



OPINION

on the activity of the Prosecutors' offices during 2020 and 2021 on high level cases

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This opinion assesses the activity of the Prosecutor's Office in 2020 and 2021 on high profile cases. Our conclusions are that the actions of the General Prosecutor's Office on the high-profile cases presented in the opinion were either modest or against the law. The breach of the provisions of the Law no. 3/2016 on prosecutors' offices, in the part related to the allowance of the prosecutors in resignation were identified, but also the breach of the provisions of the CPC, in this case article 274, including the way in which the prosecutors' offices treated the denunciations filed against Igor Dodon.

There is a lack of action on high-profile files, involving public figures, including controversial people such as Veaceslav Platon. Although the conditions for the application of preventive measures were met, they did not take place, and Platon left the Republic of Moldova.

Progress in investigating episodes of the banking fraud is modest. Although objectively there are limitations on the pursuit of assets that are outside the country and that require additional effort, including the negotiation of international agreements, the creation of joint investigation teams, the formulation of rogatory letters, the repatriation of illegally obtained means, within the criminal prosecution of over 1.5 years it wasn't possible to obtain the extradition of Vladimir Plahotniuc and Ilan Șor.

Context

Prosecutor General Alexandr Stoianoglo was appointed in November 2019. For almost two years, the prosecutor's office investigated several cases but were also notified of several possible crimes committed by persons holding public office positions.

Almost two years after his appointment, the progress in investigating high-profile cases is set to be modest. The Super Security Council (SSC) voiced concerns about the state of affairs in the investigation of the banking fraud, the waiver of criminal prosecution on several cases, but also the inefficient management of other cases such as Chisinau International Airport and Metalferos.

Although there are some actions on the part of the prosecutors' offices in the investigation and referral of justice to some episodes of the banking fraud case, at present these cases have not reached a finality.

On the other hand, there are suspicions on some prosecutors of lack of integrity and even of criminal activities. The [journalistic investigations](#) regarding the Deputy Prosecutor General Popov drew attention to some businesses formally owned by his relatives, without their practical possibility to prove the origin of the resources invested in these businesses.

The issue of modest results of the prosecution bodies was raised several times during the SSC meetings. Among the actions that were undertaken by the Parliament elected on July 11, 2021 was the amendment of the [Law no. 3/2016](#), which allows the evaluation of performances of the General Prosecutor at least once a year, at the proposal of the President or 1/3 of the members of the Superior Council of Prosecutors. This amendment was adopted in final reading on 24 August 2021 and was published in the Official Gazette on 3 September 2021.

In order to provide an assessment of the activity of the prosecutor's office from the end of November 2019 and until now, we will analyse below the actions / inactions undertaken by the prosecutors' offices on the main high-profile cases. In this sense, we will analyse the case of the former head of the Specialised Prosecutors' Office against Organised Crime and Special Cases (PCCOCS) Nicolae Chitoroaga, the case of the former head of the Anticorruption Prosecutor's Office Viorel Morari, the criminal prosecution actions on behalf of Veaceslav Platon, the prosecution's actions related to the investigation of the banking fraud.

1. The honourable resignation of the former chief PCCOCS Nicolae Chitoroagă

On 21 November 2019, the former head of PCCOCS, Nicolae Chitoroaga was detained for 72 hours. He was being investigated for illicit enrichment and was arrested for a period of 15 days.

In October 2019, the Anticorruption Prosecutor's Office (PA) started the investigations in relation to the activity of Mr. Chitoroaga after it initiated an inquiry following an [investigation](#) conducted by the Center for Journalistic Investigations of Moldova (CJI). According to the CJI investigation, Mr. Chitiroaga owned a fish business in a village in the Ungheni district, registered in the name of his godfather and brother. The journalistic investigation stated that the business had been fraudulently taken over in 2005.

On 26 June 2019, Nicolae Chitoroaga, who was in charge of the PCCOCS between 2016-2019, the period in which the PCCOCS investigated several criminal cases against the political opponents of the PDM government, has resigned. On June 27, 2019, Mr. Chitoroaga was transferred to the position of ordinary prosecutor within the Chisinau Prosecutors' Office.

On 29 November 2019, the position of General Prosecutor (PG) is taken over by Alexandr Stoianoglo, at the request of which the Superior Council of Prosecutors suspends on 6 December 2019, Mr. Chitoroaga's activity as prosecutor and his membership in the Disciplinary Board of Prosecutors.

