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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: 2021

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

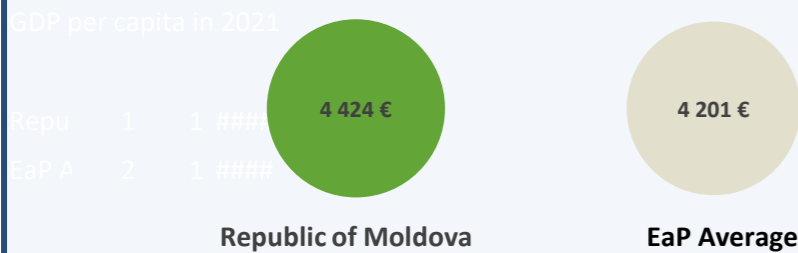
## Part 2 (A) - Beneficiary profile - Republic of Moldova

## Executive Summary - Republic of Moldova in 2021

### Population in 2021



### GDP per capita in 2021



### Average annual salary in 2021



### Budget

The Republic of Moldova spent 41 810 722€ as implemented judicial system budget in 2021. It meant **16€ per inhabitant** (+2,1% compared to 2020). It was higher than the EaP Average of **12,4€**.

**50,1% was spent for all courts, 41,3% for prosecution services, 8,6% for legal aid.** In 2021 compared to 2020, the Republic of Moldova has spent per inhabitant -1% less for courts, -0,1% less for prosecution services, and 43,9% more for legal aid.

The budgets spent per inhabitant amounted to **8€ for all courts, 6,6€ for prosecution services and 1,4€ for legal aid**, which are **higher than the EaP Averages** of 5,1€ for prosecution services and 0,6€ for legal aid respectively.

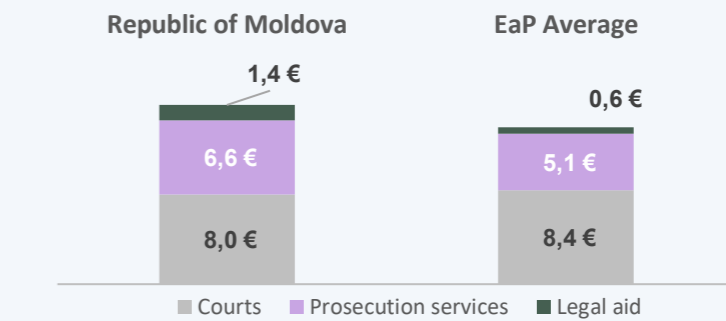
### Legal aid

In 2021, the total implemented **budget for legal aid** was 3 582 022€, which was 43% more compared to 2020, due to the increase in the remuneration for legal aid services and the increase in the number beneficiaries of the legal aid system. Thus, the Republic of Moldova allocated **1,38€ per inhabitant** (considerably above the EaP Average of 0,58€) and has a higher number of cases benefiting from legal aid.

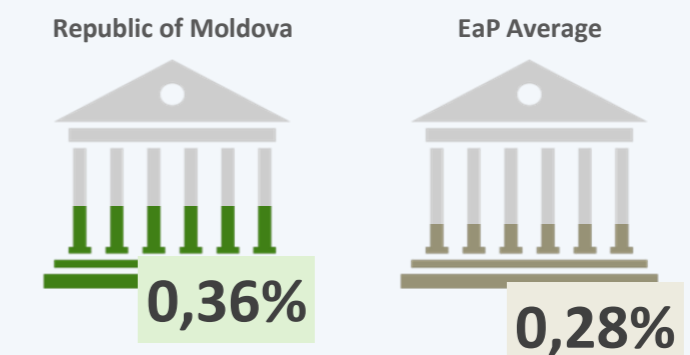
In 2021, the **legal aid was granted for a total of 44 466 cases**, which represented **1,7 cases per 100 inhabitants**. The majority of legal aid was granted for criminal cases (36 461). The number of other than criminal cases was considerably lower (8 005), although showing a significant increase compared to 2020 (+182%). On average Moldova spent **80.6€ per legal aid case**, slightly higher

### Budget of the Judicial System

#### Implemented Judicial System Budget per inhabitant in 2021



#### Implemented Judicial System Budget as % of GDP in 2021



### Efficiency \*\*

For the purpose of this Profile, the data of the 1st and 2nd instance courts is analysed. The Disposition Time decreased compared to 2020 and did not differ significantly from EaP average values in 2021. The only exception are second instance criminal law cases. **Second instance civil and commercial litigious cases were resolved faster** than other types of cases with a Disposition Time of 106 days. Clearance Rates (CR) in 2021 appear to be below the 2018 levels and they are below 100% for all categories of cases in both instances. The number of incoming and resolved cases increased significantly for almost all categories of cases in 2021 compared to 2020. Due to the Covid-19 pandemic there were severe restrictions on the work of courts in 2020 which resulted in a generally lower number of cases in that year. The lifting of restrictions led to consequent increase of incoming and resolved cases that can be observed in 2021 for most of the case categories. The highest value of the CR **was recorded for civil and commercial litigious cases in first instances** (99,7%). Overall, if the Clearance Rates continue to remain below 100%, there is a risk of increased accumulation of pending cases and delays in delivering justice.

Compared to 2020, the **CR increased slightly in all categories of cases in first instance courts** and it is above the EaP averages for 2021. The situation differs in **second instance courts**, where the CR increased in civil and commercial litigious cases and in administrative cases compared to 2020. It decreased significantly in criminal law cases, down to 85%, explained by an increase in incoming cases in 2021. Thus, the CR is below the EaP Averages in all categories of cases in second instance courts.

The **Disposition Time** decreased compared to 2020 in all categories of cases and is **below the EaP Averages in 2021 in first instance courts, with the exception of criminal cases** (208 days vs 200 EaP). In **second instance courts** the DT decreased slightly in civil and commercial litigious cases and in administrative cases and it increased in criminal law cases (from 113 days in 2020 to 166 days in 2021).

In the Republic of Moldova, there **are no quality standards for courts approved at the national system**. 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.

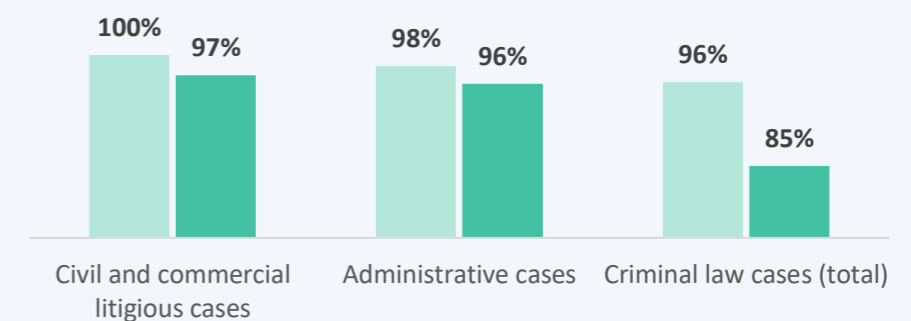
**Clearance Rate (CR)** is the ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage. It demonstrates how the court or the judicial system is coping with the in-flow of cases and allows comparison between systems regardless of their differences and individual characteristics. Its key value is 100%. A value below 100% means that the courts were not able to solve all the cases they received and, as a consequence, the number of pending cases increases. A CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of the pending cases) and, as a consequence, the number of pending cases decreases.

**Disposition Time (DT)** is the indicator that calculates time necessary for a pending case to be resolved and estimates the lengths of proceedings in days. It is a ratio between the pending cases at the end of the period and the resolved cases within the same period, multiplied by 365 days. More pending than resolved cases will lead to a DT higher than 365 days (one year) and vice versa.

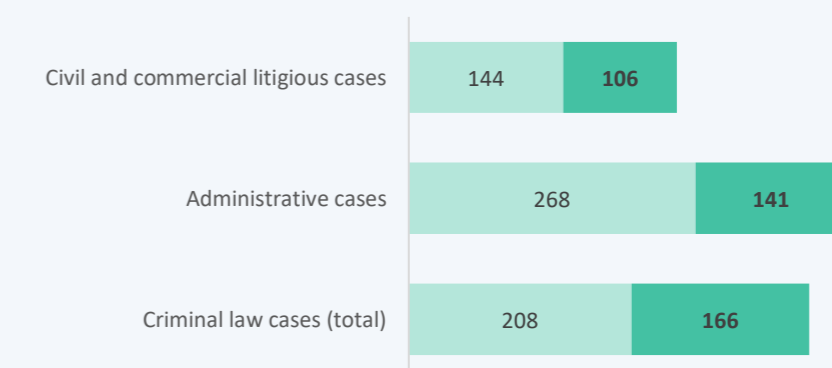
### Efficiency

1st instance 2nd instance

#### Clearance rate in 2021 (%)

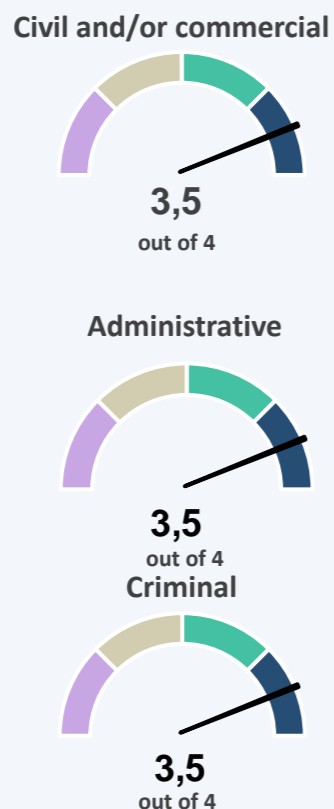


#### Disposition time in 2021 (in days)



### 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 five 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 summarized 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.



### 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, functional for over 10 years. A major CMS redevelopment has been implemented in the last 2 years. The ICMS is deployed in all courts and a statistical tool is reported as integrated.

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

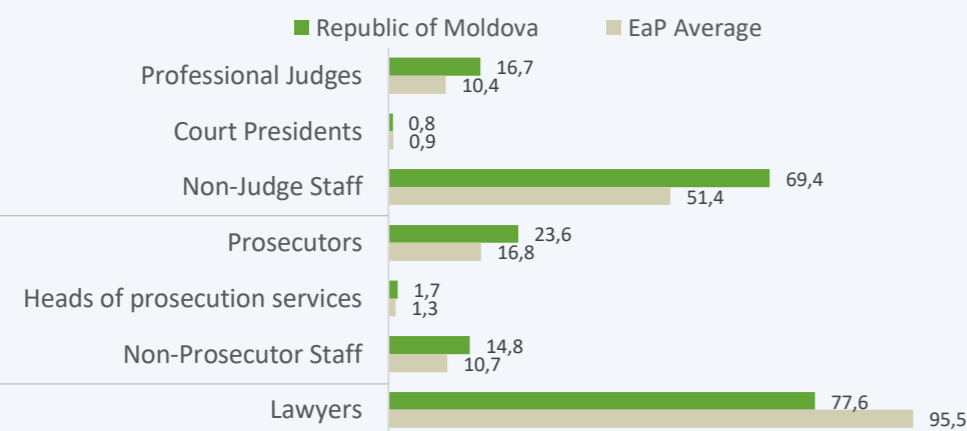
The total budget for training of judges and prosecutors in the Republic of Moldova was 0,33€ per inhabitant, which is above the EaP Average (0,19€ per inhabitant). In 2021, 9 028 participants (of which 2 677 judges and 2 305 prosecutors) were trained in 248 live trainings (in-person, hybrid or video conferences). The average number of participants per training was 36,4, which was more than the EaP Average (15,2). Regarding the internet-based trainings (not-live), 13 trainings in total were provided on the e-learning platform of the training institution for judges and prosecutors, whereas a total of 21 trainings was completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc.). The total number of participants was 698 and 772, respectively.

### ADR (Alternative Dispute Resolution)

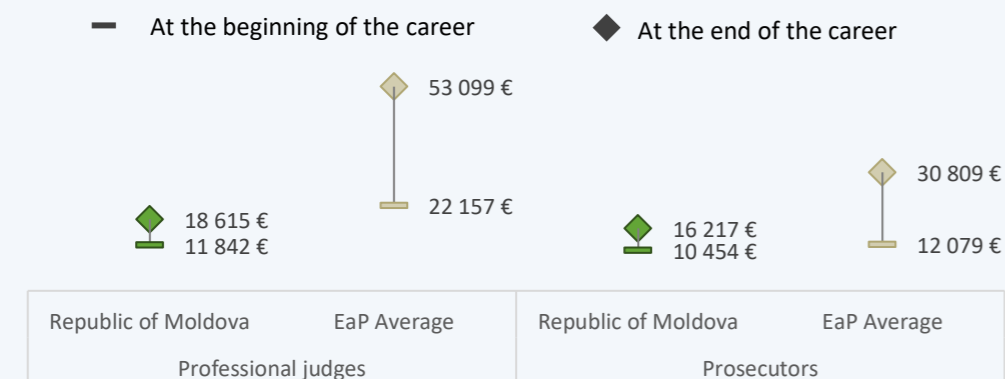
In the Republic of Moldova, the court-related mediation is mandatory in some fields of the civil and criminal law cases in the course of judicial proceedings. In 2021, the court-related mediation data was reported as mostly used in civil and commercial cases and family cases (parties agreed to start mediation in 5 562 and 2 575 cases, respectively). Court-related mediations is provided by private mediators. In 2021, the number of registered mediators per 100 000 inhabitants in the Republic of Moldova (36,6) was considerably above the EaP Average (11,2). The majority of the mediators were women (53,3%). There are no specific provisions concerning the mandatory information sessions but in accordance with the Law on mediation these sessions are free of charge and can be agreed upon by the parties. In terms of reform plans, the exclusion of the institution of compulsory court-related mediation is foreseen in the Government Action Plan for the years 2021-2022 (see Reforms).

### Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2021



Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2021 (€)



### Gender Balance



### Professionals and Gender Balance

In 2021, the Republic of Moldova had **16,7 professional judges per 100 000 inhabitants** and **23,6 prosecutors per 100 000 inhabitants**. Both figures were above the EaP Average of 10,4 and 16,8, respectively. In 2021, there were **77,6 lawyers per 100 000 inhabitants**, which was below the EaP Average of 95.5.

In the Republic of Moldova in 2021 there were **48% professional judges women** (vs 41 % EaP Average) and **32% prosecutors women** (vs 25% EaP Average). 30% of **courts presidents** are women and there were only 12% of female **heads of prosecution services**, which is indicative of a glass ceiling. For **non-judge and non-prosecutors staff** the situation seems to differ: the percentage of female non-judge staff was 82% (above the EaP median of 70%) and female non-prosecutor staff - 70% (above the EaP median of 67%).

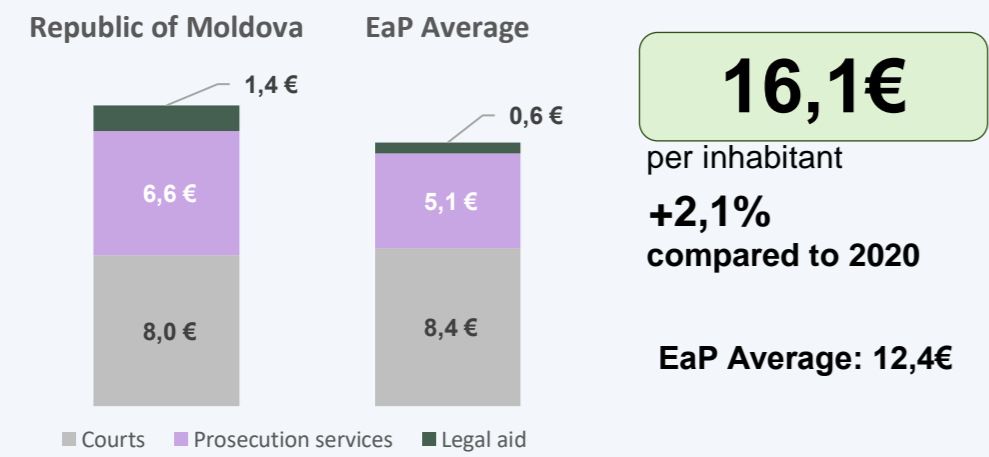
### ECHR

In 2021, there were 630 applications for the Republic of Moldova pending before a judicial formation of the ECtHR. In 48 judgements at least one violation was found by the ECtHR. 40 cases were considered as closed after a judgement of the ECtHR and the execution of judgements process.

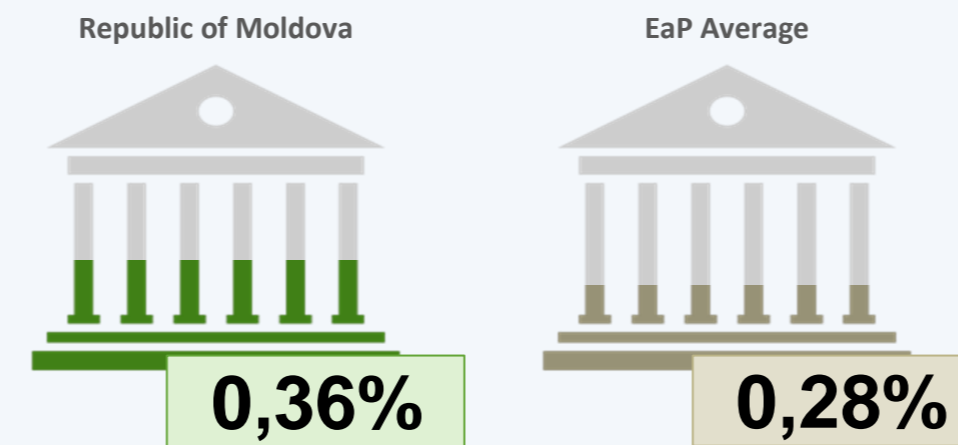
In the Republic of Moldova, there is a possibility to review a case after a decision on violation of human rights by the ECtHR and there is a monitoring system for violations related to Article 6 of ECHR for civil system for violations related to Article 6 of ECHR for civil procedures (non-enforcement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

## Budget of the judicial system in the Republic of Moldova in 2021 (Indicator 1)

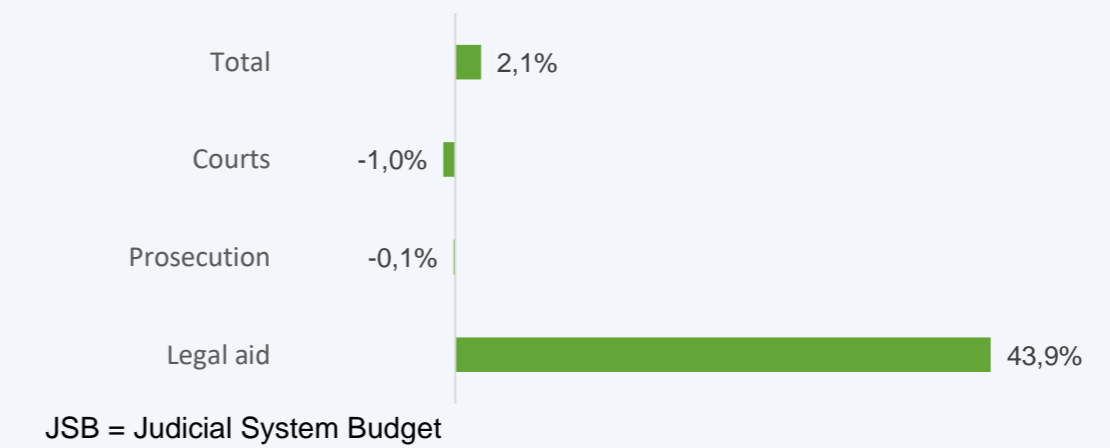
### Implemented Judicial System Budget per inhabitant



### Implemented Judicial System Budget as % of GDP



### % Variation of the JSB per inhabitant between 2020 - 2021



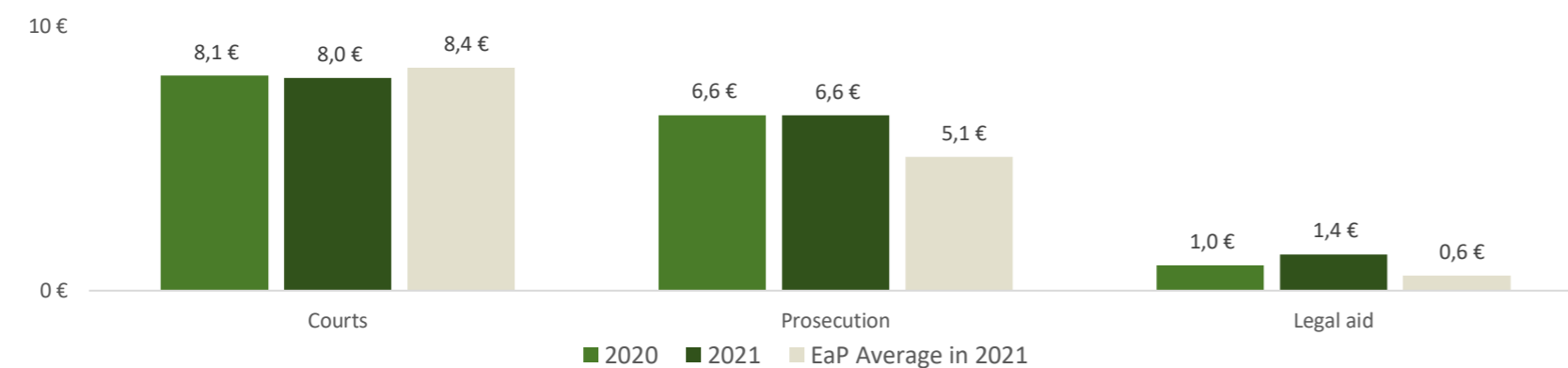
The Judicial System Budget (JSB) is composed of the budgets for courts, public prosecution services and legal aid. In 2021, the implemented JSB for Republic of Moldova was 16,1€ per inhabitant (+2,1% compared to 2020). It was higher than the EaP Average of 12,4€. The expenditure on JSB represented 0,36% of the GDP of Republic of Moldova and it is also higher than the EaP Average was 0,28%. Compared to 2020, the Republic of Moldova has spent per inhabitant, -1% less for courts, -0,1% less for prosecution services, and 43,9% more for legal aid. In respect of the later, legislative changes regarding the conventional unit entered into force in 2021 and the amount of the fixed remuneration partially increased the monthly payments for public lawyers. In addition to the above, the number of legal aid beneficiaries increased (Source: 2021 Annual Report of the Legal Aid Council).

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

In 2021, Republic of Moldova spent 41 810 722€ on the implemented judicial system budget. Of this, 50,1% was spent for courts, 41,3% for prosecution services, 8,6% for legal aid.

Judicial System Budget	Judicial System Budget in 2021		Implemented Judicial System Budget per inhabitant			Implemented Judicial System Budget as % of GDP		
	Approved	Implemented	Per inhabitant in 2021	EaP Average in 2021	% Variation between 2020 - 2021	As % of GDP	EaP Average in 2021	Variation (in ppt) 2020 - 2021
<b>Total</b>	42 502 689 €	41 810 722 €	16,1 €	12,4 €	2,1%	0,36%	0,28%	-0,05
<b>Courts</b>	20 949 187 €	20 959 005 €	8,0 €	8,4 €	-1,0%	0,18%	0,16%	-0,03
<b>Prosecution</b>	18 173 783 €	17 269 695 €	6,6 €	5,1 €	-0,1%	0,15%	0,11%	-0,02
<b>Legal aid</b>	3 379 719 €	3 582 022 €	1,4 €	0,6 €	43,9%	0,031%	0,013%	0,006

### Implemented judicial system budget per inhabitant between 2020 and 2021 (€)



### Implemented Judicial System Budget as % of GDP between 2020 and 2021



This scatterplot shows the relation between the GDP in billions and the Implemented Judicial System Budget as % of GDP. A figure on the right (left) of the average means that the Beneficiary has a higher (lower) ratio of Implemented Judicial System Budget as % of GDP than the average.

In 2021, per inhabitant the Republic of Moldova spent 8€ for courts (slightly below the EaP Average), 6,6€ on prosecution services (above the EaP Average) and 1,4€ on legal aid, which is considerably above the EaP Average.



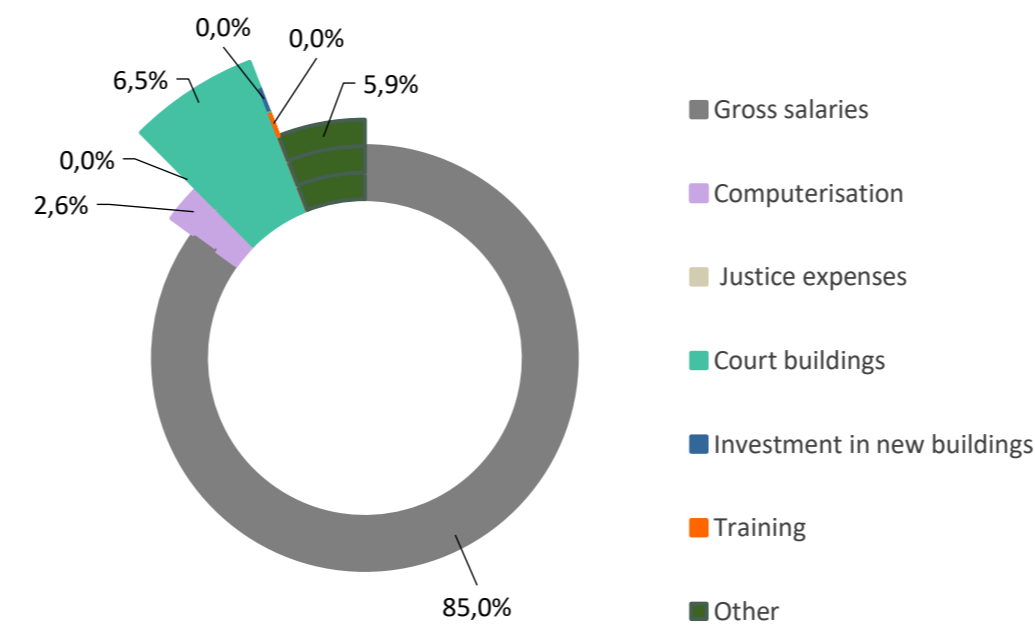
## Budget allocated to the functioning of courts

In 2021, the Republic of Moldova spent 20 959 005€ on the implemented budget for courts. Of this 85% was spent for gross salaries, 6,5% for court buildings, 5,9% for other (telecommunication and mail services, transportation, periodicals, equipment, protocol expenses and missions, etc); and 2,6% for computerisation.

