

NEWSLETTER

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IN SHORT

THE EUROPEAN UNION OPENS ACCESSION NEGOTIATIONS WITH THE REPUBLIC OF MOLDOVA. WHAT'S NEXT?

On 14 December 2023, the European Council (Council) decided to open accession negotiations to the European Union (EU) with the Republic of Moldova. The Council also decided to open negotiations with Ukraine and grant candidate status to Georgia.

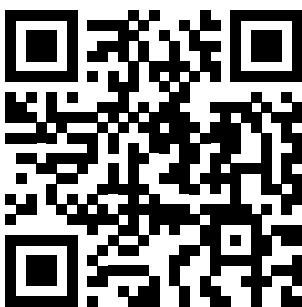
The Council [praised Moldova's progress](#) and the firm commitment to achieving integration, given Russia's war against Ukraine and the deployment of hybrid attacks against it. To start the negotiations, Moldova still needs to meet certain outstanding conditionalities mentioned in the [European Commission Report](#). The Republic of Moldova must continue to act for a deep justice reform and strengthen relevant institutions in the fight against corruption. Likewise, it must achieve a solid record of investigations and convictions, including in high-profile cases. The Council also emphasised the importance of continuing economic reforms, making progress in the economic and financial sectors and strengthening public administration.

The Republic of Moldova submitted its application for EU accession in March 2022 and was granted the candidate status on 24 June 2022 (more in [LRCM Newsletter no. 46](#)). On 8 November 2023, following the assessment of the progress made in the implementation of structural reforms, the European Commission recommended the EU countries to initiate accession negotiations with the Republic of Moldova. The [Analytical Report](#) developed by the European Commission provides for the measures to be carried out by March 2024 in the field of justice reform, de-organization, and the fight against corruption, as well as the steps to be followed for the political, economic criteria and the other chapters of the EU acquis. The European Commission will follow with another check in the spring of 2024, and, if satisfactory, negotiations with Moldova will begin.

The purpose of the negotiation framework is for the Republic of Moldova to adopt the EU acquis in its entirety and ensure its full application at the time of accession. [The negotiation process](#) is finished only after closing all [35 negotiation chapters](#), split into six blocks. Afterwards, all member states and the candidate country shall ratify the accession treaty. Only after that a country becomes a member of the EU.



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Moldova will start accession negotiations after fulfilling all the arrears, which are mainly related to justice reform. The authorities want to begin negotiations in the spring of 2024.

The country's leadership declared that it wants the Republic of Moldova to join the EU by 2030. This deadline is very optimistic, considering that [the average time the current members needed to accede](#) was nine years and being strongly influenced by the political openness of all the 27 EU member states to accept new members into the Union.

THE PROSECUTORS CHOSE THEIR REPRESENTATIVES IN THE SCP FROM THE CANDIDATES WHO PASSED THE EXTERNAL EVALUATION

On [22 December 2023](#), the General Assembly of Prosecutors (GAP) took place. The GAP resumed after being interrupted on [23 August 2023](#), about which LRCM wrote in its [Newsletter no. 60](#). In August, the prosecutors were to delegate five representatives to the Superior Council of Prosecutors (SCP) from the candidates who [passed the external evaluation](#). However, with the vote of the majority of the prosecutors present, the GAP [was interrupted](#), because [Vitalie Codreanu](#), [Cristina Gladcov](#) and [Anatol Gîrbu](#) – prosecutors who failed the pre-vetting in the spring of 2023 – obtained [the annulment](#) of the decisions of the Pre-Vetting Commission at the Supreme Court of Justice and their assessment was resumed. On 8 December 2023, the Pre-Vetting Commission [announced](#) again that the three prosecutors failed the pre-vetting, which is why, on 12 December, the [SCP decided](#) to call the GAP.

An impressive number of 506 prosecutors participated in the resumed Assembly, out of a total of 600 (84%). The GAP was chaired by the same person – [Ghenadie Pîrlii](#), chief prosecutor of a department within the General Prosecutor's Office. With the vote of 454 prosecutors, it was decided to continue the agenda approved on 23 August 2023, according to which the prosecutors were to elect their representatives in the SCP.

