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Strasbourg, 22/07/2022

CEPEJ(2022)1REV
PART 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

Support for a better evaluation of the results of judicial reform efforts in the Eastern Partnership "Justice Dashboard EaP" Action

Data collection: 2020

Report prepared by the CEPEJ for the attention of the European Commission

Part 2 (A) - Beneficiary profile - Republic of Moldova

Executive Summary - Republic of Moldova in 2020

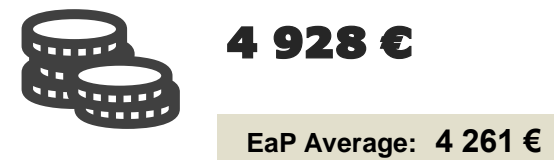
Population in 2020



GDP per capita in 2020



Average annual salary in 2020



Budget

The Republic of Moldova spent 41 313 673€ as implemented judicial system budget. This means that the country spent **15,7€ per inhabitant**, which is higher than the Eastern Partnership (EaP) median of 10€.

51,7% was spent for all courts, 42,2% for prosecution services, 6,1% for legal aid. In 2020 compared to 2018, the Republic of Moldova has spent per inhabitant 15.8% more for courts, 16% more for prosecution services, and 104,9% more for legal aid (see below).

The budgets spent per inhabitant amounted to 8,1 € for all courts, 6,6€ for prosecution services and 1€ for legal aid, which are higher than the EaP medians of 7,7€, 3,2€ and 0,5€ respectively in 2020.

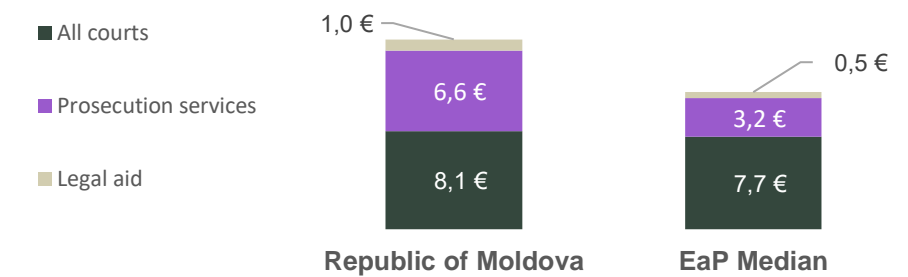
Legal aid

In 2020, the total implemented **budget for legal aid** was 2 511 204€, which was 104,9% more compared to 2018, due to the increase in the remuneration for legal aid services, the increase in the scope and range of beneficiaries of the legal aid system, as well as the active promotion of the system.

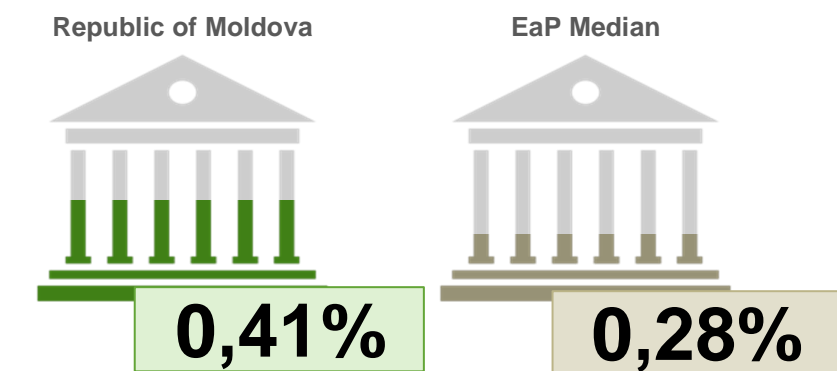
In 2020, the **legal aid was granted for a total of 44 265 cases**, which was -8,9% less compared to 2018, due mainly to the lockdown which caused the postponement of court hearings, including for cases considered not urgent. The majority of legal aid was granted for criminal cases (41 397), while the number of other than criminal cases was considerably lower (2 868).

Budget of the Judiciary

Implemented Judicial System Budget per inhabitant in 2020



Implemented Judicial System Budget as % of GDP in 2020



Efficiency*

In 2020, some backlog was created in both first and second instance courts (Clearance Rates - below 100%). **Second instance criminal law cases were resolved faster** than other types of cases with a Disposition Time of 113 days. **The highest Clearance Rate was for civil and commercial litigious cases in first instances** (97%) as well as in **the second instance** (95%).

The **Clearance Rates decreased** in 2020 compared to 2018 in all categories of cases in first instance courts. The Clearance Rate is the same as the EaP median for 2020 in first instance courts in civil and commercial cases as well as criminal law cases (97% and 91% respectively).

The **Disposition Time** increased in 2020 compared to 2018 in all categories of cases and is considerably higher than the EaP median, with the exception of criminal cases in first instance (242 days), administrative cases in second instance (146 days) and in criminal cases in second instance (113 days), where it is the same as the medians respectively.

In the Republic of Moldova, there **are quality standards for courts** approved by Superior Council of Magistracy's decisions. The monitoring of the number of pending cases and backlogs is done for civil and commercial, administrative and criminal law cases. The waiting time in courts is being monitored due to the implementation of the new version of Integrated Case Management System in all courts.

* The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.

Clearance Rate, obtained by dividing the number of resolved cases by the number of incoming cases, is used to assess the ability of a judicial system to handle the inflow of judicial cases. Its key value is 100%. A value below 100% means that the courts weren't able to solve all the cases they received and, as a consequence, the number of pending cases will increase, while CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of pending cases) and, as a consequence, the number of pending cases will decrease.

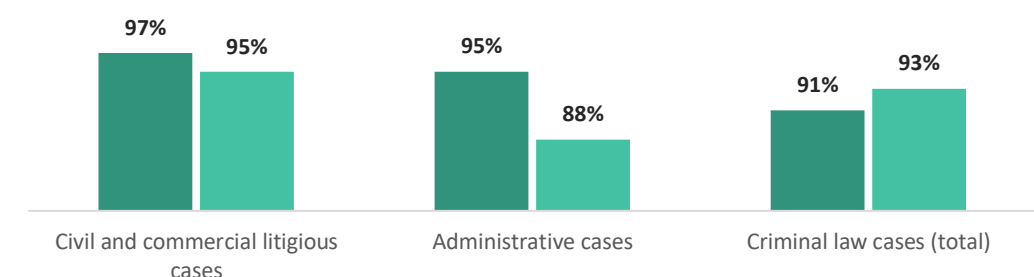
Disposition Time is a proxy to estimate the lengths of proceedings in days. It is calculated as the ratio between the pending cases at the end of the period and the resolved cases (multiplied by 365). It estimates the time to resolve all pending cases based on the actual pace of work. This indicator is highly influenced by the number of pending cases: categories of cases with high backlog will have higher DT than categories of cases that do not have backlog. At the same time, it is affected by the number of resolved cases, and this is especially evident in 2020, when this number dropped.

Efficiency

■ 1st instance ■ 2nd instance

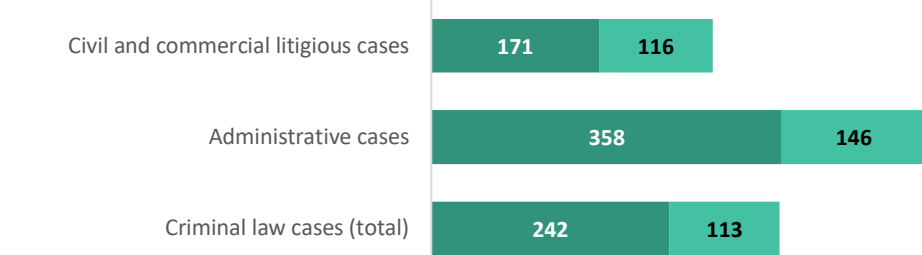
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.



Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.

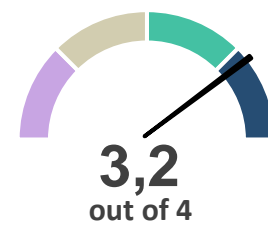


CMS index (scale 0-4)

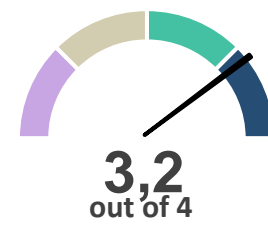
The Case management system (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary.

The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarised while the deployment rate is multiplied as a weight. In this way, if the system is not fully deployed the value is decreased even if all features are included, to provide an adequate evaluation.

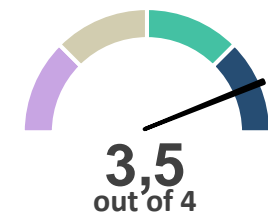
Civil and/or commercial



Criminal



Administrative



Electronic case management system and court activity statistics

In the Republic of Moldova, there is a case management system (CMS), eg software used for registering judicial proceedings and their management, called Integrated Case Management System - ICMS. It was developed in the last 2 years. The ICMS is deployed in all courts and a statistical tool is reported as integrated. In 2020, new functionalities of early warning signals were developed as a part of the ICT reform programme and a new ICMS version.

The judicial system has a centralised national database of court decisions, which contains the judgements of all instances and for all cases. It is available online free of charge and it contains anonymised data. There are no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

Trainings

The total budget for training of judges and prosecutors in the Republic of Moldova was 34,8€ per 100 inhabitants, which is above the Eastern Partnership (EaP) median (26,6€ per 100 inhabitants). The number of in-person trainings decreased between 2018 and 2020 (from 294 days to 68 days) due to pandemic-related Government measures. New online training facilities have been put in place by the National Institute of Justice during 2020.

ADR (Alternative Dispute Resolution)

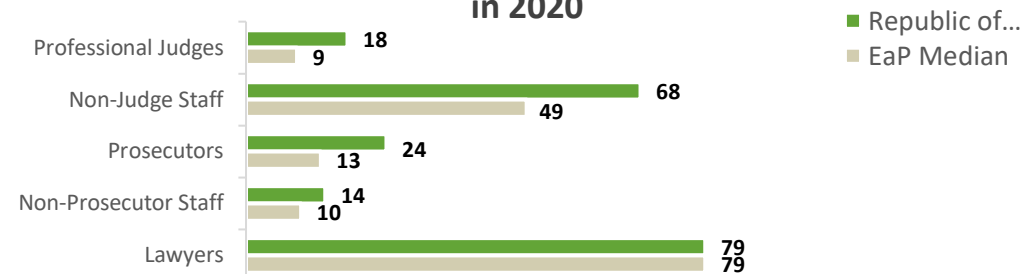
In the Republic of Moldova, the court-related mediation was established as mandatory since 2017 for both civil and criminal law cases. There was no data available on the total number of court-related mediations for 2020. Some data is available for some categories of cases. In 2020, the court-related mediation was mostly used for civil and commercial cases and family law cases (5 417 and 2 615 cases, respectively).

Court-related mediations is provided by private mediators for all types of cases. In 2020, the total number of mediators in the Republic of Moldova was 947, which is 7,9% more than the previous year. The number of mediators per 100 000 inhabitants was 36 which is significantly more than the EaP median of 1,9. The majority of the mediators were women (53,5%).

There are no specific provisions concerning the mandatory information sessions but in accordance with the Law on mediation these sessions are free of charge. Also, parties can establish by their agreement to benefit from mandatory information sessions.

Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2020



Salaries of professional judges and prosecutors in 2020

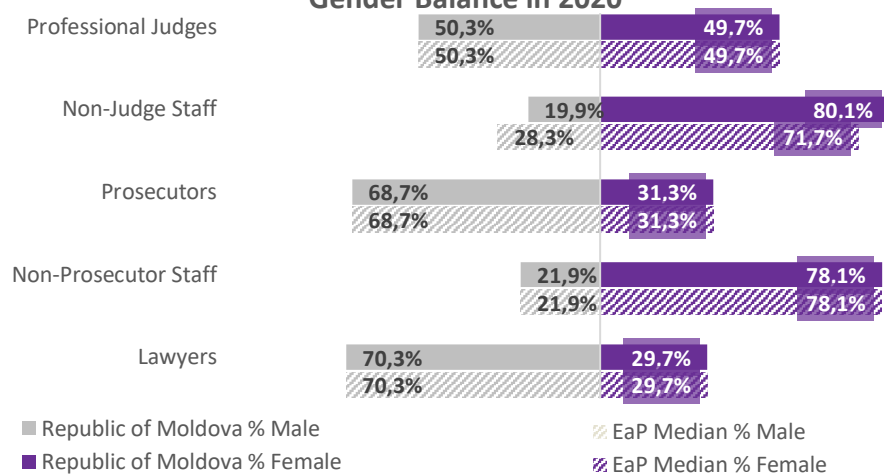
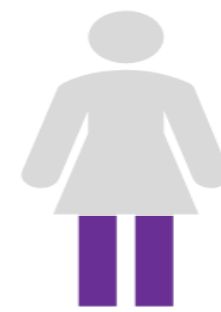


Gender Balance

50% female judges (total)



31% female prosecutors (total)



Professionals and Gender Balance

In 2020, the Republic of Moldova had **17,5 professional judges per 100 000 inhabitants** and **24,3 prosecutors per 100 000 inhabitants**. Both figures were above the Eastern Partnership (EaP) median of 8,8 and 12,9, respectively. In 2020, there were **79,4 lawyers per 100 000 inhabitants**, which was the same as the EaP median (79).

In the Republic of Moldova in 2020 there were **50% professional judges women**; **31,3% prosecutors women**; and **29,7% women lawyers** (which was on a par with the EaP medians for all three categories of professionals). For **non-judge and non-prosecutors staff** the situation differs: the percentage of female non-judge staff was 80,1% (above the EaP median of 71,7%) and female non-prosecutor staff - 78,1% (same as the EaP median).

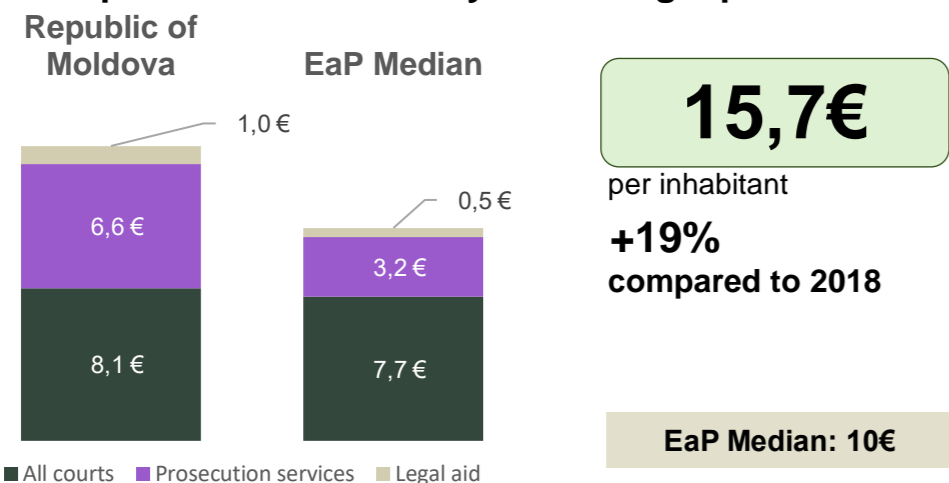
ECHR

In 2020, there were 523 applications pending before an ECtHR decision body for the Republic of Moldova. In 28 judgements at least one violation was found by the ECtHR. 51 cases were considered as closed after a judgement of the ECtHR and the execution of judgements process in 2020.

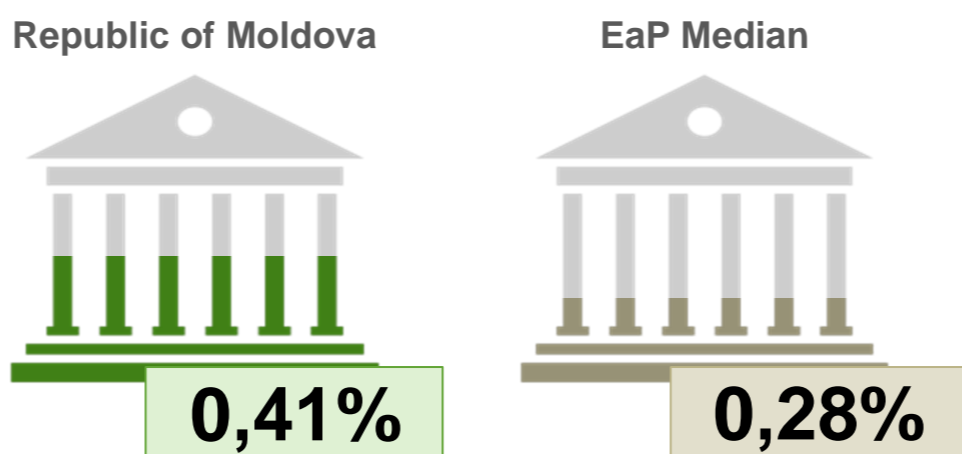
In the Republic of Moldova, there is a possibility to review a case after a decision on violation of human rights by the ECtHR and there is a monitoring system for violations related to Article 6 of ECHR for civil procedures (non-enforcement and timeframe) and criminal procedures.

Budget of the judiciary in the Republic of Moldova in 2020 (Indicator 1)

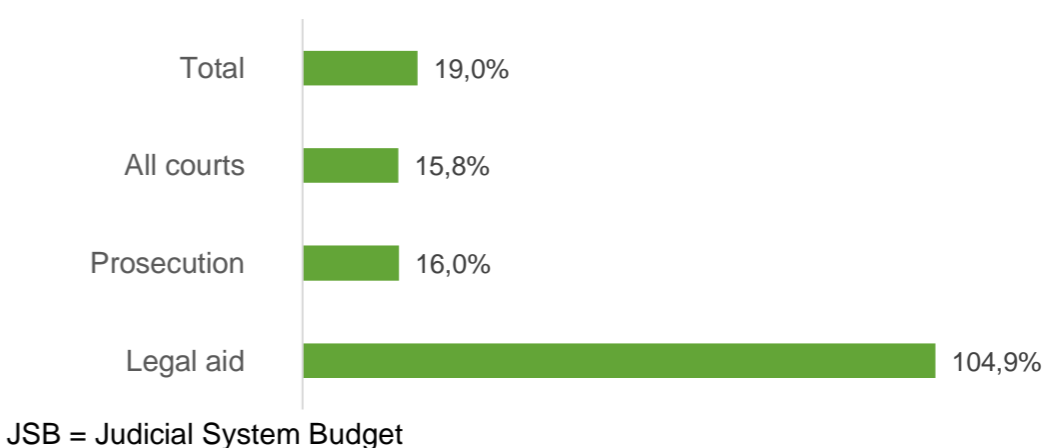
Implemented Judicial System Budget per inhabitant



Implemented Judicial System Budget as % of GDP



% Variation of Implemented JSB per inhabitant between 2018 and 2020



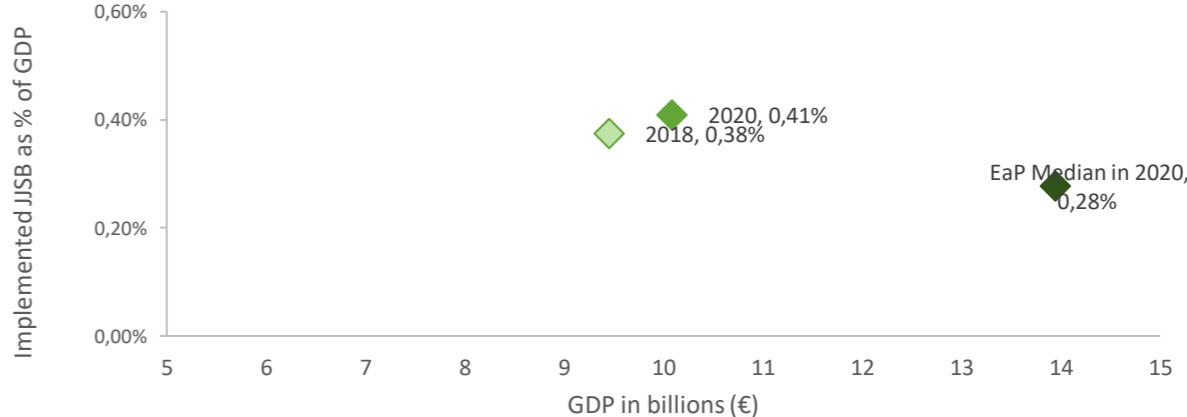
The Judicial System Budget (JSB) is composed by the budget for all courts, public prosecution services and legal aid. In 2020, the implemented JSB for the Republic of Moldova was 15,7 € per inhabitant. This was higher than the Eastern Partnership (EaP) median of 10€ per inhabitant. It represented 0,41% of the GDP of the Republic of Moldova (which is higher than the EaP Median of 0,28%).

Budget allocated to the judicial system (courts, prosecution services and legal aid)

Judicial System Budget	Judicial System Budget in 2020		Implemented Judicial System Budget per inhabitant			Implemented Judicial System Budget as % of GDP		
	Approved	Implemented	Per inhabitant	EaP Median	% Variation 2018 - 2020	As % of GDP	EaP Median	Variation (in ppt) 2018 - 2020
Total	43 797 225 €	41 313 673 €	15,7 €	10,0 €	19,0%	0,41%	0,28%	0,03
All courts	22 438 314 €	21 355 077 €	8,1 €	7,7 €	15,8%	0,21%	0,21%	0,01
Prosecution	18 322 489 €	17 447 392 €	6,6 €	3,2 €	16,0%	0,17%	0,09%	0,01
Legal aid	3 036 422 €	2 511 204 €	1,0 €	0,5 €	104,9%	0,02%	0,014%	0,012

PPT = Percentage points

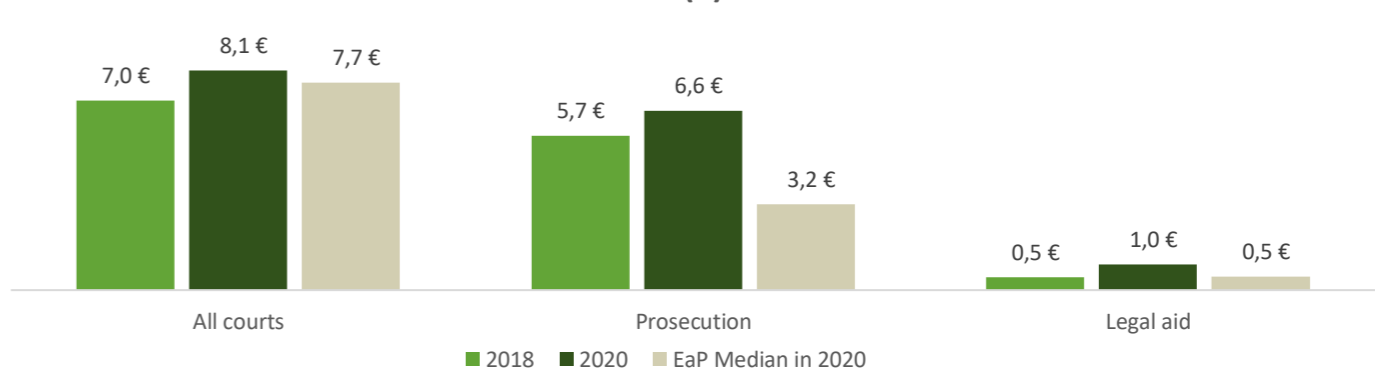
Implemented Judicial System Budget as % of GDP between 2018 and 2020



In 2020, the Republic of Moldova spent 41 313 673€ as implemented judicial system budget. Of this, 51,7% was spent for all courts, 42,2% for prosecution services, 6,1% for legal aid. Overall, JSB increased by 19% compared to 2018. The Republic of Moldova has spent per inhabitant 15,8% more for courts, 16% more for prosecution services, and 104,9% more for legal aid in 2020 compared to 2018. The spending on the legal aid system increased significantly due to the diversification of the range of services provided and the categories of beneficiaries of legal aid, accompanied by an active promotion of the system (see also Legal Aid).

In 2020, the JSB per inhabitant is above the EaP medians on courts, prosecution services and legal aid.

Implemented judicial system budget per inhabitant between 2018 and 2020 (€)

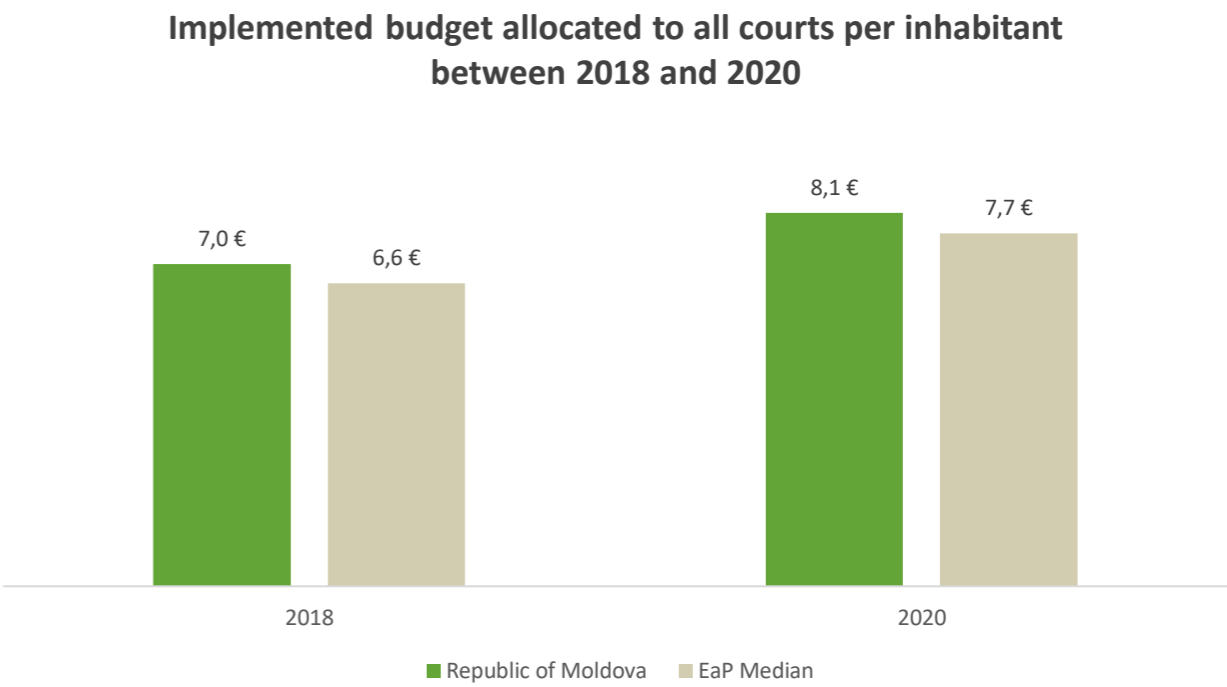
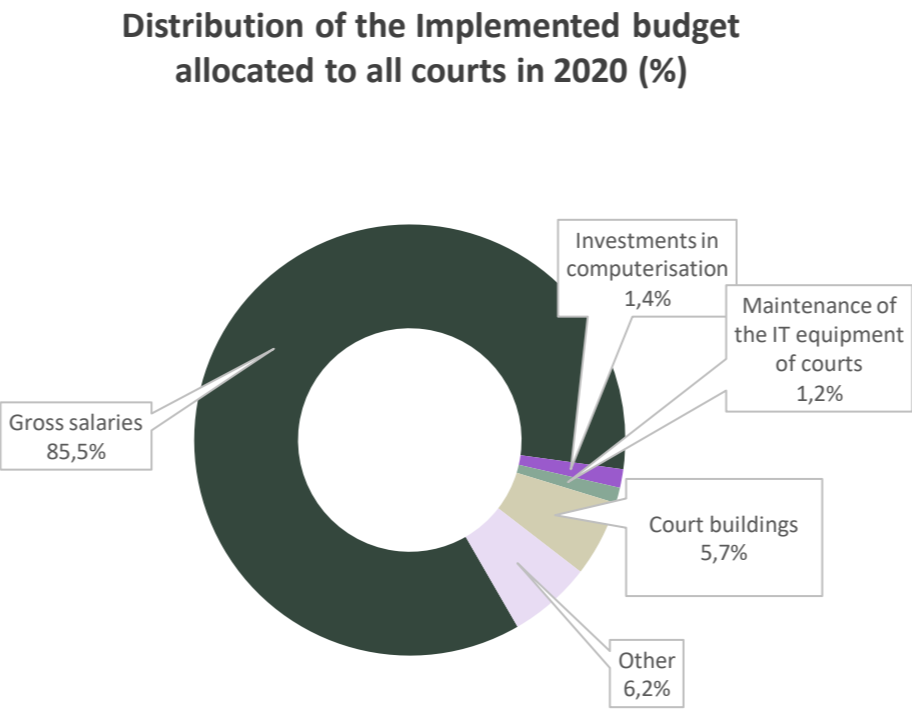


• Budget allocated to the functioning of all courts

In 2020, the Republic of Moldova spent 21 355 077€ as implemented budget for courts. 85,5% was spent for Gross salaries, 6,2% for Other, 5,7% for Court buildings, 1,4% for Computerisation (total).

