JUDICIAL INTEGRITY: ACHIEVEMENTS, CHALLENGES, PROSPECTS
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<tr>
<td>NIA</td>
<td>National Integrity Authority</td>
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<td>API</td>
<td>Association of Independent Press</td>
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<td>National Institute of Justice</td>
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<td>NAC</td>
<td>National Anti-Corruption Center</td>
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<td>SCM</td>
<td>Superior Council of Magistracy</td>
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<td>Superior Council of Prosecutors</td>
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<td>CAPC</td>
<td>Center for the Analysis and Prevention of Corruption</td>
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<td>CIJM</td>
<td>Center for Investigative Journalism in Moldova</td>
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<td>LRCM</td>
<td>Legal Resources Center in Moldova</td>
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<td>MJ</td>
<td>Ministry of Justice</td>
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<td>ACPO</td>
<td>Anti-Corruption Prosecutor's Office</td>
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<td>SIS</td>
<td>Security and Intelligence Service</td>
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<td>NIAS</td>
<td>National Integrity and Anti-Corruption Strategy</td>
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<td>SJSR</td>
<td>Strategy for Justice Sector Reform</td>
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I. INTRODUCTION

Public sector integrity, including in the justice sector, is one of the basic challenges for our society. Addressing this challenge and solving problems of integrity are among the constant commitments of the Republic of Moldova in negotiations with development partners. This commitment is integrated into most national policy documents.

The 2011-2016 Strategy for Justice Sector Reform (SJSR) was one of the first strategic documents that set a series of legislative and institutional actions aimed at creating a climate of integrity and enhancing confidence in the judiciary. In this context, it is worth noting that these two issues were among the prerequisites and the determining factors that imposed the need for a strategic approach to the problems faced by the judiciary.

The benchmark used by the SJSR for measuring confidence in the judiciary was the Barometer of Public Opinion (BOP), a semiannual public opinion poll conducted by the Institute for Public Policy. The analysis of the responses "Some confidence" and "Very much confidence" in justice, for the time frame between when justice reform was initiated in November 2011 to the latest BOP held in November 2017, illustrates a fluctuating trend: from 18% in November 2011 to 14% in November 2017. Thus, the situation has not materially changed; in fact, there was a 2% decline in public confidence. See Chart 1 for additional details:

The frequent allegations that BOP data are based on general perceptions, rather than on the personal experience of citizens who have experienced direct contact with the justice system, seem to be countered by the latest poll, published in early 2018. Thus, the Public Opinion Survey on the Judicial System in Moldova revealed that confidence among those who have interacted with the system does not considerably differ from general opinion. Only 18% of respondents who have interacted with the system indicated trust, whereas 16% of respondents who did not interact with the justice sector indicated trust.

At the same time, Freedom House’s annual Nations in Transit report illustrates that the rating for the judicial framework and independence category has fewer positive values, with a decline by 0.25 points from 4.75 to 5.00.

To measure perceptions regarding the spread of corruption in the justice sector, the SJSR referenced the Global Corruption Barometer (GCB) as a benchmark. The GCB is a public opinion survey on corruption conducted by Transparency International in 86 countries, with Moldova grouped in with Ukraine, Russia, Belarus, Azerbaijan, Armenia, and Georgia. Based on annual SJSR implementation reports, which summarized the results of the GCB, the following data were obtained:

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1 [http://bop.ipp.md/]
2 The survey was commissioned by the Superior Council of Magistracy and was conducted with the support of international donors – USAID and the EU – within the framework of the “Transparent Justice” and “Increased Efficiency, Accountability and Transparency of Courts in Moldova” (ATRECO) projects
3 [https://freedomhouse.org/report/nations-transit/2017/moldova]
4 Scores are based on a scale from 7 to 1.
In 2010, the following sectors were considered the most corrupt in the Republic of Moldova (on a scale from 1 to 5): internal affairs bodies: 4.1; justice sector: 3.9; political parties and civil servants: 3.8; Parliament, the education system, and the private sector: 3.7.

The 2013 GCB\(^6\) demonstrated a negative trend, with 64% of respondents reporting that corruption had increased over the previous two years, while 80% of respondents still indicated that the justice sector was one of the most corrupt institutions in the Republic of Moldova.

The 2016 GCB revealed that Parliament was perceived as the institution most affected by corruption, with 76% of respondents citing negative impacts of corruption. 71% of respondents cited the presidency and the government in this regard, while 67% cited the judiciary.

Additional data sources were considered. In particular, surveys\(^7\) conducted by the International Republican Institute (IRI)\(^8\) addressed a number of issues in the Republic of Moldova, including confidence in public authorities and corruption.

When asked about sectors in which corruption is most widespread, 10% (March 2017) and 9% (November 2017) of respondents felt that the justice sector is affected by corruption, making it the fifth-most corrupt sector after Parliament, civil servants (doctors, teachers, police), government, and business people.

The aforementioned poll on the judicial system, released in early 2018, revealed that 75% of respondents (who did not have any interaction with the justice system) believe that corruption is present among judges, and the respective share is higher among those who had contact with the justice system: 83%. At the same time, 13% of those who interacted with the justice system stated that they had given money or gifts during trial, and 24% stated that such undue favors and benefits were requested of them, but that they did not acquiesce.

An overview of national and international survey data demonstrates that confidence in the justice sector, as well as overall perceptions of integrity of the sector, have not improved despite the fact that Pillar IV of the SJSR, “The Integrity of the Justice Sector’s Stakeholders,” claimed “zero tolerance of corruption in the justice sector.” It was stated that “when survey questions directly address the experience of respondents and whether they have bribed the exponents of the justice sector, we notice that their experiences do not match their perceptions (‘I believe there is corruption in the justice sector, but I did not bribe any judge or prosecutor’).”\(^9\)

However, the latest survey (conducted in 2018) refuted this claim by demonstrating that those who have interacted with the justice system do not have full confidence in its fairness and impartiality, and they believe that corruption exists within the judiciary.

Based on these findings, we intend to highlight the evolution of the regulatory and institutional framework for driving integrity in the justice sector and identifying issues that undermine operational integrity and public confidence in this institution.

This report also summarizes issues within the field of justice integrity, which were widely debated during events and projects that Freedom House organized in 2017. These initiatives addressed the perspective of authorities versus that of civil society organizations and summarized activities driven by NGOs focusing on the justice sector. The report includes a set of conclusions and recommendations grounded in analysis of the legislative and institutional framework and debates held in 2017.

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\(^6\) In 2013, the IT methodology was modified with the indicators being calculated on a percentage basis.

