



„Procesul de reformare a justiției din Republica Moldova trebuie să continue, în pofida problemelor cu care se confruntă elita politică din țară”



Nils Muiznieks,
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THE REFORM IN BRIEF

The Department of Judicial Administration will not be Subordinated to the Ministry of Justice

In early March the incumbent Minister of Justice Oleg Efrim stated that the Department of Judicial Administration would be removed from the subordination to the Ministry of Justice and placed under the authority of the Superior Council of Magistracy. The official said the transfer would take place after a bill is passed in this regard. “This change will eliminate any potential influence and excessive interference between the executive and the judiciary,” the incumbent Minister of Justice said.

A Training for Court Public Relations Specialists



Court public relations specialists attending the training in communication and website maintenance.

During the period of February 26 through March 1, 50 public relations specialists from local and regional courts were trained as part of the program “Public and Media Relations. Website Maintenance.” The participants learned how to hold a public speech and to conduct an interview and studied the specific characteristics of various types of media. In addition, the participants were trained to maintain a website and use it to promote court activities.

The training was organized by the Independent Journalism Center (IJC) in partnership with the National Institute of Justice (NIJ) with financial support from USAID Rule of Law Institutional Strengthening Program (ROLISP).

In 2012 the Superior Council of Magistracy (SCM) received

2466

petitions and complaints from individuals and legal entities. —

[Report on the activities of SCM and the judicial system in 2012]



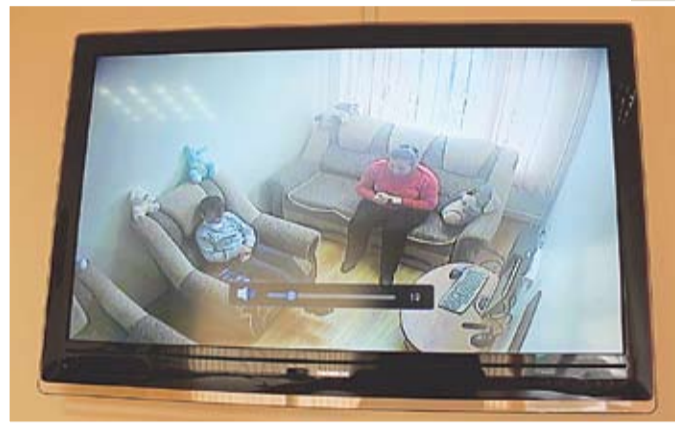
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The Juvenile Justice Actors Must be Children-friendly

and the Environment
Juveniles are Interviewed in Must be Homey

The justice for children must remain a priority for Moldova, because so far the efforts to strengthen the juvenile justice have been insufficient. This requirement is reflected in the Justice Sector Reform Strategy for 2012-2016, which acknowledges that for the moment Moldova does not have a child-friendly judicial system that meets children’s needs. The two important steps of the juvenile justice reform are the specialization of judges and the arrangement of rooms for interviewing children in courts of law.

Ms. Dina Rotarciuc, judge and member in the Superior Council of Magistracy (SCM), says the first step in reforming the judicial system for children should be made by preparing actors who deliver justice. “It’s very important that judges, prosecutors, lawyers, probation officers, criminal investigation officers working with juvenile offenders or witnesses, victims of abuse or crimes have special training in this area. CSM selected 60 judges from the entire country who will be trained in examining the



An interview with a juvenile as seen on the monitor in the courtroom.

cases that involve children. Thus, each court will have at least one of these specialists,” the judge said. The selected judges will take pedagogical and psychological courses, which will help them to ensure that children are interviewed in an informal atmosphere. According to Ms. Ecaterina Popa, chief of the In-service Training Division of the National Institute of Justice, the trainings will start in the second half of the year. “Interviewing children requires special communication techniques because for a child the courtroom is an unfamiliar environment. Hence, judges must be prepared lest they stress the child,” Ms. Ecaterina Popa explained.