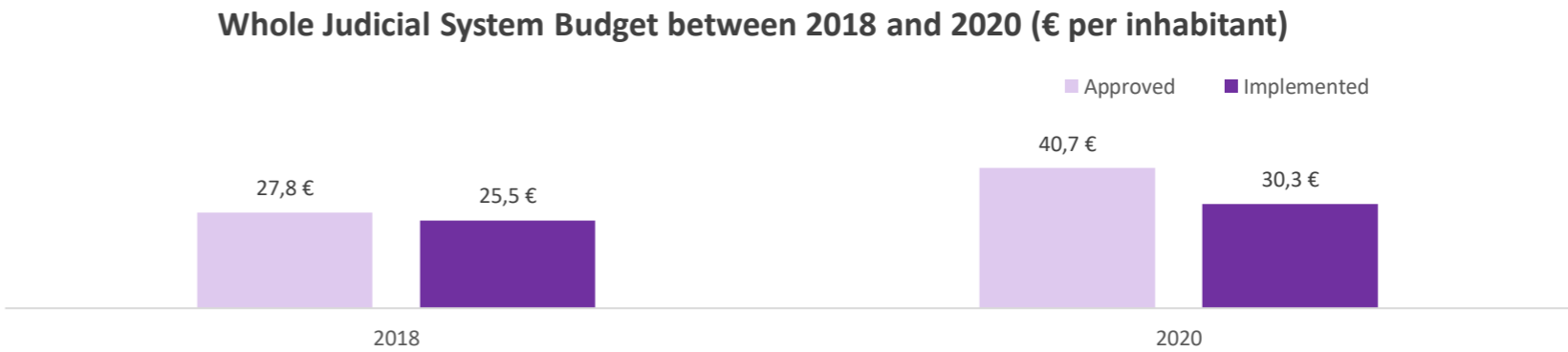
Compared to 2018, the implemented budget for courts has increased by 13,3%, mainly due to the increases for salaries and computerisation, namely the implementation of a new ICMS version in all courts and the need to upgrade/renew the videoconference tool and related equipment. The most notable decrease related to the postponment of investments in new courts, due to the a number of factors, including the Covid-19 pandemic. Between 2018 and 2020, the implemented budget allocated to all courts per inhabitant in the Republic of Moldova (7,0€ to 8,1€) denotes a similar increasing trend of the EaP median (6,6 € to 7,7 €) respectively.

	2020		% Variation between 2018 and 2020	
	Approved budget	Implemented budget	Approved budget	Implemented budget
Total	22 438 314 €	21 355 077 €	14,5%	13,3%
Gross salaries	18 435 625 €	18 259 226 €	14,8%	16,4%
Investments in computerisation	298 993 €	296 604 €		
Maintenance of the IT equipment of courts	324 713 €	250 101 €	54,0%	59,2%
Justice expenses	NAP	NAP	NA	NA
Court buildings	1 411 489 €	1 222 891 €	-1,3%	-11,3%
Investment in new buildings	506 493 €	0 €	135,1%	-100,0%
Training	17 768 €	1 418 €	858,9%	-10,8%
Other	1 443 233 €	1 324 837 €	-15,0%	-13,0%



• Budget allocated to the whole justice system

Whole Justice System	2020		% Variation of the Whole Justice System per inhabitant 2018 - 2020
	Absolute number	Per inhabitant	
Approved	106 883 648 €	40,7 €	46,3%
Implemented	79 496 159 €	30,3 €	18,5%



The whole justice system budget includes the following elements in 2020:

Court budget	✓	Council of the judiciary	✓	Enforcement services	✗	Refugees and asylum seekers service	✗
Legal aid budget	✓	High Prosecutorial Council	✓	Notariat	✗	Immigration services	✗
Public prosecution services budget	✓	Constitutional court	✓	Forensic services	✓	Some police services	✗
Prison system	✓	Judicial management body	✓	Judicial protection of juveniles	✗	Other services	✗
Probation services	✓	State advocacy	✗	Functioning of the Ministry of Justice	✓		

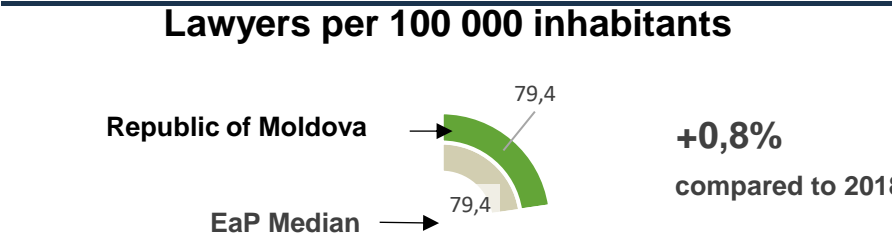
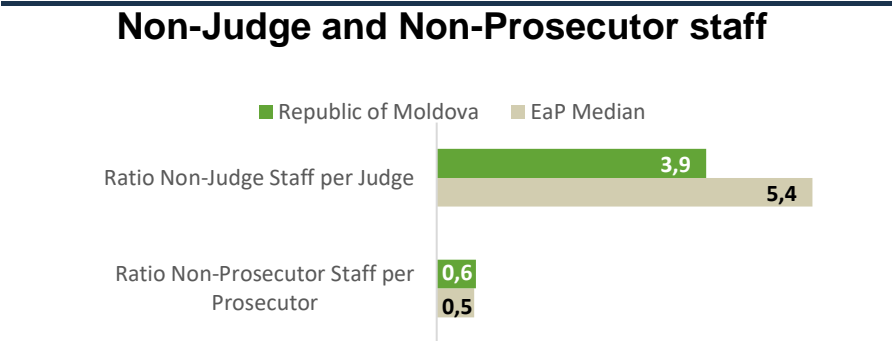
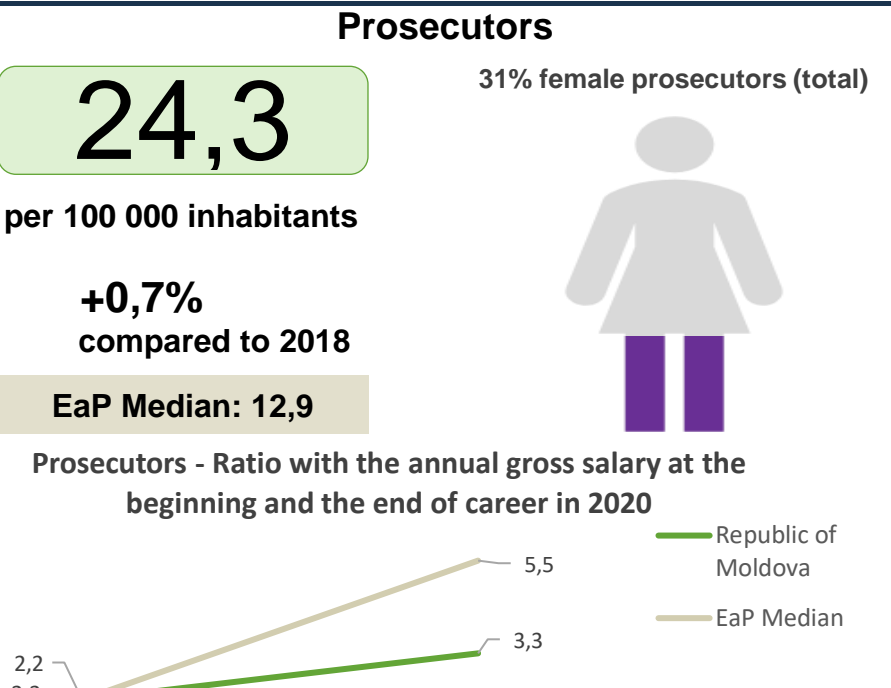
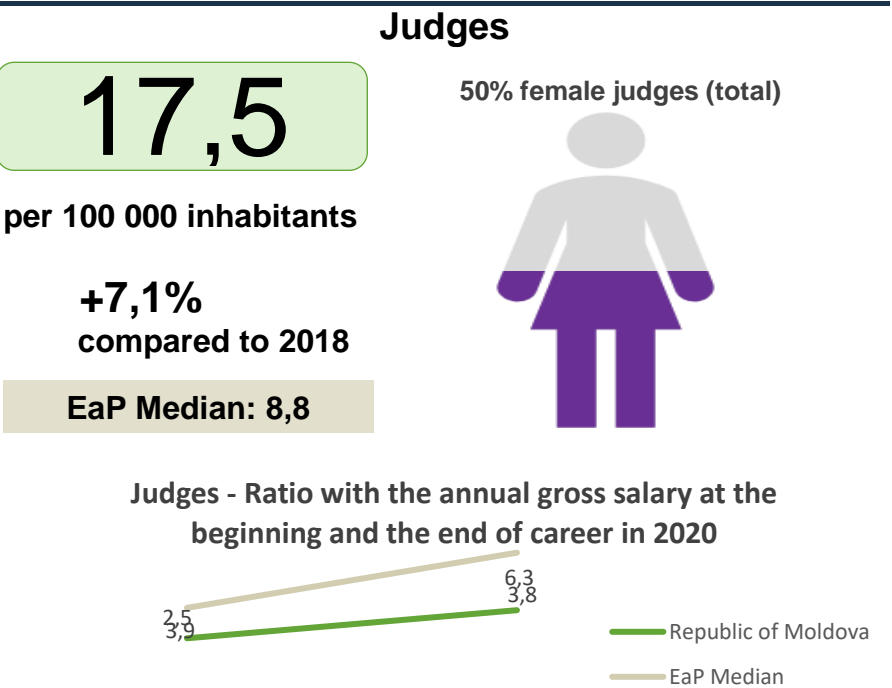
The budget approved for the whole justice system increased by 46,3% in 2020 compared to 2018. The implemented whole judicial system budget per inhabitant increased by 18,5% in 2020 compared to 2018. The elements of the whole justice system budget remained the same as in 2018.

• Budget received from external donors

	Absolute value	Calculated as %	In percentage (%)
All courts	NA	NA	NA
Prosecution services	NA	NA	NA
Legal aid	NA	NA	NA
Whole justice system	NA	NA	NA

In 2020, external funds were allocated by USAID, UNDP, and CoE (CEPEJ and other) for implementing projects aimed at improving the functioning of judiciary, such as trainings of judges and court staff on different topics, implementation of new IT solutions (refining the ICMS, electronic statistics, procuring videoconference equipment and licenses, refining the national courts portal) in judiciary, submitting studies, recommendations in this concern). All procurements linked to the external assistance (experts, equipment) were not a part of the national budget and were organized by the development partners. In this regard the national justice actors are not keeping a complete evidence on the implemented amount of the international donor assistance. There is a webpage dedicated to the external assistance on the Ministry of Finance website. There is also a national aid management platform <http://www.amp.gov.md/portal>. The Ministry of Finance publishes an annual Report on external assistance on its webpage which divides the external assistance received by sectors. According to the 2020 Report, the external assistance for Good Governance sector (including justice) constituted 12,7% from the total external assistance received by Moldova in 2020. The disaggregated data on justice are not available for the related period.

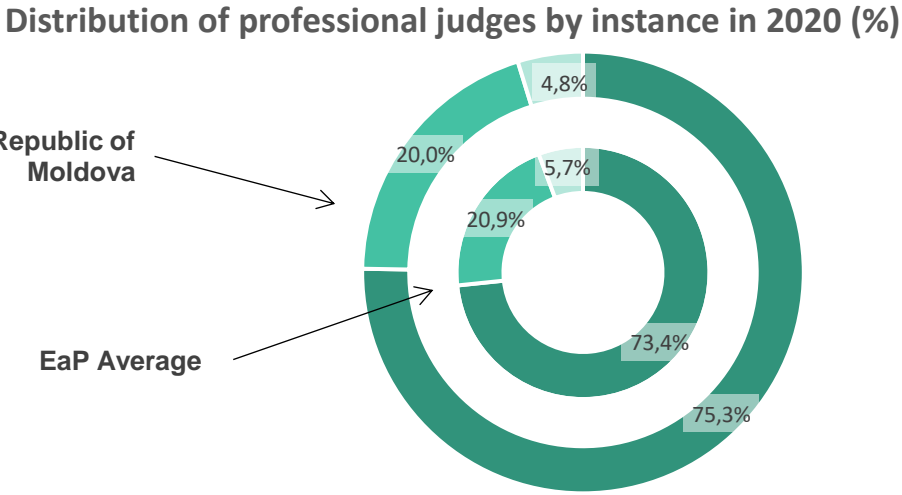
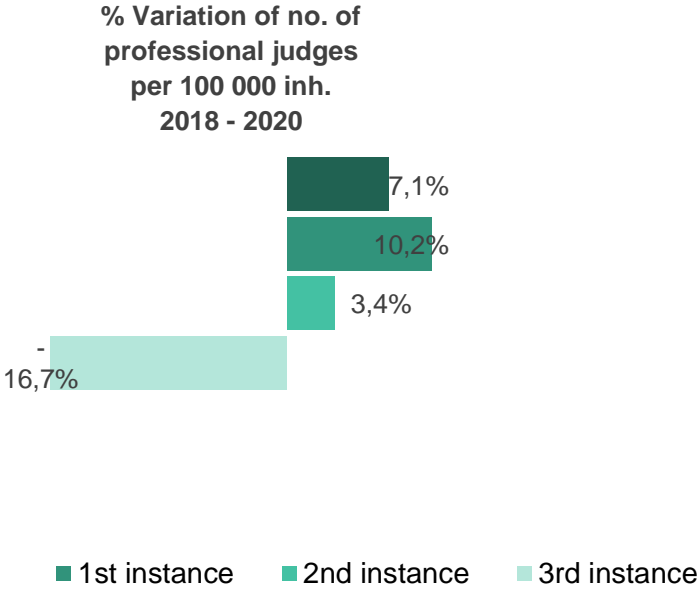
Professionals and Gender Balance in judiciary in the Republic of Moldova in 2020 (Indicators 2 and 12)



In 2020, the Republic of Moldova had 17,5 professional judges per 100 000 inhabitants and 24,3 prosecutors per 100 000 inhabitants. Both figures were above the Eastern Partnership (EaP) medians of 8,8 and 12,9, respectively. 50% of professional judges are women and 31,3% of prosecutors are women (which is on a par with the EaP medians of 49,7% and 31,3%, respectively).

Professional Judges

	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	461	100,0%	17,5	8,8
1st instance courts	347	75,3%	13,2	6,2
2nd instance courts	92	20,0%	3,5	2,2
Supreme Court	22	4,8%	0,8	0,5

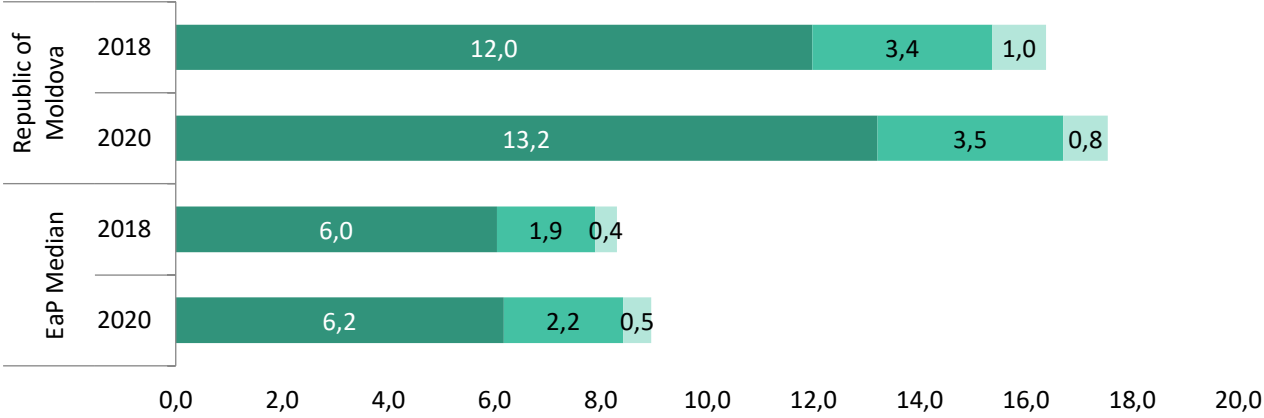


The absolute number of professional judges in the Republic of Moldova in 2020 was 461, which was 17,5 judges per 100 000 inhabitants (significantly higher than EaP Median of 8,8).

Compared to 2018, the number of professional judges increased by 7,1%.

The figures show a difference of 0,9 percentage points between the percentage of judges in the first instance (75,3%) and the EaP average (73,4%)

Distribution of professional judges per 100 000 inhabitants by instance in 2018 and 2020



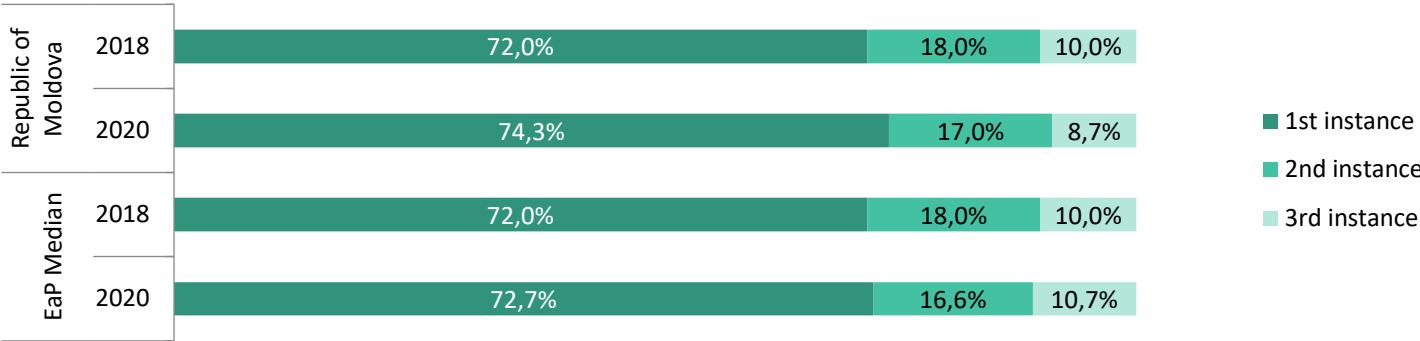
• Non-judge staff

The total number of non-judge staff in the Republic of Moldova was 1792. The number of non-judge staff per 100 000 inhabitants was 68,2, which was above EaP Median of 48,5. Compared to 2018, there was a slight decrease in the first instance (-1,3 PPT); second instance (-1 PPT) and an increase in the Supreme Court (1,3 PPT) in the distribution of non-judge staff among instances in 2020. The highest number of non-judge staff were assisting judges and represented 50,2% of the total.

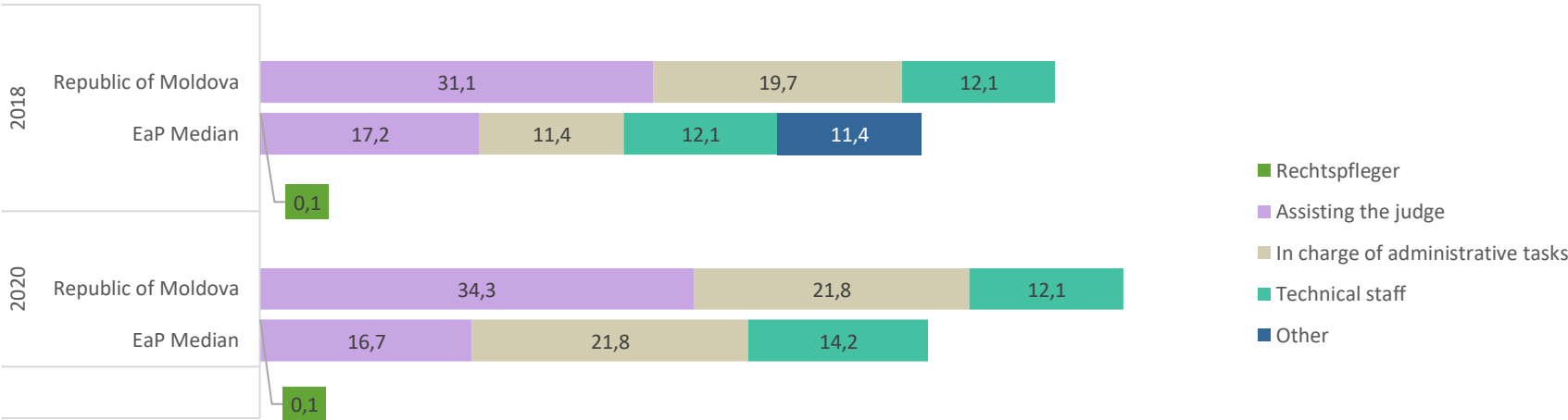
	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	1792	100,0%	68,2	48,5
1st instance courts	1332	74%	50,7	38,4
2nd instance courts	304	17%	11,6	7,8
Supreme Court	156	9%	5,94	3,49

	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	1792	100,0%	68,2	48,5
Rechtspfleger	NAP	NAP	NAP	0,1
Assisting the judge	900	50,2%	34,3	16,7
In charge of administrative tasks	573	32,0%	21,8	21,8
Technical staff	319	17,8%	12,1	14,2
Other	NAP	NAP	NAP	-

Distribution of non-judge staff by instance in 2018 and 2020



Number of non-judge staff per 100 000 inhabitants by category between 2018 and 2020

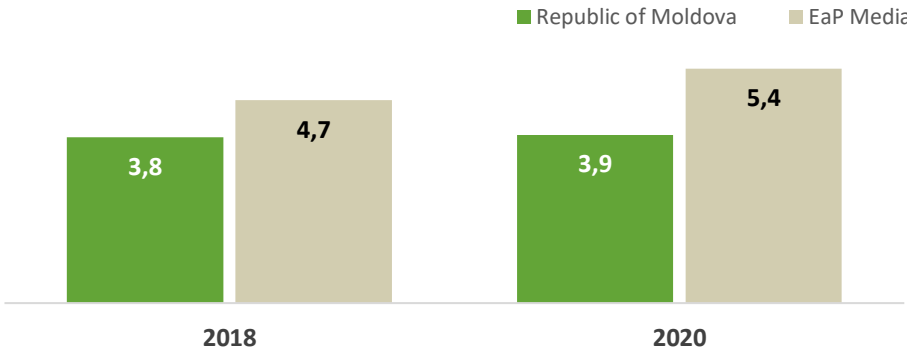


• Ratio between non-judge staff and professional judges

In the Republic of Moldova, the ratio of non-judge staff per professional judge was 3,9 in 2020, which below the EaP Median of 5,4 for 2020. There was only a 0.1 PPT increase since 2018 in this respect (compared to a 0,7 PPT in the EaP median).

	Ratio in 2020		% Variation between 2018 and 2020	
	Republic of Moldova	EaP Median	Republic of Moldova	EaP Median
Total	3,9	5,4	1,3%	15,4%
1st instance courts	3,8	5,8	1,6%	20,1%
2nd instance courts	3,3	4,1	-1,1%	11,0%
Supreme Court	7,1	7,1	14,0%	14,0%

Ratio between non-judge staff and judges between 2018 and 2020

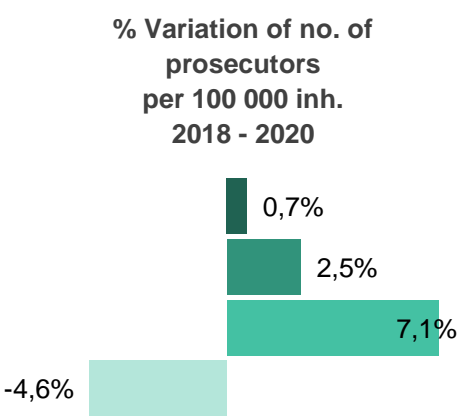


Prosecutors

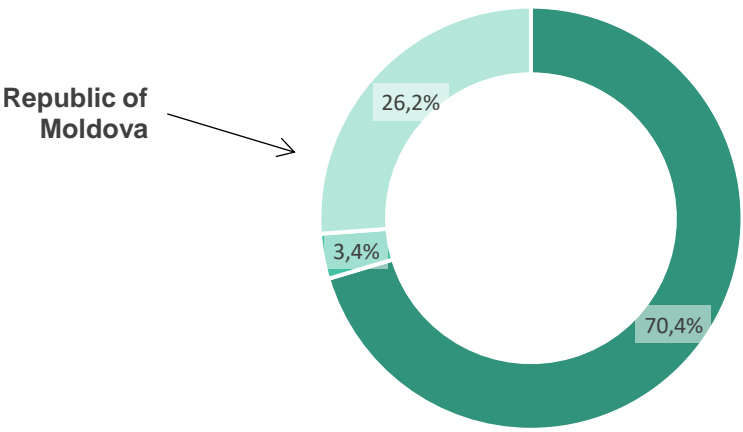
	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	638	100,0%	24,3	12,9
1st instance courts	449	70,4%	17,1	-
2nd instance courts	22	3,4%	0,8	-
Supreme Court	167	26,2%	6,4	-

In 2020, the total number of prosecutors in the Republic of Moldova was 638, which was 24,3 per 100 000 inhabitants (significantly higher than EaP Median of 12,9).

The total number of prosecutors increased by 0,7% between 2018 and 2020.

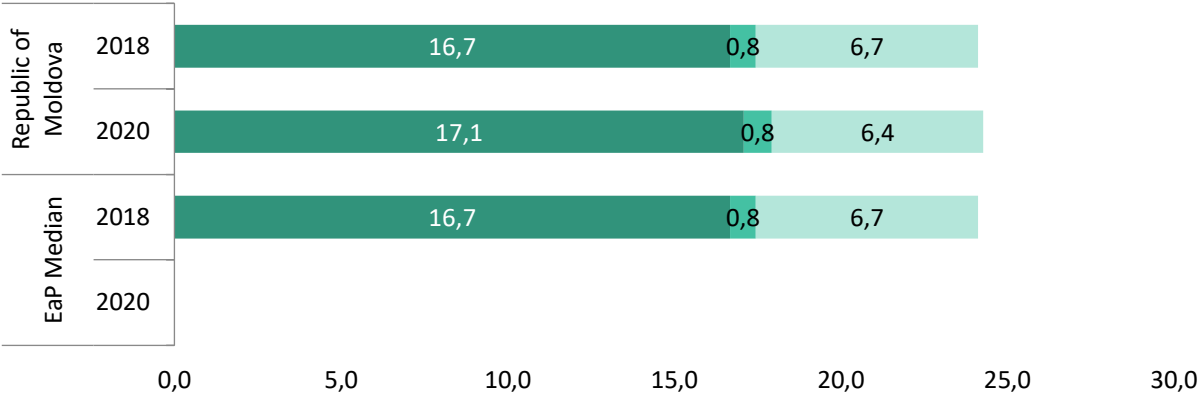


Distribution of prosecutors by instance in 2020 (%)



1st instance 2nd instance 3rd instance

Distribution of prosecutors per 100 000 inhabitants by instance in 2018 and 2020



Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

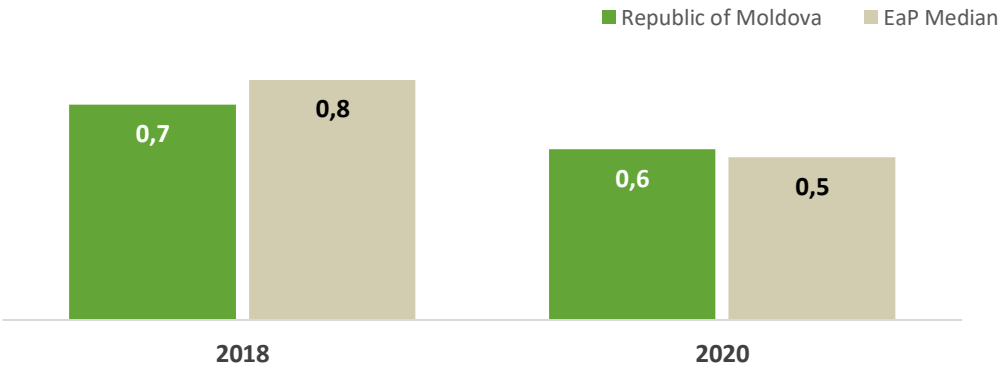
	Non-prosecutor staff in 2020			Ratio between non-prosecutor staff and prosecutors in 2020		% Variation of the ratio between 2018 and 2020	
	Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhab.	Republic of Moldova	EaP Median	Republic of Moldova	EaP Median
Total	360	13,7	9,5	0,6	0,5	-20,9%	-32,2%

In 2020, the total number of non-prosecutor staff in Republic of Moldova was 360, which decreased by -20,9% compared to 2018.