\(^7\) http://www.iri.org/sites/default/files/wysiwyg/2017-11-8_moldova_poll_presentation.pdf

\(^8\) A non-partisan, nonprofit organization that promotes freedom and democracy worldwide, helping political parties become more problem-oriented and receptive, encouraging citizens to participate in governmental planning, and working to enhance the role of marginalized groups in the political process, including women and youth. http://www.iri.org/who-we-are

II. DEVELOPMENT OF THE REGULATORY AND INSTITUTIONAL FRAMEWORK FOR INTEGRITY IN 2017

This chapter assesses the development of the regulatory and institutional framework from the perspective of anti-corruption actions taken by authorities in 2017 and analyzes data regarding criminal actions against the sector's stakeholders. In addition, certain civil society organizations specializing in judicial and anti-corruption issues conducted monitoring and evaluation work, which is also considered.

II.1. The regulatory framework for judicial integrity

The specific objective of Pillar IV of the SJSR was to promote and implement the principle of zero tolerance of corruption in the justice sector and was approached via a three-pillar strategy:

1. Efficiently combat corruption in the justice sector
2. Strengthen mechanisms for implementing ethical and anti-corruption conduct standards in all institutions of the justice sector
3. Develop a culture of intolerance of corruption via self-administration bodies

The latest (2016) report on SJSR implementation cites that 84% of actions intended to drive justice sector integrity were implemented. The report indicated only one implementation gap as to the step "update and optimize the structure and content of court websites towards publishing court decisions on charges of corruption against the justice sector's representatives."\(^1\)

Currently, integrity in the justice sector is ensured, at the regulatory level, by a wide range of legislative acts and prevention tools that are applicable to all professions, but there are also certain "special" requirements designed for particular categories of justice stakeholders. For the purpose of this report, we will not review all of the legislative acts in the field under consideration; instead, we will summarize the most important and relevant legal provisions. These are, in particular, the legislative pieces regulating the status and competencies of the exponents of the judiciary and are related to:

- **Selection and access** to the profession (judges, prosecutors, NAC officers, criminal investigation officers, integrity inspectors, attorneys, bailiffs). The fundamental rule is that all evaluations must be conducted on a competitive basis in a transparent, predictable framework, and the decisions must be justified;
- **Selection and promotion** in the judicial and prosecutorial systems, as well as within the anti-corruption and integrity authorities, call for additional stages: polygraph testing and verification by the SIS if there are risk factors related to candidates, as well as a medical health examination (for judges);
- **Career management** in the justice sector is within the purview of self-administrative bodies (SCM, SCP, Union of Attorneys, National Union of Bailiffs) such that procedures are audited for transparency and objectivity;
- **Accountability** of the justice sector's stakeholders. Justice officials may bear disciplinary, material, civil, contraventional, and criminal liability, and the procedures for each type of liability must comply with the transparency requirements and should not promote impunity of judicial officers;
- **Assessment of institutional integrity (professional integrity testing)** – a controversial, challenged, and now inapplicable prevention tool

Most of the legislative actions within Pillar IV of the SJSR were implemented, with some having been subjected to "cascade" changes during the implementation of the SJSR as a result, among other factors, of the enforcement of the Constitutional Court's judgments.

It concerns in particular **Law 325/2013 on the Assessment of Institutional Integrity** (initially entitled "Law on Professional Integrity Testing"). Most of the provisions of Law 325/2013 were declared unconstitutional in 2015 and required modifications to bring them into constitutionality. The **2015 Activity Report of the National Anti-Corruption Center** points out that: "Throughout nine months following the start of field testing (14.08.2014-15.04.2015), NAC conducted a number of tests within various authorities, and the results demonstrated that: 65% of all tested agents were involved in acts of corruption (in some institutions - 25%, in others - 100%); 100% of tested agents did not report acts of which they had knowledge, regardless of whether they had supported or opposed them; 85% of tested agents did not comply with rules for declaring gifts they were offered in the framework of the tests. The increased reporting of acts of corruption by public agents...

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\(^{11}\) The Annual Report of the Ministry of Justice also states: “Although judgments related to judges who commit acts of corruption are published on the SCM's website (http://csm.md/informatii-utile/sentinte.html), convictions of the justice sector's representatives for corruption cannot be accessed via court websites because the search engine does not allow for the identification of those judgements. Therefore, it is reasonable to include such an option (at a certain level and when publishing the judgments) when the courts’ websites are restructured in the context of optimizing the number of courts.” This feature was unavailable at the time this report was written.
was another important result of the enforcement of this law, although reporting frequency has really spread only after the start of testing on August 14, 2014. Thus, after the publication of Law 325/2013, the rate of corruption reporting by public officials increased by a factor of 70 throughout the first 3.5 months of 2015 compared to 2013, due both to the testing and to the training that preceded it. The reporting rate had decreased by more than two times by the end of 2015, immediately after the entry into force of the Constitutional Court’s Judgment no. 7 of April 16, 2015 ‘On the control of the constitutionality of certain provisions of Law no.235 of 23.12.2013 on professional integrity testing,’ which largely invalidated the enforcement mechanism of Law no. 325/2013."

At the time this report was written, there was no information regarding the implementation of Law 325/2013 per its new verbiage. The NAC’s 2017 Annual Report cited one reason as the lack of judges to authorize plans for institutional integrity assessments.

In summer 2016, the Parliament of Moldova adopted a legislative package including Law 133/2016 on the Declaration of Assets and Personal Interests, Law 132/2016 on the National Integrity Authority, and Law 134/2016, which amended a range of legislative acts. The central elements of this reform covered the following issues: cancelling the collegial format of NIC and its transformation into a permanent authority; establishing integrity inspectors who were granted independence guarantees and broad competences in terms of initiating inspections and finding contraventions; creating the process for declaration of assets and personal interests via a single declaration form; establishing a declaration procedure in electronic format (to be implemented from 2018); developing definitions related to declaration, including that of “close person,” etc.; setting up civil confiscation proceedings, and so forth. Although they were intended to be fully enforced in 2017, the implementation of the package of laws is still protracted (early in 2018). The laws were inapplicable for 1.5 years due to organizational issues, some of which were left unexplained: the establishment of the Integrity Council was delayed; the management of the NIA was only selected at the end of 2017, and Parliament approved the structure and the staff of NIA in February 2018.

It is worth noting that the NIA should play a central role in ensuring the integrity of the justice sector, checking wealth statements, and identifying unjustified assets and confiscating them. Regarding the performance of the former National Integrity Commission (the current NIA) in terms of checking judges’ wealth statements, a CAPC report assessing the implementation of anti-corruption instruments in the justice sector from 2017 states: ‘Although a legal framework was in place, its quality did not allow the instrument to be effectively and efficiently applied. The legal framework in force is not clear, predictable, and comprehensive enough, and it needs to be improved. During the monitoring period, a total of 96 inspections were initiated towards the judiciary’s representatives, including 25 inspections initiated at the request of natural persons and legal entities and 71 ex officio inspections. Out of the total number of closed inspections, 66 were closed because no violations of legal requirements for income and assets declaration were established, five were closed due to the lack of violations of legal requirements for declaring the personal interests and conflict of interests; four were closed due to a lack of any violations of legal requirements in terms of incompatibilities and restrictions. During the period under consideration, 17 dossiers were referred to other authorities for further examination, namely: 12 for criminal investigation (false statements, Article 3521 of the Criminal Code of the Republic of Moldova); one for examination from the contraventional perspective (failure to execute the requests of the NIC, Article 3191 of the Contravention Code of the Republic of Moldova); and four for establishing fiscal obligations. Criminal investigations were initiated based on three dossiers but were subsequently closed. A fine of 1,500 lei was imposed as to the dossier referred for examination due to contravention.”

