the society had very high expectations from the new government regarding fast and effective reforms in the justice sector with immediate effects. This thing didn't happen.

This is a big failure of the current government, I think. Justice is not only justice for all. Instead of being carried out rapid, perhaps even painful reforms as a shock therapy, a secondary version was used – adoption of a five-year strategy, whose purpose wasn't clear to anyone. And during the implementation, this strategy has lost its essence.

We are talking about justice reform and justice means people - judges. Classic bureaucrats work for five-six years in a position after which they change job, while the judges are appointed for life. They are in a comfort zone in which any attempt to

come up with a certain change is seen and perceived as a personal threat. Hence the absolutely great resistance to any changes.

This is not only the situation in the Republic of Moldova. Everywhere else in the world the justice reform has this element. When doing a justice reform, it must be fast. Let us recall the justice reform carried out in 2011 by the Romanian President Traian Basescu – the small judicial reform. The whole affair lasted for two months – starting with the announced of the intention and its publication in the Official Monitor. It is not possible to have justice reform based on five-year strategy. You can develop justice, plan investments, stage procedural reforms, but when it comes to reforms from which you expect rapid and sudden change of the situation, you should do it fast.

There is one more detail that lacked in the Republic of Moldova in order to be able to carry out such a reform. You cannot make such reforms unless there is genuine political will and a political class that really wants this. And we got to a situation when

we are producing lots of scrap paper and laws, altering and mutilating the legislation without any purpose in mind and when we look closer we see that there is no result.

Regarding corruption, this is of course a big problem. But nothing is more detrimental to combatting corruption than the anti-corruption campaigns, because there is a substitution of real activities with the

need to comply with public expectations. Corruption will decrease only if the political class really wants this. It is impossible to expect a fully functional judiciary of integrity while having such a political class. For example, the law on testing the integrity of people -nowhere in the world you can find such a law. Nowhere can you wiretap or challenge someone, or perform any action outside the judicial control –

this is possible only in Moldova. It is the direct consequence of the campaigns and pressures that have been made. And we should not mutilate the legislation. It's not the case to exhibit such an attachment to reforms. It is simply necessary to understand what reforms mean, where you want to get and what you should change for that. When we understand this, things will become very simple.

## Vladislav Gribincea: Corruption and unprofessional staff - the biggest problems of the judiciary



**T**he director of the Centre for Legal Resources of Moldova, Vladislav Gribincea, says that the high expectations from the new government in 2009 would have generated anyway in a few years some disappointment with regard to the justice reforms, but things went much worse than could have gone because of the lack of political will, but also because of the corruption and unprofessionalism of the judiciary.

■ **Vladislav Gribincea:** Judicial reform is not for those who do not have a perspective vision. Taking into account that in order to change something in a system which is by its nature conservative - because judges are the ones who have to ensure stability - everything must be thoroughly thought.

Georgia, in 2005, told us that in order to reform the justice, three things are required.

The judicial reform can take place only with political will, political will and political will. Let us ask ourselves whether such a will existed in the Republic of Moldova. It existed only in statements and not in deeds.

The second important aspect for successful changes is speed, while in our country any reform was conducted through the halfway of the term. Let us think what happened - we had a half-term strategy which had to be implemented in that second half of the term plus during another half of the mandate of the following Parliament. It seems to me that was a problem from the very beginning.

And the last aspect – in fact, what do we measure? And here I think the best indicator of the justice reform is the public confidence in justice. If there is no trust, there is no justice. Even if that happens in the judge's

office, if the common people don't feel it, then there is no justice.

What are namely the problems of the Moldovan justice? Independence? Probably. Efficiency? More likely. Integrity? Most likely. Professional training? I have the impression that they talk a lot about this, but the impact is rather small. My belief is that the biggest problem of the Moldovan judiciary is not independence. The biggest problem is corruption in the system and unprofessionalism of the staff.

Let's see what has actually been done about the problems of the Moldovan justice.

**Reform strategy.** When you think about a strategy, you have to be realistic about what you can do in four years of your office. Therefore, the shock therapy should come first, then the long-term goals. We had a strategy for the justice system reform in 2011, at half of the government term, which was adopted to be implemented in five years, with zero money in the first one year and a half. What can we talk about? The answer is obvious.

