

NEWSLETTER

Contents

Rigorous Standards: Four Candidates for Supreme Court of Justice Rejected Irrevocably

Another Two Candidates for the SCM Failed Re-evaluation

New Promotions and Hearings of Candidates for the SCP's Prosecutor Selection and Evaluation Board

The Request of Judge Paniş for an Appointment Decree Dismissed by the Court

The Legal Framework on Criminal and Contravention Matters Has Been Improved. What Are the Main Changes?

IN BRIEF

RIGOROUS STANDARDS: FOUR CANDIDATES FOR SUPREME COURT OF JUSTICE REJECTED IRREVOCABLY

Recently, the Supreme Court of Justice (SCJ) has rejected four appeals filed by certain candidates for becoming SCJ judges, thus confirming the reports of the Vetting Commission and the vote of the members of the Superior Council of Magistracy (SCM).

On 16 August 2024, the SCJ rejected the [appeal filed by Judge Irina Iacub](#). The evaluation by the Vetting Commission had [identified](#) wire transfers from obscure sources, aspects of ethical integrity related to her ex-spouse and unexplained assets for every year between 2011 and 2022. Maria Giuliana Civinini, international member of the Vetting Commission, had a dissenting opinion about the report on the judge. According to her, the financial evaluation had been performed incorrectly because the candidate's household expenses should have been calculated using the subsistence minimum or poverty threshold, which take into account real income, rather than a statistical average the Commission used. Civinini also stressed that the apartment purchased by the candidate was not unexplained asset because it had been financed with the help from her family.

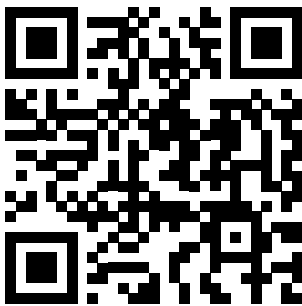
Also on 16 August, the SCJ rejected the appeal of [lawyer Rodica Chirtoacă](#). The Vetting Commission had found unexplained assets for several years, unclear sources for mortgage repayment, and declarations on certain cash savings. The Commission's report on lawyer Chirtoacă was approved by a unanimous vote.

On 19 August 2024, the SCJ [rejected the appeal of Mihail Lvovschi](#), candidate for SCJ, who had failed vetting. [The evaluation of Lvovschi](#) raised questions related to his involvement in the sale of state-owned assets and inexplicably big expenses between 2008 and 2014. Also on 19 August, the SCJ rejected [the appeal of lawyer Alexandru Rotari](#). Earlier, the SCM had accepted [the report of the Vetting Commission](#), which found that lawyer Rotari had financial integrity issues related to his parents' income and the existence of unexplained assets.

Currently, the SCJ has at least four vacant positions for career judges and eight for lay candidates. Only five out of a total of 18 vacant positions of SCJ have been filled since vetting started. In July 2024, the SCM announced a repeated competition for SCJ judge.



SUPPORT LRCM



LEGAL RESOURCES CENTRE FROM MOLDOVA



33, A. Şciusev st.,
MD-2001, Chişinău,
Republic of Moldova



+373 22 84 36 01



+373 22 84 36 02



contact@crjm.org



www.crjm.org



crjm.org



crjmoldiva

Most SCJ judgeships remain vacant after the SCJ irrevocably rejected another four appeals.

Under the law, the reasoned judgments concerning rejected appeals are to be published within maximum 45 business days. Currently, only the operative part of the judgments has been made public. However, the SCJ hearings concerning the appeals of all four candidates were public and their recordings are [available online](#).

ANOTHER TWO CANDIDATES FOR THE SCM FAILED RE-EVALUATION

On 8 August 2024, the Pre-Vetting Commission announced that it had finished the repeated evaluation of Judge Veronica Cupcea, candidate for the Superior Council of Magistracy (SCM) and the Board for the Selection and Career of Judges. On 12 August 2024, the Commission finished the repeated evaluation of Judge Vladislav Holban, candidate for the SCM.

After the issue of the judgment of the Supreme Court of Justice on 1 August 2023, the Commission was instructed to repeat the evaluation of judges [Veronica Cupcea](#) and [Vladislav Holban](#). On 14 March 2024, candidate Veronica Cupcea participated in a [public hearing](#) as part of the repeated evaluation (details are available in the [LRCM's Newsletter No. 67](#)). Judge Vladislav Holban did not request that the hearing be public and objected to the publication of the Commission's decision.