The Rooms for Interviewing Children will Improve Juvenile Justice

Ms. Dina Rotarciuc says that interviewing children requires

special conditions because children easily switch from one state to other and the environment the hearing takes place in should be friendly. “In every court in the country there should be a room for interviewing children, decorated as a playroom so children do not feel anxious. To my knowledge, so far there are only three rooms for interviewing children in Moldova—one in Hincesti Court and two in the capital: at the Center for Psychosocial Assistance to Children and Family AMICUL and at the International Center “La Strada.”

Hincesti Court is the first in the Republic of Moldova that has optimum conditions for interviewing children during legal proceedings. “The room is not spacious, being the size of a regular office, but it’s more comfortable and has toys,” Ms. Maria Ganganu, public relations spe-

cialist in Hincesti Court, says. During legal proceedings the child stays in the interviewing room, far from the courtroom and talks just to a psychologist.

“Those in the courtroom, however, can hear and see the child because the interviewing room is equipped with a live transmission system and the discussion between the psychologist and the child is displayed on a monitor in the courtroom,” Ms. Maria Ganganu explains. She states that this way the quality of the hearing is much better. “When the interview takes place in the courtroom, in the presence of indicted persons or defendants, the child is afraid; he may become angry and refuse to tell the truth. That is why the presence of cameras in courtrooms is very useful: children can report their experience in a fearless and unstressed way,” Ms. Maria Ganganu concludes.

Tougher Measures against Torturers

At the end of 2011, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) submitted the Moldovan Government several recommendations on improving the legal framework for eradicating torture in some state institutions. Following the recommendations, by the end of last year the Parliament amended and supplemented some laws so those who use torture will be punished more severely.

According to the CPT report, our country continues to face such negative social phenomena as torture and other cruel, inhuman or degrading treatment which is reflected in numerous complaints Moldovan citizens have filed with the European Court of Human Rights (ECtHR) and in the Court’s decisions regarding the infringement of personal freedom and security. The cause of multiple ECtHR sentences against the

Republic of Moldova on account of torture is mainly the inconsistent and inefficient nature of the legislative and regulatory framework and the outdated performance indicators system of the prosecutorial institutions.

Mr. Vadim Vieru, lawyer at Promo-LEX, confirms the urgent need to amend the national legislation on torture and ill-treatment: “According to a report of the Legal Resources Center of Moldova, 59 out of 196 decisions the ECtHR issued by 2012 contained the finding of non-compliance with Article 2 (the cases were related to inadequate investigation of decesses) and Article 3 of the European Convention on Human Rights, including 11 cases of abuse, 16 cases of inadequate investigation of maltreatment, 14 convictions for detention in bad conditions, 10 for the failure to provide medical assistance to prisoners, etc. This data demonstrate that the phenomenon of torture and ill-treatment exists

in our country and this state of things must be changed.”

Torture is Qualified as the Crime against Personal Freedom, Honor and Dignity

On December 21, 2012, new provisions of the Criminal Code of Moldova, which tighten punishments for crimes of torture and other ill-treatment, came into effect. Before these provisions, the crime of torture was provided for in Chapter XIV of the Criminal Code, namely under the “Crimes against Justice”; after the amendments, it was included in Chapter III of the Code—“Crimes against Personal Freedom, Honor and Dignity.”

Previously, the Criminal Code provided for a punishment for torture with 2 to 5 years in prison with deprivation of the right to hold certain positions or to practice certain activities for up to 5 years. Now, the perpetrators will be punished with 6 to 10 years

in prison with deprivation of the right to hold certain positions or to practice certain activities for a period of 8 to 12 years. According to other amendments, deliberate infliction of physical or mental pain or suffering—which is inhuman or degrading treatment—by a public person shall be punished with 2 to 6 years in prison or a fine of 800 to 1000 conventional units, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for a period of 3 to 5 years.

Tougher punishments will be applied to those who commit torture under aggravating circumstances, including to a child, to a pregnant woman or taking advantage of the victim’s helplessness, and to those who recklessly caused serious or average injury to body integrity and health, death of the person or suicide.

Signed: Lilia Zaharia