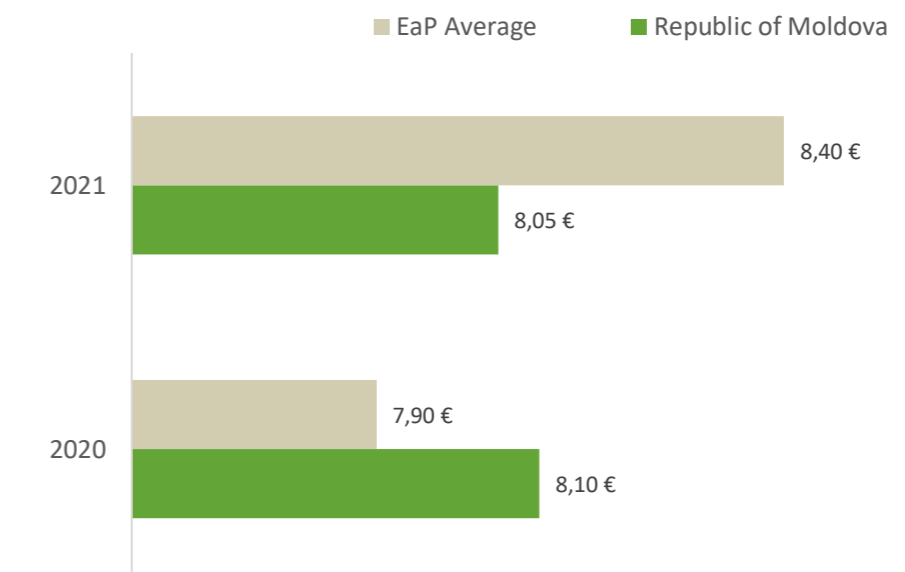
Compared to 2020, the total implemented budget for courts has decreased by -1,9% and with 8.05€ per inhabitant it is slightly below the EaP Average of 8,4€ in 2021.

	2021		% Variation between 2020 and 2021	
	Approved budget	Implemented budget	Approved budget	Implemented budget
<b>Total (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	20 949 187 €	20 959 005 €	-6,6%	-1,9%
<b>1. Gross salaries</b>	17 233 533 €	17 808 509 €	-6,5%	-2,5%
<b>2. Computerisation (2.1 + 2.2)</b>	495 496 €	541 026 €	-20,6%	-1,0%
2.1 Investment in computerisation	189 649 €	201 854 €	-36,6%	-31,9%
2.2 Maintenance of the IT equipment of courts	305 847 €	339 172 €	-5,8%	35,6%
<b>3. Justice expenses</b>	NAP	NAP	NAP	NAP
<b>4. Court buildings</b>	1 473 743 €	1 371 799 €	4,4%	12,2%
<b>5. Investment in new buildings</b>	477 886 €	0 €	-5,6%	0,0%
<b>6. Training</b>	11 565 €	2 477 €	-34,9%	74,7%
<b>7. Other</b>	1 256 964 €	1 235 194 €	-12,9%	-6,8%

Distribution of the Implemented budget allocated to courts in 2021 (%)



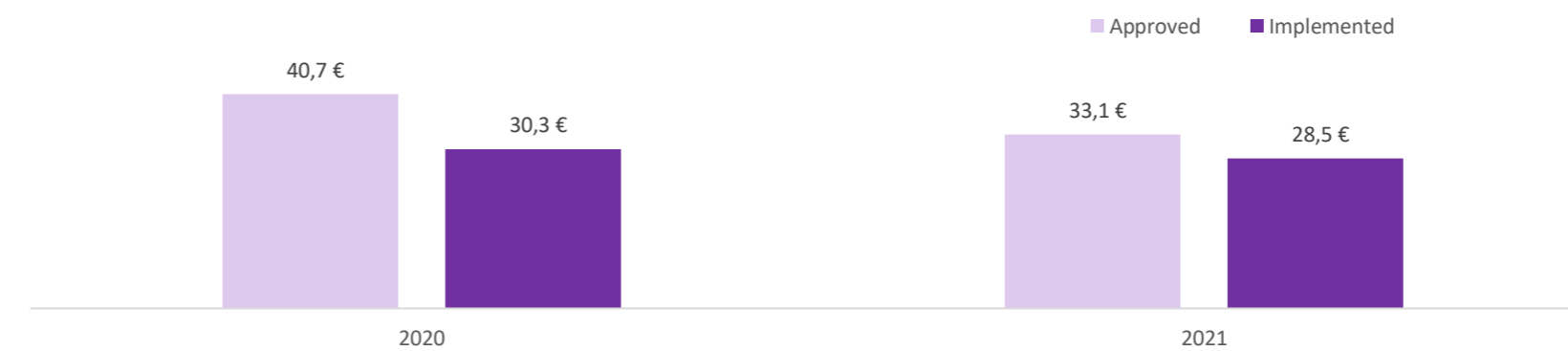
Implemented budget allocated to courts per inhabitant between 2020 and 2021 (€)



## Budget allocated to the whole justice system

Whole Justice System Budget	2021		% Variation of the Whole Justice System Budget per inhabitant 2020 - 2021
	Absolute number	Per inhabitant	
Approved	86 071 894 €	33,1 €	-18,8%
Implemented	74 124 781 €	28,5 €	-5,9%

Whole Justice System Budget between 2020 and 2021 (€ per inhabitant)



The whole justice system budget includes the following elements in 2021:

- Court budget ✓
- Legal aid budget ✓
- Public prosecution services budget ✓
- Prison system ✓
- Probation services ✓
- Council of the judiciary ✓
- High Prosecutorial Council ✓

- Constitutional court ✓
- Judicial management body ✓
- State advocacy ✗
- Enforcement services ✗
- Notariat ✗
- Forensic services ✓
- Judicial protection of juveniles ✗

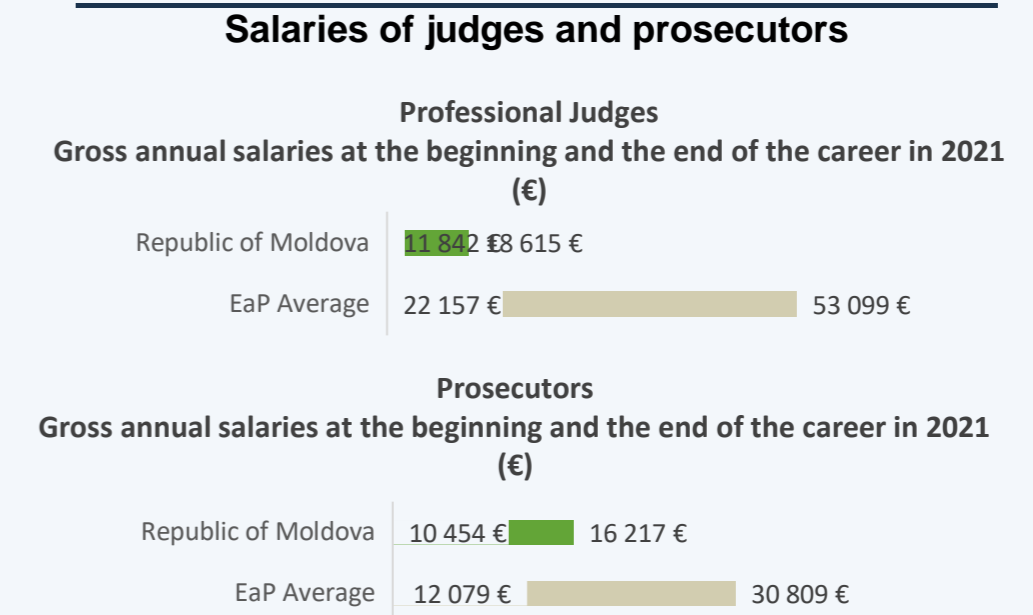
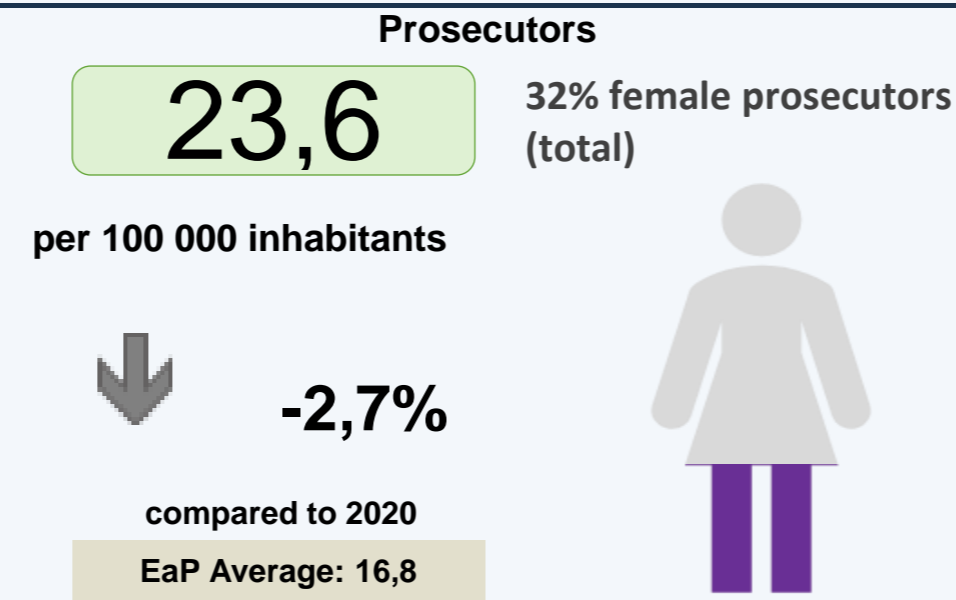
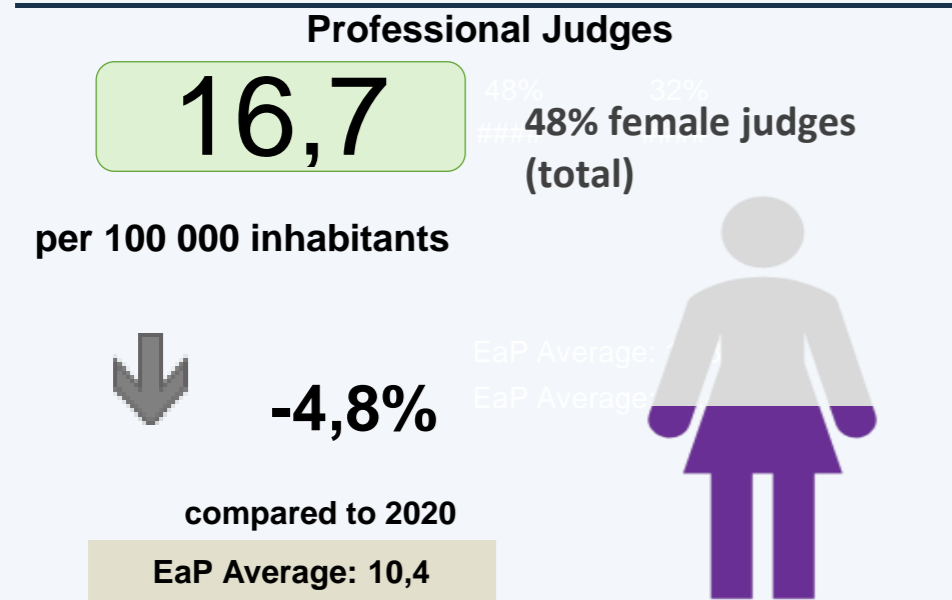
- Functioning of the Ministry of Justice ✓
  - Refugees and asylum seekers service ✗
  - Immigration services ✗
  - Some police services ✗
  - Other services ✓
- Other services:* Agency for Legal Resources, National Institute of Justice.

• Budget received from external donors

	Absolute value	Calculated as %
Courts	NA	NA
Prosecution services	NA	NA
Legal aid	NA	NA
Whole justice system	NA	NA

In 2021 the authorities explained that external funds were allocated by UNDP, EU and CoE (CEPEJ) for implementing projects aimed at improving the functioning of judiciary, such as development of new IT solutions (refining electronic court statistics by developing a new application JUSTAT for general public) in judiciary. For this application EU and CoE spent EUR 39 000 and the development was work in progress in 2021. All procurements linked to the external assistance 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. The Prosecutor General Office, Superior Council of Prosecutors, Legal Aid Council and other justice sector actors reported that they weren't beneficiaries of international donors funds in 2021. There is a specific menu dedicated to the external assistance on the Ministry of Finance webpage. 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. The disaggregated data on external donor's contributions for justice sector are not available for the related period. Please see the report at the following link: <https://www.mf.gov.md/sites/default/files/Raport%20ODA%202021.pdf>

## Professionals and Gender Balance in judiciary in Republic of Moldova in 2021 (Indicators 2 and 12)



In 2021, Republic of Moldova had 16,7 professional judges per 100 000 inhabitants and 23,6 prosecutors per 100 000 inhabitants. Both figures were above the EaP Average of 10,4 and 16,8, respectively. Less than half of professional judges (48%) and prosecutors (32,4%) were women (the EaP Average was 41,2% and 25,3%, respectively).

### Professional Judges

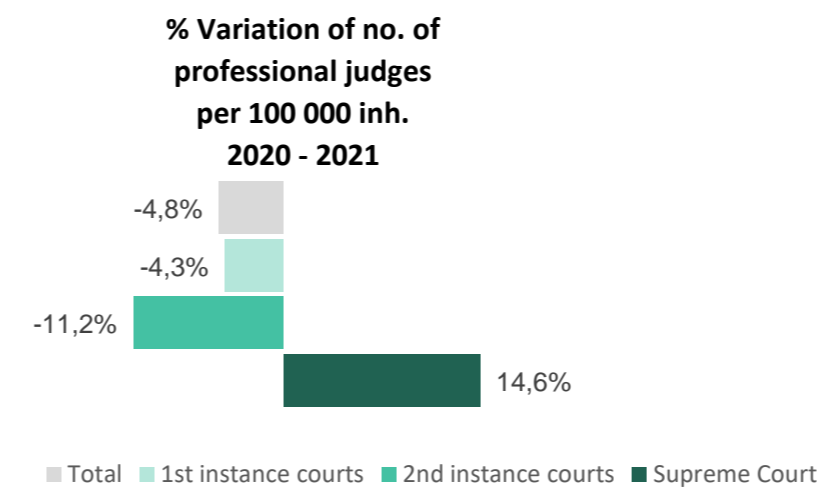
	Professional judges in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
<b>Total</b>	435	100,0%	16,7	10,4
1st instance courts	329	75,6%	12,6	7,7
2nd instance courts	81	18,6%	3,1	2,1
Supreme Court	25	5,7%	1,0	0,6

For reference only: the 2021 EU median is 24,1 judges per 100 000 inhabitants.

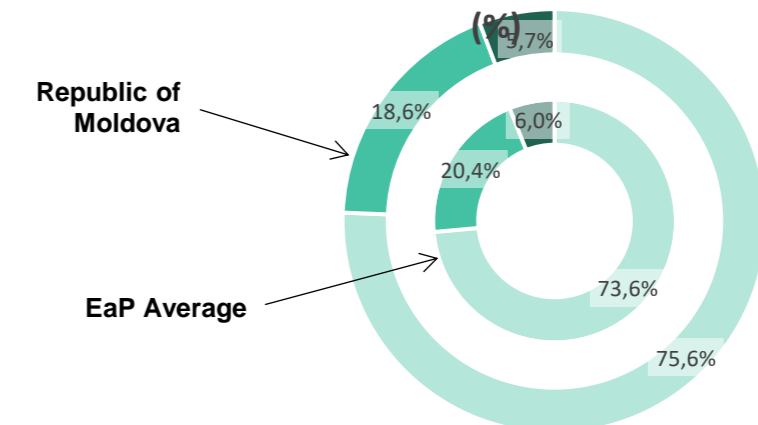
In 2021, the absolute number of professional judges in the Republic of Moldova was 435 (i.e. 16,7 per 100 000 inhabitants, which was higher than the EaP Average of 10,4).

Compared to 2020, the total number of professional judges per 100 000 inhabitants decreased by -4,8%. The most notable decrease is in the 2nd instance courts.

The figures show a difference of 2 percentage points between the percentage of judges in the first instance (75,6%) and the EaP Average (73,6%)



### Distribution of professional judges by instance in 2021

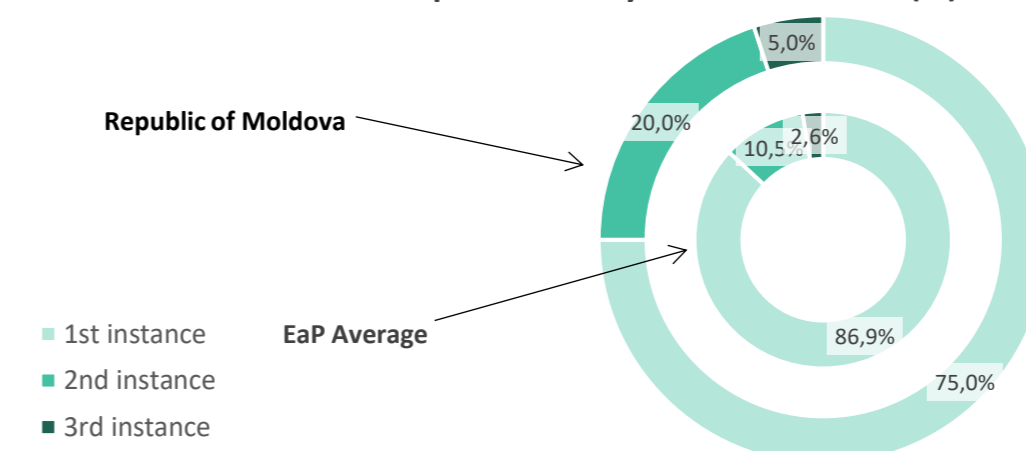


### Court presidents

	Court presidents in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
<b>Total</b>	20	100,0%	0,8	0,9
1st instance courts	15	75,0%	0,6	0,8
2nd instance courts	4	20,0%	0,2	0,1
Supreme Court	1	5,0%	0,0	0,0

The absolute number of court presidents in the Republic of Moldova in 2021 was 20 ( i.e. 0,8 per 100 000 inhabitants, which was slightly below the EaP Average of 0,9).

### Distribution of court presidents by instance in 2021 (%)



## • Non-judge staff

The absolute total number of non-judge staff in the Republic of Moldova was 1 808, which increased by 0,9% between 2020 and 2021. The number of non-judge staff per 100 000 inhabitants was 69,4, which was above the EaP Average of 51,4.

Compared to 2020, there was no significant variation in the distribution of non-judge staff among instances in 2021.

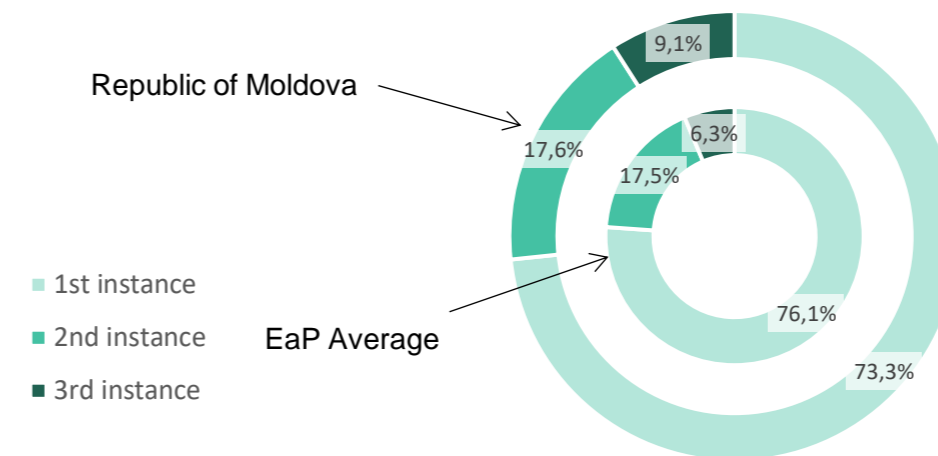
The highest number of non-judge staff were assisting judges and represented 48,3% of the total, followed by those in charge of administrative tasks (34%).

	Number of non-judge staff by instance in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
<b>Total</b>	1 808	100,0%	69,4	51,4
1st instance courts	1 326	73%	50,9	39,2
2nd instance courts	318	18%	12,2	8,7
Supreme Court	164	9%	6,30	4,18

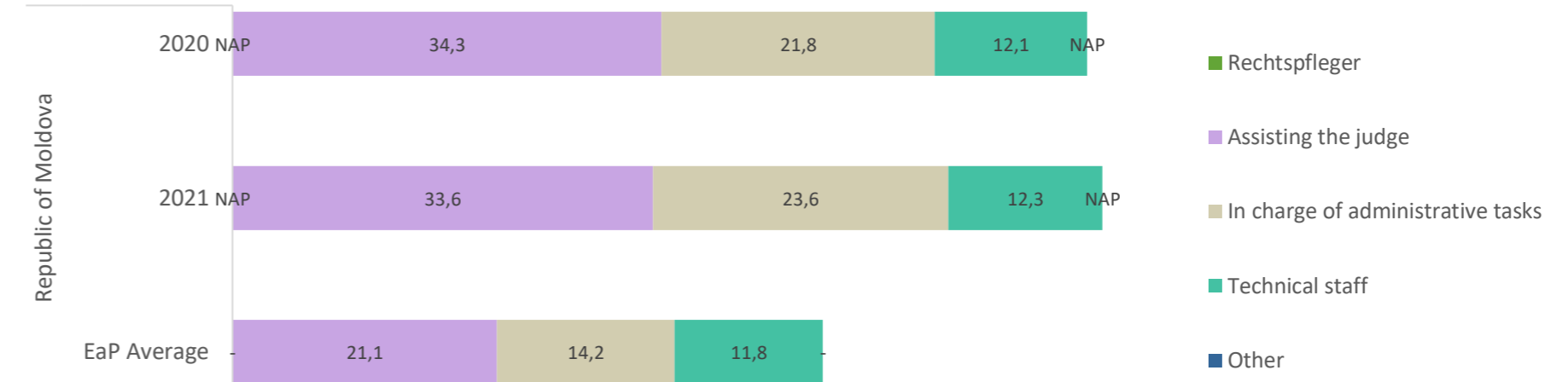
For reference only: the 2021 EU median is 58,5 non-judge staff per 100 000 inhabitants.

	Number of non-judge staff by category in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
<b>Total</b>	1 808	100,0%	69,4	51,4
Rechtspfleger	NAP	NAP	NAP	-
Assisting the judge	874	48,3%	33,6	21,1
In charge of administrative tasks	614	34,0%	23,6	14,2
Technical staff	320	17,7%	12,3	11,8
Other	NAP	NAP	NAP	-

Distribution of non-judge staff by instance in 2021 (%)



Number of non-judge staff per 100 000 inhabitants by category between 2020 and 2021



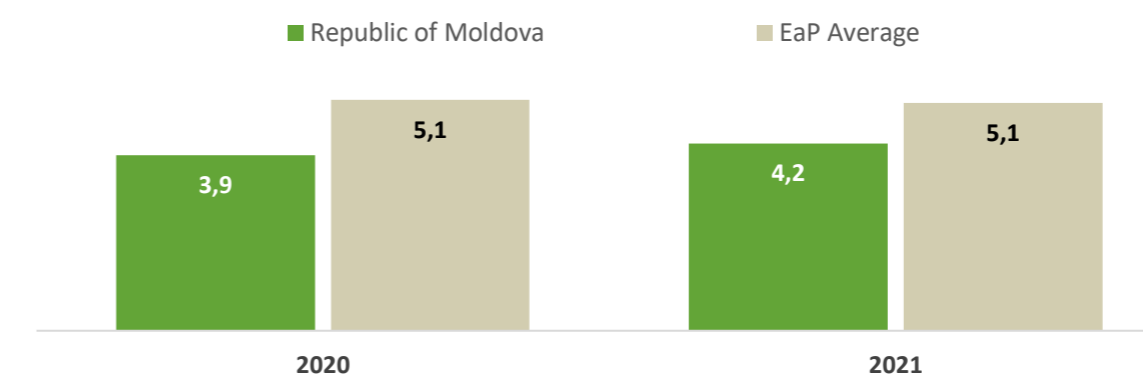
## • Ratio between non-judge staff and professional judges

In the Republic of Moldova, the ratio of non-judge staff per professional judge was 4,2 in 2021, whereas the EaP Average was 5,1. This ratio increased from 3,9 in 2020 in the Republic of Moldova.

	Ratio in 2021		% Variation between 2020 and 2021
	Republic of Moldova	EaP Average	
<b>Total</b>	4,2	5,1	6,9%
1st instance courts	4,0	5,3	5,0%
2nd instance courts	3,9	4,1	18,8%
Supreme Court	6,6	6,7	-7,5%

For reference only: the 2021 EU median ratio of non-judge staff per judge is 3,1.