Prosecutors Codreanu, Gladcov and Gîrbu submitted a joint request regarding the interruption of the GAP, because they did not receive the signed decisions of the Pre-Vetting Commission. The President of the Assembly noted that the body of prosecutors is not competent to examine the legality of the decisions of the Pre-Vetting Commission, and the appeals filed against them do not suspend the election of SCP members. After this, the inclusion of this request in the agenda was supported by 161 prosecutors (32%), insufficient to be put on the agenda.

Since the issue of suspension the GAP was rejected, the prosecutors proceeded to elect SCP members. For the five vacant positions in the SCP, there were only seven candidates who passed the pre-vetting. Two candidates competed for the position assigned to the General Prosecutor's Office and the remaining five prosecutors were competing for other four positions in the SCP. The ballots were received by 489 prosecutors. The SCP candidates from the General Prosecutor's Office – [Dumitru Obadă](#) and [Iuri Lealin](#) – obtained 413 and 49 votes, respectively. The other candidates obtained the following results: [Aliona Nesterov](#) – 364 votes; [Eduard Panea](#) – 356 votes; [Elena Roşior](#) – 300 votes; [Olesea Vîrlan](#) – 257 votes; [Mariana Cherpec](#) – 226 votes. Thus, the new SCP prosecutor-members are Dumitru Obadă,

2/3 of the prosecutors refused to postpone the SCP elections once again. All prosecutorial members of the SCP were elected and the new SCP elected its president and began its work.

Aliona Nesterov, Eduard Panea, Elena Roşior and Olesea Vîrlan. Their term of office is six years. Prosecutors Iuri Lealin and Mariana Cherpec are substitute members.

After the results were announced, prosecutor Vitalie Codreanu filed a complaint regarding the voting procedure. The reasons for the complaint were not announced, but it was rejected by the Appeals Commission.

The new composition of the SCP met for the first time in a [meeting](#) on 3 January 2024, at which Mr Dumitru Obadă was elected as president of the SCP, for a two-year term. Nine out of ten SCP members present at the meeting voted in his favour. Prosecutor Obadă noted that his priorities will be to form specialized boards of the SCP and the Inspection of Prosecutors as quickly as possible, ensuring that the SCP is the guarantor of the independence of prosecutors, improving the legal framework related to the activity of prosecutors and increasing the transparency and predictability of the SCP's activity.

THE SALARIES OF JUDGES AND PROSECUTORS WHO PASS THE EXTERNAL EVALUATION WILL INCREASE CONSIDERABLY

The [State Budget Law for the year 2024](#), which enters into force on 1 January 2024, provides for considerable salary increases for persons who pass the external evaluation (vetting and pre-vetting). Judges and prosecutors who pass the evaluation will have the following gross monthly salaries (the amount does not include some minor additions):

Position	Gross salary (MDL)	Increased by compared to 01.11.2023
Supreme Court of Justice (SCJ) President	62,700	25%
SCJ Judges	55,300	25%
Members of the Superior Council of Magistracy (SCM)	55,300	25%
President of Court of Appeals	51,800	51%
Courts of Appeal Judges	42,900	51%
District Court Judges	43,800	51%
Prosecutor General	60,000	72%
Prosecutor Members of the Superior Council of Prosecutors (SCP)	52,900	19%
Head of Department of the General Prosecutor's Office	53,000	72%
Prosecutors of the Specialized Prosecutor's Office	46,600	72%
Chief Prosecutor of the Territorial Prosecutor's Office	38,600	72%

Judges and prosecutors who pass the vetting get a salary increase of at least 50%. Even so, their salary remains the lowest among the member countries of the Council of Europe.

The table above shows that the salaries of different categories have been increased differently, but there is an explanation for it. In October 2023, the salary of the members of the SCM and SCP, as well as of the judges of the SCJ, was already increased. As a result of the increase from October 2023 and the one provided for in the Budget Law for 2024, the salary of those who passed or will pass the external evaluation will increase by at least 50%. Prosecutors' salaries are increased by 72%, more than those of judges. This difference is because, in August 2023, the salaries of all judges increased by 16%, and the salaries of prosecutors did not increase at all. The salary increase will not be given to everyone from the same date. It will be granted individually, based on the date of passing of the vetting (SCM or SCP decision) by the specific judge or prosecutor.

