

**THE STRATEGY FOR ENSURING THE  
INDEPENDENCE AND INTEGRITY OF  
JUSTICE SECTOR  
FOR 2020-2023**

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## I. INTRODUCTION

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*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 the separation of powers in the state, legal security and economic development. A functional justice system safeguards the fact that citizens and businesses 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. 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 credible 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.

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## II. OVERVIEW OF THE STATE OF AFFAIRS

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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 as a basis: on the one hand, the quasi-general perception of high of 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), the Global Corruption Barometer (international survey), 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 - the prosecutor's office and criminal prosecution bodies (pillar II), access to justice (lawyers, state guaranteed legal aid, bailiffs, notaries) (pillar III), integrity in the justice sector - NAC and NIA (pillar IV), economic development - mediation, arbitration and insolvency administrators (pillar V), human rights in the justice sector - the Constitutional Court, the People's Advocate, the penitentiary system and the probation system (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 related to 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 many reforms, even if delayed, have been inserted in practice. Amongst the most important achievements, it is worth mentioning:

- The legislative and institutional reforms that strengthened the self-governance capacities of the judiciary: the SCM and its subordinate boards;
- 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 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's 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/reacting 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 process of drafting regulatory acts.

Ensuring the society's trust in justice was the main target of the reform process. The inquiries on society's trust in justice during the implementation of the JSRS show its evolution. Thus, according to the data provided by the Barometer of Public Opinion, the citizens' trust in justice is assessed at 18% in 2011, 15% in 2012, 16% in 2013, 23% in 2014. In 2015, the trust of the population begins to decline, being assessed at 15% and then at 8% in 2016. In 2017, however, because of the reforms in this sector, 24% of the population says they have confidence in justice, thus, by 6% more than in 2011, when the sector reform was launched <sup>1</sup>.

At the same time, according to the results of the national survey, conducted by the "CBS-AXA" Center of Sociological Investigations and Marketing Research among lawyers on the independence, efficiency and accountability of the justice sector in the Republic of Moldova, in the period of November - December 2018, 48% of respondents (lawyers) believe that the reform of judiciary, started in 2011 had a positive impact, an insignificant improvement as compared to 2015, when 43% of responding lawyers considered the reform as having a positive impact <sup>2</sup>.

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 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 views. 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 from those 'within' the system. Citizens and businesses believe the 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).

The JSRS's implementation helped create a new regulatory basis for most of the justice sector institutions and professions and most of these provisions were

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<sup>1</sup> Data of public opinion Barometer can be found online:

<http://ipp.md/old/lib.php?l=ro&idc=156>>

<sup>2</sup> The survey findings are available at: <http://crjm.org/wp-content/uploads/2019/01/2018-Sondaj-Perceptia-avocati-justitie.pdf>

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%. 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 implementation, 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, assessment 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 violations.

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.

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;

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

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 - 2020-2023. 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 entire

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

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 judiciary potential. When the implementation of the new reform phase is completed, 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 commitments of the Republic of Moldova made to the development partners, as well as with the Council of Europe's recommendations and standards will occur.

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.

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 changes.

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.

### III. DEFINING PROBLEMS

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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. After 6 (six) years of implementation, it appears that the document had a spectrum and a scope of coverage that was too broad to be successfully implemented. 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 reports, 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 six (6) years of implementation, it can be deducted 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 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.

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

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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.