**Independence of the judiciary and of the Prosecution Office.** The biggest problem of the Prosecution office is independence. It has not been achieved and it is probably the most outstanding commitment of Moldova since 1995 when it became a member of the Council of Europe. Why the MPs hold the Prosecution Office that tight? Perhaps there is an explanation. If you do not have the explanation, try to understand who this situation suits.



**Independence of judges.** We had a big problem with the independence of judges in 2003-2005. After that the cleaning of the system stopped. In 2009-2011 they granted very broad competencies to the Superior Council of Magistracy (CSM). And now CSM is probably a good guarantor of independence. But what kind of system are we defending? CSM should occasionally look in the mirror.

**Integrity of judges.** What was done in this regard? And here we should not just talk about judges, but about the whole system. What about the National Integrity Commission Act (CNI)? CNI showed its potential. I can say it publicly – it did not meet the people's expectations. Now we have a new package of legislation on CNI, which was not voted. Why? It is a mystery to me. The foreign experts have been working for a year and a half on this package of laws.

Another aspect- they said that in the recent years **one third of the judges quitted the system**, precisely those who were "bad people". I have not seen a bigger speculation than that. People have just retired and only a few judges were fired for compromising reasons. If we look closer to see who the replacements were, there will appear probably too many questions, including regarding the lack of transparency of CSM. My conclusion is that people have been promoted into the job based on the CSM preferences, not necessarily based on meritocracy.

**Case random distribution**, a measure which was taken in order to combat corruption. The system of random distribution has been existing since 2009 and should be applied in all instances. Still in 2014 manual distributing existed in courts. The system was introduced at the Supreme Court of Justice only in 2014.

Why? This is an interesting question as in most instances the system was introduced starting with 2009, while in the Supreme Court of Justice – only in 2014. There were big problems with the random distribution in the justice system. What was the reaction of CSM? No investigation whatsoever. There was a big scandal with the involvement of the deputy chairwoman of the Superior Court of Justice who was accused of manipulating the random distribution. What happened? The lady has resigned and nothing more. Early this year, CSM passed a resolution to investigate into the case random distribution in Chisinau. That was in February and nothing has been done until today.

**Checking the judges' property.** I'm afraid that the media has written on this topic in the last two years more than in all over 20 years of independence. What happened? Almost nothing.

**Polygraph testing of judges.** Starting with 1 January 2015, the test should have been applied both for judges and prosecutors, but until today, nothing of the kind happened.

**Uniform practice.** The Supreme Court of Justice has taken measures, adopting recommendations, but it doesn't itself respect the recommendations.

**Optimization of the judicial map.** This is about efficiency. What did we have? We have 50 courts for three million people. I think nobody has a larger number of judges per capita. When you have 2 to 3 judges in a court, you cannot speak of quality, by definition. The courts have to be merged. The use of the court map should have started in 2012, but even until today it doesn't exist and there are big reserves it will be promoted.

**Administration of courts.** We introduced administrators, but administrators have become former advisors to the court presidents.

**Performance evaluation.** We have introduced a system in this regard, but the share of such assessments during recruitment of judges is zero.

In conclusion, we had high expectations in 2009 and these expectations would have inevitably generated frustration, because whatever the government it could not do enough to meet these expectations. But we still need to be aware of one thing. The current situation in the justice system is no much better than the one we had in 2009. And if until 2009 the control was somewhere outside the justice system, at present, it is in the system. And, unfortunately, the practice of the justice system in recent years has confirmed the fact that the system is promoting not necessarily the best people.

We know who is guilty, yet, what should be done? We have adopted too many laws. I think it is time to move on to the implementation. Good or bad, these laws having been passed and should be implemented thus laying the foundation for new qualitative changes. And I'm afraid that without changing people, we will not be able to radically change things. The third aspect is about quality. Just look at the decisions you or your colleagues, or relatives receive every day from judges. You cannot see quality there. As far as quality is concerned, we will have to work a lot to change it to better. If CSM does not realize the problem, there is little chance that the problem of quality will be resolved. Much remains to be done.

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