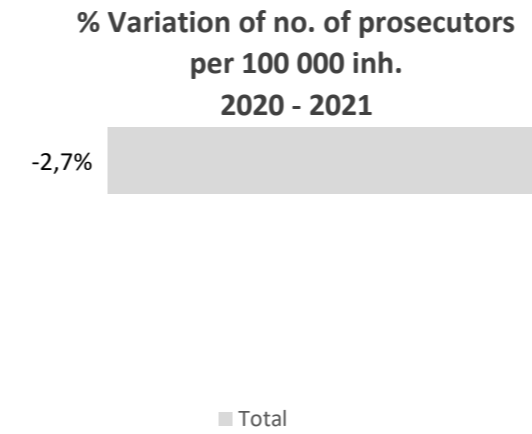
Ratio between non-judge staff and judges between 2020 and 2021





**Prosecutors**

	Number of prosecutors by instance in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
<b>Total</b>	615	100,0%	23,6	16,8
1st instance level	NA	NA	NA	-
2nd instance level	NA	NA	NA	-
Supreme Court level	NA	NA	NA	-



For reference only: the 2021 EU median is 10,8 prosecutors per 100 000 inhabitants.

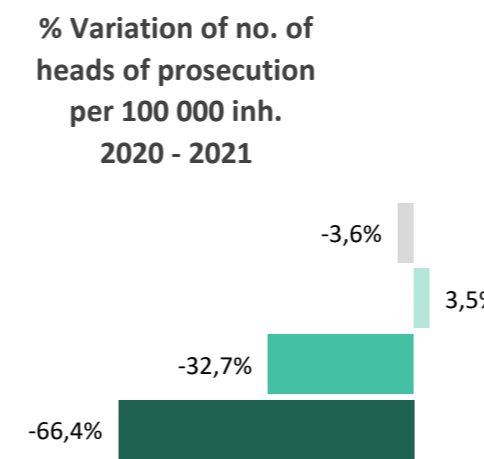
In 2021, the absolute number of prosecutors in Republic of Moldova was 615 (i.e. 23,6 per 100 000 inhabitants, which was higher than the EaP Average of 16,8).

The total number of prosecutors per 100 000 inhabitants decreased by -2,7% between 2020 and 2021.

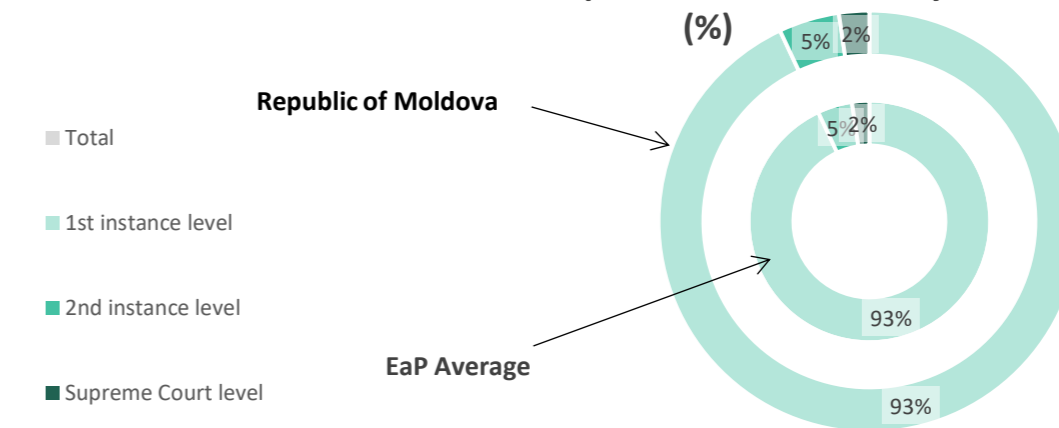
The explanation for NA is that there is no specific record kept according to the EN definition. Source: General Prosecutor's Office annual activity report available at [http://procuratura.md/file/2022-03-21\\_RAPORT%20de%20activitate%20FINAL.pdf](http://procuratura.md/file/2022-03-21_RAPORT%20de%20activitate%20FINAL.pdf)

**Heads of prosecution services**

	Heads of prosecution services in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
<b>Total</b>	43	100,0%	1,7	1,3
1st instance level	40	93,0%	1,5	-
2nd instance level	2	4,7%	0,1	-
Supreme Court level	1	2,3%	0,0	-



Distribution of heads of prosecution services by instance in 2021 (%)



The absolute number of heads of prosecution services in Republic of Moldova in 2021 was 43 (i.e. 1,7 per 100 000 inhabitants, which was higher than the EaP Average of 1,3).

The number of heads of prosecution offices at supreme court level reflects the number of heads of the of the Prosecutor General Office; the number of heads of specialised prosecutor's office is reflected for the 2nd instance courts..

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

	Non-prosecutor staff in 2021			Ratio between non-prosecutor staff and prosecutors in 2021		% Variation 2020 - 2021
	Absolute number	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants	Republic of Moldova	EaP Average	Republic of Moldova
<b>Total</b>	385	14,8	10,7	0,6	0,6	0%

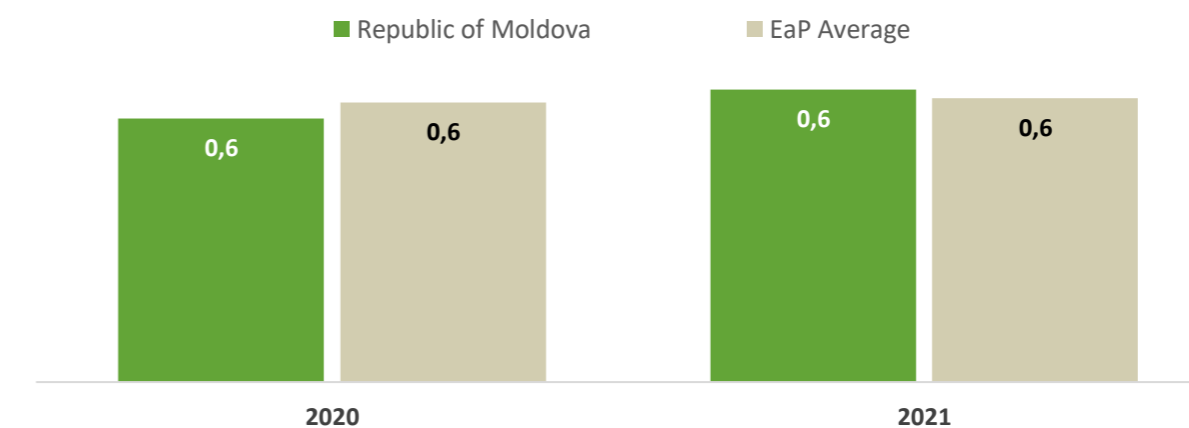
For reference only: the 2021 EU median is 14,7 non-prosecutors staff per 100 000 inhabitants.

In 2021, the total number of non-prosecutor staff in Republic of Moldova was 385. Their number increased by 6,9% compared to 2020.

The number of non-prosecutor staff per 100 000 inhabitants was 14,8, which was above the EaP Average of 10,7.

The ratio of non-prosecutor staff per prosecutor was 0,6, on a par with the EaP Average.

Ratio between non-prosecutor staff and prosecutors between 2020 and 2021



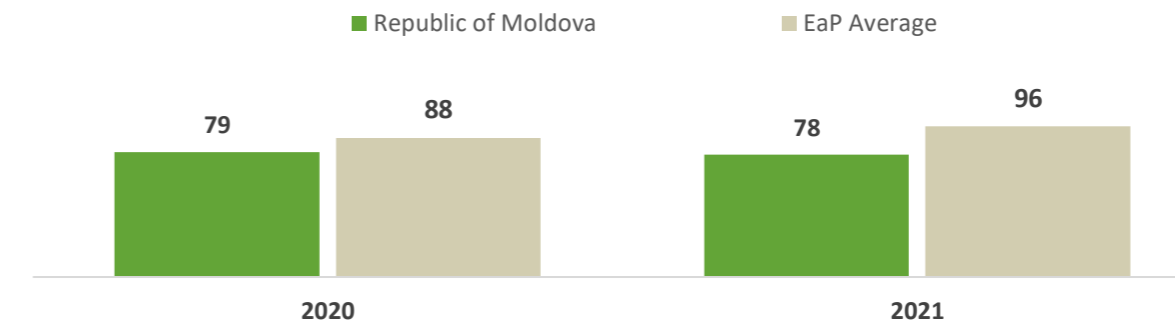
## • Lawyers

	Number of lawyers in 2021			% Variation 2020 - 2021
	Absolute number	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants	Republic of Moldova
Total	2 021	77,6	95,5	-2,3%

For reference only: the 2021 EU median is 122,4 lawyers per 100 000 inhabitants.

In 2021, the number of lawyers was 77,6 per 100 000 inhabitants, which was significantly lower than the EaP Average (95,5). The number of lawyers per 100 000 inhabitants decreased by -2,3% between 2020 and 2021.

Number of lawyers per 100 000 inhabitants between 2020 and 2021



## • Salaries of professional judges and prosecutors

In 2021, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Republic of Moldova was 2,3, which was less than the EaP Average (4,5).

At the end of career, judges were paid more than at the beginning of career by 57,2%, which was less than the variation of EaP Average (120,2%).

In 2021, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Republic of Moldova was 2, which was less than the EaP Average (2,5).

At the end of career, prosecutors were paid more than at the beginning of career by 55,1%, which was less than the variation of EaP Average (146,7%).

In the Republic of Moldova judges are paid slightly more than prosecutors at the beginning and the end of their respective careers, as it seems to be the case in the region.

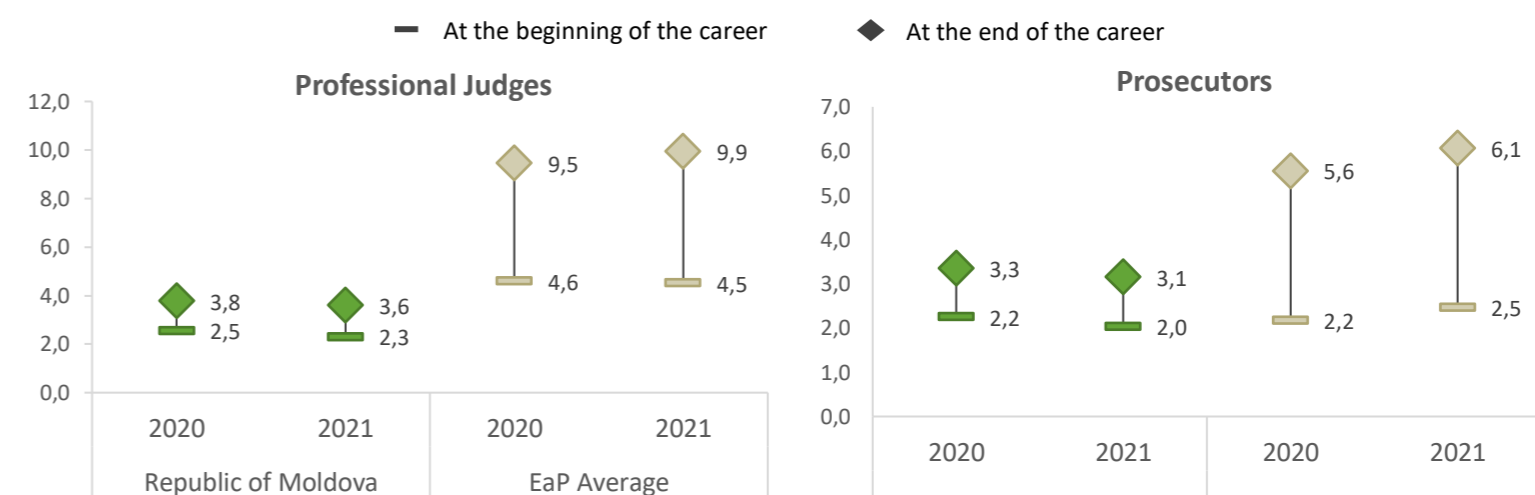
		Salaries in 2021 (absolute values)			Ratio with the annual gross salary	
		Gross annual salary in €	% Variation 2020 - 2021	Net annual salary in €	Republic of Moldova	EaP Average ratio
Professional judge	At the beginning of the career	11 842	▼ -5,6%	9 628	2,3	4,5
	Of the Supreme Court or the Highest Appellate Court	18 615	▬ 0,0%	15 051	3,6	9,9
Public prosecutor	At the beginning of the career	10 454	▼ -5,6%	8 371	2,0	2,5
	Of the Supreme Court or the Highest Appellate Court	16 217	▼ -1,6%	12 987	3,1	6,1

Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2021 (€)



For reference only: the 2021 EU median for the ratio of judges and prosecutors' salaries with average gross annual national salary is:  
 - professional judges' salary at the beginning of career: 1,9 - prosecutors' salary at the beginning of career: 1,7  
 - professional judges' salary at the end of career: 4,1 - prosecutors' salary at the end of career: 3,4

Ratio of the gross annual salaries of judges and prosecutors with the average annual gross salary at



## Additional benefits and bonuses for professional judges and prosecutors

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

**Gender Balance**

	% Female per category in 2021		% Variation 2020 - 2021	
	Republic of Moldova	EaP Average	Republic of Moldova	
Professional Judges	48%	41,2%	▼	-1,6
Court Presidents	30%	21,2%	▲	20
Non-Judge Staff	81,5%	69,9%	▲	1,4
Prosecutors	32,4%	25,3%	▲	1
Heads of Prosecution Services	11,6%	8,3%	▲	5
Non-Prosecutor Staff	70,4%	67,1%	▼	-7,7
Lawyers	29,2%	35,2%	▼	-0,4

For reference only: 2021 EU medians on gender among professionals are as follows: 62% women judges; 76% women non-judge staff; 60% women prosecutors; 74% women non-prosecutor staff; and 47% women lawyers.

In 2021, the percentage of female professional judges was 48%, which was higher than EaP Average (41,2%). With a presence of 30%, the number of female court presidents in Republic of Moldova was slightly higher than the EaP Average of 21,2%, which is still far from a gender balance in these positions. Moreover, the percentage of female non-judge staff was 81,5%.

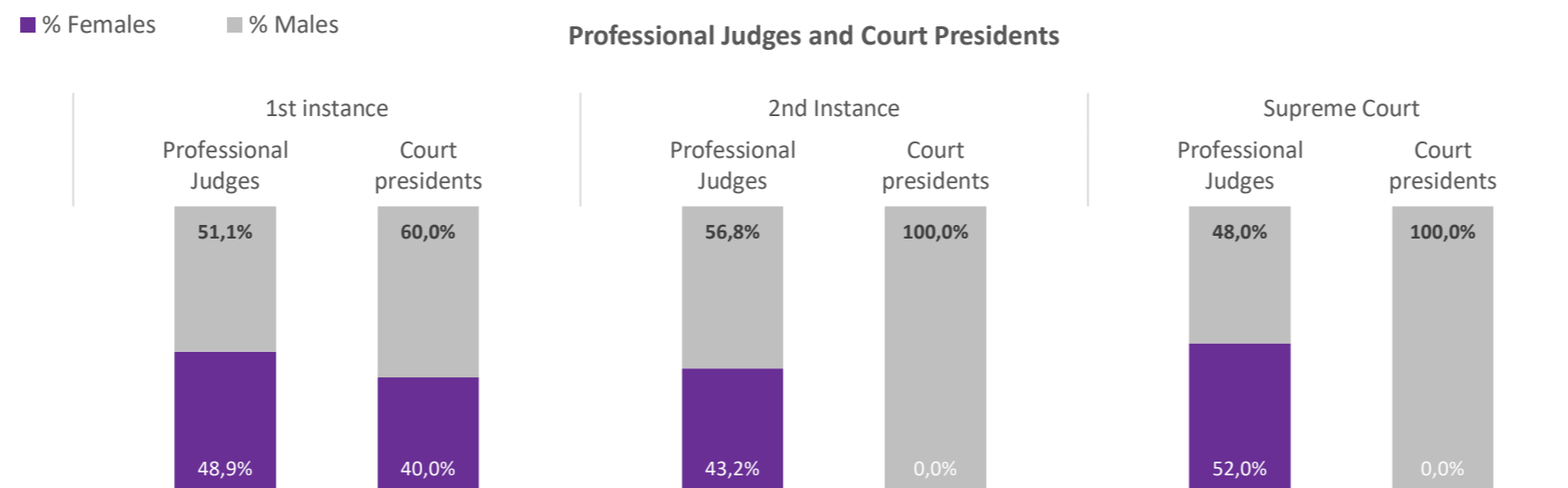
Also, the percentage of female prosecutors was 32,4% (higher than the EaP Average (25,3%)). The number of female Heads of prosecution services (12%) was higher than the EaP Average (8%), yet there seems to be an apparent glass ceiling. Moreover, the percentage of female non-prosecutor staff was 70,4%.

Finally, the percentage of female lawyers was 29,2%, which was lower than EaP Average (35,2%).

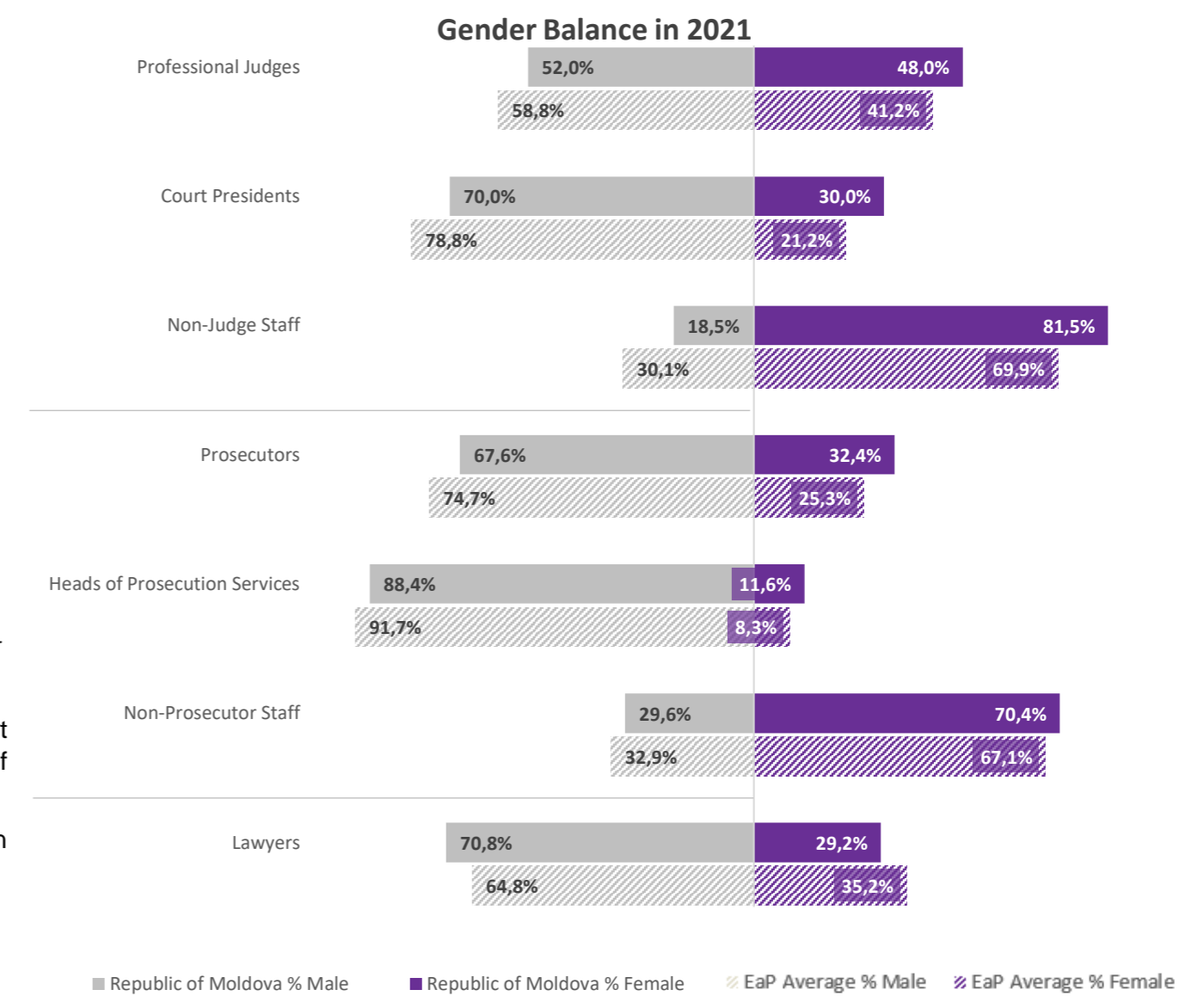
The Professional Judges, Court Presidents, Prosecutors, Heads of Prosecution Services and Lawyers were among the categories with less than 50% of female presence.

	Professional Judges % Female		Court presidents % Female		Prosecutors % Female		Heads of Prosecution Services % Female	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average
	1st instance courts	48,9%	42,9%	40,0%	22,7%	NA	-	10%
2nd instance courts	43,2%	37,3%	0,0%	3,4%	NA	-	50%	-
Supreme Court	52%	33,7%	0,0%	40%	NA	-	0%	-

Gender Balance by instance in 2021



For judges, a diminution of the percentage of female can be observed from first to second instance, whereas it increased in the Supreme Court. There were no female court presidents in the 2nd instance and the Supreme Court in 2021.



• Gender Equality Policies

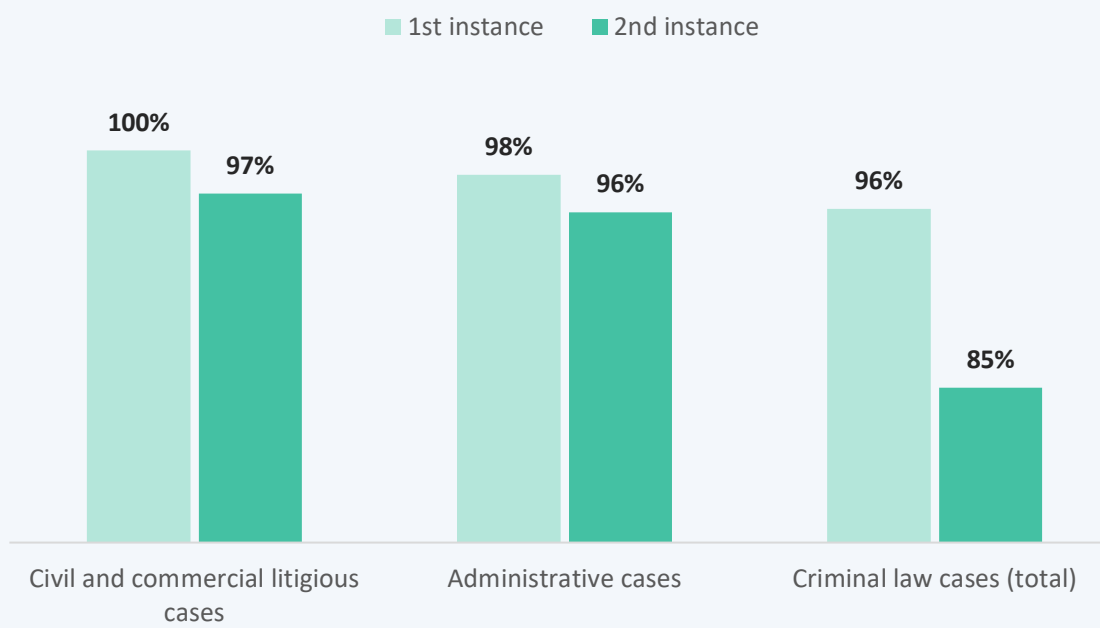
	Recruitment		Appointment	Promotion		Person / institution specifically dedicated to ensure the respect of gender equality on institution level
	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	Specific provisions for facilitating gender equality	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	
Court Presidents			✘			
Heads of Prosecution Services			✘			
Judges	✘	✘		✘	✘	✘
Prosecutors	✘	✘		✘	✘	✘
Non-judge staff	✔	✘		✔	✘	✘
Lawyers	✘			✘		
Notaries	✘			✘		
Enforcement agents	✘			✘		

In the Republic of Moldova there is no overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary.

