

## NEWSLETTER

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IN BRIEF

RESUMED HEARINGS DIGEST – PRE-VETTING  
COMMISSION'S AND SCJ'S DECISIONS ON  
CANDIDATES RUNNING FOR THE SCM AND  
THE SCP

Between 28 December 2023 and 19 January 2024, the Pre-Vetting Commission [published](#) its decisions on the candidates running for the Superior Council of Magistracy (SCM): Angela Bostan, Tatiana Chiriac, Valentin Caisin and Stanislav Sorbalo. On 1 August 2023, the Supreme Court of Justice (SCJ) [invalidated](#) the decisions of the Pre-Vetting Commission concerning them failing the evaluation, thus it was ordered that the candidates must be interviewed again (see details in [the LRCM Newsletter no. 60](#)). According to the new decisions, none of these candidates passed the assessment.

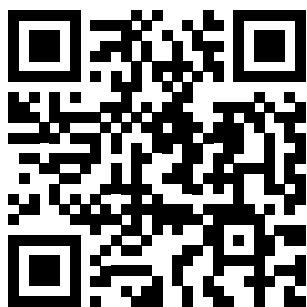
During the resumed hearings, the judge at the Chişinău Court of Appeals, [Angela Bostan](#), was asked about the financial means that she used to purchase an apartment for her mother and why the judge had a right of residence on this property. Commission members asked her to clarify her mother's sources of income. In addition, they pointed out that she breached ethics standards while participating in the 2019 General Assembly of Judges.

Regarding the lay candidate for the SCM, [Tatiana Chiriac](#), the Commission requested that she explain her failure to submit declarations of income and property upon her appointment and release from office, as well as explain the underestimated value of her car mentioned in the sale-purchase contracts. The Commission also found illegal actions and abuse of office by the candidate's husband in connection with the sale-purchase and registration of the same car, on which the candidate took no action, raising doubts about her ethical integrity.

The lay candidate, [Valentin Caisin](#), [requested](#) that they cancel the evaluation and withdrew from the competition. According to [the law](#), withdrawal from the competition is tantamount to failing the evaluation. The repeated evaluation was also stopped for the former judge, [Stanislav Sorbalo](#), a judge-candidate running for the SCJ and the Disciplinary Board of Judges, following his [resignation](#) on 24 October 2023. Although Stanislav Sorbalo did not officially withdraw from the competition, he could not be re-evaluated since he was not a judge any longer. This is the first case where a judge has resigned while being vetted.



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So far, of the six candidates who have already been subject to repeated evaluation by the Pre-Vetting Commission, only one has passed the resumed evaluation. Three have withdrawn from the competition, while in the case of two other candidates, the Commission doubled down on its original position.

At the hearing of Orhei District Court judge [Ecaterina Buzu](#), the Commission members expressed doubts about her financial and ethical integrity. These doubts related to her holding several undeclared bank accounts, the sums deposited in these accounts and the rapid purchase of an apartment owned by a minor at a price below market value. The Commission's decision has not yet been made public.

In the context of the re-evaluations, on 9 January 2024, the SCJ [rejected as unfounded](#) the application of the prosecutor and candidate running for the Superior Council of Prosecutors, [Gheorghe Graur](#). He requested that the decision of the Pre-Vetting Commission [be annulled](#), whereby he failed the integrity test and asked to be re-evaluated. The SCJ found that the applicant had not presented evidence to contradict the Commission's findings and justify a reassessment. The SCJ stressed that the Commission's decision was following the law and did not identify any procedural errors that would affect the fairness of the evaluation. The position of the SCJ in this case may be an important precedent in the ongoing vetting.

On 29 January 2024, the SCJ [admitted](#) the motion filed by the judge and candidate to the SCJ, [Marina Rusu](#), against the Pre-Vetting Commission to annul [the decision](#) of 27 January 2023 and resume the evaluation procedure. Thus, the judge will be subject to a new evaluation by the Commission. Previously, the Pre-Vetting Commission had expressed doubts about her integrity, mainly because of her failure to submit a declaration of assets for 2014-2016, as well as delays in examining 16 complaints about detention conditions.

