



OSCE Human Dimension Implementation Meeting 2018

Statement of the Open Dialog Foundation

Working session 4: Rule of Law I, including independence of judiciary, right to a fair trial democratic law-making

The Open Dialog Foundation (ODF), as human rights organisation, monitors the situation in the post-Soviet region.

I would like to start with the case of **Moldova**, where an extremely worrying decision was recently made by the Supreme Court to nullify the legitimate voice of the citizens in the Chisinau mayoral elections, in a non-transparent way which shows that independence of judiciary in the country is undermined by political interference: courts in the country are under the control of a political elite.

Examples of such undue influence on the independence of judiciary are those of prosecuted judges Domnica Manole, Gheorghe Balan, Dorin Munteanu¹ who were all subjected to prosecution for their independent decision and for criticising the system. Domnica Manole, a judge of the Appellate Court of Chisinau who was persecuted as a consequence of her independent decision of the citizens' initiative to hold a constitutional referendum and her refusal to bow under political pressure. Judge Balan was subjected to prosecution as a consequence of his harsh critique to the political influence over the judicial system.

Judge Munteanu was prosecuted after his refusal to issue a politically motivated warrant arrest against lawyer Ana Ursachi. This is indicative of the fact that the independence of lawyers is at stake too.

As concerns the right to have an attorney chosen by the defendant, which is considered a crucial element of a fair trial, the Foundation remarked that such right was infringed in the case of prosecuted attorney Ana Ursachi, for whom the court issued a warrant arrest without her lawyers being present, using the state lawyer and ignoring the defendant's claim against the use of such lawyer, who was not in the capacity of defend her properly². Her case represents an example of breach of the principle of "presumption of innocence", which was infringed as a result of numerous smear campaigns launched and spread by mass media under the control of oligarchic power.

¹ Cases included in ODF's report: <https://en.odfoundation.eu/a/8460.report-the-authorities-of-moldova-roll-back-the-democratisation-process-and-fail-to-fulfill-their-obligations-to-the-eu>; Joint Report ODF&FIDU: <https://en.odfoundation.eu/a/8835.report-on-the-results-of-the-human-rights-monitoring-mission-to-the-republic-of-moldova-in-the-period-between-26-and-28-july-2018>

² <https://en.odfoundation.eu/a/8604.moldova-in-violation-of-the-right-to-defence-court-issued-an-order-to-arrest-counsel-ana-ursachi>



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The Foundation has monitored a worryingly decreasing trend in other countries of the post-Soviet region such as Azerbaijan, Kazakhstan and Russia, concerning the independence of lawyers and the judiciary in general. In particular, at risk are those professionals who defend individuals prosecuted for political reasons and find themselves in danger in turn³.

We call on OSCE and its Members states to act towards the guarantee of the right to be defended and to ensure the right to defend, as well as to punish any undue political interference in the judicial system.

Thank you for your attention.

³ <https://en.odfoundation.eu/a/8707.defence-for-the-defenders-lawyers-and-attorneys-under-attack-for-participation-in-politically-motivated-cases>
