

**ANALYTICAL  
NOTE**

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# RESULTS OF MONITORING THE ACTIVITY OF THE SUPERIOR COUNCIL OF MAGISTRACY 2023 – 2024

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**LRCM**  
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## ANALYTICAL NOTE

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## ABBREVIATIONS

<b>CA</b>	Court of Appeals
<b>CC</b>	Constitutional Court
<b>Dec.</b>	Decision (SCM)
<b>LRCM</b>	Legal Resources Centre from Moldova
<b>NIJ</b>	National Institute of Justice
<b>SCJ</b>	Supreme Court of Justice
<b>SCM</b>	Superior Council of Magistracy

### Law No. 120

Law No. 120 of September 23, 2021, on Amendments to the Constitution of the Republic of Moldova

### Law No. 147

Law No. 147 of June 9, 2023, on the Selection and Performance Evaluation of Judges

### Law No. 152

Law No. 152 of June 8, 2006, on the National Institute of Justice

### Law No. 154

Law No. 154 of July 5, 2012, on the Selection, Performance Evaluation and Career of Judges

### Law No. 252

Law No. 252 of July 17, 2023, on the External Evaluation of Judges and Prosecutors and on Amendments to Certain Legislative Acts

### Law No. 26

Law No. 26 of March 10, 2022, on Some Measures related to Selection of Candidates for Membership of Self-governing Bodies of Judges and Prosecutors

### Law No. 514

Law No. 514 of July 6, 1995, on the Organization of the Judiciary

### Law No. 544

Law No. 544 of July 20, 1995, on the Status of Judges

### Law No. 65

Law No. 65 of March 30, 2023, on External Evaluation of Judges and Candidates for Judgeship at the Supreme Court of Justice

### Law No. 947

Law No. 947 of July 19, 1996, on the Superior Council of Magistracy

## INTRODUCTION

Transparency in the work of the Superior Council of Magistracy (SCM or the Council) is essential both for increasing confidence in the SCM and in the judicial system as a whole. It also facilitates access by judges, other actors in the justice system, the media and society to relevant information about the Council's work.

This analytical note assesses the transparency of the Council's work, the way it is organized and functions, as well as its activities in managing the careers of judges in the period from October 2023 to October 2024 (13 months). The document continues the monitoring efforts of the Legal Resources Centre from Moldova (LRCM) which has documented the activity of the SCM since 2010 through similar analyses, conducted in 2013<sup>1</sup>, 2014<sup>2</sup>, 2015<sup>3</sup>, 2016<sup>4</sup>, 2017<sup>5</sup>, 2019<sup>6</sup> and 2020<sup>7</sup>.

The purpose of this note is to record the changes in the organization and functioning of the SCM with the investiture of the new composition of the Council after the General Assembly of Judges on April 28, 2023, together with the challenges faced during this period of important legislative reforms in the justice sector, including the start of the process of external evaluation of judges (vetting) – changes that are being undertaken in line with the objectives of the Strategy for Ensuring the Independence and Integrity of the Justice Sector for the years 2022-2025.<sup>8</sup>

<sup>1</sup> LRCM, Monitoring Report „Transparency and Efficiency of the Superior Council of Magistracy” 2013, available at: [https://justice.gov.md/public/files/file/reforma\\_sectorul\\_justitiei/pilonstudiu1/Raport\\_Transparenta\\_si\\_eficienta\\_CSM-CRJM\\_2013.pdf](https://justice.gov.md/public/files/file/reforma_sectorul_justitiei/pilonstudiu1/Raport_Transparenta_si_eficienta_CSM-CRJM_2013.pdf).

<sup>2</sup> LRCM, Analytical Paper „Organization of Meetings and Transparency of the Superior Council of Magistracy – Challenges and Perspectives” 2015, available at: <https://crjm.org/wp-content/uploads/2015/06/CRJM-DA-CSM-2015.pdf>.

<sup>3</sup> LRCM, Public Policy Paper „Selection and Career of Judges – Duplication of Responsibilities or Additional Guarantees?”, 2015, available at: <https://crjm.org/en/selection-and-career-of-judges-duplication-of-responsibilities-or-additional-guarantees/12364/>.

