

**ANNUAL REPORT
ON THE IMPLEMENTATION OF THE JUSTICE
SECTOR REFORM STRATEGY FOR THE YEARS
2011-2016**

2012

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¹ The Annex is available only in the Romanian language

I. INTRODUCTORY CONSIDERATIONS ON JUSTICE SECTOR REFORM STRATEGY AND ACTION PLAN FOR STRATEGY IMPLEMENTATION

On 25 November 2011 the Parliament of the Republic of Moldova approved the Justice Sector Reform Strategy for years 2011-2016 (hereinafter the Strategy or JSRS). The document entered into force on January 6, 2012, the date of its publication in the Official Journal no. 1-6/6. The overall objective of the strategy is to build an accessible, effective, independent, transparent, professional justice sector accountable to the society, which would correspond to the European standards, ensure rule of law and respect for human rights and help ensure society's confidence in the act of justice.

The strategy is structured on seven pillars, each of which reflects the most pressing problems of the sector and develops actions from the certain reform domain in order to achieve the specific objectives. These pillars are:

- Pillar I.** The Judicial System;
- Pillar II.** Criminal Justice;
- Pillar III.** Access to justice and enforcement of judgments;
- Pillar IV.** Integrity of justice sector actors;
- Pillar V.** The role of justice in economic development;
- Pillar VI.** Human rights observance in the justice sector;
- Pillar VII.** A well coordinated, well managed, and accountable justice sector.

On 16 February 2012 the Parliament of the Republic of Moldova approved an Action Plan for the implementation of the Justice Sector Reform Strategy for years 2011-2016 (hereinafter the Action Plan). Publication of the Action Plan in the Official Journal took place only on 5 June 2012.

Based on the Strategy, the Ministry of Justice is designated as the coordinating institution responsible for monitoring and coordinating the implementation of the Justice Sector Reform Strategy for 2011-2016 and of the Action Plan.

II. THE COORDINATION AND MONITORING MECHANISM OF THE STRATEGY AND OF THE ACTION PLAN FOR STRATEGY IMPLEMENTATION

By order of the Minister of Justice there were created six Working Groups to monitor the implementation of actions for each of the first six pillars set out in the Strategy and Action Plan (sectorial Working groups) and a Group to coordinate the implementation of the Strategy (Coordination Group), senior level group responsible for monitoring the overall implementation of the Strategy and actions under Pillar VII in particular. The Group responsible for the coordination of the overall implementation of the Strategy had 4 meetings during 2012. The higher level of coordination and monitoring of the Strategy is exercised within the National Council for the Law Enforcement Bodies Reform, which analyzes the annual general report for Strategy implementation and decides on the most important problems that occurred, those on which no solutions were found at the level of sectorial group and the Coordination Group. The composition of the National Council was changed in 2012 and it hold a meeting in new composition on December 11, during which the Council Regulation was discussed.

By order, within the Ministry of Justice a Secretariat that provides technical assistance to the Working groups was established. The activity of the Working groups is governed by an operating Regulation and a monitoring methodology approved by order of the Minister of

Justice. There was established a mechanism, by the same Regulation, for solving potential conflicts that may arise between implementing institutions. The Strategy implementation Coordination Group approved a document with recommendatory character and a communication plan to promote the outcomes of the Justice Sector Reform Strategy.

Since March 2012 the Sectorial groups have met monthly to review progress of actions stipulated in the Strategy. Based on reports from the implementing institutions, all Sectorial groups approved in September 2012 an interim monitoring report and in February 2013 the annual report on the implementation of actions under each pillar in part, which analyzes progress of Strategy implementation starting from the moment of its approval until the time of the meeting on the report approval.

The donor community and civil society representatives take active part in the monitoring and coordination process of the Strategy implementation, having delegated representatives in the working groups. The cooperation mechanism with the donor community and civil society is governed by the Regulation on the operation of Working Groups responsible for the coordination and monitoring of the Strategy implementation and includes the periodic meetings that ensure good coordination and mutual information about the method and progress achieved with regard to Strategy implementation, as well as other ways of cooperation and constant communication.

During 2012 the following development partners have assisted public institutions in implementing measures envisaged by the Strategy: USAID, European Union, UNDP, U.S. Embassy, Embassy of Lithuania, EBRD, Council of Europe, UNICEF, Soros Foundation-Moldova, the Romanian Government, Konrad Adenauer Program, OHCHR, IOM, OSCE, IRZ Foundation, etc.

A directory of the Ministry of Justice website is dedicated to the mechanism for coordinating and monitoring the Strategy implementation². This directory contains all documents deriving from its activity, including agendas and minutes of all meetings of working groups on Strategy coordination and monitoring.

The mechanism for Strategy implementation coordination and monitoring also includes adequate budgeting for the implementation of actions that are part of the Strategy and Action Plan. Thus, since 2013, the expenses inherent to the implementation of the Action Plan actions were reflected in the Medium Term Budgetary Framework for 2013-2015, and the annual budget for the justice sector formed of the budget amounts of the stakeholders involved in the process, increased by 59.6%.

III. GENERAL DESCRIPTION OF THE DEGREE OF IMPLEMENTATION OF THE ACTIONS SET IN THE ACTION PLAN FOR STRATEGY IMPLEMENTATION

This report contains information on the degree of implementation of all measures to be implemented based on the Action Plan since the fourth quarter of 2011 until the end of 2012. To the same extent, the actions that only had to be initiated in 2012 and which implementation term is greater or it is about ongoing actions are also reflected. In 2012 the implementation of 157 actions had to be completed. For these 157 actions in the Annex to this report the table with information on the progress and other details is presented according to the Methodology provisions for monitoring the implementation of the Justice Sector Reform Strategy for the period 2011-2016. Thus, the information was reflected on the terms and level of achievement of the actions, steps undertaken,

² <http://www.justice.gov.md/category.php?l=ro&idc=155&nod=1&>.

funds used/established partnerships with donors to implement the measures, difficulties and challenges faced during the process of actions implementation. At the same time, there have been provided documents proving completion of the action. In order to provide a visual impact on the implementation of actions, it was decided to use marking colours as follows: *actions implemented – blue; partially implemented actions – yellow; not implemented actions - red.*

Out of those 157 outstanding actions as of 31 December 2012 - 87 are implemented, which represents 56% of the total number of actions, 49 are partially implemented, representing 31% of the total and 21 are not implemented, representing 13% of the total.