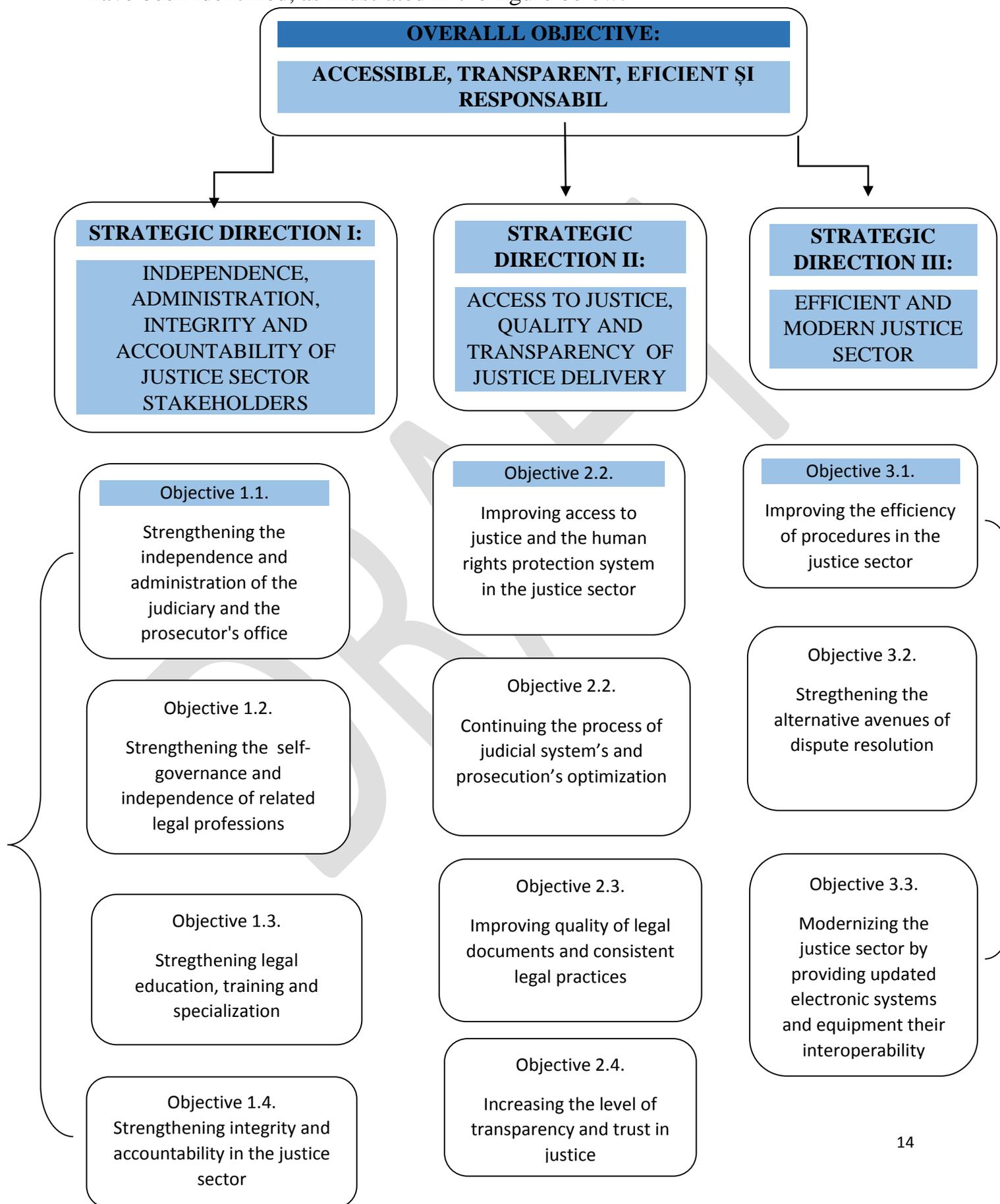
The overall objective, strategic directions and specific objectives of the new document target the critical issues and vulnerabilities of the sector attested in the evaluation reports, and focus on ensuring consistency and continuity of the previous reforms, on further modernizing the sector, on increasing 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 the 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.

Consolidation of an independent, impartial and functional judiciary that is supported by the entire society and all institutions committed to the supreme values is an imperative. 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.

Thus, in order to increase the degree of judicial independence, exclude the political factor determining judges' career, but also to strengthen the capacities of the judicial administration authority, the areas that will constitute a priority for the current Strategy and involve constitutional changes are: 1) the status, appointment and immunity of judges, 2) financing of judiciary, and 3) the composition, powers and mandate of the Superior Council of Magistracy.

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.

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.

A continuous priority remains ensuring the independence of prosecutors, and strengthening the capacities of the Superior Council of Prosecutors, the activity of its boards, as well as the analysis of applying a similar approach as to the Superior Council of Magistracy in relation to its ex-officio members. 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".

A controversial subject remains the method to access to the judicial and prosecutorial positions. The establishment a single access point to judicial and prosecutorial profession, through the National Institute of Justice, is regarded as a good European practice and an advanced solution for training future justice sector stakeholders. At the same time, work experience in legal area as an eligibility requirement suits two inherent prerequisites: professionalism and experience, this being the reason why professionals choose to further maintain the requirement. Similarly the double standard applicable to the same condition of applying for the judicial position on the basis of seniority in work is debatable and therefore should be eliminated (5 or 7 years of experience in legal professions) in order to ensure stability, coherence and foreseeability of established procedures.