<sup>4</sup> LRCM, Monitoring Report „Transparency and Efficiency of the Superior Council of Magistracy of the Republic of Moldova: January 2015 - March 2016”, available at: <https://crjm.org/en/transparency-efficiency-superior-council-of-magistracy-moldova-january-2015-march-2016/8836/>.

<sup>5</sup> LRCM, Policy Paper „Selection and Promotion of Judges in the Republic of Moldova – Challenges and Needs”, July 2017, available at: <https://crjm.org/en/selection-promotion-judges-republic-of-moldova/8791/>.

<sup>6</sup> LRCM, Analytical Document „Selection and Promotion of Judges in the Republic of Moldova: June 2017 – December 2018”, available at: <https://crjm.org/en/promotion-judges-republic-of-moldova/8634/>.

<sup>7</sup> LRCM, Public Policy Paper „Resetting the System of Selection and Promotion of Judges – Lessons Learned and (New) Challenges”, May 2020, available at: <https://crjm.org/wp-content/uploads/2022/04/Resetare-sistem-selectie-si-promovare-2013-2019-En.pdf>.

<sup>8</sup> Strategy for Ensuring the Independence and Integrity of the Justice Sector for 2022–2025, available at: [https://www.legis.md/cautare/getResults?doc\\_id=129241&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro).

The paper also looks into how the recent legislative changes of the last three years (2022–2024)<sup>9</sup> on the activity and organization of the SCM, aimed at strengthening the work of the Council and increasing the representativeness of the judiciary in the Council, are being implemented in practice.

To make this analysis, the LRCM conducted real-time monitoring of the SCM's public meetings and analyzed the SCM's decisions and other publicly available materials. The information collected allowed for a comparison of current outcomes with previous recommendations and findings of the LRCM, highlighting how the SCM has addressed challenges and complied with legal requirements and transparency standards.

The analysis is structured along two main dimensions. The first dimension concerns the organization and functioning of the SCM and includes systematized information on the new composition of the SCM, as well as on the reorganization of its specialized boards. It also addresses the organization and conduct of SCM meetings from the perspective of transparency.

The second dimension reflects the activities of the SCM regarding the career of judges. This section systematizes the observations of the LRCM on the appointment, transfer and promotion of judges, with particular attention to the process of organizing and conducting promotion competitions for the highest positions in the system, at the Supreme Court of Justice (SCJ) and the courts of appeals.

The issues analyzed have been approached in the light of recent legislative changes on the functioning of the SCM and the career of judges. This framework allowed us to assess the extent to which the reform commitments have influenced the work of the SCM and whether new legislative measures or administrative interventions are needed to improve the work of the SCM.

The recommendations made on the basis of this analysis are intended to improve the transparency of the functioning of the SCM and to strengthen its activities in the field of judicial career.

<sup>9</sup> In the period from 2022 to 2024 alone, the legal framework governing the work of the SCM was amended several times:

Constitutional Court: Judgment No. 22 of October 1, 2024, on Constitutionality Review of Certain Provisions of the Law on Organization of the Judiciary, the Law on the Superior Council of Magistracy, and the Law on Some Measures related to Selection of Candidates for Membership of Self-governing Bodies of Judges and Prosecutors (Complaint No. 114a/2023) – declared unconstitutional Art. 3 para (3) and Art. 9 para (2).

The Parliament of the Republic of Moldova, Law No. 226 of July 31, 2024, on Amending Some Legislative Acts (Organizational Aspects of the Judicial System and the National Institute of Justice) – amends and supplements Arts. 4, 6, 15, 20, 25.

CC Judgment No. 17 of July 18, 2024, on Interpretation of Certain Constitutional Provisions and on Review of Constitutionality of Articles 15 para (2) and 24 para (1) of the SCM Law (quorum for meetings of the SCM) (complaints No. 252b/2023 and No. 265a/2023) – declared unconstitutional Art. 15 para (2) and 24 para (1).