Actions outstanding as of the end of 2012

Pillar	Total actions	Actions implemented	Actions partially implemented	Actions not implemented
Pillar I	51	27	20	4
Pillar II	19	15	3	1
Pillar III	17	5	7	5
Pillar IV	14	6	7	1
Pillar V	14	8	3	3
Pillar VI	20	10	6	4
Pillar VII	22	16	3	3
Total actions	157	87	49	21
Share	100%	56%	31%	13%

Similarly, in the table from the Annex to the report the status of the ongoing actions as well as of the actions with a later deadline is also presented. In accordance with the provisions of the Strategy implementation monitoring Methodology there was presented information on the implementation of these actions and marking colours were assigned to them according to the system applicable to outstanding actions, but specifying that the action is assessed from the point of view of its implementation during the reporting period according to the action plans of institutions on its implementation. The table reflects the situation on 75 such actions, 60% of which were implemented for the reporting period, 19% partially implemented and with regard to 21% no actions have been undertaken yet. The slightly higher share of the actions that were not implemented in relation to the outstanding actions group points to the fact that many of the responsible institutions haven't yet started implementing actions with a long implementation term.

Having analysed the degree of implementation of actions in each pillar separately, we see that work on activities is being carried out under all pillars and positive developments are seen, but

also some failures. We conclude that the pace of implementation is more or less balanced across sectors and there are no problematic sectors, but only actions and institutions that could be considered as such.

The level of implementation of actions is appreciated by the Working Groups under the provisions of the Methodology for Strategy monitoring in relation to the indicators which are included in the Action Plan, taking into account the period of one year from the beginning of the Strategy implementation and type of actions that followed to be implemented during this period - mostly studies, draft laws, organizational activities etc. Although based on the monitoring Methodology, Working groups shall get as much as possible into the essence of the problem and assess whether the action meets the followed objectives, the assessment of the action accomplishment is not performed at the macro level and the changes made in the society are not analysed, the effect and impact on the current situation in the justice sector as a whole. A comprehensive analysis in qualitative terms is expected to be made at the end of the of Strategy implementation period, it will be carried out according to a specially developed methodology which will include conducting certain sociological surveys, and will be reflected in the final report on Strategy implementation. While it is desirable for such studies to be conducted more frequently, because of the high costs involved, for assessing the impact of reforms it is considered appropriate to use alternative data that is available and give us information on the level of population trust in justice, included the Public Opinion Barometer, conducted biannually by the Institute for Public Policies, Corruption Perception Index which is calculated by Transparency International studies, analyses of content and statistics of appeals to the European Court of Human Rights, reports of international organizations and other research and surveys directed at analyzing the quality of reforms. Recently, Promo-LEX Association in partnership with the Association for Effective and Accountable Governance (AGER) launched the project „Increasing government accountability by monitoring the justice sector reform”, Soros-Moldova Foundation has launched the study „Reform of the judicial system in the Republic of Moldova: prospects and challenges”, and CAPC implemented a project within which the individuals' level of satisfaction with the judicial system was investigated, etc. In the event of resources availability, there will be performed a sociological study on the impact of Strategy implementation at mid-term of its implementation.

IV. IMPLEMENTATION OF THE ACTION PLAN MEASURES ACCORDING TO THE STRATEGY PILLARS

The Action Plan for the implementation of JSRS, similar to the strategy structure was prepared according to the seven pillars of the reform. The analysis of the degree of implementation of measures from the Action Plan, according to reform pillars was accomplished in terms of strategic directions, specific intervention areas and each separate action established in the Plan for JSRS implementation.

The degree of implementation of the actions from the Plan was determined based on the reports/information received from the institutions responsible for implementing actions through annual activity reports that were received by the Secretariat of the working groups to monitor the implementation of the Strategy until January 25, 2012. At the same time, there were considered decisions, notes, comments and suggestions expressed by group members, representatives of the implementing institutions and development partners, as well as representatives of the associative sector.

III.1 Pillar I. The Judicial System

According to JSRS, the specific objective defined for Pillar I is „*Strengthening the independence, accountability, impartiality, efficiency and transparency of the judicial system*” to be achieved through the following strategic directions:

- 1.1. Ensuring accessibility and independence of the judicial system,
- 1.2. Increasing the transparency and efficiency of the judicial system,
- 1.3. Raising professionalism and responsibility of persons involved in administering justice.

JSRS Implementation Action Plan, in respect of Pillar I, sets **123 actions**, of which **73 actions** were to be implemented and monitored in 2012.

Of the **73 actions** planned to be completed in 2012, at the end of the reporting year - **51 actions** were due, **21** refer to a longer period of implementation and, where appropriate, have an ongoing nature. Out of the actions due as of 31 December 2012 - **27 are completed, 20 are partially implemented and 4 are not implemented.**

Out of the **21 actions** with a longer implementation deadline, due to the individual particularities of the action, 7 actions can be considered as being completed (according to the institution’s plan for the reported period), 9 as being partially implemented during the reporting period, and 5 as being not implemented. One action has been assessed as being obsolete.

In the table below one can see the correlation between planned actions, implemented actions, actions partially implemented, and actions not implemented.

Actions outstanding at the end of 2012	Actions implemented	Actions partially implemented	Actions not implemented
51	27	20	4
100%	53%	39%	8%

With reference to the actions under Pillar I implemented in 2012, we should note that most of these actions related to the development of studies, drafting of legislation for revision/adjustment of the regulatory framework, as well as creation of new structures within SCM in order to achieve the specific objective of Pillar I.

Achievements

An important progress for the 2012 was achieved by Government promotion and subsequent adoption by the Parliament of two major draft laws such as:

- Law no. 153 of 5 July 2012 on amending and completing some legislative acts on the judicial system organization and operation (Official Journal of the Republic of Moldova, 2012, no. 185, art. 620);
- Law no. 154 of 5 July 2012 on the selection, performance appraisal and career of judges (Official Journal of the Republic of Moldova, 2012, no. 190-192, art. 636).

