



Monitoring the declarations of incomes and properties by the Prosecutors of RM

Executive Summary

Transparency International - Moldova (TI-Moldova) monitored the declaration of income and assets by prosecutors from the Republic of Moldova to identify possible deviations / irregularities in this process, possible vulnerabilities in the activity of public entities, as well as to come up with remedial proposals of the situation. The research was carried out in the project "Building a state of law and democracy: the contribution of civil society" supported by the Embassy of the Kingdom of the Netherlands.

Methodological aspects. During the monitoring process, a series of indicators were calculated that allow us to see the dynamics of different types of income and assets declared, the share of people who declare them, as well as to answer questions such as: what part of prosecutors' income is donations, gifts on various occasions (weddings, celebrations, baptisms); who are the beneficiaries of the largest donations; how much real estate (eg, apartments, houses, land) the prosecutors declare, what is their area; how many cars are declared and at what prices etc. At the same time, a comparison was made with the respective indicators for another category of public sector employees - public officials in the Central Apparatus of the Ministry of Justice.

The data from the annual declarations of personal wealth and interests (DAIP) on the ANI Declaration Portal were used in the analysis.¹ Also, official information was requested from the General Prosecutor's Office, ANI, the State Fiscal Service, the National Social Insurance House, analyzed the data on the web pages of public authorities, in this case, the activity reports of the Prosecutor's Office, ANI, the implementation reports SNIA, selected journalistic investigations into the income and property declared by prosecutors. Research reference period: 2018-2020.

The technical support for the automatic extraction of the data from the declarations was provided by Constantin Copăceanu, AO "Implicare Plus". The data was collected based on a program for extracting tables from the PDF, and technical errors were mostly removed.

Monitoring results

In the process of monitoring, the data from the annual statements of about 600 prosecutors and about 80 public agents from the Central Apparatus of the Ministry of Justice were analyzed, for each of the years 2018-2020.

Declared income. According to the analyzed data, the prosecutors and the representatives of the Ministry of Justice reported practically all the revenues to all the sections of the Revenue department of DAIP. The total value of the prosecutors' revenues in 2018 amounted to 226.5 million lei, 2019 - 288.4 million lei, 2020 - 286.5 million lei, and of the public agents from the Ministry of Justice - respectively 30.3 million lei, 23 million lei and 23.8 million lei. Almost 4/5 of the income of both categories of declarants is the salary income obtained at the basic job.

Incomes and donations. Although the revenues from donations offered to prosecutors have a modest share in total revenues, their value is quite high and constantly growing - 7 million lei in 2018; 8.6 million lei in 2019 and 9.8 million lei in 2020. Public agents from the Central Ministry of Justice have declared income from donations in the amount of 0.2 million lei for 2018; 2 million lei - 2019 and 1.2 million lei - 2020.

¹ <https://portal-declaratii.ani.md/>

The share of prosecutors declaring donations has increased, for 2018 and 2019 every 9th prosecutor who filed declarations for 2020 - every 7th, they are more, compared to the public agents from the Ministry of Justice (in 2018 and 2020 every 13th, in 2019 - about 3%). And the average number of donations per prosecutor has increased from 1.4 donations in 2018 to 1.7 in 2020. It should be noted that some prosecutors have indicated up to 9 donations per year, MJ employees - up to 4 donations (details - in report).

A large part of the prosecutors indicated donations exceeding 100 thousand lei (for 2018 - about 44% of the prosecutors who declared donations, 2019 - 43%, 2020 - 33%). Some prosecutors have constantly "subscribed" to donations, managing to agonize from them considerable income in recent years - from a few hundred thousand to 2 million lei. *There are cases when the income from donations of some prosecutors is comparable or even exceeds several times the salary income of them and their family members, for example, in 2020 - up to 5 times.*

It is also worth noting that the prosecutors unevenly reflect the donations - some declare the gifts received at family events under the heading Revenues from donations and inheritances of DAIP, others - under the heading Revenue from other sources. *If we were to standardize and consider such donations / gifts only under the heading Revenues from donations and inheritances, their value would be much higher, for example, in 2020 - by about 1/3.*

Prosecutors often declare donations and substantial gifts offered at weddings, celebrations and other family events, in many cases worth about 1 million lei. It also attracts the attention of transfers / remittances of hundreds of thousands of lei, which supplement the prosecutors' income on a conveyor belt annually. Declared donors are usually the parents of public officials, less often other close, trusted people or friends. The ability of donors to make donations and make consistent transfers is questionable.