In the informative note to the Budget Law for the year 2024, the Government mentioned that the increase offered for judges and prosecutors who pass the vetting is not an ordinary increase. It aims to encourage filling judicial vacancies caused by vetting. Shortly before the start of vetting, 22 of the 25 judges of the SCJ resigned. Also, the [acting Prosecutor General announced](#) that about 50% of the prosecutors will resign if they are asked to pass the vetting. According to [a survey launched in the summer of 2023](#) and commissioned by LRCM, 64% of judges and 62% of prosecutors accepted to be subject to vetting.

Some judges and prosecutors argue that raising the salary of only some of them is discriminatory. According to them, many judges and prosecutors will not be subject to vetting, which means that they cannot get the salary increase even if they want to. This argument is only partially true. People who are not required to undergo vetting can apply for management positions or be promoted to the courts of appeal and SCJ. Taking these positions is conditional on passing the vetting. Those wishing to be members of the boards responsible for the selection, promotion and discipline of judges and prosecutors are also subject to external evaluation. According to the authorities, at least 250 judges and 250-300 prosecutors will be vetted. Currently, there are approximately 420 judges and approximately 600 prosecutors working in the Republic of Moldova.

Even with these increases, the salaries of the Moldovan judges who will promote the vetting are among the lowest in the Council of Europe. For example, the gross salary of the SCJ judges from the Republic of Moldova, who will promote the vetting, will be around 34,000 EUR annually. [According to CEPEJ](#), only SCJ judges in Armenia have a lower salary. The starting salary of judges in the Republic of Moldova is by far the lowest among the member countries of the Council of Europe, 30% lower than the next two countries in the ranking, Armenia and Georgia. The low level of salaries in the Moldovan judiciary led to two decisions of the Constitutional Court, which states that the salaries of [judges](#) and [prosecutors](#) must be adjusted at least to the inflation rate. Judges' salaries were increased in August 2023 by 16%, but not those of prosecutors. The refusal to increase in 2024 the salaries of all judges and prosecutors has led to the authorities being criticised for not complying with the decisions of the Constitutional Court.

The Venice Commission insists on eliminating the ban to participate in elections to persons 'suspected, accused or indicted' of committing crimes and expressed concerns regarding the application of the restriction to persons subject to international sanctions.

THE VENICE COMMISSION – THE NEW AMENDMENTS AIMED AT EXCLUDING MEMBERS OF THE “CHANCE” PARTY FROM THE ELECTIONS ARE NOT ACCURATE ENOUGH

On 18 December 2023, the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights adopted [an opinion](#) on the [new amendments](#) to the Electoral Code targeting former members of the “Şor” Party. The draft law was adopted during [the plenary session](#) of the Parliament on 4 October 2023.

According to these amendments, all persons suspected, accused, indicted, or convicted of crimes that served as basis for declaring the political party as unconstitutional were forbidden from running in elections for three years. The ban also applies to all those who have been included on the list of international sanctions, as well as those whose acts were mentioned in the decision of the Constitutional Court (CC) by which the party was declared unconstitutional.

The Commission was pleased by the fact that the authorities reduced the ban from five to three years after the declaration of the unconstitutionality of the political party and that they introduced a more individualised and fair approach by applying the sanction depending on the behaviour of the persons concerned. The introduction of the possibility to challenge the ban and the opportunity for candidates to present evidence in their defence before electoral bodies was also welcomed.

Although the amendments respond to the legitimate aim of defending the Constitution and the integrity of the state, the Venice Commission emphasized that they are not clear enough and do not fully respect the principle of proportionality. The Commission recommends removing the application of the restriction to persons 'suspected, accused or indicted' because the exclusion of these categories of persons from the electoral lists until the guilt is proved by a court decision is contrary to the presumption of innocence. Depriving not yet convicted persons of the right to stand in election could be legitimate and proportionate only in exceptional and particularly serious situations, such as in the case of crimes under the Rome Statute of the International Criminal Court.