Thus, by these draft laws the enforcement of actions stipulated under specific intervention areas was ensured as follows:

- Increasing management efficiency and improving the practical and regulatory system of judicial administration and strategic analysis with regards to budget planning (*1.1.5 (1) JSRS Action Plan*);

- Establishing clear, objective, transparent and merit-based criteria for the procedure of selecting, appointing and promoting judges (*1.1.6 JSRS Action Plan*);
- Unification and ensuring the transparency to the procedure for appointing court chairmen and deputy chairmen, establishing clear and transparent criteria for selecting candidates for these positions (*1.1.7 JSRS Action Plan*);
- Review the procedures for relieving, deployment and transfer of judges aiming to ensure their independence and the observance for the separation of powers principle (*1.1.8 Action Plan*);
- Strengthening the judiciary self-administration by reviewing the role, composition and powers of the Superior Council of Magistrates and its subordinated institutions (*1.1.9 JSRS Action Plan*);
- Increasing the transparency of the mechanisms and institutions of judicial self-administration (*1.2.1 of the JSRS Action Plan*);
- Revision of the operation of the instruction judge institution in view of its inclusion into the common Law judicial body as specialised judges in this respective issue (*1.2.6 of the JSRS Action Plan*);
- Unifying the system of facilitating the access to the profession of judge (*1.3.4 of the Action Plan JSRS*);
- Creating a system of periodic evaluation of performance of the justice sector actors, based on merit and on clear, objective and transparent criteria (*1.3.5 of the Action Plan JSRS*);
- Strengthening the role of judicial inspection and clarification of its powers (*1.3.7 of the JSRS Action Plan*);
- Reforming the judge immunity institution to only provide functional immunity (*1.3.9 of the JSRS Action Plan*);
- Strengthening the judicial system by introducing the position of the judicial assistant and modifying the status and duties of the registrar (clerk) (*1.3.10 of the JSRS Action Plan*).

Arrears

Meanwhile, the late publication of the Action Plan, as well as of the laws no. 153 and no. 154 caused several delays of certain measures, responsible institutions not having sufficient time to schedule and break down their activities in the most optimal manner for the reporting period (2012). Thus, the 4 actions not implemented for 2012 are inter-related with other actions under the JSRS Implementation Plan and, according to the reports of the responsible institutions, efforts have already been undertaken to ensure their implementation, but their actual completion is transferred for the year 2013.

Details on the actions implemented/partially implemented/not implemented can be found in the detailed Table on the implementation of the Action Plan in the Annex to this report.

III.2. Pillar II. Criminal Justice

According to JSRS, the specific objective for Pillar II is „*Streamlining the interlocutory investigation to ensure respect for human rights, security of every person and diminish the level of crime*”, following to be achieved through these strategic directions:

- 2.1. Reviewing the pre-judicial phase concept and procedure;
- 2.2. Enhancing professionalism and independence of the prosecutor’s office;
- 2.3. Professional capacity building at individual and institutional levels in issues dealing with crime investigations;
- 2.4. Modernization of the statistical data collection system and of the professional performance evaluation system at individual and professional levels;

2.5. Humanization of criminal proceedings and strengthening the mechanism for safeguarding the rights of victims.

According to the Strategy Implementation Action Plan, in Pillar II a total of **85 actions** are set for completion, of which **27 actions** were to be implemented and monitored in 2012.

Out of 27 actions planned to be completed in 2012, at the end of the reporting year - 19 actions were due, 8 refer to a longer period of implementation or, where appropriate, have an ongoing character. From the actions due as of 31 December 2012 - **15 are completed, 3 are partially implemented and 1 action remained unfulfilled**. Out of the 8 actions with a later deadline, due to the individual particularities of the action, 2 actions can be considered as completed (according to the institution's plan for the reporting period), 2 as not being implemented and 4 as partially implemented.

Actions outstanding at the end of 2012	Actions implemented	Actions partially implemented	Actions not implemented
19	15	3	1
100%	79%	16%	5%

For Pillar II in 2012 there have been set actions on the development of studies for distinct areas of intervention, draft laws to revise/adjust/create a new regulatory framework.

Achievements

The main achievements of 2012 in implementing actions of Pillar II of the JSRS implementation Plan refer to the adoption of some important laws and policy documents as follows:

- Improving the legal framework for the police and Carabineers by developing the law on policing and police status, the law on Carabineers' service and other relevant legislation and bringing the normative acts in force in accordance with this (2.1.1. (1) of the JSRS Action Plan) achieved by means of Government promotion and adoption by the Parliament of the following normative acts:

- Law on Border Police, No. 283 of 28.12.2011 (Official Journal No. 76-80/245 of 04.20.2012);
- Law on prevention and combating organized crime, No. 50 of 22.03.2012 (Official Journal No. 103/343 of 05.29.2012);
- Law on Special Investigation Activity, No. 59 of 29.3.2012 (Official Journal No. 113-118/373 of 06.08.2012);
- Law on Procedures of Use of Physical Force, Special Means and Guns, No. 218 of 10.19.2012 (Official Journal No. 254-262/836 of 14.12.2012);
- Law on policing and police status, No. 320 of 27 December 2012.