Income from deposits with financial institutions. Both the prosecutors and the representatives of the Ministry of Justice declared income from deposits with financial institutions. For prosecutors, these revenues amounted to over 1 million lei in 2020, increasing by about 4 times compared to 2018. The share of prosecutors who declare such revenues increased from 7.7% in 2018 to 8.6% in 2020. According to the representatives of the Ministry of Justice, these revenues in 2020 amounted to 236 thousand lei, increasing 3 times compared to the previous year. The share of those who declare such income is slightly decreasing (from 12% in 2018 to 10% in 2020).

It should be noted that *some consistent income from deposits with financial institutions does not correspond to the declared financial assets, which would mean that not all financial assets in the country and abroad have been declared or that these revenues have a different source than the declared one.* For example, one person declared for 2018 income from deposits in financial institutions of about 2.8 million lei, while financial assets amounted to about 7.1 million lei. In the case of such income, the value of financial assets should be about 20 times higher.

There are also situations when public agents declare from year to year financial assets / bank accounts at which interest is calculated, but do not indicate any income from deposits in financial institutions.

Real estate in the country and abroad: buildings and constructions. The number of buildings and constructions declared by prosecutors and representatives of the Ministry of Justice is growing (in 2020 by about 14% more than in 2018). About 4/5 of the prosecutors and just over 2/3 of the MJ representatives indicated such real estate, but the others did not declare anything, not even the houses and apartments in which they would live.

The average area of houses / apartments owned by a family of prosecutors (122 m² in 2020) is larger than that of a family of MJ representatives (106 m²). The value of some houses / apartments owned is ridiculous or generally lacking. It should be noted that the investigative journalists identified houses and apartments of some prosecutors who were not reflected in the statements, but were registered by relatives or trusted persons.

Some prosecutors have resorted to fictitious divorces in order not to declare the properties they could not justify.²

Lands. About half of the prosecutors and 1/3 of the representatives of the Ministry of Justice declared land, the number of declarants being increasing. Even if a prosecutor / family of prosecutors owned, on average, about 4 plots of land (with an average area of 1.7 ha), there are actually prosecutors / families of prosecutors who declared up to 163 plots of land (details in the report).

Means of transport. The number of people declaring means of transport as well as the number of these means is increasing. A larger part of the prosecutors (approx. 4/5) than of the representatives of the Ministry of Justice (approx. 1/2) declare such means. Almost all declared means of transport are cars.

Practically every 5th vehicle declared by the prosecutors and the 8th declared by the representatives of the Ministry of Justice is in possession / use or used on the basis of other translational contracts. A prosecutor / a family of prosecutors owns, on average, 2 cars, a public agent from MJ - a car.

The value of some declared vehicles is quite high, over 1 million lei, some of the declarants indicated in the years when they bought such cars important donations and / or income from the alienation of movable and immovable goods. It should be noted that the declared value of some cars arouses suspicion, the investigative journalists reporting on multiple cases when it would be diminished.³

Debts. The number of people who took out loans and loans, as well as the number of declared debts is increasing. A higher share of prosecutors, compared to the representatives of the MoJ, resorted to such a way to attract money (for example, in 2020 - about 46% of prosecutors, 2 times more than those in the MoJ). A prosecutor / a family of prosecutors had in 2020, on average, 1.7 credits / loans, to the representatives of the Ministry of Justice –1.3.

About 4/5 of the debts were taken from legal entities (banks and microfinance organizations), 1/5 - from individuals (relatives, close and trusted persons). The value of some loans taken by prosecutors from parents and trusted persons is very high, reaching 3 million lei. *There is a risk that some persons will declare fictitious debts to justify the costs of repaying them, and the competent authorities will verify the contracting of substantial loans from legal persons, as well as the ability of individuals to borrow such means.*

During monitoring, a number of **errors were identified when completing the DAIP**. The most common are related to income from improper headings (eg, income from remittances and transfers, as well as income from real estate leases - income from deposits with financial institutions; salary of spouse, interest on bank accounts , of dividends - to income from other sources). Many public agencies do not declare apartments, houses, as if they did not live somewhere. There are multiple cases of erroneous indication of the surface of buildings and land (details - in the report).

Statistics on pensions and salaries of prosecutors. According to CNAS, pensions have been set for more than 200 prosecutors in recent years ⁴, the average monthly pension of prosecutors is constantly increasing. According to the situation on 01.01.2022, this amounted to about 18 thousand lei, exceeding about 7 times the average monthly pension in the country and about 9 times - the minimum monthly pension (in previous years this ratio was higher). The average monthly remuneration of prosecutors has also increased, being in 2020 about 23 thousand lei and exceeding about 3 times the average monthly salary per economy.