An intrinsic element of ensuring the independence of justice system is its management by the bodies responsible for the organization and functioning of the judicial authority. The administration of judiciary and the prosecution also involves the exercise of prerogatives of appointing the system's representatives in

administrative management positions (presidents/vice-presidents). The exclusion of political factor, involvement, when appropriate, in the selection of the court/prosecutors' personell and attributing the competence of appointing individuals in administrative positions by the Superior Council of Magistracy and the Superior Council of prosecutors will contribute to a better system management and will also ensure rotation of management positions in the related entities.

*Specific objectives:*

- Amending the Constitution in the area related to ensuring judges' independence as well as the activity of the Superior Council of Magistracy;
- Ensuring the courts with the needed number of judges and supporting personell;
- Introducing consistent/uniformity in the modalities of accessing to the judicial position;
- Strengthening the capacities of the Superior Council of Prosecutors;
- Ensuring appointment of persons in managing positions of courts and prosecution offices by the administrative bodies (SCM and SCP).

*Expected result:*

- The independence of judges and prosecutor's office ensured;
- The capacities of judicial and prosecutorial administration bodies strengthened;
- Institutional capabilities of judicial and prosecutorial administration strengthened.

*Objective 1.2. - Strengthening the self-administration, independence and accountability of legal professions*

Strengthening the self-administration, independence and accountability of legal professions is an essential element in achieving the overall objective of this policy document.

The activity of justice system associated legal professions (lawyer, notary, mediator, bailiff, judicial expert, insolvency administrator and translator/interpreter) 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 in this area is necessary to be ensured.

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.

An essential element for strengthening the justice-related professions and asserting their representatives as a body of professionals capable of providing qualitative legal services, which are, essentially public services delegated by the state, is the consolidation of the independence of their representatives. The latest trends of intimidation and pressure on lawyers and court bailiffs or their association/identification with their clients are contrary to the imperative of defending human dignity and of the principle of professional independence, and therefore must be eradicated. Otherwise, the representatives of justice-related professions should bear the responsibility of justifying the delegated mission to provide services of public interest.

*Specific objectives:*

- Unifying the aspects related to the organization of legal professions and their accountability;
- Strengthening the independence of justice related legal professions
- Improving contributory/social security system and taxation regime;
- Establishing clear rules for rate formation.

*Expected result:*

- Unified criteria of organization of legal professions;
- Social security and taxation system improved;
- Rates/fees for provided services regulated/revised.

*Objective 1.3. - 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 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. In addition, training of judges, prosecutors and other stakeholders should be ensured both in new areas, where the need for information is felt, and in traditional areas, where an overview of the studied topics is needed. Therefore, efforts will be focused on creating new tools and training opportunities that will promptly respond to the system 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. The inter-professional communication platform will be covered by the National Institute of Justice and also, by other training facilities.

An important weight is also to be placed on the objective of building non-legal skills (professional ethics and deontology, mediation, combating discrimination, promoting knowledge of a foreign language (legal English, French), these are only some of the training areas that are aimed at achieving this goal).

Another important issue is the professional training of court support personell. 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 personell who are tasked with summarizing judicial practices, registering, managing case files, synthetizing, 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.

In addition to professional training, another area largely related to the training process is to ensure a continuous specialization of judges, prosecutors, as appropriate, and lawyers who provide state guaranteed legal aid. Legal specialization is regarded as a requirement of the moment, because the litigants want their dispute resolutions to be done timely and professionally, in order to limit to the greatest extent possible the risk of judicial errors.

*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 developed.

*Objective 1.4. - 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.

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. The entire process should be monitored by international experts, in compliance with the

constitutional framework and international standards governing the judicial system, as laid down by the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR). Similarly, the work practices of self-governing bodies of judges and prosecutors shall be improved, in order to rule out the situations where appearances of lack of integrity are not reported to the competent authorities as well as to eradicate tolerance towards lack of integrity.

*Specific objectives:*

- Strengthening the mechanisms for verification of judges and prosecutors in terms of integrity, interests and professionalism;
- Application and popularisation of integrity standards and anticorruption measures in the justice sector.

*Expected result:* Integrity in the justice sector ensured.

**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 this context, access to justice could be fully achieved in the absence safeguarding the right for defense, which requires a review of procedural mechanisms for ensuring a proper balance between the state prosecution and the defense based on „the equality of arms”.

An improved access to justice should be regarded not only within the strict meaning of access to a court of justice, bu also as an integrated and comprehensive

approach for the legal services provided to the citizens, in particular via awareness-raising and through increasing the quality of services provided for vulnerable and under-represented groups.