The repeated evaluation found reasons for serious doubts about the candidates' financial and ethical integrity, who did not meet the corresponding criteria. As a result, judges [Veronica Cupcea](#) and [Vladislav Holban](#) did not pass the repeated evaluation. The Commission sent its decisions on failing to both the candidates and the entities responsible for the competition.

Evaluatees may challenge the decisions of the Pre-Vetting Commission within five days of receiving the reasoned decision.

NEW PROMOTIONS AND HEARINGS OF CANDIDATES FOR THE SCP'S PROSECUTOR SELECTION AND EVALUATION BOARD

In August 2024, the Prosecutor Vetting Commission (the Commission) finished the evaluation of two candidates for the Prosecutor Selection and Evaluation Board of the Superior Council of Prosecutors (SCP). The Commission found that [Natalia Andronic](#), prosecutor from the District Prosecution Office of Chişinău, and [Marcel Dimitraş](#), chief prosecutor of the Judicial-Criminal Division of the Prosecutor General's Office, met the ethical and financial integrity criteria (details about the hearings are available in the [LRCM's Newsletter No. 69](#)).

Additionally, on 23 August 2024, the Commission held [the hearing of lawyer Sergiu Beşliu](#), candidate for the SCP's Prosecutor Selection and Evaluation Board. The Commission expressed doubts about the candidate's ethical and financial integrity on four main counts. The first one concerned the purchase of a car in 2017 at

The new hearing raised questions about the ethical and financial integrity of the candidate, with focus on the purchase of a car at a discounted price, interest-free deferral of payment, failure to declare assets and debts, and the administration of legal assistance and assets sale agreements.

a price that was lower than established in the sales precontract signed with a company and the five-year deferral of payment without interest. The Commission also had questions about a clause from the precontract that established a deadline for signing the actual contract and a 1% penalty fee on the car price for every day of delay, which amounted to EUR 220 per day. The Commission also requested explanation about the candidate's decision not to request those penalty fees despite being entitled to do so. The candidate explained that the discounted price was determined by certain technical defects of the car and the deferred payment formalized by an appendix was due to friendship with the director of the company. The candidate chose not to request penalty fees under the precontract, and when he needed a deferral of payment, the company returned the favor through a mutually advantageous agreement.

The second issue identified by the Commission was failure to declare the debts related to the purchase of the car in the asset declarations for 2021 and 2022. The candidate also failed to declare a EUR 2,000 loan offered to his ex-spouse in 2019. At the hearing, the candidate explained that those omissions were unintentional and caused by inexperience in filing declarations. As for the loan, he asserted that in fact it was his parents who had offered the money, through his mediation.

Another question of the Commission concerned the car lease agreement signed by his law firm during the period 2019–2021, namely whether the total amount of EUR 22,000 was reasonable and whether there was a connection with the staggered payment for the car. The candidate asserted that, at that time, the sum was below the market price and that he had paid the income tax in compliance with legal requirements.

The last issue concerned a legal assistance and representation contract signed in 2021 between the candidate and his cousin for an inheritance and the related transfer of EUR 25,800. The Commission inquired why only EUR 4,800 were transferred through a bank while the rest had been kept in cash for two years and the transfer had not been finished yet. The candidate explained that the staggered transfers were made at his relative's request and the funds in cash would be transferred in their entirety.

THE REQUEST OF JUDGE PANIȘ FOR AN APPOINTMENT DECREE DISMISSED BY THE COURT

On 21 August 2024, the Hâncești District Court [dismissed as unfounded](#) the request filed by Judge Alexei Paniș, where he requested that the President of Moldova issue a decree to appoint him for permanent tenure until the retirement age.