The Commission also expressed concern about the application of the restriction of participation in elections to persons put on international sanctions lists, specifying that this procedure is often criticized for the lack of sufficient procedural guarantees.

The Commission highlighted the risks associated with applying the restriction to any person mentioned in the CC ruling. It stressed the vague nature of the provision, emphasizing the absence of a clear definition of the evidence necessary to prove the guilt of the persons concerned and the lack of individualisation of them and the alleged offences committed. This ambiguity may lead to arbitrary and abusive application of the restrictions.

On 22 December 2023, the Supreme Court of Justice (SCJ) [annulled](#) in full the [decision](#) of the Chişinău Court of Appeals of 12 December 2023, which annulled the [decision](#) of the Commission for Exceptional Situations of the Republic of Moldova (CES) that prohibited the registration of “Chance” Party candidates in the elections. The case was referred for retrial because the overturned decision was not sufficiently well-reasoned. Previously, the same panel of the Court of Appeals [rejected](#) the request of the “Chance” Party, considering it inadmissible because the applicant no longer had the status of an electoral competitor.

SIMPLIFICATION OF CRIMINAL PROCEDURES IN MOLDOVA – INSPIRED BY THE EXPERIENCE OF ESTONIA AND FINLAND

In December 2023, a group of 10 professionals, including judges, prosecutors, and lawyers, carried out a study visit to Estonia and Finland. The initiative, launched by LRCM with the support of the Soros Foundation Moldova, aimed to explore and understand the best practices from both countries in terms of simplifying criminal procedures, digitizing justice, ensuring confidentiality and facilitating defence access to criminal file materials. During the study visit, the group met representatives of the Ministry of Justice, the Legal Commission of the Parliament, judges, prosecutors, and lawyers from both countries, as well as representatives of the Supreme Courts.

One of the central topics of the discussions was the digitalization of the judicial system. Estonia, in particular, is in the process of transitioning to the exclusive use of digital files, which will allow all trial participants to have quick and efficient access to file materials in electronic format (in civil cases, paper files no longer exist). Thus, lawyers, prosecutors and any party to the trial already can digitally access the materials of the criminal file, contributing to a more efficient sharing of information, reducing the dependence on physical documents, and speeding up the process of preparation and examination of cases. Estonia is also piloting the implementation of speech-to-text transcription technology, a tool that, although still in need of improvement, is a significant step towards streamlining court procedures.

Fast and efficient procedures were another major topic of discussion. In Estonia, only 6-7% of the cases end up in a classical trial, the rest being solved by simplified procedures. Similarly, in Finland, a simplified and fast procedure is applied for simple and frequent cases, which indicates a general tendency to speed up court processes and reduce costs. Video conferencing, another streamlining method, is widely used as a tool in court hearings, especially for witnesses and others who can be heard remotely. This practice not only saves time but also reduces the need for physical presence in court, thus contributing to the efficiency of criminal proceedings.

Video conferencing, smartphone digital summoning systems and 90% of cases handled in simplified procedures – innovations successfully adopted by Estonia and Finland in the field of criminal procedures.

Both countries have implemented digital summoning systems, which inform parties involved in a case of documents that need to be filed and procedural deadlines, via smartphone notifications. This system ensures that all interested parties are informed instantly and can take prompt action to prepare for the court hearing. In Finland, in particular, in criminal cases where the defendant is not arrested, there is flexibility in the use of courtrooms, which can contribute to the efficiency of the process, especially in cases with multiple hearings.

Another important aspect is the shift to using summaries of witness statements instead of detailed transcripts in the minutes. This change, already implemented in Estonia, could simplify the process of documenting court proceedings and reduce the administrative burden on judges and clerks.