- Develop the reform strategy of the Centre for Combating Economic Crimes and Corruption (2.1.2. (1) of the JSRS Action Plan), action ensured by Government promotion and adoption of Parliament decision No. 232 of 25.10.2012 on the institutional strengthening Strategy of the National Anti-Corruption Center;

- Develop a draft amending Law no. 1104-XV of 6 June 2002 on the Center for Combating Economic Crimes and Corruption and the Criminal Procedure Code no. 122-XV of 14 March 2003, development of other draft normative acts to determine the role, place and powers of specialized body to combat corruption offenses (2.1.2. (2) of the JSRS Action Plan), action that was achieved by Government promotion and adoption by the Parliament of the Law No. 120 of 25 May 2012 on amending and supplementing certain legislative acts (Official Journal, 2012, No. 103 of 29.05.2012);

- Implementing changes to the status of the Centre for Combating Economic Crimes and Corruption (2.1.2 (3) of the JSRS Action Plan), action performed by the NAC promotion and the subsequent adoption by the Parliament of the:
 - Parliament Decision No. 230 of 25.10.2012 on approving the structure and number of employees of the National Anti-Corruption Centre;
 - Parliament Decision No. 280 of 07.12.2012 on approving the list of functions from the National Anti-Corruption Centre and special corresponding grades.
- Develop draft amendments to the Criminal Procedure Code no. 122-XV of 14 March 2003 and other draft normative acts aiming at clarifying the role and powers of prosecuting authorities and bodies carrying out special investigation works (2.1.3. (1) of the JSRS Action Plan), action performed by Government promotion and by Parliament adoption:
 - Law on Special Investigation Activity, No. 59 of 29 March 2012.
 - Law No. 66 of 5 April 2012 amending and supplementing the Criminal Procedure Code of the Republic of Moldova No. 122-XV of 14 March 2003.

Arrears

During 2012 there have been attested a number of arrears, the causes of these arrears being similar to those identified for Pillar I.

There is a single outstanding action for 2012 that refers to action no. 2 from the specific intervention area 2.1.5. i.e.: *Conducting a study on the legislation, including criminal procedural law, in order to determine its compliance with existing standards for the protection of human rights and fundamental freedoms*. According to the responsible institutions, this action is to be executed in 2013, an interdisciplinary working group being already created, which is to look after the development of this study and then come up with amendments to the criminal procedure legislation.

Additional deficiencies should be reported in respect to the promotion of initiatives related to the prosecution reform. In this regard, the following actions are relevant in specific intervention areas for reforming the prosecution:

- Conducting a study on the criteria and procedure for selection, appointment, transfer and promotion of prosecutors and criteria for periodic evaluation of the performance of prosecutors and staff of the prosecutor's office (2.2.2. (1) of the JSRS Action Plan);
- Develop a draft amending Law no. 294-XVI of 25 December 2008 on Prosecutor's Office (2.2.2. (2) of the JSRS Action Plan);
- Develop a draft amending Law no. 294-XVI of 25 December 2008 on the prosecutor's office, the Code of Criminal Procedure no. 122-XV of 14 March 2003, etc., aiming at demilitarizing the institution of the prosecutor's office (2.2.8. (2). of the JSRS Action Plan).

Issues related to this area in 2012 were generated by the resistance of the prosecution bodies to the reform initiatives and the insistence of that institution to „self-reform”. According to the latest reports submitted by the institutions responsible for carrying out these actions, the process of discussion, including cooperation will be re-launched in 2013, so that this year efforts were made in order to eliminate all debts related to the prosecutor's office reform, providing access to other actors taking part in this process.

Details on actions implemented/partially implemented/not implemented can be found in the detailed Table on the implementation of the Action Plan in the Annex to this Report.

III.3. Pillar III. Access to justice and enforcement of judgments

JSRS Pillar III is devoted to professions related to justice sector and its specific objective is „Improving institutional framework and processes which ensure effective access to justice: effective legal aid, examination of cases and enforcement of judgments within a reasonable time, upgrading the status of certain legal professions related to justice system”. Achievement of the specific objective shall be ensured by following the strategic directions:

- 3.1. Strengthening the system of State-Guaranteed Legal Aid;
- 3.2. Institutional capacity building and professional development of representatives of the justice system related professions (lawyers, notaries, mediators, bailiffs, legal experts, administrators of insolvency proceedings, translators / interpreters);
- 3.3. Effective enforcement of judgments.

According to the Action Plan, under Pillar III there is a total number of **55 actions**, of which **27 actions** were to be implemented and monitored in 2012.

Out of the 27 actions planned to be completed in 2012, at the end of the reporting year - 17 actions were due, 10 refer to a longer period of implementation or, where appropriate, have an ongoing character. From actions outstanding as of 31 December 2012 - **5 are implemented, 7 are partially implemented and 5 are not implemented**. Out of those 10 actions with a later deadline, due to the individual particularities of the action, three actions can be considered as being implemented (according to the institution’s plan for the reporting period), 7 as not implemented.

Actions outstanding at the end of 2012	Actions implemented	Actions partially implemented	Actions not implemented
17	5	7	5
100%	30%	40%	30%

For 2012, under Pillar III there were foreseen actions for the development of studies, draft legislation, organization of trainings and testing operation of legal aid mechanisms.

Achievements

Among the achievements of 2012 in respect of the actions set out under this Pillar only actions aimed at strengthening the system of state-guaranteed legal aid can be seen, which were achieved by means of the following actions:

- Develop a draft amending Law No. 198-XVI of 26 July 2007 on State-Guaranteed Legal Aid with a view to creating the administrative apparatus of the National Council for State-Guaranteed Legal Aid and its territorial offices (3.1.1. (1) of the JSRS Action Plan);
- Develop the draft amending certain legislation (Civil Procedure Code, Law on State Guaranteed Legal Aid, Contravention Code, etc.) (3.1.1. (3) of the JSRS Action Plan);
- Develop methodology for planning the costs of state guaranteed legal aid services (3.1.2. (6) of the JSRS Action Plan);
- Testing the system of primary legal aid provided by the community para-lawyers (3.1.3(1) of the JSRS Action Plan);
- Organizing and conducting training courses for judges and bailiffs on the new mechanism of compensation for damage caused by violating the right to trial within a reasonable time or the right to the enforcement of the judgment within a reasonable time (3.3.4. (1) of the JSRS Action Plan);
- Develop the draft amending the legal framework regarding the mechanism for recognition and enforcement of judgments issued by foreign Courts (3.3.5. (2) of the JSRS Action Plan).

