

**THE STRATEGY FOR ENSURING THE
INDEPENDENCE AND INTEGRITY OF
JUSTICE SECTOR
FOR 2021-2024**

DRAFT

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I. INTRODUCTION

*Justice must not merely be done,
but must also be seen to be done*

To ensure an independent and impartial justice, as well as develop the institutions that are directed towards accomplishing the tasks of ensuring a fair, efficient and qualitative justice is a central postulate of the rule of law.

Improving the justice sector has been and remains a major priority for the Republic of Moldova that is of utmost importance for the entire society, and constitutes an essential condition for developing a genuine democratic society, where the rule of law and the respect for human rights and freedoms represent supremely guaranteed values.

The judicial power represents the adequate forum for ensuring the rights and establishing legal obligations. Being a component of state power, the judiciary directly influences the exercise of human rights and freedoms, a fact that imposes the insurance of its autonomy and independence. The principle of independence represents the constitutional basis for maintaining this power as the one with full rights within the state architecture and for ensuring a balance between the powers in a state.

Insuring an efficient, accessible and qualitative justice represents a legitimate expectation of citizens in a society founded on the respect of the rule of law. A judicial system acquires legitimacy and respect from the citizens through an excellent functioning which results in impartial, clear and well-reasoned judgments. Therefore, raising the level of public trust in justice, as a fundamental element of the legitimacy of any judicial system, and its efficient functioning at the service of citizens, is based on the transparency and accountability of this system.

The way justice is delivered directly influences the fundamental indicators of the functioning of a society such as , legal security and economic development. A functional justice system safeguards the fact that citizens and businesses environment can fully benefit from their rights,it also strengthens the mutual trust and contributes to the creation of a favorable investment climate.

The quality of justice is also a commitment undertaken by the Republic of Moldova in the process of European integration and becomes a leading factor in establishing through the instauration of justice, of a rule of law-governed state, of order, justice and truth in the society. In this process of ensuring democratic values,

Council of Europe standards in the areas of justice, the rule of law, the fight against corruption and the protection of human rights are key tools. The success of achievements in the justice sector should be the main incentive that conditions the statement of the Republic of Moldova as a democratic state and reliable partner in relation to the international community.

The joinder of efforts to strengthen the justice sector through undertaking of responsibilities by all stakeholders within the judicial system, by public authorities, liberal professions and civil society, determines the subsequent setting of certain objectives that will allow for the creation of an efficient, transparent and modern system, adapted to the society's requirements and responding to the challenges of the future.

A strategic and systemic approach, in a new policy document, of the objectives relating to the existing problems, with the establishment (definition) of the resolution tools and the expected impact, will also allow determining an overall vision of sustainable development of the justice sector in the mid-term.

II. OVERVIEW OF THE STATE OF AFFAIRS

In order to build an accessible, efficient, independent, transparent, professional and accountable to society justice sector, that also matches the European standards, ensures the rule of law and the respect for human rights, and contributes to ensuring the society's trust in justice, the 2011-2016 Justice Sector Reform Strategy (JSRS) was approved by Law no. 231 of 25.11.2011, and the Action Plan for the Implementation of the Strategy was approved by Parliament's Decision no.6 of 16.02.2012. Furthermore, by Parliament's Decision no. 259 of 8 December 2016, the deadline for implementing the actions from the Action Plan for Implementation of the JSRS was extended until December 31, 2017.

The JSRS represented a new stage in building a modern justice sector, starting with the following assumptions: on the one hand, the quasi-general perception of high corruption in the justice sector, the lack of trust in justice, and on the other hand, the need to capitalize of our country's aspiration to integrate in the European Union, as well as the crucial role that justice plays in developing the business environment and attracting investments in the country. At that stage, the identification and description of problems started from the most relevant national and international surveys and measurements: the Barometer of Public Opinion (national survey)¹, the Global Corruption Barometer (international survey)², and sectorial sociological researches.

The data from these researches were one of the starting points in developing the JSRS, which was built on seven pillars, focused more on the institutions from the sector: the judicial system (pillar I), criminal justice (pillar II), access to justice (pillar III), integrity in the justice sector - (pillar IV), economic development (pillar V), human rights in the justice (pillar VI). Pillar VII was the crosscutting pillar and the implementation of actions from this pillar had to contribute to the synchronization and coordination of reform actions. Most of the actions within the JSRS and the Action Plan for its implementation dealt with research measures, developing the regulatory framework and restructuring the institutions.

Upon the expiration of 6 (six) years of reform under the JSRS's umbrella, it can be concluded that many of the planned actions have reached their expected result and

¹ Data of the Public Opinion Barometer can be consulted online: < <http://ipp.md/old/lib.php?l=ro&idc=156> >.

² Data on the Republic of Moldova - Global corruption barometer - and Corruption Perception Index: <<https://www.transparency.org/en/countries/moldova>>.

many reforms, even if delayed, have been implemented in practice. Amongst the most important achievements, it is worth mentioning³:

- The legislative and institutional reforms that strengthened the self-governance capacities of the judiciary: the Superior Council of Magistracy and its specialized bodies;
- Launching the reform of the court dislocation map;
- Creating new mechanisms for selection, performance evaluation and disciplinary liability of judges; strengthening the role and status of the Judicial Inspection;
- the reform of the National Institute of Justice;
- Strengthening the state guaranteed legal aid system, via extending the gamut of assistance and the circle of subjects;
- Revising the procedures for enforcing court judgments;
- Rethinking and, where appropriate, strengthening the rules on the organization and functioning of justice sector related professions: notaries, lawyers, bailiffs, judicial experts, mediators, authorized administrators, translators/interpreters;
- The Prosecution Service reform, its self-administration bodies, the status of prosecutors, the creation, strengthening of specialized prosecutor's offices;
- Creating the legislative basis for the rehabilitation of crime victims and strengthening the child-friendly justice system;
- Establishing new mechanisms for preventing corruption and guaranteeing integrity within the justice sector;
- Revising the codes of ethics of justice sector actors and creating mechanisms for investigating/responding to ethical breaches;
- The reform of the Ombudsman institution;
- Launching the process of modernization and strengthening of the legal and institutional frameworks of the penitentiary and probation systems;
- Adopting new rules for the the regulatory drafting process.

³ Progress reports on the implementation of the Justice Sector Reform Strategy for 2011-2016 are available online: < <http://justice.gov.md/tabview.php?l=en&idc=489> > .

Ensuring the society's trust in justice delivery was the main target of the reform process. The inquiries on public trust in justice during the implementation of the JSRS show its evolution. Thus, according to the data provided by the Barometer of Public Opinion, if in 2011 the degree of trust of citizens in justice was assessed by 18%, in 2019, following the reforms carried out in the sector, 26% of the population declare their trust in justice ⁴.

At the same time, according to the results of the national survey, conducted among lawyers on the independence, efficiency and responsibility of the judiciary in the Republic of Moldova, between November and December 2018 by the Center for Sociological Research and Marketing Studies "CBS-AXA", at the request of the Center for Legal Resources of Moldova (CRJM), 48 % of respondents (lawyers) consider that the reform of the judiciary started in 2011 had a positive impact on the judiciary, in 2015 the figure was 43%. The same survey shows that lawyers consider that judges' solutions are most often influenced by politicians (90.7%), prosecutors (83.9%), other judges (68.2%), the Superior Council of Magistracy (65.1 %).⁵

Moreover, according to another survey, perceptions on the performance of Moldova's courts differ between the citizens and businesses on the one hand, and professional users of court services and justice employees on the other. The Report drafted by the World Bank in cooperation with the UK's Good Governance Fund, entitled "Moldova, Improving Access to Justice: from Resources to Results" points out that according to the survey results collected by the end of 2017: 76 percent of the general public and 76 percent of the business community expressed negative views⁶. Most respondents across groups tend to state there have been no changes on the ground during 2015-2017. 46 percent of citizens and 47 per cent of businesses feel that corruption has increased. However, only 19 per cent of professional users and 14 percent of justice sector employees had similar views, reflecting greater optimism about anti-corruption efforts from those 'within' the system. Citizens and businesses believe the prevalence of corruption is due to corrupt individuals' impunity and corruption as a social tradition. 20 per cent of citizens reported having paid a bribe (personally or through third parties).

Integrity issues and the high level of corruption in the justice system are also confirmed by the results of the regular study conducted by Transparency International

⁴ Data of public opinion Barometer can be found online: < <http://ipp.md/old/lib.php?l=ro&idc=156> >.

⁵ The survey findings are available at: < <http://crjm.org/wp-content/uploads/2019/01/2018-Sondaj-Perceptia-avocati-justitie.pdf> >.

⁶ World Bank Report Improving Access to Justice: "From Resources to Results", available online: < <http://documents1.worldbank.org/curated/en/295451537501885223/pdf/UPDATED-Moldova-JSPEIR-Final-Romanian.pdf> >.

(TI). According to the latest data, the Republic of Moldova ranked 122nd out of 180 countries in 2017, with a score of 31 out of 100, compared to the EU composite index of 66⁷. Moreover, in 2016, Transparency International launched the Global Corruption Barometer for Europe and Central Asia⁸. In the ranking of the 42 countries, among the countries with the greatest concern regarding the spread of corruption is the Republic of Moldova, and the justice sector registers a level of 67%.