At the same time, to ease the burden on the judges and ensure their impartiality, the criminal case file materials are not sent to the court. Upon completion of the criminal investigation, the prosecutor submits to the court only the indictment and the list of evidence. Also, to order the procedures in complex cases, the judges organize preliminary hearings, shortly after submitting the indictment to the court. At this stage, the inadmissibility of the evidence is decided. The examination of the merits of the criminal case takes place several months after the preliminary hearing, in long hearings. As a rule, the examination of the merits of the case is completed on the same day, and if the case is complicated, consecutive hearings are called that last for whole days. Adjournment of sittings happens very rarely. In Finland, witness statements in the first instance are videotaped, which eliminates the need to hear them repeatedly in the appellate court.

The Supreme Courts of Justice (SCJ) in both countries have 19 judges. They are assisted by 30 assistants in Estonia and 25 clerks in Finland, who are not assigned to a particular judge. More than 80% of appeals are rejected as inadmissible, as they are not of interest to the development of judicial practice. The SCJ in Estonia annually adopts 250-300 judgements, and the one in Finland – up to 100 judgements. In less than 5% of the cases considered admissible, public hearings are organized, and the other cases are examined based on the written arguments presented by the parties. The reform of the SCJ in the Republic of Moldova was inspired from these two countries.

The study visit underlined the shared commitment of Estonia and Finland to modernize and streamline criminal justice, paying particular attention to digitization and respect for human rights. These innovative practices offer Moldovan legal professionals valuable insights and role models for judicial reform inspired by European best practices. A project to amend the Criminal Procedure Code to include some of the aspects mentioned above is currently being developed by a group of experts created by the leadership of the Legal Commission of the Parliament of the Republic of Moldova.

The new Programme proposes to consolidate, diversify funding, and increase the involvement of CSOs in the decision-making process.

CIVIL SOCIETY ORGANIZATIONS HAVE A NEW DEVELOPMENT STRATEGY. WHAT DOES IT PROVIDE?

In January, [the Programme for the Development of Civil Society Organizations for 2024-2027](#) (Programme), [adopted](#) by the Government on 1 November 2023, entered into force. The purpose of this document is to ensure the improvement of the state's cooperation mechanisms with civil society organizations (CSOs), the development of communication and coordination platforms, the diversification of sources of funding and the increase of the capacities of the civil sector, including the promotion of the Europeanization agenda. At the same time, the Programme aims at improving the transparency, accountability, and participation of CSOs in the decision-making process. According to the authors, the civil sector must be involved not only in public consultations of normative acts and public policy documents, but also in the stage of their implementation.

The ex-post evaluation report of [the Civil Society Development Strategy for 2018-2020](#) found that the progress achieved was weak in generating a dynamic, durable, and sustainable civil society. **The main issues** addressed in the new Programme are: 1) the limited impact of civil society in the development, implementation and monitoring of public policies at all levels and 2) the non-sustainable financing of the civil sector. Civil society is still not fully enabled and empowered with the necessary tools and knowledge to ensure active involvement in decision-making processes, and the current level of involvement and participation of civil society is hindered by the lack of a proactive attitude from authorities' side. The authors of the Programme identified and described three **main causes** that generated these challenges, namely: (i) the existence of administrative and legislative barriers in CSO access to the decision-making processes of central and local public authorities; (ii) unsustainable and insufficient funding to support CSOs in carrying out their missions; (iii) the difficult environment for CSOs for effective and sustainable achievement of the proposed targets.

To achieve the established goals, the legislator set **three general objectives** of the Programme. The first objective is to improve CSO access to decision-making processes at all levels of public authorities. This is to be achieved through the uniform application of the legal framework, the development of mechanisms to stimulate the involvement of CSOs in decision-making processes and the strengthening of the capacities of public authorities to facilitate and support a participatory decision-making process. The second objective is to ensure sustainable funding for CSOs, both from public and alternative sources. This objective is to be achieved by substantially increasing the amounts redirected through the 2% mechanism, diversifying financial support mechanisms, and tax benefits and increasing the participation of CSOs in public procurement. The third objective is to strengthen the environment in the civil sector, which is to be achieved by enhancing the capacities of CSOs at the local level and by simplifying the process of establishing, joining, or participating in CSOs.