## VETTING COMMISSION'S HEARINGS DIGEST – SUPREME COURT OF JUSTICE CANDIDATES

In January 2024, the Vetting Commission interviewed eight candidates for the position of judge at the Supreme Court of Justice (SCJ). Issues of professional ethics, non-compliance with regulations on the declaration of assets, sources of expenses and savings, lifestyle, as well as undervaluation of the purchase and sale prices of assets were among the issues addressed by the Vetting Commission at the hearings.

[Andrian Ciobanu](#), a judge at the Bălți Court of Appeals, was asked to explain a possible discrepancy between his income and expenses between 2011 and 2022, which according to the Commission amounted to more than 700,000 MDL – the equivalent of more than 20 national average gross salaries. Despite the judge saying that the money came mainly from his wife's parents (who claimed to have obtained the income from patent-based activities), the Commission allegedly failed to verify the source of the money. The judge considered the Commission's calculations to be erroneous, as many of the personal expenses were much lower, in particular for food, clothes and shoes, which would have been covered by his wife's parents. Another issue raised was the possible conflict of interest linked to the judge's relationship with two

lawyers. The judge reportedly travelled with them on holiday, and in over 25 of the cases he tried (where the said layers were party to), he did not abstain. In addition, the Commission also highlighted concerns about gambling. The Commission noted that the judge made over 120 payments on an online lottery platform during working hours.

[Aurelia Cazaciu](#), a judge at the Chişinău Court of Appeals, was subject to a rigorous assessment on two aspects. On one hand, a potential conflict of interest or incompatibility with her position was discussed concerning the judge's failure to abstain from several cases involving her child's father. On the other hand, she failed to declare her assets for 2019. The judge rejected the hypothesis of non-declaration of conflict of interest, citing the refusal of some colleagues to admit her requests for abstention when she had a conflict of interest. Regarding the non-declaration of assets, she mentioned that initially, the court staff was in charge of filling in the declarations and not herself, which could have led to some errors.

During [Ion Buruiană's interview](#), the Commission raised issues related to his financial integrity. These included the lawyer's wealth accumulated between 2011 and 2021, cash savings held in 2011 without a clear source, non-taxable income between 2012 and 2018, and details of loans and the sale of a book collection. In addition, the Commission asked him about receiving money from a family member abroad in 2022 and about his expenses related to his children's university education, matters that would indicate possible ethical integrity discrepancies.

[Aliona Ciocanu's](#) interview addressed her financial integrity, with a focus on the allegedly unexplained wealth acquired in 2014, 2018, and 2021. The source of funds received through donations from her parents and the circumstances in which she purchased a car at a price considered undervalued were explored, with questions raised about the economic justification and legality of these transactions. [Irina Iacub's interview](#) covered details of a house obtained through donations and the source of funds for its purchase. Possible ethical issues related to her relationship with her ex-husband were also addressed, indicating concerns about her integrity and professional conduct. In [Mihail Lvovschi's case](#), issues of financial and ethical integrity were addressed, such as the declared management of cash savings, movements of funds in foreign currency through short-term bank deposits, and his involvement in the process of disposing of the property of the National Confederation of Trade Unions of the Republic of Moldova. Ethical integrity issues related to his work as a lawyer and legal assistance in Romania were also discussed.

[Svetlana Balmuş](#), a former judge and member of the Superior Council of Prosecutors and the Integrity Council, was asked about the income obtained in 2012, 2013, and 2021, the allegedly unclear financial sources used to open a deposit account in 2011 and the income of her husband and family, as well as the speed of the examination of a case, which also came to the attention of the European Court of Human Rights (ECtHR). Prosecutor [Ion Teţcu](#) was asked about the allegedly unexplained income for 2021 and 2022, cash savings, the

Lifestyle, sources of spending and savings, and underpricing of assets, among the issues addressed by the Vetting Commission to candidates for the SCJ.

right to use a vehicle, and the reasons behind the undeclared donations. The prosecutor was also asked about the lawsuit against the Chişinău City Hall, as well as the cases that were the subject of examination at the ECtHR.