Although national and international survey data for the most part do not show a positive trend, the analyzes carried out⁹ points out that the results are also influenced indirectly by the following: (1) the inter-dependence of trust in the judiciary with trust in other state institutions - the decrease in public trust in state institutions also determines the decrease in trust in justice; (2) media coverage - the degree and manner in which certain justice-related events are broadcast also shapes public perception. However, according to the Report of the 2018 Evaluation Mission of the International Commission of Jurists (ICJ): “Despite the start of legal reforms, the implementation of the activities provided in them yet their implementation is lagging behind and often lacks political will and conviction. The result is a judiciary that could be, but is not yet, fully independent, as the full meaning of judicial independence is not yet sufficiently rooted in the minds of those who holds it, the judges. However, the reforms, despite the problems in their implementation, may signal the beginning of establishing real judicial independence, instilled in the hearts and minds of all actors of the justice system”¹⁰

The JSRS’s implementation helped create a new regulatory basis for most of the justice sector institutions and justice related professions and most of these provisions were transposed in practice. The others, however, in order to produce the JSRS’s expected results, are to be capitalised and implemented gradually over the next few years.

The last progress reports on the implementation of the JSRS, drawn up by the Ministry of Justice as the central coordinator of the justice sector reform, show that the measures provided for in the Action Plan for the JSRS’s implementation, adopted by Parliament's Decision no.6 of 16 February 2012 were implemented at 86% rate.

⁷ Transparency International. "Corruption index reflects Moldova's disappointing reaction to corruption", available online:

<http://www.transparency.org/news/pressrelease/corruption_index_reflects_moldovas_disappointing_response_to_corruption>.

⁸ Global Corruption Barometer for Europe and Central Asia:

<https://images.transparencycdn.org/images/2016_GCB_ECA_EN.pdf>.

⁹ The evolution of trust in justice from 2008 to 2019, carried out by the Center for Legal Resources of Moldova:

<<https://crjm.org/wp-content/uploads/2020/06/increderea-in-justitia-din-Republica-Moldova.pdf>>.

¹⁰ "Only an empty shell" The undelivered promise of an independent judiciary in Moldova, The International Commission of Jurists (ICJ) Mission Report.

The degree of implementation was calculated based on the JSRS's Monitoring and Evaluation Methodology that was approved by the Ministry of Justice, taking into account mainly the indicators specified in the Action Plan. Several national, international evaluations as well as the promoters of the reform found that the indicators established to measure the JSRS's implementation were predominantly quantitative and less qualitative, so that at the end of its implementation it was difficult to assess the impact that it had produced (data available in: JSRS implementation Assessment Reports developed by working groups for implementation, coordination, monitoring and analysis of the JSRS's implementation, conducted with assistance from the Council of Europe; report of the Court of Accounts on the performance of the JSRS implementation¹¹, as well as other reports made by several non-profit organizations).

In 2018, short-term justice sector priorities were outlined in the Ministry of Justice's policy paper, entitled *The Small-Scale Justice Reform*. Thus, taking into account the strategic directions set for 2018, the legislature managed to adopt several law packages which regulate the judiciary, in the areas related to:

- Revising criteria for selection, evaluation and promotion of judges;
- Ensuring competitiveness during the promotion and transfer of judges;
- Strengthening the role of the Superior Council of Magistracy, particularly by limiting membership to a single term and the voting right of the Prosecutor General, President of the Supreme Court of Justice and the Minister of Justice in handling judges' career (appointment, promotion, disciplinary sanctions and termination of office);
- Ensuring functional autonomy of the Judicial Inspection and its relation to the Superior Council of Magistracy;
- Revising the mechanism for the review of disciplinary offences.

The goal behind the adoption of the law package (namely Law no 136/2018 and Law no137/2018) was to increase the efficiency and independence of the judiciary, strengthen the role of the Superior Council of Magistracy, promote a merit-based system for the selection and promotion of judges, as well as to enhance the mechanism for judges' accountability in delivering justice.

¹¹ Decision of the Court of Accounts no. 43 of 30.11.2016 Regarding the Performance Audit Report "Implementation of the Justice Sector Reform Strategy for 2011-2016 (8 months): generous resources - uncertain results", available online: <http://www.ccrm.md/decisions-and-report-1-95?IDH=813>

The adoption of this package of laws (Law no. 136/2018 and Law no. 137/2018) aimed to increase the effectiveness and independence of the judiciary, strengthen the role of the Superior Council of Magistracy, promote a merit-based system in the selection and promotion of judges, as well as to improve the mechanism for holding judges accountable for the quality of justice delivery.

Despite the efforts made so far, the state of affairs in the justice sector has not reached the high quality standards that were set for it. The main reasons for this are:

- Maintaining corrupt factors and elements that affect the integrity of justice sector stakeholders;
- Insufficient human resources' performance and human resources management capabilities;
- Underdeveloped legal culture;
- Inconsistent judicial practices;
- Defective enforcement of regulatory framework;
- Excessive focus on short-term actions in drafting the legislative framework and lack of a systemic mid and long-term vision
- Legislative instability (incoherent initiatives, non-correlated and drafted in the absence of a larger consultation).

The area of justice, in particular ensuring an independent justice, represents the Government's key priority in the next period of 2019-2020. According to the GOM's Action Plan, ensuring the rule of law in the Republic of Moldova is unconceivable without a major intervention in the area.

Given that the process of strategic planning must be an ongoing, sustainable and coherent process, the adoption of a new policy document for the next period is impending, providing a clear vision and a set of principles and values that will govern the processes in the justice sector for the next 4 years - 2021-2024. Thus, the justice sector reform remains one of the major priorities for the Republic of Moldova. In this context, it is necessary to continue the prior efforts aimed at increasing the independence, impartiality and quality of justice delivery, to improve the competence of professionals in the area, the integrity and efficiency of the sector as a whole. The

actions aimed at increasing the credibility and accountability of justice sector stakeholders concerning litigants remain a priority.

The priorities set forth in this policy document and reflected in the strategy directions derive from:

- measures established in the JSRS that have not been implemented / have been partially implemented or need to be fortified;
- malfunctions reported in practice at system level;
- reports/expertise and statements of international structures on the shortcomings of the judiciary in the Republic of Moldova

This strategic document is also in line with the Sustainable Development Goals (SDGs), adopted by the United Nations Member States at the Sustainable Development Summit of 25 September 2015 and included in the Sustainable Development Agenda - 2030, namely with Goal 16 which aims to *“promote peaceful and inclusive societies for sustainable development, ensure access to justice for all and develop effective, accountable and inclusive institutions at all levels”*.

The strategy aims to address the challenges related to the improvement of the justice sector and demonstrates the Government's commitment to ensure an independent, impartial, accountable and efficient justice sector.

Taking into account that this policy document represents a natural continuation of activities set out in the JSRS and its Action Plan. This is the very reason for the intent to move away from the reform concept and focus on development aspects, and if appropriate, on strengthening and capitalizing on the justice sector potential. Following JSRS the implementation of the, a new stage of improvement or "fine-tuning" of already adopted regulatory framework, strengthening of institutional and professional capacities of reformed institutions, and the alignment of justice reform processes with the recommendations and standard in the field, as well as with the commitments of the Republic of Moldova made to the development partners .

Similarly, a persistent issue reported by internal stakeholders, but also by the developing partners of the Republic of Moldova is the concentration of reform and policy efforts merely on only amending the legislative framework and institutional re-shaping, often overlooking the effective enforcement of legal and institutional amendments.

Therefore, given the fact that substantial interventions with legislative changes and institutional re-shaping have been made in the framework of the previous

strategy, now the efforts will mainly target the efficient implementation of legislative and institutional changes. Still, defining the legal framework is an expression of the principle of legal certainty. A number of justice sector stakeholders stressed that frequent legal amendments and the lack of legal foreseeability represent the system's deficiencies. The principle of legal certainty was highlighted by the Venice Commission (Report on the Rule of Law dated March 25-26, 2011) as being essential for guaranteeing the rule of law. In order to regain this confidence, the state has the duty to respect and apply, in a foreseeable manner, the legal provisions that have been enacted.

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III. DEFINING PROBLEMS

The evaluations of the JSRS made by independent evaluators show that the JSRS, as a holistic policy tool, has set very ambitious objectives that were difficult to achieve. The spectrum and a scope of coverage was too broad and lead to difficulties for a successfully implemented JSRS. Actions that seemed to be an accomplishment at the beginning, later on turned into a challenge that had to be tackled almost on a daily basis. The JSRS included interconnected actions, thus the stagnation, delay of one action induced chain failure in the implementation of several actions.

As mentioned in the JSRS's text and in the annual reports¹², the efficient implementation of the JSRS was likely to be affected by three (3) risks: *political instability, resistance by the authorities which were to be subject of reform and insufficient capacities to absorb funds for the implementation of reform*. After the expiry of the implementation period, it can be stated that some of these risks seem to have disappeared, and some, even if they occurred, have acquired other connotations. Many of the risks, identified at the stage of launching the previous strategic justice sector reform document, have particularly affected in a substantial manner and on a long-term, the accomplishment and implementation of planned actions.

The JSRS's assessment results highlighted the need for a lighter architecture for the new strategy. From this perspective, the new strategic document in the justice area is devised in a much more focused manner that will target the most vulnerable components of the justice sector, which are not covered by other adopted sectoral policy papers such as the National Integrity and Anti-Corruption Strategy for 2017-2020, adopted by Parliament's Decision no.56/2017; the National Action Plan on Human Rights for 2018-2022, adopted by Parliament's Decision no.89/2018; the Strategy for the Development of the Probation System for 2016-2020, approved by Government Decision no.1015/2016; the Strategy for the Development of the Penitentiary Administration System for 2016-2020, approved by Government Decision no.1462/2016. Overlapping of actions through various policy documents leads to confusions in implementation by the responsible authorities or waiving any accountability for implementation.

