



# OPINION<sup>1</sup> on the criminal investigation against the suspended Prosecutor General

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## SUMMARY

During Alexandr Stoianoglo's mandate of Prosecutor General and even before this term, several events and incidents created the impression of a relationship and common interests between him and the defendant Veaceslav Platon. The respective information becomes even more serious since Veaceslav Platon was released from prison at the express request of the Prosecutor General and his wife is so far listed as beneficiary of two companies of Veaceslav Platon.

On October 5th, 2021, the Superior Council of the Prosecutors (SCP) finally appointed a prosecutor to investigate several charges against the Prosecutor General. Just two hours after having been appointed, the prosecutor Victor Furtună filed a criminal case against the Prosecutor General. An hour and a bit later, the suspended Prosecutor General was detained and in the following hours, his office and house were searched. On October 8th, 2021, an investigation judge applied house arrest in his respect, a decision upheld on October 15th, 2021 by the Chisinau Court of Appeal.

Throughout the proceedings that took place between October 5th-15th, 2021, several topics were discussed in the public domain, including: whether it was possible for the prosecutor to diligently and legally initiate the criminal investigation in just two hours and if it was necessary, the fact that the case was based only on evidence deriving from the public sources, an incident in which the prosecutor in the case did not allow a confidential discussion of the suspended Prosecutor General with his lawyers in the court premises, the defence's claim that the simple submission of the request for suspension of the SCP's decision of October 5th suspended the decision of the SCP to appoint the prosecutor Furtună and, thus, all the procedural acts drawn up afterwards would have been illegal, respectively, as well as the fact that the law does not provide for a special procedure for criminal prosecution of the General Prosecutor.

There is a lot of misinformation and rash opinions on these and other topics related to the file. In this paper, we try to present an analysis and clarification of these issues. We also make several recommendations, that the case is examined by prosecutors and courts in accordance with the law, without interference from the government and opposition politicians and that the society is informed correctly and in a timely manner about important events in the case.

<sup>1</sup> **NOTE:** This document is not an exhaustive analysis of Mr Alexandr Stoianoglo's activity in his position of General Prosecutor. The author highlighted only the facts and events considered relevant for the situation analysis pertaining to the criminal case initiated against the suspended Prosecutor General. For information related to the [case files of resonance](#), [selective justice](#) or [internal organisation of the prosecutor's office](#) during A. Stoianoglo's mandate, we invite you to access the previous opinions published by IPRE and other non-governmental organisations.

### CONTEXT

The criminal case filed against the suspended Prosecutor General Alexandr Stoianoglo is being monitored and intensely debated within the society. Some support this investigation, others oppose it, some criticize the procedural aspects, others criticize other issues. In such an intensely-debated case, around which there is a multitude of interests, a lot of misinformation is inevitable.

The purpose of this analysis is to clarify in a reasoned manner some procedural/legal aspects that have raised questions in the public domain.

This document will not analyse the validity of the accusations brought in respect of Alexandr Stoianoglo. Though it creates an impression of dubious behaviour, the information available in the public sphere is not enough to let us express ourselves on the merits of the accusations. We neither intend to substitute the competences of a criminal investigation body.

This analysis is mostly based on the facts and events described in the memo „[Description of the context which preceded the initiation of criminal investigation against the suspended Prosecutor General Alexandr Stoianoglo](#)” (memo). For more information about the subject, we will make reference to the relevant paragraphs of the respective document.

We will further analyse the most important procedural/legal aspects discussed in the public sources, especially the events related to the initiation of criminal investigation and the application of house arrest, between October 5th and 15th, 2021.

### Alexandr Stoianoglo's relationship with Veaceslav Platon

It is true that any Prosecutor General, especially someone who supports the investigation of case files of resonance, would have many enemies who would try to attack his/her credibility, in order to also affect the credibility of important files in the administration of the prosecutor's office. Precisely for this reason, a Prosecutor General must pay special attention to the actions and statements he/she makes in order not to raise suspicions that the head of the prosecutor's office is involved in dubious activities or that his/her statements or actions favour certain persons.