Therefore, in order to fully accomplish the objective of free access to justice, specifically of vulnerable and under-represented groups, more information is to be made available on the access to court facilities, purpose and rules for using the court rooms for hearing juveniles or crime victims, the method of using the functionalities of the judicial information system available for visually impaired persons, the requirements for electronic filing of lawsuits, visualization of electronic case-files by parties involved in trials, etc.

Another area that requires intervention is the improvement of the mechanism for translation services provided to courts, prosecution offices, criminal investigation authorities, including by encouraging the use of information systems enabling remote communication, in order to avoid delays in case reviews. Currently, the delays in criminal and civil cases is due to insufficient number of translators/interpreters or their refusal to participate in courts or prosecution offices in other administrative-territorial units than the Chisinau municipality.

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. Likewise, person's freedom and safety, the inviolability of one's private life are the constitutional guarantees that are to be effectively protected. In order to eradicate the abusive use of pre-trial detention by Law No. 179/2018 changes were made to the Criminal procedure Code, with respect to arrest provisions. In order to assess the impact of the mentioned changes, an analysis of the data on the frequency of the use/ extension pre-trial detention will be carried out, following the enforcement of the new provisions.

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.

*Specific objectives:*

- Facilitating access to justice for vulnerable and underrepresented groups;
- Developing and implementing improved policies for the provision of legal aid and evaluation of the quality of provided assistance;
- Improving the mechanism for rendering translation services in the activity of courts, prosecutor's offices, criminal investigative bodies;
- Promoting a human rights compliant criminal justice system;
- Improving the efficiency of mechanisms for enforcing judgments and ensuring an adequate balance between the interests of creditors and those of debtors as part of the foreclosure proceedings;
- Improving the mechanisms for the enforcement of criminal penalties.

*Expected result:*

- Mechanisms that facilitate access to justice improved;
- Qualitative legal assistance delivered;
- Observance of rights in criminal cases ensured;
- Degree of recidivism decreased;
- Court judgments effectively enforced.

*Objective 2.2. – 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.

Strengthening the courts' institutional capacities is to also to be ensured through efficient budgetary management and planning and by enhancing the capacities of jugfes and support personell in the area of change management court management and case flow management. Due to persisting personell turnover, there is currently an inadequate relation and a lack of balance between the number of judges, staff and workload in courts.

A modern courts' management also determines the shift from judicial statistics, focused more on quantitative aspect and less on qualitative, to active management and leadership in the system, broadly supported and promoted by judicial administrative authorities by implementing standards recommended by the Council of Europe;s European Commission for Efficiency of Justice (CEPEJ) which deal with improving and developing analytical method, the use of statistical data and the court performance indicators.

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;
- Increasing the efficiency of institutional management in courts and the prosecution.

*Expected result:*

- The system of courts and the prosecution optimized;
- The management system developed.

*Objective 2.3. - 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 2013, 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.

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<sup>3</sup> Survey results available online at:  
<http://crjm.org/wp-content/uploads/2019/01/2018-Sondaj-Perceptia-avocati-justitie.pdf>

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 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 an 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.

***Specific objective 2.4. - 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 guiding 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. CEPEJ) 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.

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 information to the general public on access/use of judicial system web functionalities;
- Improving mechanisms used by courts to provide information to public at large;
- Developing citizens' information and education mechanisms/programs on access to justice and competencies of justice sector authorities;
- Developing partnerships and involving CSOs in citizens' information and legal education programs;
- Systematically conducting surveys on court users' satisfaction among the litigants at the level of the entire judiciary and the Prosecution Service.

***Expected result:***

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

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

#### ***Objective 3.1. - Improving the Efficiency of Justice Sector Procedures***

Improving the efficiency of court procedures is a complex task that aims to improve the quality and access to justice, as well as exclude abuses, both behalf of litigants and on the system's representatives.

Over the last period, a number of amendments have been made to the civil procedure law, so as to simplify and make it more efficient, namely by introducing urgent procedures for settling certain categories of cases, excluding the possibilities of delay in the civil proceedings and optimizing the timeframe for consideration of civil cases, as well as by simplifying the procedural documents and stimulating the use of information systems by trial participants. Additionally, legislative interventions aimed at simplifying the procedure were also made in minor offense matters.

At the same time, enhancing the efficiency of court proceedings and procedures for the enforcement of judicial acts will also constitute the intervention measures in the framework of this Strategy. In particular, the criminal procedure is to be streamlined both, at the pre-trial and trial stages, and some provisions of minor offense law are to be reviewed to establish procedural safeguards. The mechanism for legal free collection should be streamlined.