The number of non-prosecutor staff per 100 000 inhabitants was 13,7, above the EaP Median of 9,5.

The ratio of non-prosecutor staff per prosecutor was 0,6, which was slightly above the EaP Median of 0,5 in 2020.

Ratio between non-prosecutor staff and prosecutors between 2018 and 2020

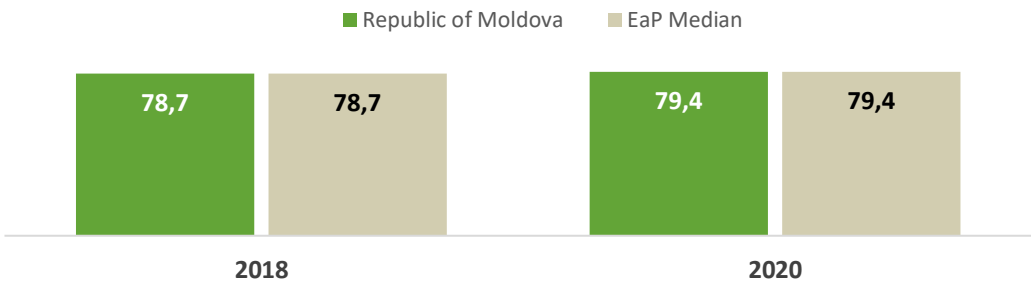


• Lawyers

	Number of lawyers			% Variation between 2018 and 2020	
	Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants	Republic of Moldova	EaP Median
Total	2 086	79,4	79,4	0,8%	0,8%

In 2020, the number of lawyers was 79,4 per 100 000 inhabitants, which was the same as the EaP Median (79,4). The number of lawyers increased by 0,8% between 2018 and 2020.

Number of lawyers per 100 000 inhabitants between 2018 and 2020



• Salaries of professional judges and prosecutors

		Salaries in 2020				% Variation of Gross Salary between 2018 and 2020	
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	EaP Median Ratio with the annual gross salary	Republic of Moldova	EaP Median
Professional judge	At the beginning of his/her career	12 551	10 041	2,5	3,9	16,3%	9,1%
	Of the Supreme Court or the Highest Appellate Court	18 631	14 905	3,8	6,3	7,9%	5,8%
Public prosecutor	At the beginning of his/her career	11 080	8 872	2,2	2,2	4,4%	-13,9%
	Of the Supreme Court or the Highest Appellate Court	16 489	13 491	3,3	5,5	-5,7%	30,9%

Gross annual salaries of professional judges and prosecutors in 2020



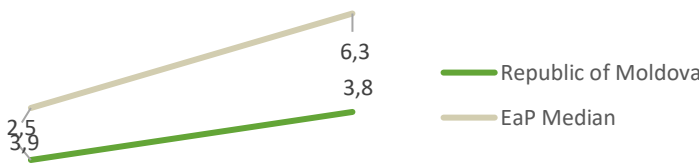
In 2020, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Republic of Moldova was 2,5, which was less than the EaP Median (3,9).

At the end of career, judges were paid more than at the beginning of career by 48,4%, which was less than the variation of EaP Median (62,4%).

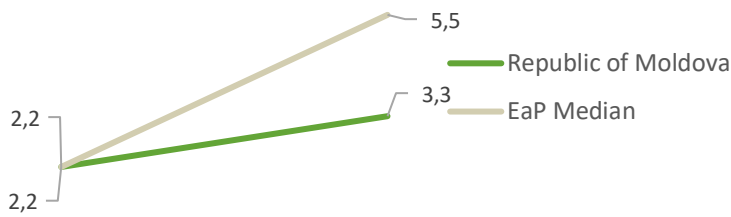
In 2020, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Republic of Moldova was 2,2, which was the same as the EaP Median (2,2).

At the end of career, prosecutors were paid more than at the beginning of career by 48,8%, which was less than the variation of EaP Median (146,2%).

Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020



Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020



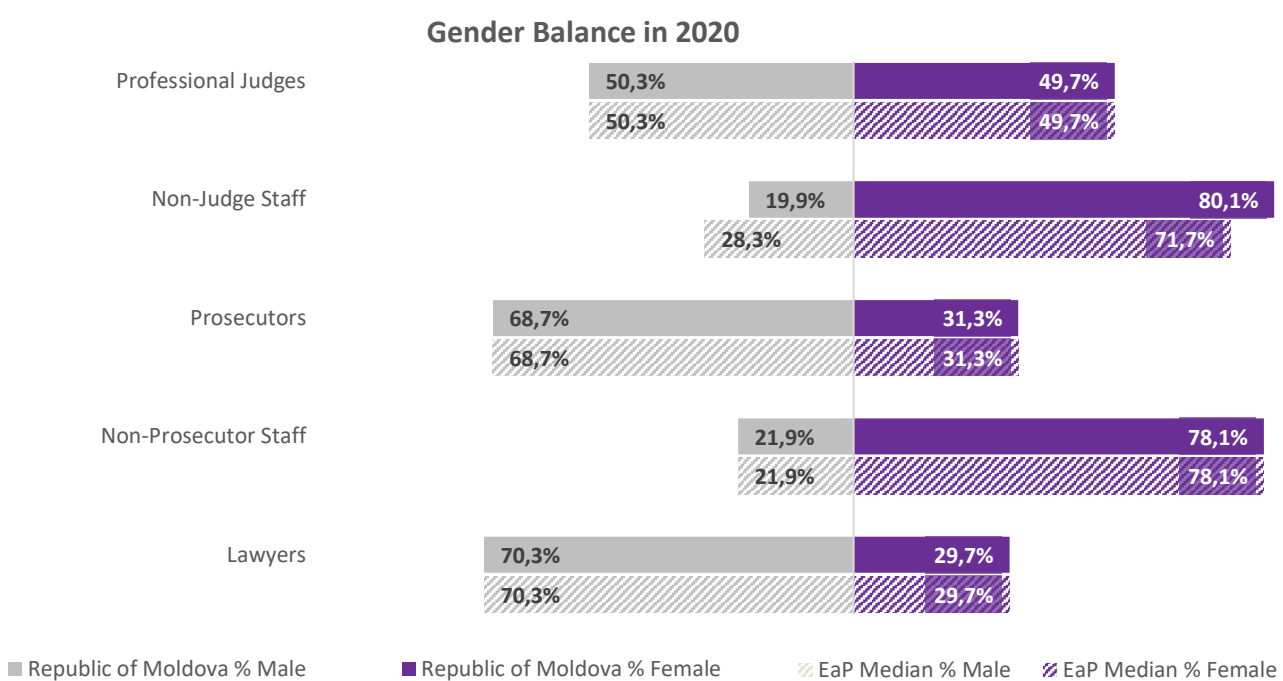
Additional benefits and bonuses for professional judges and prosecutors

	Reduced taxation	Special pension	Housing	Other financial benefit	Productivity bonuses for judges
Judges	✗	✓	✗	✓	✗
Prosecutors	✗	✓	✗	✓	

Since 2019, according to the Law No. 270 of 11.23.2018 regarding the unitary system of remuneration in the budgetary sector, all public employees can benefit from unique financial benefits on the occasion of professional holidays and non-working holidays, which are paid from the savings of the financial means allocated for the remuneration of the work for that year, but not more than 5% of the annual salary fund at the level of each budgetary entity. So, the cumulative amount of the bonuses granted to a judge or prosecutor during a budget year can not exceed the official salary of the judge/prosecutor.

• Gender Balance

	Total number per 100 000 inh.	% Female	EaP Median	Variation of % females between 2018 and 2020 (percentage points)	
				Republic of Moldova	EaP Median
Professional Judges	17,5	49,7%	49,7%	2,4	2,4
Non-Judge Staff	68,2	80,1%	71,7%	0,6	-6,9
Prosecutors	24,3	31,3%	31,3%	0,9	1,6
Non-Prosecutor Staff	13,7	78,1%	78,1%	12,0	12,1
Lawyers	79,4	29,7%	29,7%	-5,8	-6,9



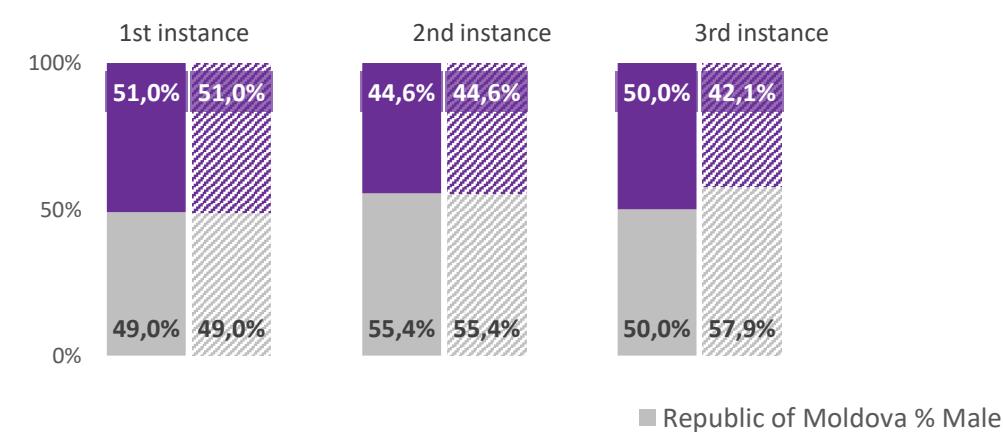
In 2020, the percentage of female judges was 49,7%, which was the same of the EaP Median. The percentage of female non-judge staff was 80,1%, which was above the EaP median of 71,7%.

The percentage of female prosecutors was 31,3%, which was the same of the EaP Median. The percentage of female non-prosecutor staff was 78,1%, on a par with the EaP median.

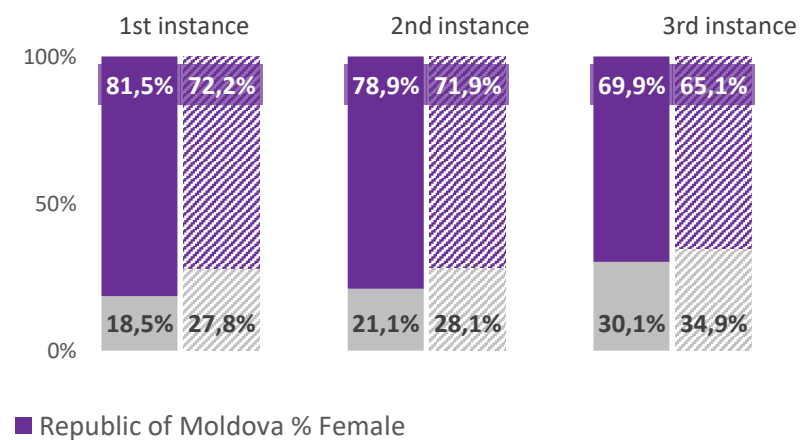
Finally, the percentage of female lawyers was 29,7%, which was the same as the EaP Median

	% Female Professional Judges		% Female Non-Judge Staff		% Female Prosecutors	
	Republic of Moldova	EaP Median	Republic of Moldova	EaP Median	Republic of Moldova	EaP Median
1st instance courts	51,0%	51,0%	81,5%	72,2%	29,8%	29,8%
2nd instance courts	44,6%	44,6%	78,9%	71,9%	40,9%	40,9%
Supreme Court	50,0%	42,1%	69,9%	65,1%	34,1%	34,1%

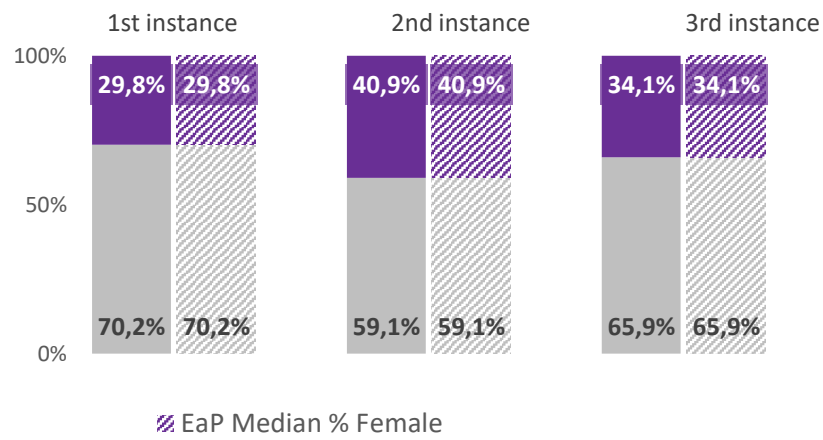
Professional Judges - Gender Balance by instance in 2020



Non-Judge Staff - Gender Balance by instance in 2020



Prosecutors - Gender Balance by instance in 2020



For judges, a decrease in the percentage of female can be observed from first to second instance and it levelled up in the third instance. For non-judge staff, higher the court - less women non-judge staff are employed. For prosecutors, the % of women in second instance is greater than in the first instances, and it diminishes from the second to the third instance.

• Gender Equality Policies

	Recruitment		Promotion		Person / institution specifically dedicated to ensure the respect of gender equality on institution level
	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	
Court president	✗				
Head of prosecution services	✗				
Judges	✗	✗	✗	✗	✗
Prosecutors	✗	✗	✗	✗	✗
Non-judge staff	✓	✗	✓	✗	✗
Lawyers	✗		✗		
Notaries	✗		✗		
Enforcement agents	✗		✗		

There is no overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary in the Republic of Moldova. Equal opportunities in the Republic of Moldova between men and women are regulated by Law no. 5 of 09.02.2006 on ensuring equal opportunities for women and men, as well as through the Strategy for ensuring the equality between women and men in the Republic of Moldova for the years 2017-2021. Both normative acts contain general provisions on gender equality without specifying measures specifically for the judicial system. <http://lex.justice.md/viewdoc.php?id=315674&lang=1> <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=370442&lang=1> There are no specific provisions for facilitating gender equality within the framework of the procedures for recruiting for judges, prosecutors, lawyers, notaries and enforcement agents but the conditions for joining a position of a judge, prosecutor, notary, lawyer, enforcement agent do not contain any restrictions that would limit the equality of chances between women and men in order to be recruited for the nominated professions.

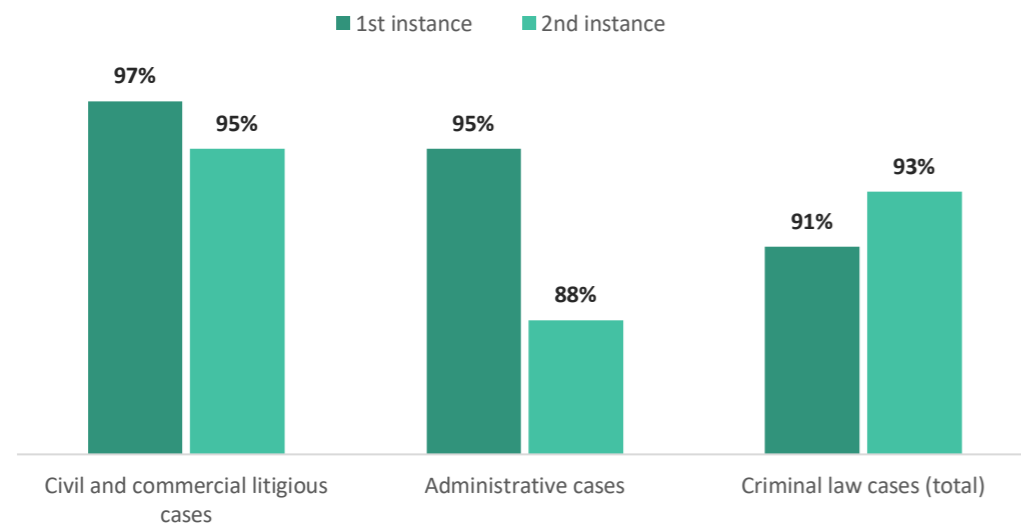
In respect of non-judge court staff, on December 22, 2016, Art. 14 of the Law no. 158 of 04.07.2008 regarding the public function and the status of the civil servant was supplemented by a new paragraph in force on January 6, 2017, according to which civil servants are entitled to equal opportunities and treatment of men and women in terms of recruiting, continuous professional development, and promotion.

According to the Law no. 5 of 09.02.2006 regarding the ensuring of gender equality between women and men, the authorities in the field of equality between men and women are: the Parliament, the Government, the Governmental Commission for Gender Equality, the Ministry of Labor, Social Protection and Family (specialized body), State Labor Inspectorate, ministries and other central administrative authorities (gender steering groups), local public administration authorities (gender units), National Bureau of Statistics, Council for Prevention and Elimination of Discrimination and Equality. There is no appointed authority /institution for gender equality in the judicial system.

Efficiency in the Republic of Moldova in 2020 (Indicators 3.1 and 3.2)

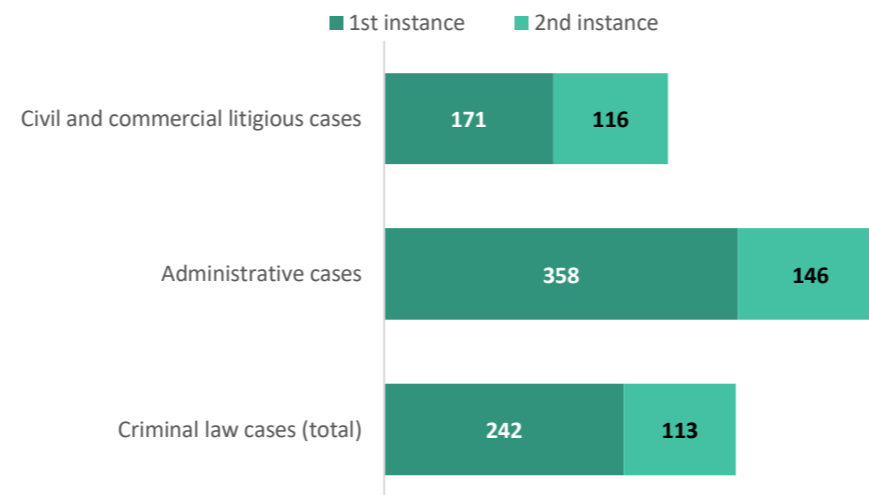
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases.
A CR of 100% or higher does not generate backlog.

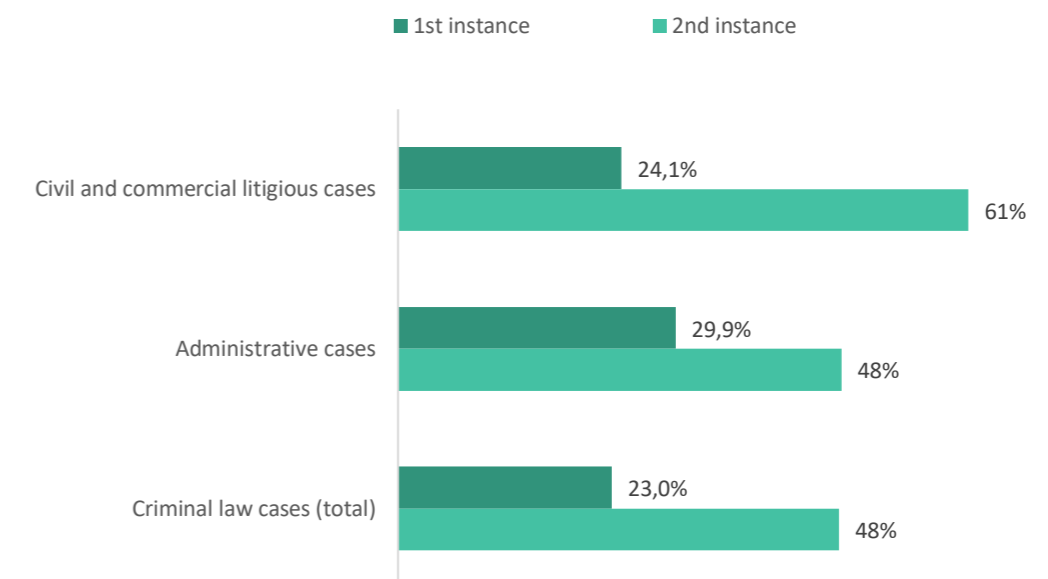


Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



Pending cases at the end of year - Variation between 2018 and 2020 (%)

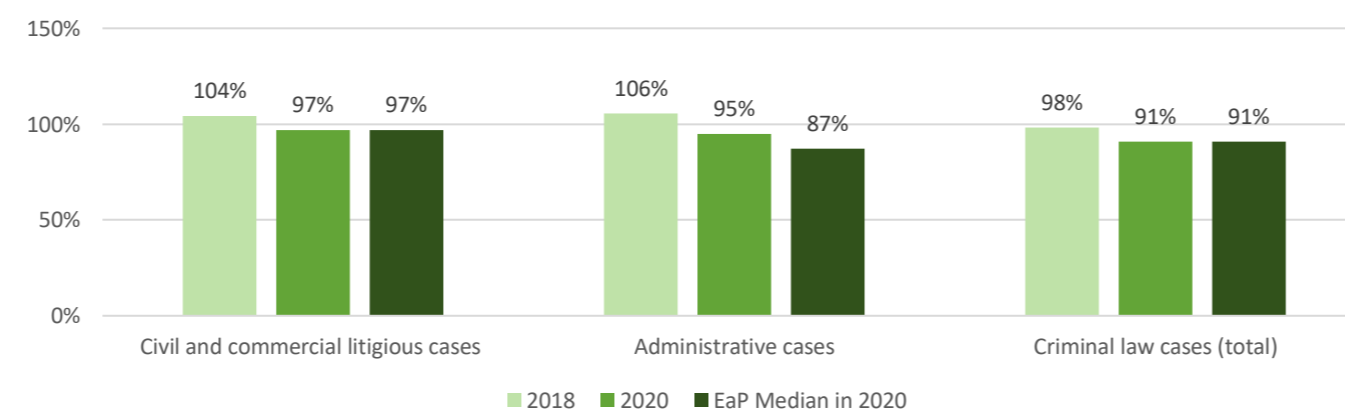


For the purposes of this Profile, the data of only 1st and 2nd instance courts is analysed. In 2020, some backlog was created in both first and second instance courts (Clearance Rates - below 100%). The highest Clearance Rate (CR) for the Republic of Moldova is for the first instance Civil and commercial litigious cases, with a CR of 97%. However, it seems that the Republic of Moldova was not able to deal as efficiently with the second instance Administrative cases (CR of 87,7%). With a Disposition Time (DT) of approximately 113 days, the second instance total Criminal law cases were resolved faster than the other types of cases. Compared to 2018, the pending cases at the end of year increased for the second instance Civil and commercial litigious cases (61,5%), whereas they increased for the first instance total Criminal law cases only by 23%.

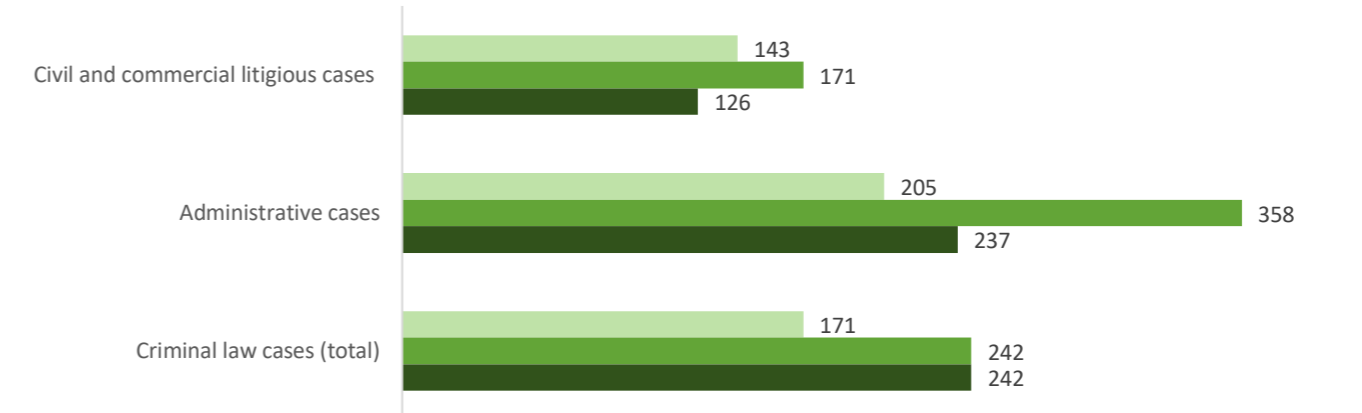
By decisions no.1, 4 and 13 from 18, 24 March and 3 April 2020 of the Commission for Emergency Situations specific measures were established also in the justice sector on the period of the state of emergency in response to Covid-19. It was stipulated to temporarily postpone the consideration of the civil and criminal cases until 15 May 2020, except the cases that need to be considered urgently. For specific civil and criminal cases it was recommended to courts if possible to schedule hearings considering the use of video conference system and parties were asked to file/communicate electronically. Later on, in the same period, most of the planned hearings for matters considered not urgent were postponed by courts and as a result the backlog at the end of the year increased.

First instance cases

Clearance rate for first instance cases between 2018 and 2020 (%)



Disposition time for first instance cases between 2018 and 2020 (in days)



First instance cases

The CRs decreased in 2020 compared to 2018 in all categories of cases in first instance courts. Compared to the EaP median for 2020, CR is higher in administrative cases and is the same in civil and commercial as well as criminal law cases.

DT increased in 2020 compared to 2018 in all categories of cases and is considerably higher than the EaP median, with the exception of criminal cases, where it is the same.

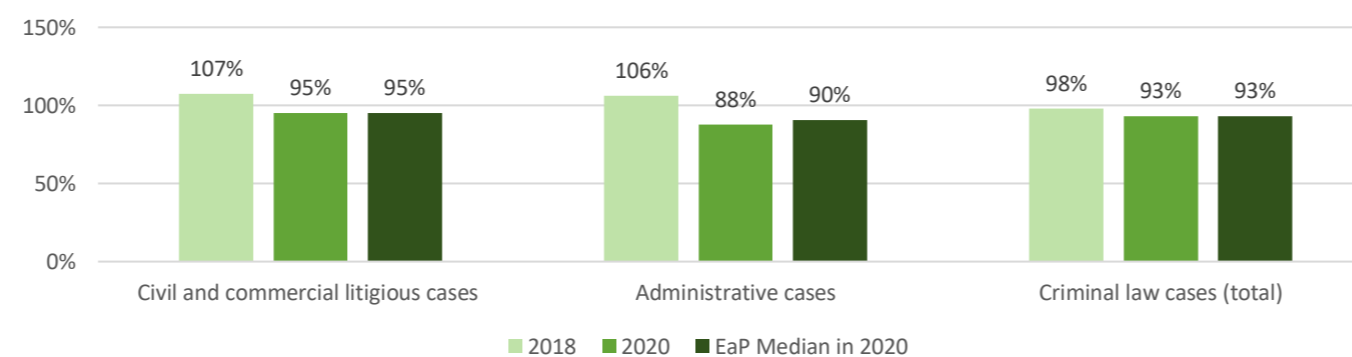
Second instance cases

The CRs decreased in 2020 compared to 2018 in all categories of cases. The CRs in civil and commercial cases and in criminal cases are the same as the EaP median for 2020 and it is slightly lower in the administrative cases.

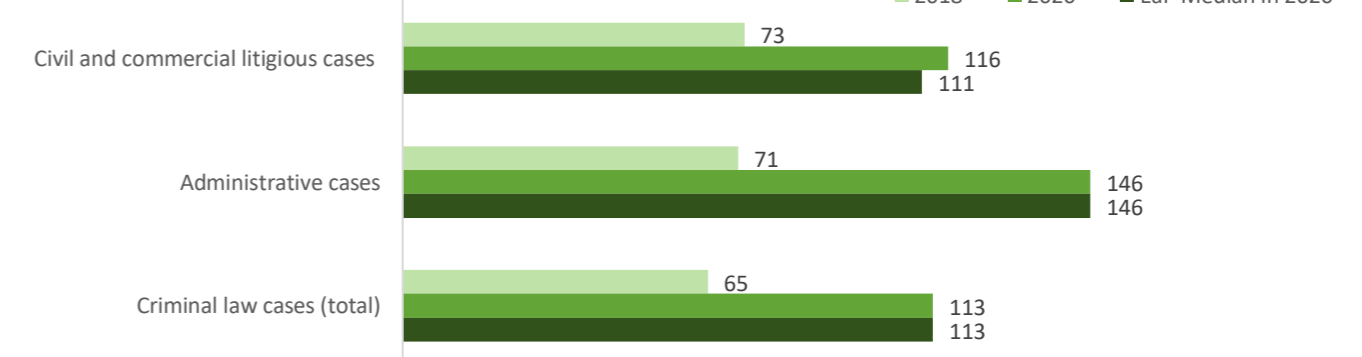
DT increased in all categories of cases, notably in administrative and in criminal cases, although on these cases it is on a par with the EaP median in 2020.