According to art. 16 para. (1) of the Council of Europe Recommendation to Member States on Codes of Conduct for Public Officials, "subject to respect for fundamental and constitutional rights, the public official should take care that none of his or her political activities or involvement on political or public debate impairs the confidence of the public and his or her employers in his or her ability to perform his or her duties impartially and loyally".<sup>2</sup>

However, during his tenure, and before that, a multitude of events, facts, statements and information indicated towards an appearance of a relationship and a favourable attitude between Alexandr Stoianoglo and the interest group "Platon". Some of these examples are listed below:

- a) the signing in 2011 of the amendment that favoured the money laundering from 2010-2014 and the vote against the liquidation of the economic courts by Alexandr Stoianoglo, actions that coincided with the interests of the Platon group (see [point 3 and 20 of the memo](#));
- b) Mr. Stoianoglo's statement from the pre-selection interview for the position of Prosecutor General about the intention to review the cases secretly examined in the bank fraud case, including Veaceslav Platon's file, without knowing, in fact, what is to be found in those cases, since at the time of the interview Mr Stoianoglo was not working in the prosecutor's office and could not reasonably have known the content of the confidential case files (see [point 2 of the memo](#));

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<sup>2</sup> Council of Europe Recommendation R(2000) 10 to Member States on Codes of Conduct for Public Officials of May 11, 2000, available in English at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806cc1ec>.

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- c) initiating the first criminal case against the former head of the Anticorruption Prosecutor's Office, Viorel Morari, shortly after Stoianoglo's appointment as Prosecutor General, under the accusation that he had falsified evidence in a case filed against Veaceslav Platon (see [point 4 of the memo](#));
- d) the Prosecutor General's request to revise the criminal case of Veaceslav Platon in which he was sentenced to 18 years of imprisonment and the request to suspend the sentence and drop the charges by the prosecutors (see [points 5-8 of the memo](#)), although, at the same time, there was no public information on the progress on the bank fraud case;
- e) prosecutors' failure to request the application of preventive measures on the other cases of Veaceslav Platon, which allowed him to flee (see [point 8 of the memo](#));
- f) including in January 2021 the wife of the suspended Prosecutor General as beneficiary of two companies of Veaceslav Platon. Although the Prosecutor General claimed that the registration of his wife as beneficiary of these companies was made by other persons, in order to discredit him, on October 5, 2021 the respective note has not yet been corrected (see [points 14-15 of the memo](#));
- g) discontinuing criminal investigation in respect of the judges investigated for issuing rulings in the "Laundromat" case and the public statements of Alexandr Stoianoglo according to which there is no evidence in the "Laundromat" case file, actions that coincide with the interests of the Platon group (see [points 18 and 22 of the memo](#));
- h) statements and phrases noticed in Alexandr Stoianoglo's speeches indicating a certain bias towards Veaceslav Platon: exaggerated phrases such as the "*completely falsified*" file or "*absolutely illegally*" convicted from the speech of May 18, 2020 in which he publicly exonerated Platon (see [point 5 of the memo](#)), or the statement in an interview "*All attempts to link me in one way or another (to Platon) are made because Platon represents a threat to these people*" (see [point 9 of the memo](#)), as well as other incidents presented in [points 10-12](#).

The above elements may raise reasonable doubts to an objective observer about the existence of a relationship and common interests between the suspended Prosecutor General and Veaceslav Platon, a relationship that goes beyond the description of Alexandr Stoianoglo according to which "*last time he had seen Mr Platon in 2010, in the Parliament of the Republic of Moldova*". However, neither the prosecutor's office, nor the SCP has given any importance to this particularly serious information and accusations brought against the Prosecutor General during the last two years.

Moreover, the prosecutor's office made efforts to sabotage any possibility of investigating Alexandr Stoianoglo. For example, in regards to the accusation that Alexandr Stoianoglo's wife had become the beneficiary of Veaceslav Platon's companies after he was released from prison at the request of the Prosecutor General, the prosecutor's office did not initiate a case on passive corruption but on interference with justice and criminal investigation, thus starting from the premise that the accusations were false and represent an intimidation (see [point 26 of the memo](#)). On the other hand, the notifications of the former MP Inga Grigoriu, which contained accusations similar to those indicated by Lilian Carp, were not even examined by the SCP, because the President of the SCP responded to them unilaterally, by a letter informing the MP that there were no grounds for appointing a prosecutor to investigate the alleged facts (see [points 27-28 of the memo](#)). There was also strong resistance from some members of the SCP, especially prosecutors - members, who tried through various procedural tricks to prevent an investigation into the allegations against the Prosecutor General (see [points 30-33](#)).