The next hearings will take place in February –a March 2024. At present, the Commission has held 11 public hearings and about 20 other candidates are to be interviewed.

## OPTIMISING THE JUDICIAL MAP: SOLUTIONS AND CHALLENGES

In December 2023, the Ministry of Justice proposed for public consultation a [draft law](#) to revise the map of Moldovan courts. On 30 January 2024, [an adjusted version was presented](#). According to the author, the draft aims to strengthen the institutional capacities of the courts, improve the quality of justice by ensuring uniform distribution of workload, save public funds and change the architecture of the courts of appeal. At the same time, the revision of the judicial map is to be carried out based on several criteria such as the number of inhabitants in the region, the number of judges in each court, the state of the building, judicial workload, and local infrastructure.

On 1 February 2024, [the LRCM submitted its legal opinion on this draft law](#). Contrary to the approach in the draft, which foresees 15 courts, the LRCM proposes to reduce the number to 12 courts. According to the objective calculations and the criteria mentioned above, only Edineţ, Orhei, Drochia, Ungheni, Bălţi, Chişinău, Soroca, Hânceşti, Străşeni, Comrat, Cahul, Căuşeni courts justify their existence.

Criuleni, Cimişlia and Anenii Noi do not meet these criteria. Six to nine judges are currently working in these courts, which is a small number for the existence and maintenance of a court. The territorial jurisdiction of the Criuleni and Ialoveni courts may be absorbed by the Chişinău District Court. Cimişlia District Court can be merged with the Comrat District Court, and Anenii Noi District Court can be merged with Căuşeni District Court. According to the proposals of the LRCM, the smallest courts will be in Străşeni, Hânceşti and Ungheni. There will also be no courts serving fewer than 100,000 inhabitants.

Optimising the number of courts is directly linked to the cost of the reform. Of the 15 existing courts, only the Ungheni District Court can adequately accommodate all its judges. Optimising the judicial map requires the construction of at least 14 new buildings. In 2015, the cost of the reform [was estimated at over 55 million EUR](#). These costs have increased significantly, with the inflation rate [between 2016 and 2023 at 85.02%](#). Therefore, in 2024 the cost of the reform can be around 104.5 million EUR. These costs can be reduced by around 25% by eliminating courts with too low a workload (at least three courts).

The Ministry of Justice proposes to reduce the number of courts of appeals – North, Centre, and South, and at the same time transfer of the Ungheni District Court to the jurisdiction of the North Court of Appeals. As regards the courts

Optimisation of the judicial map can be effective if the number of courts is reduced from 15 to 12 and the workload of judges gets redistributed from the Central Court of Appeals to the North and South Courts of Appeals.

of appeals, there are two major challenges – the overburdening of the Chişinău Court of Appeals, which examines about 70% of all cases examined by the courts of appeal, and the existence in the South of the country of two courts of appeals too small to be efficient. To balance the workload, the LRCM proposes to reduce the territorial jurisdiction of the Chişinău Court of Appeals by transferring both the Orhei and the Ungheni District Court to the jurisdiction of the Northern Court of Appeals. Similarly, we propose transferring to the jurisdiction of the South Court of Appeals the constituencies of the courts of Hânceşti and Căuşeni District Courts (including Anenii Noi District Court).

The proposals to revise the judicial map also include the need to redistribute the number of judges, both in the district courts (372 judges) and in the courts of appeals (97 judges), to balance the workload and increase their efficiency.

## PARLIAMENT HAS MADE ESSENTIAL CHANGES TO THE PROCESS OF BECOMING A JUDGE AND PROSECUTOR

On 28 December 2023, Parliament voted in its second reading on the [draft law](#) concerning the National Institute of Justice (NIJ) and the organisation of competitions for judges and prosecutors. The draft law was prepared to contribute to the implementation of the [Strategy for 2022-2025](#) on ensuring the independence and integrity of the justice sector.