Subsequently, Nicolae Chitoroaga was released from the position of prosecutor based on the resignation request, the [dismissal order](#) was signed by PG Alexandr Stoianoglo on 23 January 2020. Upon dismissal, the former PCCOCS chief also received an allowance for dismissal of **272 thousand lei**.

Given the circumstances in which Mr Chitoroaga resigned, namely the criminal investigation in which he is a suspect, it is not clear how it was possible for him to be paid the honorable resignation allowance. According to art.62 paragraph (5) of [Law no.3 / 2016 on the Prosecutors' Offices](#) "If, at the date of dismissal of the prosecutor, there is a misdemeanour procedure in connection with the exercise of his duties or a criminal investigation against him/her, the payment the honourable resignation allowance provided in par. (2) shall be suspended until the case is irrevocably resolved. In case of demonstration of guilt of the prosecutor, the indemnity provided in par. (2) shall not be granted."

In this context, the actions of PG Alexandr Stoianoglo in relation to the dismissal of the former head of PCCOCS Nicolae Chitoroaga could be qualified in the light of [art. 328 Criminal Code of the Republic of Moldova](#) - the excess of power or exceeding the public office mandate that led to damages to the state in considerable amounts ([art. 126 CPRM](#)).

2. The case of the former chief of the APO Viorel Morari

On December 9, 2019, [PG Alexandr Stoianoglo](#) orders a complex control of the activity of APO and PCCOCS. For the period of control, the head of the APO was delegated to the General Prosecutor's Office, and the head of the PCCOCS delegated to take over this position returned to the position previously held within the APO. The Chief Prosecutor of the APO Viorel Morari challenged in court the PG's order regarding his delegation but also his suspension from office, considering that the real reason for his delegation to the General Prosecutor's Office would be his removal from the APO leadership. However, Morari's request was [rejected](#) by the court.

Three weeks later, the [PG announces the opening of a criminal case](#) against the suspended head of the APO. Viorel Morari was accused of abuse of office and forgery in public documents. According to the prosecutors, in March 2017 Morari received a complaint from Vladimir Plahotniuc against the businessman Veaceaslav Platon, "which he registered against the legal requirements, starting a criminal trial and subsequently the criminal investigation and falsifying several procedural documents in the criminal case". Viorel Morari rejected the accusations.

On 10 January 2020, Mr. Morari was detained by prosecutors, and on 13 January the Chisinau District Court in Ciocana admitted the prosecutors' request to place Mr. Morari in pre-trial detention for a period of 20 days. On February 14, 2020, Viorel Morari was [released under judicial control](#). In the meantime, the [General Prosecutor's Office announces](#) the sending to court of the case opened against Mr. Morari regarding abuse of office and forgery in public documents and the opening of a [new case](#) against him regarding illicit enrichment and money laundering in particularly large proportions, with use of the public office position. In June 2020, PCCOCS prosecutors decided to close the criminal prosecution against Mr. Morari in the case of illicit enrichment, given that not enough evidence had been gathered to charge him. Viorel Morari is also targeted in the case regarding the [Bors brothers](#), co-owners of the "VENTO" gas station network, rehabilitated in rights, after it was concluded that in 2018 they were persecuted, detained, arrested, deprived of wealth and illegally taken to criminal liability in a custom file. On this case, Mr. Morari is being investigated on four chapters: "excess of power", "forgery in public documents", "illegal detention or arrest" and "knowingly prosecuting an innocent person".

On 23 January, 2020, at the request of PG Alexand Stoianglo, the CSP [suspended](#) Viorel Morari from the position of Chief Prosecutor of the APO in connection with the criminal cases opened on his behalf. On April 26, 2021, the mandate of Mr. Morari as Chief Prosecutor of the APO expired, on August 12, 2021 [by order of PG Mr. Morari was released from office](#), the formal reason being that the latter did not express an option for another position of prosecutor to hold after the expiration of the term of office of the head of the APO.

[On 13 July 2021](#), PCCOCS announces the completion of the "VENTO" gas station case in which Viorel Morari has the quality of accused and the submission of the case to court trial.

3. Criminal prosecution of Veceaslav Platon

On 20 October 2020, the Governor of the National Bank of Moldova (NBM) Octavian Armaşu, via a [notification sent](#) to Prosecutor General Alexandr Stroianglo, requests the launch of a criminal investigation against Veceaslav Platon for presenting false data.