### Expediency in initiating criminal investigation

One of the most discussed aspects of the criminal proceedings against the suspended Prosecutor General is the fact that only two hours have passed since the SCP appointed V. Furtună as prosecutor in the case until he initiated the criminal investigation against Alexandr Stoianoglo.

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Given the complexity of the allegations against Alexandr Stoianoglo, the decision to initiate criminal proceedings seems unreasonably rushed for a prosecutor examining the criminal complaint for the first time.

The expediency of the decision raises reasonable questions as to whether the prosecutor was able to acquaint himself with the allegations in the short time, whether he was able to properly qualify the alleged deeds, and whether he was able to establish the existence of a reasonable suspicion that an offense had been committed (Art. 274 para. (1) of the Criminal Procedure Code (CPC)).

At the same time, the expediency of the decision to initiate criminal proceedings against Alexandr Stoianoglo can also have credible explanations if we examine the facts described in the [memo](#) mentioned at the beginning of the opinion. Firstly, the first three charges included in the notification of the MP Lilian Carp can be found in the previous notification of the ex-MP Inga Grigoriu. Apparently, even from the statements of the president of the SCP Angela Motuzoc, the text of the complaint filed by Lilian Carp and the text of the complaints of Ms. Inga Grigoriu is practically identical, some grammar mistakes are even repeating (see [point 33 of the memo](#)). Secondly, both the MP Lilian Carp and some members of the SCP noted that the complaint was based solely on public information (see [point 31 of the memo](#)). Any citizen, including prosecutor Furtună, could have read this public information.

Therefore, we can imagine the situation where, at least on the first three counts, the prosecutor Furtună knew the subtleties and elements of the accusations, just like any citizen who inquired in the last two years about the activity of the prosecutor's office, based on public information. We are not saying that namely this is the explanation for the expediency in starting the criminal investigation. However, based on our analysis this could be a possibility.

As to the need for a rushed initiation of the criminal investigation and an eventual apprehension, we must take into account the status of the Prosecutor General and his ability to influence hierarchical superior prosecutors of the prosecutor on the case, as well as other prosecutors in his entourage, given the particularly serious allegations brought against him, including the facilitation of the activity of an organized criminal group, as well as his recent behaviour regarding the incident in which he publicly tried to intimidate members of the SCP when they were examining the complaint regarding his actions (see [point 32 of the memo](#)), or the [press conference](#) that took place one day before, when he disclosed in his personal interest several confidential recordings obtained following a criminal investigation, trying to discredit some representatives of the civil society, independent mass-media, as well as some development partners.

At the same time, the Chisinau Court, Ciocana headquarters, applied in his respect house arrest and the Chisinau Court of Appeal upheld this decision. Through these decisions, the courts also confirmed the existence of a reasonable suspicion that a crime had been committed (art. 176 para. (3) point 1) of the CPC).

### Evidence deriving from public sources

An argument brought by Mr Alexandr Stoianoglo's defence (see [point 46 of the memo](#)), as well as by some SCP members (see [point 31 of the memo](#)) is that the evidence in the initial case derives from public sources.

The fact that a piece of evidence is public, either as a video recording, a journalistic investigation or a document published in the official state sources, does not diminish its importance and relevance for criminal or civil proceedings. Article. 27 para. (2) of the CPC provides that no evidence has pre-established probative value. As a result of this rule, the evidence does not become more or less relevant or conclusive for a criminal case if it is available to the public or if it is hidden or secret. Actually, the initiation of the criminal case, based on evidence that has been available to the public for several months, and on some counts, for years, indicates not on the quality of this evidence, but on the inefficiency of the bodies that should have reacted and investigated this evidence.

### Restricting a confidential meeting with lawyers

Alexandr Stoianoglo's lawyers and some representatives of the parliamentary faction of the Bloc of Communists and Socialists complained that the suspended Prosecutor General was not ensured with confidential meetings with lawyers. This fact was also mentioned by [the Ombudsperson](#) and [non-governmental organisations](#).