At the time this report was written, the NIA’s activity is “suspended” and the institution is supposed to become operational after the selection and appointment of integrity inspectors.

Under the umbrella of the SJSR, a new mechanism for the selection and evaluation of judges’ performance was forwarded alongside the enactment of Law 154/2012 and a series of acts of the SCM that set out procedures and criteria for judge selection and evaluation. Five years after the adoption of new mechanisms designed to be transparent,

12 From the CAPC Report on the assessment of anti-corruption instruments in the judicial system: According to the SCM, complaints regarding inappropriate influence on judges were filed to the Bălți court (one), Florești court (one), and Căușeni court (seven). The Căușeni court has further sent seven complaints on this matter to NAC, SIS, and the Căușeni Police Inspectorate. According to NAC, six complaints were filed by judges and court staff at different levels in 2014 and 2015. There were no complaints filed in 2016. According to the NAC report, five out of six complaints came from judges. The complaints were filed to the Supreme Court of Justice (chancellery employee) and to the courts of Leova, Strășeni, Aneni-Noi, Cahul, and Rezina. In 2015, two more judges (Botanica and Rezina) reported acts of corruption.

13 https://www.mna.md/download.php?file=cHVibGljL3B1YmxpY2F0aW9ucy8xODIzMTQzX21kX3JhcG9ydF9jbmFfMjAxLnBkZg==

14 http://capc.md/files/RAPORT%20DE%20EVALUARE_FINAL_2.05.2017_versiune%20finala.pdf
objective and merit-based, implementation is still extremely cumbersome and marked by controversy. Civil society reports describe that: “The novation from 2012 in terms of selection and career of judges should have improved the process for judge selection, ensuring a transparent and merit-based process. The reality from 2013 to May 2017 revealed, however, a number of gaps in this process [...] Although the selection procedure requires that candidates for judgeships proceed through a two-level evaluation system—examination at the National Institute of Justice (NIJ) and evaluation by the Selection Board—the SCC does not consider the decisions and score awarded by the Selection Board in most cases. Thus, out of the 115 judges proposed by the SCC for nomination following competitions in which more than one candidate participated, 83 (or 72%) were given a low score by the Selection Board, and the SCC did not provide rationale for disregarding the rating.”

The new selection and performance management process for judges has not yielded the expected results. Civil society organizations still doubt the accuracy and the consistency with which the system has been implemented. The concerns are related, in particular, to the lack of justification for the SCC’s decision as to the nomination and promotion of candidates.

It is important to address two other tools for ensuring integrity in the justice sector: polygraph testing and verification by the Security and Intelligence Service (SIS).

Polygraph testing of candidates for positions of judges and prosecutors was established as a requirement in 2013. The instrument was only applied in 2017 to candidates for the position of prosecutor. No polygraph testing of candidates for the position of judge was applied. The aforementioned CAPC Report states that: “The provisions of Law no. 269/2008 on simulated behavior detector testing, although relevant, are not sufficiently comprehensive, concise, clear, and predictable. This is one reason why the applicability of its provisions, which contain multiple questionable points, is uncertain. No candidate for the position of judge was subjected to polygraph testing. According to the information that the SCC provided, negotiations are currently underway to obtain NAC support for this activity.”

The vetting of candidates by the SIS was challenged in 2017 by the Constitutional Court, which declared these provisions unconstitutional and noted that the “verification of judges by the Security and Intelligence Service interferes with the independence of judicial power... The Superior Council of Magistracy is confined and compelled to declare quasi-automatically the judge’s incompatibility with the interests of the position in the event that the assessment of the Security and Intelligence Service states that the person in question does not meet requirements and restrictions established by law or that there are particular risk factors. Accordingly, the decision concerning incompatibility with the interests of a public position serves as grounds for de plano dismissal of the judge. The Court has examined whether the interference is prescribed by law, from the perspective of complying with the requirements for the quality of the law, whether it pursues a legitimate aim and is proportionate to the pursued purpose.*

Five years after the establishment of the polygraph requirement, it was discovered that it applied only to prosecutors and that no judge was subjected to any testing. Vetting by the SIS was declared unconstitutional, and this instrument will no longer be applied in relation to judges.

With regard to promoting the new provisions on justice integrity, it should be noted that no significant developments occurred in 2017. No interventions to these provisions were undertaken, although civil society and the media have raised concerns regarding the quality of certain provisions. The main concerns were related to the quality, consistency, and coherence of the application of these provisions. The Ministry of Justice launched several initiatives in this field, but they were suspended for an undefined period and for unknown reasons.

Such initiatives include, in particular, a series of amendments to the provisions regarding selection and performance evaluation process for judges. Although the promotion of such amendments derives from a commitment made based on the Roadmap for Priority Reform Agenda in the second half of 2017, civil society reports point out that: “The latest draft, available to the public, provided for appropriate and necessary changes in terms of judge selection and promotion. However, the draft required improvements to ensure a merit-based selection and promotion system. The draft also needed improvements to enhance the transparency of the SCC, including limiting the instances of examination of the agenda items subject to (secret) deliberation and indicating the number of pro/con votes in the decisions of the SCC. The ability to dismiss judges on vague grounds (failing to comply with provisions on incompatibilities under Article 8 of the Law on the Status of the Judge) should be barred in order to enhance

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16 http://parlament.md/LinkClick.aspx?fileticket=qXRnc9WwNE%3D&tabid=203&language=ro-RO
judiciary independence. In its latest version, the draft did not set sufficient guarantees for enhancing autonomy and for Judicial Inspection."

From the perspective of the general and strategic regulatory framework, two important documents were adopted in 2017 to advance a national system of integrity as it relates to the justice sector.

The first document is the National Integrity and Anti-Corruption Strategy, adopted by Parliament Decision no. 56 on March 30, 2017. The strategy was built into Article 7 of the Law stipulates:

II. DEVELOPMENT OF THE REGULATORY AND INSTITUTIONAL FRAMEWORK FOR INTEGRITY IN 2017

recovery; and indemnify the victims of corruption. This goal will be approached through actions intended to ensure the integrity of anti-corruption authorities and law enforcement agencies; the efficiency of the judiciary and of the anti-corruption authorities; and through strengthening educational measures.