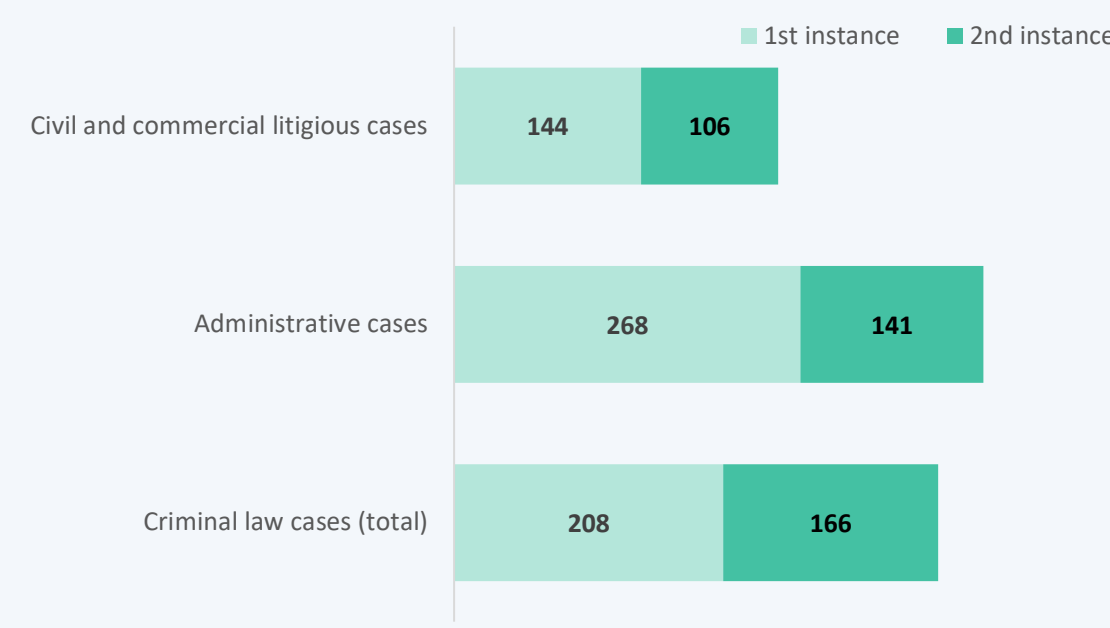
Equal opportunities in the Republic of Moldova between men and women are provided for by the Law no. 5 of 09.02.2006 on ensuring equal opportunities for women and men as well as through the Strategy for ensuring equality between women and men in the Republic of Moldova for the years 2017-2021. Both normative acts contain general provisions on gender equality without specifying males/females equality within 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>

## Efficiency in Republic of Moldova in 2021 (Indicators 3.1 and 3.2)

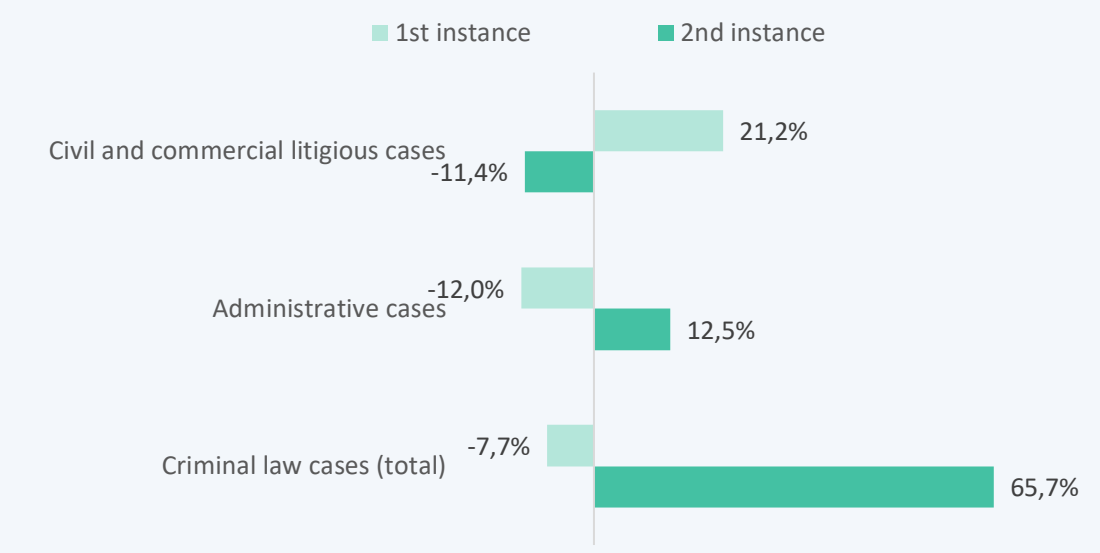
### Clearance Rate in 2021



### Disposition Time in 2021 (in days)



### % Variation of pending cases at the end of year between 2020 and 2021



Due to the Covid-19 pandemic there were severe restrictions on the work of courts in 2020 which resulted in a generally lower number of cases in that year. The lifting of restrictions led to consequent increase of incoming and resolved cases that can be observed in 2021 for most of the case categories. In 2021, the Clearance Rate (CR) was below 100% for all categories of cases and in both analysed instances. Such results signal that courts were resolving less cases than they received in 2021. If the situation does not change this might lead to negative efficiency developments in the future, such as accumulation of pending cases, creation of backlog and prolonged duration of trials. Looking at the results of individual case categories and instances, the highest CR for the Republic of Moldova is for the first instance Civil and commercial litigious cases, close to 100% (99,7%). At the same time, it seems that the courts in the Republic of Moldova were not able to deal efficiently particularly with the second instance total Criminal law cases (CR of 85%).

The Disposition Times (DT) decreased compared to 2020 and did not differ significantly from EaP average values in 2021. The only exception are second instance criminal law cases where DT increased between 2020 and 2021 (from 113 to 166 days) and is significantly above EaP average (166 compared to 77 days). Comparing DT for different categories of cases and instances in the Republic Moldova shows that the second instance Civil and commercial litigious cases were resolved faster than other type of cases with a Disposition Time of approximately 106 days.

Compared to 2020, the pending cases at the end of year increased the most for the second instance total Criminal law cases (65,7%). Other variations in the number of pending cases presented here have to be interpreted with caution due to a minor statistical inconsistency in the number of pending cases at the end of the year provided in 2020.

### First instance cases

#### Clearance rate (%) and Disposition Time (days) for first instance cases from 2018 to 2021



### Second instance cases

#### Clearance rate (%) and Disposition Time (days) for second instance cases from 2018 to 2021



#### First instance cases

The CR increased slightly in all categories of cases compared to 2020. Compared to the EaP averages for 2021, the CR is above in all categories of cases.

Similarly, compared to 2020, the DT decreased in all categories of cases and is below the EaP Averages in all categories of cases in 2021, except criminal law cases (208 days vs 200 EaP).

On CR and DT, first instance courts showed a generally good performance within the EaP region. Yet, the CRs have not approached the 2018 levels, except in criminal law cases.

#### Second instance cases

The CR increased in civil and commercial litigious cases and in administrative cases compared to 2020. It decreased significantly in criminal law cases. The CR is below the EaP Averages in all categories of cases. In 2021 the CR in criminal cases is considerably below the 2018 levels.

In 2021, the DT decreased slightly in civil and commercial litigious cases and in administrative cases and it increased considerably in criminal law cases (166 days). The DT is below the EaP Average in civil and commercial litigious cases and above in criminal law cases, while it is almost on a par in administrative cases in 2021.



**First instance cases - Other than criminal law cases**

1st instance cases in 2021 (absolute values)	Republic of Moldova (2021)				% Variation between 2020 and 2021			
	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
Total of other than criminal law cases (1+2+3+4)	117 692	118 259	46 498	4 939	17,2%	18,2%	-0,7%	-4,8%
1 Civil and commercial litigious cases	98 470	98 153	38 833	4 594	39,6%	43,4%	21,2%	78,3%
2 Non-litigious cases**	14 297	15 265	4 096	0	26,5%	24,6%	-1,1%	-
3 Administrative cases	4 725	4 637	3 402	345	13,8%	17,5%	-12,0%	-23,7%
4 Other cases	200	204	167	0	-98,6%	-98,7%	-97,5%	-100,0%

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

In 2021, there were 98 470 incoming civil and commercial litigious cases (3,78 per 100 inhabitants vs the EaP Average of 3,07). They increased by 39,6% between 2020 and 2021. There were 98 153 resolved cases (3,77 per 100 inhabitants). Generally, first instance courts in the Republic of Moldova have more incoming other than criminal cases than the EaP average per 100 inhabitants. The 2021 Clearance rate for this type of cases was 99,7% (above the EaP Average of 95,2%). This increased by 2,7 percentage points compared to 2020.

The Disposition Time for civil and commercial litigious cases was approximately 144 days in 2021 (below the EaP Average of 172 days). This decreased by -15,5% compared to 2020, which appears to be an encouraging sign.

There were 4 725 incoming administrative cases in 2021 (ie 0,18 per 100 inhabitants vs the EaP Average of 0,31). They increased by 13,8% compared to the previous year. There were 4 637 resolved cases (0,18 per 100 inhabitants, below of the EaP Average of 0,28). Between 2020 and 2021, the number of resolved administrative increased by 17,5%. The number of incoming cases was slightly higher than the resolved cases. The Clearance rate for this type of cases was 98,1% (above the EaP Average (90,6%). The CR increased by 3,1 percentage points compared to the previous year.

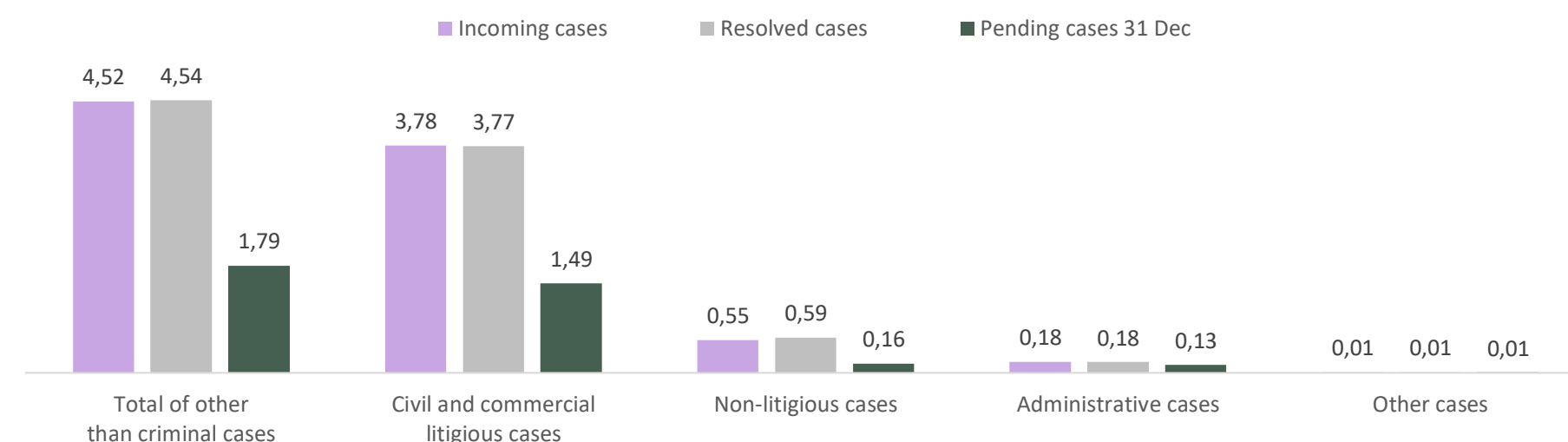
Finally, the Disposition Time for administrative cases was approximately 268 days in 2021. This has decreased by -25,1% compared to 2020 and it was below the EaP Average (278 days).

1st instance cases in 2021 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average
Total of other than criminal law cases (1+2+3+4)	4,52	3,27	4,54	3,20	1,79	1,45	0,19	0,32
1 Civil and commercial litigious cases	3,78	3,07	3,77	2,87	1,49	1,33	0,18	0,28
2 Non-litigious cases**	0,55	0,66	0,59	0,67	0,16	0,11	0,00	-
3 Administrative cases	0,18	0,31	0,18	0,28	0,13	0,21	0,01	0,04
4 Other cases	0,01	-	0,01	-	0,01	-	0,000	-

For reference only: the 2021 EU Median was as follows:  
 - Incoming first instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;  
 - incoming first instance Administrative cases per 100 inhabitants: 0,3.

Key: > Higher than the EaP Average  
 = Equal to the EaP Average  
 < Lower than the EaP Average

First instance Other than criminal cases per 100 inhabitants in 2021

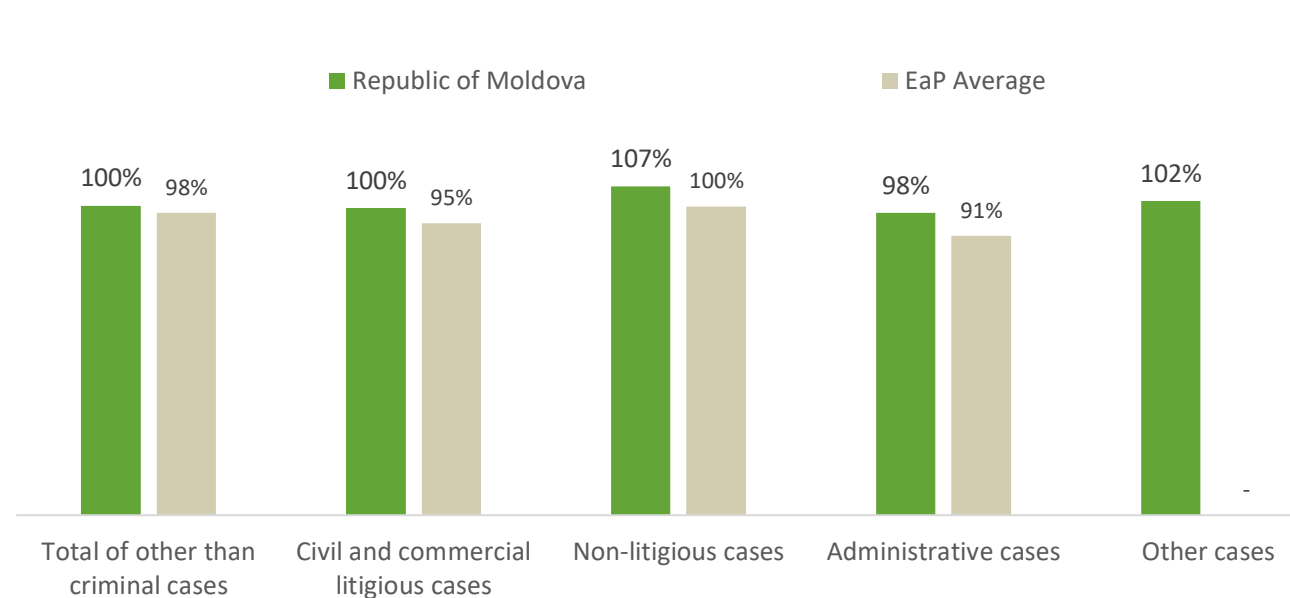


1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021	CR (%)		DT (days)		% Variation 2020 - 2021	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	100%	98%	144	160	0,9	-16,0%
1 Civil and commercial litigious cases	100%	95%	144	172	2,7	-15,5%
2 Non-litigious cases**	107%	100%	98	91	-1,6	-20,6%
3 Administrative cases	98%	91%	268	278	3,1	-25,1%
4 Other cases	102%	-	299	-	-4,7	85,5%

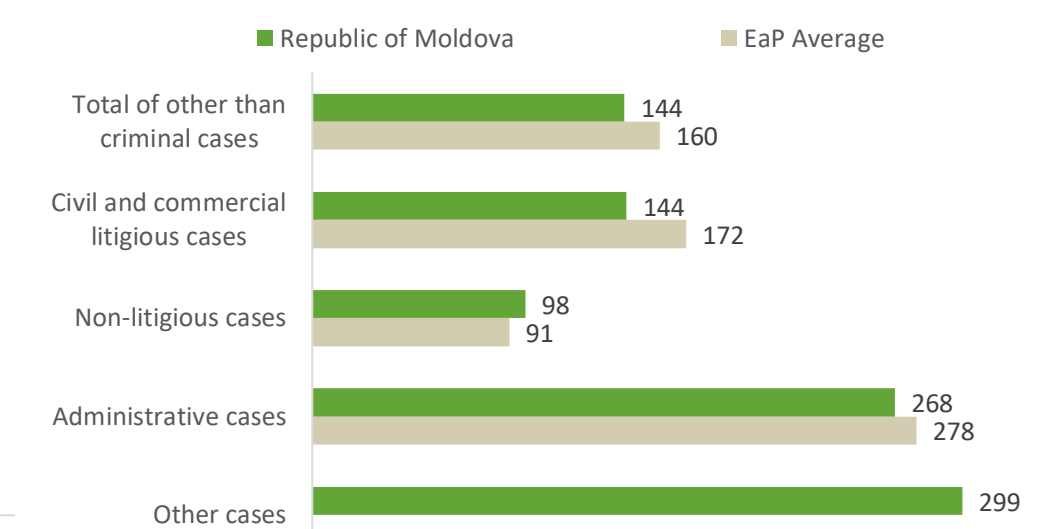
For reference only: the 2021 EU Median for the first instance Civil and Commercial litigious cases was as follows:  
 - Clearance rate: 102,5%;  
 - Disposition time: 234 days.

For reference only: the 2021 EU Median for the first instance Administrative cases was as follows:  
 - Clearance rate: 101,7%;  
 - Disposition time: 296 days.

Clearance Rate for first instance Other than criminal cases in 2021 (%)



Disposition Time for first instance Other than criminal cases in 2021 (in days)



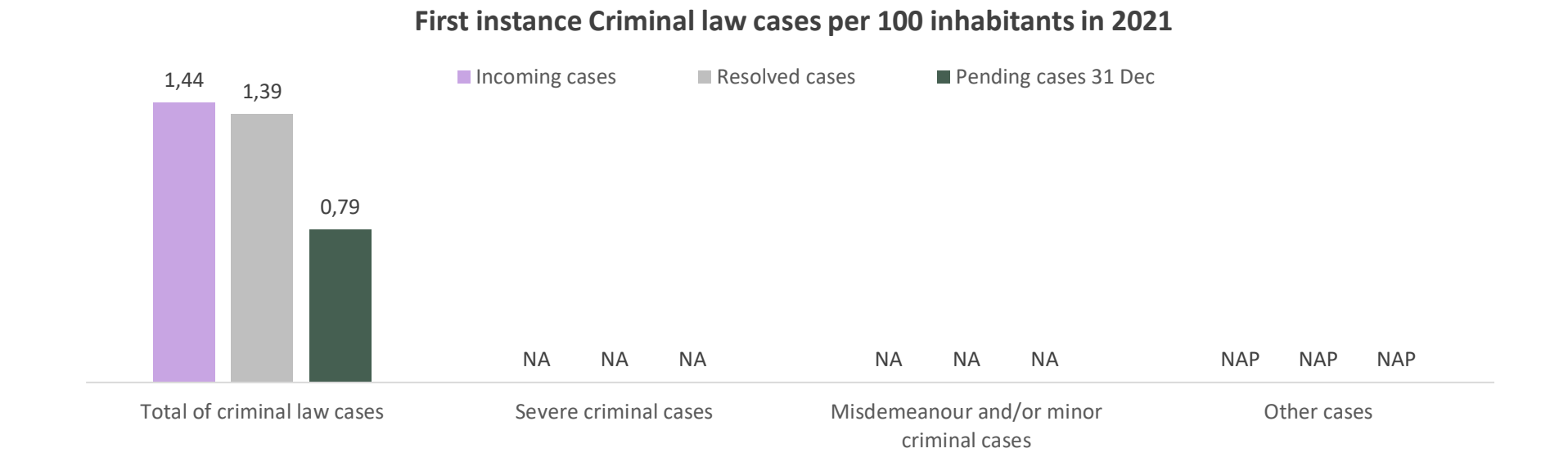
**First instance cases - Criminal law cases**

1st instance cases in 2021 (absolute values)	Republic of Moldova (2021)				% Variation between 2020 and 2021			
	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
Total of criminal law cases (1+2+3)	37 618	36 111	20 580	2 717	1,8%	7,6%	-7,7%	12,9%
1 Severe criminal cases	NA	NA	NA	NA	NA	NA	NA	NA
2 Misdemeanour and / or minor criminal cases	NA	NA	NA	NA	NA	NA	NA	NA
3 Other cases	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

In 2021, there were 37 618 incoming total criminal cases (1,44 per 100 inhabitants vs the EaP Average of 0,90). They increased by 1,8% between 2020 and 2021. There were 36 111 resolved cases (1,39 per 100 inhabitants). Between 2020 and 2021, they increased by 7,6%. The 2021 Clearance rate for this type of cases was 96% (above the EaP Average of 92,7%). This increased by 5,2 percentage points compared to 2020.

The Disposition Time for total criminal cases was approximately 208 days in 2021 (EaP Average - 200 days). This decreased by -14,2% compared to 2020.

1st instance cases in 2021 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average
Total of criminal law cases (1+2+3)	1,44	> 0,90	1,39	> 0,87	0,79	> 0,29	0,10	> 0,04
1 Severe criminal cases	NA	0,09	NA	0,08	NA	0,07	NA	0,00
2 Misdemeanour and / or minor criminal cases	NA	0,34	NA	0,34	NA	0,05	NA	0,00
3 Other cases	NAP	-	NAP	-	NAP	-	NAP	-



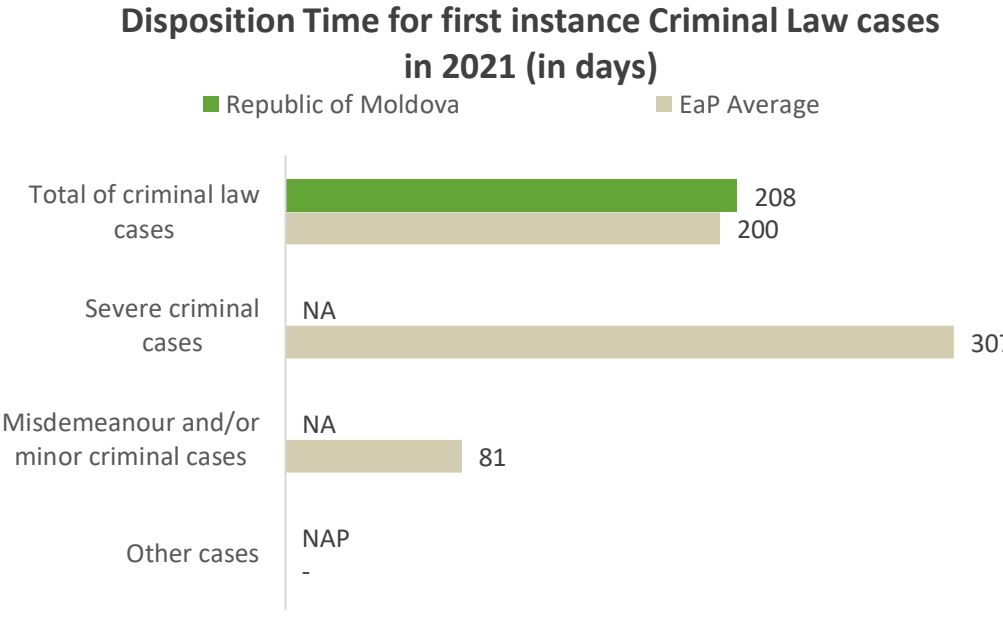
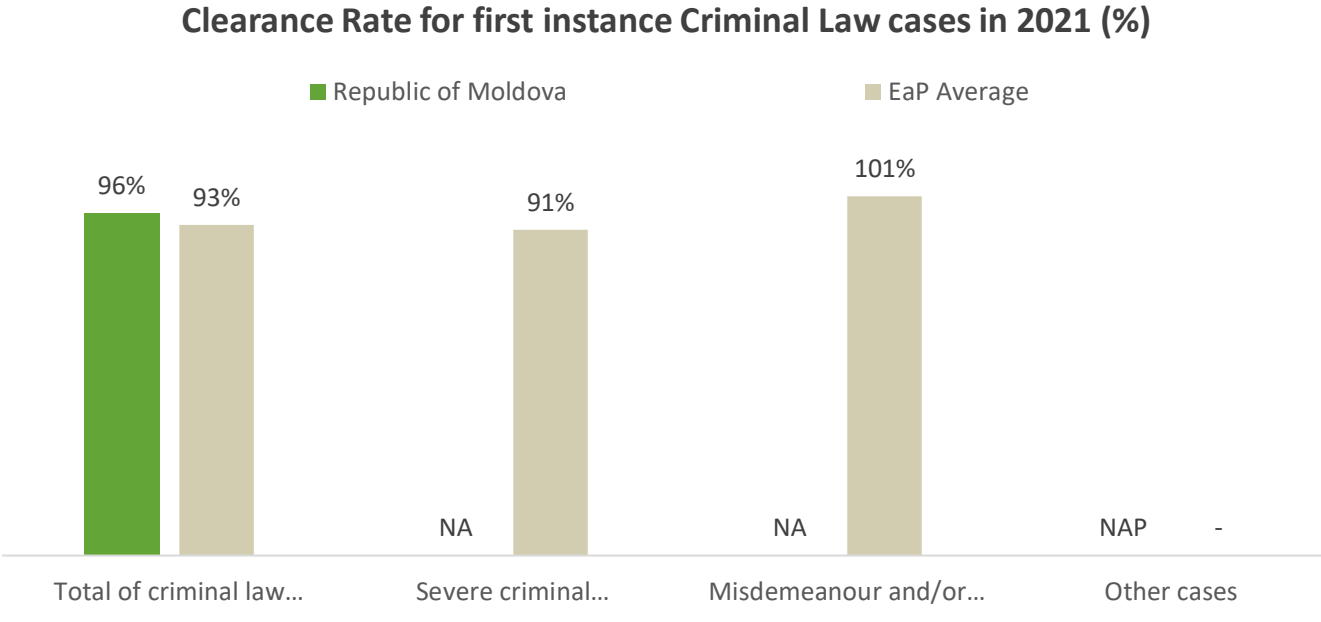
For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:  
 - Incoming cases per 100 inhabitants: 1,6.

Key: > Higher than the EaP Average  
 = Equal to the EaP Average  
 < Lower than the EaP Average

1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021	CR (%)		DT (days)		% Variation 2020 - 2021	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	96%	93%	208	200	5,2	-14,2%
1 Severe criminal cases	NA	91%	NA	307	NA	NA
2 Misdemeanour and / or minor criminal cases	NA	101%	NA	81	NA	NA
3 Other cases	NAP	-	NAP	-	NAP	NAP

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:  
 - Clearance rate: 100%;  
 - Disposition time: 134 days.