Regarding this aspect, the prosecutor Furtună explained that the lawyers had the opportunity to confidentially communicate with Alexandr Stoianoglo the entire period before he went to court for the examination of the application of the request on his arrest. In the premises of the court he had to be guarded, therefore within the court, it was not possible to comply with the guarantees equivalent to the situation when someone, a lawyer or prosecutor, enters a detention centre.

When a person is in state custody, the state is responsible for ensuring the person's rights guaranteed by law and Constitution. According to Art. 66 para. (2) point 6) of the CPC, the accused has the right to unlimited confidential meetings with his/her defence attorney of unlimited duration. In these circumstances, it was irrelevant that the lawyers had met or had time to meet with their client. At the same time, according to the case law of the European Court of Human Rights, the authorities must ensure that the person under criminal investigation has the right to confidential discussions also in the court premises (judgement [Yaroslav Belousov v. Russia](#), of October 4, 2016, para. 151-153). Therefore, the court and the prosecutor in the case had to ensure the suspended General Prosecutor with the necessary conditions to confidentially discuss with his lawyers.

Following several intense discussions between the defence and the prosecution, a confidential meeting between Alexandr Stoianoglo and his lawyers was ensured within the court premises, fact confirmed by both the General Prosecutor's Office and the lawyers in the case (see [points 43-46 of the memo](#)).

### Suspension of an administrative act in case of challenging it in court

According to the defence, the SCP decision of October 5th, 2021 on appointing prosecutor Furtună to investigate the Prosecutor General's case, was challenged in court on the same day, and at the same time, it was requested to suspend the challenged act. It is the lawyers' position that once the request for suspension was filed, the act is to be automatically suspended, and all actions taken afterwards were illegal (see [point 46 of the memo](#)).

On the [web page](#) of the Chisinau Court of Appeal, Alexandr Stoianoglo's request against the decision of the SCP is recorded as being registered on October 6th, 2021 and examined in civil proceedings. Therefore, the action is to be examined in administrative contentious, because it is filed against a public authority.

According to the Administrative Code, the decision regarding the suspension of the administrative act is taken by court ruling (art. 214 para. (1), (2) and (4) of the Administrative Code). The ruling on suspending the administrative act also grants the other party the right to appeal the decision. Therefore, the legal provisions do not determine an automatic suspension of the administrative act as claimed by Alexandr Stoianoglo's lawyers.

### Lack of special regulations regarding criminal investigation of the Prosecutor General

Some persons, including Mr Stoianoglo's lawyers, consider that the lack of special procedures for examining the Prosecutor General's case would constitute a procedural flaw in the case. In essence, special procedures and rules relating to the criminal investigation of the Prosecutor General may be necessary to ensure that no criminal proceedings against the Prosecutor General are abusively instituted.

Thus, Art. 34 para. (4) of the Law on the Prosecutor's Office stipulates that the criminal investigation against the Prosecutor General may be initiated only by the prosecutor appointed by the Superior Council of Prosecutors. Art. 262 para. (5) of the CPC provides that the



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examination of complaints about crimes committed by the Prosecutor General is made by a prosecutor appointed by the Superior Council of Prosecutors.

Thus, the special guarantee for the Prosecutor General provided by law, in order to protect him from abusive interferences, was exhausted together with the procedure of examining the notification of the MP Lilian Carp by the SCP - which is the guarantor of independence and impartiality of all prosecutors. After issuing the decision on appointing the prosecutor, the criminal investigation of the Prosecutor General was carried out according to the norms of the CPC. This can also be deduced by analogy with the criminal investigation of judges, who, after the SCM issues the consent, are prosecuted and tried according to the general rules.

A case that raised the question of whether some special provisions are necessary in the case of criminal investigation of the Prosecutor General appeared following the incident described in [point 38 of the memo](#) where the conflict between prosecutor Victor Furtună and his superior Adrian Bordeianu is elucidated. According to Mr Furtună, he did not trust his superior, as the latter was interim and his position depended on "*Mr Stoianoglo's signature*", thus, there was a potential [conflict of interests](#).

Subsequently, the lawyers of the suspended Prosecutor General filed certain complaints against the actions of the prosecutor on the case, which would normally reach the hierarchically superior prosecutor, i.e. the head of the Anticorruption Prosecutor's Office. Taking into consideration the above-mentioned incident, the prosecutor on the case asked the SCP to appoint a superior to examine these complaints. On October 15, the SCP [sent the complaints](#) back to the Anticorruption Prosecutor's Office to be examined according to the CPC, essentially suggesting to prosecutors to apply the general provisions of the code.