At the same time, the objectives and actions set in the abovementioned documents in the area of human rights, integrity and fight against corruption in the

¹² See the Annual Report on the degree of implementation of the JSRS for the years 2011-2016, p. 4, available online: <http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/rapoarte/2016/Raport_SRSJ_Ro_2016_v9_form_at_electronic.pdf>.

public sector are to be correlated with those established in the present document, because the latter intersect with the judiciary and cannot be directly dissected from it.

IV. OVERALL OBJECTIVE, STRATEGIC DIRECTIONS, SPECIFIC OBJECTIVES AND EXCPECTED RESULTS

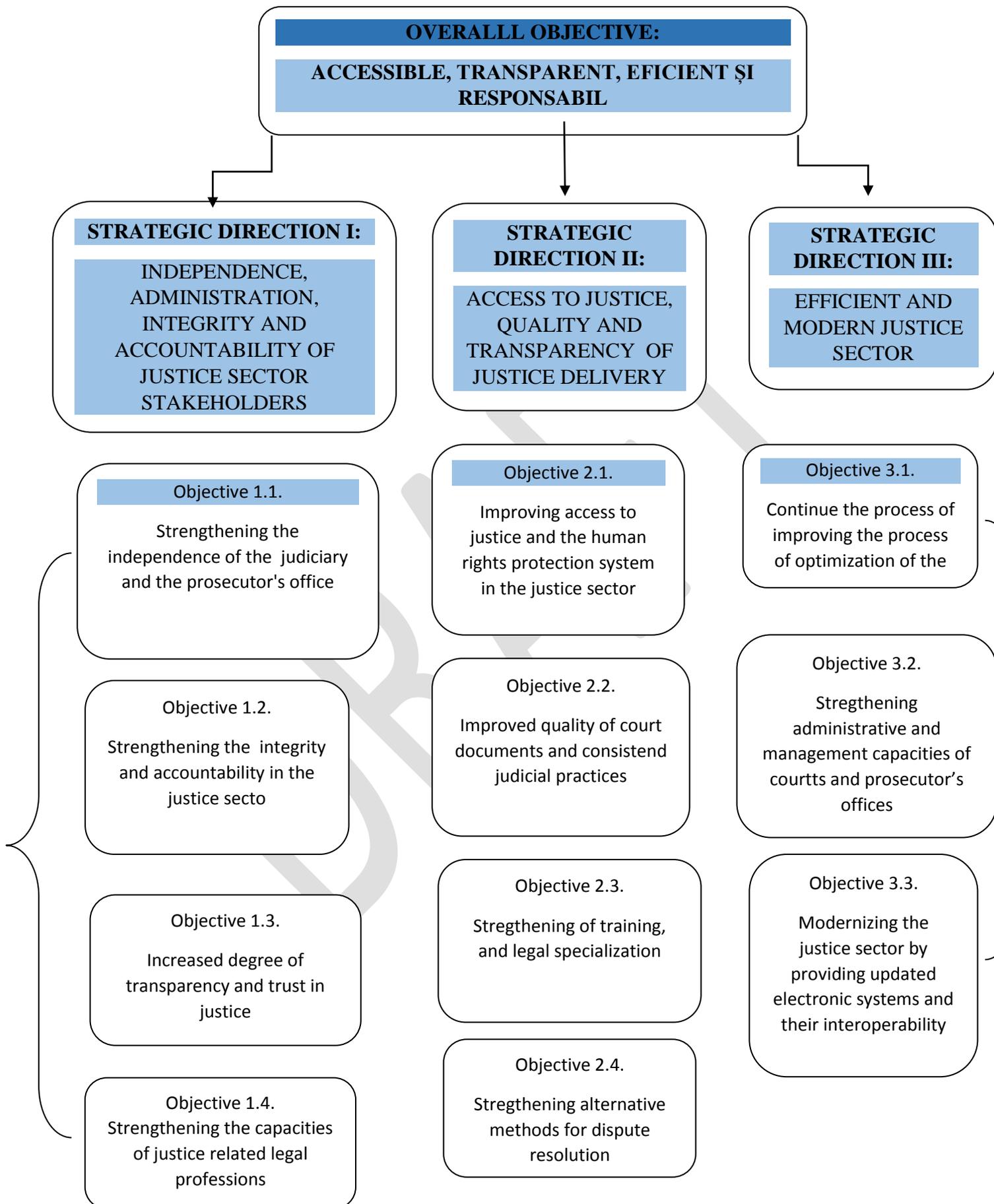
This Strategy is to consolidate and continue the reform processes launched and implemented so far, which represented a new step in building a modern justice sector and contributed to the creation of a new legislative and institutional infrastructure. Consolidation of judiciary determines adressing several components of this process, all these objectives being linked to an overall and fundamental objective - ensuring an accessible, transparent, efficient and accountable justice sector. A modern justice sector, where independence and efficiency is ensured, is more than a desideratum.

The overall objective, strategic directions and specific objectives of the new document target the critical issues and vulnerabilities of the sector attested in the evaluation reports, and focus on ensuring consistency and continuity of the previous reforms, on further modernizing the sector, on increasing the efficiency, quality and access to the judiciary, as well as are directed towards the emerging modern trends, addressed in the field of justice by several European structures.

Every strategic direction and objective contained in this strategy is linked to the following principles, whose observance is essential for achieving a modern judicial system:

- Respect for the rule of law, supremacy of law and human rights;
- Guaranteeing a real separation and balance of powers in the state, by Strengthening the judiciary's independence and integrity;
- Ensuring stability of regulatory and institutional frameworks;
- Institutional consolidation and loyal cooperation between institutions tasked with judiciary's administration and justice delivery;
- Implementation of European best practices related to the functioning of the judiciary;
- Ensuring the transparency of justice delivery.

The identification and establishment of overall objective, strategic directions, specific objectives and specific objectives predominantly meet the expectations of users of judicial services and their needs to exercise their rights in the justice sector in a fair manner. Therefore, it is proposed that the new strategic document is focused on **three strategic directions**, and for each strategic direction, specific objectives have been identified, as illustrated in the figure below.



Strategic direction I.

Independence, administration, accountability and integrity of justice sector actors

Objective 1.1. - Strengthening the independence and administration of the judiciary and the prosecutor's office

The independence of justice is a basic requirement of the rule of law, deriving from the principle of separation of powers in the state. This requirement demands both structural independence of the justice system and individual independence of judges. The principle of judge's independence is the principle outside of which one cannot speak of a genuine activity of justice delivery. The judge must enjoy both an external independence and an internal independence, irrespective of his position in the system and the culture of subordination must be eliminated.

. The perception prevailing now in the society that some verdicts are issued by judges under the pressure of some factors, such as system abuses, inappropriate internal and external influences (including political influence), corruption factors but also stakeholders' integrity deeply erodes the independence of the judiciary and severely affects the trust in judges' independence.

The principle of the independence of judges and ensuring the stability of the mandate is enshrined in the Constitution. At the same time, according to international standards and the recommendations of international fora (Venice Commission¹³ Council of Europe's Group of States against Corruption ¹⁴(GRECO), certain provisions of the Supreme Law are to be revised in order to strengthen the guarantees of independence of judges and to exclude political factors that influence their careers. In this respect, the amendment of the Constitution by abolishing the initial term of 5 years of appointment of judges will ensure the stability in office until reaching the age limit. The security of the term in office is a fundamental element of the independence of judges, and the appointment of a judge up to a mandatory retirement age is the guarantee of their mandate. At the same time, the constitutional amendments made in the part related to the appointment of judges at the Supreme Court of Justice by the President of the Republic of Moldova at the proposal of the Superior Council of Magistracy, and not by the Parliament as it is at present, will reduce the influence of political factors on the procedure for appointing judges, as well as will create consistent procedure for appointing judges in all courts throughout

¹³ Opinion of the Venice Commission no. 916/2018 (CDL-AD (2018) 003-e), no.983 / 2020 (CDL-AD (2020) 001 and no.983/2020 CDL-AD (2020) 007

¹⁴ GRECO report on the fourth evaluation round, Moldova, adopted on July 1, 2016

the country. However, although the legal provisions establish that only if there is indisputable evidence of incompatibility of the candidate for the position of judge of the Supreme Court of Justice with that position, violation of legislation by him/her or breach of the legal procedures for selection and promotion, the President of the Parliament may, on the basis of an opinion of the Legal Committee for appointments and immunities, appoint the proposed candidate only one time to the Superior Council of Magistracy, there are circumstances in which the political factor arbitrarily ignores the legal provisions.

The Constitutional amendments are to exclude the provisions establishing the appointment of presidents and vice presidents of courts by the President of the Republic of Moldova at the proposal of the SCM, this being an exclusive competence of the SCM related to the administration of the judiciary. Establishing a mechanism for involving judges in the process of selecting candidates for the position of president and vice-president and empowering the Superior Council of Magistracy with the right to appoint persons to administrative positions will contribute to a better administration of the system.