PPT = Percentage points



**Second instance cases - Other than criminal law cases**

2nd instance cases in 2021 (absolute values)	Republic of Moldova (2021)				% Variation between 2020 and 2021			
	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
Total of other than criminal law cases (1+2+3+4)	15 910	15 403	4 753	19	-8,8%	-6,1%	-9,6%	-
1 Civil and commercial litigious cases	12 388	12 011	3 493	0	-5,0%	-3,1%	-11,4%	-
2 Non-litigious cases**	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
3 Administrative cases	3 264	3 127	1 211	19	6,7%	16,6%	12,5%	-
4 Other cases	258	265	49	0	-80,7%	-80,0%	-79,4%	-

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

In 2021, there were 12 388 incoming civil and commercial litigious cases (0,48 per 100 inhabitants vs the EaP Average of 0,27). They decreased by -5% between 2020 and 2021. There were 12 011 resolved cases (0,46 per 100 inhabitants). Between 2020 and 2021, they decreased by -3,1%. The number of resolved cases was slightly lower than the incoming cases. The 2021 Clearance rate for this type of cases was 97% (below the EaP Average of 102%). This increased by 2 percentage points compared to 2020.

The Disposition Time for civil and commercial litigious cases was approximately 106 days in 2021 (above the EaP Average of 98 days). This decreased by -8,6% compared to 2020.

There were 3 264 incoming administrative cases in 2021 (ie 0,13 per 100 inhabitants vs the EaP Average of 0,11). They increased by 6,7% compared to the previous year. There were 3 127 resolved cases (0,12 per 100 inhabitants, above of the EaP Average of 0,1). Between 2020 and 2021, the number of resolved administrative cases increased by 16,6%. The number of incoming cases was thus slightly higher than the resolved cases. As a consequence, the administrative pending cases at the end of 2021 were more than in 2020 and the Clearance rate for this type of cases was 95,8% (below the EaP Average (99,3%). The CR increased by 8,1 percentage points compared to the previous year.

Finally, the Disposition Time for administrative cases was approximately 141 days in 2021. This has decreased by -3,5% compared to 2020 and it was below the EaP Average (169 days).

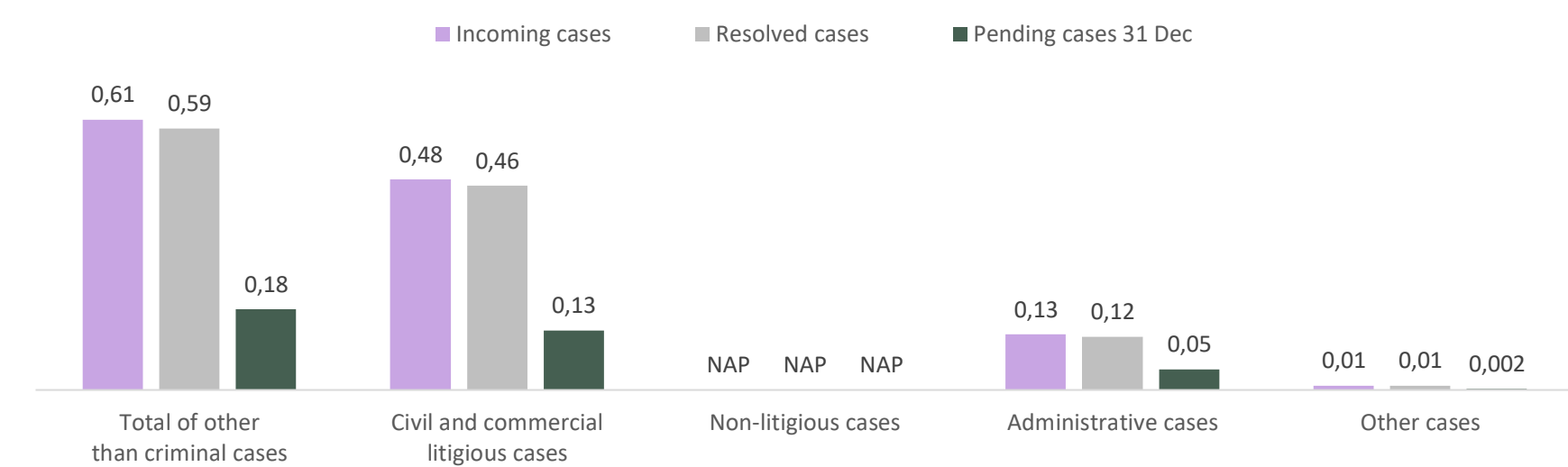
2nd instance cases in 2021 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average
Total of other than criminal law cases (1+2+3+4)	0,61	> 0,39	0,59	> 0,40	0,18	> 0,11	0,001	< 0,01
1 Civil and commercial litigious cases	0,48	> 0,27	0,46	> 0,27	0,13	> 0,07	0	= 0,003
2 Non-litigious cases**	NAP	-	NAP	-	NAP	-	NAP	-
3 Administrative cases	0,13	> 0,11	0,12	> 0,10	0,05	= 0,05	0,001	< 0,003
4 Other cases	0,01	= -	0,01	= -	0,002	= -	0	= -

For reference only: the 2021 EU Median was as follows:

- Incoming Second instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;  
- incoming Second instance Administrative cases per 100 inhabitants: 0,3.

Key: > Higher than the EaP Average  
= Equal to the EaP Average  
< Lower than the EaP Average

Second instance Other than criminal cases per 100 inhabitants in 2021



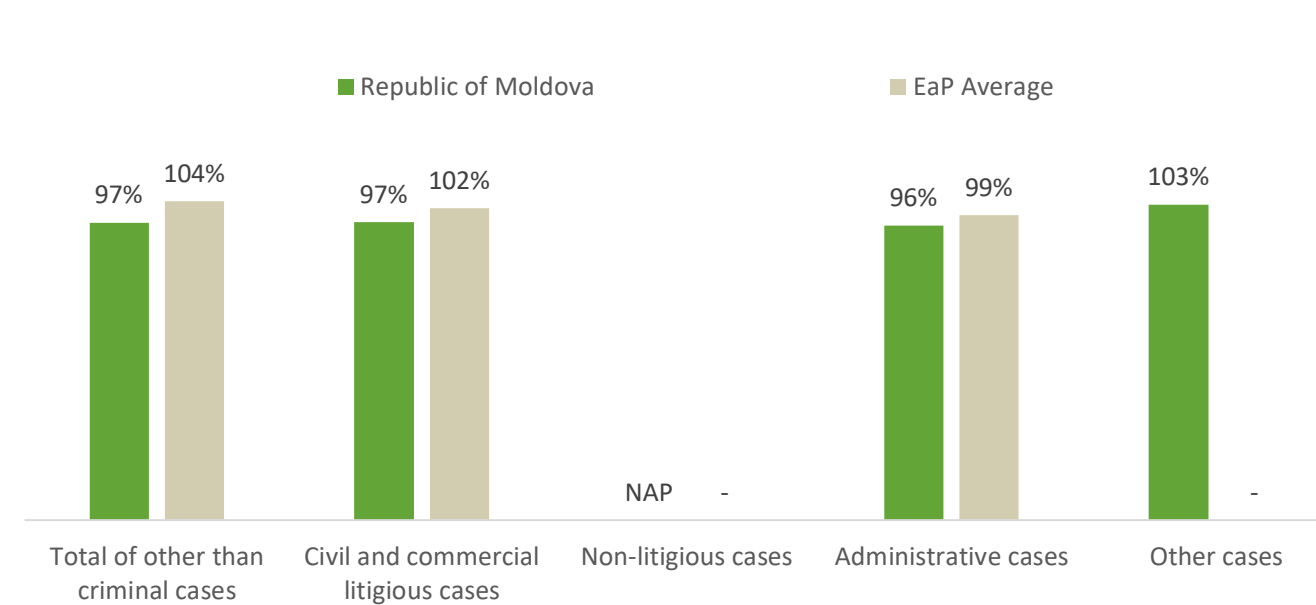
2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021	CR (%)		DT (days)		% Variation 2020 - 2021	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	97%	104%	113	104	2,8	-3,7%
1 Civil and commercial litigious cases	97%	102%	106	98	2,0	-8,6%
2 Non-litigious cases**	NAP	-	NAP	-	NAP	NAP
3 Administrative cases	96%	99%	141	169	8,1	-3,5%
4 Other cases	103%	-	67	-	3,6	2,7%

PPT = Percentage points

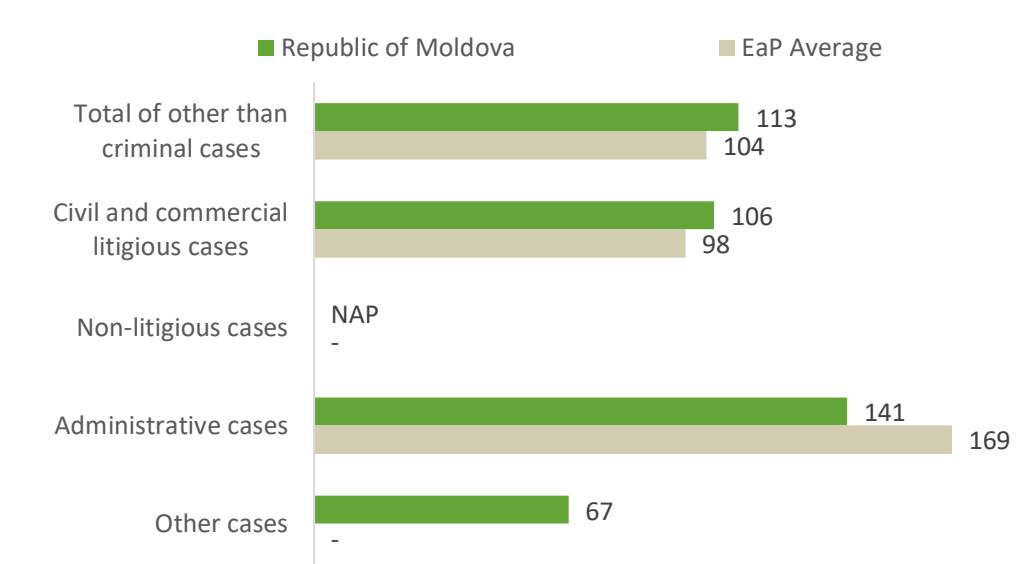
For reference only: the 2021 EU Median for the Second instance Civil and Commercial litigious cases was as follows:  
- Clearance rate: 102,5%; - Disposition time: 234 days.

For reference only: the 2021 EU Median for the Second instance Administrative cases was as follows:  
- Clearance rate: 101,7%; - Disposition time: 296 days.

Clearance Rate for Second instance Other than criminal cases in (%)



Disposition Time for Second instance Other than criminal cases in (in days)





**Second instance cases - Criminal law cases**

2nd instance cases in 2021 (absolute values)	Republic of Moldova (2021)				% Variation between 2020 and 2021			
	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
Total of criminal law cases (1+2+3)	14 298	12 116	5 519	1 786	23,8%	12,6%	65,7%	NA
1 Severe criminal cases	NA	NA	NA	NA	NA	NA	NA	NA
2 Misdemeanour and / or minor criminal cases	NA	NA	NA	NA	NA	NA	NA	NA
3 Other cases	NAP	NAP	NAP	NAP	NA	NA	NA	NA

In 2021, there were 14 298 incoming total criminal cases (0,55 per 100 inhabitants vs the EaP Average of 0,28). They increased by 23,8% between 2020 and 2021. There were 12 116 resolved cases (0,47 per 100 inhabitants). Between 2020 and 2021, they increased by 12,6%. The number of resolved cases was thus lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2021 were more than in 2020. Indeed, the 2021 Clearance rate for this type of cases was 84,7% (below the EaP Average of 98,2%). This decreased by -8,4 percentage points compared to 2020.

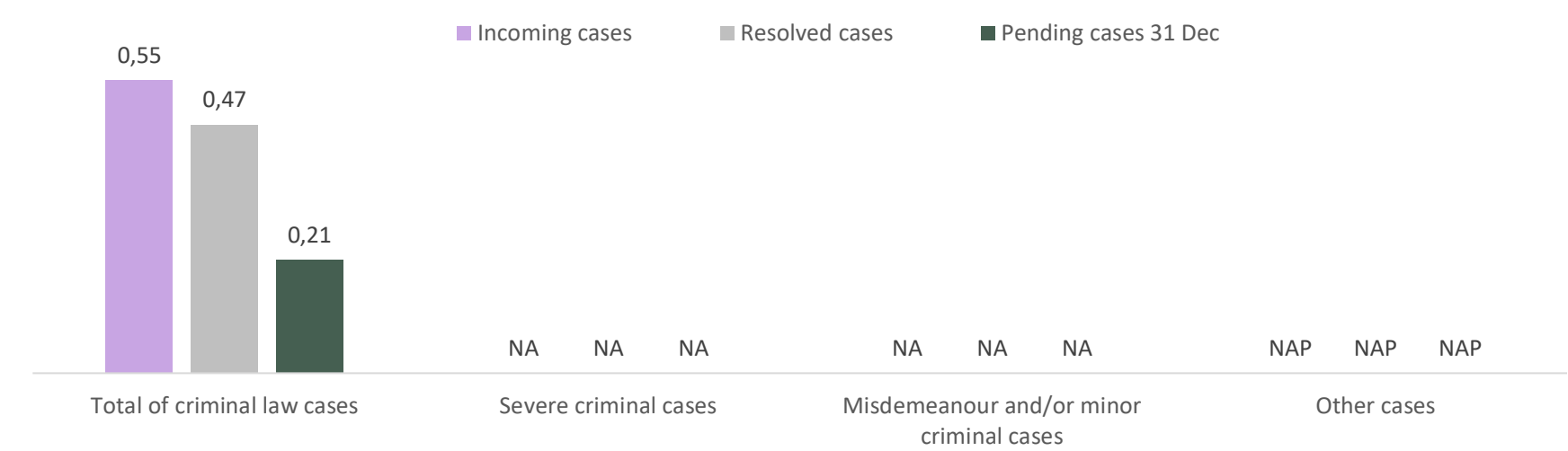
The Disposition Time for total criminal cases was approximately 166 days in 2021 (above the EaP Average of 77 days). This increased by 47,2% over the 2020-2021 period. The 2021 CR and DT in this category of cases appear to indicate potential upcoming efficiency problems, if no measures are put in place to address these.

2nd instance cases in 2021 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average
Total of criminal law cases (1+2+3)	0,55	> 0,28	0,47	> 0,26	0,21	> 0,06	0,07	> 0,02
1 Severe criminal cases	NA	-	NA	-	NA	-	NA	-
2 Misdemeanour and / or minor criminal cases	NA	-	NA	-	NA	-	NA	-
3 Other cases	NAP	-	NAP	-	NAP	-	NAP	-

For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Incoming cases per 100 inhabitants: 1,6.

Key: > Higher than the EaP Average  
= Equal to the EaP Average  
< Lower than the EaP Average

Second instance Criminal law cases per 100 inhabitants in 2021

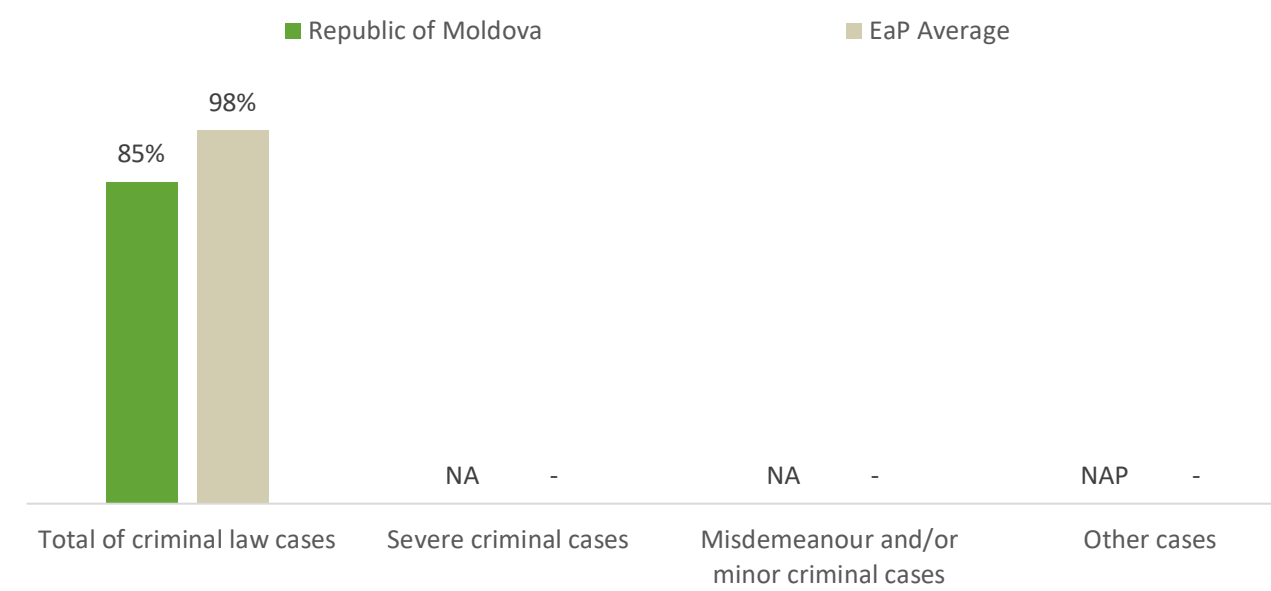


2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021	CR (%)		DT (days)		% Variation 2020 - 2021	
	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	85%	98%	166	77	-8,4	47,2%
1 Severe criminal cases	NA	-	NA	-	NA	NA
2 Misdemeanour and / or minor criminal cases	NA	-	NA	-	NA	NA
3 Other cases	NAP	-	NAP	-	NAP	NAP

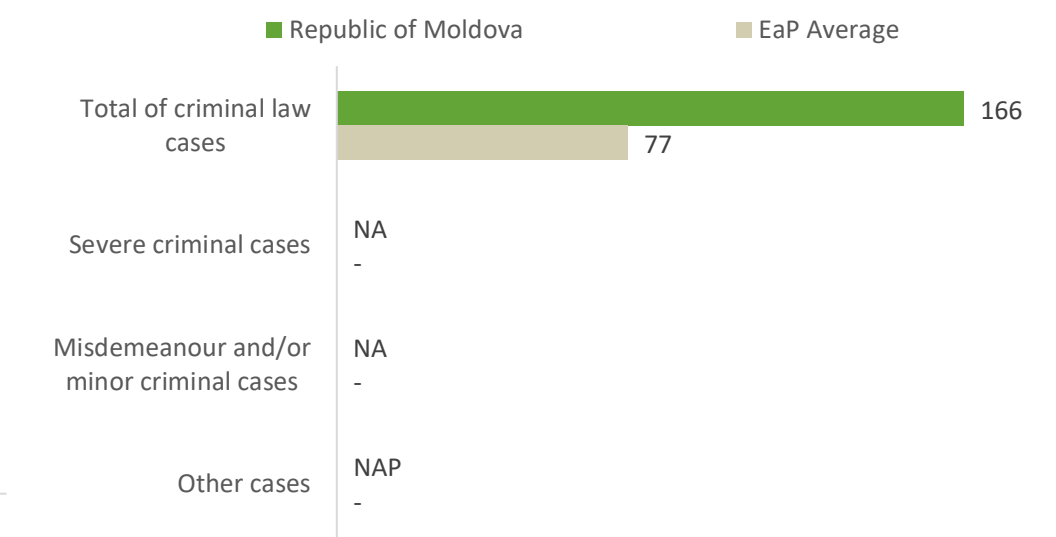
PPT = Percentage points

For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Clearance rate: 100%; - Disposition time: 134 days.

Clearance Rate for second instance Criminal Law cases in 2021 (%)



Disposition Time for second instance Criminal Law cases in 2021 (in days)



## • Specific category cases

	Republic of Moldova (2021)						% Variation between 2020 and 2021					
	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	2%	0,0	NA	NA	NA	NA	-2%
Litigious divorce cases	5%	NA	NA	NA	NA	1%	1,0	NA	NA	NA	NA	-1%
Employment dismissal cases	87%	NA	NA	NA	NA	6%	24,0	NA	NA	NA	NA	1%
Insolvency cases	39%	NA	NA	NA	NA	67%	6,0	NA	NA	NA	NA	47%
Robbery cases	39%	NA	NA	NA	NA	14%	-3,0	NA	NA	NA	NA	4%
Intentional homicide cases	80%	NA	NA	NA	NA	7%	4,0	NA	NA	NA	NA	-5%
Bribery cases	63%	NA	NA	NA	NA	59%	NA	NA	NA	NA	NA	NA
Trading in influence	48%	NA	NA	NA	NA	41%	NA	NA	NA	NA	NA	NA

The average length of cases corresponds to the average length of resolved cases at a certain instance within the reference year.

## • Quality standards and performance indicators in the judicial system

In the Republic of Moldova there are no quality standards determined for the judicial system at national level.

For the prosecution system, the order of the General Prosecutor's Office of 12 September 2014, signed jointly with the Ministry of Internal Affairs, the National Anticorruption Centre and the Customs Service, approved Performance Indicators for the institutions involved in the criminal procedure and the Methodology for evaluating the effectiveness of the criminal investigation activity. These indicators are not applied in practice, according to authorities.



**Regular monitoring of courts and prosecution offices' activities**

In the Republic of Moldova, there is a system to regularly evaluate court performance based on the monitored indicators listed below. By law, the system is collecting and analysing data every three months. This evaluation of the court activities is then used for the allocation of resources within the courts by identifying the causes of improved or deteriorated performance, reallocating resources (human/financial resources based on performance) and by reengineering internal procedures to increase efficiency. The performance of the public prosecution services based on the monitored indicators is evaluated monthly and quarterly.

	Regular assessment	
	Courts	Prosecution offices
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 is being monitored due to the implementation of the new version of ICMS in courts.

• Quantitative targets for each judge and prosecutor

Existence of quantitative targets for:		Judges	Prosecutors	Consequences for not meeting the targets		
					For judges	For public prosecutors
Responsibility for setting up quantitative targets for judges				Warning by court's president/ head of prosecution		
Executive power (for example the Ministry of Justice)		✗	✗		✗	✗
Legislative power		✗	✗	Disciplinary procedure		
Judicial power (for example the High Judicial Council, Supreme Court)		✗	✗		✗	✗
President of the court		✗	✗	Temporary salary reduction		
Other:		✗	✗		✗	✗
Responsibility for setting up quantitative targets for public prosecutors				Reflected in the individual assessment		
Executive power (for example the Ministry of Justice)			✗		✗	✗
Prosecutor General /State public prosecutor			✗	Other		
Public prosecutorial Council			✗		✗	✗
Head of the organisational unit or hierarchical superior public prosecutor			✗	No consequences		
Other			✗		✗	✗

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

• Qualitative targets for each judge and prosecutor

Existence of qualitative targets for:		Judges	Prosecutors	Frequency of this assessment		
					For judges	For public prosecutors
Responsibility for setting up the criteria qualitative targets for judges				Annual		
Executive power (for example the Ministry of Justice)		✗	✗		✗	✗
Legislative power		✗	✗	Less frequent		
Judicial power (for example the High Judicial Council, Supreme Court)		✓	✓		✓	✓
President of the court		✗	✗	More frequent		
Other		✗	✗		✗	✗
Responsibility for setting up the criteria for the qualitative assessment of the public prosecutors' work						
Executive power (for example the Ministry of Justice)			✗			
Prosecutor General /State public prosecutor			✗			
Public prosecutorial Council			✓			
Head of the organisational unit or hierarchical superior public prosecutor			✗			
Other			✗			

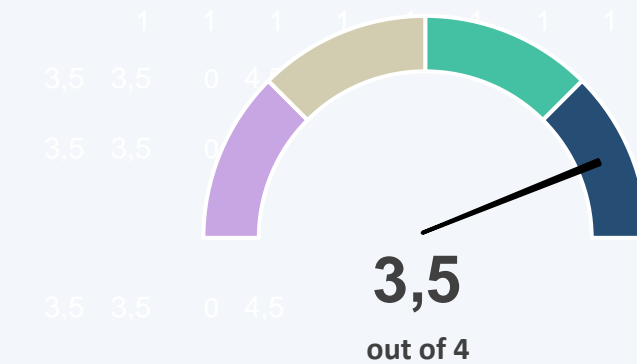
The qualitative individual assessment of the **judges'** work is done once in 3 years

According to Article 29 of the Law no.3/2016 on the Prosecutors Office, the evaluation of **prosecutors** performance is carried out in two forms: (a) periodic evaluation; and (b) extraordinary evaluation. The prosecutor is subject to periodic performance evaluation once every 4 years. The performance of the person appointed as a prosecutor is evaluated during the first year of service. The prosecutor is subject to extraordinary performance evaluation: (a) at his or her request, but not more often than once a year; and (b) in the event of participation in the competition for the post of Chief Prosecutor.

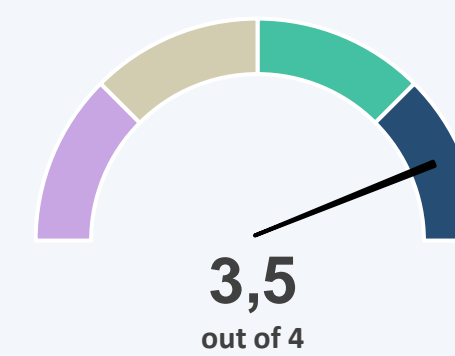
## Electronic case management system and court activity statistics in the Republic of Moldova in 2021 (Indicator 3.3)

The Case Management System (CMS) Index is an index ranging from 0 to 4 points. It is 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 five 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 summarized 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. This methodology provides an adequate evaluation.