Arrears

As regards Pillar III the largest number of outstanding actions was attested, and namely:

- Develop the draft amending Law No.113 of 17 June 2010 on bailiffs and Enforcement Code No. 443-XV of 24 December, 2004 (3.2.1. (2) of the JSRS Action Plan);
- Conducting a study on the existing tax regime for social security and medical insurance for the representatives of the justice system related professions (3.2.9. (1) of the JSRS Action Plan);
- Develop the draft for amending the normative framework aiming at eliminating the deficiencies in the enforcement the judgments (3.3.1. (2). of the JSRS Action Plan);
- Develop the regulation on enforcement of the rulings of the European Court of Human Rights (3.3.1. (3) of the JSRS Action Plan);
- Develop the draft for amending the normative framework aiming at eliminating the deficiencies in the information management and communications system, including regarding the access to databases (3.3.3. (2) of the JSRS Action Plan)

The reasons for these arrears seem to be the same as for Pillar I: late publication of the Action Plan has generated more delays on some measures, responsible institutions not having a sufficient time to schedule and break down the activities in the most optimal manner for the reporting period (2012).

III.4. Pillar IV. Integrity of justice sector actors

Pillar IV aims at reaching the specific objective „Promoting and implementing the principle of zero tolerance for corruption events in the justice sector”, that has to be achieved by means of the following strategic directions:

- 4.1. Efficient fight against corruption in the justice sector,
- 4.2. Strengthening the mechanisms for the implementation of anti-corruption ethical and conduct standards across all justice sector institutions,
- 4.3. Developing a culture of intolerance towards corruption through self-administration bodies in the justice sector.

According to the Action Plan under Pillar IV there are **56 actions** that follow to be implemented. In 2012, according to the schedule, 14 actions had to be completed and another 12 actions were to be launched as either having an ongoing character or having a longer period of implementation.

Out of the **14 actions** due as of 31 December 2012 - **6 are implemented, 7 partially implemented and 1 not implemented.**

Actions outstanding at the end of 2012	Actions implemented	Actions partially implemented	Actions not implemented
14	6	7	1
100%	42%	49%	7%

According to the Action Plan for 2012, responsible institutions were to undertake actions on drafting normative acts to adjust/revise the regulatory framework, including for the creation of new entities, to undertake a series of organizational activities in order to ensure implementation of the new provisions, to develop curriculum and organize training courses in the field of professional ethics.

According to the progress reported by the implementing institutions the following have been identified.

Achievements

- Develop the draft law on the National Integrity Commission and the draft amending the legislation governing the mechanism of verification of income and property statements, declarations of personal interests and the mechanism for resolving conflicts of interest and monitoring the compliance with the regime of incompatibilities imposed on persons exercising a public dignity function, judges, prosecutors, civil servants and persons with leadership positions (4.1.1. (1) of the JSRS Action Plan);
- Designation of persons responsible for the collection of statements of income and property and declarations of personal interests within the central and local public authorities (4.1.2. (3) of the JSRS Action Plan)
- Creating the web page of the National Integrity Commission (4.1.2. (4) of the JSRS Action Plan);
- Drafting and approving the instruction on the modality to fill the statements of income and property and declarations of personal interests (4.1.2. (5) of the JSRS Action Plan);
- Organizing training for judges and prosecutors aiming at standardizing the judicial practice on corruption offenses (4.1.3. (3) of the JSRS Action Plan);
- Develop the regulatory framework to govern the interaction and communication of the judge with the parties in the trial and third parties (4.1.4. (1) of the JSRS Action Plan);
- Curriculum development in the area of professional ethics for the representatives of the justice sector (4.2.2. (1) of the JSRS Action Plan).

Arrears

Among the arrears attested under Pillar IV the following actions shall be highlighted :

- Conducting a study on the appropriateness to amend the regulatory framework aimed at publishing and publicizing the judgments, concerning justice sector representatives' conviction for corruption. (4.3.4. (1) of the JSRS Action Plan);
- Creating within institutions the mechanisms by which whistleblowers can report on irregularities. (4.3.3. (2) of the JSRS Action Plan);
- Changing the legal framework with a view to simplifying the calculation of wages and social guarantees reassessment of justice sector actors (4.1.1. (1) of the JSRS Action Plan);
- Develop a draft amending the regulatory framework with a view to a more severe sanctioning for acts of corruption, including depriving those convicted for corruption of the right to enjoy the social guarantees related to the positions held (4.1.3. (1) of the JSRS Action Plan);
- Develop the draft law governing the application of the integrity test to the justice sector representatives (4.1.4. (5) of the JSRS Action Plan);
- Conducting a study on the instruments to prevent the interference in the work of justice and to prevent corrupt behaviour (4.1.5. (1) of the JSRS Action Plan);
- Amending the regulatory framework with the view to establishing the polygraph testing requirement of candidates for the position of judge, prosecutor and criminal investigator (4.1.3. (1) of the JSRS Action Plan);
- Conducting a study on voluntary testing of the justice sector representatives with the polygraph. (4.3.2. (1) of the JSRS Action Plan).

According to reports of implementing institutions, confirmed by documentary evidence, the majority of the actions reported as outstanding under Pillar IV are already in an advanced stage of completion, and their finalization is expected in the first quarter of 2013³.

III.5. Pillar V. The role of justice in economic development

The specific objective of Pillar V of the JSRS is „*Implementation of measures, by which the judiciary sector would help create a favourable environment for sustainable economic development*”, which will be achieved by following the strategic directions:

- 5.1. Strengthening the alternative dispute resolution system;
- 5.2. Improvement of insolvency proceedings;
- 5.3. Modernization of record keeping and access system to the information on economic operators.

According to the Strategy Implementation Action Plan, under Pillar V a total number of **28 actions** are stipulated for implementation, of which **15 actions** were to be implemented and monitored in 2012.

Out of the 15 actions planned to be completed in 2012, at the end of the reporting year, 14 actions were due. From the actions outstanding as of 31 December 2012 - **8 are implemented, 3 are partially implemented and 3 are not implemented**. It is to be noted that the Action Plan for 2012 provides for only one action with a longer deadline for implementation.

Actions outstanding at the end of 2012	Actions implemented	Actions partially implemented	Actions not implemented
14	8	3	3
100%	57%	21%	22%

According to the Action Plan under Pillar V measures regarding the preparation of draft laws on developing programs and organization of training courses for various actors in the justice sector followed to be implemented. Based on the reports submitted by the implementing institutions there have been identified the following achievements and arrears under Pillar V.

