



“The new Government has to carry the initiated reforms through and fight corruption, strengthen the independence of law enforcement and judiciary institutions and make them accountable”



Thorbjørn Jagland,
Secretary General of the
Council of Europe

THE REFORM IN A NUTSHELL

Seven Judges Accused of Violations in the “Registru” Case



Minister of Justice, Oleg Efrim, one of the nine SCM members

Minister of Justice, Oleg Efrim, has ordered a disciplinary proceeding to be initiated against the judges involved in the case relating to the State Enterprise “Registru”, namely the magistrates Anatolie Pahapol and Anatolie Minciuna from the Chisinau Court of Appeal, and judges Svetlana Filincova, Svetlana Novac, Tatiana Vieru, Iurie Bejenaru and Galina Stratulat from the Supreme Court of Justice. They are accused of having committed serious violations of the procedural and substantive legal rules. It should be noted that, on April 24 inst., the Supreme Court of Justice ordered upholding the decision of the Chisinau Court of Appeal, which had obliged SE “Registru” to pay to “Intercomsoft LTD” damages of 7.8 million USD.

The related case materials have been submitted for examination to the Disciplinary College under SCM.

NAC Has Started to Sanction its Employees

The first meeting of the Disciplinary College of the National Anti-corruption Centre (NAC) has been conducted. Four disciplinary proceedings have been examined within the meeting, and three employees have been sanctioned. According to NAC’s press office, the sanctions have been applied in accordance with Art. 33 of the Law on the National Anticorruption Centre, for violation of the discipline and for failure to protect personal data and information considered state secret, which has been processed within the institution.

NAC’s Disciplinary College is the body that examines cases of failure to meet professional obligations, failure to observe the job discipline and professional conduct of the Centre’s staff. The College members are representatives of the Internal Security, Human Resources, and Legal divisions, as well as representatives of the civil society and the academia.

Random Assignment of Cases Will Increase Confidence in the Delivery of Justice

All courts in Moldova, except the Military Court, use the Integrated Case Management System (ICMS). This software tracks and assigns electronically the cases to be examined in courts. Although ICMS helps assigning cases randomly, specialists say the system is not used efficiently in all courts of the country.

Within a meeting which addressed the information systems used by the courts, George Antoci, the Head of the IT Audit Division at the Court of Accounts, stated that the main purpose of the Integrated Case Management System is to randomly assign cases, independently of the will of the court president or deputy president. Unfortunately, cases are still often assigned manually in courts, and this leaves room for suspicions from the public. On the other hand, Nadejda Toma, president of the Ialoveni district court, complained that it takes a lot of time to prepare a case file using this software. “This is technical work and it’s not for judges to do it. Our task is to deliver justice, not to check items in a computer. The only advantage of this software is that it distributes cases randomly to judges, for the rest, it’s a waste of time and damage to health, the president of the Ialoveni court said.

Currently, judges use the 3rd version of ICMS, which allows for both random and manual assignment of cases by the court president. Experts say that the



Photo-symbol. Source: servuspress.ro

software allows court president to set some special configurations manually, so that cases can get into the hands of specific judges. Now the 4th version of the software is being developed, which is more advanced and will allow reducing the human factor in the case assignment process.

Disciplinary sanctions for failure to assign cases randomly

According to the Regulation

on Random Assignment of Cases for Examination in Courts, which was approved by the Superior Council of Magistracy in February 2013, cases must be registered in ICMS by a responsible person appointed by the court president. The term for registration of cases in ICMS should not exceed 24 hours. The file with the data on the random case assignment and the possible rulings on the random re-assignment of the case

must be attached to each corresponding case. The same regulation forbids the involvement of unauthorized persons in the case registration and random assignment. Law No. 544 on the Status of Judges stipulates that the infringement of the provisions on random cases assignment represents a disciplinary violation, and therefore, court presidents or deputy president may be subjected to disciplinary sanctions.

Within the College for Evaluation of Judges, the Civil Society Is Represented by Academia People

In February and April of this year, the Superior Council of Magistracy (SCM) appointed the two members of the College for Evaluation of Judges’ Performance from the civil society - Diana Scobioala and Elena Belei – both are from the academia. Experts say that, in order to eliminate any suspicion about the selection of these members, SCM had to justify its choice publicly.

Currently, SCM’s College for Evaluation of Judges’ Performance has six members, although the Law No. 154 of July 5, 2012 on the Selection, Performance Evaluation and Career of Judges requires the College to have 7 members. The current members of the College are the following: two judges from the Supreme Court of Justice – Svetlana Novac and Nicolae Gordila, elected at the General Meeting of Judges of November 23, 2012; two judges appointed by SCM – Ghenadie Eni from Cahul Court of Appeal and Iulia Grosu from the Balti Court of Appeal; and the two representatives of the civil society. “The position of the judge representing a court of first instance within the College is still vacant. The respective candidate will be selected at the next Gen-

eral Meeting of Judges”, Ioana Chironet, the head of the SCM executive office says.

Members from the Civil Society elected by SCM through secret vote

The representatives of the civil society are appointed by SCM, being selected through a public contest. On February 26, 2013, the university professor, PhD Diana Scobioala was elected as a member of the College for Evaluation of Judges’ Performance. She is at the same time the daughter of the Deputy President of the Supreme Court of Justice, Iulia Sarcu. The other candidates for the same position at that time were Victor Puscas, former judge at the Constitutional Court and Alexandru Prisac, lawyer and university lecturer. On April 12 of the current year, a repeated contest was organized to fill one more position of College members from the civil society, in which Elena Belei, associate professor at the Civil Procedural Law Chair of the Moldova State University, was elected. The other participants in the contest were Igor Hadirca, associate professor and Tudor Capsa, unemployed.

As Ioana Chironet explained, the members of the Evaluation College representing the civ-

il society have been selected by SCM through secret vote and it is a mere coincidence that both members are from the academia. On the other hand, Nadejda Hriptievshi, legal expert at the Legal Resource Centre, says that the procedure for selecting the Evaluation College members is somewhat questionable. “The biggest issue is the lack of a motivated decision: why was one candidate selected and not the other? This practice appears to be deep-rooted not only within SCM, but also within the Parliament. I think there should be one basic rule about the public contests for selection of college members: to justify the decision on rejecting candidates (in case of pre-selections), as well as that on accepting a candidate”, Nadejda Hriptievshi says. She is sure that this would make SCM more credible both for the participants in the contest and for the society in general.

The College for Evaluation of Judges’ Performance is responsible for examining the cases of judges who undergo the evaluation, to organize and conduct interviews with the respective judges and to pass decisions with regard to them.

European Union will provide to Moldova

90 million Euro

for the judiciary reform and for the implementation of bilateral agreements



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