According to the Governor of the NBM, in 2015, in response to a request from the NBM, Platon stated that he had an insignificant share in Moldinconbank and no shares in Moldova Agroinbank. This information was subsequently denied by Platon himself through a complaint lodged with the PCCOCS concerning the forfeit of his shares in the aforementioned banks. In the complaint filed with PCCOCS, Platon states that he held direct or indirect shares in the two banks. The NBM therefore concludes that Veceaslav Platon presented false data to the NBM under his own responsibility and asks the PG to launch a criminal investigation into these allegations. Although the NBM's request was sent almost a year ago, so far there is no criminal investigation launched into it.

During 2020 and 2021, the Prosecutor's Office undertook actions related to pending cases and those completed with the involvement of Platon. Thus, Platon's sentence on the banking fraud case was suspended until a final judgement from the Supreme Court of Justice. In May 2021 the Prosecutor's Office waived the accusations brought against Platon, and in June 2021 Platon was acquitted by the judges of the Chisinau court. At the same time, Platon was involved in [two other cases](#), including active corruption and fraud.

No safeguards were imposed on him, not even a ban on leaving the country. During his release until the re-examination of the case on the banking fraud and his acquittal, Platon took intimidating actions in relation to the companies in the insurance sector and tried to force the National Financial Markets Commission (NFMC) into taking decisions favorable to him. The prosecution did not act in any way on Platon's actions.

Finally, after the elections of 11 July 2021, Plato suddenly left the Republic of Moldova and it was not possible to apply any security measures by the Border Police because there were no restrictions applied on him. Only after Platon did not appear at the court hearing on the cases under examination, the Prosecutor's Office requested pre-trial detention and international search.

4. Complaints to the Prosecutors Office against Igor Dodon

There are numerous complaints to the General Prosecutor's Office against the former President Igor Dodon, but all without any progress.

The Party of Socialists (PSRM) and Igor Dodon have appeared in at least two criminal cases, one of them being started in 2016 on money laundering in particularly large proportions, with the involvement of the company "Exclusiv Media" founded by Socialist MP Corneliu Furculiță, and the second - started in November 2019 on the fact of illegal financing of PSRM abroad.

Subsequently, the case was suspended after the formation of the majority between PSRM and the ACUM bloc, due to the lack of criminal composition. On 26 November, 2019, Viorel Morari, the then head of the Anticorruption Prosecutor's Office, issued an ordinance on the reopening of investigations in the PSRM funding file. On 2 December, 2019, Viorel Morari ordered the merging of the two files on the external financing of the Socialist Party and the money laundering case. Shortly afterwards, the anti-corruption prosecutor Viorel Morari was suspended from office, after which PG initiated a [criminal case](#) against him on abuse of office and forgery in public documents. The case regarding the illegal financing of PSRM was closed due to lack of evidence, even if some of the MPs sent additional evidence to the General Prosecutor's Office several times.

In January 2020, [Ziarul de Garda published](#) an investigation into the Dodon family's luxury vacation over several years. Among the former president's holiday destinations were: Maldives, Seychelles, Dubai or an exclusive villa on the territory of a resort run by the family of former Russian Attorney General Yuri Chaika.

On 23 January, 2020, the president of the DA Platform, Andrei Năstase, filed a complaint with the General Prosecutor's Office regarding "the criminal investigation of President Dodon under the aspect of committing the crimes of corruption and illicit enrichment". Through a [statement](#) posted on the PG website, the Prosecutor's Office announced the refusal to investigate the complaint filed by Mr. Nastase and its transmission as well as other notifications and requests related to this subject to the National Integrity Authority. Based on the provisions of article 274 of the Code of Criminal Procedure (CPC) *"the criminal investigation body or the prosecutor notified in the manner provided in art. 262 and 273 shall order within 30 days, by ordinance, if, from the notification or acts of finding, there is at least a reasonable suspicion that a crime has been committed and there are none of the circumstances that exclude the criminal investigation"*.

According to the PG press release "The prosecutor's office does not have competences in the field of general supervision and control, the respective functions being entrusted to other specialised bodies" "the only institution responsible for the control of property and personal interests and of restrictions being NIA". The verifications at NIA are dragging on, so far there is no finality on this case.