A critical element in safeguarding the independence of the judiciary is to ensure the exercise of their functions properly, without their independence being compromised by the fear of initiating criminal investigation. Although European standards allow judges to be held criminally liable in the exercise of their judicial functions, the threshold is quite high, namely only if the direct intention to deliver a judgment contrary to the law is proved beyond reasonable doubt. Under the current categories of offences covered by art. 307 of the Criminal code, there were cases of arbitrary interference in judicial functions, which determines the need to deter similar situations in the future.

At the same time, a fundamental role in safeguarding the independence of the judiciary, the good functioning of the judicial system and, implicitly, in maintaining a balance within it, belongs to the Superior Council of Magistracy. The dysfunctions attested during the last period within the Superior Council of Magistracy, the attempts to revoke the elected members among the judges, had serious implications on the image and operation of the entire judicial system. Changes of the structural composition of the Superior Council of Magistracy, excluding ex officio members, establishment of guarantees regarding the quota of representation of judges, extension of the possibility to elect in the composition of the Council representatives of other legal professions by defining a transparent and inclusive selection mechanism are just some of the constitutional and infra-constitutional elements that need to be

regulated. A decisive role in this process, especially the one related to the career of judges and disciplinary accountability is attributed to the specialized bodies of the SCM, who must prove to be independent, unbiased, fair, and professional in their work and decisions taken. In the above-mentioned report, GRECO expressed concern “about the insufficient justification of the SCM’s decisions, especially in selection, career and disciplinary liability,” moreover, “the SCM is not bound by the decisions of the Selection Board on the respective merits of candidates to positions of judges and gives no reasoning when it chooses to deviate from them, citing only the number of votes obtained by each candidate”.

At the same time, preservation of independence and prestige of justice cannot be accomplished only through legislative measures. This also requires an internal cohesion, by taking a stand. It is necessary that the body of judges, through firm actions, fight for their own independence. The role of safeguarding the judiciary’s independence shall be achieved primarily by the Superior Council of Magistracy via publically denouncing threats targeting the system in general and the independence of individual judges in particular and by elucidating challenges the system faces. The SCM must play an active and swift role in defending the magistrates against actions which could harm their independence, impartiality or professional reputation, as well as to communicate publicly facts in case of presenting false information.

Priorities continue to be given to ensuring the independence of the prosecutor's body and strengthening the capacities of the Superior Council of Prosecutors and the activity of its Boards, as well as reviewing the composition of the SCP, especially law members, in line with GRECO recommendations. The Superior Council of Prosecutors as the guarantor of prosecutors’ independence and impartiality of prosecutors shall the plethora of tools needed to accomplish its tasks. For this purpose the concept on the functioning of certain mechanisms should be revised, which currently are not a structural part of Superior Council of Prosecutors (i.e.: Prosecutor’s Inspection, method for preparing and storing cases). In the section on prosecutors’ independence, the Consultative Council of European Prosecutors (CCPE) in its Opinion no 9 stated that “the independence and autonomy of the prosecution services constitute an indispensable corollary to the independence of the judiciary” and that “the general trend to enhance the independence and effective autonomy of prosecution services should be encouraged”.

Improving the system of selection and promotion of judges and prosecutors, by excluding practices that would suggest the existence of factors in favor of candidates, is crucial for ensuring access to the system of professional and honest people, based

on merit and transparency. In this sense, there is a need to improve practices and the regulatory framework in the part related to the admission procedure to the National Institute of Justice, status of trainees, standardization of criteria to access the position of judge and prosecutor based on seniority, as well as the improvement of the selection and promotion mechanisms by the Superior Council of Magistracy and the Superior Council of Prosecutors.

A regulatory area of this specific objective is the consolidation of the role of the Constitutional Court, especially in the part related to the number of judges and the duration of the mandate held. According to good practice, the number of constitutional judges is to be odd in order to exclude blockages in the decision-making process, namely to avoid parity of the vote. At the same time, holding a single mandate, without the possibility of renewal aims to safeguard the independence of the constitutional judge in the exercise of the mandate.

Specific objectives:

- Amending the Constitution in the area related to ensuring judges' independence as well as strengthening the capacities of the Superior Council of Magistracy;
- Strengthening the capacities of the prosecution service;
- Improving the mechanism of accessing to the position of judge and prosecutor;
- Amend the Constitution and the regulatory framework in the area related to composition and term in office of Constitutional Court judges.

Expected result:

- The independence of the judiciary ensured;
- Efficiency of courts and prosecution offices' activity ensured;
- Access to the position of judge and prosecutor of professional individual with integrity ensured.
- Independence of the Constitutional Court strengthened.

Objective 1. 2. - Strengthening integrity and accountability in the justice sector

Identification of efficient leverages directed at strengthening the independence of judges and prosecutors is to be linked with an increase in their accountability and integrity. Responsibility and integrity are one of the main elements of ensuring citizens' trust in the justice system and the guarantee of conducting fair proceedings. Building and promoting a culture of judicial integrity is an important element in

preventing corruption, which is one of the main threats for the public and for a functioning of a rule of law based state.

It is essential for justice sector stakeholders, individually and collectively to observe and honor their mandate as a public one and to exert efforts in order to improve and uphold public trust in the system.

Currently, based on surveys conducted, corruption and lack of integrity in the judiciary are perceived by broad public at a high level. In the 4 round Evaluation Report GRECO "is also deeply concerned by indications that candidates presenting integrity risks are appointed as judges."

The International Commission of Jurists in the 2018 Evaluation Mission Report stresses that "it is important that corruption in the judiciary is fought robustly, in full respect of the rule of law and human rights. The ICJ is concerned that the focus of many criminal investigations seems to be directed more at stifling dissent or preventing dissident voices in the judiciary rather than at really eradicating the phenomenon of corruption".

It is essential for justice stakeholders, individually and collectively to observe and honor their mandate as a public one and to exert efforts in order to improve and uphold public trust in the system

Ensuring the integrity of justice sector stakeholders and their accountability has been declared a national objective through various international commitments and national documents. Despite several measures taken, until now, the integrity standards as well as moral and ethical standards have not become an important part of the professionals's activities in the justice sector. The deficiencies detected in maintaining these standards have a deep impact on the litigants' trust in the rendered decisions. Judges and prosecutors cannot abuse the powers granted to them, and the the guarantee of independence provided for by law for the performance of their official duties is to be correlated with the accountability and not impunity.

In order to achieve this, it is necessary to ensure an effective verification of all judges and prosecutors, in terms of their professionalism, integrity and interests. At the same time, following the analysis o the new legal framework and practices, measures are required to improve the mechanism of disciplinary liability of judges and prosecutors. .

Specific objectives:

- Strengthening the mechanisms for verification of judges and prosecutors in terms of integrity and interests;
- Application and popularisation of integrity standards and anticorruption measures in the justice sector;
- Improved mechanism for disciplinary liability of judges and prosecutors.

Expected result: Accountability and integrity in the justice sector ensured.

Specific objective 1.3. - Increasing the level of transparency and trust in justice

Developing trust in the judiciary and increasing the level of transparency is an essential and complex task, but also a difficult one at the same time, when the general perception of the majority of society in relation to the independence of the judiciary still lies at a low level. Assurance of citizens' trust in justice ultimately equates with trust in the state authorities.

Over the last period, substantial results in ensuring transparency of justice have been achieved, namely through: (1) publication of all judgments on courts' web pages; (2) audio recording of all court hearings; (3) publication of court hearing location and the date on courts' webpages. This was possible following the implementation of the Integrated Case Management Software (ICMS). At the same time, the objective of increasing the level of transparency and trust in justice, although closely linked with the degree of achievement of other objectives, determines the need for additional joint actions for developing the legal culture and breaking the chain of distrust. In the absence of a legal culture among citizens, successful efforts in other areas are not to likely be fully reflected and capitalized on. Therefore, the aim is to develop and seek to raise awareness and enhance knowledge of legal standards.

Jointly with the measures aimed at developing the legal culture, the subject of the present Strategy is to improve the mechanisms for communication with public, in order to increase its trust in the judiciary. In this regard, there is need for a set of actions targeted at promoting legal texts related to individuals' rights and procedural obligations, in order to ensure an easy comprehension by the society at-large, without diminishing the legal connotations and by publishing the information on court webpages. In addition, a good practice promoted successfully by several courts, which have adopted and used international standards for judicial excellence, was the

establishment of information centers aimed at adequately guiding the litigants by offering guidance or procedural answers.

At the same time, a set of actions for external monitoring and evaluation of courts' activities is an instrument that helps to improve the foreseeability of their operations. There is a need to strengthen the mechanism and a single methodology to conduct periodical surveys on the courts users' satisfaction, in compliance with all stages of collection, filtering, analysis, publication and drafting of action plans to address identified issues and implement monitoring reports. However, the surveys systematically conducted among courts' professionals and/or court users can provide relevant information to address the problems identified in the system and to enhance the quality of judicial system's activity.

The latest trends of international organizations (e.g. CEPEJ¹⁵) recommend that the states focus their efforts on the judiciary for a better communication with the litigants. The recommendations also refer to systematically conduct surveys, analyse and publish data and inform the litigants in a simple and accessible manner about their procedural rights and obligations, procedural timeframes, specific proceedings and steps taken or envisaged to resolve the reported issues.

External monitoring and evaluation of the justice sector activity is a tool that contributes to improving the predictability of its operation. Hence, it is necessary to define and strengthen the single mechanism for carrying out systematic surveys on the level of satisfaction with the activity of the judiciary, the prosecutor's office and the justice related legal professions, in compliance with all stages of data collection, filtering, analysis, publication, and the development of action plans to remedy the identified issues and reports monitoring the implementation. Systematic surveys among professionals and users can provide relevant information to address problems identified withing the system and to increase the quality of justice sector activity.