Second instance cases

Clearance rate for second instance cases between 2019 and 2020 (%)



Disposition time for second instance cases between 2019 and 2020 (in days)



• First instance cases - Other than criminal law cases

1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020						PPT = Percentage points
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)	
Total of other than criminal law cases (1+2+3+4)	100 425	100 015	46 826	5 186	99,6%	95,6%	171	133	3,82	3,81	1,78	0,20	3,8%	4,7%	25,3%	NA	0,9	19,7%	
1 Civil and commercial litigious cases	70 551	68 439	32 032	2 577	97,0%	97,0%	171	126	2,69	2,61	1,22	0,10	11,5%	3,8%	24,1%	10,4%	-7,2	19,6%	
2 Non-litigious cases**	11 305	12 253	4 143	0	108,4%	97,5%	123	123	0,43	0,47	0,16	0,00	-33,8%	-32,1%	74,6%	NA	2,7	46,0%	
3 Administrative cases	4 153	3 945	3 865	452	95,0%	87,2%	358	237	0,16	0,15	0,15	0,02	-17,1%	-25,4%	29,9%	31,8%	-10,5	74,1%	
4 Other cases	14 416	15 378	6 786	2 157	106,7%	100,0%	161	97	0,55	0,59	0,26	0,08	25,9%	46,7%	43,6%	NA	52,2	65,0%	

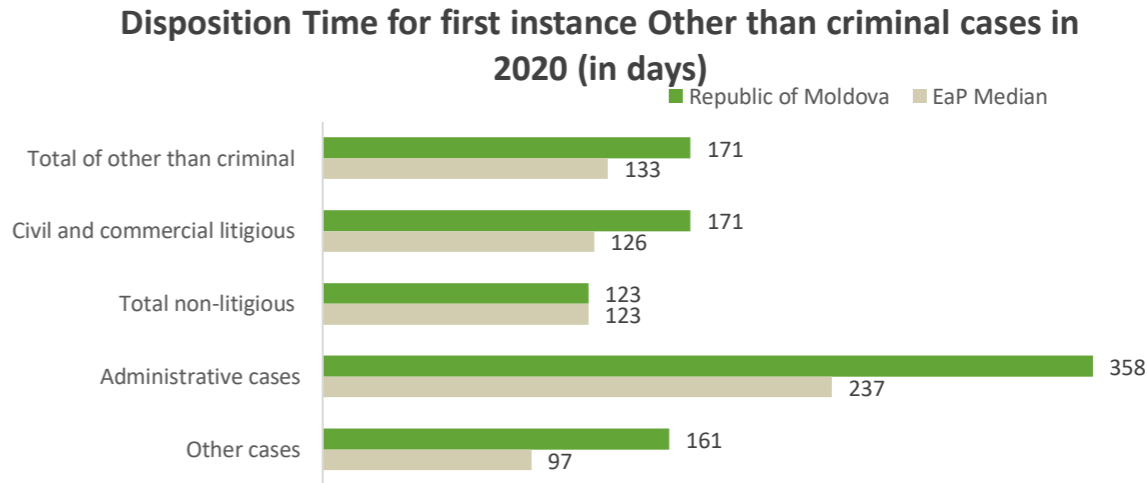
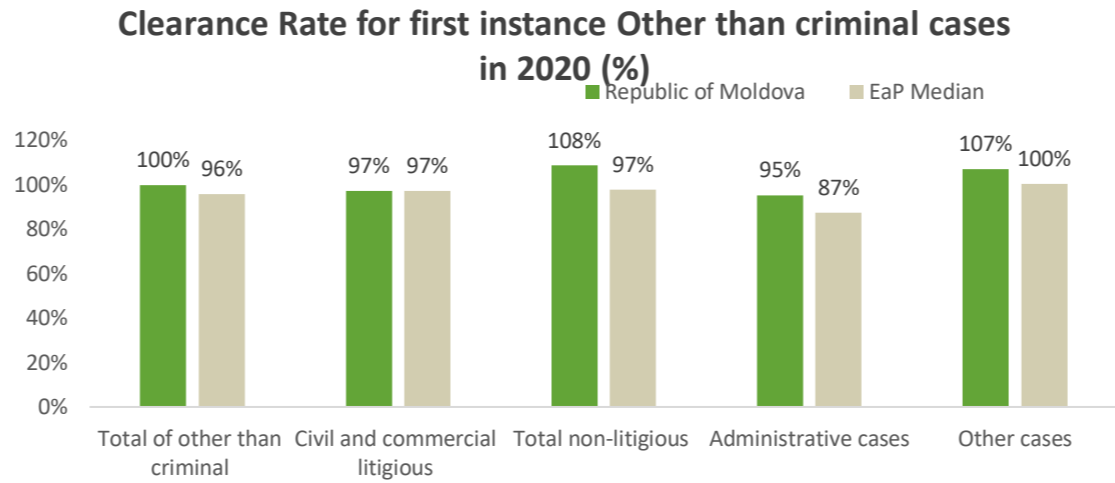
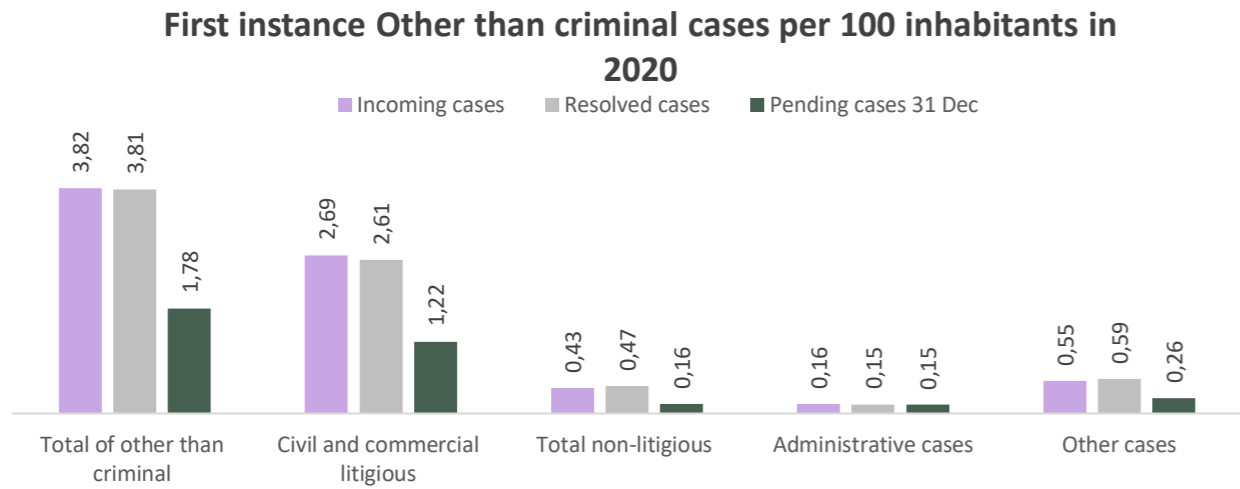
** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

In 2020, there were 70 551 incoming civil and commercial litigious cases, which was 2,69 per 100 inhabitants and 11,5% more than in 2018. The courts resolved 68 439 cases, which was 2,61 per 100 inhabitants and 3,8% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 97%. This decreased by -7,2 percentage points compared to 2018 and was the same as the EaP Median (97%).

Finally, the DT for civil and commercial litigious cases was approximately 171 days in 2020. This has increased by 19,6% compared to 2018 and it was above the EaP Median (126 days).

In 2020, there were 4 153 incoming administrative cases, which was 0,16 per 100 inhabitants and -17,1% less than in 2018. The courts resolved 3 945 cases, which was 0,15 per 100 inhabitants and -25,4% less than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 95%. This decreased by -10,5 percentage points compared to 2018 yet it was above the EaP Median (87,2%).

Finally, the DT for administrative cases was approximately 358 days in 2020. This has increased by 74,1% compared to 2018 and it was above the EaP Median (237 days).



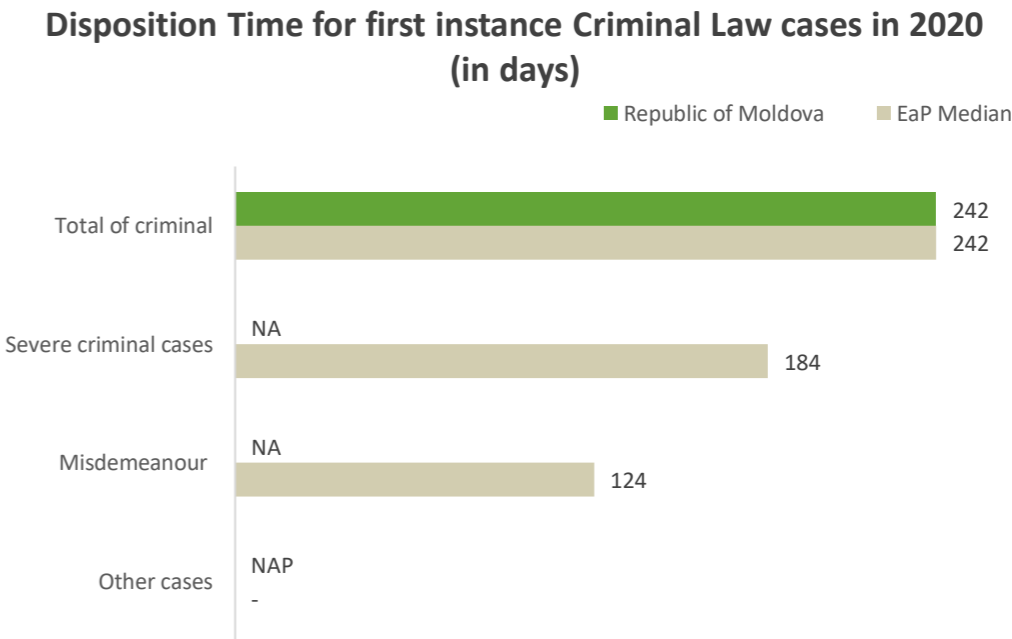
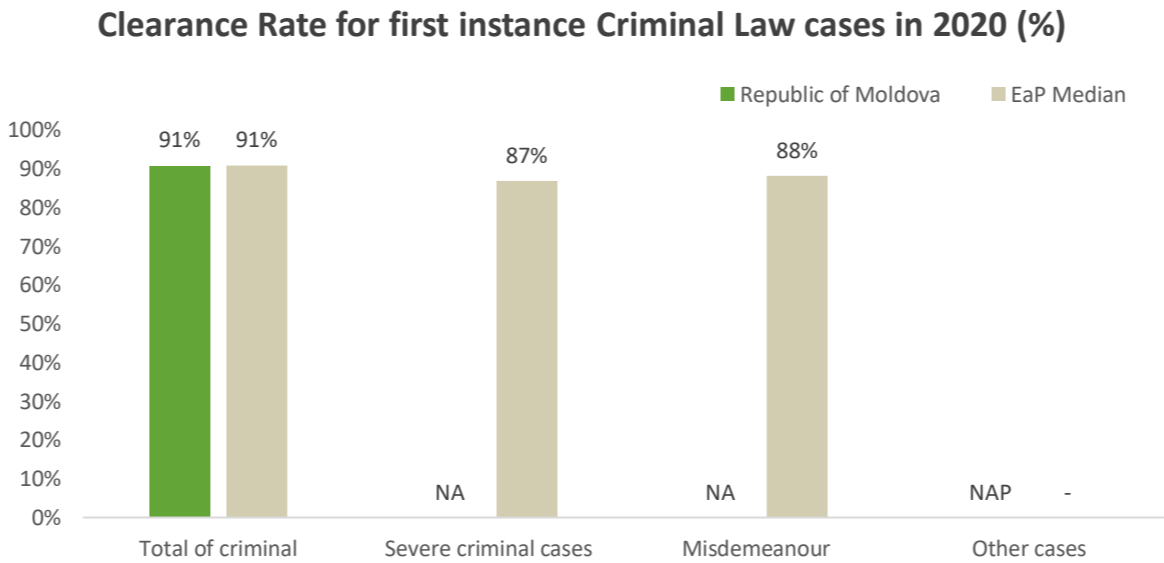
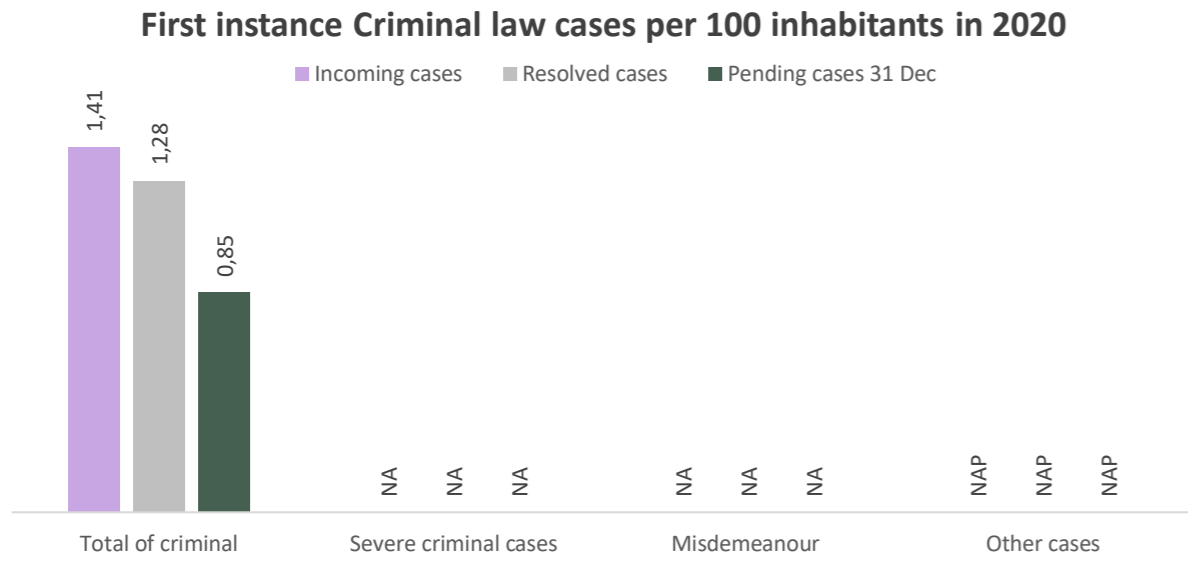
• First instance cases - Criminal law cases

		2020							Per 100 inhabitants in 2020				% Variation between 2018 and 2020						
1st instance		Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)		36 954	33 566	22 299	2 407	90,8%	90,8%	242	242	1,41	1,28	0,85	0,09	<div><div></div></div> -6,3%	<div><div></div></div> 13,3%	<div><div></div></div> 23,0%	<div><div></div></div> 85,6%	<div><div></div></div> -7,4	<div><div></div></div> 41,9%
1	Severe criminal cases	NA	NA	NA	NA	NA	86,7%	NA	184	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2	Misdemeanour and / or minor criminal cases	NA	NA	NA	NA	NA	88,2%	NA	124	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3	Other cases	NAP	NAP	NAP	NAP	NAP	-	NAP	-	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP

PPT = Percentage points

In 2020, there were 36 954 incoming total criminal cases, which was 1,41 per 100 inhabitants and -6,3% less than in 2018. In 2020, 33 566 cases were resolved, which was 1,28 per 100 inhabitants and -13,3% less than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 91%. This decreased by -7,4 percentage points compared to 2018 and was the same as the EaP Median (91%).

Finally, the DT for total criminal cases was approximately 242 days in 2020. This has increased by 41,9% compared to 2018 and it was on a par with the EaP Median (242 days).



• Second instance cases - Other than criminal law cases

		2020							Per 100 inhabitants in 2020				% Variation between 2018 and 2020						PPT = Percentage points	
2nd instance		Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)	
Total of other than criminal law cases (1+2+3+4)		17 437	16 395	5 256	0	94,0%	94,1%	117	115	0,66	0,62	0,20	0,00	<div><div></div><div>13,2%</div></div>	<div><div></div><div>0,7%</div></div>	<div><div></div><div>56,9%</div></div>	<div><div></div><div>-100,0%</div></div>	<div><div></div><div>-11,7</div></div>	<div><div></div><div>55,8%</div></div>	
1	Civil and commercial litigious cases	13 045	12 391	3 942	0	95,0%	95,0%	116	111	0,50	0,47	0,15	0,00	<div><div></div><div>14,6%</div></div>	<div><div></div><div>1,3%</div></div>	<div><div></div><div>61,5%</div></div>	<div><div></div><div>-100,0%</div></div>	<div><div></div><div>-12,5</div></div>	<div><div></div><div>59,4%</div></div>	
2	Non-litigious cases**	NAP	NAP	NAP	NAP	NAP	100,0%	NAP	-	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP	
3	Administrative cases	3 058	2 682	1 076	0	87,7%	90,5%	146	146	0,12	0,10	0,04	0,00	<div><div></div><div>12,8%</div></div>	<div><div></div><div>27,9%</div></div>	<div><div></div><div>47,8%</div></div>	<div><div></div><div>NA</div></div>	<div><div></div><div>-18,3</div></div>	<div><div></div><div>104,9%</div></div>	
4	Other cases	1 334	1 322	238	0	99,1%	99,1%	66	61	0,05	0,05	0,01	0,00	<div><div></div><div>62,6%</div></div>	<div><div></div><div>103,0%</div></div>	<div><div></div><div>32,2%</div></div>	<div><div></div><div>NA</div></div>	<div><div></div><div>34,5</div></div>	<div><div></div><div>-67,2%</div></div>	

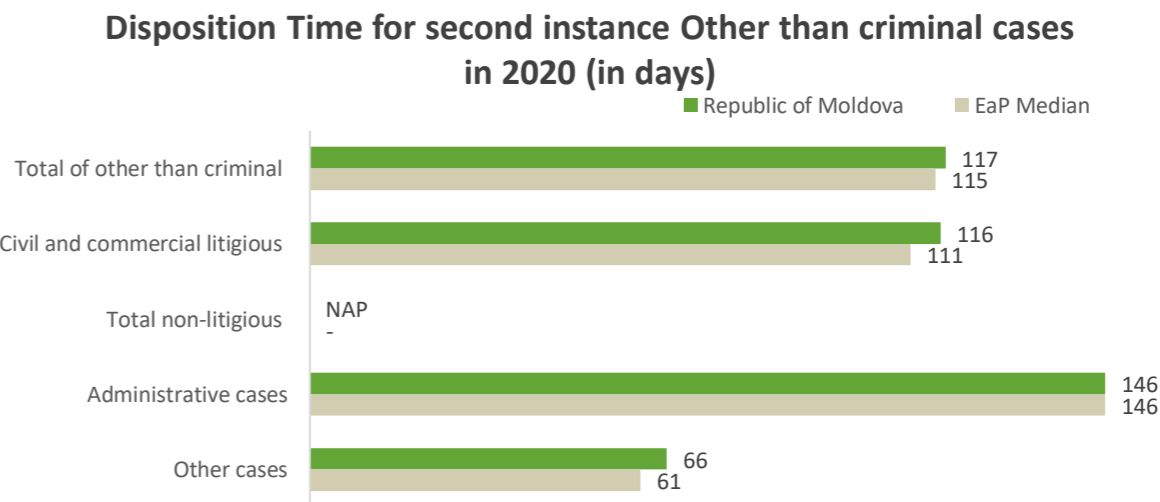
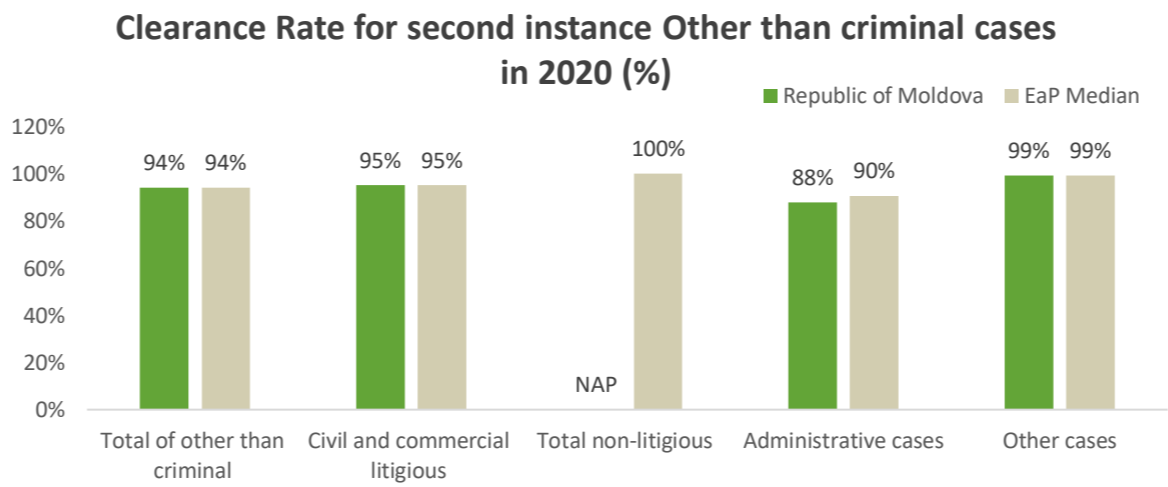
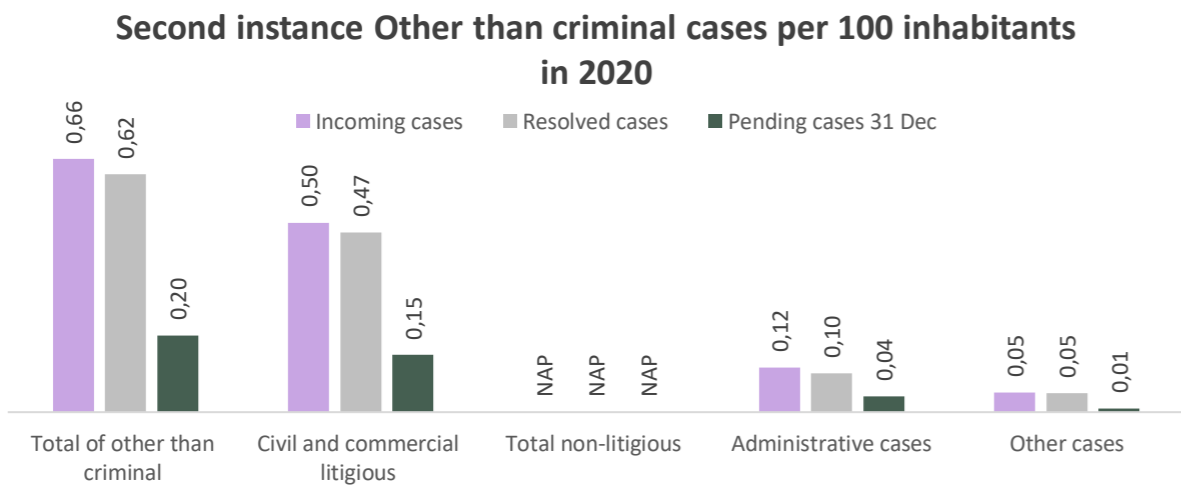
** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

In 2020, there were 13 045 incoming civil and commercial litigious cases, which was 0,50 per 100 inhabitants and 14,6% more than in 2018. In 2020, the courts resolved 12 391 cases, which was 0,47 per 100 inhabitants and 1,3% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 95%. This decreased by -12,5 percentage points compared to 2018 and it was still the same as the EaP Median (95%).

Finally, the DT for civil and commercial litigious cases was approximately 116 days in 2020. This has increased by 59,4% compared to 2018 and it was slightly above the EaP Median (111 days).

In 2020, there were 3 058 incoming administrative cases, which was 0,12 per 100 inhabitants and -12,8% less than in 2018. In 2020, the courts resolved 2 682 cases, which was 0,10 per 100 inhabitants and -27,9% less than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 87,7%. This decreased by -18,3 percentage points compared to 2018 and it was below the EaP Median (90,5%).

Finally, the DT for administrative cases was approximately 146 days in 2020. This has increased by 104,9% compared to 2018 and it was the same as the EaP Median (146 days).



• Second instance cases - Criminal law cases

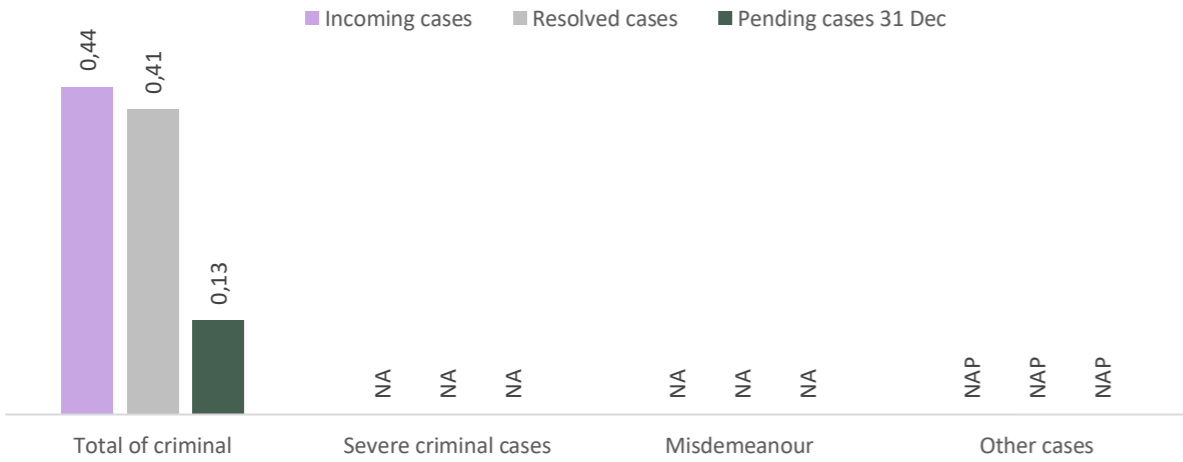
		2020							Per 100 inhabitants in 2020				% Variation between 2018 and 2020						
2nd instance		Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)		11 551	10 761	3 330	0	93,2%	93,2%	113	113	0,44	0,41	0,13	0,00	<div><div></div></div> 10,5%	<div><div></div></div> 15,0%	<div><div></div></div> 47,5%	NA	<div><div></div></div> -5,0	<div><div></div></div> 73,7%
1	Severe criminal cases	NA	NA	NA	NA	NA	83,6%	NA	218	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2	Misdemeanour and / or minor criminal cases	NA	NA	NA	NA	NA	91,9%	NA	78	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3	Other cases	NAP	NAP	NAP	NAP	NAP	-	NAP	-	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP

PPT = Percentage points

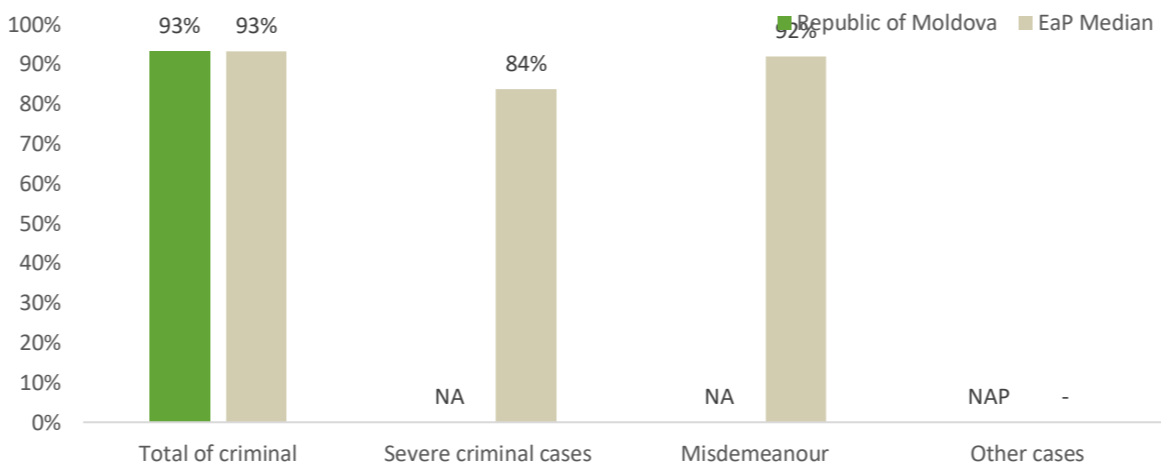
In 2020, there were in total 11 551 incoming criminal cases, which was 0,44 per 100 inhabitants and -10,5% less than in 2018. The courts resolved 10 761 cases, which was 0,41 per 100 inhabitants and -15% less than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 93%. This decreased by -5 percentage points compared to 2018 and it was on a par with the EaP Median (93%).