Achievements

- Develop the training plan in the field of reviewing economic (commercial) cases (5.1.1. (4) of the JSRS Action Plan);
 - Organizing training courses for judges in the field of reviewing economic (commercial) cases (5.1.1. (5) of the JSRS Action Plan);
 - Develop a study on regulation and enforcement mechanisms for recognition and enforcement of foreign arbitral awards (5.1.4. (1) of the JSRS of the Action Plan);
 - Develop the draft law on authorized administrators (5.2.2. (1) of the JSRS Action Plan);
 - Amending the regulatory framework with the view to extend the amount of information from electronic registers of economic operators for which free access is granted. (5.3.3. (1) of the JSRS Action Plan).

³ Details on actions implemented/partially implemented/not implemented can be found in the detailed Table on the implementation of the Action Plan from the Annex to this Report.

Arrears

The arrears reported by implementing institutions were:

- Creating the institutional framework for practicing the profession of the authorized administrator. (5.2.1. (2) of the JSRS Action Plan);
- Developing the draft normative acts on admission to the authorized administrator profession and supervising these activities (5.2.1. (3) of the JSRS Action Plan);
- Conducting a study on methods of modernizing the electronic record keeping system of economic operators (5.3.1. (1) of the JSRS Action Plan);
- Conducting a study on a single register of economic operators and non-commercial organizations (5.3.2. (1) of the JSRS Action Plan);

The causes of these arrears are similar to those for the other Pillars of the strategy: late publication of the Action Plan and the impossibility to plan actions under optimal regime by implementing institutions, as well as failure to adopt some laws or the lack of necessary resources for carrying out research in specific areas.

III. 6. Pillar VI. Human rights observance in the justice sector

Pillar VI of the Strategy has as specific objective „Ensure effective observance of human rights in legal practices and policies”. Achievement of this specific objective is to be ensured by:

- 6.1. Strengthening the role of the Constitutional Court,
- 6.2. Capacity building of the Human Rights Center and of the ombudsman institution
- 6.3. Strengthening the justice system for children,
- 6.4. Respect for the rights of persons deprived of liberty; eradication of torture and ill-treatment,
- 6.5. Strengthening the system of probation and penitentiary system.

According to the Action Plan under Pillar VI **101 actions** are set for achievement, out of which **37 actions** had to be completed or, where appropriate, should have been started in 2012.

Out of the 37 actions planned for 2012, **at the end of the year 20 actions were outstanding**, and **17** related to a longer period of implementation and, where appropriate, have an ongoing character. **Out of the outstanding actions as of 31 December 2012 - 10 are implemented, 6 partially implemented and 4 not implemented.**

Actions outstanding at the end of 2012	Actions implemented	Actions partially implemented	Actions not implemented
20	10	6	4
100%	50%	30%	20%

Actions scheduled for completion under Pillar VI, unlike the other pillars, address a much wider intervention area and a large number of actions.

Achievements

- Conducting a study on optimizing the activity of the Center for Human Rights and of the national torture preventive mechanism (6.2.1. (1) of the JSRS Action Plan);

- Conducting a study on the activity of the ombudsmen and the Centre for Human Rights, including the evaluation of their performance, with the view to determining their financing needs (6.2.2. (1) *of the JSRS Action Plan*);
- Improving the normative framework to provide specialization for persons working with children in contact with the justice system (6.3.1. (1) *of the JSRS Action Plan*);
- Preparation and constant updating of the list of lawyers specialized in state-guaranteed legal aid in cases involving children (6.3.1. (5) *of the JSRS Action Plan*);
- Developing methodological guidelines for lawyers specialized in state-guaranteed legal aid in cases involving children (6.3.1.(6) *of the JSRS Action Plan*);
- Develop recommendations on case management in working with children under probation (6.3.3. (1) *of the JSRS Action Plan*);
- Ensuring recruitment of juvenile probation counsellors with psychology and social assistance background (6.3.3. (3) *of the JSRS Action Plan*);
- Analysis and modification of the regulatory framework governing disciplinary sanctions applied to children in detention, incentives for these children and filing complaints by them (6.3.4. (1) *of the JSRS Action Plan*);
- Optimizing the educational staff, including the psychologists one, in the penitentiary institutions having children in custody (6.3.4 (4) *of the JSRS Action Plan*);
- Develop programs to prepare children for release from detention (6.3.4. (5) *of the JSRS Action Plan*);
- Analysis of the regulatory framework on the functioning of institutions in charge of the deprivation of liberty in respect of prevention and combating torture and ill-treatment; where appropriate, develop a draft amending the regulatory framework (6.4.3. (1) *of the JSRS Action Plan*);
- Develop the draft law on the establishment of compulsory medical examination of persons deprived of liberty at each receipt in / release from detention (6.4.5. (2) *of the JSRS Action Plan*);
- Develop the draft amending the Criminal Code no. 985-XV of 18 April 2002 to exclude contradictions concerning the definition of torture and other ill-treatments (6.4.5, (4) *of the JSRS Action Plan*) etc.⁴.

Arrears

- Changing the regulatory framework in order to grant the right of state-guaranteed legal aid to child victims of crime (6.3.2. (3) *of the JSRS Action Plan*);
- Develop the draft amending the regulatory framework for the direct subordination to the General Prosecutor's anti-torture prosecutors (6.4.3. (4) *of the JSRS Action Plan*);
- Develop the draft amending the regulatory framework to ensure professional independence of medical workers in the detention facilities through their transfer to the Ministry of Health, in order to render probative value to the independent medical examination in cases of alleged torture, to eliminate contradictions in the qualification of actions as acts of torture, and for tightening penalties for acts of torture in correlation with the severity thereof (6.4.5. (1) *of the JSRS Action Plan*);
- Develop the necessary regulatory framework for the rehabilitation of victims of torture and other ill-treatment (6.4.6. (1) *of the JSRS Action Plan*);
- Development of the draft law on the ombudsman institution, the new reading, and the draft amending Regulation of the Center for Human Rights (6.2.1. (2) *of the JSRS Action Plan*);
- Develop curricula for the initial training for the new employees and the continuous training plan for the staff of the Centre for Human Rights (including its representations), which