The total estimated costs for the implementation of the Programme are 109 million MDL, of which 106 million MDL from the state budget and three million MDL from external sources. For the years 2024-2026, approximately 26 million MDL are budgeted annually, and for 2027 – over 31 million MDL.

The main responsibility for the implementation of the Programme lies with the State Chancellery, and the reporting on the degree of its implementation will be carried out twice a year.

I IN SHORT

On **7 December 2023**, LRCM held an online public lecture "[Human Rights in Times of Distress](#)". Beatrix Ferenci, the Head of the UN Office of the High Commissioner for Human Rights in Moldova, an international advisor with extensive experience in the field of human rights held the lecture in the context of International Human Rights Day, marked annually on December 10. Over 35 persons, mainly law students and young professionals, had the opportunity to familiarize themselves with the concepts of human rights, the UN and the Universal Declaration of Human Rights, the importance of protecting human rights and the role of international organisations and states in the observance of human rights, especially during conflicts.

On **8 December 2023**, the Anticorruption Prosecutor's Office (APO) [announced](#) that it filed in court the criminal case regarding MP Alexandr Nesterovschi. He is accused of passive corruption in particularly large proportions, in the interest of an organised criminal group and of facilitating the financing of political parties from sources prohibited by law. The criminal investigation started in June 2023. The accused did not admit his guilt. The criminal case will be examined by the Chişinău District Court, Buiucani headquarters.

On **15 December 2023**, Alexandru Savca was appointed deputy director of the National Anticorruption Centre (NAC) with the vote of 57 PAS MPs. According to [the press release](#), Alexandru Savca was proposed by the Head of NAC, Alexandr Pînzari. Since 2016, Alexandru Savca works at NAC. Previously, he was an employee within Security and Intelligence Service and the Ministry of Internal Affairs. His mandate expires at the same with the mandate of the NAC director.

On **15 December 2023**, the Parliament voted in its final reading [the amendments](#) of the Law on state-guaranteed legal assistance and the Law on mediation. The amendments aim to improve the mechanism for applying state-guaranteed mediation. The changes provide for the possibility of using mediation services in criminal, contravention and civil cases; establishing the criteria and manner of granting state-guaranteed mediation services by the National Council for State-guaranteed Legal Assistance.

On **21 December 2023**, the Parliament [dismissed](#) the Governor of the National Bank of Moldova (NBM), Octavian Armașu, with 81 votes of the PAS, socialists and communists MPs. This decision was taken following the hearings held by the Parliament regarding the progress in the 'Billion Theft' investigation. He was [mainly dismissed](#) for deficient activity of the NBM in the context of the audit of processes and persons involved in the 'Bank Fraud' case, as well as Octavian Armașu's failure to fulfil his responsibilities during the exercise of his mandate according to the [law](#). On 22 December 2023, [Anca-Dana Dragu was appointed by the Parliament](#) as governor of the NBM, being [supported](#) by 58 PAS MPs. She previously held important positions in Romania and obtained citizenship of the Republic of Moldova one day before being appointed as governor of the NBM. The members of the National Platform of the Civil Society Forum [expressed](#) their concern over the procedure for the dismissal of the NBM governor by the Parliament, qualifying this case as a serious political interference in the activity of the NBM. The signatories of the statement also emphasized the staged nature of the public hearing and the lack of independent and professional investigations.

On **28 December 2023**, the Parliament [adopted the Law](#) on the adjustment of the legal framework related to court fees. The law in question amended 15 legal acts, including the Civil Procedure Code, the Contravention Code, the Administrative Code, and the Enforcement Code. This comes to eliminate the contradictions between the amended acts and the provisions of the new [State Tax Law](#), which entered into force on 1 January 2024, about which LRCM wrote in detail on [its blog](#). The new Law provides that there is a non-refundable stamp duty of 200 MDL when filling a case in court; that the court fees for patrimonial disputes and the exercise of appeals should increase; that the maximum ceilings of the court fees shall be eliminated and that the calculation methods of the court fees for some claims regarding the compensation for non-pecuniary damage, similar to patrimonial claims, shall be adjusted.

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