Alexei Paniș mentioned that the President had explained her refusal of 8 November 2022 by allegations that he had issued questionable judgments/decisions while examining high profile cases, which raised suspicions of bias and execution of orders from political quarters. In addition, according to information presented

Alexei Paniş believes that the President's refusal to appoint him as judge is based on false and defamatory information.

by the Superior Council of Magistracy (SCM), in 2019, along with other judges, Paniş participated in presumably illegal actions that boycotted the work of the SCM and some courts of law and obstructed the examination, by the SCM, of a report of the interim Prosecutor General concerning consent to the prosecution of a judge. And according to information from the National Anticorruption Center (NAC), declarations of Paniş revealed discrepancies between declared income and acquired properties.

Paniş argued that the refusal to appoint him lacked plausible arguments and substantiation and betrayed the biased attitude of the President, who cited responses from the National Integrity Authority, the NAC, the Anticorruption Prosecution Office (APO), and the SCM. He also cited the President's discriminatory treatment of him, mentioning that she had signed a decree appointing Judge Victor Sîrbu, who had signed, along with Paniş back in 2019, the requests for the SCM to convene the Extraordinary General Assembly of Judges on 27 September 2019.

The Court dismissed Paniş's request reasoning that the administrative procedure concerning the appointment of the judge included several phases, namely the nomination and submission by the SCM, the issue of an appointment decree or, as the case may be, the rejection of the candidate nominated by the SCM, repeated submission by the SCM, and the issue of a decree. Judge Paniş's request for a repeated submission was included in the agenda of the SCM's meetings of 1 and 9 July 2024, but its examination was adjourned (details are available in the [LRCM's Newsletter No. 71](#)). Therefore, the administrative procedure is yet unfinished, and the SCM has not yet issued acts that can be challenged in administrative court.

Moreover, the Court mentioned the initiation of a criminal procedure by the APO based on Paniş's complaint of 27 November 2023 about allegedly illegal acts committed by unknown employees of the Security and Intelligence Service and the NAC. The information they had shared had influenced the President's decision to refuse to appoint him for tenure until retirement age. As a result, the plaintiff's arguments that the information from those entities is distorted and false had not been taken into account as it is yet to be resolved through criminal procedure.

THE LEGAL FRAMEWORK ON CRIMINAL AND CONTRAVENTION MATTERS HAS BEEN IMPROVED. WHAT ARE THE MAIN CHANGES?

On 6 June 2024, Parliament passed [Act 136/2024](#), which brings major amendments into the Criminal Code and Contravention Code. Its purpose is to ensure a unified long-term policy on criminal and contravention matters. The law also implements a series of judgments of the Constitutional Court ([22/2017](#), [33/2017](#), [22/2018](#), and [24/2019](#)). Most of the amendments took effect on 7 September 2024.

Some of the most notable changes include a revamped set of rules on statutory limitations for criminal and contravention liability. The limitation

The legal framework on criminal matters becomes more humane, but it will be much more difficult to dodge punishment due to increased limitation periods and their termination when the case is brought to court.

periods have been extended. For mild offences, which entail a prison term of up to two years, the limitation period has been extended from two to three years. For contraventions, the general limitation period has increased from 12 to 18 months, and for certain special contraventions – from 18 to 24 months.

The limitation period ends once the criminal or contravention case reaches the court. In the past, the continuation of the limitation period allowed avoiding the enforcement of punishment by dragging out the legal proceedings. The change is in line with the laws of European states, under which the limitation period ends when a prosecution body performs certain procedural actions. Another limitation period starts the moment the case reaches court. In addition, a new reason for suspending the limitation period in criminal matters has been introduced – when the consent of certain entities is required, such as consent from the Superior Council of Magistracy or the Superior Council of Prosecutors to start prosecution against judges or prosecutors or consent from Parliament to withdraw immunity from MPs. Previously, the law allowed suspending the limitation period only if the subject of investigation evaded prosecution or trial.

The institution of replacing an unserved portion of prison punishment with a milder punishment has also been revised. Previously, the law allowed this mechanism only for mild, less severe, and severe offences. The operated amendments extend this measure to particularly severe and exceptionally severe offences, provided two thirds – and in case of life imprisonment at least 25 years – of the prison term have been served. In addition, the article that prohibited relief from criminal liability for crimes committed under the influence of alcohol has been repealed. Drunkenness is an aggravating circumstance that must be taken into account during the individualization of punishment, whereas situations and conditions for relief from criminal liability are well defined in the Criminal Code; therefore, such a prohibition is not justified.

