



“We have corruption, unreformed judiciary, poor central and local public institution capacities, and legislation with conflicting elements”

Iurie Leanca,
Prime-Minister of Moldova

THE REFORM IN A NUTSHELL SCM Expects Proposals for Court Budgeting Improvement

The Superior Council of magistracy (SCM) has proposed for public discussions the Court Budgeting Methodology. According to the draft methodology posted on the website www.csm.md, the zero-based budgeting method shall be used for court budgeting, but also the performance-based method.

The zero-based budgeting method requires the budget request be justified starting from the zero-base, as if there was no budget in the previous year. This method shall be applied in planning expenses for labor remuneration, compulsory social insurance contributions, expenses for electricity, gas, heating, inventory and equipment, current renovations, rental of goods, inter-department security, water and sewerage, business trips, etc. The performance-based budgeting method shall be applied in planning expenses for office supplies, household goods, books and periodicals, medicines and consumables, telecommunication and mail services, current repairs of the equipment and inventory, trainings, printing services, protocol-related expenses. The proposals for improving this project may be sent, by December 20 inst., to the email aparatul@csm.md.

... and for Organization of Court Secretariats

CSM has also developed the draft Framework Regulation on the Organization and Operation of the Secretariats of District Courts and Courts of Appeal. It is proposed that Court Secretariats perform the following basic functions: assist judges in the delivery of justice; ensure administrative and organizational support in conducting trials; ensure the use of the Integrated Case Management System and the court audio recording system within the examination of cases; post on the noticeboard the data about the cases scheduled for examination; publish the court decisions on the court's website; generalize the practice regarding certain categories of cases; prepare and analyze judiciary statistics; secure the bookkeeping; prepare financial reports; keep record of the court staff, the registers and the cases sent to archive; ensure the technical and material support for the performance of the court activity.

The document has been proposed for public debate. The suggestions for improvement may be sent to the email aparatul@csm.md by December 20, 2013.

According to SCM, in the first six months of the current year, the courts have examined **235** criminal cases related to juveniles. **124** people have been convicted.

The Term for Evaluation of Judges' Performance Has Been Extended Until April 2015

Though the members of the College for Judges Performance Evaluation of the Superior Council of Magistracy (SCM) planned to have evaluated the professional performance of all judges in the country by the end of 2014, this deadline has been extended by an additional four months, until the end of April, 2015.

During November, the College for Judges Performance Evaluation had three meetings to examine the results of judges' evaluation. By mid-November, decisions were adopted with regard to 114 magistrates. Ghenadie Eni, president of the Cahul Court of Appeal and a College member states that all judges subject to the evaluation from May to mid-November have successfully passed the test. "Although this is a very complex process, all magistrates got positive scores. We are highly demanding in the process of evaluation, because the quality of the justice delivered depends a lot on the quality of judges' activity", the president of the Cahul Court of Appeal says. He explains that, due to objective reasons, the deadline for evaluation of judges' performance has been extended until April 2015, four months in addition to what was planned originally.

According to the Regulation on the Criteria, Indicators and Procedure for Evaluation of Judges' Performance, the quality of magistrates' activity is assessed based on the following indicators: share of decisions and rulings upheld by the hierarchically superior courts following the appeal; clearness of the text of decisions; organization of the activity and professional



Judges discussing about the criteria for evaluation of magistrates' performance, within the National Conference "Judges Performance Evaluation System"

training of magistrates. The regulation provides that "for calculation of the share of decisions and ruling upheld following the appeal, 12 quashed decisions shall be examined, of which six shall be proposed by the evaluated magistrate and six shall be selected randomly by the College. Only final decisions shall be considered."

Audio recordings – an evidence of the quality of the justice delivered

An indicator for assessment of judges is the way they organize their professional activity. Several aspects are analyzed: the punctuality of the magistrate, the way he/she prepares cases for examination and the way he/she conducts hearings. Ghenadie Eni says audio recordings of court hearings are really helpful to the College when it comes to the evaluation of magistrates' activity: "Audio evidence from the hearing reveals everything and leaves no room for magistrates to come up with excuses justifying their actions. It helps us see a judge's behavior; whether or not he/she was polite during the trial, whether or not he/she has shown a proper attitude to the participants, etc."