In summer of 2017, the Integrity Law (no. 82) was enacted. It replaced Law 90/2008 on preventing and combating corruption. The law sets the general framework for public sector integrity at the political, institutional, and professional levels. It also outlines the responsibilities of public entities, anti-corruption authorities, and other authorities in charge of cultivating, strengthening, and controlling public sector integrity. The Law integrates and regulates all of the instruments required to ensure a climate of integrity, including within the justice sector.19

In conclusion, it should be noted that a number of regulatory acts aimed at ensuring justice sector integrity were passed. Although certain provisions have legal and functional vulnerabilities, many are not critical and do not fundamentally impede implementation. Civil society reports demonstrate that self-administrative authorities in the justice sector ignore adopted rules. New instruments are applied selectively and subjectively and the processes are not always transparent, which generates doubt as to intentions and faith in application. Although the need for political will to change the status quo is constantly cited, there is a lack of will among those concerned by the new provisions and those who are obligated to apply them within the justice sector.19

19 Article 7 of the Law stipulates:

(1) The institutional integrity climate shall be cultivated through the following measures:

a) employment and promotion of public agents based on merit and professional integrity;

b) compliance with legal requirements related to incompatibilities, hierarchical restrictions, and advertising limitations;

c) observance of legal requirements for the declaration of assets and personal interests;

d) observance of legal requirements related to conflicts of interest;

e) avoidance of favoritism;

f) compliance with legal requirements related to gifts;

g) avoidance, reporting, and addressing of inappropriate influences;

h) avoidance and reporting of corruption manifestations, along with the protection of whistleblowers;

i) intolerance for integrity-related incidents;

j) ensuring transparency in the decision-making process;

k) ensuring open access to information of public interest;

l) transparent and responsible management of the public property and of reimbursable and non-reimbursable expenses;

m) compliance with ethical and deontological rules.
II.2. The institutional framework for judicial integrity

At the institutional level, justice sector integrity is underpinned by self-administration institutions and the management of the entities to which the stakeholders of the justice sector belong. Within the judiciary, this mission is, primarily, the responsibility of the Superior Council of Magistracy and its subordinate bodies:

- the Disciplinary College;
- the College for Judge Selection and Career;
- the College for Judge Performance Assessment;
- the Judicial Inspectorate.

In order to improve public perception of the integrity and capacity of the justice sector, it is critical to provide for appropriate and timely response to petitions of litigants and to journalistic investigations. Unfortunately, there is little communication and understanding of the role of the SCM despite the fact that this issue has been constantly cited by media and civil society. Further details are covered later in this report. In 2017, there were no structural changes within the SCM, with the overall structure unchanged since 2012.

In order to ensure the integrity of prosecutors, the Superior Council of Prosecutors (SCP) plays a role analogous to that of the SCM. No surveys were conducted to assess the performance of the SCP and its bodies, which are covered to a lesser extent by civil society monitoring and journalistic investigations. As far as the prosecution system is concerned, there were only changes in the composition of the SCP and its colleges. One problem is the lack of an online presence, while the website of the Prosecutor’s Office that hosts the SCP is not interactive and user-friendly.

NAC works to ensure justice integrity in two fields: preventive and repressive. In the preventive field, the NAC is meant to ensure the assessment of institutional integrity, a process currently left unimplemented. Statistical data regarding anti-corruption steps are outlined within the following report section. In 2017, the NAC underwent several structural changes: the Money Laundering Service was subordinated to the Government and a new subdivision was established: the Agency for Recovery of the Proceeds of Crime.

The prosecution system includes a specialized prosecution authority: the Anti-Corruption Prosecutor’s Office, which was fundamentally reformed in 2017 to investigate large-scale...
corruption, including that committed by stakeholders of the justice sector. At the time this paper was written, the activity report of the anti-corruption prosecution was not published and no data regarding its effectiveness were available.

**NIA** is another important institution in the integrity chain whose mission is to identify instances of unjust enrichment and conflicts of interest. Given that the redesign of this authority has been protracted for two years, there are no results to outline at this point in time.

In conclusion, there is a broad institutional framework - a whole range of institutions intended to enhance the integrity climate within the justice sector. At the same time, there is little information regarding the work and role of certain institutions, and they are insufficiently transparent. Still other institutions are in the design or implementation phases and have yet to prove their effectiveness.

**II.3. Statistical data on legal actions against stakeholders of the justice sector**

The latest NAC reports contain data regarding actions intended to combat corruption in the justice sector. According to the 2017 NAC Activity Report, most corruption offenses were identified within the justice sector. This category included judges, prosecutors, police officers, bailiffs, and attorneys.

**Chart 2** shows that police officers, followed by attorneys, were cited in the highest number of criminal suits in this category. Attorneys have been consistently subjected to criminal investigations for corruption, averaging 20 cases per year. The situation regarding bailiffs is similar.

The limitation of judge immunity in 2012 yielded an increase in criminal suits against them. A "record" was set in 2016, when 21 judges underwent criminal investigations.

There are further salient developments regarding prosecutors, who did not appear frequently in statistics on criminal investigations, with an average of one criminal suit per year. However, the above data demonstrate that the number of cases increased in 2017, and five prosecutors underwent criminal investigations.²¹

The analysis of criminal investigations against justice sector stakeholders demonstrates that anti-corruption authorities attempt to respond to criminal behaviors in this sector. On the other hand, these statistics should also raise concerns among the self-administration bodies that kept individuals with integrity concerns in their positions. A large share of subjects, particularly judges, were also targeted by journalistic investigations that were subsequently ignored. The lethargic response level among authorities with jurisdiction over integrity issues fuels mistrust and perceptions of corruption regarding this sector.

²¹ During the public presentation of the report on March 15, 2018, available at [https://youtu.be/gggRGGSkUgg?t=6342](https://youtu.be/gggRGGSkUgg?t=6342), representatives of the Anticorruption Prosecutor's Office cited a greater number of existing criminal cases concerning prosecutors. Accordingly, in 2017, 12 criminal cases were in court, and eight criminal cases were at the stage of criminal prosecution.
III. SUMMARY OF PUBLIC DEBATES ON JUDICIAL INTEGRITY HELD IN 2017

In 2017, Freedom House conducted a number of activities aimed at analyzing and debating the issues related to integrity in the Moldovan justice sector, involving representatives from the justice sector, civil society, media, development partners, and members of Parliament. Such an exercise was meant to identify the issues that generate perceptions of a high level of corruption and low confidence in the judiciary; the achievements and the failures of the authorities; and the interaction between the justice sector, civil society, and media. The debates intended to identify solutions for building reliable partnerships, trust, and bridges between the authorities and civil society.

A special purpose of the actions implemented by Freedom House was to foster civil society involvement in promoting justice sector reform, educating and informing the public about previous reforms, current initiatives, and plans for the future. They also sought to set up platforms for both civil society and the public for holding the government officials accountable and mobilizing them to take part in future debates on justice sector reform and filling implementation gaps.