It has also been established that punishment for convicts aged between 18 and 21 who are sentenced to life imprisonment be commuted to a 30-year prison term. This change is based on the principle of humanism and is meant to offer the opportunity of social re-integration for people sentenced to the harshest punishment in youth.

The maximal probation period in suspended sentences has been shortened from five to three years. The court will have to impose one or several restrictive or pro-active obligations if the serving of a sentence is suspended, any discretion in this regard being removed. To impose unpaid community service in case of a suspended sentence, the court will need the convict's consent. However, their consent will not be necessary to order release on parole.

I IN BRIEF

On **31 July 2024**, the Prosecution Office for Fighting Organized Crime and Special Cases (PCCOCS) [announced that two civil servants](#), one from Parliament's Secretariat and another the Border Police, had been detained for treason and conspiracy in communicating with an employee of the Embassy of the Russian Federation in Chişinău. [The press](#) confirmed that one of the servants was Ion Creangă, chief of Parliament's Directorate for Legal Matters since 1992 and representative at the Constitutional Court since 1999. Creangă is investigated for treason and espionage, facing charges of having transmitted sensitive information to the Russian side for money. He was taken into police custody for 30 days awaiting further investigation. The Russian diplomat [was declared *persona non grata*](#) and left the Republic of Moldova.

On **15 August 2024**, the Supreme Court of Justice (SCJ) [announced](#) that the structure of its judgments would follow that of the judgments of the European Court of Human Rights. The first page of the act will present the main aspects of law examined in the judgment. The new structure is already used for criminal matters, but because of a larger number of acts issued in civil and administrative matters, it will be applied in these fields starting with September 2024. This will make understanding the acts of the SCJ easier and will contribute to the standardization of judicial practice.

On **16 August 2024**, the LRCM sent the Constitutional Court an [amicus curiae](#) on the constitutional challenges filed by some MPs with regard to a series of provisions from the laws that govern the vetting of judges and prosecutors ([Act 65/2023](#) and [Act 252/2023](#)). Rather than recommending a concrete solution to the constitutional challenges, the LRCM's opinion offers an impartial legal viewpoint based on the standards of the Venice Commission and the European Court of Human Rights. In the context of endemic corruption in the justice sector, vetting is justified, provided it complies with the constitutional field. Only the Superior Council of Magistracy and the Superior Council of Prosecutors may decide on the dismissal of vetting subjects from office. The inclusion of foreign nationals into the membership of vetting commissions is a guarantee of their impartiality and transparency.

On **28 August 2024**, the Government approved the [Regulation](#) on the Organization and Operation of the Information System Integrated Platform of Legal Professions. The system will enable the digitalization of the records of professionals from justice-related fields: lawyers, notaries, bailiffs, authorized receivers in bankruptcy, mediators, translators, and interpreters. It will also include personal data and information about professionals' work (for example, license, professional education, sanctions) and their form of organization. The system will manage this data automatically and will facilitate centralized access to public information about related professions. The system will enable automatic exchange of data between entities and will reduce administrative costs.

| LRCM'S TEAM

Ilie CHIRTOACĂ
Executive Director

Aurelia CELAC
Accounting & Financial Manager

Daniel GOINIC
Program Director

Olga CORTAC
Director of Administrative Service

Victoria MEREUȚĂ
Legal Officer

Alina FRIMU
Assistant of Financial Administrative Service

Andrei NASU
Legal Officer

Dumitru JOMIR
Communication Coordinator

Aurelia PALAMARCIUC
Legal Officer

Natalia ROTARU
Communication Specialist

Valeria BUTORINA
Junior Legal Officer



This newsletter was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the LRCM and do not necessarily reflect those of the United States Department of State.

Legal Resources Centre from Moldova (LRCM) is a nonprofit organization that contributes to strengthening democracy and the rule of law in the Republic of Moldova with emphasis on justice and human rights. We are independent and politically non-affiliated. You can support the LRCM research and advocacy activities through an [online donation](#).

LEGAL RESOURCES CENTRE FROM MOLDOVA



33, A. Șciusev st.,
MD-2001, Chișinău,
Republic of Moldova



+373 22 84 36 01



+373 22 84 36 02



contact@crjm.org



www.crjm.org



crjm.org



crjmoldiva