As part of court proceedings, a decisive element in unveiling the truth regarding the facts and circumstances in a case is the evidence produced, and the legal forensics expertisation is one form of evidence. The role of legal forensics expertisation as part of evidence submission increases with the need to obtain data through scientific methods that are important for establishing the truth. In order to ensure an objective and well-grounded court decision, the capacities of the legal forensics expertisation should be strengthened.

Moreover, in order to ensure a balance between the adjudication of cases within a reasonable timeframe and ensuring the quality of justice, certain timeframes set by the legislature for the resolution of certain categories of cases are to be reviewed.

Moreover, for the purpose of relieving courts of an excessive caseload, in order to settle certain categories of cases, it is necessary to conduct an analysis on the

expediency of identification of non-contentious/administrative procedures that do not necessarily require judge's intervention.

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 amendments.

*Specific objectives:*

- Amending the procedural and enforcement legislation to simplify and improve the efficiency of procedures;
- Amending the law in order to improve the mechanism for legal fee collection;
- Strengthening the capabilities of legal forensics expertisation for obtaining objective and well-grounded court decisions;
- Identifying extrajudicial/administrative mechanisms for adjudicating certain categories of cases;
- Preserving a stable regulatory framework and involving justice sector stakeholders in assessment and in drafting amendments.

*Expected result:*

- Court procedures and enforcement procedures simplified and streamlined;
- Effective mechanism for legal fee collection;
- Increased quality of judicial expertise and new types of judicial expertise developed;
- Extrajudicial mechanisms for settling certain categories of cases identified/established;
- Ensured stability of regulatory framework.

### *Objective 3.2. - 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 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);
- Improving the mechanisms for enforcing settlements, through which the parties agree on amicable dispute resolution;
- 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;
- 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.

***Objective 3.3. - Modernizing the justice sector by deployment of modern electronic systems and equipment and interconnecting them***

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.

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 (ICMS) functionalities;
- Facilitating people's access to justice through the use of information technologies;
- Facilitating/developing electronic communication between lawyers and public authorities with courts, prosecutors, criminal investigation bodies and bailiffs;
- Implementing the videoconferencing system in criminal cases and in other categories of cases;
- 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 (ICMS) with enhanced functionalities implemented in all courts;
- Electronic communication developed/facilitated;
- Videoconferencing system implemented;
- Information systems developed and interconnected;
- Cyber security of data managed by the judicial system strengthened.

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

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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**

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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**

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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.

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

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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.

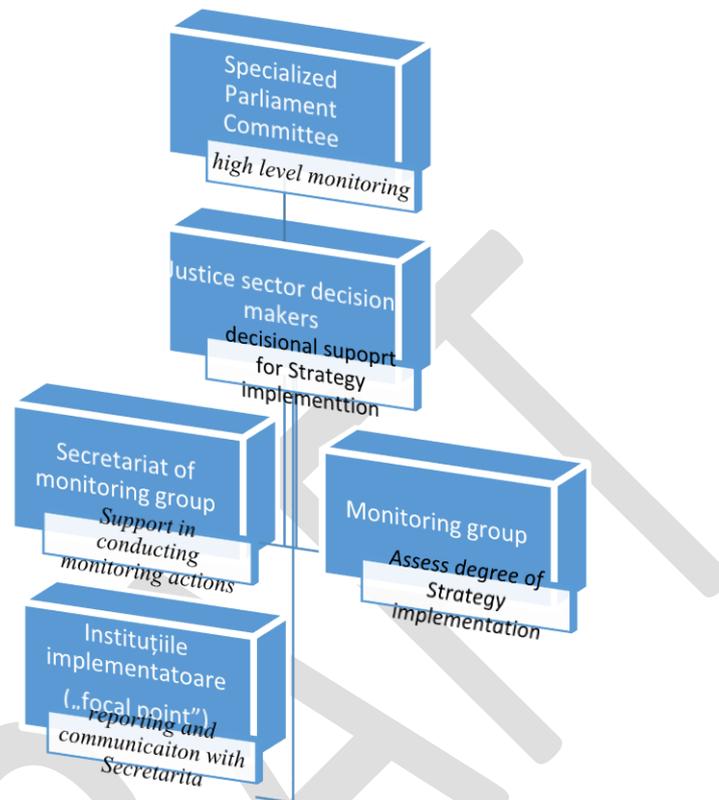
The forum will meet when appropriate, and will provide strategic guidance during the implementation of the Strategy and the Action Plan and will react when some implementation problems are identified, or if delays in implementation occur.

**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.