In 2017, three public debates were held on the importance of justice sector integrity, mechanisms for enforcing it, accompanying legal provisions, the need for collaboration between the authorities and civil society, and the role of the press. Thus, sharing Freedom House's platform for debates, managers and representatives of state institutions in the field of justice (General Prosecutor's Office, Anti-Corruption Prosecutor's Office, the SCP, the SCM, the Supreme Court of Justice, the Ministry of Justice, the NAC, the National institute of Justice, the Legal, Appointments, and Immunities Committee), alongside leaders of the most vocal nongovernmental organizations (LRCM, CAPC, the Association for Efficient and Responsible Governance, CIJM, API, and Transparency International - Moldova) exchanged their views, somewhat divergent, on how the justice reforms are being implemented. The experts highlighted the interference of politics as a negative factor in the reform implementation, while the representatives of state institutions tried to highlight achievements.

III.1. Building confidence bridges between civil society and the justice sector

The first public debate took place on March 17, 2017. While both the authorities and civil society acknowledged the importance of working together, the state institutions’ representatives expressed confusion and discontentment with the criticism made by nongovernmental organizations. They attempted to demonstrate the achievements of their institutions while civil society representatives expressed skepticism. In that context, almost all government representatives raised the issue of NGO funding in their speeches, and some made a comparison with the resources available to state structures. At the same time, state representatives pointed out that the NGOs working in this field sabotage discussions on various strategies.
or drafts of laws when invited to participate. On the other hand, civil society representatives stated that state bodies invite nongovernmental organizations to certain activities only out of political, rather than functional, considerations.

The NGO representatives highlighted the importance of enhancing civil society’s involvement and cited a low level of existing cooperation. They added that dialogue with the state structures would be approached respectfully as long as the dialogue is held with genuine intentions.

Below is a synthesis of the content of the debates, the issues raised, and the solutions proposed by the participants.

State Authorities

Vladimir Cebotari, Minister of Justice, stated that justice reform was 90% implemented and presented this figure in a positive light. "We assert this based on the indicators measuring the degree of reform implementation. I completely share in the view that we should not assess the strategy exclusively from the perspective of figures, but we cannot neglect this indicator. We cannot overlook the fact that, previously, especially in 2016, there was a race for draft laws to be submitted for voting. [...] The current stage should be, and is, acknowledged as an achievement. It is also the achievement of those who helped us with each draft. I mean, in particular, the civil society [representatives] that shared with us extremely important capabilities, without which we would not have cited 90% today," the minister stated.

Afterwards, the Minister of Justice addressed civil society representatives with discontentment as to the criticism of reform implementation. "I do not want to build other bridges for certain parallels, to discuss, for example, the constraints of the National Anti-Corruption Center (NAC) or the assistance provided to the NAC in 2016, which amounted to 25,000 Euros. If we consider, for example, those who claim to have provided assistance for the implementation of the Anti-Corruption Strategy, the amount for just one organization would reach almost one million Euros. Regarding efficiency, let us consider these factors and, when we ask questions, let us be very fair and find the precise answers. We would like to discuss failures in terms of justice policies, not in terms of politics. Such a bridge needs to be built from scratch. We see recent politicization of absolutely all dialogue and of the criticism of the process of reform implementation," Vladimir Cebotari commented.

Civil Society

Vlad Gribincea, president of the Legal Resources Center in Moldova: "Minister Cebotari said it was time to build bridges. I completely agree with you. Such bridges have already existed before. I hope they still exist. But we have to admit that the flow of traffic along these bridges has been mild. We think that this flow should be enhanced. And we assure you that, if there is a sincere discussion, there will be no sabotage from the side of civil society. The role of civil society is to enable authorities to make good and informed decisions."

The president of the Legal Resources Center in Moldova suggested to enhance the involvement of civil society and to return to the previous format established by the Ministry of Justice, wherein civil society was involved in the working groups of the institution. "The consistency of decisions is also important. Nobody likes to agree upon certain things and then see that something else was adopted. You thus create the impression that civil society is used for political games. It is time to build mutual trust between us," he noted.

State Authorities

Victor Micu, President of the Superior Council of Magistracy: "We have never opposed collaboration with civil society, but I sometimes consider the purpose of nongovernmental organizations. It should be to help the bodies of the judiciary and to intervene, with concrete proposals, when the system lags. Sometimes, I do not understand the attitude of certain representatives of civil society and of nongovernmental organizations. Instead of making concrete recommendations, they adopt a position of criticism. It is very
easy to criticize, but when you have to outline the solution, you do not know it. It creates the impression that, the better reform is implemented, the more we are criticized. We agree that we should be criticized, but I still want it to be constructive criticism. Civil society is funded to improve and contribute to justice reform, not just to highlight negative points.”

**Civil Society**

Olesea Stamate, President of the Association for Efficient and Responsible Governance, admitted that civil society sometimes questions the good intentions of authorities. In her opinion, the authorities and civil society representatives are now on different sides of a barricade. *“Many things have changed for the better, but, at the macro level, there is major frustration among civil society regarding the way in which the sector works in general: consultations are sometimes formal; some drafts appear overnight and are promoted without consultation in violation of transparency rules; civil society is used to tick off a political check box, which is disappointing; certain civil society events are boycotted because they criticize initiatives or draft laws; certain laws are not appropriately implemented, with the National Integrity Authority being an example. It looks like we are on different sides. I hope we will return to the same side, when we share the same ultimate interest: the interest of the country and of the people,”* she said.

**State Authorities**

Mircea Roșioru, president of the Superior Council of Prosecutors, mentioned that the Republic of Moldova underwent a unique experience in terms of prosecution reform in that the group that worked on the reform was headed by a civil society representative. The prosecutor noted that this made his colleagues skeptical toward the structure.

*“The prosecutors in this working group, including myself, were terrorized, either because of corporate, departmental interests or because of skepticism with regard to the members of the working group. We have endured, and we have largely accepted all of civil society’s proposals. These concessions have, to a large extent, determined the reduction of the role of prosecution in society and, in particular, among the bodies that are part of the legal system. The final product and the package of laws adopted by the Parliament have an error margin of not more than 1%. However, it fostered criticism: the law is not good, it is not functional, it was produced under the table. I wonder, why? For me such a response was inexplicable.”*

According to Mircea Roșioru, there was criticism from the very beginning of implementation—an early example being during the election of the general prosecutor. Although, he argues, all processes were audited, civil society did not miss the opportunity to spread criticism when the winning candidate (Eduard Harunjen) was nominated. *“I can understand when society does not appreciate one candidate or another, but I do not accept in any way the allegations of a fake and non-transparent competition. In my view, these things are out of control and I believe that they actually target something else, not how prosecution reform is carried out. If you want to do something constructive, you have to sit at a table and talk, but if you just launch attacks that are mostly groundless, I do not know how we can further the discussion.”*

Prosecutor General, Eduard Harunjen, urged civil society representatives “to stay close to the prosecutors” in order to stay informed. *“You often make assumptions, discuss issues that are the result of informational manipulation, without being informed by the primary source... The biggest problem is that you have a high degree of credibility in relation to our development partners; when the state’s representatives do their work with determination and sacrifice regardless of the unprecedented level of pressure and criticism, these endeavors should be encouraged. The development partners are those who can raise awareness of such issues, identify them, and make the state highlight the good practices, and what has not been done,”* Eduard Harunjen stated.
III. SUMMARY OF PUBLIC DEBATES ON JUDICIAL INTEGRITY HELD IN 2017