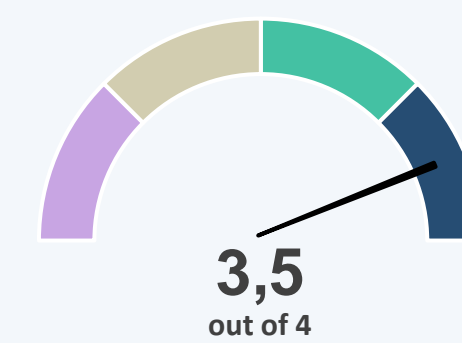
CMS index for Civil and/or commercial cases



CMS index for Administrative cases



CMS index for Criminal cases



### Electronic case management system

In the Republic of Moldova, there was no IT Strategy for the judiciary in 2021. There was no plan for a significant change in the present IT system in the judiciary reported for 2021.

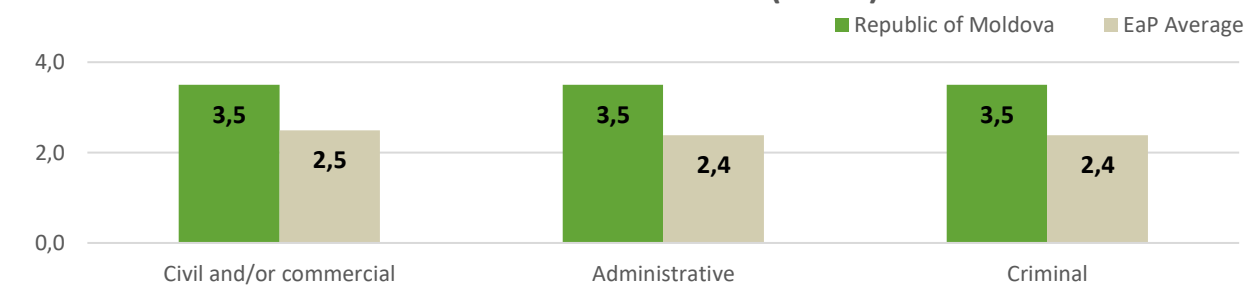
There is a case management system (CMS), eg software used for registering judicial proceedings and their management, functional for over than 10 years. A major CMS redevelopment has been implemented in the last 2 years.

It has a 100% deployment rate in courts. Decisions are published online. There is a centralised/interoperable database and it includes early warning signals. There is reportedly a full integration/connection of the CMS with a statistical tool. The CMS index for the Republic of Moldova is higher than the EaP average (3.5 for each type of cases versus 2.5 for civil and/or commercial cases and 2.4 for administrative cases and for criminal cases, respectively).

	Case management system and its modalities				
	CMS deployment rate	Status of case online	Centralised or interoperable database	Early warning signals (for active case management)	Status of integration/ connection of a CMS with a statistical tool
Civil and/or commercial	100%	Publication of decision online	✓	✓	Fully integrated including BI
Administrative	100%	Publication of decision online	✓	✓	Fully integrated including BI
Criminal	100%	Publication of decision online	✓	✓	Fully integrated including BI

	Overall CMS Index in 2021	
	Republic of Moldova	EaP Average
Civil and/or commercial	3,5	2,5
Administrative	3,5	2,4
Criminal	3,5	2,4

Calculated overall CMS index (0 to 4) in 2021



• **Centralised national database of court decisions**

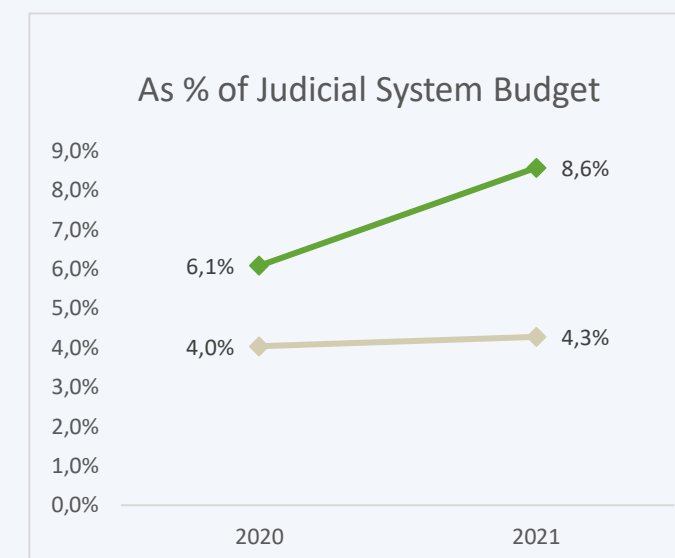
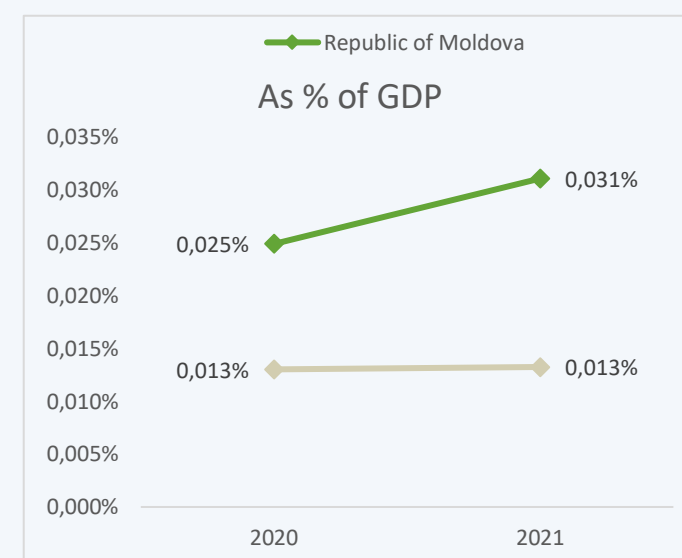
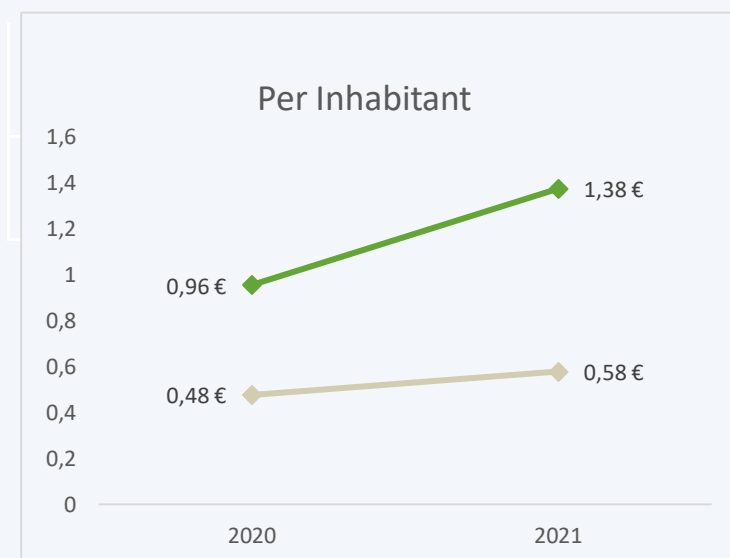
In the Republic of Moldova, there is a centralised national database of court decisions

It contains all judgements for all three categories of cases in all instances are collected, with anonymised data. This case-law database is available for free online. 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
<b>Civil and/or commercial</b>	Yes all judgements	Yes all judgements	Yes all judgements	✘	✔	✔	✔
<b>Administrative</b>	Yes all judgements	Yes all judgements	Yes all judgements	✘	✔	✔	✔
<b>Criminal</b>	Yes all judgements	Yes all judgements	Yes all judgements	✘	✔	✔	✔

## Access to justice and Legal Aid in the Republic of Moldova in 2021 (Indicator 4)

### Total implemented budget for Legal Aid in 2021



### Number of cases for which LA has been granted



**1,71**

per 100 inhabitants

EaP Average: 0,77

In 2021, the implemented budget for legal aid spent by Republic of Moldova was 1,38€ per inhabitant (considerably above the EaP Average of 0,58€). This was equal to 0,031% of the GDP, whereas the EaP Average was 0,013%. By the number of cases for which LA has been granted, the Republic of Moldova showed a significantly bigger number of 1,71 cases per 100 inhabitants, compared to 0,77 EaP average.

### • Organisation of the legal aid system

The main body administering the legal aid system is the National Legal Aid Council (NLAC) and its territorial Offices. The Ministry of Justice is the policy making body in the field. The Bar Association cooperates with the NLAC for ensuring the delivery of legal aid. The National Legal Aid Council has four territorial offices: Chisinau, Balti, Comrat and Cahul. The territorial offices administer the process of granting the legal aid and operate in the cities (municipalities) where the courts of appeal are located. The activity of ensuring the delivery of qualified legal aid is carried out directly by the coordinator of the territorial office, selected and delegated by the National Council on the basis of a contest organized in the established way. Both primary legal aid and qualified legal aid are delivered for all types of cases (criminal and non-criminal). Emergency legal assistance is provided in the event of detention in criminal or misdemeanour cases, including the examination of the arrest warrant. Eligibility is based on the financial criterion, but for certain types of cases, legal aid is granted regardless of the person's income level. The concept of state-guaranteed legal aid includes only the compensation of expenses for the services provided by the lawyer on behalf of the state. At the moment, public attorneys, lawyers on request and paralegals are involved in the process of providing state-guaranteed legal aid. The legal provisions on legal aid make a distinction between primary legal aid (providing information on the legal system of the Republic of Moldova, on the normative acts in force, the rights and obligations of legal subjects, on the manner of realization and capitalization of judicial and extrajudicial rights; legal advice; providing assistance in drafting legal documents; providing other forms of assistance, which do not fall into the category of qualified legal assistance) and qualified legal aid (providing legal consultancy, representation and / or defence services in criminal investigation bodies, in courts, for criminal, misdemeanour, civil or administrative cases; providing representation before public administration authorities).

#### Legal aid is applied to:

	Criminal cases	Other than criminal cases
Representation in court	✓	✓
Legal advice, ADR and other legal services	✓	✓

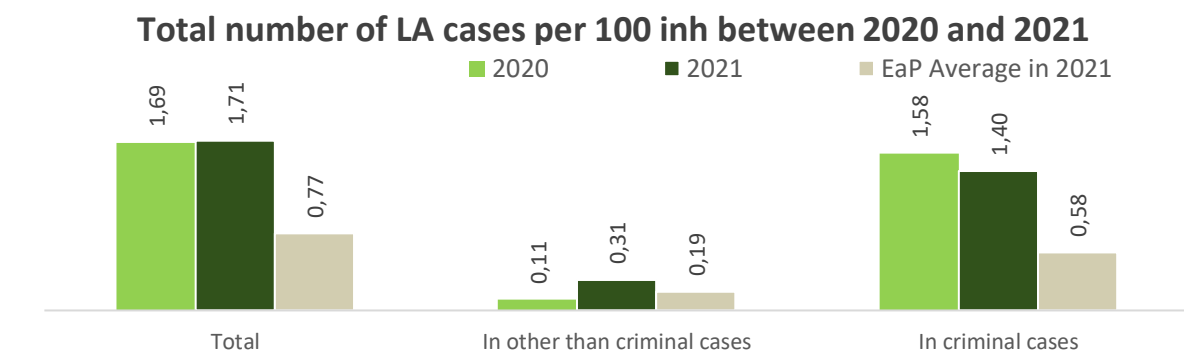


**• Implemented budget for legal aid and number of cases for which legal aid has been granted**

	Implemented budget for legal aid in €				Total implemented budget for legal aid per inhabitant		Total implemented budget for legal aid as % of GDP		Total implemented budget for legal aid as % of judicial system budget	
	Total (a+b)	% Variation 2020 - 2021	Cases brought to court (a)	Cases not brought to court (b)	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average	Republic of Moldova	EaP Average
<b>Total (1+2)</b>	3 582 022 €	42,6%	3 513 546 €	68 476 €	1,38 €	0,58	0,031%	0,013%	8,6%	4,3%
<b>In other than criminal cases (1)</b>	NA	NA	NA	NA						
<b>In criminal cases (2)</b>	NA	NA	NA	NA						

In 2021, the Republic of Moldova spent 3 582 022€ on the total implemented budget for legal aid, which was 42,6% more compared to 2020. This means that it spent more than double per inhabitant compared to the EaP Average (1,38€ and 0,58€, respectively). The increase in the spending for legal aid resulted from legislative changes regarding the conventional unit which entered into force in 2021; the amount of the fixed remuneration partially increased the monthly payments for public lawyers. In addition to the above, the number of legal aid beneficiaries increased (Source: 2021 Annual Report of the Legal Aid Council).

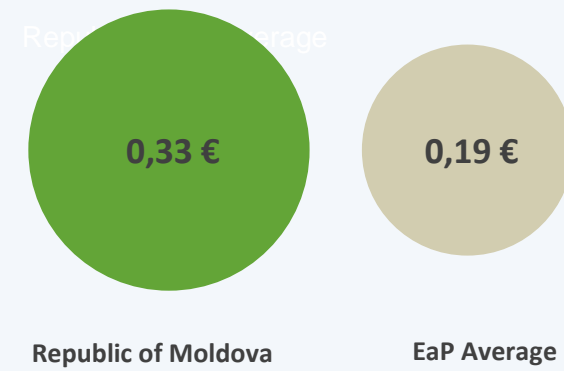
	Number of cases for which legal aid has been granted				Amount of LA granted per case (€)			
	Total (a+b)			Cases brought to court (a)	Cases not brought to court (b)	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 inh.	% Variation 2020 - 2021					
<b>Total (1+2)</b>	44 466	1,71	1,3%	NA	NA	80,6 €	NA	NA
<b>In other than criminal cases (1)</b>	8 005	0,31	181,6%	NA	NA	NA	NA	NA
<b>In criminal cases (2)</b>	36 461	1,40	-11,1%	NA	NA	NA	NA	NA



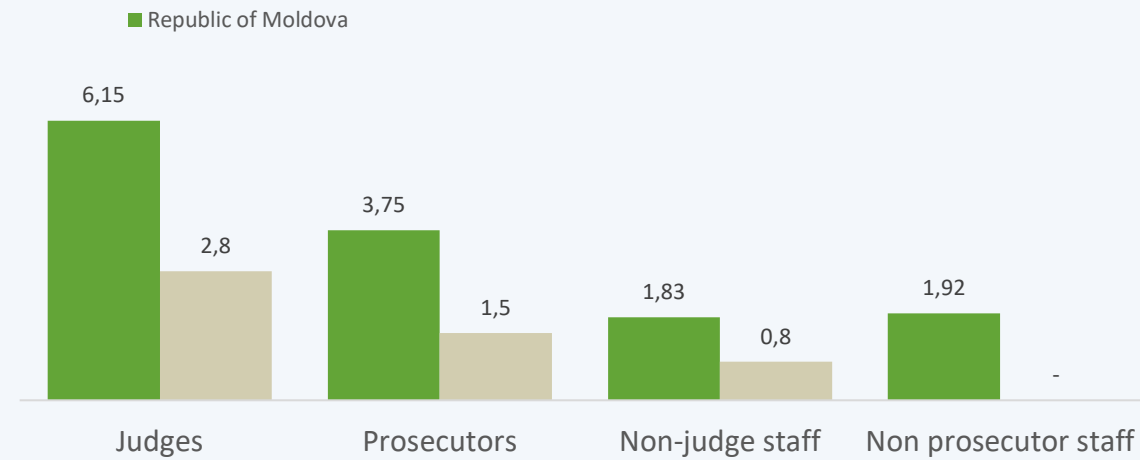
In 2021, the number of cases for which legal aid was granted was 44 466, which was 1,3% more compared to 2020. The number of criminal cases were 36 461, and the other than criminal cases were 8 005, the later showing an increase by 182% in 2021 compared to 2020. The majority of the legal aid was for criminal cases. On average, the Republic of Moldova spent 80,6€ per case, which is slightly higher than the EaP average of 75,76€.

## Training of judges and prosecutors in Republic of Moldova in 2021 (Indicator 7)

### Total budget for Training per inhabitant



### Average number of live training participations per professional



### Average number of participants per delivered training



The total budget for training of judges and prosecutors in the Republic of Moldova was 0,33€ per inhabitant, which is above the EaP Average (0,19€ per inhabitant).

In 2021, 9 028 participants (of which 2 677 judges and 2 305 prosecutors) were trained in 248 live trainings (in-person, hybrid or video conferences). The average number of participants per training was 36,4, which was significantly more than the EaP Average (15,2).

In online trainings there were 1470 participants. This shows that the participation on live trainings was higher than the participation on online trainings.

In Republic of Moldova each judge participated on average in 6,2 live trainings in 2021, which was higher than the EaP Average (2,8) while each prosecutor participated in 3,7 live trainings, more than the EaP Average (1,5).

Regarding the internet-based trainings (not-live), 13 trainings in total were provided on the e-learning platform of the training institution for judges and prosecutors, whereas a total of 21 trainings was completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc.). The total number of participants was 698 and 772, respectively.

In Republic of Moldova, both judges and prosecutors are required to attend a minimum of 5 days of in-service compulsory training.

### Budget for Trainings

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)				EaP Average per inhabitant
			Absolute Number	Evolution of training budget per inhabitant			
				2020	2021	% Variation 2020 - 2021	
<b>Total</b>	867 268 €	2 477 €	869 745 €	0,35 €	0,33 €	-4,0%	0,19 €
<b>Judges</b>	NAP	2 477 €	2 477 €				
<b>Prosecutors</b>	NAP	0 €	0 €				
<b>One single institution for both judges and prosecutors</b>	867 268 €		867 268 €				

The Republic of Moldova spent in total 869 745€ for training for judges and prosecutors in 2021, which is 0,33€ per inhabitant (above the EaP average of 0,19€ per inhabitant).

## • Number of in-service live trainings and participants

### Organisation of the trainings (number, duration and average number of participants on trainings)

	Live (in-person, hybrid, video conference) trainings (2021)							
	Number of available trainings	Number of delivered trainings	Delivered trainings in days	Number of participants	Average duration of trainings in days		Average number of participants per delivered training	
					Republic of Moldova	EaP Average	Republic of Moldova	EaP Average
<b>Total</b>	124	248	259	9 028	1,0 <	1,8	36,4 >	15,2
<b>Judges</b>	78	156	163	2 677	1,0 <	1,4	17,2 >	15,2
<b>Prosecutors</b>	63	126	135	2 305	1,1 <	1,8	18,3 >	12,9
<b>Non-judge staff</b>	35	70	73	3 308	1,0 <	1,3	47,3 >	39,2
<b>Non-prosecutor staff</b>	28	56	58	738	1,0 <	3,0	13,2 <	13,7

CEPEJ distinguish these types of trainings:

"A live" training shall be understood as a training conducted in real time. This means that both trainers and participants are physically present in one location or several locations assisted with information technology (digital tools).

"Internet-based" trainings are all trainings that take place over internet, irrespective of the format of the training (such as trainings via specifically designed LMS - Learning Management System platforms, webinars, podcasts and other forms of downloadable lectures and self-learning digital tools). The internet-based training shall be understood as e-training that is implemented according to participant own pace and time of training.

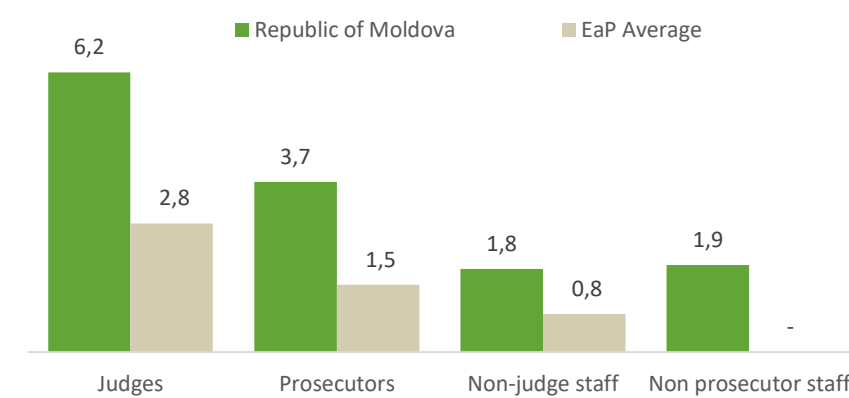
Key:	Symbol	Description
	>	Higher than the EaP Average
	=	Equal to the EaP Average
	<	Lower than the EaP Average

In 2021, the average duration of trainings for judges in Republic of Moldova was 1 days (well below the EaP Average of 1,4). During the same period, the average duration of training for prosecutors was 1,1 days, which was below of the EaP Average of 1,8 days.

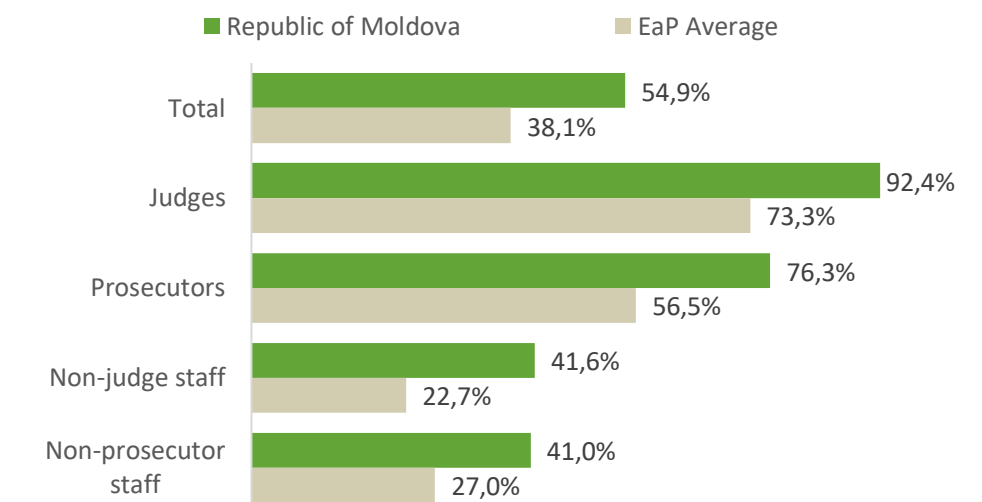
### Indicators on training participation: Number of training participations per professional and unique participants

	Average number of live training participations per professional		Professionals attending at least one training (unique participants)		
	Republic of Moldova	EaP Average	Number	% of total professionals per category	
				Republic of Moldova	EaP Average
<b>Total</b>	2,8 >	1,2	1 782	54,9% >	38,1%
<b>Judges</b>	6,2 >	2,8	402	92,4% >	73,3%
<b>Prosecutors</b>	3,7 >	1,5	469	76,3% >	56,5%
<b>Non-judge staff</b>	1,8 >	0,8	753	41,6% >	22,7%
<b>Non-prosecutor staff</b>	1,9	-	158	41,0% >	27,0%

### Average number of live training participations per professional in 2021



### Percentage of professionals attending at least one training in 2021



### Average number of live training participations per professional

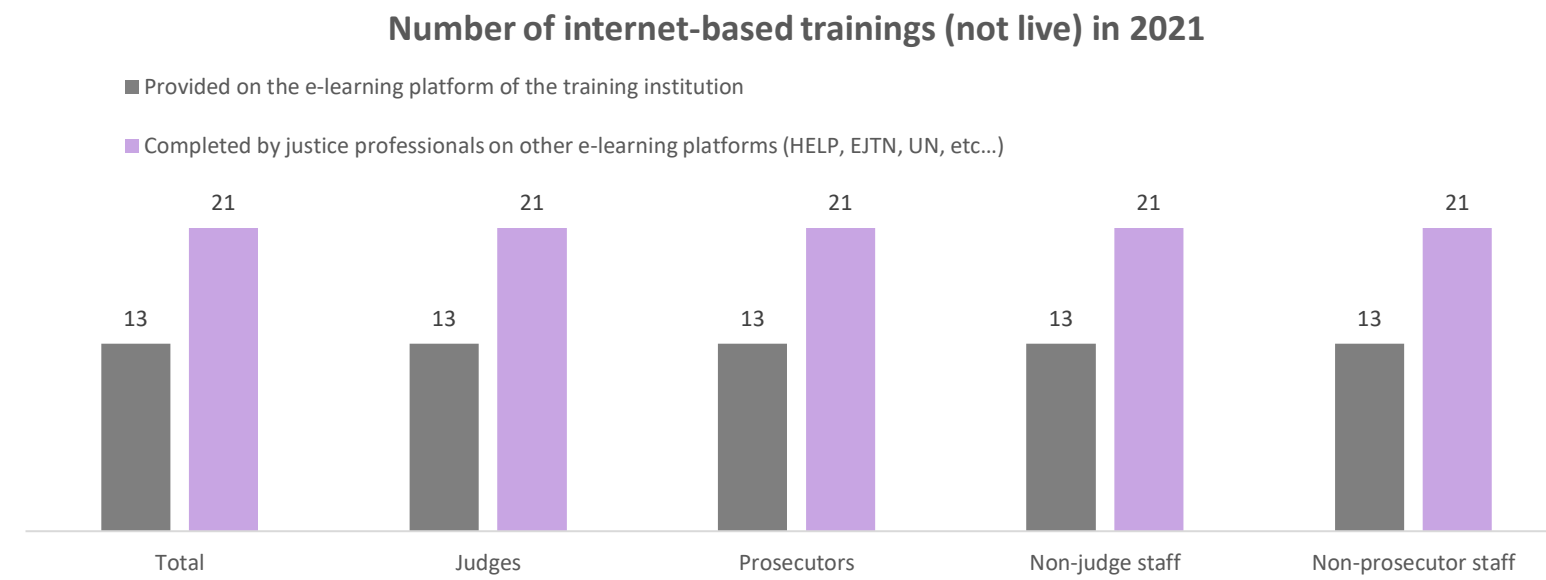
This indicator is calculated as follows: the number of participants in live trainings is divided by the number of professionals for that category. For example, the EaP Average for judges is 2,8. This means that, on average, each judge in the region participated to 2,8 live trainings. This indicator should also be analysed together with the indicator on percentage of professionals attending training, shown in the table as well. Indeed, this analysis allows to better understand how long a professional was trained on average and if all were trained.