The law amended the requirements for candidates for the position of the NIJ Director, who will be selected by competition by the NIJ Council for a four-year term. The same person may hold the position for a maximum of two terms. The law excludes the requirement that the Director of the NIJ be a citizen of the Republic of Moldova. In case both the positions of the Director and Deputy Director of the NIJ are vacant, the person acting as interim Director shall be appointed without competition by the Minister of Justice.

The new law obliges the National Integrity Authority (NIA), the National Anticorruption Centre (NAC) and the Security and Intelligence Service (SIS) to provide the NIJ with information on the integrity of candidates who have passed the first round of the admission exam to the NIJ. If the Selection Board finds that any of the candidates have violated their integrity or do not meet the criterion of impeccable reputation, he or she is dropped from the competition.

While studying at the institution, each NIJ auditor will be assessed by a psychologist, who will present his or her opinion to the Selection Board. The opinion of the psychologist will be considered in the final evaluation of the candidate and will also be submitted to the Superior Council of Magistracy (SCM) or the Superior Council of Prosecutors (SCP). The law also stipulates that the examination will not only check the knowledge of the NIJ student, as before but also the skills and qualities intrinsic to the position of judge or prosecutor. The law also establishes a minimum eligibility threshold for admission to the competition

All NIJ graduates and persons who have taken the NIJ examination based on their experience in office, if they have not yet done so, have no more than three months to apply for the roster for the position of judge or prosecutor.



for the position of judge or prosecutor – an overall average of at least eight on graduation from the NIJ.

The law creates the prerequisites for the orderly process of admission of the NIJ graduates to the position of judge or prosecutor. Thus, after final exams, the NIJ will inform the SCM and the SCP about the candidates who successfully graduated, and the latter will request the candidates to submit their papers to register on the roster for vacant positions of judge or prosecutor. The NIJ graduate, within one month of the request, is obliged to apply for the roster. There was no such deadline before and the NIJ graduates could avoid applying for judge/prosecutor positions for three or even four years without any consequences for them. The law introduces a validity term to the NIJ graduate certificate – three years. The validity of the certificate of passing the NIJ exams for specialists with five years' experience was also reduced from five to three years. The law stipulates that the NIJ graduate can refuse only once (until now, he could refuse twice) the position he/she has been awarded after the competition. If a graduate of the NIJ does not apply for the roster, does not take part in the competition, refuses a second time to accept the position following the competition or subsequently works as a judge or prosecutor for less than three years, he/she is obliged to reimburse the costs of his/her training and the scholarship paid during the period of study.

Persons who apply for the position of judge or prosecutor on the basis of work experience, before the examination, will attend training organised by the NIJ for at least 30 days. The subject matter of the training will be decided by the NIJ Board and will cover areas relevant to judges or prosecutors that may not be known from the candidates' practical work. Only those candidates (applying on the basis of work experience) who scored eight or more on their exam can apply for the position of judge or prosecutor. The candidates must apply to the SCM or SCP no later than one year after they are issued a diploma from the NIJ.

After registration, the SCM and the SCP request that the NIA verify whether the declaration of assets was filed correctly and that there are no doubts about the origin of the declared assets, and from the NAC and SIS – information on the professional integrity of the candidate. The SCM and SCP will take these views into account when assessing candidates. Candidates will receive a copy of the opinions submitted by these institutions to be able to present their position on them. The law also no longer requires that the candidates for a judgeship undergo polygraph testing.

The law allows international experts to act as trainers of the NIJ. The law also unblocks the filling of vacancies on the NIJ Board. The Minister of Justice and the President of the country will appoint one member to the Council within one month.