Verification by the National Integrity Authority (NIA) of the declarations of assets and interests of the prosecutors. NIA initiated the control of the assets and interests of the prosecutors in 2019, during about three

² <https://anticoruptie.md/ro/investigatii/justitie/studiu-de-caz-cum-a-incercat-sotia-unui-procuror-sa-reduca-la-tacere-jurnalistii>, https://anticoruptie.md/ro/investigatii/justitie/procurori-cu-probleme-de-integritate-unsu-de-ziua-lor?fbclid=IwAR3vkuAgFv4K2TgINO-YX6-LrN6l6uk27Yj3G4VcAEpl_S3_X1-1fCb-ZLw,

<https://nordnews.md/video-copii-de-procuror-cu-apartamente-la-iasi-ce-ar-fi-ascuns-de-ani-seful-procuraturii-din-drochia/>
³ <https://www.jurnal.md/ro/news/d7138e406a784899/sefii-procuraturilor-de-la-sangerei-si-drochia-luati-la-ochi-de-ani-dupa-investigatia-jurnal-tv-privind-averile-de-milioane.html>, <https://anticoruptie.md/ro/investigatii/justitie/saracii-procurori-cu-apartamente-case-si-zeci-de-mii-de-euro-donati-de-parinti-si-rude>

⁴ La 01.01.2019 – 232 persoane, 01.01.2020 – 235, 01.01.2021 – 229, 01.01.2022 – 224.

years about 1900 statements were verified. In 2019-2021, the integrity inspectors drew up 71 minutes of initiating the control regarding the possible violations admitted by the prosecutors, all referring to the declaration of assets and interests. It should be noted that in 2021 every 5th report on the initiation of the control regarding the observance of the regime of declaration of assets and personal interests was drawn up regarding the prosecutors, but also every 5th report of refusal to initiate such a control concerned prosecutors.⁵

Following the inspections carried out during three years, the integrity inspectors issued 8 acts of ascertainment, most of them regarding the non-submission or late submission of the declarations and only one regarding the detection of the substantial difference between the acquired wealth and the obtained income. Practically all the contravention files sent to the court (36 out of 37 cases) are related to the violation of the rules for declaring wealth and personal interests, the value of the fines applied to the prosecutors being about 64 thousand lei.

NIA's communication and cooperation with the General Prosecutor's Office is insufficient. NIA sent GP, in 2019-2021, 6 notifications regarding possible false cases in statements admitted by prosecutors, including 4 in 2021, but, according to the Authority in the case of the latter, "there were no initiations".

Prosecutor General's Office: criminal cases against prosecutors (corruption, false statements, illicit enrichment). In 2018-2021, the General Prosecutor's Office started 44 criminal cases against prosecutors, of which 19 (43%) - on possible cases of corruption and related to them and 7 (16%) - on possible cases of illicit enrichment, most of them started in 2021. The prosecutor's office did not initiate criminal cases on possible false cases in the prosecutors' declarations of assets and interests. It should be noted that during this time ANI sent 6 such notifications to the Prosecutor's Office. During the reference period, the Prosecutor's Office sent 13 criminal cases to the prosecutors regarding the prosecutors, including 10 - on possible cases of corruption and related to them and 1 - on a possible case of illicit enrichment.

State Fiscal Service: examination of notifications regarding fiscal deviations admitted by prosecutors. In 2020, the SFS examined two complaints about tax violations admitted by prosecutors, but did not identify any risks that would be grounds for initiating controls. In 2021, 5 notifications were received, in 3 of them no risks were established for fiscal administration; in one case - established increased risks, and a control will be carried out; In the latter, after identifying the deviation, the person voluntarily complied, declared income from the capital increase on the alienation of the asset, and paid income tax.

The communication and cooperation between ANI and SFS leaves much to be desired. Existing legal provisions set different value thresholds for the verification of persons by integrity inspectors (substantial difference)⁶ and by tax inspectors (significant difference)⁷, which would narrow the area of verification of possible tax deviations admitted by the declarants.

Conclusions and recommendations

The analysis of the indicators calculated on the basis of the DAIP for the two categories of declarants reveals higher risks of corruption and lack of integrity among prosecutors. There are also vulnerabilities in the activity of public entities.

Salary income, as well as other types of income declared by prosecutors and representatives of the Ministry of Justice, are usually on the rise. Prosecutors' donations in this case are attracting attention. The share of prosecutors who declare donations exceeds that of the representatives of the Ministry of Justice (in 2020 - twice). A large part of the prosecutors declared donations that exceed 100 thousand lei annually. There are

⁵ Raportul ANI privind activitatea în anul 2021, <https://ani.md/sites/default/files/Raport%20ANI%202021.pdf>.