In this case, the reference to the powers of general supervision and control, which were excluded based on Law no. 3/2016, is not relevant, as the complaint contained information on the vacations enjoyed by Igor Dodon, which could be qualified in terms of several articles of the Criminal Code, including illicit enrichment, passive corruption, influence peddling, etc. Based on the provisions of the CPC, the prosecutor's office was to investigate, in the light of the criminal components, whether there was a reasonable suspicion of them being committed, and in case of their existence, to initiate criminal prosecution, having 30 days at disposal. In the absence of reasonable suspicion, a non-initiation order was to be issued. Instead, PG violated the procedural law and redirected the complaint to ANI, on which it had issue an order to initiate or not to start the criminal investigation.

In May 2020, two more complaints on behalf of Igor Dodon were sent to the PG. The chairman of the DA Platform and the MP Iurie Reniță notified the PG about video sequences that appeared in the public space in which the fugitive oligarch Vladimir Plahotniuc sends Igor Dodon a black bag and the latter demands that it be sent to Cornel for the **payment of salaries**. On 27 May, 2020, [PG announces that it will initiate criminal proceedings](#) in relation to this video. Subsequently, the Anticorruption Prosecutor's Office announced that it had examined the materials accumulated during the criminal investigation and [decided not to initiate criminal proceedings](#) "on the grounds that the facts of the persons concerned in the records do not meet the elements of any crime." "During the criminal trial, it was not possible to establish the contents of the bag, as well as the subject who made the recording, a determining fact for the criminal investigation and filing a criminal accusation" is mentioned in the press release published on the PG website. Thus, the criminal investigation in the case of the bag with mysterious content offered by Plahotniuc to Dodon was stopped. The repeated requests of the deputy Reniță to annul the criminal investigation order and to resume the criminal investigation on the given case were rejected.

In this case, too, the prosecution's actions are against the law, as no investigative action has been taken to establish reasonable suspicion. In the present case, research was to be carried out, at least by summoning the persons appearing in the video, taking their depositions, analysing them thoroughly and in the event of any discrepancies, their subsequent investigation by examining other available information or additional citation of persons. By simply finding the "impossibility of determining the contents of the bag" the prosecutor's office did not take the necessary measures to establish whether there was a reasonable suspicion of committing an offense. The part of the record which states that "Cornel was to pay wages" was completely omitted. At least the questions related to: what salaries?, to whom to pay?, from what funds? had to be put forward by the prosecutors when formulating the content of the ordinance not to initiate criminal proceedings. The Prosecutor General, by virtue of the law, has the right to take over any file in direct control. Given the importance and public interest of this case, strict control over the conduct of research had to be undertaken.

In April 2021, PAS MPs Sergiu Litvinenco and Virgiliu Pîslariuc sent a complaint to the General Prosecutor's Office requesting the PG to initiate criminal proceedings based on accusations of abuse of state power and usurpation of official qualities in relation to the events that took place in the Parliament of the Republic of Moldova on 23 April, 2021.

In the meeting of the Parliament on 23 April, the parliamentary majority formed by the Party of Socialists of the Republic of Moldova (controlled by Igor Dodon) and the Șor Party, voted for the partial withdrawal of the Decision on the appointment of Ms. Manole as judge at the Constitutional Court (CC). This is despite the fact that the Constitution at art. 137 stipulates that "Judges of the Constitutional Court are irremovable during their term of office, independent and subject only to the Constitution." During the same sitting, the Parliamentary majority appointed Boris Lupașcu as Judge at the CC and adopted the Declaration on the recognition of the captive character of the CC. Subsequently, the CC declared these acts unconstitutional.

Prosecutor General Alexandr Stoianoglo [did not respond positively](#) with the request of PAS MPs, due to the lack of grounds for initiating a criminal trial.

In April 2020, the MPs of the Pro Moldova Parliamentary Group filed a criminal complaint with the PG on the name of President Igor Dodon. The MPs accused the head of state of blackmailing the CC judges in the context of the CC's suspension of the entry into force of the law for ratification of the agreement between Russia and the Republic of Moldova on contracting the \$ 200 million loan. This request was also left unattended by the PG. In response to the request of the MP Sergiu Sîrbu PG mentions "According to the Constitution of the Republic of Moldova, the President of the Republic of Moldova enjoys immunity. He cannot be held legally liable for the opinions expressed in the exercise of the mandate ". This is despite the fact that Igor Dodon himself mentioned publicly that he communicated with the then president of the Constitutional Court, Vladimir Țurcan, in which he requested information on the voting structure of the judges of the Constitutional Court.