⁴ For more details please consult Annex to this Report.

involves developing the skills for identification and reporting of human rights violations (6.2.3. (1) of the JSRS Action Plan);

- Changing the website of the Center for Human Rights in order to ensure its interactivity (6.2.3. (3) of the JSRS Action Plan);
- Establish internal, independent disciplinary mechanisms for the investigation of complaints on the torture and other ill-treatments (6.4.3. (2) of the JSRS Action Plan);
- Developing the concept of the system registering retention, arrest and detention cases; where appropriate, develop the draft amending the regulatory framework (6.4.4. (1) of the JSRS Action Plan);
- Develop the draft amending the regulatory framework in order to ensure continuity of the individualized probation process, starting with the presentence stage, and ending with post-detention support services (6.5.3. (1) of the JSRS Action Plan).

Making a reference to the content of actions, we can say that for some actions the period of implementation included in the Action Plan has not been calculated realistically, what caused inevitable failures, while in other cases the failure was due to the lack of material resources and/or human ones. Moreover, it should be taken into account that many issues have been addressed complexly, or failure to promote or adopt some draft laws cause delays in the implementation of other actions that result implicitly from the actions

III. 7. Pillar VII. A well coordinated, well managed, and accountable justice sector

The specific objective of Pillar VII set in JSRS is „*Coordination, determination and delineation of duties and responsibilities of the key actors in the justice sector, ensuring inter-sectoral dialogue*”. Achievement of the specific objective is to be ensured by following the strategic directions:

- 7.1. Coordinating the activities of the actors in the justice sector; strategic planning and policy development;
- 7.2. Approximation of the institutional and legal framework of the justice sector to the European standards;
- 7.3. Coordination of external donor assistance and information exchange with the nongovernmental sector.

During the years 2011-2016, under Pillar VII **44 actions** are to be implemented, of which **33 actions** had to be completed or, where appropriate, implementation should have started in 2012. Out of the 33 actions planned for 2012, **at the end of the year 22 actions were outstanding**, and 11 related to a longer period of implementation and, where appropriate, have an ongoing character.

Out of the outstanding actions as of 31 December 2012 - **16 are implemented, 3 partially implemented and 3 not implemented.**

Actions outstanding at the end of 2012	Actions implemented	Actions partially implemented	Actions not implemented
22	16	3	3
100%	72%	14%	14%

Arrears

- Analysis of functions and structure of each institution involved in the justice sector reform (7.1.4. (1) of the JSRS Action Plan);

- Producing a manual on drafting of normative acts (7.2.2. (4) of the JSRS Action Plan);
- Conduct a study on public accessibility of the normative acts (database) (7.2.3. (1) of the JSRS Action Plan);
 - Develop a draft amendment to Law no. 780-XV of 27 December 2001 on legislative acts and the Law. 317-XV of 18 July 2003 on the regulations of the Government and other authorities of central and local government to ensure stability, predictability and clarity of legislative acts (7.2.2. (2) of the JSRS Action Plan);
 - Developing the regulatory framework for ex-ante evaluation methodology (7.2.2. (3) of the JSRS Action Plan);
 - Develop the draft amending Government decisions no.190 of February 21, 2007 on the creation of the Center for legal approximation and no. 1345 of 24 November 2006 on the approximation of Moldovan legislation with the Community legislation. (7.2.4. (2) of the JSRS Action Plan);
 - Optimizing the database of normative acts. (7.2.3. (2) of the JSRS Action Plan).

Making a reference to the content of actions, we can say that most actions are implemented, but there are some delays in actions regarding the improvement of the legislative process, particularly the development of new legislation intended to improve regulation of legislative creation, and some issues of implementation; due to the lack of financial resources, to the actions related to IT issues (information technology).

V. ISSUES AND CHALLENGES IN IMPLEMENTING THE STRATEGY AND ACTION PLAN FOR THE STRATEGY IMPLEMENTATION

The first year of implementation of the Strategy and Action Plan has shown that there are enough challenges and problems caused both by objective and subjective circumstances: shortage of material resources, shortage of skilled resources, delays and inactions for these particular and other reasons, the resistance of justice sector actors to significant reforms in the field, etc.

The biggest challenge may be considered the fact that the implementation of the Strategy and Action Plan started without having all the necessary money in the budget for 2012 and sufficient support from donors and development partners. The implementation of the Strategy and Action Plan involves significant financial allocations. The Action Plan highlighted the need to supplement the justice sector spending with about 124 million Euros for the Strategy implementation period, in order to adequately implement the reform. The budget of 2012 was one in which no additional resources were allocated for Strategy implementation. Accordingly, the institutions were in a situation in which they had to implement all actions stipulated based on approved budget, without additional sources for this purpose or to make efforts to attract potential donors.

Many delays are due to the fact that some institutions were slow in getting involved in the implementation of the Strategy. This, in its turn, was caused in most cases by the fact that the Action Plan was published with big delay – only in June 2012.

There are a number of concrete institutions and individuals involved in the Strategy implementation process which complicates the organization of the implementation of this policy document. There are institutions which, either because of a complex internal structure, or because of internal communication problems, are not involved at the expected level. The Strategy amplitude as intervention areas and number of actions is a challenge in itself. In parallel, a large number of working groups function, some for monitoring, other for carrying out studies and for lawmaking, which employs an increasing number of human resources and

requires both sustained organizational efforts and involvement of institutions in a number of action types. In particular, it is difficult for some institutions with fewer staff and reduced involvement capacity compared to the level required by Strategy implementation. For the reason that in 2012 the budgetary resources of the responsible institutions were not supplemented, it was not possible to build institutional capacity by hiring new employees. In many cases, existing employees of institutions do not meet the demands both in terms of number of activities, and also in terms of skills, or, the new types of activities require additional staff by involving employees of other professional qualifications and skills.

Another challenge is the resistance of certain sector actors to a more drastic reform of the system where they work, aimed at increasing transparency and reducing corruption in the system.