Finally, the DT for total criminal cases was approximately 113 days in 2020. This has increased by 73,7% compared to 2018 and it was still the same as the EaP Median (113 days).

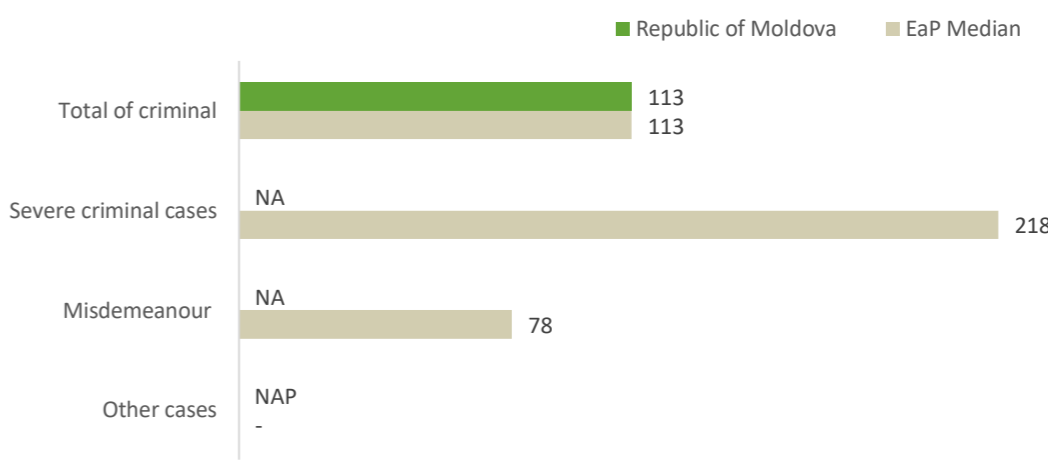
Second instance Criminal law cases per 100 inhabitants in 2020



Clearance Rate for second instance Criminal Law cases in 2020 (%)



Disposition Time for second instance Criminal Law cases in 2020 (in days)



• Average length of proceedings for specific category cases (in days - from the date the application for judicial review is lodged)

	2020						% Variation between 2018 and 2020					
	Decisions subject to appeal (%)	Average length of proceedings (in days)				% of cases pending for more than 3 years for all instances	Decisions subject to appeal (PPT)	Average length of proceedings (in days)				Cases pending for more than 3 years for all instances (PPT)
		First instance	Second instance	Third instance	Total			First instance	Second instance	Third instance	Total	
Civil and commercial litigious cases	12%	NA	NA	NA	NA	4%	NA	NA	NA	NA	NA	NA
Litigious divorce cases	4%	NA	NA	NA	NA	2%	NA	NA	NA	NA	NA	NA
Employment dismissal cases	63%	NA	NA	NA	NA	5%	NA	NA	NA	NA	NA	NA
Insolvency cases	33%	NA	NA	NA	NA	20%	NA	NA	NA	NA	NA	NA
Robbery cases	42%	NA	NA	NA	NA	10%	NA	NA	NA	NA	NA	NA
Intentional homicide cases	76%	NA	NA	NA	NA	12%	NA	NA	NA	NA	NA	NA
Bribery cases	NA	NA	NA	NA	NA	NA						
Trading in influence	NA	NA	NA	NA	NA	NA						

Only the data on decisions subject to appeal and % of cases pending for more than 3 years was provided for 2020. There is no data available on the length of proceedings for 2020.

• Quality standards and performance indicators in the judicial system

Specialised personnel entrusted with implementation of these national level quality standards	
Within the courts	No
Within the prosecution services	No

In the Republic of Moldova there are no quality standards determined for the judicial system at national level (quality systems for the judiciary and/or judicial quality policies) and respectively, there is no personnel entrusted with their implementation.

• **Performance and quality indicators and regular assessment in courts and prosecution offices**

In the Republic of Moldova performance and quality indicators are defined for courts and prosecution offices, respectively, as follows:

	Courts		Prosecution offices	
	Performance and quality indicators	Regular assessment	Performance and quality indicators	Regular assessment
Number of incoming cases	✓	✓	✓	✓
Length of proceedings (timeframes)	✓	✓	✓	✓
Number of resolved cases	✓	✓	✓	✓
Number of pending cases	✓	✓	✓	✓
Backlogs	✓	✓	✓	✓
Productivity of judges and court staff / prosecutors and prosecution staff	✓	✓	✓	✓
Satisfaction of court / prosecution staff	✓	✗	✗	✗
Satisfaction of users (regarding the services delivered by the courts / the public prosecutors)	✓	✗	✗	✗
Costs of the judicial procedures	✓	✓	✓	✗
Number of appeals	✓	✓		
Appeal ratio	✓	✓		
Clearance rate	✓	✓	✗	✗
Disposition time	✓	✓	✗	✗
Percentage of convictions and acquittals			✓	✓
Other	✓	✓	✗	✗

Monitoring of the number of pending cases and backlogs		
Civil law cases	Yes	
Criminal law cases	Yes	
Administrative law cases	Yes	

Monitoring of the waiting time during judicial proceedings		
Within the courts	Yes	
Within the public prosecution services	No	

The waiting time in courts is being monitored due to the implementation of the new version of ICMS in all courts.

The quality indicators for courts are approved by SCM Decisions (no.634 / 26 of 29.09.2016, no.854 / 37 of 19.12.2017).

• **Quantitative targets for each judge and prosecutor**

In the Republic of Moldova there are no quantitative targets for judges and prosecutors

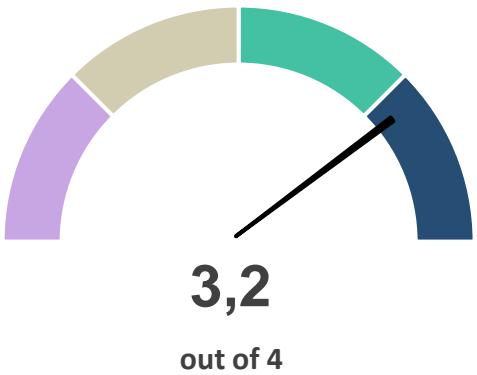
Responsible for setting up quantitative targets for judges		Responsible for setting up quantitative targets for public prosecutors	
Executive power (for example the Ministry of Justice)	NAP	Executive power (for example the Ministry of Justice)	NAP
Legislative power	NAP	Prosecutor General /State public prosecutor	NAP
Judicial power (for example the High Judicial Council, Supreme Court)	NAP	Public prosecutorial Council	NAP
President of the court	NAP	Head of the organisational unit or hierarchical superior public prosecutor	NAP
Other:	NAP	Other	NAP

Consequences for not meeting the targets	Judges	Public prosecutors
Warning by court's president/ head of prosecution	NAP	NAP
Disciplinary procedure	NAP	NAP
Temporary salary reduction	NAP	NAP
Other	NAP	NAP
No consequences	NAP	NAP

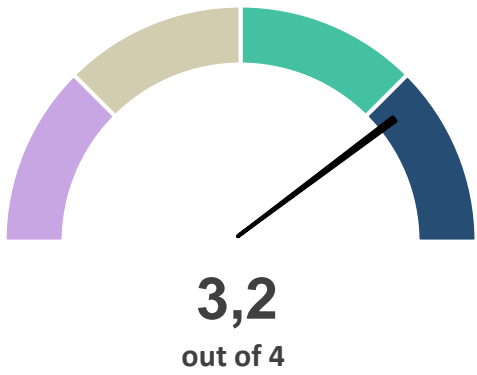
Electronic case management system and court activity statistics in the Republic of Moldova in 2020 (Indicator 3.3)

The Case management system (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarised while the deployment rate is multiplied as a weight. In this way, if the system is not fully deployed the value is decreased even if all features are included, to provide an adequate evaluation.

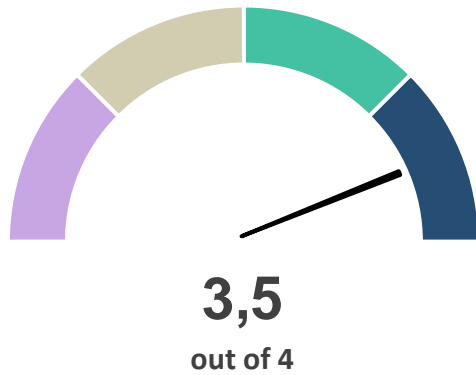
CMS index in Civil and/or commercial



CMS index for Criminal



CMS index for Administrative

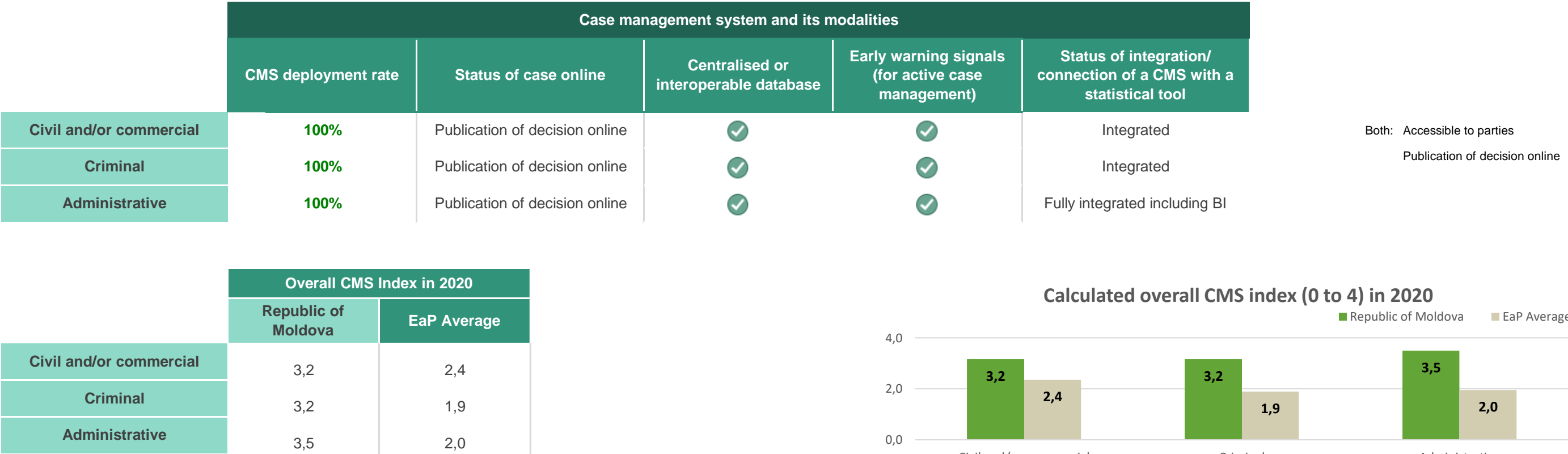


Electronic case management system

In the Republic of Moldova, there is no IT Strategy for the judiciary.

There is a case management system (CMS), e.g. software used for registering judicial proceedings and their management, called "Integrated Case Management System - ICMS". It was developed in the last 2 years. There was no plan in 2020 for a significant change in the present IT system in the judiciary.

The CMS index for the Republic of Moldova (3,2 for civil and commercial as well as criminal cases, and 3,5 for administrative cases) is higher than the EaP medians of 2,4, 1,9 and 2,0 respectively. The ICMS is deployed in all courts and a statistical tool is reported as integrated. In 2020, new functionalities of early warning signals were developed as a part of the ICT reform programme and a new ICMS version.



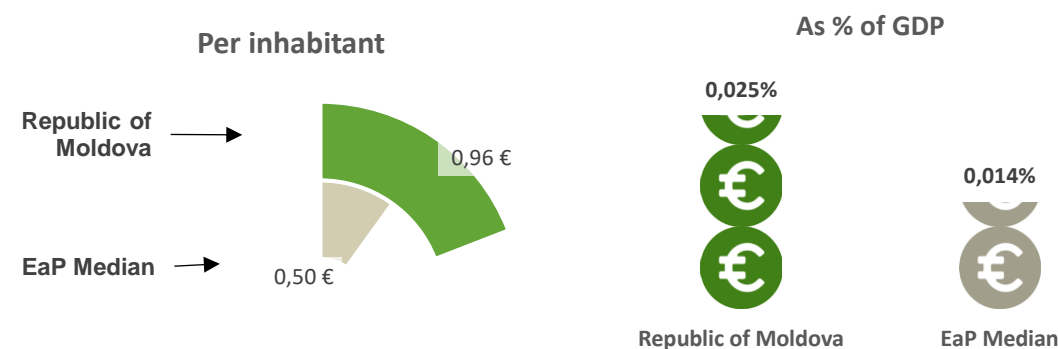
- **Centralised national database of court decisions**

In the Republic of Moldova, there is a centralised national database of court decisions, which contains the judgements of all instances. It is available online free of charge. There are no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

	For 1st instance decisions	For 2nd instance decisions	For 3rd instance decisions	Link with ECHR case law	Data anonymised	Case-law database available free online	Case-law database available in open data
Civil and/or commercial	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓
Criminal	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓
Administrative	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓

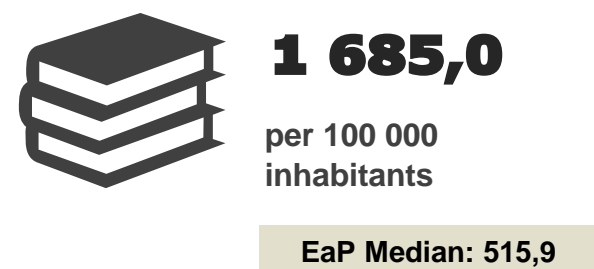
Legal Aid in the Republic of Moldova in 2020 (Indicator 4)

Total implemented budget for Legal Aid in 2020

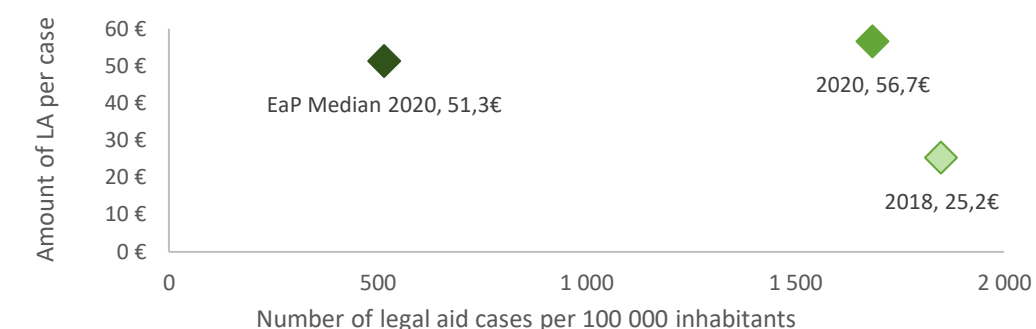


In 2020, the implemented budget for legal aid spent by Republic of Moldova was 0,96€ per inhabitant (considerably above the EaP Median of 0,5€). The implemented budget for legal aid was equal to 0,025% of the GDP and above the EaP Median (0,014%).

Number of LA cases



Amount of implemented legal aid per case(in €) and total no. of legal aid cases per 100 000 inh. between 2018 and 2020



This scatterplot shows the relation between the number of legal aid (LA) cases per 100 000 inh. and the amount of LA per case. A figure on the right (left) of the EaP Median means that the Beneficiary has more (less) number of LA cases per 100 000 inh. than the EaP Median. A figure above (below) the EaP Median shows that the Beneficiary has spent per LA case more (less) than the EaP Median.

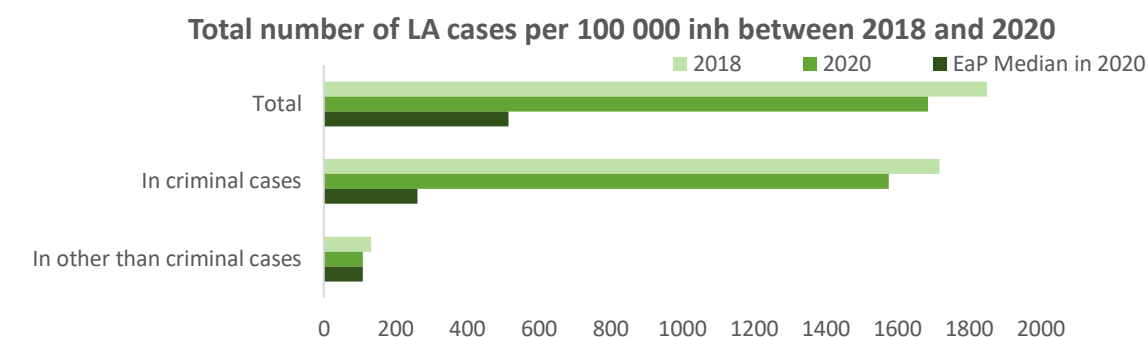
Implemented budget for legal aid and number of cases for which legal aid has been granted

	Implemented budget for legal aid in €				Total implemented budget for legal aid Per inhabitant		Total implemented budget for legal aid as % of GDP	
	Total	% Variation (2018 - 2020)	Cases brought to court	Cases not brought to court	Republic of Moldova	EaP Median	Republic of Moldova	EaP Median
Total	2 511 204 €	100,4%	2 445 304 €	65 900 €	0,96 €	0,50 €	0,025%	0,014%
In criminal cases	NA	NA	NA	NA				
In other than criminal cases	NA	NA	NA	NA				

In 2020, the total implemented budget for legal aid was 2 511 204€, which was 100,4% more compared to 2018, due to the increase in the remuneration for legal aid services, the expansion of the legal aid system, the diversification of the range of services and beneficiaries of legal aid, as well as the active promotion of the system. In 2020, the categories of legal aid beneficiaries regardless of income level were extended, to include victims of domestic violence; victims of trafficking in human beings; victims of torture and ill-treatment; asylum seekers and a concept which allows 24/24 assistance for victims of domestic violence and sexual offenses was implemented. Starting with 2020, legal aid is also granted to legal entities in several categories of criminal cases.

	Number of cases for which legal aid has been granted					Amount of LA granted per case (€)		
	Total			Cases brought to court	Cases not brought to court	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 000 inh.	% Variation (2018 - 2020)					
Total	44 265	1 685	-8,9%	NA	NA	56,7 €	NA	NA
In criminal cases	41 397	1 576	-8,3%	NA	NA	NA	NA	NA
In other than criminal cases	2 868	109	-17,3%	NA	NA	NA	NA	NA

In 2020, the total number of cases for which legal aid was granted was 44,265, which was -8,9% less compared to 2018. The decrease is explained by the lockdown which caused the postponement of court hearings including for criminal and administrative offences cases considered not urgent; as well as the increase in the number of refusals to grant legal aid. The number of criminal cases for which legal aid was granted were 41,397, and the other than criminal cases - 2,868. On average, the Republic of Moldova spent 56,7€ per case for which legal aid was granted, which is above the EaP median of 51,3€.

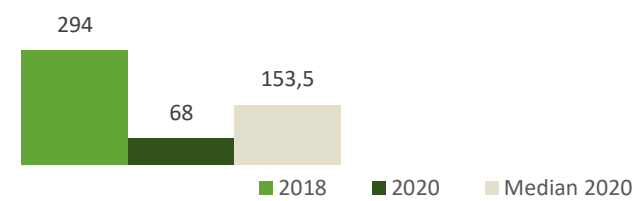


Training of judges and prosecutors in the Republic of Moldova in 2020 (Indicator 7)

Total budget for Training per 100 inhabitants



Delivered in-person training courses between 2018 and 2020 (in days)

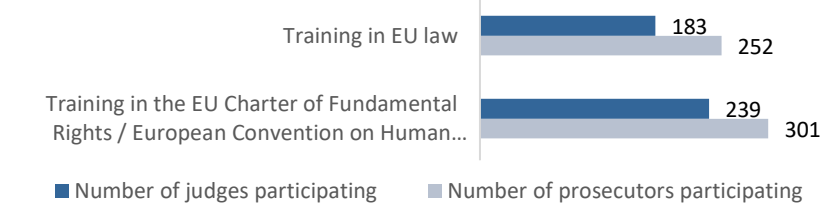


Number of online training courses (e-learning) available between 2018 and 2020



Training in EU law (participants in 2020)

Organised/financed by the training institutions for judges and prosecutors



The total budget for training of judges and prosecutors (budgets spent by the training institutions, the courts and the public prosecution services on training) in the Republic of Moldova was 34,8€ per 100 inhabitants, which is above the Eastern Partnership (EaP) median (26,6€ per 100 inhabitants). The number of delivered in-person training courses decreased between 2018 and 2020 (from 294 days to 68 days) due to pandemic-related Government measures.

Budget for Trainings

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)			
			Absolute Number	Per 100 inhabitants	Per 100 inhabitants % variation 2018 - 2020	EaP Median per 100 inhabitants
Total	912 473 €	1 418 €	913 891 €	34,8 €	-59,2%	26,6 €
Judges	NAP	1 418 €				
Prosecutors	NAP	0 €				
One single institution for both judges and prosecutors	912 473 €					

The National Institute of Justice is a public independent institution responsible for the initial and in-service training of judges and prosecutors, clerks and judicial assistants, heads of court's secretariat and probation officers and other judicial staff.

The Republic of Moldova spent in total 913 891€ for training for judges and prosecutors in 2020, which is 34,8€ per 100 inhabitants (above the EaP Median of 26,6€ per 100 inhabitants). In 2020, the Republic of Moldova spent for the training of judges and prosecutors 59,2% less than in 2018.

Type and frequency of trainings

		Judges		Prosecutors	
		Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency
In-service training	Initial training	Compulsory		Compulsory	
	General	Compulsory	Regularly	Compulsory	Regularly
	Specialised judicial functions	Optional	Regularly	Optional	Regularly
	Management functions of the court	Optional	Regularly	Optional	Regularly
	Use of computer facilities in courts	Optional	Regularly	Optional	Regularly
	On ethics	Optional	Regularly	Optional	Regularly

Judges have to undergo an in-service training, by selecting themes from the curriculum, and they have to complete at least 40 hours annually.

According to the provisions of the Law on the Prosecution Office, prosecutors shall participate in at least 40 hours per year in the programmes of continuous training organized by the National Institute of Justice, by other higher education institutions from the country or from abroad, or in other trainings.

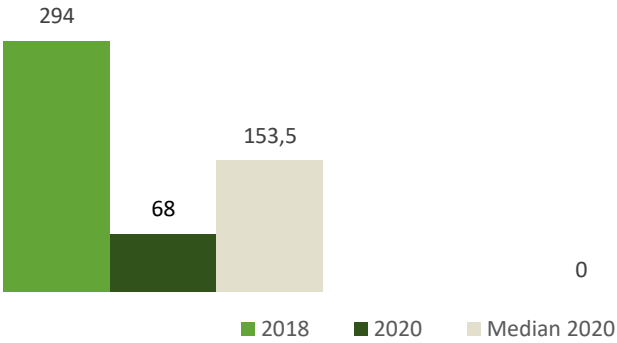
In the Republic of Moldova, no sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions.

The in-service training annual curricula for judges and prosecutors contains trainings dedicated to ethics, the prevention of corruption and conflict of interest. Thus, there are separate trainings for judges on the following topics: Discipline and responsibility of judges, Ethics and deontology of judges; and for prosecutors: Ethical and professional conduct management and conflict management. Also there are joint trainings for both judges and prosecutors (Methods to prevent corrupt behaviour). The training lasts 2-3 days and the participation is more than once on a regular basis.

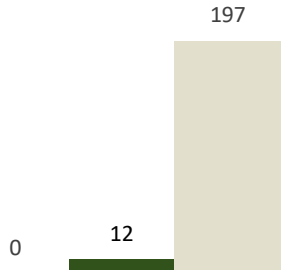
• Number of in-service trainings and participants

	In-person training courses				Online training courses (e-learning)		
	Available (number)	Delivered (in days)		Number of participants	Available (number)		Number of participants
		In 2020	% Variation 2018 - 2020		In 2020	% Variation 2018 - 2020	
Total	57	68	-77%	1301	12	NA	1135
Judges	21	23	NAP	351	12	NAP	161
Prosecutors	14	19	NAP	212	12	NAP	162
Non-judge staff	15	15	NAP	329	12	NAP	542
Non-prosecutor staff	15	15	NAP	22	12	NAP	57
Other professionals	18	24	-	387	12	-	213

Delivered in-person training courses between 2018 and 2020 (in days)



Number of online training courses (e-learning) available between 2018 and 2020

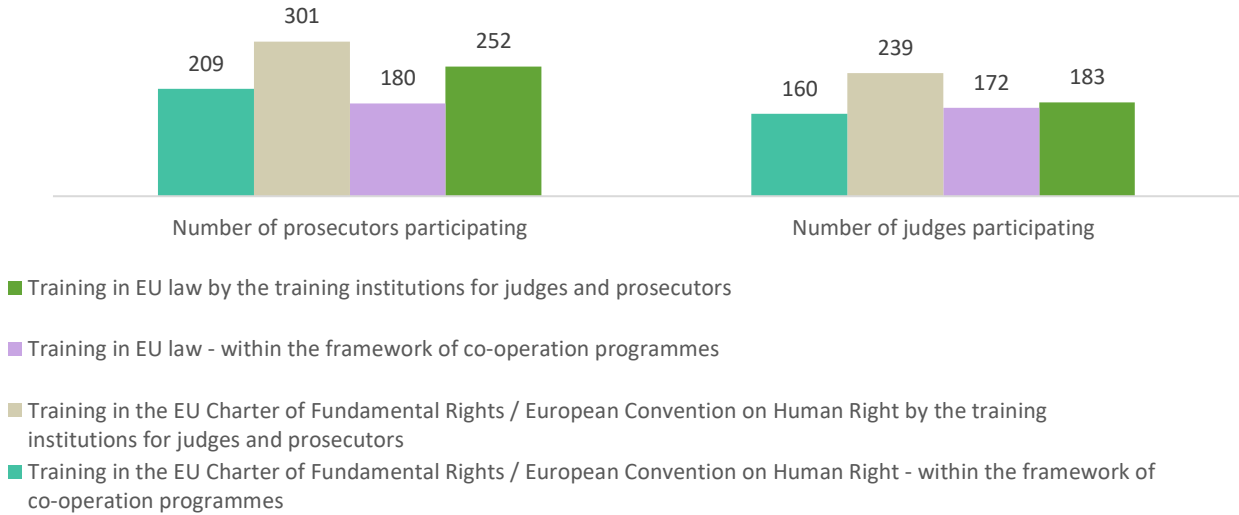


Due to the pandemic situation in 2020, most of the trainings were conducted remotely by e-learning and videoconference platforms. The other professionals include legal aid lawyers, probation officers. The trainings for other professionals were organized in January, February, September and November 2020 on the following topics: Juvenile probation: elaboration of the pre-sentence report, Methods to work with family aggressors and prevention techniques for violence against women and children, Professional integrity of the probation officers, Measures to protect child victims of sexual abuse, Early release and reducing the term of punishment for inhuman conditions of detention, etc.

• Number of EU law training courses and participants

	Training in EU law		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights	
	Organised/financed: By the training institutions for judges and prosecutors	Organised/financed: Within the framework of co-operation programmes	Organised/financed: By the training institutions for judges and prosecutors	Organised/financed: Within the framework of co-operation programmes
Number of in-person training courses available	19	16	51	24
Number of delivered in-person training courses in days	23	19	54	41
Number of online training courses (e-learning) available	10	2	10	2
Number of judges participating	183	172	239	160
Number of prosecutors participating	252	180	301	209

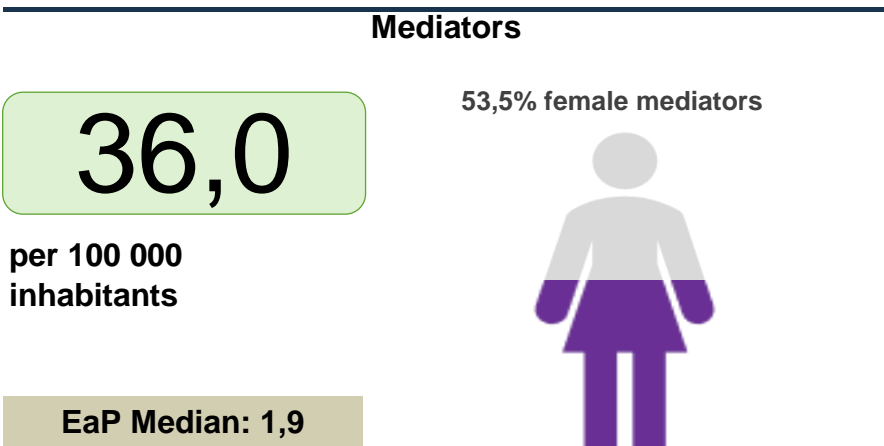
Number of judges and prosecutors participating in the EU law trainings in 2020



In 2020, an important number of trainings on EU Law (16) and on the EU Charter of Fundamental Rights and the European Convention on Human Rights (24) were co-organised or co-financed within the framework of co-operation programmes.