These trends will be also reflected in the activity of the Prosecution Service. Although many of the Prosecution's Service activities are censored to avoid disrupting its activity, citizens need to have access to general information. An open communication with all stakeholders will lead to affirming a modern, transparent, accountable and trustworthy Prosecution Service.

Specific objectives:

- Improving the mechanisms for providing to the general public information used by courts and prosecutor's offices;

¹⁵ See European Commission Report on the Efficiency of Justice "European Judicial Systems. Efficiency and quality of justice" 2019 edition, available online: < <http://rm.cowe.raport-avec-couv-18-09-2018-en/16808def9c> >.

- Developing citizens' information and education mechanisms/programs on access to justice and competencies of justice sector authorities;
- Systematically conducting surveys on court users' satisfaction among the litigants at the level of the entire justice sector.

Expected result:

- The public access to information on the state of justice increased;
- Public perception indicators on trust in justice improved.

Objective 1.4. - Strengthening the capacities of justice related legal professions

Strengthening the capacities of justice related, legal professions and the affirmation of their representatives (lawyer, notary, mediator, bailiff, judicial expert, licensed administrator and translator/interpreter) as a body of professionals capable of delivering quality legal services that are essentially public services delegated by the state is an essential element in achieving the overall objective of this policy document.

The activity of justice system related legal is regulated by special laws. At the same time, although their activity is to be broadly guided by the same rules, currently there are several differences as it relates to the organization and access to the profession, accountability and activity of professional bodies. In this regard, the unification of rules is necessary to be ensured and to eliminate the deficiencies identified.

Furthermore, the tax, social security and healthcare regimes applicable to the representatives of justice system associated professions remains to be a controversial issue. Although some legislative solutions have been adopted recently, partially improving the situation of the addressees, they do not meet the needs and possibilities of the representatives of legal professions.

Additionally, the lack of clear methodologies for tariff/rate formation for the services provided by the representatives of legal professions, and sometimes the lack of quantification is a problem both for the beneficiaries of these services and for the providers. Therefore, it is necessary to establish rates in a transparent and justifiable way to exclude the discretionary element.

Specific objectives:

- Improving the mechanisms on organization, activity and accountability of justice related legal professions;
- Develop and enforce improved policies for service delivery by justice related legal professions.

Expected result:

- Mechanisms on organization, activity and accountability of justice related legal professions improved;
- Quality legal services provided.

Strategic direction II.
Access to Justice, Quality and Transparency of Justice

Objective 2.1. - Improving Access to Justice and Protection of Human Rights System in the Justice Sector

In view of the fact that free access to justice is a complex principle, incorporating more relations and fundamental rights, through which its full exercise can be guaranteed, it continues to be a priority objective. Access to justice does not constitute merely a right in itself but it represents an essential tool that allow the protection of the other rights.

To ensure an effective protection of human rights, it is not sufficient to enshrine substantive laws and to specify the minimum requirements for the accomplishment of a fair justice. It is also necessary to establish procedural safeguards able to consolidate the mechanisms of protecting these rights, in particular for vulnerable groups. In this regard, legislative interventions are to be made in the part on streamlining judicial procedures. Streamlining judicial procedures represents a complex task that aims to improve the quality and access to justice, as well as to exclude abuses by both litigants and system representatives.

Priority is also the promotion of human rights compliant criminal justice system, on ensuring a fair criminal justice. In this regard, the efforts will be combined in order to ensure the quality of criminal law, a requirement that seeks the protection of the person against arbitrariness, by excluding abusive and extensive interpretation. Access to justice signifies not only the effective legal possibility of appealing to a fully jurisdictional body to review a complaint and obtain the satisfaction of a claim,

but also the right to require the enforcement of obtained judgment, that represents the last stage of a judicial process. As a result of the liberalization of bailiffs' profession, during almost a decade, the systemic problem of non-enforcement of judgments, which led to multiple convictions of the Republic of Moldova at the European Court of Human Rights (ECtHR), virtually disappeared. At the same time, it is further required to continue fortifying and streamlining these mechanisms to ensure an effective enforcement of courts' judgments.

As it pertains to the criminal-enforcement system, some of the forthcoming challenges are going to be the the institution and implementation of progressive execution of punishments' system, thus shifting the focus from a punitive policy to re-socialization one, as well as increasing security in penitentiary institutions. In order to reduce recidivism and increase social safety, it is necessary to consolidate the probation system. The use of alternatives to detention contributes to the reintegration in the society of individuals who breached the law, by capitalizing on their potential.

To ensure a stable regulatory framework and to avoid the promotion of conflicting concepts by various authorities, the following actions are required: (1) centralizing the task of amending the codified laws (Civil Code, Criminal Code, Contraventions Code, Administrative Code, Civil Procedure Code, Criminal Procedure Code, Enforcement Code), by formally authorizing the Ministry of Justice in this respect to; (2) decrease the number of initiatives to amend the codified laws and provide a reasonable deadline for entering into force of new provisions or of revised ones in order to allow the professionals and litigants to adapt and assimilate the new trends both among professionals and litigands.

Specific objectives:

- Facilitating access to justice for vulnerable and underrepresented groups;
- Promoting a human rights compliant criminal justice system;
- Efficient and simplified legal proceedings;
- Improving mechanisms for enforcing court judgments in civil, minor offence and criminal matters;
- Developed social reintegration programs for convicted persons<
- Maintain the stability of the regulatory framework and involve justice sector stakeholders in the evaluation and submitting proposals for amendments.

Expected result:

- Mechanisms that facilitate access to justice improved;
- Observance of rights in criminal cases ensured;
- Increased efficiency of court proceedings;
- Court judgments effectively enforced;
- Degree of recidivism decreased;
- Ensured stability of regulatory framework.

Objective 2.2. - Improving the quality of judicial documents and uniformization of judicial practice

Effective justice requires quality throughout the whole chain of justice. Although a number of legislative measures have been taken so far to improve the quality of justice, and although, according to the survey conducted between November-December 2018 by the "CBS-AXA" Center of Sociological Investigations and Marketing Research, in 2018, 44% of lawyers assess the quality of justice as being better than in 2011, in contrast to 2015, when 37% evaluated the quality of justice as being better in 2015 than in 2011¹⁶, its deficiencies, however, still persist, which ultimately directly affects the rights and freedoms of litigants.

In order to be of high quality, a court decision must be perceived by the parties and by the society in general as the result of a correct application of the legal norms, a fair procedure and an appropriate factual assessment.

Furthermore, in terms of clarity any court judgment must be comprehensible and drafted in a clear language. These are essential requirements for the judgments in order to be understood by concerned parties and by the public. The quality of being intelligible requires a coherent structure and a justification worded in a clear and accessible manner.

Therefore, ensuring the quality of judgments, which covers both the aspect of reasoning and that of drafting clearly and strengthening of their evaluation is still a major priority for this policy document as well.

The quality of justice is also determined by the existence of a unified judicial practice, which is a desideratum arising from the need to ensure legal certainty by avoiding the delivery of divergent judgments on identical issues. Lack of consistency

¹⁶ Survey results available online at: < <http://crjm.org/wp-content/uploads/2019/01/2018-Sondaj-Perceptia-avocati-justitie.pdf> >.

in jurisprudential solutions persists in the judgments delivered by the courts. Although the Supreme Court of Justice should be the last resort to resolve the illegalities admitted by lower-level courts, sadly, arbitrarily issued judgments are not an exception for this Court either, and the establishment but also the endorsement of an inconsistent judicial practice, a fact confirmed by European Court vs Moldova judgments, leads to a systemic inconsistency. Similarly, the adoption of new judgments on the merits of a case, without and objective justification and for reasons which do not seem persuasive, leads to the breach of relations based on legal certainty and, subsequently, of *res judicata* principle.

Non-unitary practice, determined by inconsistent application and interpretation of the legislation, is contrary to the principle of legal certainty that is one of the fundamental elements of the rule of law. The existence of contradictory judgments represents the source of legal uncertainty and ultimately leads to the lack of public trust in the judiciary. It is undeniable that in any legal system, there can be no absolute uniformity in the interpretation and the application of laws and some deviations are admissible. However, these should not be a nature as to lead to the adoption of the entirely different decisions in cases involving similar or nearly identical facts.

In this regard, it is necessary to develop mechanisms that would ensure uniform judicial practice and correct implementation of the regulatory framework, by excluding any influence likely to generate abuses and which ultimately may negatively affect the litigants and their view on the quality of the justice delivery.

Specific objectives:

- Establishing criteria for quality and clarity of judicial documents;
- Improve and develop mechanism for ensuring uniform judicial practice.

Expected result:

- quality of court documents improved and consistent case law ensured.

Objective 2.3. - Strengthening legal education, training and specialization

The quality and efficiency of justice largely depend on the systems of recruitment of future professionals, but also on their initial and continuous training. The issues of professionalism are likely to affect the justice from the perspective of public service, the coherence and quality of the justice delivery, but also the quality of contributions made by all stakeholders of this system. Professionalism involves a

high-level legal training, and developing a culture of independence in connection with ethics and professional conduct.

Development of human resources involves development of a training process tailored to new requirements and expectations. Therefore, the consolidation and development of the system of initial training of all justice sector actors remain a priority, with the National Institute of Justice having a key role in this entire process.