Thus, it would seem that initially there was a confusion as to who would verify the activity of prosecutor Victor Furtună as senior prosecutor, creating the impression that special rules are needed in this regard. However, the SCP has established that the general rules apply in this case. It should also be noted that in the meantime, the interim General Prosecutor has appointed a new interim head of the Anticorruption Prosecutor's Office, [Elena Cazacova](#).

### CONCLUSIONS AND RECOMMENDATIONS

Suspicious regarding the relationship between the defendant Veaceslav Platon and the Prosecutor General Alexandr Stoianoglo emerged since the beginning of his tenure. The more time passed, the more striking became the contrast between the lack of progress in the cases of resonance on the one hand and the sabotage of the "Laundromat" case and the release in dubious circumstances of Veaceslav Platon from prison on the other hand. During the two-year term, particularly serious allegations of passive corruption have emerged against the Prosecutor General, based on verifiable information.

However, the prosecution system failed to respond adequately and in a timely manner to the abundance of publicly available information and to criminal complaints filed against the suspended Prosecutor General. On the other hand, the Superior Council of Prosecutors showed corporatism, thus confirming that the prosecutor's office system did not have the will and/or capacity to reform from within.

In the last months before the events described in this opinion, several amendments were made to the Law on Prosecutor's Office, which regulated the evaluation procedure and the disciplinary procedure of the General Prosecutor. The legislator also made some changes in the composition of the SCP, apparently, in order to diminish its corporatist character. As a result, once another complaint was filed against Alexandr Stoianoglo, the SCP decided to appoint a prosecutor to investigate the allegations. This order of events made several people, in particular Mr Stoianoglo's lawyers and opponents of the current government, declare that the case was fabricated or that it was a revenge on the part of the government. In this regard, it is important to keep in mind that most of the allegations and information presented in the complaint of the MP Lilian Carp preceded the current government and came from various sources. For example, on the first three counts, the former MP Inga Grigoriu, a member of DTPP, a party that is not currently in power, previously filed complaints.

In this context, it is important that public authorities and opposition politicians refrain from statements and/or actions that undermine the credibility of the criminal investigation proceedings or put undue pressure on the authorities involved in the investigation and examination of the case.

At the same time, some aspects of the criminal proceedings, such as the expediency in initiating the criminal investigation, the speedy apprehension or the inability to create the necessary conditions for confidential discussions with lawyers for Alexandr Stoianoglo in the court, raise [questions](#) in the society regarding the observance of criminal proceedings and of the rights of the accused.

In order to eliminate doubts as to the involvement of the politics in the criminal case or as to the fairness of the proceedings, the criminal investigation body and the courts should show exemplary diligence in this case, ensure compliance with criminal proceedings and fundamental rights, so that, on the one hand, they are observed in substance, and on the other hand, the society is convinced that justice is done in this case.

It is important that the law enforcement bodies do not create situations that would determine that these proceedings are discontinued for procedural reasons, since this will not bring any clarity in the accusations brought against Alexandr Stoianoglo and they will exist perpetually.

Since the case of the suspended Prosecutor General is of major importance, it is natural that the entire society monitors the proceedings and expresses its views on its development. Often, these opinions are based on news titles, quotes or excerpts from events, presented without any context, and as a result they may lead to a wrong impression of what has really happened, as for example when several individuals, organizations and institutions commented on the failure to observe the right to confidential meetings with the lawyer, without mentioning that this was an isolated case and that on the same day the confidential discussion with lawyers took place.

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At the same time, intentionally or not, many procedural aspects are misinformed or exaggerated, for example when discrediting the case file on the grounds that the evidence is public, that the simple submission of a request to suspend the decision of the SCP of October 5th, 2021 would invalidate any criminal action taken at that time or that the lack of special provisions to investigate the case filed against the Prosecutor General would somehow vitiate the procedure.

Thus, it is important that on the one hand, prosecutors communicate to the society as many details as possible in regard to developments in the case and explain the confusing aspects, and on the other hand, those who inquire about this case to do so from primary sources or search for full statements of persons in order to get a better impression of what is happening.





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