Alternative Dispute Resolution in the Republic of Moldova in 2020 (Indicator 9)

Legal aid for court-related mediation or related mediation provided free of charge	Yes
Court-related mediation procedures	Yes
Mandatory informative sessions with a mediator	No
Mandatory mediation with a mediator	Yes
V Ordered by the court, the judge, the public prosecutor or a public authority in the course	



In the Republic of Moldova, court-related mediation procedures are available and court-related mediation is eligible for legal aid. The judicial system provides for mandatory mediation with a mediator ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceedings. However, there are no mandatory informative sessions with a mediator. In 2020, the number of mediators per 100 000 inhabitants was 36, which was considerably above the EaP median (1,9 per 100 000 inhabitants). The majority of mediators were women (53,5%). The data on the total number of cases for which the parties agreed to start mediation and mediation procedures, which ended with a settlement agreement, was not available in 2020.

• Mediation procedures

In order to reduce the length of procedures, the court-related mediation was established as a mandatory way of settling the claims by LP 31 of 17.03.17 (MO144-148 / 05.05.17) by simplifying civil procedures for some types of actions, such as family law disputes, disputes concerning property rights between natural and / or legal persons, labour disputes, disputes resulting from tort liability, inheritance disputes, other civil litigations evaluated at less than 200 000 MDL (approximately 10 000 EUR), with exception of litigations in which an enforceable decision to initiate insolvency proceedings was issued).

Also, according to the Criminal Procedure Code in the case of accusing a person for committing a minor or less serious offense, and in the case of minors, the court, until the case is accepted for examination, within a maximum of 3 days from the date of the distribution of the case, at the request of the parties, adopts a decision by which it is ordered to carry out the procedure of mediation. The decision will include data about the name of the judge, data on the accused person and the essence of the accusation, the indication to take measures to solve the case in the mediation procedure, the name of the mediator who will carry out the mediation procedure, establishing a reasonable term for mediation. The decision shall be transmitted to the mediator, to the accused person, to the injured party, to the prosecutor and to the defender. The mediator immediately proceeds with the mediation procedure and, if the parties have reconciled, draws up a mediation contract, which is signed by the parties and is presented to the court. If the parties have not been reconciled, the mediator shall draw up a reasoned opinion, which he/she shall submit to the court, as well. There are no specific provisions concerning the mandatory information sessions but in accordance with the Law on mediation these kind of sessions are free of charge. Also, parties can establish by their agreement to benefit from mandatory information sessions.

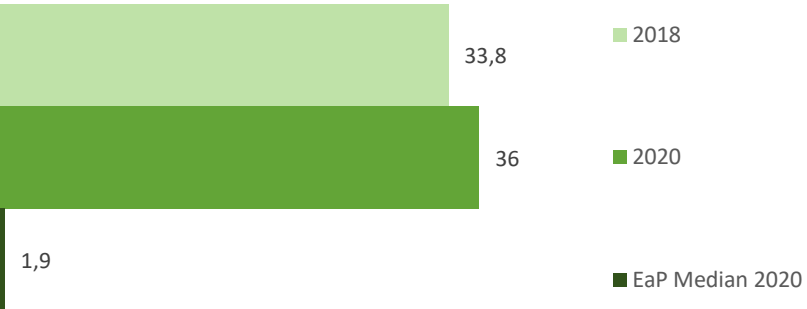
• Other ADR methods

Mediation other than court-related mediation	✓	Arbitration	✓	Conciliation (if different from mediation)	✓	Other ADR	✗
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• Mediators and court-related mediations

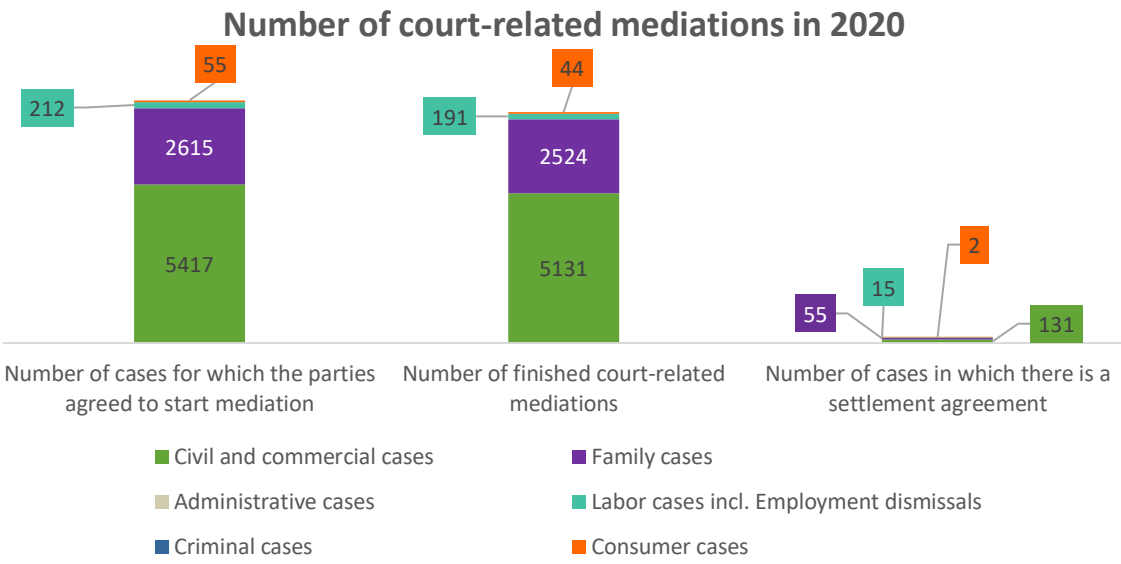
Accredited/registered mediators for court-related mediation			% Variation between 2018 and 2020	
Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants	Republic of Moldova	EaP Median
947	36,0	1,9	6,6%	2,1%

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2018 and 2020



In 2020, the total number of mediators in the Republic of Moldova was 947, which is 6.6% more than the previous year. The number of mediators per 100 000 inhabitants was 36 which is significantly more than the EaP Median of 1,9.

	Number of court-related mediations			Providers of court-related mediation services			
	Number of cases for which the parties agreed to start mediation	Number of finished court-related mediations	Number of cases in which there is a settlement agreement	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Total (1 + 2 + 3 + 4 + 5+ 6)	NA	NA	NA				
1. Civil and commercial cases	5417	5131	131	✗	✗	✓	✗
2. Family cases	2615	2524	55	✗	✗	✓	✗
3. Administrative cases	NAP	NAP	NAP	✗	✗	✗	✗
4. Labour cases incl. employment dismissals	212	191	15	✗	✗	✓	✗
5. Criminal cases	NA	NA	NA	✓	✗	✗	✗
6. Consumer cases	55	44	2	✗	✗	✓	✗



Court related mediations are provided by private mediators and judges. In 2020, the court-related mediation was most used for Civil and commercial cases and Family cases (5417 and 2615 cases, respectively).

European Convention on Human Rights in Republic of Moldova in 2020 (Indicator 10)

European Convention on Human Rights – Article 6 – Right to a fair trial:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Number of judgements finding at least one violation of ECHR in 2020



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process in 2020



• ECHR

According to the Law no. 87, in force as of 1 July 2011, anyone who considers to be a victim of a breach of the right to have a case examined or a final judgment enforced within a reasonable time is entitled to apply to a court for the acknowledgement of such a breach and the award of compensation. The Law establishes that its provisions should be interpreted and applied in accordance with the national law, the European Convention on Human Rights and the case-law of the European Court of Human Rights. The courts are obliged to deal with applications lodged under that Law within three months. The Law also states that if a breach of the right to have a case examined or a final judgment enforced within a reasonable time is found by a court, compensation for pecuniary damage, non-pecuniary damage and costs and expenses have to be awarded to the applicant. The procedure of enforcement of judgments adopted under this Law is simplified, so as no further applications or formalities should be required from the part of the applicants. That remedy concerns both civil and criminal procedures.

According to Law no. 151 of 30 July 2015, the Government Agent keeps the Register on the European Court of Human Rights judgments and decisions against the Republic of Moldova, in line with the Regulation adopted in this regard by the Order of the Minister of Justice. The Register is public and available on the Government Agent's official website <http://agent.gov.md/>. It includes all the judgments and decisions adopted by the European Court of Human Rights in respect of the Republic of Moldova. A database including summaries of relevant Court judgments and decisions is also available on the Supreme Court of Justice's official website www.csj.md. Pursuant to the same Law no. 151 of 30 July 2015, the Government Agent notifies all the relevant authorities involved in a certain case about the Court judgment in that case, by also proposing general measures aimed at preventing similar violations for the future. The execution of both individual and general measures are subject to Government supervision and Parliamentary scrutiny. In this regard, the Government Agent shall submit annual reports on the execution of those measures at national level to both the Government and Parliament.

Monitoring system for violations related to Article 6 of ECHR		
Civil procedures (non-enforcement)	Civil procedures (timeframe)	Criminal procedures (timeframe)
✓	✓	✓

Possibility to review a case after a decision on violation of human rights by the ECHR

Yes

The national law allows for the possibility to review a civil or a criminal case after the European Court of Human Rights found a violation of the European Convention on Human Rights in that case, within 6 months and, respectively, 1 year from the date of adoption of the Court's judgement.

In 2020, there were 523 applications concerning the Republic of Moldova pending before an ECtHR decision body. In 28 judgements at least one violation was found by the ECtHR for the Republic of Moldova.

51 cases were considered as closed after a judgement of the ECtHR and the execution of judgements process in 2020.

	2020
Number of applications allocated to a judicial formation of the Court **	523
Judgements finding at least one violation**	28

** Source: ECtHR

	2020
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	51

*** Source: Department of Execution of judgements of the Council of Europe

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

Support for a better evaluation of the results of judicial reform efforts in the Eastern Partnership "Justice Dashboard EaP" Project

Data collection 2020

Part 2 (B) - Beneficiary Profile – Republic of Moldova

This analysis has been prepared on the basis of the replies from the beneficiary (Dashboard correspondent) to the CEPEJ Questionnaire for the Justice Dashboard Eastern Partnership, and relevant GRECO reports from the Fourth GRECO Evaluation Round on Prevention of corruption in respect of members of parliament, judges and prosecutors.

The level of implementation of GRECO recommendations as of 25 September 2020:

	JUDGES	PROSECUTORS
Implemented	29,00%	20,00%
partially implemented	71,00%	60,00%
not implemented	0,00%	20,00%

Selection and recruitment of judges and prosecutors

Procedure of recruitment of judges

Recruitment and career of judges is regulated by the Constitution, Law on the organisation of the judiciary (hereinafter: LOJ), Law on the statute of judge (hereinafter: LSJ) and Law on the selection, performance evaluation and career of judges (hereinafter: LSPECJ).

Judges in first instance courts and courts of appeal are appointed by the President of the Republic of Moldova upon proposal of the Superior Council of Magistracy (hereinafter: SCM). After appointment in an open competition, judges first undergo a five-year probation period after which they have a life tenure until the retirement age of 65 years (Article 116, Constitution). The President of the Republic may reject once the candidate proposed by the SCM, but only if irrefutable evidence is found confirming the candidate's incompatibility with this position or him/her violating the legislation or procedure for his/her selection or promotion. The refusal has to be reasoned and presented within 30 days of the proposal, a period that can be extended by 15 days in case additional investigation is necessary. Upon a repeated proposal of the SCM, the President of the Republic has to appoint the proposed candidate.

Court presidents are appointed by the President of the Republic, upon proposal by the SCM, for a term of four years and can hold two consecutive mandates at most (para. 3 of Article 16, LOJ).

Judges of the Supreme Court are appointed by the Parliament on the proposal of the SCM (para 2. of Article 11, LSJ). The Parliament can also reject once the candidate proposed by the SCM for similar reasons as the President of the Republic regarding other judges.

The decisions of the SCM are subject to a full judicial review (in fact and in law) (LSCM).

GRECO recommendation viii. GRECO recommended that decisions of the Superior Council of Magistrates be adequately reasoned, both on the merits of the case and on procedural grounds.

In the [Evaluation Report on the Republic of Moldova](#) (see para. 93), GRECO expressed concerns about the insufficient justification of the SCM's decisions, especially in recruitment, career and disciplinary matters. Especially since the SCM is not bound by the decisions of the Judges' Selection and Career Committee on the respective merits of candidates to positions of judges and does not provide any reasoning when it chooses to deviate from them, citing only the number of votes obtained by each candidate. GRECO criticised this practice as it erodes judges' and the public's confidence in the SCM's decisions and in the fairness and objectivity of the selection process. While there may sometimes be reasons for which the SCM does not follow the recommendation of the Selection Committee, GRECO said that such exceptions must be justified in a clear, complete and conclusive manner. Consequently, GRECO issued recommendation viii.

In the [Compliance Report \(see para. 48-52\)](#), GRECO noted amendments made to Law No. 154/2012 on the selection, performance evaluation and career of judges, which entered into force on 19th October 2018. These amendments require that the SCM's decisions take into account, to

a certain degree, the results of selection exams and of performance appraisals. GRECO noted that these amendments could reduce the arbitrary nature of the SCM's decisions. However, in the absence of the information regarding justification in practice of the SCM's decisions on recruitment, career and disciplinary matters it assessed the recommendation as only partly implemented. GRECO noted no progress was made in [the Second Compliance Report \(see para. 51-58\)](#), since the authorities did not provide by examples of SCM decisions in which the SCM deviated from the decisions of the Selection Committee, that would allow GRECO to conclude that SCM's decisions on recruitment, career and disciplinary matters were systematically and adequately motivated in practice.

The recruitment to any position of judge or court president occurs on the basis of competitions organised by the SCM. Basic requirements for appointment at a first instance court include: 1. Moldovan citizenship; 2. domicile in the country; 3. command of the official language; 4. legal capacity; 5. an irreproachable reputation; 6. a clean criminal record; 7. fulfilling the medical requirements for the function; 8. holding a bachelor's degree and master's in law or its equivalent; 9. having a minimum of five years of service in a legal profession or passing qualification exams at the National Institute of Justice (according to para. 3 of Article 6, LSJ); and 10. passing a polygraph test (Article 6, LSJ). Candidates also have to be entered in a register of participants in the competitions for fulfilling judicial vacancies prior to the competition being announced. Entry criteria are announced as part of a public call which is published on the SCM's website.

Candidates are selected by the Judges' Selection and Career Committee of the SCM (Selection Committee). It is composed of seven members, among whom four are judges from all levels of courts (two from the Supreme Court, one from the courts of appeal and one from first instance courts) elected by the General Assembly of Judges (hereinafter: GAJ) and three are representatives of civil society, selected by the SCM following a public competition. The term of office of the members of the Selection Committee is four years and members cannot be elected or appointed for two consecutive terms (Articles 3 and 4, LSPECJ).

The Selection Committee assesses and ranks the candidates on the basis of: 1. the written materials submitted in the application; 2. the results of the exam taken before the Graduation Commission of the National Institute of Justice; 3. and an interview. Criteria to be taken into account include: 1. the level of knowledge and professional skills; 2. the ability to apply knowledge into practice; 3. the length of experience as a judge or in other functions; 4. qualitative and quantitative indicators of work undertaken as a judge or in other legal professions; 5. compliance with ethical standards; and 6) teaching and scientific activity (Article 2, LSPECJ). The meetings of the Selection Committee are public, decisions are taken by open majority vote and are motivated, published on the SCM's website within five days of their adoption and are subject to appeal before the SCM within ten days of their adoption (art. 10 LSPECJ). Non pre-selected candidates may also challenge the results of the exam taken before the Graduation Commission of the National Institute of Justice; the appeal is decided by the Appeal Commission of the National Institute of Justice and its decision is final.

The integrity of the candidates is checked through several mechanisms and by several authorities. The integrity check (integrity vetting) is carried out by the Information and Security Service (SIS) according to Law No. 271 of 2008 on Verification of Public Office Holders and Candidates. The aim of the verification is to prevent, identify and exclude certain risk factors, such as conflicts of interest. The verification, which

is conducted with the written consent of the candidate, entails completion by the candidate of a written questionnaire and the gathering by the SIS of relevant information held by other public authorities or private entities, such as previous employers and banks. In case the SIS concludes that a candidate's appointment is incompatible with the interests of the public office, s/he cannot be appointed. This candidate may file a complaint before the court if s/he thinks that the SIS exceeded its duties and his/her rights were violated.

Moreover, the integrity of candidate judges is checked using the polygraph (Law No. 269/2008 on the application of testing to the detector of simulated behaviour (polygraph), Article 7). Upon submission of his/her application for vacant position, the candidate is informed of the testing and must provide a written consent for taking it. According to Article 9 of the LSJ, the Judges' Selection and Career Committee of the SCM requests for the integrity certificate from the National Integrity Authority and the criminal record certificate from the National Anticorruption Center. These two documents attest to the professional integrity of the candidate for the positions of judge.

GRECO recommendation ix. GRECO recommended (i) that appropriate measures be taken, with due regard to judicial independence, in order to avoid the appointment and promotion to judicial positions of candidates presenting integrity risks;...

GRECO expressed concerns about indications that candidates presenting integrity risks were appointed as judges (see para. 101 of the [GRECO Evaluation Report](#)). The integrity of candidates is verified by the SIS and the results of this assessment are communicated to the President of the Republic and the SCM. In case of a negative assessment, the President of the Republic has to refuse to appoint the candidate proposed by the SCM. But the SCM may decide by a simple majority vote to propose the candidate again and in this case, the President has to appoint him/her. According to information gathered by the GET (GRECO Evaluation Team), this occurred in nine cases in 2015. All the judges concerned were proposed again by the SCM and finally appointed. It is likely, therefore, that candidates presenting integrity risks are appointed as judges, all the more since the SCM confirmed to the GET that the integrity of candidates was not assessed by them during the selection process, as this was seen as the SIS's sole prerogative. In view of the detrimental effect of such questionable practices on public confidence in the SCM's decisions and in the selection process of judges, a system needs to be devised in order to avoid making questionable appointment proposals to judicial positions. GRECO therefore issued recommendation ix.

In the compliance procedure, a law amending the Law on State Secrets was adopted in 2017, including the President of the SCM and the court presidents in the list of persons to whom access to state secrets can be granted. It additional, it was planned that similar access to state secrets will be granted to all SCM members. The authorities recalled that in the past the verifications by SIS were accessible only to the President of the Republic at the stage of examining the proposals submitted by the SCM on appointing judges (see para. 53-60 of the [Compliance Report](#)). No tangible progress was made with regard to this part of the recommendation and GRECO again underlined that there should be clear, predictable and comprehensive rules on how the integrity of candidate-judges is to be checked by the judiciary, before they are appointed and/or promoted and that such rules need to be consistently applied in practice (see the [Second Compliance Report](#), para. 59-67).

Mandate of judges

After a five-year probation period, judges are appointed without limitation of their term of office, until they reach the retirement age of 65 or in other cases prescribed by law, such as: 1) his/her resignation; 2) in case an obvious incompliance is established in a performance evaluation; 3) if transferred to another position; 4) as a consequence of disciplinary proceedings; 5) if a final conviction was passed against him/her; 6) in case of loss of citizenship; 7) in case of a violation of the rules on incompatibility; 8) in case of medical disability; 9) upon expiry of his/her term of office when not appointed for life tenure; or 10) if his/her (limited) legal capacity was confirmed by a final court judgment (Article 25, LSJ).

Procedure of recruitment of prosecutors

According to the Law No. 3/2016 on Prosecutor's Office (LP), basic requirements for appointment at a beginning-of-career post include Moldovan citizenship and domicile in the country, command of the national language and of a foreign language, legal capacity, medical capacity, a clean criminal record, judicial exam, impeccable reputation, holding a master's or higher degree in law or its equivalent, passing a polygraph test and not having any records of negative outcomes of his/her professional integrity test in the past five years in his/her professional integrity record. Additional conditions of work experience apply for higher positions in the prosecution service.

Competitions are organised annually or as needed by the Superior Council of Prosecutors (hereinafter: SCP) and include a capacity examination to be passed by the candidate before the SCP Selection Committee and an assessment of the results by the SCP. Candidates having graduated from the National Institute of Justice or having exercised functions in the legal sphere for at least ten years do not have to pass the capacity examination.

There is a public call for candidates announced on the SCP's website, together with the entry criteria.

Candidates for initial appointment have to be entered into a registry of candidates to vacant functions kept by the Secretariat of the SCP and the selection is carried out by the Selection Committee under the SCP.

Following an interview, the Selection Committee assesses and ranks the candidates on the basis of the following criteria: a) the level of professional knowledge and skills; b) the ability in the practical application of knowledge; c) the length of service as a prosecutor or in other positions; d) the capacity and efficiency in the office of prosecutor; e) compliance with the rules of professional ethics, including irreproachable reputation; f) candidate's involvement in activities in relevant fields of prosecution; and g) scientific and educational activity. The Selection Committee's assessment represents at most 50% of the candidate's final score, the other at least 50% being determined by his/her result in the final exam before the Graduation Commission of the National Institute of Justice (for beginning-of-career posts).

The integrity of candidate prosecutors is checked using polygraph (Law No. 269/2008 on the application of testing to the detector of simulated behaviour (polygraph), Article 7). Upon submission of his/her application for vacant position, the candidate is informed of the testing and must provide a written consent in order to take it.

In addition, the integrity of candidates to prosecutorial positions is checked (integrity vetting) by SIS according to Law No. 271 of 2008 on Verification of Public Office Holders and Candidates. The aim of the verification is to prevent, identify and exclude certain risk factors, such as conflicts of interest. The verification, which is conducted with the written consent of the candidate, entails completion by the candidate of a written questionnaire and the gathering by the SIS of relevant information held by other public authorities or private entities, such as previous employers and banks. In case the SIS concludes that a candidate's appointment is incompatible with the interests of the public office, s/he cannot be appointed. This candidate may file a complaint before the court if s/he thinks that the SIS exceeded its duties and his/her rights were violated.

The results of the candidates' assessment are published on the website of the SCP and candidates who disagree with these results may lodge an appeal with the SCP or with the National Institute of Justice (regarding the results of the exam taken before the Graduation Commission of the National Institute of Justice). Successful candidates are appointed by the Prosecutor General upon the proposal of the SCP. The Prosecutor General is able to reject the candidate proposed, motivating this decision, but the SCP may override this opposition by proposing the same candidate again with a vote of 2/3 of its members.

According to the provisions of the LP, an unsuccessful candidate does not have a right to appeal against a decision of appointment.

Mandate of prosecutors

No probation period is envisaged in the law for prosecutors who are elected with no limitation on their term in office, until they reach the retirement age of 65 (with a right to a pension for male prosecutors at the age of 63 and for female prosecutors at the age of 59), or if another cause of termination of their office occurs, such as termination due to resignation; death/declaration of death; loss of citizenship; staff reductions; refusal to be transferred to a different prosecution unit in the event of closure or reorganisation of the prosecution unit concerned; registering as a candidate on the list of a political party or a social-political organization in elections to Parliament or local public administration authorities; in case of a final act establishing its incompatibility status or the violation of certain prohibitions; appointment to a position incompatible with the position of a prosecutor; certain forms of illness or physical disability specified by law; violation of the procedure stipulated by law for appointment; failure to attend work for more than six consecutive months during a year due to temporarily incapacity to work; rejecting being subjected to the integrity vetting process; if on the basis of the results of regular performance evaluation or if obtaining the "insufficient" rating in two consecutive appraisals; absence for two consecutive rounds of performance evaluation without justification; issuing of an irrevocable judgement regarding the seizure of unjustified wealth by a court (Article 56 and 57, LP). The Prosecutor General is appointed by the President of the country for a single seven-year term following an open competition and a proposal from the SCP.

Promotion of judges and prosecutors

Promotion of judges

The regime described above with regard to selection and recruitment of judges is applicable also for the promotion of judges. It is regulated in the Law No. 154/2012 on the selection, the assessment of performance and the career of judges as well as in the Regulation approved by the Decision No. 212/8 of the SCM from 2013, revised in 2018 (defines indicators to evaluate quality of judge's work).

Recruitment to any position of judge/court president occurs on the basis of a competition organised by the SCM. All candidates have to be entered into a registry of participants in the competitions for fulfilling judicial vacancies prior to the competition being announced.

Candidates are selected by the Judges' Selection and Career Committee of the SCM. The Selection Committee assesses and ranks the candidates on the basis of: 1. the written materials submitted in the application; 2. the results of judges' performance evaluations; 3. and an interview. Criteria to be taken into account include: 1. the level of knowledge and professional skills; 2. the ability to apply knowledge into practice; 3. the length of experience as a judge or in other functions; 4. qualitative (clearance rate, compliance with reasonable time limits, compliance with deadlines for drafting court decisions, knowledge and application of IT) and quantitative indicators of work undertaken as a judge or in other legal professions; 5. compliance with ethical standards; 6. and teaching and scientific activity (Article 2, LSPECJ). Candidates who are subjected to a disciplinary penalty or who have been appraised as "insufficient" in their appraisal assessments, are not qualified for promotion for a period of one year.

In addition, the integrity of candidates to judicial positions is checked (integrity vetting) by SIS according to Law No. 271 of 2008 on Verification of Public Office Holders and Candidates. The aim of the verification is to prevent, identify and exclude certain risk factors, such as conflicts of interest. The verification, which is conducted with the written consent of the candidate, entails completion by the candidate of a written questionnaire and the gathering by the SIS of relevant information held by other public authorities or private entities, such as previous employers and banks. In case the SIS concludes that a candidate's appointment is incompatible with the interests of the public office, s/he cannot be appointed. This candidate may file a complaint before the court if s/he thinks that the SIS exceeded its duties and his/her rights were violated.

The meetings of the Selection Committee are public, decisions are taken by open majority vote and are motivated, published on the SCM's website within five days of their adoption and are subject to appeal before the SCM within ten days of their adoption. The SCM proposes candidates for promotion to be appointed by the President of the Republic of Moldova (for judges promoted in first instance courts and appellate courts) or by the Parliament (in case of judges of the Supreme Court) (LSJ).

The President of the Republic may reject once the candidate proposed by the SCM, but only if irrefutable evidence is found confirming the candidate's incompatibility with this position or him/her violating the legislation or procedure for his/her selection or promotion. The refusal has

to be reasoned and presented within 30 days of the proposal, a period that can be extended by 15 days in case additional investigation is necessary. Upon a repeated proposal of the SCM, the President of the Republic has to appoint the person proposed. The Parliament can also reject once the candidate proposed by the SCM for similar reasons as the President of the Republic regarding other judges. Promotion decisions are subject to the same appeal rules as appointment (Art. 11 LSPECJ) – described above.

Promotion of Prosecutors

The SCP and the Prosecutor General share the competence for promotion of prosecutors.

The promotion of a prosecutor occurs on the proposal of a hierarchical superior, the Prosecutor General, his/her deputies or the SCP on the basis of the principles of free consent, transparency and appraisal of professional and personal achievements (Article 58, LP).

According to Articles 19, 20 (para. 7), 22 (para. 4), 25 (para. 1) and 26 of the Law No. 3/2016 on Prosecutor's Office, candidates for promotion (or transfer) are entered into a registry of candidates to vacant functions kept by the Secretariat of the SCP and selection will be carried out by the Selection Committee under the SCP. The candidate may enter into the registry only if s/he has been subjected to performance appraisal within the last two years (or in the last year, if s/he wishes to be appointed as Chief Prosecutor or Deputy Chief Prosecutor).

Following an interview, the Selection Committee will assess and rank the candidates on the basis of the following criteria: a) the level of professional knowledge and skills; b) the ability in the practical application of knowledge; c) the length of service as a prosecutor or in other positions; d) the capacity and efficiency in the office of prosecutor; e) compliance with the rules of professional ethics, including irreproachable reputation; and f) scientific and educational activity. In case a prosecutor has been subjected to active disciplinary penalty, s/he is not eligible for promotion to certain positions (Prosecutor General, specialised prosecution offices, heads and deputy heads of prosecution offices and PG departments, Prosecutor of Gagauzia and his/her deputies - Art. 20 (7) LP). The Selection Committee's assessment will represent at most 50% of the candidate's final score, the other at least 50% being determined by his/her performance appraisals.