Although the President of the country enjoys immunity, these actions are not simple opinions, but the recognition of communication with the President of the Constitutional Court and the request for data on the vote cast by each judge. These actions are contrary to the obligations of the judge of the Constitutional Court, established in article 17 let. b) of Law no. 317/1994 on the Constitutional Court - "The judge of the Constitutional Court is obliged to keep secret the deliberations and votes and not to take a public position or to give consultations on matters within the competence of the Constitutional Court".

Following the publication of this information in public, the President of the Constitutional Court was dismissed by the other members of the Constitutional Court.

5. Criminal investigations of the banking fraud case

Banking fraud cases did not progress significantly during 2020-2021. The prosecutor's office has however taken a number of actions related to the investigation of banking fraud. Thus, in [April 2021](#), the accusation files of three former directors of the three looted banks (BEM, Unibank and Banca Socială) and a former administrator of BEM from the NBM were sent to the court. The case is being examined at the Chisinau court.

In [July 2021](#), the files of two people accused of involvement in episodes of the banking fraud were sent to court, who acted as accountants and "offered a legal aspect" of the contracting by 6 companies of over 40 non-performing loans from the three looted banks.

In [June 2021](#), criminal prosecutions were carried out in the form of searches and a former Unibank administrator was detained.

In [July 2021](#), the case was filed in the name of former deputy Denis Ulanov. He is accused of fraud and money laundering.

In [August 2020](#), at the request of the Anticorruption Prosecutor's Office, a seizure was applied to Victoriabank's assets, based on the case in which the former president of the Bank and the bank itself is accused of committing the crimes of money laundering and abuse of office. The amount of goods on which the seizure was applied is 1.9 billion. lei.

At the same time, in [October 2020](#), criminal prosecution of MPs Apostolova and Tauber was closed, although they were listed as beneficiaries in the Kroll report no. 1.

An updated information on the progress of the criminal investigation in episodes of the banking fraud was [presented](#) by the General Prosecutor's Office in August 2021.

Conclusions:

1. The actions of the General Prosecutor's Office on the high-profile cases presented in the opinion were either modest or against the law. The violation of the provisions of Law no. 3/2016 regarding the prosecutor's office was found, in the part related to the allowance of the prosecutors in resignation, but also of the provisions of the CPC, in this case article 274, including the way in which the prosecutor's office acted with respect to the denunciations filed against Igor Dodon.
2. There is a lack of action on high-profile cases, involving public figures, including controversial persons such as Veaceslav Platon. Although the conditions for the application of preventive measures against him were met, they did not take place, and Platon left the Republic of Moldova. Platon's extradition actions will require a substantial effort, as all the conditions set out in the international treaties on the extradition side will have to be ensured.
3. The progress in investigation of episodes of banking fraud is modest. Although objectively there are limitations on the pursuit of assets that are outside the country and that require additional effort, including the negotiation of international agreements, the creation of joint investigation teams, the formulation of rogatory letters, the repatriation of illegally obtained means, within the criminal prosecution actions it wasn't possible for over 1.5 years to obtain the extradition of Vladimir Plahotniuc and Ilan Șor.

Recommendations:

1. The manner in which the law was applied by the Prosecutors' Offices and the Prosecutor General should be the subject of an analysis of their activity in the last year and a half. In particular, the manner in which the high-profile cases with a deep impact for the society were managed must be analysed, with the involvement of the controversial persons Platon, Șor, Plahotniuc, Dodon. The legality of the actions taken by the Prosecutor General is to be analysed, especially in relation to the way in which the honourable resignation of the former head of PCCOCS Chitoroaga was admitted.
2. On the files that the prosecution offices submitted the accusation and sent to the court, it is necessary to establish a priority trial, with the involvement of the management of the Chisinau court but also of the Chisinau Court of Appeal. Rapid and objective examination of the files would provide court decisions, including the application of confiscation to the goods on which freezing orders are available.
3. Continue the efforts of negotiation and implementation of bilateral agreements on data exchange, joint investigation teams, repatriation of assets but also the extradition of persons evading criminal prosecution.
4. Strengthen capacities of PG, APO, PCCOCS, NAC and ARBI with the ability to rapidly formulate requests for international legal cooperation in criminal matters, including the formulation of requests, the presentation and translation of requested materials, the establishment of contact points.



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