The law also provides in its final provisions that persons, who have graduated from the NIJ or taken the NIJ exam and have not yet applied for the roster, have three months to do so. On 26 January 2024, [the President of the country returned the draft law](#) to Parliament because the introduction of a three-year validity period for the NIJ graduation certificate is contrary to Constitutional Court ruling No 15/2011,

depriving several NIJ graduates of the chance to become judges or prosecutors. On 1 February 2024, the Parliament re-examined the draft law and supplemented the final provisions of the law with a provision that persons who graduated from the NIJ more than three years ago may participate in competitions for two years after the law entered into force.

## THE COMPETITION FOR THE POSITION OF PROSECUTOR GENERAL MUST REMAIN TRANSPARENT AND OBJECTIVE

On 28 December 2023, Parliament voted in its first reading [on a draft law](#) proposing that the Prosecutor General be elected exclusively based on a majority vote of the members of the Superior Council of Prosecutors (SCP) and excluding the evaluation of candidates based on clear criteria and scoring. The draft law was registered the same day and has not been publicly consulted.

The draft provides that the candidate who accumulates the highest number of votes, but not less than half of the members present at the SCP meeting, will be proposed to the President of the country for appointment as Prosecutor General. If no candidate accumulates the required number of votes, a repeat competition will be held.

On 12 January 2024, the new composition of the SCP (see details in [the LRCM Newsletter No. 64](#)) issued [an opinion](#) on the draft law, expressing its concern about the speedy vote on the draft law in its first reading. They also noted that the current method of electing the Prosecutor General is based on clear and transparent provisions and that the proposed changes imply a wide margin of subjective judgement. The members of the SCP suggested dropping this initiative or applying the changes to future competitions without affecting the ongoing competition.

On 16 January 2024, civil society organisations [publicly called](#) for the draft to be withdrawn on the grounds that it reduces the transparency and meritocracy of the competition. By comparison, the current procedure for the competition is that, after the interview, each SCP member gives the interviewed candidate a score from 1 to 10 for each criterion mentioned. Based on these scores, the overall average is calculated. The possibility of manipulating the mean scores can be eliminated by [calculating the median](#) instead of the mean. The final score is published on the official website of the SCP. The top two ranked candidates will be subject to external assessment (vetting). If the candidate with the highest average passes the evaluation, he/she is proposed to the President of the country for appointment as Prosecutor General. If not, the second candidate will be proposed, as well, provided that the evaluation is passed. If both candidates fail the vetting, a new competition will be held.

On 17 January 2024, in [an opinion](#) drafted by the Ministry of Justice, the Government supported in principle the concept of the draft law but insisted that the evaluation criteria and the voting procedure must be specified. These aspects are necessary because the method of selecting the Prosecutor General must gain the trust of the

Amendments to the Prosecutor General competition criticised by the SCP and civil society organisations – it diminishes transparency and erodes meritocracy.

public and the respect of the legal professionals. The draft law was on [the agenda](#) of the extraordinary sitting of Parliament on 18 January 2024 but was withdrawn from the agenda at the request of the author without any explanation.

It should be noted that on 23 October 2023, the SCP [launched the competition](#) for the selection of the candidate for the position of Prosecutor General. [Six candidates](#) – three career prosecutors, two lawyers and one private sector lawyer – registered within the deadlines. On 5 February 2023, the SCP [decided to admit](#) four candidates to the interview, while the remaining two candidates were excluded from the competition on the grounds of not meeting the conditions and submitting an incomplete application. The successful candidates [will be interviewed](#) on 22 February 2024.

## ACTIVITY OF THE REPUBLIC OF MOLDOVA AT THE ECtHR IN 2023 – MAIN FINDINGS

On 26 January 2024, the LRCM presented its [analytical note](#) on the activity of the Republic of Moldova at the European Court of Human Rights (ECtHR) in 2023. The analysis was carried out based on the [ECtHR Activity Report](#) for that year and the study of ECtHR case law in Moldovan cases.

In 2023, the ECtHR received 653 applications against Moldova, 2% more than in 2022. Moldova ranks 5<sup>th</sup> of 46 Council of Europe member countries in terms of the number of applications per capita. In 2023, Moldovans applied to the ECtHR 6.5 times more often than the European average.