The initial training of candidates for the positions of judge and prosecutor is the main task of the National Institute of Justice. The reform of the initial training process was one of the strategic institutional objectives during the years 2016-2019, which indisputably had results of increased quality. The process of modernization of initial training was mainly the introduction of mock trials in the professional training program, which has made undeniable progress, recognized nationally and internationally. Nonetheless, the challenges the judicial system is facing in terms of its efficiency and functioning are still many, with the system facing new challenges generated by changes in legislation and its alignment with European and international standards. In this respect, the investment in the capacity of future judges and prosecutors must be ensured by the continuous improvement of the initial training curriculum, namely by outsourcing the trainee to internships abroad. Adopting the best practices of the European states will generate the implementation of new standards within the institutions concerned, which will create quality to the training process, but will also equally contribute to the efficiency of the judicial system. The continuous training of justice sector actors is also a fundamental element in the context of legislative developments, but also of new approaches stemming from the jurisprudence of the European Court of Human Rights. The law is a living instrument that in the context of socio-economic development cannot be interpreted as having a fixed and undisputable content, thus the application of methods of "evolutionary interpretation" is needed. The continuous training of judges and prosecutors in office is concentrated annually in the training program, which must satisfy their training needs.

An important place is also to be accorded to the involvement of judges, prosecutors, lawyers, bailiffs and other actors in opening an inter-professional dialogue, through comprehensive approach to common problems and identification of solutions that will generate unitary practice. Neither of them works in isolation. Therefore, only ensuring efficient and continuous cooperation in various ways could be a solid basis for common perception of legal phenomena in the spirit of democratic values, and will help to achieve a quality justice.

An important weight is also to be placed on the objective of building non-legal skills such as use of IT systems, development of management skills, etc. Currently, it has been established the need to specialize those who are in charge with the management at the level of the judiciary, by establishing mandatory participation and completion of the management and leadership module by judges and prosecutors who run for leadership positions,

Another important issue is the professional training of court support personnel. In the process of justice delivery, their work, especially of court clerks and judicial assistants, is supporting the activity of judges, thus, the competence and the proper performance of their duties play an important role in the proper functioning of the court. The quality and purpose of justice are directly proportional not only to the professional competencies of the judge, but also to the skills of the staff assisting him/her in his/her work. For these reasons, an investment and proportional stimulation for the activity performed by court staff is needed, resulting also from the duties assigned to them by law. The current provisions of Law no152/2006 on the National Institute of Justice establish only continuous training for court clerks, judicial assistants and heads of court secretariats. At the same time, the need for their comprehensive training was also currently raised, since the existing practices with a fragmented approach to certain subject matters are insufficient.

Moreover, currently the need was raised for continuous training of other court personnel who are tasked with summarizing judicial practices, registering, managing case files, synthesizing, analyzing court statistics, but also, ensuring public relations, IT system maintenance, protection of personal data, etc. The specific activities covered by the above mentioned staff categories requires a high level of knowledge, conduct, professionalism in order to contribute to a better quality of services delivered by the courts and an improved image of the court system.

Both the initial training and the continuous professional training of justice system actors are provided by the trainers of the National Institute of Justice. Quality, relevance and authenticity of the training process is based on participation as trainers in the majority of judges and prosecutors in office. Such type of involvement generates an accurate understanding of how justice is done. In order to continue and achieve the goal of having an efficient and quality oriented justice, tools to build incentives for them must be promoted.

Specific objectives:

- Strengthening and developing the system of initial and continuous training of judges and prosecutors;
- Building and developing non-legal skills;
- Improving the process of professional training of court personell;
- Ensuring specialization of judges, prosecutors and other stakeholders.

Expected result: The system of professional training of the judiciary developed.

Objective 2.4. - Strengthening the alternative avenues of dispute resolution

In the spirit of the Constitution of the Republic of Moldova as well as of the conventional principles, the rights and freedoms must be protected and applied in an effective and concrete manner, in accordance with the values of a democratic society. To this end, the State has the obligation to make available to citizens the entire arsenal of judicial and extrajudicial tools meant to ensure effective protection. Mediation and arbitration are two key institutions for extrajudicial settlement of disputes.

Although consolidation and promotion of these alternative dispute resolution methods was one of the priorities of the Justice Sector Reform Strategy and several measures have been implemented in this area, their application is at a low threshold. Moreover, according to the statistical data, neither the establishment through Law no 31/2017 of the institution of mandatory judicial mediation for certain categories of cases, has led to tangible results (approximately 5% of the cases filed in court have been settled).

Therefore, the measures to facilitate and encourage amicable conciliation of parties before the commencement of judicial proceedings or during an already initiated proceeding will be a priority for the current policy paper as well. The increasing caseload in courts, the increasing costs of disputes, the delays, and the desire to preserve the confidentiality are the indicators proving that litigants should broadly use alternative dispute resolution techniques.

In order to relieve the courts of an excessive burden, in order to settle certain categories of cases, it is necessary to analyze the opportunity to identify non-misdemeanors/administrative procedures that do not mandatorilly require the intervention of a judge.

Therefore, measures to facilitate and encourage the conciliation of the parties amicably before the start of legal proceedings or during a procedure already initiated will also be a priority for the current policy document. However, the growing number of court cases, the rising costs of disputes, delays, and the desire to maintain confidentiality are indicators proving that alternative dispute resolution techniques should be widely used by litigants

In this regard, the imperatives of effectiveness and flexibility of mediation and arbitration institutions, especially for the business environment, determine their efficient consolidation and promotion.

Specific objectives:

- Strengthening the institution of mediation (in civil, criminal, minor offense cases);
- Revising the institution of mandatory judicial mediation, in order to simplify the process of examination of civil cases in the court and exclude delays
- Improving the regulatory framework in the field of arbitration ;
- Identify extrajudiciary/administrative mechanisms to settle certain categories of cases ;
- Promoting the benefits of alternative dispute resolution mechanisms within the business environment, legal community, academia and the judiciary; roll out awareness and information dissemination campaigns on these mechanisms.

Expected result:

- Increased number of disputes settled through alternative methods.

**Strategic direction III.
Efficient and Modern Justice Sector**

Objective 3.1. – Continuing the Process of Optimization the Judiciary and Prosecution

The continuation of the process directed at optimizing the activity of judiciary and the prosecution is a desideratum for the current strategy, which requires a complex, consistent and coherent approach targeting the structure, personell resources and performance indicators.

The 2017 reform on courts' reorganization (that reduced the number of courts from 44 to 15) is to be continued, namely by: the unification of courts' locations that will enable the creation of prerequisites for the specialization of judges; uniform distribution of courts' workload; strengthening courts' institutional capacities; assurance of the most efficient use of public funds available to courts and the reduction of judicial system's maintenance costs.

According to the the Plan on building new courthouses and/or renovation of existing buildings, necessary for the well-functioning of court system, approved by Parliament Decision No. 21 dates March 3, 2017, the re-deployment period will last ten (10) years (2017-2027). Up until now, only the new office of Ungheni court (that includes the merged Nisporeni court), was built.

At the same time, as a result of the impact assessment of the Law no 76 on the court reorganization by the Open. Justice Program identified a number of difficulties faced by the courts as a result of the reform initiated, which requires several actions, including the revision of some jurisdictions in order to meet the needs of the system and the litigant.

At the same time, the reform of the judicial map also determines the reform of the prosecutor's offices map. Currently, the territorial prosecutor's offices carry out their activity in all territorial-administrative units of level II (rayons), whereas the Art.10 (1) of Law no 3/2016 on the Prosecutor's Office stipulates that territorial prosecutor's offices normally operate in the district with the courts. Therefore, the optimization of courts' number is to be preceded by the optimization of the number of prosecutor's offices. This will allow an effective synchronization of activities of these authorities.

Specific objections:

- Continuing the process of optimization of courts;
- Optimizing the system of bodies in the prosecution.

Expected result:

- The system of courts and the prosecution optimized;

Objective 3.2 Strengthening the administrative and managerial capacities of the courts and the prosecutor's office

The efficient administration of justice is an element that ultimately contributes to an efficient and quality justice. Currently a remaining challenge is to establish the balance between the number of judges and the increasing workload. Although according to Council of Europe's Commission for the Efficiency of Justice (CEPEJ), the average number of judges is comparable to that of European countries, the problem of the insufficient number of judges in some courts remains to be an issue raised by the judiciary representatives on various occasions. The institution of substitute/reserve judges does not address the problem of temporary judicial vacancies and for that reason, it will be analysed from the perspective of unblocking and capitalizing on the instituted reserve pool. At the same time, the large volume of cases in some courts and the unfair distribution of cases between courts involve the minimum time required for their examination by the judge, often detrimental for the quality, but also creates vulnerabilities leading to sanctioning of judges, which requires measures to ensure a comparable workload for all judges in the country.

One aspect that also requires increased attention is the strengthening the capacities of court staff. Justice delivery involves, in its implementation, not only the judges, but also a wide gamut of personnel with specific competences within the process of justice delivery. Currently, in some courts there is an acute shortage of staff, a fact reported by the Superior Council of Magistracy. This situation is due to the low pay. Given that the quality and finality of the act of justice are directly proportional not only to the professional competencies of the judge, but also to the competencies of the staff that helps him/her to carry out his/her activity, an investment and a proportional stimulation for the activity carried out by the staff is required given the responsibilities assigned by law.