⁶ *Diferență substanțială* – diferența de 20 de salarii medii lunare pe economie dintre averea subiectului declarării la începutul verificării și la intrarea lui în funcție/numire/mandat, luând în considerare veniturile obținute și cheltuielile suportate de subiectul declarării și membrii familiei. În prezent, diferența în cauză constituie cca 200 mii lei.

⁷ *Diferență semnificativă* – diferența între veniturile impozabile estimate de fisc și veniturile impozabile declarate de persoana fizică care depășește 300 mii de lei.

cases when the income from donations of some prosecutors is comparable or exceeds several times their salary income.

It is noteworthy that, on the one hand, exorbitant sums are collected at the family events of the prosecutors, on the other hand, the organization of such events requires appropriate expenses, which does not seem to be confirmed by the income declared by them. It also raises suspicious transfers from relatives abroad, who for the most part work in less qualified and poorly paid positions and do not seem to be able to make such donations / transfers.

Some significant income from deposits with financial institutions of both categories of taxpayers does not correspond to financial assets, which would mean that not all assets in the country and abroad have been declared or that these revenues have a different source than indicated. Some people do not declare income from deposits in banking institutions, although they have bank accounts where interest is calculated.

The number of real estate, in this case, of the declared buildings and constructions, is increasing. Although most people declared real estate, a significant part of them did not even indicate the houses or apartments in which they would live. The average area of houses / apartments owned by a family of prosecutors is larger than that of MJ representatives. The value of the real estate owned by the declarants would have decreased considerably compared to the market value.

The number of people who have taken out loans and loans, as well as the number of debts is increasing. However, a higher share of prosecutors, compared to the representatives of the Ministry of Justice, resorted to such a way to attract financial means (in 2020, twice). There is a risk of some people declaring fictitious debts to justify the costs of repaying them.

Integrity inspectors do not have sufficient capacity as well as sources of information to thoroughly verify the income and assets of public officials, including prosecutors in the country and abroad. SIA e-Integritate does not provide practical support to inspectors in the process of analysis / verification of income and assets.

Starting with 2022, the obligation to indicate in the declarations the virtual goods, including the virtual currency, has been introduced. Purchasing virtual currencies is a good opportunity to steal money from illicit sources, and it is important that integrity inspectors have the skills to identify and track such assets. However, in the absence of a regulatory framework, that rule remains inoperative.

ANI's communication and cooperation with public authorities, in particular, the General Prosecutor's Office and the State Fiscal Service leaves much to be desired.

During the monitoring, multiple errors and omissions were identified when completing the declarations of assets and personal interests.

Investigative journalists who report on possible cases of unjust enrichment, assets that cannot be explained by legal income, become the target of attacks and pressure.

Recommendations:

- The thorough familiarization by NIA of the public agents with the way of completing the DAIP, the inclusion in the authority guide of some concrete examples of completing the different fields of the declaration, the enunciation of the typical errors in trainings / by circular;
- The signing by NIA of the collaboration agreements with the competent bodies from other countries that would facilitate the identification and verification of the incomes and assets of the subjects of the declaration abroad;
- Strengthen the capacity of integrity inspectors to control the income and assets of national and foreign officials and civil servants, increase the interaction with the competent bodies from other countries, including through the exchange of data and advice;

- Verification of the capacity of the persons who make donations, make transfers and grant consistent loans to provide such means;
- The follow-up by the integrity inspectors of the dynamics of the financial indicators from the statements that have inexplicable jumps, which could be caused by the concealment of the origin of some incomes;
- Verification of the reasons behind the refusals of the integrity inspectors to initiate controls on compliance with the declaration of assets and interests by the subjects of the declaration, in this case by prosecutors, in order to prevent unjustified refusals and hold the integrity inspectors accountable;
- Strengthening the cooperation between NIA, the General Prosecutor's Office and the State Fiscal Service, including through joint meetings and exchange of information / experience, in the verification and proof of cases related to false statements of assets and interests and unjustified enrichment;
- Strengthening the internal managerial control within the Prosecutor's Office, with emphasis on the integrity and ethics component, verifying the observance of the Code of Ethics of the prosecutors in order to prevent the concealment and distortion by the prosecutors of the information regarding incomes and assets;
- Examining the opportunity to adjust the legal framework in order to eliminate the discrepancy between the value thresholds applied for the verification of public agents / individuals by integrity inspectors and by tax inspectors;
- Carrying out an IT evaluation of SIA e-Integrity in order to improve it, implicitly creating real analysis capabilities that would facilitate the activity of integrity inspectors, with the transparency of the measures taken;
- Providing access to representatives of civil society and the media to the digitized database of declarations of assets and personal interests of NIA.