Civil Society

Galina Bostan, President of the Center for the Analysis and Prevention of Corruption: “When we collaborated with the SCM and other stakeholders of the system, we never claimed to have the absolute truth. It does not belong to any authority. A common denominator should be found. **We desire a justice sector that serves the interests of the citizens and, for this, we need honest judges. Our organization is making efforts to this end, and one of the mechanisms we apply is the monitoring of colleges and providing tools for propelling honest and trustworthy people through the system.**”

Lilia Carasciuc, Director Executive of Transparency International-Moldova: “Yes, we should praise when positive things are done, but let us not forget to focus on results. From this point of view, when a reform is being carried out, when a contest is held and a person is promoted to a managerial position, to a judge position, I expect the selected person to rank first after the evaluation. If he or she ranks second or third and still gets the job, this raises questions. **I expect the integrity whistleblowers and those who reveal possible corruption not only to be protected, but also listened to. On the other hand, we hear about attorneys who defend the rights of individuals and are persecuted, about cases like that of a former Poșta Moldovei employee who revealed a massive smuggling scheme and was met with a criminal suit.**”

Lithuanian expert Ausra Raulickyte, who provided assistance to the authorities of the Republic of Moldova for reform implementation, stated that **the dissonance between state institutions and civil society have a negative impact on the enforcement of new legal provisions: “We cannot afford the luxury of being angry with each other. It is incomprehensible that state institutions and civil society become discontent with one another.”**

The expert addressed the issue of political influence on reform, highlighting its negative impact: “**Usually, after elections and the establishment of a new ruling coalition, negative practices are repeated, such as the distribution of justice sector institutions based on political criteria. When a new Minister of Justice is appointed, a different approach to reform emerges even when party affiliation has not changed.**”

Victor Munteanu, Law Program Director at the Soros Foundation, also highlighted that justice reform is very sensitive to political fault lines: “**When politicians make statements about justice, they make certain commitments, including international ones; they should be cognizant of the consequences of such commitments and statements. Justice sector officials and politicians have very diverse, sometimes divergent, views on the role of the nongovernmental sector, about the role of initiating and implementing reforms.**”
III.2. The integrity of the justice sector’s stakeholders in the Republic of Moldova

The second public discussion took place on June 15, 2017. Government representatives presented the situation from the point of view of their respective institutions while civil society experts highlighted issues that have delayed the implementation of integrity assurance measures.

**State Authorities**

Cristina Țărnă, deputy director of the National Anti-Corruption Center, spoke about the Integrity Law which, in her opinion, groups together all of the instruments for preventing and combatting corruption. “A big obstacle for the integrity of an institution is, as proved by the surveys carried out by Transparency International – Moldova and the Barometer of Public Opinion, the fact that many institutions lack definitions of what constitutes a conflict of interest, an acceptable gift, and an unacceptable gift. You cannot ask anybody to address something that he or she does not understand. Public servants often cite, as an impediment, the existence of too many and too complex laws, such that they cannot navigate them,” Cristina Țărnă said.

In addition to the fact that the legal framework for integrity is dispersed, there are no sanctions for non-compliance with corruption prevention measures.

“**In order to cultivate an environment of integrity, there should be provisions for penalizing certain behaviors. We have discovered that infractions that do not have criminal elements are often covered up by state institutions.**”

**State Authorities**

The deputy director of the NAC also discussed the fact that the National Integrity Authority was not yet operational, identifying this as a major issue: “These procedures are lengthy. As long as it is not operational, there is a vacuum for which, I fear, no one will take the responsibility. Individuals who lack integrity could claim that some assets were acquired within a time period that cannot be subjected to verification.”

**Civil Society**

“This fault can be attributed to Parliament since it was created during the production stage: important issues were not taken into account, and this immediately renders ineffective a mechanism for preventing corruption. The institutionalization phase of the Integrity Council was ongoing, although it had to be done within a month. Hence, allegations arose against the Integrity Council,” Mariana Kalughin, vice-president of the Center for the Analysis and Prevention of Corruption, explained.
### III. Summary of Public Debates on Judicial Integrity Held in 2017

**State Authorities**

Viorel Russu, a member of the Integrity Council elected as a representative of the Congress of Local Authorities, highlighted that the authors of the draft document on the establishment of the new structure should have provided for a transition period, but they did not. "We, the members of the Integrity Council, oversee the Authority's work, but, in order to make this institution operational, it is absolutely necessary to elect the president, vice-presidents, and the integrity inspectors. They will be the ones who will deal with cases of conflict of interest, incompatibility, inconsistencies in financial statements, and so on. When they asked me why the NIA was not yet functional, I explained that it was not our fault. We do what we can and to the extent possible. The lawmakers, those from Parliament, should be asked why they did not set a transition period so that the Commission is operational until the NIA is established. This way, the gap would have been avoided."

### State Authorities

Viorel Morari, Chief Anticorruption Prosecutor, said in June that the reform was not finalized due to logistical issues. "The number of officers will be increased, the vacancies of deputy chief prosecutor and prosecutor will be filled. We have requested the posting of six prosecutors from other offices. We cannot manage with the available prosecutors. There are many sensitive cases and we have set some deadlines. It is very difficult to work when there are logistical issues, procedural impediments, and imperfect laws," Viorel Morari said.

During the June debates, the Chief Anti-Corruption Prosecutor stated that it would be premature to discuss success or failure as to the Prosecutor's Office. "The acknowledgement of the results of the Prosecutor's Office will only be possible when sentences are issued in cases that are now under investigation. I understand the desire to have sound cases, to have immediate results in the fight against corruption. Unfortunately, it is not possible to have spectacular results within a short time."

Diana Scobioală, director of the National Institute of Justice (NIJ), described the tools applied by the NIJ, an institution in charge of training judges and prosecutors on principles of integrity. According to her, beginning in 2020, the NIJ will become the only way to access the profession. Diana Scobioală noted that some steps have already been taken, such as the electronic testing of candidates. The NIJ director also spoke about polygraph testing: "The Law on the Prosecutor's Office provides for passing this test, while the NIJ Law does not. Perhaps, polygraph testing should take place at during enrollment instead of upon graduation. Education is free, the state invests huge amounts to train candidates. On average, one candidate costs 100,000 Lei per year. I do not see any rationale for the state to invest in a candidate who does not pass the polygraph testing." According to her, four NIJ appointees are not expected to pass this test on employment.

With regard to the carry-through from journalistic investigations, Nicolae Clima, main inspector-judge at the Judicial Inspectorate, a body within the Superior Council of Magistracy, stated that "the Inspectorate is keeping an eye on the press" and initiates action ex-officio when articles on court activity are published.

"We do not want to be on different sides of the aisle, we want to identify cases that spoil the image of the justice sector," he said.