A modern court management also determines the shift from judicial statistics, focused more on quantitative aspect and less on quality, to active management and leadership in the system, broadly supported and promoted by judicial administrative authorities by implementing standards recommended by the European Commission for Efficiency of Justice (CEPEJ), which deal with improving and developing analytical method and the use of statistical data and the court performance indicators. The use of statistical data is to be used as a tool contributing to increased efficiency and functioning of justice.

Specific objectives:

- Ensuring comparable workload for all judges in the country;
- Increased efficiency of institutional management within courts and the prosecutor's offices.

Expected result:

- Balanced workload between courts;
- Management system developed.

Objective 3.3. Develop and implement judicial information systems

Within the framework of the institutional reform of the judiciary, computerization has been a priority. An essential support to the modernization of justice delivery is ensured by the development of the judicial information system. Nevertheless, the implementation of IT solutions is an ongoing process, which should be adapted to new requirements for process development. Increasing the level of computerization of the judiciary is a tool for streamlining the activities carried out in the justice system.

The information systems that facilitate communication between courts and parties (i.e.: online filing of applications and other documents), as well as between the courts and other authorities can help reduce delays and costs incurred by the litigants, by facilitating access to justice. Thus, swift communication between the judiciary units, standardization of procedures, expeditious access to information, its quality, and the promptness of obtaining it, are strong arguments for modernizing this sector. Only the use of information and communication technologies in the judicial environment can increase the efficiency of the administration of justice.

In addition to the information system within courts, it is necessary to develop information systems related to case management at the criminal investigation phase as well as enforcement of court judgment and ensure systems' interoperability.

At the same time, increased amount of data available in the court system for both, the public and trial participants through electronic means needs to be managed permanently by responsible authorities, under maximum-security conditions. This process includes the implementation of a comprehensive array of measures aimed at enhancing the cyber security.

Specific objectives:

- Ensuring an ongoing improvement of the Judicial Information System functionalities;
- Facilitating people's access to justice through the use of information technologies;
- Developing “E-Case”/ “E-Arrest”/”E-Enforcement” information platforms;

- Ensuring interconnection of information systems of law enforcement bodies;
- Implementing policies for enhanced cyber-security in conjunction with an ensured transparent justice.

Expected result:

- Judicial Information System with enhanced functionalities implemented in all courts;
- Electronic communication developed/facilitated;
- Information systems developed and interconnected;
- Cyber security of data managed by the judicial system strengthened.

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V. ESTIMATION OF THE PROGRESS, IMPACT AND COSTS OF IMPLEMENTATION

An essential element of the justice reform is to measure the efficiency of its implementation, which is not possible without establishing clear and measurable performance indicators. To achieve the objectives identified in this Strategy, it is necessary to assess on a regular basis the progress of their implementation, using quantitative and qualitative indicators. The method for measuring progress will be determined for each individual measure required to achieve a strategic goal. This will allow for unequivocal progressive assessment and help detect and identify potential problems.

In order to ensure adequate monitoring of results, each specific objective will be divided into actions/measures described in the Action Plan for the implementation of the Strategy (hereinafter the Action Plan). The Action Plan will also establish timeframes for carrying out each activity and the competent authorities, as well as the resources needed to implement the measures.

For all the areas covered by the Strategy, the following progress indicators are to be used, (but not limited to):

- The court user satisfaction studies/surveys (conducted as part of the justice sector performance management system or by external observers) attest an increase in public's trust in justice in general, and the independence, transparency, competence and accountability in particular;
- The trust of legal professionals in the judiciary and in other institutions of the justice sector;
- The monitoring reports of judicial processes carried out by independent observers;
- The reports of international mechanisms in the area of human rights;
- The annual decrease in the number of systemic violations found by the European Court of Human Rights (ECtHR);
- The annual decline in the findings of the Committee of Ministers (CM) of the Council of Europe (CoE) regarding non-application of individual measures in the ECtHR judgments concerning Moldova (baseline: 2017);
- The annual decrease in the number of cases in which Moldova is criticized by the CoE CM for failure to undertake general measures with a view to a country-specific judgment of ECtHR (baseline: 2017);

- Improved position of the Republic of Moldova in many relevant international indexes on the performance of the judiciary, including governance indexes and the Rule of Law Index (the World Bank Institute), the Freedom House rankings, the World Justice Project (the Rule of Law Index), Transparency International (IPC etc.), WB Business Index (baseline: 2017);
- Acknowledgment of progress made by the Republic of Moldova in the administration of justice, mentioned in the EU reports and in various policy dialogue documents;
- Acknowledgment of progress made in the area of independence, accountability and competence of the judiciary of the Republic of Moldova, mentioned in the interim and final activity reports of donors and reports of other informed observers, including CSOs, international organizations (baseline: 2017).

The efficient implementation of the Strategy in general, and in particular of the Action Plan, that will reflect all measures to be taken, is conditional on an objective financial planning, a correct estimation of the costs of actions and on identification of the sources of finance that will be covered from:

- a) National public budget;
- b) Funding of international organizations;
- c) Support provided by the development partners.

The costs of actions covered by the national public budget will be adjusted annually, depending on the availability of funds provided within the medium-term budgetary framework for those periods.

The distribution of funding offered by international organizations will be carried out in a transparent manner according to the priorities and needs of the implementing institutions, by joint decision of forum of justice sector decision-makers, with the involvement of experts, when necessary.

The support from the development partners for the implementation of the Strategy and Action Plan is an important and essential one, given the limited budgetary resources, but also in other circumstances, the development partners may be interested in some specific areas compatible with their funding policies. Only through a consolidated effort, the implementation of the proposed objectives and the activities in a planned manner can be accelerated.

VI. PREREQUISITES FOR EFFICIENT IMPLEMENTATION

Considering the experience of implementation of the previous Strategy, it is important for the implementation of the current Strategy to recognize and meet the following prerequisites:

- **Political will.** According to the Constitution, the Republic of Moldova is a democratic state, governed by the rule of law, in which the dignity of people, their rights and freedoms, the free development of human personality, justice and political pluralism represent supreme values, which are guaranteed. These principles should guide all political decisions. The state's priority to ensure a modern, efficient and transparent justice system cannot be determined by the political factor and its color. To ensure an independent and impartial judiciary that produces legal and fair judicial acts is a common goal. Therefore, the implementation of this strategy implies unconditional support from the political power.

- **Financial coverage.** The implementation of policy documents involves certain expenses. The lack of financial support to cover the costs of the measures promoted by this Strategy may compromise its purpose, the achievement of the proposed objectives and the expected results. Therefore, it is important to provide sufficient financial means, identified and approved as part of the budget of each institution, and to attract financial support from other sources allowed by law.

- **Assumption of responsibility by implementing institutions.** With the adoption of the Strategy, the key actors are to assume their role of active promoters of its purpose and objectives. It is important that the pillar institutions (the Parliament and the Government), in accordance with their functional competencies, put the necessary pressure on the implementing authorities, responsible for the implementation of the measures provided in the Strategy, so that all planned actions are carried out in full and within the set deadlines. The success in promoting and effectively implementing the objectives of the Strategy must be supported by the justice sector stakeholders interested in registering quality progress and in the system "purification" of unworthy persons that compromise it due to lack of professionalism and integrity.

- **Public control, independent and impartial monitoring.** The efficiency of implementation of the Strategy also depends on the contribution of the civil society. Thus, besides submission of official reports by the responsible institutions, it is important that the civil society pillar directly contributes to the monitoring of the

implementation and presents alternative reports to the official reports of the authorities. Important prerequisites in this respect are the freedom, independence, transparency, integrity and credibility of non-governmental organizations and media institutions.

Only when all mentioned prerequisites exist, the implementation of the measures provided by the Strategy will generate the expected impact.

VII. THE DRAFTING PROCESS

The Strategy was drafted by the Ministry of Justice with the support of all justice sector actors interested to fairly continue the sector development. In order to ensure a participatory process, the Working Group on developing the new policy document in the justice sector was established, by the Decree of the Minister of Justice no 383 of 12 May 2017. In a representative composition, the Working Group brought together the representatives of the Parliament of the Republic of Moldova, the President's Office, the Prosecutor General's Office, the Supreme Court of Justice, the Superior Council of Magistracy, the National Anti-Corruption Center, other public authorities and institutions, as well as the representatives of the development partners and civil society organizations.

The Strategy drafting process combined the methods of analysis of issues found in the justice sector with consultations during meetings, as well as opinions received from representative of authorities and institutions from the sector.

In 2017, the Ministry of Justice held two meetings on launching the process of drafting of the new policy document in the justice sector and on presenting the strategic directions, developed on the basis of the recommendations made in various reports, including on the implementation of the JSRS 2011-2016, as well as the proposals received from the Working Group members.

At the beginning of 2018, as it was the legislatures' last year of mandate, the Prime Minister announced the priority directions and actions in the judicial reform, described by the Ministry of Justice in the strategic document entitled "The Small scale Justice Reform". The strategic document represented an overall vision on a set of reforms in the judiciary, including with fast implementation, within a maximum of 12 months.

The drafting of the new policy paper in the justice sector was intensified at the end of 2018, by reviving the previously initiated activities and re-conceptualizing the strategic directions and specific objectives proposed in the new policy document in the justice sector.