In addition, the integrity of candidates to prosecutorial positions is checked (integrity vetting) by SIS according to Law No. 271 of 2008 on Verification of Public Office Holders and Candidates. The aim of the verification is to prevent, identify and exclude certain risk factors, such as conflicts of interest. The verification, which is conducted with the written consent of the candidate, entails completion by the candidate of a written questionnaire and the gathering by the SIS of relevant information held by other public authorities or private entities, such as previous employers and banks. In case the SIS concludes that a candidate's appointment is incompatible with the interests of the public office, s/he cannot be appointed. This candidate may file a complaint before the court if s/he thinks that the SIS exceeded its duties and his/her rights were violated. The results of the candidates' assessment are published on the website of the SCP and candidates who disagree with these results may lodge an appeal with the SCP or in second instance with the Supreme Court only in respect of the procedure. Successful candidates are appointed by the Prosecutor General upon the proposal of the SCP. The Prosecutor General is able to reject the candidate proposed, motivating this decision, but the SCP may override this opposition by proposing the same candidate again with a vote of 2/3 of its members.

Confidence and satisfaction of the public with their justice system

The legislation for protecting the right of citizens to seek compensation in case they have suffered pecuniary or non-pecuniary damage as well as costs and expenses due to the violation of the right to a trial within reasonable time or for non-execution of court decisions is regulated by the Law No. 87 on the compensations by the State of the damage caused by excessive length of trial or by non-execution in a reasonable time of the court decision as of 1st July 2011. Its provisions should be interpreted and applied in accordance with the national law, the European Convention on Human Rights and the case-law of the European Court of Human Rights. The law is applicable to both civil and criminal procedures.

The procedure for enforcement of judgements adopted on the basis of this law is simplified, so as no other applications or formalities are required from the applicants. Anyone (a natural or legal person) who considers to be a victim of a breach of the right to have a case examined or a final judgement enforced within a reasonable time is entitled to apply to a court for the acknowledgement of such a breach and the award of compensation. The courts must deal with the application within three months. The judgement of the court is not enforceable. It can be challenged through appeal or cassation. The appeal is examined by another trial chamber as the one responsible in the primary case from which the claimed violation originated. The chamber has to decide within three months.

The Law No. 1545/1998 on the way to repair the damage caused by the illicit actions of the criminal prosecution bodies, the prosecutor's office and the courts regulates the procedure of applying for a compensation for pecuniary damage, moral damage as well as costs and expenses supported by the applicant.

The amount of the compensation for wrongful conviction and arrest is calculated starting from the average monthly income of the natural person at the moment of causing the damage, with the application of the inflation coefficient. The amount of the damage caused to the natural person who was convicted to unpaid work for the benefit of the community shall be calculated in the amount of up to 2 conventional units for one hour of work performed. For the quantification of the reparable damage, the average monthly income is calculated as follows: 1. persons employed by contract - by applying the method of calculating the average salary in accordance with the legislation; 2. persons not employed by contract - by dividing by 12 the amount of the total income for the previous year; 3. persons who did not work for proved reasons - starting from the average salary in the country in the respective year. The legal entities are compensated for the patrimonial damage caused, as well as for the unearned benefit (lost income) as a result of the illicit actions. The amount of compensation for moral damage is calculated taking into account: 1. the gravity of the crime for which the person was charged; 2. the character and gravity of the procedural violations committed during the criminal investigation and during the examination of the criminal case by court; 3. the resonance that the information about the person's accusation had in the society; 4. the duration of the criminal investigation, as well as the duration of the examination of the criminal case by court; 5. the nature of the injured personal right and its place in the person's value system; 6. physical suffering, character and degree of mental suffering; 7. the extent to which monetary compensation can alleviate the caused physical and mental suffering; and 8. the duration of detention.

The amount of the compensation for the damage caused by the violation of the right to a fair trial or the right to a reasonable execution of the judgment is established by court in each individual case, depending on the circumstances of the case in which the violation was committed, as well as the claims made by the applicant, the complexity of the case, the applicant's conduct, the conduct of the prosecution body, the court and other relevant authorities, the duration of the infringement and the importance of the proceedings for the applicant.

In case of violation of the right to a trial in a reasonable time, a legal action aiming at compensating the damages caused by the violation in question, is exercised in accordance with the rules of jurisdiction established by Chapter IV of the Civil Procedure Code. The appeal is examined by another trial chamber as the one responsible in the primary case from which the claimed violation originated and that chamber has to decide within three months. The appeal may be lodged within consideration of the merits of the primary case or within six months after the entry into force of the public prosecutor's order on cessation of the criminal prosecution or "enlèvement" of the criminal prosecution or a criminal disposition (Law n°87 on the compensations by the State of the damage caused by excessive length of trial or by non-execution in a reasonable time of the court decision).

A breach obviously attributable to the judge of the timeframes for conducting procedural actions or drafting judgments can constitute a disciplinary offence (Law No. 87/2011 on the compensations by the State of the damage caused by excessive length of trial or by non-execution in a reasonable time of the court decision). According to the Law No. 178/2014 on disciplinary liability of judges a complaint about the conduct of a judge should be submitted to the SCM which is responsible for dealing with such complaints (Table below).

	2020	
	Number of complaints	Compensation amount granted
Court concerned	NA	NAP
Higher court	NAP	NAP
Ministry of Justice	NAP	NAP
High Judicial Council	1905	NAP
Other external bodies (e.g. Ombudsman)	NAP	NAP

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. The ratio between the total number of initiated procedures of challenges and total number of finalised challenges for 2020 is 8% (self-recusals not included). The total number of requests (initiated procedures) for recusal was 4693, out of which 372 recusals were pronounced.

According to the Law on Prosecutor's Service, the procedural hierarchy of prosecutors and the competences of hierarchical superior prosecutors are set up in the Criminal Procedure Code (CPC). The prosecutor operates on the basis of the principles of legality, impartiality, reasonableness, integrity and procedural independence, which gives him/her the opportunity to make independent and impersonal decisions in the cases s/he manages. The procedural independence of the prosecutor is ensured by guarantees which exclude any political, financial, administrative or other influence on the prosecutor in connection with the exercise of his/her duties. Giving verbal instructions represent a violation of the Code of Ethics and triggers disciplinary liability. The CPC defines tiers of the hierarchy and clear rules for hierarchical interventions in the framework of criminal investigations, providing the subordinate prosecutors with the possibility to challenge the indications of hierarchically superior prosecutors to the Prosecutor General or his/her deputies (who must decide on an appeal within 15 days). According to Article 51 (3¹) of the CPC a prosecutor is independent in exercising his/her duties in criminal proceedings and should obey only the law. The same article specifies also that a prosecutor shall execute written orders given by a hierarchically superior prosecutor. In addition to the legal provisions, in order to prevent any oral instructions to be given to prosecutors by hierarchical superior prosecutors on 1st October 2019 the Prosecutor General issued a written notification which clarified that verbal instructions are not binding unless confirmed in writing. All prosecutors had to sign the notification and are aware of its binding character. Moreover, Article 303 of the Criminal Code establishes criminal liability for undue interference in the activity of criminal prosecution ([the Compliance Report](#), para. 84).

With regard to special favourable arrangements to be applied, during judicial proceedings, to various categories of vulnerable persons the following were reported as being in place in 2020:

Special arrangements in hearings and other specific arrangements for victims of sexual violence/rape; minors (witnesses or victims); persons with disabilities; juvenile offenders; other victims (human trafficking; forced marriage). Specific arrangements are in place also for victims of domestic violence.

Promotion of integrity and prevention of corruption

Independence of judges

The principle of judicial independence is enshrined in the Constitution as well as the Law No. 544/1995 on the statute of judge (hereinafter: LSJ), the Law No. 514/1995 on the organization of the judiciary and the Civil Procedure Code. The Constitution provides that justice is administered in the name of the law solely by courts of law (Article 114) and that judges are independent, impartial and irremovable under the law (para 1. of Article 116). According to Article 1 of the LSJ, a judge administers justice based on the law. Judges of courts are independent, impartial and irremovable and are subject only to the law. They take decisions independently and impartially and act without any restrictions, influences, pressures, threats or interventions, direct or indirect, on the part of any authority, including the judiciary. The hierarchical organization of jurisdictions may not affect the individual independence of a judge. The Law no. 514/1995 on the organisation of the judiciary states that the judicial power is independent and has its own attributions, exercised by the courts (Article 1) and that any interference in the administration of justice and pressure on judges is prohibited (Article 13).

Independence of prosecutors

Provisions which guarantee the autonomy of the prosecution service as part of the judicial authority are prescribed in the Constitution (Article 124 and 125), which also states that the SCP is the guarantor of the independence and impartiality of prosecutors. The Law No. 3/2016 on Prosecution Office (LP), adopted in February 2016 contains similar provisions stipulating that independence of the prosecutor is ensured by: 1. the strict determination, by law, of the status of the prosecutor, the delimitation of the attributions of the Prosecution Office, of the attributions and competences of the prosecutor within the exercise of the functions of the prosecution service; 2. the procedures for appointment, suspension and dismissal; 3. its inviolability; 4. the decisional discretion of the prosecutor in the exercise of the function, granted by law; 5. establishing, by law, the interdiction regarding the interference of other persons or authorities in the activity of the prosecutor; 6. ensuring the adequate means for the functioning of the Prosecutor's Office, creating the organizational and technical conditions favourable to its activity; 7. the material and social insurance of the prosecutor; and 8. other measures provided by law.

Legal provisions contained in the Criminal Code (Chapter XV – Crimes committed by officials) which describe different possible breaches of integrity of judges, prosecutors and staff of the court are: Article 324 (Passive corruption), Article 325 (Active corruption) and Article 326 (Influence peddling).

Breaches of integrity for judges

Specific provisions describing possible breaches of integrity of judges are contained also in the Law No. 178/2014 on Disciplinary Liability of Judges (hereinafter: LDLJ) which lists offences in Article 4 (e.g. intentional or gross negligence of non-compliance with the duty to refrain when the judge is aware or should be aware of one of the circumstances foreseen in the law for his/her abstention, as well as making repeated and

unjustified statements concerning abstention in relation to the same case, which leads to delaying the case examination; adoption of a decision, intentionally or with gross negligence, in which the fundamental rights and freedoms of natural or legal persons, guaranteed by the Constitution of the Republic of Moldova and the international treaties on fundamental human rights to which the Republic of Moldova is a party, have been violated; judge's actions in the course of justice administration, which provide proof of his/her serious and obvious unprofessionalism; interference in the administration of justice by another judge; illegal intervention or use of the judge's position in relation with other authorities, institutions or officials, either to settle some claims, seek or accept the settlement of personal or others' interests, or to receive undue advantages; violation of the provisions concerning incompatibilities, prohibitions and limitations in relation to judges' profession). Possible breaches of integrity are described also in the Code of Professional Conduct and Ethics for judges, namely: 1. not respecting the highest standards of integrity and responsibility, to ensure the company's trust in the courts. Not being aware of the risks of corruption and admitting or creating the appearance of a behaviour corrupt in its activity; asking for, accepting or receiving gifts, favours or benefits for the fulfilment or non-fulfilment of functional attributions or by virtue of the position held; 2. not requesting or accepting, directly or indirectly, payments, gifts, services or other benefits, on his/her behalf, of his/her family members or friends, as an appreciation for exercising or abstaining from fulfilment its obligations in relation to a case to be examined by him/her; using his/her status as a judge to gain access to information on other cases pending before the court, except in cases provided by law; being involved in extrajudicial activities that will cast doubts on his/her impartiality, objectivity or integrity, etc.

Breaches of integrity for prosecutors

Specific provisions applicable to prosecutors are contained (apart from the ones contained in the Criminal Code) also in the Law No. 3/2016 on the Prosecution Office, namely in Article 38 on disciplinary violation which states that a disciplinary violation is: 1. unworthy attitude, manifestations or way of life that harm the honour, integrity, professional probity, prestige of the Prosecution Office or that violate the Code of Ethics of prosecutors; 2. violation of the obligation provided in Art. 7 para. (2) lit. a) of Law no. 325/2013 on the assessment of institutional integrity (The public agents have the obligation not to admit manifestations of corruption). The Code of Ethics of Prosecutors defines the principle of integrity according to which a prosecutor must: 1. comply with the highest standards of integrity and accountability to ensure the society's trust in the prosecution office; 2. be aware of the risks of corruption, not to admit corruptible behaviour in activity, not to claim and not to accept gifts, favours, benefits or other illicit remuneration for the performance or, as the case may be, non-fulfilment of the attributions by virtue of the position held; 3. refrain from making decisions when his/her interests, or the interests of the persons related by blood, adoption, affinity or other persons close to his/her family could influence the correctness of decisions; 4. not to act as a prosecutor and not to consult other persons in cases in which the prosecutor, his/her family or his/her business partners have a personal, private or financial interest. As an exception, the prosecutor may provide consultations to parents, spouse, children, and persons under his or her guardianship or curatorship; 5. not make promises regarding the decisions he/she is going to take, to behave honest and decent, by personal example, to create an impeccable reputation of the prosecutor; 6. not provide grounds for being considered a suitable person committing acts of corruption or abuse; 7. not use against the law the property of the state, of natural or legal persons; 8. not use the symbols of the prosecution office and the official documents of the prosecutors in other purposes than in the interest of the service.

Breaches of integrity for courts staff

Specific provisions which describe possible breaches of integrity of staff of the court are contained also in the Law No. 158/2008 on public service and civil servant, namely Article 64 (Dismissal from public office – in case a civil servant does not submit the declaration of assets and personal interests or refuses to submit it, under the conditions of Art. 27, para. 8 of the Law No. 132 on the National Integrity Authority) and Article 11 (Inappropriate influences) of the Law no. 158/2008 on public service and civil servant.

Number of criminal cases against judges and prosecutors

The data on the number (absolute (Abs) and per 100 judges/prosecutors) of criminal cases initiated and completed against judges and prosecutors, as well as number of sanctions pronounced, respectively was reported as Not available for 2020.

Existence of specific measures to prevent corruption

Specific measures to prevent corruption among judges and prosecutors are in place, namely gift rules, specific training, internal controls and safe complaints mechanisms.

In-service training on ethics

There is an in-service compulsory training regularly available to judges and prosecutors. Judges have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training is 2-3 days long and judges and need to participate in this training more than once on a regular basis. For prosecutors, the training on ethics was offered regularly, while their attendance was optional in 2020.

Codes of ethics for judges and prosecutors

Judges have ethical rules stated also in the **Code of Professional Conduct and Ethics**, which contains a robust set of rules, takes international standards into account and is coupled with an accountability mechanism. It was approved by a decision of the General Assembly of Judges in September 2015 and amended in 2016. Booklets containing the provisions of the Code of Professional Conduct and Ethics have been published and distributed among courts of all levels. On 8th May 2018 the SCM adopted Decision No. 230/12 on approving the “*Commentary to the Code of Ethics and Professional Conduct of Judges*”. The code is regularly updated and published on the website.

The General Assembly of Prosecutors adopted the **Code of Ethics of Prosecutors** in May 2016, which entered into force on 1st August 2016. The authorities reported that, following a proposal by the Superior Council of Prosecutors, the General Assembly of Prosecutors adopted on 22 February 2019 amendments to the Code of Ethics of Prosecutors (the Compliance Report, para. 97).

Bodies giving opinions on ethical questions

Opinions and recommendations on ethical questions of the conduct of judges as well as the application of the provisions of the Code of Ethics and Professional Conduct of Judges is given by the Ethics Committee which adopts them upon request or *ex officio*. The opinions and recommendations are provided in writing and to be followed by all judges in future similar situations. In case of a judge's ethical dilemma regarding a concrete situation, the Ethics Committee shall provide its opinion in the shortest period of time, from the perspective of the provisions of the Code of Ethics. The Ethics Committee has five members, all of them judges who are members of the SCM. Its documentations, including opinions, requests, replies, recommendations are kept confidential and not made public, unless the requester agrees. Opinions of public interest are published on the SCM's website.

According to the Law on Public Prosecutor's Office and the SCP's Regulation on the organisation and activity of the Disciplinary and Ethics Committee, the Disciplinary and Ethics Committee of the SCP has the competence to adopt recommendations on the prevention of disciplinary violations within the Prosecutor's Office and on compliance with the ethics of prosecutors. It provides advice on incompatibilities, conflicts of interest or other issues related to prosecutorial ethics. Based on the Code of Ethics of Prosecutors, the Disciplinary and Ethics Committee may develop additional written guidance on interpreting the code. The Disciplinary and Ethics Committee consists of seven members (five prosecutors and 2 appointed by the civil society). The Committee may decide to publish its opinions on the website of the SCP in order to raise awareness among prosecutors who might find themselves in similar situation as dealt with in the opinion – in such cases the opinions are anonymised.

Confidential counselling on request from prosecutors which is to be provided by persons appointed by the SCP as ethics advisers. The ethics advisers are to be selected among former members of the self-governing bodies of Prosecutor's Service, considering in particular their reputation and communication skills.

Established mechanisms to report influence/corruption on judges and prosecutors

With regard to established mechanisms to report attempts on influence/corruption on judges and prosecutors, the Moldovan authorities refer to the national anti-corruption hotline, which is free of charge and operating 24/7 that may be used by anyone to report cases of corruption to the National Anticorruption Centre in a confidential manner. Both the SCM and the General Prosecution Office have put to use hotlines which may be used to communicate known acts of corruption in the judiciary/prosecution service.

Transparency in distribution of court cases

There is transparency in distribution of court cases ensured in the Moldovan judicial system via random allocation through the electronic case management system to a panel of judges. Judges' panels are created and their chairpersons appointed at the beginning of the year by the court president. They can only change in exceptional circumstances, based on a motivated resolution of the court chairperson and according to objective criteria foreseen in a regulation by the SCM (e.g. when a judge goes on annual leave for a period exceeding half of the total duration of the annual leave for the current year). All interventions on the system are irreversibly logged/registered.

Cases' reassignment occurs through the electronic system as well, based on a general written act issued by the court chairperson at the beginning of the year, by which s/he establishes a limited number of judges or panels of the same specialization taking into account the judge's specialization, to whom cases may be reassigned. Reassignment of cases must be reasoned by the court chairperson. Cases are reassigned due to conflict of interest declared by the judge or the parties; recusal of the judge or requested by the parties; physical unavailability (illness, longer absence) or in other justified cases, upon a reasoned decision of the court's chairperson. A card containing all data about random case assignments is mandatorily attached to each case file.

Declaration of assets for judges and for prosecutors

The Law on the statute of judge (hereinafter: LSJ) and Law on the Public Prosecutor's Office (LP) impose obligations with regard to submission of declarations of assets and personal interests on judges and prosecutors, respectively. This obligation is further regulated in the Law No. 133/2016 on declaration of assets and personal interests which extends this obligation also onto the members of the SCM and of the SCP from among the professors, as well as the members of the bodies that function under the subordination of these two bodies.

Judges and prosecutors are obliged to declare their assets, financial interests, sources of income, liabilities, gifts and conflicts of interest.

Declarations are to be submitted at the beginning and at the end of the term of office as well as annually to the National Authority for Integrity which is an independent public authority headed by a president and assisted by a vice-president who are appointed by the President of the Republic at the proposal of the Integrity Council.

The obligation to submit declarations applies also to the judge's/prosecutor's family members which include the spouse, the underage children, the adoptive children and the members of the family which are financially or otherwise supported by the declarant. The declaration to be submitted by the family members is the same as for the judge/prosecutor.

The timeliness of submission of declarations as well as completeness and accuracy of the data submitted is verified. Unexplained financial discrepancies (unusual change in assets, liabilities, income, etc.) are also checked. A register of declarations is kept and the declarations are published on the internet.

In case that a judge/prosecutor fails to declare assets s/he is dismissed.

The number (absolute/Abs and per 100 judges/prosecutors) of proceedings against judges/prosecutors for violations or discrepancies in declaration of assets in 2020 is presented in Table below:

	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2020	8	1,74	8	1,74	8	1,74	25	3,92	25	3,92	25	3,92

Conflict of interest for judges and for prosecutors

Procedures and mechanisms for managing potential conflict of interest

The **legal framework for the prevention and the resolution of conflicts of interest applicable to judges** is provided by the relevant provisions of 1) the Judges Integrity Guide, which provides for rules on managing conflicts of interest; 2) the Code of Ethics and Professional Conduct of Judges, which enshrines the principle of independence of judges; 3) the relevant procedural laws contain rules on recusal, namely the Civil Procedure Code (Articles 50 and 53) and the Criminal Procedure Code (Article 33); 4) the Law No. 82/2017 on Integrity, as regards rules on gifts (Article 16); 5) the Law No. 544/1995 on the statute of judge (LSJ), which regulates incompatibilities and accessory activities as well as dismissal in case of a judge's unresolved real conflict of interest; and 6) the Criminal Code, which criminalizes exercising one's duties, adopting decisions, concluding legal acts etc. in a situation of conflict of interest (para. 1 of Article 326).

The Judges Integrity Guide prescribes the obligations of judges in relation to identification and management of conflicts of interest. A judge is obliged to declare in writing his/her real conflict of interest arising from his/her professional activity within 3 days to the SCM and provide details of the case. A judge must avoid taking any action in the course of his/her duty that would result in conflict of interest, until it is resolved.

The Code of Ethics and Professional Conduct of Judges enshrines the principle of independence of judges and obliges them to act independently, without any influences, guidance or control and not allowing any inappropriate behaviour that may lead to conflicts of interest and affect the confidence in their independence (Article 3).

The **reasons for disqualification** are listed in the relevant procedural laws (Article 33 of the Criminal Procedure Code, Articles 50 and 53 of the Civil Procedure Code). Provisions foresee an obligation of (self-) recusal in case of a conflict of interest resulting from family or marital relations, prior involvement in the case or from any other circumstances that may cast a doubt on the judge's impartiality.

The **obligation of a judge to abstain and disqualify** in case his/her impartiality might be questioned is also addressed in Article 4 of the Code of Professional Conduct and Ethics and failure to request disqualification in such a case constitutes a disciplinary offence (Article 4 (1) a), Law on Disciplinary Liability of Judges).

Law No. 82/2017 on integrity prohibits, as a general rule acceptance and requests of **gifts**, applicable to public agents as well as their family members (inadmissible gift). Courtesy and protocol gifts are excluded. In the case of an inadmissible gift, the public agent has to refuse the gift, provide witnesses to this action, immediately report the action to the responsible anti-corruption authority, notify the head of the public entity, send the gift to the head of the public entity in case the gift was given and could not be returned and exercise his/her professional activity properly. The request or acceptance of inadmissible gifts constitutes acts of corruption within the meaning of the criminal legislation. Certain gifts are specifically prohibited (e.g. money, financial means, instruments of payment). All admissible gifts are declared and entered in a public register, kept by each public entity, including the SCM. Admissible gifts whose value does not exceed the limits set by the Government may be

kept by the person who received them or may be sent to the management of the public entity, in both cases, after the declaration. Admissible gifts whose value exceeds the established limit are sent to the management of the public entity after they are declared. If the person announces his intention to keep the admissible gift whose value exceeds the set limit, s/he is entitled to redeem it, paying in the budget of the public entity the difference between the value of the gift and the set limit. The categories of admissible gifts, the manner of declaring, recording, keeping, using and redeeming them are regulated by the Government.

In case a judge issued a decision or participated in issuing it without resolving the real conflict of interest, s/he shall be dismissed from office by the appointing body (Article 25, Law No. 544/1995 on the statute of judge).

The Criminal Code criminalizes exercising one's duties in the public sector while in a situation of a **conflict of interest** and thus obtaining undue advantage the value of which exceeds 10.000 conventional units, for himself/herself or a close person, and s/he failed to declare and settle his/her conflict of interest, and prescribes a fine in the amount of 10.000 to 15.000 conventional units or imprisonment for up to 3 years, in both cases with deprivation of the right to hold public office for a term of 5 to 7 years. Severer sanctions are prescribed when the offence is committed by a person with a position of public dignity or when committed in connection with the negotiation, management or execution of financial means from public or external funds.

The **legal framework for the prevention and the resolution of conflicts of interest applicable to prosecutors** is provided by the relevant provisions of 1) the Law No. 3/21016 on the Prosecution Office, which provides for the dismissal in case of a prosecutor's unresolved real conflict of interest (Article 58); 2) the Code of Ethics of Prosecutors, which requires a prosecutor to be transparent (Article 6); 3) the Criminal Procedure Code, on prosecutor's recusal (Article 54), on incompatibility rules and on obligation to avoid a conflict of interest (Article 15); 4) the Law No. 82/2017 on Integrity, as regards complying with rules on conflicts of interest (Article 14) and rules on gifts (Article 16); 5) the Law on the Prosecutor's Office and Rules No. 12-168/18 regarding the accumulation of the prosecutor position with the didactic and scientific activities approved by the SCP's decision and rules on accessory activities, restrictions and incompatibilities; and 6) the Criminal Code, which criminalizes exercising one's duties, adopting decisions, concluding legal acts etc. in a situation of conflict of interest (para. 1 of Article 326).

The law No. 3/21016 on the Prosecution Office (Article 58) provides for a dismissal of a prosecutor in a case that his/her conflict of interest has been established with regard to taking or participating in a decision.

The Code of Ethics of Prosecutors requires that a prosecutor does not conceal or distort information on assets or conflicts of interest which are to be made public by virtue of his/her position (Article 5).

Reasons for recusal and self-recusal and the procedure for resolving it are described in Article 54 of the Criminal Procedure Code. Reasons include conflicts of interest arising from family and marital relations, as well as any other circumstances that raise reasonable doubt as to the prosecutor's impartiality. Disqualification is decided upon, during the investigation, by the hierarchically superior prosecutor and, during the trial, by the court. In case the Prosecutor General has to be recused, this is decided by a judge of the Supreme Court. The decision on recusal

cannot be appealed. Failure to request recusal in such a case constitutes a disciplinary offence (Article 38, Law on Prosecutor's Office). Article 15 of the Criminal Procedure Code obliges a prosecutor to avoid any conflict of interest in the performance of his/her duties and prohibits him/her involvement in political parties or other formations of a political nature, strikes, in investigation or examination of a case in the event of his/her prior recusal, making public statements about cases, being involved in investigative activities on behalf of an authority performing special investigative activity, carry out entrepreneurial or commercial activities, act as an arbitrator in the arbitral tribunals and holding any other public office or exercising any activity in the private sector.

Rules on gifts defined in the Law No. 82/2017 on Integrity that are applicable to judges apply also to prosecutors. With regards to a procedure to be taken in case of a conflict of interest, the same law states that in case a prosecutor funds himself/herself in a real conflict of interest in the course of his/her professional activity, s/he must declare it in writing to the head of the public entity, within 3 days, providing details of it. Obligation to avoid any conflict of interest by abstaining from exercising his/her duties, until its settlement, applies too.

Possibility for judges and prosecutors to perform additional activities

According to Article 8 of the LSJ, the **principle of exclusive dedication** applies. Judges may not hold any public or private position, be an MP or a councillor in local administration authorities, be a member of a political party or a social-political organisation (including when detached to other functions), practice entrepreneurial activities or conduct any activity implying a conflict of interest, unless this conflict was brought in writing to the notice of the court president or, as the case may be, conveyed to the SCM. The only exceptions to this general prohibition are the exercise of didactic and scientific activities, as well as collaboration with literary, scientific or social publications or shows, on the occasion of which the judge may not express his/her views on current issues of judicial internal policy. However, no authorisation is needed for a judge to perform these activities.

The Rules No. 12-168/18 regarding the accumulation of the prosecutor position with the didactic and scientific activities require that a prosecutor submits his/her request regarding performing a didactic or scientific activity, in addition to his prosecutorial duties, to the SCP, together with an agreement of the head of the public prosecution office confirming that accessory activities will not affect the work of the prosecution office in question. The request needs to contain information regarding terms of reference of the accessory activity in question (institution, modality and conditions for performing the accessory activity). The SCP shall analyse the observance of the conditions provided in the Law on Prosecutor's Office in this regard. The SCP may grant the request and determine that the accessory activity is carried out for a determined period of time or part-time which should not affect his/her exercise of official duties of a prosecutor. The didactic and/or scientific activities may be carried out by the prosecutor in the universities, the National Institute of Justice, in different training activities organized for civil servants, projects aiming the implementation of the national or international policy of the state in criminal matters.

In sum, judges and prosecutors may combine their work with the following other functions/activities (Table below):

		With remuneration		Without remuneration	
		Judges	Prosecutors	Judges	Prosecutors
Combine work with other functions/activities	Teaching	✓	✓	✓	✓
	Research and publication	✓	✓	✓	✓
	Arbitrator				
	Consultant				
	Cultural function				
	Political function				
	Mediator				
	Other function				

Breaches of rules on conflict of interest

Breaches of rules on conflicts of interest in respect of judges are provided for in the Code of Professional Conduct and Ethics, LSJ, the Law on Superior Council of Magistracy (LSCM) and the Law No. 133/2016 on the declaration of assets and personal interests.