### Civil Society

Expert Mariana Kalughin warned prosecutors to be cautious not to exceed the 100% conviction rate. "A high conviction rate sometimes means a less democratic state where judges have to respond to certain expectations rather than to their independent assessments of the evidence," she said.

At the same time, Mariana Kalughin mentioned that the political context in which the fight against corruption occurs leaves room for ambiguity and certain assumptions within society: "Although pertinent information was available since 2012, the judges involved in “Laundromat” were arrested in 2016, before the election and in the context of protests. This undermines enormously your endeavors. You must..."
demonstrate fairness and equity when working on cases. If you provide details at the initial stage of a case, you should expect that you will be asked the same in relation to other cases. If an information leak occurs in one case and does not happen in another case, that will affect your credibility," the expert said to the Chief Anti-Corruption Prosecutor.

Vladislav Gribincea, president of the Legal Resources Center, stated that changing public perception depends on prosecutors and judges, as well as on the examples they provide for society.

"The fight against corruption should start from within the justice sector: If the authority in charge of combatting corruption does not do its job, then any other effort to combat it is limited. The question is whether the price of the fight against corruption is the independence of judges. Over more than ten years, there were no criminal suits against judges, but there have been many lawsuits over that period. A question arises: either they did not do their job, or now some suits are not well-grounded. There cannot be clean periods immediately followed by a black period. [...] We have as much independence as we can bear. Independence in emerging democracies is gained by defending one's position and by cogent actions. Halfhearted measures breed distrust in state bodies," Gribincea commented.

Cornelia Cozonac, President of the Center for Investigative Journalism, anticipated this situation during the June debate: "Many topics remain undocumented because we do not have access to information that should be openly available in databases. Both the press and civil society have raised the issue of personal data, which is invoked in every response to our requests. More recently, the search option was disabled in the courts’ databases. Court judgments contain names, company names that might help us document investigations. Now, however, it is extremely difficult to search through court decisions. There are issues we cannot shed light upon because we do not have access to information of public interest," the CIJM president said.

### III.3. Justice sector integrity between two reform strategies: challenges and prospects

The third public discussion took place on November 16, 2017. One topic was "the integrity of the stakeholders in justice sector in light of Pillar IV of the Strategy for Justice Sector Reform."

**State Authorities**

Minister of Justice Vladimir Cebotari acknowledged that he was not satisfied with the implementation of this portion of the Justice Reform Strategy: "Are we content with the results or with the way the Strategy for Justice Sector Reform is being implemented in the sphere of integrity? My answer is ‘No.’ The results
are not those that were expected. At the same time, we cannot deny that, formally, [...] there were some achievements. [...] Important steps were made towards the enactment of the national framework for the establishment of the NIA, the adoption of new laws on the declaration of assets and interests, and for establishing new tools for this institution. What has not been done yet? This institution is still inefficient," the former official said.

At the same time, Vladimir Cebotari stated that the SCM should have had an instrument for ensuring the system’s integrity. "Unfortunately, as the SCM pointed out during the drafting stage of integrity policies for the justice sector, this institution has not been granted an instrument to enforce integrity within the system. I think such an instrument should have been provided. I am sure no one knows better than the SCM how to create order within this authority," the ex-minister noted.

Civil Society

Lilia Ioniță, an expert at the Center for the Analysis and Prevention of Corruption, underlined that the SCM was provided with many tools within this strategy and had enough leverage to enforce integrity within its own system.

Regarding the implementation of the actions within Pillar IV of the Strategy, the expert briefly outlined: "offically, we are doing well. 84% of the actions under Pillar IV were fulfilled. The actions set out in the integrity portion of the Strategy concerned all justice stakeholders. They were classified into two categories, a hot one and a cold one. The hot side was a wage increase, which was welcomed. The cold side — tools for ensuring accountability of judiciary figures who lagged behind. There was no polygraph testing and the audit of the declarations of assets and interests did not yield results," Lilia Ioniță said.

She recommended that the future strategic document focuses on communication, transparency, and accountability. "What the authorities in the justice sector did not do is communicate the problems and identify solutions. At some point, the sector closed down; problems remained internal or only marginal information was available, which raises suspicions," the CAPC expert commented.

According to Ion Guzun, expert at the Legal Resources Center in Moldova, the establishment of clear criteria for the promotion of judges to the Supreme Court of Justice did not occur: "I think it would have greatly contributed to enhancing confidence in the justice sector. On the other hand, we see that policies in this field are improving. There were changes in terms of legislation and practice, so we cannot say that things are not balanced. The fact that civil society is critical is good. It is the only way to communicate when we are excluded from certain processes, from the communication, from drafting the documents," the legal expert said.

State Authorities

"As we have lately noticed, the Center for Personal Data Protection displays a lack of institutional fair-play. They repeatedly bring in experts from Serbia, Croatia, and Armenia to tell us that all sentences should be anonymized. I think we deserve something better," Teodor Papuc, deputy head secretary of the Supreme Court of Justice, supported him.

Civil Society

In October 2017, the SCM voted on alternative regulations proposed by the SCJ, which provide for the renewed availability of a name-searchable function for published court decisions so as to provide for "maximum transparency of court judgments resulting from the implementation of practical ways to search for information contained therein." After several public discussions held by the Center for Investigative Journalism, protests by journalists, and campaigns launched by investigative reporters, the name-based search function was restored to the website of the courts in November 2017.

Nevertheless, the issue of excessive anonymization of court acts remains valid. "After all, I could accept the depersonalization of sentences, but let us do it properly. Why anonymize the name of the prosecutor, judge, attorney, the litigated amount, or the involved companies? It is difficult for a journalist
to work under such conditions. I have the impression that journalists were drawn into an artificial fight to distract them so that they cannot write about much more important things," said Victor Moșneag, deputy editor-in-chief at Ziarul de Gardă.

**State Authorities**

The participants also addressed the issue of vetting candidates for the positions of judge and prosecutor by the Security and Intelligence Service.

Dumitru Visternicean pointed out: *This law is outdated; it should no longer exist because the SIS, as an executive power authority, should not participate, for the sake of judicial independence, in determining the suitability of a judge*. When it comes to suitability, there is a procedure that can be assigned to the Judicial Inspectorate under the SCM, which checks against issues, collects information, and submits an informative note to the SCM, which adjudicates on suitability.*

Mircea Roșioru, President of the SCP, raised the issue of relevance of such notifications in relation to his colleagues: *Although such vetting involves some interference with private life, we could find relevant information in some notifications that later served as grounds for SCP decisions regarding suitability of the respective candidate for a public position. [...] If there are any doubts about the information provided in SIS notifications, the SCP may request the Prosecutors’ Inspection to carry out additional checks.*

The representatives of the SCP and of the SCM also discussed the polygraph testing of judges and prosecutors. Such tests were not performed at the SCM, with the SCM members invoking “objective circumstances: the lack of means and specialists.” As to prosecutorial candidates, the pass rate was 50%. “It was the first experience. I think many of them did not understand the purpose of the polygraph test, or, based on the answers they gave, attempted to enhance their image,” Mircea Roșioru said.