In the Republic of Moldova the highest number of training delivered was for Judges (6,2 live training participations per judge). Hence, compared to the other professionals, the Republic of Moldova gave priority to the trainings for Judges, like the rest of the region (the EaP Average number of participations per judge on live trainings was 2,8).

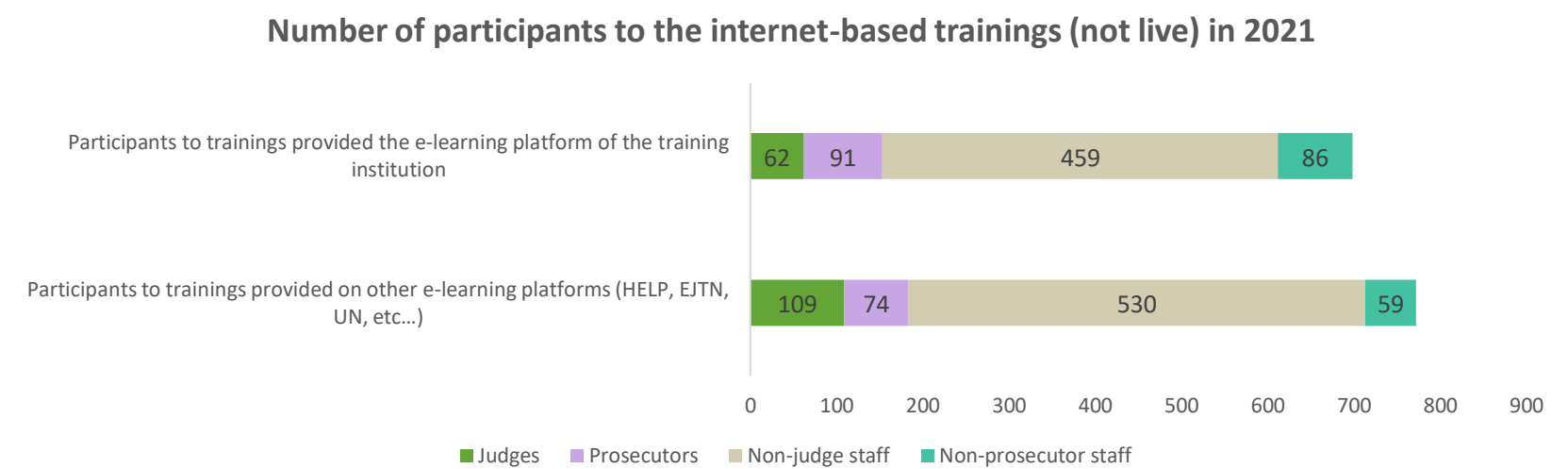
At the same time the percentage of Judges attending at least one training is 92,4%

• Number of in-service internet-based trainings and participants

	Internet-based trainings (not live) in 2021			
	Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Number of trainings	Number of participants	Number of trainings	Number of participants
<b>Total</b>	13	698	21	772
<b>Judges</b>	13	62	21	109
<b>Prosecutors</b>	13	91	21	74
<b>Non-judge staff</b>	13	459	21	530
<b>Non-prosecutor staff</b>	13	86	21	59

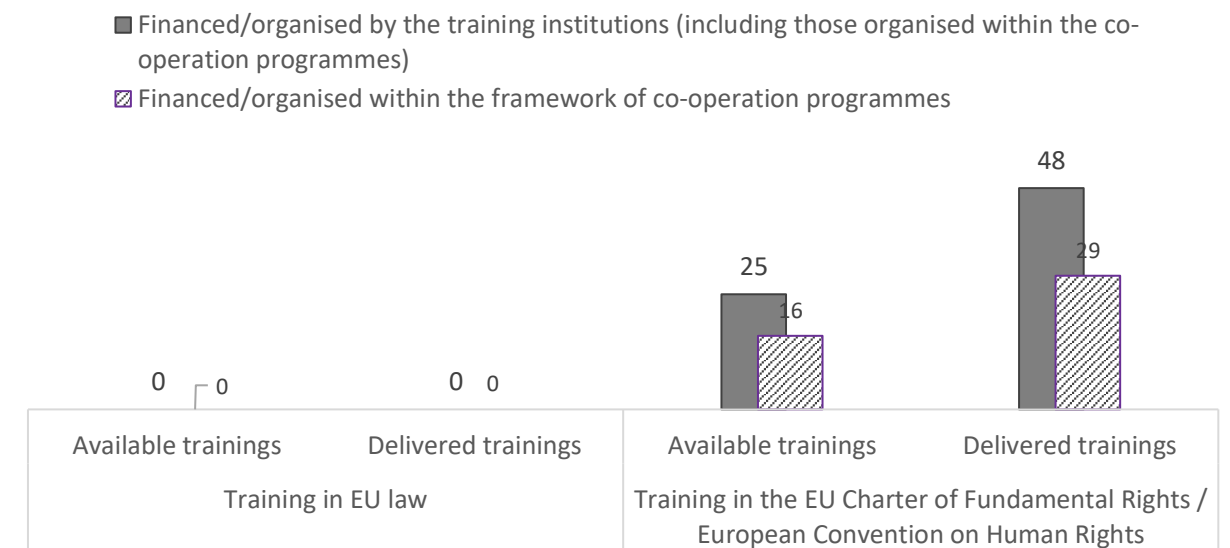


Regarding the internet-based trainings (not-live), 13 trainings in total were provided on the e-learning platform of the training institution for judges and prosecutors, whereas a total of 21 trainings was completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc.). The total number of participants was 698 and 772, respectively. The majority of participants on both types of e-learning platforms came from non-judge staff.



**• Number of EU law training courses and participants**

	Training in EU law organised/financed:		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights organised/financed:	
	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes
<b>Live trainings (2021)</b>				
Number of available live trainings	NAP	NAP	25	16
Number of delivered live trainings	NAP	NAP	48	29
Number of delivered live training in days	NAP	NAP	56	19
<b>Internet-based trainings(2021)</b>				
Provided on the e-learning platform of the training institution (not live)	4	0	10	0
Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	10	10	10	10

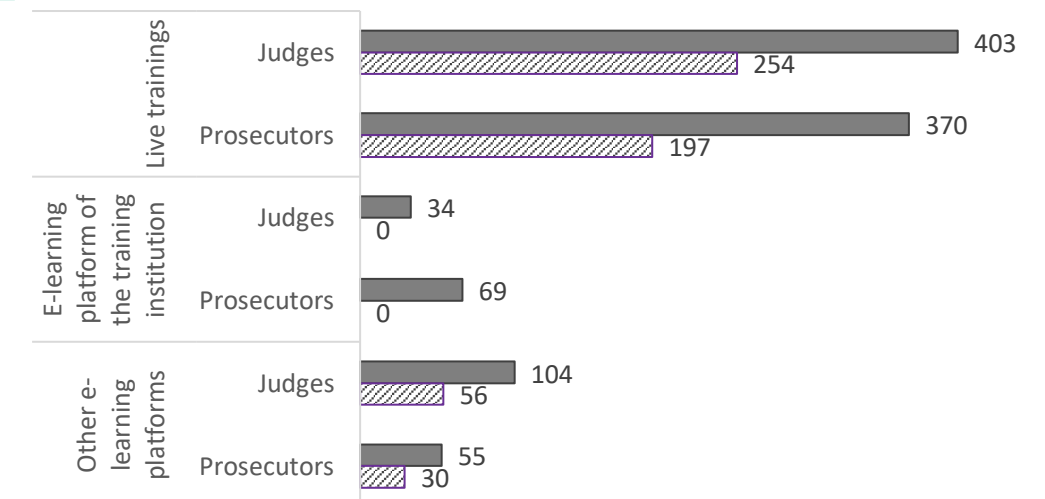


In 2021, all trainings on EU Law were internet-based (4 on the e-learning platform of the National Institute of Justice and 10 on other e-learning platforms). Similarly, all trainings of the ECHR were co-organised or co-financed with International partners. On ECHR several trainings were still live, both being organised by the National Institute of Justice and jointly with other international partners.

Training in EU law and EU Charter of Fundamental Rights / European Convention on Human Right organised/financed:	Live (in-person, hybrid, video conference) trainings				Internet-based trainings (not live)			
	Number		Unique participants		Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors
By the training institutions for judges and prosecutors	403	370	NA	NA	34	69	104	55
Within the framework of co-operation programmes	254	197	NA	NA	0	0	56	30

**Number of participants to live and internet trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2021**

■ Financed/organised by the training institutions (including those organised within the co-operation programmes)  
 ▨ Financed/organised within the framework of co-operation programmes





## • Type and frequency of trainings

	Judges		Prosecutors	
	Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency
<b>Initial training</b>	Compulsory		Compulsory	
<b>In-service training</b>				
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
On child-friendly justice	Optional	Regularly	Optional	Regularly
Other	Optional	Regularly	Optional	Regularly

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 persons with judicial duties. The admission to the Institute is exclusively by competitive exam during which persons possessing the qualifications prescribed in the law to hold the position of judge/prosecutor may apply. **Judges** have the right to in-service training, by selecting themes from the program and they have to complete at least 40 hours annually. The National Institute of Justice approves its curricula for judges twice per year and it includes trainings organized continually throughout the year.

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, in the programmes organized by other higher education institutions from the country or from abroad, or in other activities of vocational training. The continuous training of prosecutors is being carried out with due account to the necessity of the prosecutors' specialization. When drafting the curricula and topics on the continuous training of prosecutors there are taken into consideration the suggestions and individual needs of prosecutors and they have possibility to choose the field they wish to improve in. The National Institute of Justice approves its curricula for prosecutors twice per year and it includes trainings organized continually throughout the year.

In the Republic of Moldova, no sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions. Nevertheless, the participation in trainings can influence the score established by Evaluation Board in the assessment of judge's and prosecutor's activity.

In the Republic of Moldova, judges and prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training lasts 2-3 days and they need to participate to it more than once on a regular basis. There are also joint trainings for both judges and prosecutors (Methods to prevent corrupt behaviour) organized by the National Institute of Justice.

Both prosecutors and judges receive special training in the field of domestic violence and sexual violence. According to the National Institute of Justice in-service training Plan, beneficiaries can participate in activities held in the module entitled "Protection of minors and domestic violence". National Institute of Justice opts for trainers with specialization and training in the field of violence. NIJ trainers on this topic are regularly trained in order to improve their knowledge and practices. According to the initial training plan for candidates to be judges and prosecutors, for the year 2021, topics on violence against women and domestic violence were integrated in two submodules "Investigation of crimes against family and minors", carried out in the first semester and "Judicial investigation of crimes against family and minors", integrated in the second semester.

In 2021, NIJ carried out the following training activities in the field of violence: Training course: Ways of working with domestic abusers and techniques for preventing violence against women and domestic violence; Seminar: Peculiarities of examining cases on the application of protective measures for victims of domestic violence/violence against children; Seminar: Peculiarities of examining cases on domestic violence/violence against children; Training course: Investigating and examining domestic violence offences; Seminar "Women's access to justice - the particularities of the applicability of the provisions of the Istanbul Convention"; Seminar: Justice in the interest of the child; Training course: Methods and tactics of investigation and examination of cases on crimes of a sexual nature committed by means of information technologies. Aspects of online abuse of minors; Seminar: Investigating sexual crimes committed by minors and against minors; Seminar: Psycho-physiological aspects of minors involved in sexual crimes; Seminar: Peculiarities of investigating and judging sexual crimes; Seminar: Investigating and judging crimes on sexual life; Seminar: Psycho-physiological aspects of minors involved in sexual crimes.

## • Minimum number of compulsory trainings

	Initial compulsory training		In-service compulsory trainings	
	Minimum number of trainings	Minimum number of days	Minimum number of trainings	Minimum number of days
<b>Judges</b>	NA	540	5	5
<b>Prosecutors</b>	NA	540	5	5

The initial training offered by the NIJ is implemented according to the Initial Training Plan approved by the Council of the NIJ. Please see the link below: <https://www.inj.md/ro/plan-de-formare-0>

The minimum number of days for initial compulsory training is reflected with approximation. The term for this training is 18 months.

The minimum number of hours for in-service compulsory training per year - 40 hours.

**• Quality of judicial training**

Republic of Moldova identifies (collects information about) future in-service training needs via:

Target audience itself	✘	Relevant judicial institutions	✔
Previous participants in trainings	✘	Ministry of Justice	✔
Trainers	✘	Other	✔ Legal Aid Council, National Probation Inspectorate
Courts/prosecutor's offices	✔		

The frequency of the assessment is annual.

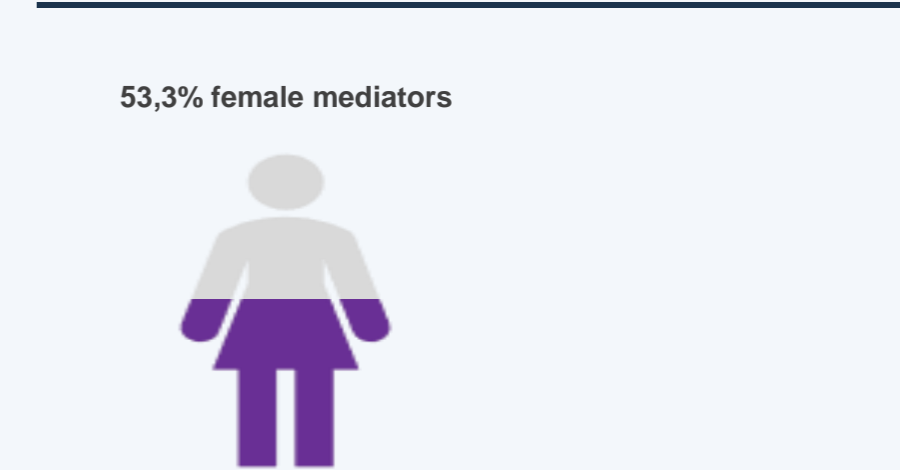
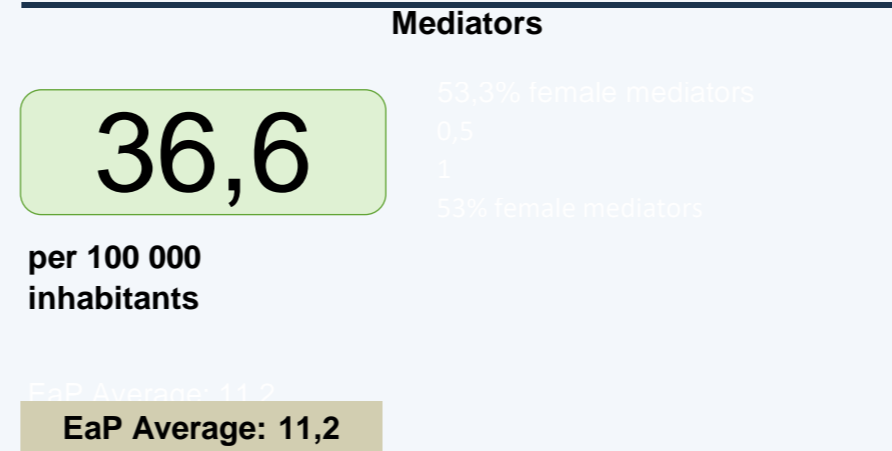
In Republic of Moldova, in-service trainings are evaluated immediately after the training is delivered, using a combination Kirkpatrick and other training evaluation models.

The feedback of the training evaluation process is used:

To prepare a training evaluation report with recommendations	✔	To suppress a training course	✔
To improve the training course which, according to the report, needed improvements	✔	To introduce a new course	✔
To replace the trainers that failed to meet expected learning outcomes/were negatively evaluated	✔	Other	✘

## Alternative Dispute Resolution in the Republic of Moldova in 2021 (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 for some categories of civil and criminal cases (see below) and legal aid for court-related mediation or mediation provided free of charge can be granted. 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 proceeding. However, there are no mandatory informative sessions with a mediator. In 2021, the number of mediators per 100 000 inhabitants was 36,6, which was considerably above the EaP average (11,2 per 100 000 inhabitants). The majority of the mediators were women (53,3%).

### • Court related mediation procedures

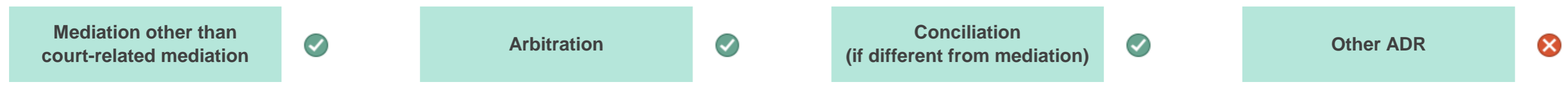
*Court related mediation is the mediation which includes the intervention of a judge, a public prosecutor or other court staff who facilitates, directs, advises on or conducts the mediation process. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor (or a judge) can refer a case to a mediator or propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement). Such mediation may be mandatory either as a pre-requisite to proceedings or as a requirement of the court in the course of the proceedings.*

In order to reduce the length of procedures, court-related mediation was established as a mandatory way of settling the claims in civil procedures by the Law nr 31 of 17.03.17. It simplified **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 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, as explained by authorities, the **Criminal Procedure Code** in the case of accusing a person for committing a minor offense or a less serious one, 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 of the parties. 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 to the mediation procedure and, if the parties have reconciled, draws up a mediation contract, which is signed by the parties and it 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. The judge then proceeds to a regular court proceeding.

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

In terms of plans in respect of court-related mediation, the exclusion of the institution of compulsory judicial mediation is foreseen in the Government Action Plan for the years 2021-2022 (see Reforms).

### • Other ADR methods



## • Mediators and court-related mediations

### Requirements and procedure to become an accredited or registered mediator:

A mediator can be any person who cumulatively meets the conditions established in art. 12 (1), (3), (4) from Law no. 137/2015 on mediation.

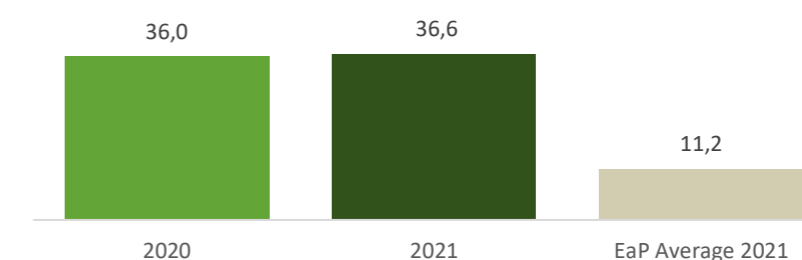
Educational requirements: university degree studies, initial training course for mediators based on a 80 academic hours program in accordance with Standards for initial training for mediators.

Mediators accreditation is carried out by passing the mediators attestation exam in accordance with the Regulation on the attestation of mediators.

Accredited/registered mediators for court-related mediation			% Variation between 2020 and 2021
Absolute number	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants	
953	36,6	11,2	0,6%

For reference only: the 2021 EU median is 16,2 mediators per 100 000 inhabitants.

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2020 and 2021



In 2021, the total number of accredited/registered mediators in the Republic of Moldova was 953, which is 0,6% more than in 2020. The number of registered mediators per 100 000 inhabitants was 36,6, which is considerably above the EaP average of 11,2.

	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
<b>Total (1 + 2 + 3 + 4 + 5+ 6)</b>	NA	NA	NA				
<b>1. Civil and commercial cases</b>	5562	5132	92	✗	✗	✓	✗
<b>2. Family cases</b>	2575	2145	34	✗	✗	✓	✗
<b>3. Administrative cases</b>	NAP	NAP	NAP	✗	✗	✗	✗
<b>4. Labour cases incl. employment dismissals</b>	171	186	7	✗	✗	✓	✗
<b>5. Criminal cases</b>	NA	NA	NA	✓	✗	✗	✗
<b>6. Consumer cases</b>	49	50	1	✗	✗	✓	✗
<b>7. Other cases</b>	NAP	NAP	NAP				

Court related mediations are provided by private mediators and judges. In 2021, mediation was most used for Civil and commercial cases and Family cases (parties agreed to start mediation in 5 562 and 2 575 cases, respectively). These represent the procedures in court.

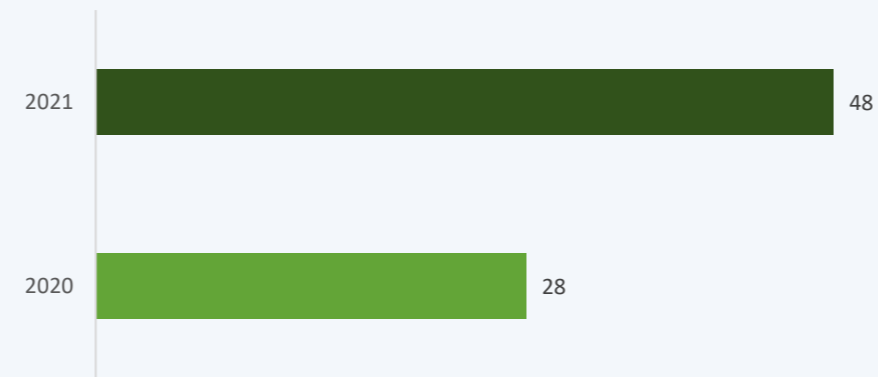
In the Republic of Moldova, it is possible to receive legal aid for court-related mediation or receive these services free of charge.

## European Convention on Human Rights in Republic of Moldova in 2021 (Indicator 10)

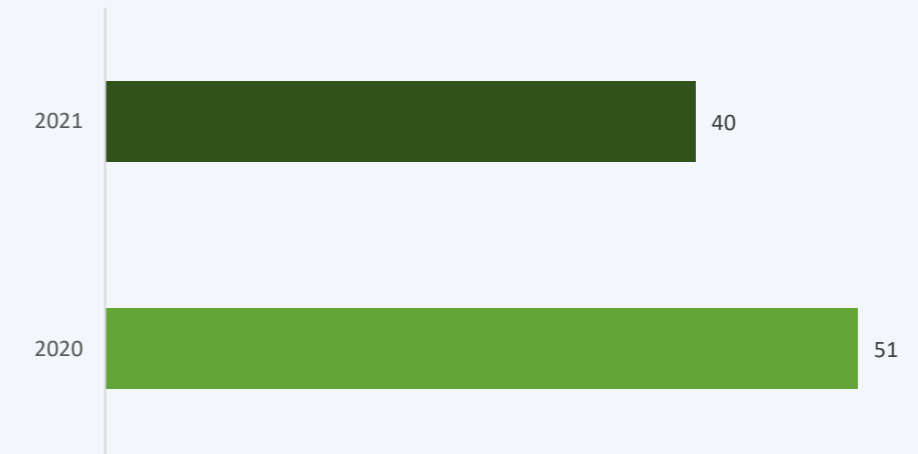
*European Convention on Human Rights – Article 6 – Right to a fair trial (extract):*

*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.*

**Judgements finding at least one violation\*\***



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





• ECHR

The remedy for the non-enforcement of final domestic judgments and unreasonable length of proceedings was adopted at national level by the Law no. 87 of April 2011, in force as of 1 July 2011. According to the Law, 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.

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**



The national law allows 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 judgment. According to Law no. 151 of 30 July 2015, the Government Agent keeps the Register on the European Court's 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 is available on the Government Agent's official website <http://agent.gov.md/>, and includes all the judgments and decisions adopted by the European Court in respect of the Republic of Moldova. A database including summaries of the relevant Court judgments and decisions is also available on the Supreme Court of Justice's official website [www.csj.md](http://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 issuance of a Court judgment in that case, by also proposing general measures aimed at preventing similar violations for the future. The evolution of cases at national level after the European Court of Human Rights found certain violations in those cases can be measured during the procedure of execution of those judgments at national level and within the supervision procedure of those judgments by the Committee of Ministers of the Council of Europe. The execution of both individual and general measures are subjected to Governmental supervision and Parliamentary scrutiny. In this regard, the Government Agent shall submit annual reports on the execution of those measures at national level before both the Government and the Parliament.

In 2021, there were 630 applications (107 more than the previous year) allocated to a judicial formation\*\* for the Republic of Moldova. There were 48 judgements by the ECHR finding at least one violation for Republic of Moldova (up from 28 in 2020).

There were 40 cases considered as closed after a judgement of the ECHR and the execution of judgements process in 2021; down from 51 in 2020.

	2020	2021		2020	2021
<b>Applications allocated to a judicial formation of the Court**</b>	523	630	<b>Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***</b>	51	40
<b>Judgements finding at least one violation**</b>	28	48			
<b>Judgements finding at least one violation of the Article 6 of the ECHR</b>	<b>Right to a fair trial (1)</b>	10	8		
	<b>Length of proceedings</b>	0	2		
	<b>Non-enforcement</b>	5	7		

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

\*\*\* Source: Department of Execution of judgments of the Council of Europe

\*\* Source: ECHR

(1) Figures in this line may include conditional violations.