Many delays and failures are due to the fact that for some actions there have been estimated too short implementation terms, which, due to the late publication of the Action Plan, have become unrealistic. There are also outdated actions in terms of their need because of active developments on the respective segment that no longer justify a return to earlier stages of the process. Usually, it is about the performance of studies before drafting laws. Due to time pressures, the study phase was included in the development process and was not formalized in a separate document. These actions appear as being not implemented in the report, although these are no longer needed.

Although we managed to attract donors for the implementation of certain activities, the application by them of some extremely long procedures to provide promised support, ultimately lead to the failure to observe the deadlines and late start of implementation of those actions which, in turn, cause other delays.

In the future, a challenge could be the tendency of institutions to postpone the beginning of implementation of actions with a longer implementation period provided, which could cause failures in implementation at a later stage.

Another risky effect comes from the donors' tendency to withdraw from the category providing substantial support to the justice sector, driven by the perspective of major budgetary support which is to be provided by the EU.

VI. SOLUTIONS AND PERSPECTIVES TO ELIMINATE OBSTACLES/SHORTCOMINGS IN THE IMPLEMENTATION OF THE ACTION PLAN

The biggest existing challenge - lack of human and financial resources for Strategy implementation, follows to be addressed through the budget support provided by the European Union for the justice sector. Strategy adoption allowed EU to include Moldova in the European Union Program for the justice sector policy support. Very shortly, Moldova will receive assistance in the amount of approx. 52 million Euro as budget support directed to justice sector financing. It was also agreed with the EU that 8 million Euro will be provided additionally from the more for more funds. The first instalment of this budgetary support is to be paid in 2013.

The Ministry of Justice considered the promised EU support, and the expenses for Strategy implementation, starting from 2013, are already provided for in the Medium Term Budgetary Framework for 2013-2015, which is expected to represent sufficient grounds to proceed successfully with the implementation of the Justice Sector Reform Strategy in the coming years. In 2013 compared to 2012 the budget allocated to the activity and development of the justice sector increased by 59.6%

In order to counter the growing resistance of certain categories of professionals towards the reform, concerted efforts are necessary at the Government level, various institutions of the justice sector, donors, civil society. General active information of the public and stimulation of their participatory process are required. In parallel, efforts are needed internally, by motivating and involving professionals in the reform process, stimulating the appearance of the change agents in each branch and profession of the justice sector, who will become leaders and promoters of reform within the profession. Coordination and monitoring mechanisms established and regular training directed towards achieving Strategy objectives develops the culture of participation and a different view on the involvement and cooperation between institutions. These help to change the stakeholders' mentality. Even if developing the culture of participation and collaboration does not occur ad hoc and with immediate effect, with time these changes become visible.

A number of difficulties can be overcome through planned trainings, directed both at improving skills to achieve concrete actions provided by reform, as well as those aimed at improving strategic planning skills, including budgetary, coordination, monitoring and communication with the public.

Challenges related to the optimal enforcement of the coordination and monitoring process are to be dealt with the support of the *Project for supporting the coordination of justice sector reform in Moldova*, a technical assistance project which is to be launched in the first half of 2013 with the support of the EU. This project aims at improving the coordination and planning process both within institutions, in order to increase their capacity to implement the best measures of reform, and to support and improve the coordination and monitoring mechanism established to implement the Strategy.

Whatever the reason for delays and failures, any action should be implemented as soon as possible after the due date and the principle is to be applied according to which the failure to timely implement does not exempt from implementation. Given that increased budgetary support in 2013 will make the resource shortages problem possible to overcome, the goal of 2013 should be parallel implementation of all outstanding actions as well as those that are planned for this year, for entering in the strict adherence to implementation deadlines set in the Action Plan.

Meanwhile, starting with 2013 we expect new challenges. First, we expect that significant amplification of the budget in 2013 may cause the problem of reduced capacity to assimilate money, primarily from objective reasons: lack of adequate regulatory framework, unadjusted number of staff to the increased volume of activity, as well as the inability to rapidly adapt to the new conditions and work practices. Solutions lie in amending the relevant regulatory framework, enhancing the institutional capacity and hire sufficient staff, adequate training of staff and coordination of processes within organizations, in order to exclude inactivity.

To avoid the problem of inadequate assimilation of budgetary support and ensure quality and timely implementation of actions, the existing planning procedures shall be monitored and the necessary adjustments shall be made to ensure that there is proper planning of resources. Existing internal practices need to be changed as well as the mentality according to which the personnel responsible for finance and the one responsible for implementing activities operate separately and do not necessarily cooperate.

VII. CONCLUSIONS

The implementation of the Justice Sector Reform Strategy was launched successfully, at the beginning of 2013 the share of actions fully implemented accounts for 56%, and the share of those not implemented at all is only 13%, the remaining actions being under implementation.

Having analysed the degree of implementation of actions under each pillar in part we conclude that the pace of implementation is more or less uniform and balanced by sector: there are no problematic areas, but only actions and institutions that could be appreciated as such.

Under the coordination of the Ministry of Justice a mechanism has been created by which the degree of implementation of the Justice Sector Reform Strategy is monitored constantly. This mechanism aims also at the timely notification of difficulties and the identification of appropriate solutions.

Delays and challenges identified in the process of implementation of actions from the Strategy are due largely to some objective circumstances such as the lack of financial resources and delayed publication of the Action Plan for Strategy implementation, but also subjective, such as lack of capacity to implement specific actions at the level of certain implementing public institutions, lack of internal organization or lack of proper coordination between institutions, reduced motivation and resistance manifested towards the reforms in the justice system.

Identified challenges and difficulties can be overcome. Thus, the objective problem of shortage of resources can be solved to a great extent due to increasing budget allocated to the justice sector reform implementation. Other problems will be solved by internal reform of the public institutions' structure, hiring new staff as well as reorienting the existing staff to the implementation of reform priorities. Particular attention should be paid to building institutional capacity to absorb allocated budget resources by adjusting the relevant regulatory framework, by training the staff and by establishing additional practices that promote proper budget planning and monitoring appropriate and timely use of allocated finances.