**Civil Society**

On the vetting by SIS of judge and prosecutor candidates and the usage of polygraph testing: *Polygraph testing should not be applied to justice sector officials*. Regarding the vetting, *it should be done, in my view, in accordance with international standards*, and the SIS is the most appropriate authority to perform it. *In order not to interfere with judicial independence, such work should be consultative, not binding. Certainly, the law should be amended because it was adopted in 2008, and it has not changed since then while the 2016 amendments do not make the situation clearer. But all of this should be done based on research so that all points of concern are thoroughly approached,* Mariana Kalughin concluded.
III.4. Case study: journalistic investigations versus authority responses

Journalistic investigations as to the integrity of certain public officials, published in recent years, have generated too few impactful responses from state authorities according to “The Response of Public Institutions to Journalistic Investigations: Many Initiatives but Few Reactions,” a study conducted by the Association of Independent Press. The authors found that many inquiries or criminal suits yielded no sanctions and many subjects remained in office, with some even being promoted.

During a public discussion held by Freedom House in June 2017, Petru Macovei, Executive Director of the Association of Independent Press, noted that, from 2013 to 2016, the number of inquiries initiated by the former National Integrity Commission (NIC) based on press activity has been steadily increasing. “This does not necessarily indicate an unusual level of activity by the NIC but, rather, that investigative journalism is developing in Moldova,” Petru Macovei commented.

Throughout the period of NIC activity, the institution initiated actions ex-officio following several investigations conducted by the Center for Investigative Journalism in partnership with journalists from Ziarul de Gardă and Moldova Curată. However, in almost all cases, the Commission either did not find violations or dropped the inquiry altogether.

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<th>Summary of the action</th>
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<td>[Text for Vladimir Cebotari and Mircea Maleca case study]</td>
<td>NIC, NAC</td>
<td>The National Integrity Commission did not adjudicate on the case of the two former officials, as the institution closed its inquiry. Nor has the NAC found any violation of law. Finally, the former Minister of Justice, whose family was a company shareholder, announced his withdrawal from the business relationship. In the meantime, Mircea Maleca became the director of the company.</td>
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In June 2017, the Anticorruption Prosecutor’s Office announced the beginning of a criminal suit against judge Oleg Melniciuc for illicit enrichment based on the investigative piece “Apartments at a Discount for Magistrate Oleg Melniciuc’s Relatives and Mother in a Residential Block for Judges” (November 29, 2016). The investigation also questioned the legality of how the land was allocated and financed despite the fact that the state had no legal obligation to provide preferential housing for judges. Law enforcement took no subsequent action. On March 31, 2017, Anticoruptie.md published a new investigative piece on this issue after obtaining new documents regarding the land allocation by the mayoral office of Chișinău: “House for Judges Built on Land Allocated Without Auction and Based on an Unsubstantiated Request.”
**Summary of the action**

In July 2017, immediately after the publication of an article entitled “The Judges of the Stolen Billion,” the Superior Council of Magistracy announced that it had taken action ex-officio, following the investigation. The SCM requested the Judicial Inspectorate to review all violations cited in the article. On Monday, the day before the meeting, a new press release entitled “Invitation to Participate” was posted on the SCM website - it invited the journalist Mariana Rață, author of the investigation, to participate in dialogue “in order to correctly and directly inform the public.” At the meeting, the SCM members cited gaps in the investigation after having been notified by a magistrate who noticed an error. Although the author acknowledged the error and immediately resolved it, the SCM members appeared adversarial. Nongovernmental media organizations issued a joint statement criticizing the Council’s demeanor and alleged that the SCM had attempted to discourage the journalists from future investigative work regarding the judiciary. The media NGOs pointed out that the error occurred due to limited access to court documents published online.

**IV. CONCLUSIONS AND RECOMMENDATIONS**

The evaluation presented in this report, along with the summary of public discussions, demonstrate that the SJSR, as a holistic policy instrument for combatting integrity issues in the justice sector, has set ambitious objectives that proved difficult to achieve. After a six-year implementation period, it appears that the document was too broad in scope. What initially seemed to be an accomplishment became a challenge that had to be addressed on a daily basis.

The results of the quantitative evaluation depict an optimistic picture, but the picture becomes troublesome when it comes to the qualitative assessment and the expectations for change in the sector. Movements on new laws and amendments were promising. However, throughout the implementation of the SJSR and of the regulatory developments adopted under its umbrella, challenges manifested: constant delays, a lack of responsiveness, and inconsistent interpretations of legislation and processes. There were also particular deviations from provisions calling for procedural transparency within the sector.

At the time this report was written, the Ministry of Justice had announced a new reform process, with the SJSR being depicted as a failure. In light of this, the following recommendations should be applied going forward.
IV. CONCLUSIONS AND RECOMMENDATIONS

General recommendations:

- The objectives of the new document should address the critical issues and vulnerabilities of the sector identified in the evaluation reports and focus on ensuring consistency and continuity of previous reforms, and on further modernization of the sector, on enhancing the transparency, efficiency, quality and access to the judiciary;

- The new strategic document in the field of justice should be much more focused and flexible, target the most vulnerable components of the justice sector, be more realistic and more pragmatic, and take into account lessons learned: it is not sufficient to enact new laws and new rules without creating the political will to translate legislation into practice;

- Changes in legislation alone will not create a climate of integrity within the justice sector. Frequent legislative modifications can actually sow confusion, especially among those charged with enforcing regulations. A limit on regulatory amendments should be considered, along with more restrictive rules as to when it is permissible to revise existing legislation or enact new legislation;

- Continue implementation of IT solutions and software in the activity of the sector’s institutions in order to eliminate subjectivism (the human factor).

Recommendations for the institutions of the justice sector:

- Guarantee and observe transparency requirements within justice sector authorities;

- Provide appropriate and prompt responses to signals regarding integrity issues; ensure a level of accountability that is not subject to reversals;

- Effectively implement legal provisions regulating the selection and the career pathing of judges and prosecutors; address instances of irrelevant evaluation and selection criteria; justify decisions and enforce transparency at all stages and of all decisions;

- Increase the consistency of judicial processes; this also contributes materially to enhanced public trust in the justice sector;

- Strengthen the role of the Judicial Inspectorate, including in its investigative power as to violations committed by judges;

- Strengthen mechanisms for investigating and addressing ethical misconduct;

- Update the regulatory framework and enforcement processes for anti-corruption instruments including polygraph testing, institutional integrity assessments, the reporting of prohibited communications, and whistleblower protection using civil society reports and analyses;

- Streamline the process for ensuring NIA functionality, the selection and appointment of integrity inspectors, and the approval of revised procedures;

- Focus NIA inquiries on statements of assets and interests submitted by justice sector officials;

- Strengthen the capability of judicial institutions to interact with mass media representatives and the general public.

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Freedom House is a nonprofit, nonpartisan organization that supports democratic change, monitors freedom, and advocates for democracy and human rights.

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