## Reforms in Republic of Moldova in 2021

	Yes (planned)	Yes (adopted)	Yes (implemented during 2022)	Comment
(Comprehensive) reform plans	✔	✔	✘	The <b>Strategy on Ensuring the Independence and Integrity of the Justice Sector for 2022-2025</b> was approved by Parliament on 6 December 2021. The strategy aims to respond to the challenges related to the improvement of the justice sector and shows the state's commitment to ensure an independent, impartial, accountable and efficient justice sector. The strategy has three strategic directions that aim at: 1) Independence, responsibility and integrity of justice sector actors. 2) Access to justice and quality of the justice act. 3) Efficient and modern administration of the justice sector. The main reform reported as planned in 2021 was the amendment of the <b>Constitution in the judiciary section</b> . The constitutional law entered into force on 1st April 2022. The constitutional amendments aimed to strengthen the guarantees of <b>independence of judges</b> , to exclude the political factors that influence their careers but also to change the structural composition of the Superior Council of Magistracy (SCM) with the exclusion of ex officio members, the Minister of Justice, the Prosecutor General and the President of the Supreme Court. The main amendments aim to reflect functional immunity of judges, unifying the way judges are appointed (all judges will be appointed by the decree of the President of the Republic of Moldova, or until this phase SCJ judges were appointed by Parliament), removing the initial term of appointment of judges (probationary period) for 5 years. Additionally, the composition of the SCM was changed (6 members from among the judges will be elected by the General Assembly of Judges, representing all levels of courts and 6 members will be appointed by the Parliament from civil society) and a 6-year term without the possibility of having two successive terms was established. According to the new provisions the SCM must be consulted in the process of drafting, examining, approving and amending the budget of the judiciary. Therefore, the SCM may submit proposals to the Parliament on the financial means needed for the proper functioning of the courts.
Budget	✔	✔	✔	In respect of the on-going <b>reorganization of the national courts</b> , the unification of the Court's offices will be carried out gradually, until 31 December 2027, as the conditions for this are created, according to an action plan approved by the Parliament. In this regard for next phases of planning, building, equipping and functioning of new court premises the judicial system will be in need for more approved financial resources.
Courts and public prosecution services	✔	✔	✔	<p>1. According to the Law no. 76 on the <b>reorganization of the courts</b>, approved by the Parliament on 21.04.2016, since January 1, 2017, the judiciary has been reorganized into 15 first instance courts. The unification of the court's offices will be carried out gradually, until 31 December 2027, as the conditions for this are created, according to an action plan approved by the Parliament. Until the creation of the conditions of operation in a single court house, the newly created courts will have several territorial offices. A Working Group was established by the judiciary in 2020 in order to propose amendments to the existing legislation regarding court map optimization.</p> <p>2. <b>Strategic Development Program of the Prosecution Office</b> of the Republic of Moldova for the period 2021-2025 aims to promote in the Prosecution Office a higher level of independence, integrity, accountability, transparency, professionalism and efficiency in line with European standards and practices, thus ensuring the rule of law and respect for fundamental human rights.</p> <p>3. Some reforms on this are provided also provided for by the Law 211/2021 on the <b>Strategy on Ensuring the Independence and Integrity of the Justice Sector</b> for 2022-2025 and the Action Plan for its implementation.</p> <p>The High Council of Prosecutors by Decision No. 1-83/2022 of 26.04.2022 adopted the Institutional Action Plan for the implementation of the Action Plan for the implementation of the Strategy on ensuring the independence and integrity of the justice sector for the years 2022-2025. In the context of the reform of the justice system, the Ministry of Justice launched a concept of the <b>reform of the Supreme Court of Justice (SCJ)</b>. The reform involves adjusting the role of the SCJ and focusing on unifying the judicial practice and pronouncing decisions in areas of major importance to society in the Republic of Moldova. The reform will also provide for a reduction in the number of SCJ judges, internal operational restructuring and streamlining the work of the SCJ.</p>

	Yes (planned)	Yes (adopted)	Yes (implemented during 2021)	Comment
Access to justice and legal aid	✘	✔	✔	<p>According to the <b>Strategy for the legal aid</b> activities in 2021-2023 the diversification and automatization of legal aid services is planned:</p> <p>a) Elaboration and institutionalization of the mechanism for providing partial legal assistance free of charge.</p> <p>b) Elaboration and institutionalization of the mechanism for granting legal aid by public associations.</p> <p>c) The continuous expansion and development of the network of paralegals in rural and urban localities across the country, taking into account legal empowerment needs.</p> <p>d) Updating the role and place of public lawyers in the legal aid system.</p> <p>e) Piloting new models of qualified and primary legal assistance, oriented to the needs of the beneficiaries from the socially vulnerable categories.</p> <p>f) Facilitating the development and implementation of related programs, such as holistic assistance; prevention and harm; mediation; strategic litigation; advocacy; etc.</p> <p>g) Increasing the amount of remuneration of public lawyers and paralegals, for legal aid services for their motivation.</p> <p>h) Providing highly specialized legal services within penitentiaries, centres for the protection of people with disabilities, placement centres, etc.</p> <p>i) Facilitating the access of the population to qualified legal aid services through providing legal services remotely (by telephone or videoconference) by lawyers granting legal aid or by specialized entities.</p> <p>j) Technologizing the process of granting primary legal aid by developing online platforms for providing primary legal assistance, which would allow beneficiaries to navigate in resolving legal issues at distance; providing primary legal advice by telephone or online.</p> <p>k) Digitization of the process of granting primary legal aid by elaborating specialized WEB pages; interactive guides; terminals with</p>
High Judicial Council and High Prosecutorial Council	✔	✘	✘	<p>According to the constitutional amendments, the <b>composition of the SCM</b> was changed. It has 12 members (6 members from among the judges will be elected by the General Assembly of Judges, representing all levels of courts and 6 members will be appointed by the Parliament from civil society). A 6-year term without the possibility of having two successive terms was established. According to the new provisions the SCM must be consulted in the process of drafting, examining, approving and amending the budget of the judiciary.</p> <p>The ex officio members, the Minister of Justice, the Prosecutor General and the President of the Supreme Court were excluded from the composition of SCM. The constitutional amendments entered into force in April 2022.</p>
Legal professionals	✘	✔	✘	<p>The reforms are part of the Justice Sector Strategy: Strengthening the <b>capacities of justice related legal professions and the status of their representatives</b> (lawyer, notary, mediator, bailiff, judicial expert, licensed administrator and translator/interpreter) as a body of professionals capable of delivering quality legal services that are essentially public services delegated by the state is an essential task also. In this respect, it is planned to improve the mechanisms on organization, activity and accountability of justice related legal professions and develop and enforce improved policies for service delivery by justice related legal professions.</p>
Gender equality	✔	✘	✘	<p>With reference to the improvement of the institutional mechanisms aimed at ensuring equality and combating discrimination, the Ministry of Justice developed a draft law which proposed, in particular, the amendment of Law no. 121/2012 regarding ensuring equality and Law no. 298/2012 regarding the activity of the Council for the prevention and elimination of discrimination and ensuring equality. The changes are aimed at expanding the non-discrimination criteria, improving the collection of equality data, monitoring, evaluating and reporting the results annually, as well as strengthening the institutional framework (the competences, activity and structure of the Equality Council). The draft law was adopted by the Parliament in the final reading on 15 December 2022.</p>
Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities	✔	✔	✘	<p>To ensure a stable regulatory framework and to avoid the promotion of conflicting concepts by various authorities, it is planned to centralize the task of amending the codified laws (Civil Code, Criminal Code, Contraventions Code, Administrative Code, Civil Procedure Code, Criminal Procedure Code, Enforcement Code), by formally authorizing the Ministry of Justice in this respect. The planned reform is part of the new Justice Sector Strategy.</p>

	Yes (planned)	Yes (adopted)	Yes (implemented during 2021)	Comment
Mediation and other ADR	✓	✗	✗	<p>According to the national statistical data, neither the establishment through the Law no 31/2017 of compulsory judicial mediation for certain categories of cases, has led to tangible results (approximately 5% of the cases filed in courts have been settled), in authorities' view. In this respect, revising the institution of compulsory judicial mediation, is reported as being planned. The exclusion of the institution of compulsory judicial mediation is included in the Government Action Plan for the years 2021-2022. The <b>exclusion of compulsory judicial mediation for civil cases</b> entered into force in 2022.</p> <p>Although the original aim was to reduce the workload of judges and to resolve cases more quickly, over time, it has been found by the authorities that this alternative method of resolving disputes is inefficient and has not generated positive results. Moreover, it was found to have had negative consequences for civil proceedings and the workload of judges and has delayed pending cases, affecting the free access to justice of litigants, in authorities' view. For example, in the last four years, out of the total number of judicial mediation proceedings - about 43,500 cases, only 1,165 were completed with the conclusion of a mediation transaction. In the rest of the disputes, the mediation processes ended by the refusal of the parties to settle the dispute amicably, the expiration of the term or the waiver of the plaintiff's action. It has also been found by the authorities that judicial mediation proceedings take too long in practice (i.e. between three and nine months). This is contrary to the provisions of the Code of Civil Procedure, which provide that the term of judicial mediation may not exceed 45 days.</p> <p>The amendment also provides for the transitional provision, according to which the judicial mediation processes not completed at the time of the entry into force of the law will be continued and completed according to the old provisions.</p> <p>The amendment aims to promote compulsory extrajudicial mediation, to reduce the workload of judges and expand the area of intervention and provision of services by mediators.</p> <p>Other priorities are to promote the benefits of alternative dispute resolution mechanisms within the business environment, legal community, academia and the judiciary and to conduct awareness and information dissemination campaigns on these mechanisms. The planned reforms are also part of the new Justice Sector Strategy.</p>
Fight against corruption and accountability mechanisms	✓	✗	✗	<p>Establishing new <b>mechanisms for preventing corruption and guaranteeing integrity within the justice sector</b> by ensuring an effective verification of all judges and prosecutors, in terms of their professionalism, integrity and interests. At the same time, following the analysis of the new legal framework and practices, measures are required to improve the mechanism of disciplinary liability of judges and prosecutors. The planned reforms are part of the new Justice Sector Strategy.</p> <p>In order to improve the legislative framework on the <b>functioning of the National Integrity Authority</b>, to prevent situations of conflicts of interest and incompatibilities, as well as to declare correctly / properly the wealth and personal interests of subjects subject to such obligations, in 2022 amendments were made in several legislative acts, especially in Law no. 133/2016 on the National Integrity Authority and Law no. 133/2016 on the declaration of wealth and personal interests. The amendments aim to strengthen the role of the integrity inspector and to give the power to request the evaluation of goods in asset control procedures, in order to identify their real / market value and to exclude the practice of acquiring goods at not real prices, from persons who cannot justify their origin.</p> <p>In the part related to the strengthening of <b>the integrity mechanisms of judges and prosecutors</b>, the Ministry of Justice has elaborated a draft law which proposes, in particular to establish a mechanism for declaring assets at the stage of admission at the National Institute of Justice, so that the integrity regime is applicable to all stages of the career of judges and prosecutors (admission to NIJ, appointment, promotion / transfer). The Ministry of Justice has initiated the process of creating the mechanism for <b>extraordinary (external) evaluation of all judges and prosecutors (vetting)</b>. The Ministry of Justice initiated the process of creating a normative framework that will allow the <b>confiscation in the civil procedure of the illegally obtained goods</b> with the establishment of a difference between the persons exercising public functions from the other persons, from the perspective of the presumption of the lawfulness of the acquisition of their goods. Additionally, measures are taken on the component of improving the mechanisms for recovery / confiscation of criminal assets.</p>

	Yes (planned)	Yes (adopted)	Yes (implemented during 2021)	Comment
Domestic violence	✘	✔	✔	<p>Among the main provisions of the <b>National Strategy on prevention and combating violence against women and domestic violence for 2018-2023</b> are:</p> <ul style="list-style-type: none"> <li>- Prevent violence against women and domestic violence by cultivating zero tolerance for violence. Combat stereotypes and prejudices leading to violence against women and domestic violence. Inform, raise awareness and encourage the reporting of cases of violence;</li> <li>- Pre-service and in-service training of the professionals engaged in the prevention and combating of domestic violence based on a common vision at the state level;</li> <li>- Strengthen the education system to ensure the education of new generations from the perspective of gender equality values and a non-violent communication culture;</li> <li>- Strengthen the mechanisms of protection and assistance for victims of violence against women and domestic violence;</li> <li>- Develop specialized services for victims of violence, including sexual violence, in line with the international standards;</li> <li>- Promote women's economic empowerment and socio-economic independence;</li> <li>- Provide integrated policies in cases of violence against women and domestic violence, based on multi-sectorial cooperation and data collection, and other specific objectives.</li> </ul>
New information and communication technologies	✔	✘	✘	<p>Within the framework of the institutional reform of the judiciary, <b>digitalization</b> has been a priority. An essential support to the modernization of justice delivery is ensured by the development of the judicial information system. Nevertheless, the implementation of IT solutions is an ongoing process, which should be adapted to new requirements for process development. Increasing the level of digitalization of the judiciary is a tool for streamlining the activities carried out in the justice system. As a result of the approach, in September 2021, the <b>concept of JUSTAT</b> was approved, the future platform with dashboards according to the model of the CEPEJ-STAT platform. The Agency for Courts Administration, with the support of the EU and CoE, has evaluated the latest developments in the field of judicial statistics in the Republic of Moldova, having appreciated the content of the statistical file of the courts, available on the web page of the Superior Council of Magistracy, which automatically takes data from the Integrated Case Management Program. During the meetings held, the content of dashboards, performance indicators and other statistical data was suggested; the possibility of interoperability of the platform with CEPEJ-STAT was evaluated. JUSTAT was launched in Spring of 2023.</p>



## EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

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

#### Data collection 2021

#### 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 3 December 2021 (adoption of the Interim Compliance Report on the Republic of Moldova):

	JUDGES	PROSECUTORS
Implemented	38,00%	60,00%
partially implemented	62,00%	40,00%
not implemented	0,00%	00,00%

## 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 19<sup>th</sup> 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 any 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. No new information was reported by the authorities in the Interim Compliance Report on the Republic of Moldova (para. 35-38).

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). In the interview, minutes are taken, interviews are recorded (audio or video) and a standardized point system is used to evaluate the candidates. 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). In the Interim Compliance Report on the Republic of Moldova (see para. 39-43), GRECO took note of the information provided by the authorities on number of polygraph tests taken and, as a result, candidates not being appointed or promoted by the SCM. Furthermore, GRECO took note of the information on the planned judicial reform process which envisages also an external assessment (vetting) of all judges (and prosecutors), including members of the SCM and SCP. GRECO concludes that his part of recommendation is partly implemented.

### **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, command of the national language, legal capacity, medical capacity, a clean criminal record, 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. For the candidates having graduated from the National Institute of Justice or candidates with 5 years of seniority – an examination is required (see below). 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 candidates with 5 years of seniority have to take a graduation exam before the Graduation Commission while candidates having exercised functions in the legal sphere for at least ten years do not have to pass the 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, which is recorded (audio or video) and a standardised questionnaire as well as a standardised point system are used for all candidates, 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 quality and efficiency of work as a 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 through certificate of integrity obtained from the National Integrity Authority, certificate of professional integrity obtained from the National Anti-Corruption Centre and the opinion on the professional performance within the bodies of the Prosecution Office obtained from the Prosecutor General.

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). Unsuccessful candidates who did not have to pass the graduation exam may appeal the SCP's decision at the Chisinau Court of Appeal. 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. In the latter case, the Prosecutor General is obliged to appoint the proposed candidates.

According to the provisions of the LP, an unsuccessful candidate has a right to appeal against a decision of appointment in the administrative court.

## **Mandate of prosecutors**

No probation period is envisaged in the law for prosecutors who are appointed with no limitation on their term in office, until they reach the retirement age of 63 for male prosecutors and 59 for female prosecutors), 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 four years (or in the two years, 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 quality and efficiency of work as a 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.

### Compensation of users of the judicial 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 1<sup>st</sup> 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 2021, 402 requests for compensation were submitted and 147 compensations awarded in the total amount of 352.920 € (table below):

	2021		
	Number of requests for compensation	Number of compensations	Total amount (in €)
Total	402	147	352.920
Excessive length of proceedings	NA	NA	NA
Non-execution of court decisions	NA	NA	NA
Wrongful arrest	NA	NA	NA
Wrongful conviction	NA	NA	NA
Other	NA	NA	NA

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.

## Procedure to challenge a judge

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. A recusal/disqualification request is envisaged both in criminal and civil proceedings and should be motivated. Another judge or, as the case may be, a panel shall decide the request. Deciding on the request is dealt with urgently. In case when a new panel cannot be formed, a hierarchically superior court will decide on the matter, if it admits the recusal/disqualification. In 2021, the total number of requests (initiated procedures) for recusal was 6164 in 2021 (4693 in 2020), out of which 459 (372 in 2020) recusals were pronounced.

## Instructions to prosecute or not addressed to public prosecutors

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 (3<sup>1</sup>) 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 1<sup>st</sup> 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). According to the Interim Compliance Report (see para. 54-58), on 17 September 2021 the Prosecutor general issued an Order on the role and responsibilities of the chief prosecutors of the subdivisions of the Prosecutor General's Office, specialised and territorial prosecutor's office in leading and carrying out criminal investigation providing *inter alia* a procedure of documentation of all hierarchical interventions in individual cases. This binding instruction sent to all prosecutors provides for a strict mechanism of verification as it foresees a specific register for documenting all hierarchical interventions in every case to be kept by every prosecutor's office.

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 2021:

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

	2021			
	Judges		Prosecutors	
	Abs	per 100	Abs	per 100
Number of initiated cases	4	0,92	19,00	3,09
Number of completed cases	2	0,46	6,00	0,98
Number of sanctions pronounced	4	0,92	2,00	0,33

### 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 optional training regularly available to judges and prosecutors. Both judges and prosecutors 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 during their career they need to participate on this training on a regular basis.

## 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 on adherence to judicial values (independence, integrity, impartiality), judges' relationship with institution, citizens and users, judges' competence and continuing education, extrajudicial and political activities, conflict of interest, information disclosure and relationship with press agencies, association membership and institutional positions. The code takes into account international standards 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 March 2016. Booklets containing the provisions of the Code of Professional Conduct and Ethics have been published and distributed among courts of all levels. On 8<sup>th</sup> 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 1<sup>st</sup> August 2016 and, following a proposal by the Superior Council of Prosecutors, the General Assembly of Prosecutors adopted amendments to the Code of Ethics of Prosecutors on 22 February 2019 (the Compliance Report, para. 97). It contains set of rules on adherence to values (independence, integrity, impartiality), prosecutors' relationship with institution, citizens and users, prosecutors' competence and continuing education, extrajudicial and political activities, conflict of interest, information disclosure and relationship with press agencies, association membership and institutional positions. The code is regularly updated and is published on the website.

## 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 which was set-up in 2018 by the SCM 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. In 2021, no opinions/advisories were adopted.

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, including practical examples of violations of the provisions of the code. The

Disciplinary and Ethics Committee was created in 2016 by the SCP and consists of seven members (five prosecutors elected by the general assembly of prosecutors and 2 members appointed by the SCP from among representatives of 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. No opinions were adopted in 2021.

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.

In 2014, the Prosecutor General adopted by order the Regulation on the evidence of cases of improper influence exerted on public officials of the Prosecutors Office with an aim to ensure the professional integrity of the employees of the Prosecutors Office bodies, to prevent and combat corruption and to establish a single order of communication, identification and evidence of improper influence exerted on public officials employed by the Prosecutors Office bodies. According to this regulation, a public official who is subject to improper influence is obliged to refuse undue influence, to carry on with the activity for which the undue influence occurred in a lawful manner and to make a denunciation about the undue influence attempt. The Inspectorate of Public Prosecutors receives and records cases of improper influence, keeps a register of such reports, verifies the performance of tasks for which the undue influence arose, take measures to prevent cases of undue influence by being directly involved in their resolution and takes necessary measures against those public officials who failed to reject improper influence or who failed to denounce the improper influence which they couldn't reject on their own. Denunciation should be made within three working days, in writing, to the Inspectorate of Public Prosecutors.

### **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.

In 2021, a total of 417 reassignments of court cases were processed.

### **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, partner, the underage children (in respect of prosecutors, also their adult 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 and, with respect to prosecutors, in an official journal.

In case of failure to declare assets, a judge may be dismissed; and a prosecutor may be fined/dismissed.

The number (absolute/Abs and per 100 judges/prosecutors) of proceedings against judges/prosecutors for violations or discrepancies in declaration of assets in 2021 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
2021	12	2,76	NA	NA	Na	NA	24	3,90	NA	NA	Na	NA

### 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
<b>Combine work with other functions/activities</b>	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 2021 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
2021	1	1,00	NA	NA	NA	NA	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 and the Judicial Inspection on its own initiative. 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) voted 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. In the Interim Compliance Report on the Republic of Moldova (see para. 49-53), GRECO took note of the information provided by the authorities on amendments of the Law on the disciplinary liability of judges in November 2020 which introduced the definition of intention and gross negligence to initiate disciplinary procedure against judges upon request of the Governmental Agent (before the European Court of Human Rights) based on judgement by the ECHR. The authorities also indicated that the SCM proposed amendments to various laws for improving the framework of the disciplinary liability of judges which were forwarded to the Ministry of Justice. GRECO encouraged the authorities to pursue efforts so that tangible and fully demonstrated results can be shown, namely regarding the adequate reasoning of decisions, and with the adoption of new legislation, proposed by SCM. It concluded that recommendation xiii 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). In the Interim Compliance Report on the Republic of Moldova (see para. 70-75), GRECO took note of the information provided by the authorities regarding publication of anonymised decisions on disciplinary liability in respect of prosecutors of the Disciplinary and Ethics Committee as well as the decisions of the SCP on the challenge of the Disciplinary and Ethics Committee's decisions. Furthermore, it took note of the information on examination of complaints submitted to initiate disciplinary proceedings, on examination of disciplinary proceedings and on appeals filed as well as information on the outcome of the examination of the appeals. GRECO concluded that the figures indicate that the system for the disciplinary liability of prosecutors is operational.

The Table below summarises the data on disciplinary procedures in 2021 in absolute (Abs) numbers and per 100 judges /prosecutors respectively:

		2021			
		Judges		Prosecutors	
		Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated during the reference year	Total number (1 to 5)	36	8,28	52	8,46
	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)	16	3,68	46	7,48
	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)	5	1,15	8	1,30
	1. Reprimand	1	0,23	0	0,00
	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	0	0,00
	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	2	0,46	7	1,14
10. Dismissal	2	0,46	1	0,16	

For judges, the source of data is the [Report of the Disciplinary Board](#).

For prosecutors, the authorities explained that 52 disciplinary proceedings were initiated against 31 prosecutors and 46 cases were completed against 26 prosecutors in 2021. As regards sanctions pronounced regarding 26 prosecutors, with regard to 17 prosecutors the Committee decided to terminate the disciplinary proceedings on the grounds that no disciplinary misconduct had been established, one disciplinary proceeding was discontinued against one prosecutor due to termination of his service relationship, 7 prosecutors were given a warning and 1 prosecutor was dismissed.

### Council for the Judiciary

In the period between 1<sup>st</sup> January 2021 and 17<sup>th</sup> September 2021, SCM consisted of 15 members, including: 3 *ex officio* members (the Prosecutor General, the President of the Supreme Court of Justice, the Minister of Justice), 7 members elected by the General Assembly of Judges from among the judges in office, by secret, direct and freely expressed vote and 5 members elected by competition from academics by the Parliament. As a follow-up of the amendments to the Law on the SCM (LP103 of 24.08.21, in force as of 17.09.21), as of September 2021, SCM consisted of 12 members, including: 3 *ex officio* members (the Prosecutor General, the President of the Supreme Court of Justice, the Minister of Justice), 6 members elected by the General Assembly of Judges from among the judges in office, by secret, direct and freely expressed vote and 3 members elected by competition from academics by the Parliament.

The subsequent legislation for defining the procedure and conditions for the election, appointment and termination of the mandate of members of SCM is yet to be adopted (currently this is regulated in the Law on Superior Council of Magistracy).

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 125<sup>1</sup> 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 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. Until September 2021, it was 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 were 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 were 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 were 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 included an interview organised by the body selecting the candidate where the field of competence the candidate applied for is examined.

According to the to the Law nr. 103 of 24.08.21 in force as of 17.09.21 amending the Law on Prosecution Office, as of September 2021, SCP consisted of 12 members, including: 3 *ex officio* members (the President of the Superior Council of Magistracy (including interim), the Minister of Justice (including interim) and the Ombudsman); 5 members elected by the General Assembly of Prosecutors from among the prosecutors in office (one member from among the prosecutors of the General Prosecutors Office and four members from the ranks of prosecutors from the territorial and specialised prosecution offices), by secret, direct and free vote; and 4 members elected by competition from civil society (one by the President of the Republic, one by the Parliament, one by the Government and one by the Academy of Sciences of Moldova).

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". In the [Interim Compliance Report on the Republic of Moldova](#) (see para. 59-63) the authorities reported on amendments to the Law on Prosecutor's Office adopted in August 2021 which limited the number of SCP's members to 12 by excluding the Prosecutor General, the President of the Bar Association, and the Head Prosecutor of the Autonomous Region of Gagauzia, and reducing the age limit to 65 in the SCP. However, the Minister of Justice and the President of the SCM remain ex officio members and their positions are reinforced within the SCP as the interim Minister of Justice and interim President of the SCM can participate on a regular basis in the SCP as full members, with all the rights and competences of the other members. However, due to a constitutional review introduced by the Prosecutor General, the amendment that provided for the age ceiling of 65 was rejected. GRECO took note of this information and regretted that the amendments to the relevant legislation have not been used as an opportunity to abolish the ex officio membership of the Minister of Justice and the President of the SCM in the SCP, having instead reinforced their position as they can take part, inter alia, in the decisions regarding the career, promotion and disciplinary liability of all categories of prosecutors. GRECO concludes that recommendation xv remains partly implemented.