



DECLARATION: IMITATION OF JUSTICE SECTOR REFORM AND FIGHT AGAINST CORRUPTION IN THE REPUBLIC OF MOLDOVA

8 December 2015

The signatories of this Declaration are deeply concerned about the inconsistency of policy makers, especially the Parliament and the Government, with respect to judiciary reform and fight against corruption.

On 8 October 2015, the Speaker of the Parliament established a Working Group to reform and relaunch the anti-corruption system, scheduling "the presentation of legislative proposals to amend and supplement the existing legal framework in the field of corruption" for 30 November 2015. To date, no draft law was discussed within the Working Group, although several members requested examination of the draft law amending the related legislative framework necessary to implement the new Law on Prosecution (which is still waiting to be voted in the second reading by the Parliament) and the package of draft laws on national integrity system (the draft law on the National Integrity Center (NIC), the draft law on the declaration of assets and personal interests, as well as the draft law amending and supplementing certain legislative acts). The Working Group held mostly general discussions. Only the competence of anticorruption prosecution office was discussed in detail, but with no result. Instead, we noticed a blatant resistance of the representatives of the Democratic Party and the National Anticorruption Center (NAC) to the package of draft laws on national integrity system (mainly on the NIC reform).

On 22 October 2015, the Parliament voted the transfer of NAC from the subordination of the Government to that of the Parliament. The respective draft law was adopted on the same day in two readings without any public debate. It was not discussed within the Working Group created by the Parliament Speaker. The rushed transfer of the NAC under the subordination of the Parliament created the public impression that it was decided in order to avoid the dismissal of the NAC Director, requested by the then Prime-Minister.

The Ministry of Justice continues promoting the initiative launched by the Centre for Reform of the Judicial System which proposed to create a specialized anticorruption court and vest the Superior Council of Magistracy (SCM) with the right to check the judges' assets and personal interests, having the right to propose their dismissal upon finding any violations to this end. [These initiatives have been criticized by the representatives of the civil society](#), including [the draft law proposed by the Minister of Justice](#) (*English version of the opinion is available under request*). The small number of corruption related court cases does not justify the creation of a specialized court. The creation of specialized courts or specialized panels will significantly increase the risks of third parties undue influence. Vesting the SCM with the right to check the judges' assets and personal interests will double the NIC competences, which may allow, in practice, avoidance of liability for breach of the assets and personal interests' declaration regime.

On 1 December 2015, [the media outlets published some information regarding a draft law on the merger of NAC and NIC, through NIC's incorporation into the NAC](#). It is not clear who has prepared this draft law and what stage it is at. This draft law has not been published, has not been discussed within the Working Group established by the Speaker of the Parliament, or within any other venue attended by the civil society representatives. Should this draft law be adopted, the NAC will get very broad competences, cumulating functions related to the criminal investigation and the finding of misdemeanor offenses related to corruption, prevention and combating money laundering and terrorist financing, conducting integrity tests on all civil servants (65,000 according to some estimates), tracing proceeds from crimes and their seizure/confiscation, control of assets and personal interests and challenge in court the acts

signed/adopted in breach of related rules, anticorruption expertise of normative acts of the Government and other documents submitted with the Parliament. Concentration of all these functions within the same institution is dangerous and without precedent in Europe. On the other hand, maintenance of such Agency under the parliamentary or executive control will significantly negatively affect the efficiency of anticorruption measures, which is implicitly confirmed by the performance of the current NAC.

Meanwhile, evaluation of the key justice and anticorruption institutions by the EU evaluation missions has started in December 2015. If such evaluations are of any importance to the policy makers from the Republic of Moldova, the latter should show maximum diligence in making available all relevant information to the experts and refraining from promoting draft laws that substantially alter the existing system and have not been subject to expert and public consultations.

We hereby reiterate the requests previously submitted by the civil society with the Government and the Parliament:

- a) **adoption, with the utmost urgency, of the draft Law on Prosecution and the draft law amending the related legislative framework necessary to implement the new Law on Prosecution, as proposed by the Working Group that drafted these draft laws;**
- b) **the adoption of the draft Law on the National Integrity Center, the draft law on declaration of assets and personal interests and the draft law amending and supplementing certain legislative acts, as proposed by the Ministry of Justice to the Government in June 2015;**
- c) **suspension of any other anticorruption initiatives until obtaining the opinions of the European Union and/or the Council of Europe;**
- d) **respect by the public authorities of the legislation on transparency in decision-making process.**

We hereby also recommend the General Prosecutor and the NAC Director to resign from their positions, for failing to take appropriate and timely action on the financial breaches in the banking system, threatening the bank and financial security of the country, affecting massively the national exchange rate, the prices for energy resources and further contributing to the impoverishment of the population. Taking into account the events since 2014, none of them have the legitimacy to hold these positions.

Eastern Partnership Civil Society Forum of the Republic of Moldova

- EcoContact Association,
- Women's Association for the Environment Protection and Sustainable Development (AFPMDD),
- Business and Professional Women from Moldova,
- Small Business Association of Moldova,
- Association for Participatory Democracy ADEPT,
- Association of Independent Press (API),
- Association Promo-LEX,
- BIOS,
- Centre "Dialog-Pro",
- Legal Resources Centre from Moldova (LRCM),
- Resources Center "Tineri si Liberi",
- Independent Journalism Center,
- International Center „La Strada”,
- East Europe Foundation,
- Institute for Public Policy,
- Institute for Development and Social Initiatives (IDIS) "Viitorul",
- Institute for Urban Development,
- Moldovan Institute for Human Rights (IDOM),
- REC Moldova,
- Youth for right to life (TDV),
- Transparency International Moldova,
- Union of people with disabilities organisations of Moldova.