During February-March 2019, in order to identify the reform needs and solutions to improve the justice sector directly from those who were concerned, the Ministry of Justice held meetings with various actors in the justice sector. The meetings were focused on separate discussions with judges, prosecutors, representatives of judicial and prosecutorial administration bodies, representatives of justice sector related professions (lawyers, notaries, bailiffs, judicial experts, mediators, authorized administrators, interpreters/translators) business and academia representatives. The exercise also aimed for territorial coverage, thus, meetings with professionals from the northern, central and southern regions of the Republic have been organized.

In celebration of the "Europe Day" and using the opportunity, the public opinion was asked about the situation in the field of justice, but also the vision regarding the changes that must be made in the justice sector. The wishes expressed directly by the interested persons (with different ages and occupations) were largely targeting: fight against corruption, justice independence, full compliance with human rights, expedited justice delivery, better enforcement of laws and easy access to legal practical information. The proposals were analysed from the point of view of their consideration in the policy document, being covered by the strategic directions proposed by this Strategy.

To ensure transparency in the decision-making process, the new policy document in the justice sector will be widely consulted on with all stakeholders, including the representatives of civil society and development partners.

VIII. REPORTING AND MONITORING PROCEDURES

The reporting on and monitoring of the Strategy's implementation will be carried out within the institutional framework based on a monitoring and evaluation methodology, in terms of specific actions described in the Action Plan.

1. Institutional framework

The responsibility to report on and monitor the Strategy and the Action Plan lies with:

- Implementing institutions;
- Persons appointed as responsible within the implementing institutions (focal points);
- Monitoring Group;
- Secretariat of the Monitoring group;
- Forum of decision-makers of the justice sector institutions;
- Parliament's Specialized Committee.

The implementing institutions will be identified in the Action Plan. The implementing institutions will ensure that objectives/actions stated in the Strategy and in the Action Plan are covered in their own annual action plans, as well as will plan financial resources for their implementation

The responsible persons within the implementing institutions ("focal points") will be appointed by internal orders of the heads of justice sector institutions. The appointment of focal points will enable easier communication between the implementing institutions and the Secretariat of the monitoring group. The focal points will provide all necessary/relevant data and will submit reports of the institutions on the progress made in the implementation of the Strategy and the Action Plan.

The focal points will be tasked with ensuring continuity in the activity of responsible persons and, when necessary, reduce their workload, in order to allow them to focus on the implementation of the Strategy and the Action Plan, communication with the secretariat of the monitoring group, and on drafting and submitting necessary information.

The monitoring group will be constituted by the Order of the Minister of Justice from the representatives of the implementing institutions, but mainly from the representatives of the civil society. The quarterly evaluation of the implementation of

the Strategy and Action Plan will be assigned to the monitoring group according to the monitoring and evaluation methodology for their implementation. The monitoring group will report the risks of delayed implementation or failure to implement the measures in the Action Plan. An important aspect of the monitoring group's activity will be the assessment of the achievement of Strategic objectives and the assessment of their expected impact. The organization and functioning of the monitoring group will be regulated by the Regulation approved by the Minister of Justice.

The Secretariat of the Monitoring Groups will be provided by a subdivision of the Ministry of Justice, with support from technical consultants contracted for this purpose

The Secretariat will support the monitoring group in carrying out its monitoring activities and:

a) will collect, store and synthesize the information provided by the implementing institutions and prepare the bi-annual and annual reports of the monitoring groups on the implementation of the Strategy and Action Plan;

b) Will ensure interaction with the specialized Parliamentary Committee and will take part in the organization of annual meetings for evaluation and reporting on the level of implementation of the Strategy and Action Plan;

c) Will provide methodological support to responsible persons, in order to develop necessary skills to ensure the implementation of the Strategy and the Action Plan, as well as to understand tasks and responsibilities they were assigned;

d) Will perform other complementary duties, according to the Regulation on the organization and functioning of the monitoring groups.

The forum of decision-makers of the justice sector institutions will be composed of: the Minister of Justice, the Chairperson of the Superior Council of Magistracy, the Chairperson of the Superior Council of Prosecutors, the President of the Supreme Court of Justice, the General Prosecutor, the Director of the National Institute of Justice, the Chairperson of the Bar Association, the Chairperson of the National Union of Bailiffs, the president of Mediation Council. In the event issues addressed by the forum require financial expenses, the Minister of Finance will be invited to take part in discussions.

The forum has competence to ensure decision-making support in the implementation of the Justice Sector Reform Strategy, but it should also enable the smooth implementation of the objectives/activities within a specific implementing

institution or to assist in overcoming difficulties in achieving certain objectives/actions involving several implementing institutions, which have conflicting viewpoints.

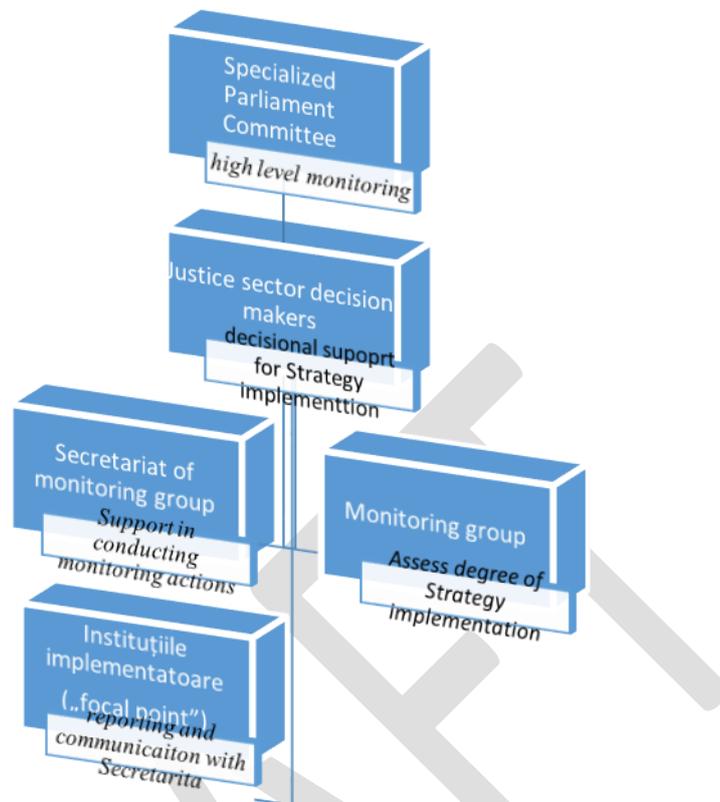
The forum will meet when appropriate, and will provide strategic guidance during the implementation of the Strategy and the Action Plan and will react when some implementation problems are identified, or if delays in implementation occur.

The Parliament's Specialized Committee (the Parliament's Legal Committee on Appointments and Immunities) will represent the highest level for the monitoring and reporting activity on the degree of implementation of the Strategy and the Action Plan.

The Parliament's Committee will hold annual hearings on the degree of implementation of the Strategy and the Action Plan. During the hearings, the annual monitoring reports on the implementation of the Strategy and the Action Plan will be presented and, when appropriate, the alternative reports of civil society organizations, identifying the progress made in implementing the Strategy and Action Plan and the deficiencies found during the implementation.

Following the annual hearings, the Parliament's Committee will draw up its own report, which is to identify the progress, failures and challenges in the implementation of the Strategy and the Action Plan. The report will contain recommendations for the implementing institutions that have allowed for delays or failed to carry out the proposed actions. In case of major challenges related to the implementation of the Strategy, the Committee's report will be heard at the plenary session of the Parliament and subsequently a resolution will be approved, presenting solutions and recommendations to overcome and eliminate the detected shortcomings.

GRAPHIC REPRESENTATION OF THE MECHANISM FOR THE STRATEGY MONITORING



2. Methodology for monitoring and evaluation of the Strategy

The monitoring and evaluation of the Strategy is carried out in order to identify the progress made in the implementation of the Strategy and the Action Plan, to detect and remedy the shortcomings that emerged during the implementation of the Strategy and the Action Plan, as well as to increase their level of knowledge, understanding and implementation.

The Ministry of Justice will draw up the methodology for monitoring and evaluation of the Strategy and the Action Plan, after having consulted the stakeholders and the specialized Parliament's Committee. The methodology for monitoring and evaluation of the implementation of the Strategy and the Action Plan will be posted on the website of the Ministry of Justice.

3. Deadlines for reporting and evaluation of the implementation of the Strategy

The reports on the fulfillment of the measures provided in the Strategy and the Action Plan shall be submitted to the Secretariat of the monitoring group, on quarterly and annual basis, until the 15th of the month following the due date.

The evaluation of the Strategy and of the Action Plan analyzes the efficiency and the expected impact of the objectives and measures, as well as the way resources allocated for the implementation are used.

The evaluation report lists the factors that contribute to the success or failure, the sustainability of the results and the impact of the Strategy and the Action Plan. The assessment of the Strategy's impact is performed every two years, with regard to the actions to be carried out at least one year before, as well as one year after the deadline for implementation of the Strategy and the Action Plan.

Alternative reporting by civil society organisations (CSOs) is encouraged. Alternative reports can provide quality assessments on the objectives met and actions carried out in line with the Strategy and the Action plan, these being supported by surveys measuring quality, efficiency and access to legal services. Submission of alternative reports remains at the discretion of civil society representatives, the reports can be drafted in partnership with developing partners. The value of alternative reports is even greater in the context in which the civil society is the one that ensures that the citizen's interest is correctly reflected and integrated in public policies developed by state authorities and contributes to increasing their accountability towards the citizens.