

“Kyiv Expert Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia”

-Roundtable to discuss the recommendations and their possible implementation through judicial reform in the Republic of Moldova-

27-28 October 2010
Chisinau

Conclusions

General

1. The Kyiv Recommendations are of extreme relevance for the reform debate regarding the judicial system in the Republic of Moldova.
2. In order to further elaborate on the following conclusions and implement the recommendations therein, the President of the Superior Council of Magistrates (SCM) will establish a working group with all relevant stakeholders including the SCM, its Disciplinary Board and Qualification Board, the Ministry of Justice, and other experts as required.

Competencies of the SCM

3. The feasibility to move the Department of Judicial Administration under the Ministry of Justice to the SCM merits further discussion.
4. Consideration must be given to revise the competencies of SCM members depending on their status (judges [full time / detached], *ex officio* members and law professors).

Disciplinary proceedings

5. The legislation regarding disciplinary proceedings, including the right to initiate proceedings and competency to examine cases of alleged misconduct, needs review in order to maximize its effectiveness.
6. Appeal procedures regarding decisions of the Disciplinary Board should be revised with the aim to
 - a) exclude the validation of Disciplinary Board's decisions carried out by the SCM;
 - b) allow direct appeal of Board decisions to a court.

Grounds for discipline

7. The legislation providing the reasons for applying disciplinary offences/what constitutes a disciplinary offence needs revision in order to avoid misuse of disciplinary proceedings.

Judge selection, testing and training

8. The system of judge selection should be revised by introducing unified criteria and requirements for both graduates of the National Institute of Justice and

candidates from other legal backgrounds. The testing of candidates from all backgrounds should be administered by one single body.

9. Both testing and training need to be made more practical, skills- and value-oriented, rather than just knowledge-based.
10. A period of internship should be introduced for *all* candidates. Details for such internship need to be worked out.

Judicial appointment and tenure

11. In order to reduce the role of the Head of State in selecting and placing candidates, consideration should be given to revising the relevant legislation regarding the appointment procedure for judges, including by allowing the SCM to decide on the geographical placement of judges.
12. The legislation regarding the mandatory retirement age should be revised to allow the possibility for capable judges to continue working (at least as temporary judge).

Performance evaluation/attestation and promotion

13. The system and procedure of attestations of judges need to be reviewed, considering in particular the following issues:
 - a) develop criteria to reflect other qualities than professional knowledge;
 - b) revise the criteria regarding statistical data that are used for evaluating individual judges;
 - c) revise the procedure of attestation by clarifying the competences of the SCM and the Qualification Board (with a view to exclude the validation by the SCM of the Qualification Board's decisions if related only to examination);
 - d) consider limiting the scope of the revision upon appeal of decisions by the Qualification Board to procedural questions.
14. The system of awarding qualification grades and related benefits should be revised (including access to qualification grades for judges of different court levels).