On 31 December 2023, 1,149 applications against Moldova were still pending. Some 97% of these have a high chance of success. This figure is higher than the total number of applications on which Moldova has been convicted in the 26 years that it has been eligible to be referred to the ECtHR. In terms of the number of applications awaiting examination, Moldova ranks 10<sup>th</sup> of 46 Council of Europe member countries.

By 31 December 2023, the ECtHR delivered 599 judgments in Moldovan cases, of which 24 – in 2023. In 516 (86%) of these cases, the Court found that the Republic of Moldova committed at least one violation. In this respect, Moldova is ahead of the United Kingdom, Germany, Portugal, Spain and the Netherlands, countries which acceded to the European Convention on Human Rights long before Moldova and which have a much larger population than Moldova.

The most common types of violations found by the ECtHR in Moldovan cases remain non-enforcement of national court decisions, ill-treatment, lack of effective investigation of ill-treatment and deaths, detention in poor conditions, unlawful detention, irregular annulment of irrevocable judicial decisions.

Based on all judgments and decisions rendered before the end of last year, the Republic of Moldova was obliged to pay 22,813,920 EUR, of which 365,722 EUR in 2023.

In 2023, Moldovans addressed the ECtHR 6.5 times more often than the European average. The Republic of Moldova most frequently violated the right to a fair trial and the right to liberty and security.



## I IN BRIEF

On **3 January 2024**, [Dumitru Obadă](#) was elected as President of the Superior Council of Prosecutors (SCP). He was the only candidate to nominate himself for this position, supported by all the members of the SCP in office. His priorities are to form the specialised boards of the SCP as soon as possible, to ensure that the SCP is the guarantor of the independence of prosecutors, to improve the legal framework for prosecutorial activity, and to increase the transparency and predictability of the SCP. According to [the law](#), the President of the SCP is elected among the SCP members, by secret ballot, for a term of two years, by a majority vote of the SCP members, without the right to be re-elected.

On **17 January 2024**, the Supreme Court of Justice (SCJ) [rejected](#) the motion filed by the "Chance" political party to transfer the case from the Chişinău Court of Appeals (Chişinău CA) to another court of equal rank, in the case brought against the decision of the Commission for Exceptional Situations to exclude the party's candidates from the elections. The SCJ rejected the request citing that there were no grounds for transferring the case and no reasonable doubts as to the impartiality of the Chişinău CA judges.

On **19 January 2024**, the Superior Council of Magistracy (SCM) [confirmed](#) that judge Oleg Melniciuc, party in several court cases and the subject of a referral to the SCM involving criminal proceedings against him for [sexual harassment](#), had not been suspended from office. The complaint filed on 24 May 2022 by the Prosecutor General was initially [rejected by the SCM](#). However, on 12 October 2023, the Chişinău Court of Appeals [overturned](#) the SCM's decision and ordered a re-examination of the complaint. In this context, the SCM pointed out that although Melniciuc remained in office, he did not examine cases and did not receive his salary, following his suspension in connection with [his conviction for illicit enrichment](#). This criminal case is currently being tried at the Chişinău Court of Appeals.

On **23 January 2024**, the Superior Council of Magistracy (SCM) [extended](#) the deadline for applying for the [competition announced](#) in November 2023 to fill four positions of members of the Disciplinary Board. Candidates from all levels of court judges may [submit applications](#) to the SCM by 29 February 2024.

On **23 January 2024**, the Superior Council of Magistracy [changed the specialisation of the Chişinău District Court](#) offices. On 29 January 2024, the interim President of the Chişinău District Court, to coordinate the work of the court, [approved the nominal composition](#) of judges specialised in civil and criminal matters and determined where would they reside. As of 1 February 2024, the Centru, Râşcani and Botanica offices will examine civil, administrative and insolvency cases, and the Buiucani and Ciocana offices – criminal, misdemeanour and investigating judge cases.

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