In order to assess how clear the text of court decisions is, the College members select 15 decisions issued by the judge subject to evaluation, some of which are proposed by the magistrate himself and some others are selected by the College using the Integrated Case Management System (ICMS).

Schedule of Judges' Performance Evaluation

Courts	Number of judges	Period of evaluation
Chisinau Court of Appeal	47	December 2013
Balti Court of Appeal	22	January-February, 2014
Bender Court of Appeal	10	February 2014
Cahul Court of Appeal	7	March 2014
Comrat Court of Appeal	7	March 2014
Courts under the jurisdiction of the Chisinau Court of Appeal (CA)	174	March-October 2014
Courts under the jurisdiction of the Balti CA	103	November 2014 - February 2015
Courts under the jurisdiction of the Bender CA	22	February -March 2015
Courts under the jurisdiction of the Cahul CA	22	March-April 2015
Courts under the jurisdiction of the Comrat CA	22	April 2015

Source: www.csm.md

Anticorruption Measures: Higher Salaries and Tougher Sanctions

On November 14 inst., the Parliament of Moldova voted in first reading the so-called anticorruption package of laws. The package includes some proposals on preventing corruption in the judiciary, such as raising salaries for the magistrates but also reducing salaries for the judges who jeopardize the delivery of justice.

One of the draft laws voted by the Parliament relates to judges' disciplinary liability. To date, the only sanctions that can be ap-

plied to judges were the warnings and the mild and severe reprimands, while this draft provides for pecuniary sanctions as well. According to the draft law, judges will be disciplinarily sanctioned with warning, reprimand, salary-cut and dismissal. The document also stipulates that, for certain violations, a judge's monthly salary might be cut by 15% to 30% for a period of three months to one year.

Triple salaries

Most of the MPs have also

voted a draft law which provides for the increase of judges' current salaries by almost three times. A magistrate's salary shall be established based on the level of the court where they work and their length of service as a judge.

The Judiciary Reform Strategy for 2011-2016 sets out that the substantial increase of judges' salary and the establishment of exact criteria for salary calculation will ensure the integrity of magistrates and will help fighting corruption in the judiciary.

Quantum of magistrates' salaries, stipulated in the draft law on remuneration of judges:

	District courts	Courts of Appeal	Supreme Court of Justice	Constitutional Court
Magistrates' experience	<ul style="list-style-type: none"> up to 6 years – 3 salaries national average from 6 to 12 years – 3.2 average salaries more than 12 years – 3.5 average salaries 	<ul style="list-style-type: none"> up to 15 years 4 average salaries more than 15 years – 4.3 average salaries 	<ul style="list-style-type: none"> up to 16 years – 4.8 average salaries more than 16 years – 5 average salaries 	<ul style="list-style-type: none"> Assistant judge – 4 average salaries Judge – 5 salaries

Note: the national average salary in 2013 was 3,850 MDL

Galina Bostan, anticorruption expert, agrees with the pay rise for judges. However, she notes that once the increase made, corrupt magistrates might take bigger bribes. Therefore, a series of actions need to be taken to prevent corruption among judges. Magistrates who bribe should be excluded from the system and punished. Minister of Justice, Oleg Efrim says it is not possible to prevent corruption in the judiciary just by increasing judges' salaries; there should also be other anticorruption measures such as withdrawal of immunity for corruption acts; mass seizure of the illegally acquired property; establishment of criminal liability for illegal enrichment; use of integrity tests, significant increase of criminal fines for corruption and extending up to 15 years the interdiction of holding public positions for the corrupt magistrates. All these proposals are part of the anticorruption package of laws which shall be voted in second reading by the Parliament till the end of the current year.



This page has been edited by the Association of Independent Press (API).
Reporter – Lilia Zaharia