The procedure to sanction these breaches is regulated in the Code of Professional Conduct and Ethics, the Criminal Code, LSJ, LSCM and in the Law No. 133/2016 on the declaration of assets and personal interests.

The offence contained in article 326 (para. 1) of the Criminal Code presented above in relation to judges applies also **to prosecutors**.

Breaches of rules on conflicts of interest in respect of prosecutors are regulated in the Code of Ethics of Prosecutors, the Law on Prosecution Office and the Law No. 133/2016 on the declaration of assets and personal interests.

The procedure to sanction breaches of rules on conflicts of interest in respect of prosecutors are regulated in the Code of Ethics of Prosecutors, the Law on Prosecution Office, the Law on SCP, the Law No. 133/2016 on the declaration of assets and personal interests and the Criminal Code. According to the Law on Prosecution Office, a failure to request recusal for reasons stated in the Criminal Procedure Code constitutes a disciplinary offence (Article 38, LP). If it was established that a prosecutor took or participated in a decision making without resolving his/her real conflict of interest in accordance with the provisions on conflict of interest, this constitutes a ground for his/her dismissal. The dismissal is made within 5 working days from the intervention or bringing the case to the attention of the Prosecutor General, by an order of the Prosecutor

General, which is then communicated to the prosecutor concerned within 5 working days, but prior to the date of dismissal. The order on dismissal may be contested in court.

The number (absolute and per 100 judges/prosecutors) of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2020 is presented in the Table below:

	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2020	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00

Discipline against judges and prosecutors

Description of the disciplinary procedure against judges

The disciplinary liability of judges exists for committing an offence listed in Article 4 of the Law No. 178/2014 on Disciplinary Liability of Judges (hereinafter: LDLJ) or for disregarding the provisions of the Code of Professional Conduct and Ethics.

Notifications regarding suspected disciplinary offences or misconduct may be submitted by any interested person, the SCM, the Judges' Performance Evaluation Committee, the Judicial Inspection on its own initiative, and the Minister of Justice (in specific conditions). The admissibility is examined by the Judge-Inspector to whom the case was distributed (LDLJ, art. 23 (2) d). There is an Appeals Panel of the Disciplinary Committee which examines the appeals against decisions of the Inspectors to reject the claim of disciplinary offence/misconduct. The Disciplinary Committee decides on the substance of the case and imposes sanctions if necessary.

During the disciplinary proceeding, the judge concerned has a possibility to be heard and to present his/her argumentation in writing.

The **Judicial Inspection** is an independent body, consisting of seven judge-inspectors, who enjoy functional autonomy. Only the candidates who have worked as judges in the last three years may apply for the position of a judge-inspector. A person can hold a single term of office for 6 years in this capacity and cannot be re-elected. Cases to be verified are distributed at random by the senior inspecting judge – who heads the

Judicial Inspection – to an inspecting judge. The inspecting judge verifies within 30 days the facts of the case, in the process of which s/he can request any necessary information from court presidents, other judges, as well as other public authorities or private persons. These persons and authorities are under a legal obligation to submit the requested information. The inspecting judge also has to seek the written opinion of the judge suspected of misconduct. S/he then reports back to the Disciplinary Committee of the SCM. The Judicial Inspection keeps (electronic) statistical records of all complaints and results of the verification procedure.

The **Disciplinary Committee of the SCM** is composed of five judges (two judges from the Supreme Court, two judges from courts of appeal and one judge from first instance courts) elected by the General Assembly of Judges and four representatives of civil society selected by open competition organised by the SCM and appointed by the Minister of Justice. The term of office of members of the Committee is six years and members cannot be elected or appointed for two consecutive terms. Membership in the Disciplinary Committee is incompatible with membership in the SCM, the Selection Committee, the Evaluation Committee, with the position of inspecting judge, as well as with the position of president or vice-president of a court (Articles 9 and 10, LDLJ). The Disciplinary Committee functions in plenary meetings and within meetings of the appeals panels. These panels examine the appeals against inspectors' decisions to reject the claims of disciplinary offence/misconduct (art. 15 LDLJ). Decisions of the Disciplinary Committee are duly justified and published online. Meeting agendas and minutes of the Disciplinary Committee and its appeal panels' are also published.

GRECO recommendation xiii. GRECO recommended that the legal and operational framework for the disciplinary liability of judges be revised with a view to strengthening its objectivity, efficiency and transparency.

In [the Evaluation Report](#) (see para. 132-135) GRECO noted numerous concerns regarding the legal framework for the disciplinary liability of judges and its efficiency and adequacy in addressing judges' misconduct. In GRECO's opinion, major concern pertains to the limited competences of the Judicial Inspection and to the role of the admissibility panels in the disciplinary procedure. The Judicial Inspection only reviews cases, gathers evidence and submits the files to an admissibility panel. It has to process all cases, even obviously unsubstantiated ones, and it cannot dismiss a case nor re-qualify the facts of a case. The admissibility panel acts only as a filter, deciding by unanimous vote to dismiss unsubstantiated cases and passing the others on to the Disciplinary Committee. It cannot re-qualify the facts of the case either. As a result of both bodies being unable to change the legal qualification of the facts of a case, the GET heard that an incorrect legal qualification was sometimes used to delay or bury a case. Moreover, virtually all of the GET's interlocutors, including members of the SCM and the Disciplinary Committee themselves, saw the admissibility stage of the proceedings as superfluous. It needlessly complicates and lengthens disciplinary proceedings and the GET noted in this context that some procedures were discontinued in 2014 and 2015 due to the expiry of the statute of limitation, although the two-year period appeared adequate on paper. In the GET's view, the procedure could easily be simplified by removing the admissibility stage and giving Judicial Inspection the power to change the qualification of facts and to terminate proceedings by a reasoned decision, subject to appeal before the Disciplinary Committee.

Moreover, the GET pointed out that a number of disciplinary offences as laid out in Article 4 of the LJDJ lack precision and could be detrimental to judicial independence. In particular, the offence of “intentional application, or application with bad faith, or repeated negligence of legislation contrary to uniform judicial practice” (Article 4(1)b) may unduly restrict the independence of judges in drafting judgments and prevent the evolution of case-law; the offence of “other actions affecting the honour or professional integrity or reputation/prestige of justice, committed in performance of duties or outside them” (Article 4(1)p) is too general and could give rise to varying interpretations. As to Article 4(1) m which stipulates that committing an act with elements of a crime or a misdemeanour that was detrimental to the prestige of justice is considered a disciplinary offence, it is unclear and seems to combine elements of criminal and disciplinary liability, which should be avoided. A reference was made to the Venice Commission’s opinion for a more complete list of offences requiring reformulation.

Finally, several of the GET’s interlocutors expressed the view that the SCM did not react to reported misconduct of judges in a sufficiently determined manner. Numerous cases were reported in the media and allegedly not acted upon by the SCM. Decisions were reportedly not well explained, available sanctions were not used to their full extent and the GET was given examples of judges being allowed to resign at their own request instead of being dismissed, in order to be entitled to legal allowances and social benefits. This sends out unfortunate messages that misconduct and lack of diligence are tolerated with no effective deterrents, GRECO said. Giving greater publicity to cases, explaining decisions not to prosecute, publishing details about sanctions imposed in disciplinary cases, both anonymised overall figures of numbers sanctioned and specific penalties imposed, and in severe cases publicly by naming individuals removed from office with reports of the behaviour and outcome would start to improve the system’s accountability to the public it serves. This would reinforce standards of expected behaviour, might rebalance negative press reporting and improve public confidence. In view of the above paragraphs, GRECO issued recommendation xiii.

Little progress has been made in the compliance procedure by the Republic of Moldova. In 2018 amendments to the Law No. 178/2014 on disciplinary liability of judges (LDLJ) brought some changes to the disciplinary framework for judges (provide a new procedure for examining claims regarding disciplinary violations by a judge) and strengthened the competencies of the Judicial Inspectorate in disciplinary matters (the competencies of Judicial Inspectors have been reinforced and an appeal before the Disciplinary Committee made possible). However, GRECO was only able to conclude this recommendation was partly implemented (see [GRECO Compliance Report](#), para. 79-82). In the [Second Compliance Report](#) (see para. 76-82), GRECO noted that decisions on disciplinary matters are public. However, based on the information provided GRECO could not conclude that the Disciplinary Committee’s decisions are duly justified and thus concluded that the recommendation remains partly implemented.

A judge may appeal the decision of the disciplinary body. The decision of the Admissibility Committee can be challenged within 15 days before the plenary of the Disciplinary Committee. If the case is admitted, it is passed on to the Disciplinary Committee. Appeals against the Disciplinary Committee’s decision can be lodged within 15 days of receipt of the decision by the judge concerned, the person who filed the notification or the Judicial Inspection. They are decided upon by the SCM within 30 days of their registration. The SCM’s decision may be challenged within 20 days by the same persons/bodies before the Supreme Court, which decides within 30 days in a panel of five judges.

Disciplinary sanctions consist of a written warning, written reprimand, salary reduction from 15% to 30% for a period between three months and one year, removal from the office of court president or vice-president and dismissal (Article 6, LDLJ). The latter two measures are proposed by the Disciplinary Committee to the plenary of the SCM, which, once the decision is final, passes the proposal on to the President of the Republic (for first instance and appeal court judges) or the Parliament (for Supreme Court judges) (Article 38, LDLJ). The President of the Republic or the Parliament has to accept the proposed dismissal of a judge.

A judge may not be transferred to another court without his/her consent (para. 4 of Article 116 of the Constitution). The transfer of a judge to another jurisdiction for a limited period of time may be decided by the SCM at the request of the president of the court in question, for organisational reasons. The judge's consent is necessary and must be given in writing (para. 1 of Article 20, LSJ). Moreover, in all cases specified by LSJ, a magistrate may be transferred to another judicial body only with his/her consent.

Description of the disciplinary procedure against prosecutors

Prosecutors are disciplinary liable for committing a disciplinary offence as listed in Article 38 of the LP. Disciplinary offences are: 1. inappropriate fulfilment of the service duties; 2. incorrect or biased application of legislation, if this action is not justified by the change of practice of application of legal norms established in the current law enforcement; 3. illegal interference in the activity of another prosecutor or any other interventions with the authorities, institutions or officials for the purpose of solving any issue; 4. intentional hindrance, by any means, of the activity of the Prosecutor's inspection; 5. severe violation of the legislation; and 6. undignified attitude or manifestations affecting the honour, professional trustworthiness, prestige of the prosecution service or that violate the code of ethics for the prosecutor.

The **disciplinary liability mechanism** is laid down in the LP. The right to initiate a procedure belongs to: 1. any interested person; 2. the SCP; 3. the Performance Evaluation Committee; 4. the Discipline and Ethics Committee; 5. the Inspection of Prosecutors; and 6. Ministry of Justice upon notification by the Government Agent. The notification starting the proceedings is submitted to the SCP and forwarded to the Inspection of prosecutors, which is a subdivision of the General Prosecutor's Office, under the direct supervision of the Prosecutor General. It is composed of civil servants and employees with special status. Facts of the case are then verified and the prosecutor subject to the procedure is asked for his/her written explanations. S/he also may provide additional explanations and evidence before the case is either dismissed or passed on to the Discipline and Ethics Committee. The Discipline and Ethics Committee examines the case in the presence of at least 2/3 of its members, the prosecutor subject to the procedure being mandatorily present. A decision is taken by majority vote, but if the procedure was initiated by a member of the Discipline and Ethics Committee, that member cannot take part in the vote. The decision of the Discipline and Ethics Committee is then transmitted to the SCP for validation and may be challenged on this occasion by the prosecutor sanctioned, the person who initiated the procedure and any other person who considers that his/her rights were affected by the decision. The SCP's decision may be appealed before a court in an administrative review procedure. The statute of limitation is six months from the initiation of the proceedings (not counting the time when the prosecutor was sick or absent on leave) and one year from the commission of the offence. All decisions of the SCP in disciplinary matters are published on its website.

The **Discipline and Ethics Committee** is composed of seven members, five being elected by the General Assembly from among prosecutors and two being elected by the SCP following an open competition from among civil society representatives.

Possible sanctions are: 1. warning; 2. reprimand; 3. sharp reprimand; 4. salary reduction from 15% to 30% for a period of between three months and a year; 5. demotion; 6. demotion in the class degree or in special military rank; 7. withdrawal of the badge of “Honorary Employee of the Public Prosecutor’s Office” and; 8. dismissal. In addition to sanctions, the Discipline and Ethics Committee may recommend to the SCP that the prosecutor be subject to an extraordinary performance assessment.

Prosecutors have a right to appeal against the disciplinary sanctions. The appeal against the decisions of the SCP in disciplinary matters is heard by the Supreme Court, specifically by the same panel of five judges which hears the appeals against decisions of the SCM in disciplinary cases against judges.

GRECO recommendation xviii. GRECO recommended that additional measures be taken in order to strengthen the objectivity, efficiency and transparency of the legal and operational framework for the disciplinary liability of prosecutors.

As is the case for judges, GRECO noted, in its Evaluation Report (see para. 186), that numerous cases of misconduct by prosecutors were reported in the media and several of the GET’s interlocutors expressed the view that the prosecution service had so far not been very proactive and transparent in addressing such cases. Legal provisions on accountability were said not to be enforced in full and sanctions appeared lenient. Against this background, the capacity of the disciplinary bodies to deal with misconduct of prosecutors in a determined and effective manner is crucial, especially given the negative image of the prosecution service. As with other aspects of the reform, much will depend on how the new system will be implemented in practice. Three specific issues, however, deserved mentioning in the Evaluation Report. The GET noted that according to the new LP, the Inspection of Prosecutors will be a subdivision of the General Prosecutor’s Office, under the direct supervision of the General Prosecutor. A sufficient number of adequately trained inspectors will be instrumental to its efficiency. The GET was concerned that the Inspection’s statutory and budgetary dependence on the Prosecutor General may lead to self-censorship in sensitive cases. The GET also noted that nothing prevents a member of the SCP from being involved in several stages of disciplinary proceedings against a prosecutor, by initiating a disciplinary procedure, appealing against a decision of the Discipline and Ethics Committee and voting on this appeal as a member of the SCP. Finally, transparency is a key element of a successful accountability policy. Along the same lines as the measures recommended in the chapter on judges, disciplinary cases need to be given sufficient publicity, it is necessary to ensure that decisions are properly motivated as required by law, that decisions not to prosecute are adequately explained, and that details about sanctions are published, both anonymised overall figures and, in severe cases, leading to removal from office, reports that name the individuals concerned, the behaviour involved and the outcome. Consequently, GRECO issued recommendation xviii.

In the compliance procedure, no tangible progress was noted in the [Compliance Report](#) (see para. 104-107) and the [Second Compliance Report](#) (see para. 102-106).

The Table below summarises the data on disciplinary procedures in 2020 in absolute (Abs) numbers and per 100 judges /prosecutors respectively:

		2020			
		Judges		Prosecutors	
		Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated during the reference year	Total number (1 to 5)	53	11,50	76	11,91
	1. Breach of professional ethics (including breach of integrity)	NA	NA	NA	NA
	2. Professional inadequacy	NA*	NA*	NA**	NA**
	3. Corruption	NA	NA	NA	NA
	4. Other criminal offence	NA	NA	NA	NA
	5. Other	NA	NA	NA	NA
Number of cases completed in the reference year against	Total number (1 to 5)	38	8,24	43	6,74
	1. Breach of professional ethics (including breach of integrity)	NA	NA	NA	NA
	2. Professional inadequacy	NA*	NA*	NA**	NA**
	3. Corruption	NA	NA	NA	NA
	4. Other criminal offence	NA	NA	NA	NA
	5. Other	NA	NA	NA	NA
Number of sanctions pronounced during the reference year	Total number (total 1 to 10)	13	2,82	18	2,82
	1. Reprimand	6	1,30	5	0,78
	2. Suspension	NAP	NAP	NAP	NAP
	3. Withdrawal from cases	NAP	NAP	NAP	NAP
	4. Fine	NAP	NAP	NAP	NAP
	5. Temporary reduction of salary	0	0,00	1	0,16
	6. Position downgrade	NAP	NAP	0	0,00
	7. Transfer to another geographical (court) location	NAP	NAP	NAP	NAP
	8. Resignation	NAP	NAP	NAP	NAP
	9. Other	4	0,87	11	1,72
	10. Dismissal	3	0,65	1	0,16

*The authorities explained they were not able to provide information with regard to a number of disciplinary proceedings initiated due to “professional incapacity” of a judge since there is no clear written delimitation between disciplinary violations stated in article 4 of the LDLJ.

**The authorities explained that the notion of “professional incapacity” as a ground for initiating disciplinary proceeding against a prosecutor includes: 1. non-application or improper application of the law, if this is not justified by the change in the practice of applying the rules established in the legal system; 2. serious violation of the law; and 3. committing, within the exercise of official duties, actions or inactions which, intentionally or through gross negligence, violated the fundamental rights and freedoms of natural or legal persons, guaranteed by the Constitution of the Republic of Moldova and international treaties with on the fundamental human rights to which the Republic of Moldova is a party.

Council for the Judiciary/ Prosecutorial Council

Council for the Judiciary

According to the Law on Superior Council of Magistracy (adopted in December 2019, entered into force on 31st January 2020) the Superior Council of Magistracy (hereinafter: SCM) is an independent body, composed of 15 members. Three are *ex officio* members (the Minister of Justice, the President of the Supreme Court and the Prosecutor General), seven judge members (and seven substitutes) elected among judges by the General Assembly of Judges and five members appointed by Parliament (with the vote of the “majority of the elected deputies”) among tenured law professors.

The SCM non-judge members elected by Parliament are selected in public competition which includes at least the examination of the files and the hearing of the candidates. The public competition is held by the Commission on Legal Affairs, Appointments and Immunities. The candidates need to meet the following requirements: citizenship, studies (Doctor of Juridical Science), certain level of responsibilities (lecturer, associate professor, full professor), scientific and teaching experience of at least five years, absence of prohibition from holding public office or public dignity position, irreproachable reputation and high professional skills. An overall publicity of the competition is ensured through information on candidates being published providing for a possibility for anyone to comment, committee meetings being open, except interviews, recordings of transcripts of meetings etc.). Admissibility of candidates is also examined in closed session. The Commission on Legal Affairs, Appointments and Immunities draws up reasoned opinions for each successful candidate and proposes the candidates to the Parliament to be appointed.

Seven members of the judiciary as well as their substitutes are elected to the SCM by secret ballot by the General Assembly of Judges, as follows: four from the first instance courts, two from the courts of appeal and one from the Supreme Court of Justice. Candidate judges who have accumulated more than half of the votes of those present at the meeting of the General Assembly of Judges are considered elected as members and substitutes of the SCM, according to the descending order of the number of votes obtained. The substitutes fill the vacant positions of members of the SCM among the judges corresponding to the level of the courts for which they were elected, in descending order of the number of votes obtained. The SCM announces the date of the meeting of the General Assembly of Judges within prescribed time period. Candidates submit their files which are published on the SCM's official website, together with the list of candidates. Candidates may carry out a promotion campaign among judges.

GRECO recommendation vii. GRECO recommended (i) changing the composition of the SCM, in particular by abolishing the ex officio participation of the Minister of Justice and the Prosecutor General and by allowing for more diverse profiles among non-judge members of the SCM, on the basis of objective and measurable selection criteria; (ii) ensuring that both judicial and non-judge members of the SCM are elected following a fair and transparent procedure.

In [the Evaluation Report on the Republic of Moldova](#) (see para. 91 and 92), GRECO's GET expressed serious misgivings about the composition of the SCM, due to the *ex officio* participation of the Minister of Justice as a member of the SCM, all the more given past claims of politicisation of the judiciary in the Republic of Moldova. The GET drew the attention of the authorities to Opinion No.10 (2007) of the European Council for European Judges, which explicitly stresses that members of the Judicial Council should not be active politicians, in particular members of the government. As regards the *ex officio* participation of the Prosecutor General, the GET referred to the case-law of the European Court of Human Rights, according to which the presence of the Prosecutor General in a body concerned with the appointment, disciplining and removal of judges creates risks for the impartiality of that body. Moreover, against the background of a deeply negative public image of the judiciary, the SCM could benefit from a composition reflecting the users of the judicial system in a broader manner. In this context, a number of the GET's interlocutors were of the view that the position of substitute members of the SCM could be extended to other categories of persons beyond law professors, such as representatives of civil society. Further concerns expressed by GRECO related to the selection process of the members of the SCM, which does not ensure that sufficient information is available to the voters and the public on candidates. Judicial members of the SCM are elected by the General Assembly of Judges, but the GET was told that the time between the announcement of candidates and their election is too short, which gives little opportunity for voters to get acquainted with candidates' backgrounds and ideas. Non-judge members, for their part, are elected by Parliament. In order to dispel impressions that they may be elected according to political criteria, amendments to the Law on the SCM introduced a requirement that candidates be selected by the Standing Legal Committee for Appointments and Immunities following a public competition. However, when this procedure was implemented for the first time in December 2013, it happened in a rather rushed manner, the candidates were selected immediately following the hearing before the Committee and no explanation was given of the selection criteria. Consequently, GRECO issued recommendation vii.

In the compliance procedure (see [Compliance Report on the Republic of Moldova](#) (see para. 40-47), [Second Compliance Report on the Republic of Moldova](#) (see para. 90-94), the authorities reported on exclusion of the SCM *ex officio* members in voting procedures regarding judges' career, disciplinary liability, sanctioning and dismissal due to a legislative amendment of the LSCM in 2018.

The position of the SCM's judge members is a full-time position and a part-time position for academics and *ex officio* members. Members of the SCM that hold administrative positions must submit a request for resignation from the administrative position within 30 days from being elected. The mandate of the elected SCM's members is four years.

The SCM is competent regarding the selection, training, evaluation, ethics and disciplinary liability of judges; it also has certain duties regarding declarations of income and property and declarations of personal interests of judges; finally it has certain tasks regarding the administration of courts, notably as regards budgetary matters.

Operational arrangements that prevent over-concentration of powers in the same hands concerning different functions to be performed by members of the SCM include full-time position of its judge members; prohibition applicable to all SCP's members, except for *ex officio* members, to exercise other remunerated activities except for educational and creative; incompatibility rules from the Law on the status of judges

applicable also to law professors; suspension of judicial office for the SCM's judge members for the period of their mandate as SCM members and random reallocation of their cases to other judges; different branches within the SCM (Judicial Inspection, Disciplinary Committee, Evaluation Committee, Selection/Recruitment Committee) composed by different members, nominated/elected by different bodies (SCM, General Assembly of Judges).

Accountability measures in place regarding the SCM's activities include publication of the activity reports and publication of decisions which must be reasoned.

The SCM is competent when it is evident that there is a breach of the independence or impartiality of a judge. In such cases the SCM may start a disciplinary proceeding against the judge in question.

Prosecutorial Council

Article 125¹ of the Constitution enacted on 29 November 2016 specifies that the Superior Council of Prosecutors (hereinafter: SCP) is “the guarantor of independence and impartiality of prosecutors”, is “composed of prosecutors elected from the prosecutor's offices of all levels and of representatives of other authorities, public institutions or civil society” and “ensures appointment, transfer, promotion in position and disciplinary measures regarding prosecutors”.

According to the Law n°128 of 16-09-2019 amending the Law on the Public Prosecutor's Office (hereinafter: LP), the SCP is one of the bodies of self-administration that guarantees the autonomy, objectivity and impartiality of prosecutors. It is composed of 15 members, six of them being *ex officio* members – the General Prosecutor, the Prosecutor of TAU Gagauzia, the President of the SCM, the Minister of Justice, the President of the Bar Association, the Ombudsman - , five members elected by the General Assembly of Prosecutors and four members elected among civil society following an open competition, as follows: one by the President of the Republic of Moldova, one by the Parliament, one by the Government and one by the Academy of Sciences (Article 69).

Five members of the SCP are elected by the General Assembly of Prosecutors from among the prosecutors in office, by secret, direct and freely expressed vote, as follows: one from the prosecutors of the General Prosecution Office and four members from among the prosecutors from the territorial and specialized prosecution offices. The prosecutors who have accumulated the highest number of votes at the General Assembly of Prosecutors are considered elected as members of the SCP. The following prosecutors on the list of candidates who have accumulated the highest number of votes shall fill the vacancies in descending order by the number of votes accumulated. Candidates for the position of member of the SCP must enjoy an impeccable reputation, be a recognized authority in their fields of activity and may not be prosecutors who have unqualified disciplinary sanctions and persons who have been convicted of a crime.

Four non-prosecutor members of the SCP are elected by competition from the civil society, as follows: one by the President of the Republic of Moldova, one by the Parliament, one by the Government and one by the Academy of Sciences of Moldova. Candidates for the position of member of the SCP from civil society must have at least 3 years of higher legal education and experience in the field of law, having good

reputation, citizenship, knowledge of Moldovan language and mental capacity. The open competition includes an interview organised by the body selecting the candidate where the field of competence the candidate applied for is examined.

The position of the SCP's prosecutor members is a full-time position and a part-time position for civil society members and *ex officio* members. The mandate of the elected SCP's members is four years. Elected members cannot hold two consecutive terms (Article 73, LP).

SCP's competences include the selection, promotion, training, evaluation, ethics, developing a draft Code of Ethics for prosecutors, approving its own budget and submitting it to the Ministry of Finance, participating in the development of the budget and strategic development plans for the prosecution service, establishing disciplinary liability of prosecutors, appointing prosecutors to the Council of the National Institute of Justice etc.

Operational arrangements that prevent over-concentration of powers in the same hands concerning different functions to be performed by members of the SCP include full-time position of its prosecutor members; prohibition applicable to all SCP's members, except for *ex officio* members, to exercise other remunerated activities except for educational, creative, scientific, publishing and sports activity; prohibition to participate in competitions for appointment or promotion to the position of prosecutor, including of the Prosecutor General, during the term in office and 6 months after its termination; suspension of prosecutorial office for the SCP's prosecutor members for the period of their mandate as SCP members; different branches within the SCP (Prosecutor's Inspection, Ethics and Disciplinary Committee, Evaluation Committee, Selection/Recruitment Committee, Training Commission) composed by different members, nominated/elected by different bodies (the Prosecutor General's Office, SCP, General Assembly of Prosecutors).

Accountability measures in place regarding the SCP's activities include publication of the activity reports, publication of decisions which shall be reasoned.

The SCP is competent in case of a pressure on a prosecutor. In such cases the SCP may start a disciplinary proceeding against the prosecutor in question.

GRECO recommendation xv. GRECO recommended that appropriate measures be taken to ensure that the composition and operation of the SCP be subject to appropriate guarantees of objectivity, impartiality and transparency, including by abolishing the ex officio participation of the Minister of Justice and the President of the SCM.

In [the Evaluation Report on the Republic of Moldova](#), GRECO noted the weak position and lack of independence of the SCP under the current system, which had prevented it from fully exercising its role of safeguarding the autonomy, objectivity and impartiality of the prosecution service. The concerns expressed with respect to the SCM in the Evaluation Report's chapter on judges applied *mutatis mutandis* to the SCP, in particular as regards the *ex officio* membership of the Minister of Justice – all the more since the Constitution provides that the prosecution service forms part of the judicial authority – and the President of the SCM. Consequently, GRECO issued recommendation xv.

In the compliance procedure (see [Compliance Report on the Republic of Moldova](#) (see para. 89-93), [Second Compliance Report on the Republic of Moldova](#) (see para. 90-94), no tangible progress has been made with regard to the ex officio membership of the Minister of Justice and the President of the SCM. Other changes with regard to the composition of the SCP included increasing, but then again decreasing the number of other *ex officio* members and adding additional non-prosecutor member. In its responses to GRECO the authorities explained that the number of prosecutors elected by their peers among SCP members remains five. Together with two *ex-officio* prosecutorial members (i.e. Prosecutor General and Head Prosecutor of Autonomous Region of Gagauzia) there are now seven prosecutors and eight non-prosecutors in the composition of the SCP. The authorities referred also to opinion of the CCPE (Consultative Council of European Prosecutors) concerning the independence of prosecutors in the context of legislative changes as regards the prosecution service in the Republic of Moldova (CCPE-BU (2020)2), which points to the desirability for prosecutors elected by their peers to be in majority in prosecutorial councils. They also referred to the Venice Commission Amicus Curiae Brief n°972/2019 (CDL-AD (2019)034), which considers that the new membership balance within the SCP (following the Law n°128/2019 on amending the Law on Prosecutor's Office) is in line with previous VC recommendations, and indicates that the presence of the Minister of Justice in the SCP "would not seem objectionable".