The Parliament of the Republic of Moldova, Law No. 340 of November 24, 2023, on Amending Some Legislative Acts (Amendments to the Legislative Framework related to Law No. 147/2023 on Selection and Performance Evaluation of Judges) – Amendments to Art. 4, 7, 19, 20, 22.

The Parliament of the Republic of Moldova, the Law No. 246 of July 31, 2023, on Amending Some Legislative Acts (amending the legal framework related to the reform of the Supreme Court of Justice) – amends Arts. 13, 27.

The Parliament of the Republic of Moldova, Law No. 147 of June 9, 2023, on Selection and Performance Evaluation of Judges – amends Art. 11.

The Parliament of the Republic of Moldova, Law No. 5 of February 2, 2023, on Amending Some Legislative Acts (disciplinary liability of judges and the work of the Judicial Inspection) – amends and supplements Arts. 4, 7, 7/1, 20 and introduces Art. 7/3.

The Parliament of the Republic of Moldova, Law No. 246 of July 29, 2022, on Amending Some Legislative Acts – amends Article 27 and will be amended and supplemented as from August 26, 2022.

The Parliament of the Republic of Moldova, Law No. 26 of March 10, 2022, on Some Measures related to Selection of Candidates for Membership of Self-governing Bodies of Judges and Prosecutors – amends and supplements Art. 3, 3/1.

**CHAPTER I.  
ORGANIZATION AND FUNCTIONING  
OF THE SCM**



## 1.1. Functionality of the New SCM Composition

### Background

The SCM is an independent body established for the organization and functioning of the judicial system and is the guarantor of the independence of the judiciary.

As part of the reform of the judiciary, the legal framework governing the organization and functioning of the SCM<sup>10</sup> was amended. According to the recent amendments,<sup>11</sup> the structure of the SCM has been modified by excluding ex-officio members; the selection procedure for non-judicial members has been regulated; and the term of an SCM member has been extended from 4 to 6 years. Therefore, in order to ensure the representation of the interests of judges in the SCM, the Constitution provides that six members must be judges elected by the General Assembly of Judges, representing all levels of courts. On the other hand, in order to avoid the perception of defending the corporatist interests of the judiciary and the self-protection of judges, the Constitution established that six members of the Council must not be judges and must cumulatively meet the following conditions: (i) have a high professional reputation; (ii) have personal integrity; (iii) have experience in law or another relevant field; (iv) not be working in legislative, executive or judicial bodies; (v) not be politically affiliated.

Previously, in 2019, for example, the situation was different. Of the 12 members, 3 were ex-officio (President of the SCJ, Minister of Justice, and Prosecutor General), 3 were law professors, and 6 were judges from all levels of courts (2 from lower courts, 2 from appellate courts, and 2 from the SCJ). The Supreme Court was thus represented by 3 members,<sup>12</sup> which created an imbalance in the representation of judges.

At present, the composition of the SCM is more balanced: of the six judges, four represent the district courts, one the appellate courts and one the SCJ. At the same time, judges of first instance are best represented, as 2/3 of the total number of judges throughout the system come from the lower courts. There is also an equal representation of judges and non-judge members.

On March 10, 2022, the Law No. 26/2022<sup>13</sup> on Some Measures related to Selection of Candidates for Membership of Self-governing Bodies of Judges and Prosecutors was

<sup>10</sup> Law No. 947 of July 19, 1996, on the Superior Council of Magistracy, available at: [https://www.legis.md/cautare/getResults?doc\\_id=145438&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=145438&lang=ro#).

<sup>11</sup> Law No. 246 of July 29, 2022, on Amending Some Normative Acts, available at: [https://www.legis.md/cautare/getResults?doc\\_id=132980&lang=ro](https://www.legis.md/cautare/getResults?doc_id=132980&lang=ro).

<sup>12</sup> Year 2019 – Composition of the SCM consists of 12 members: 3 ex-officio members (President of SCJ, Minister of Justice and Prosecutor General), 3 members from law professors, 6 members judges from all levels of courts (2 from district courts, 2 from CA and 2 from SCJ), available at: [https://www.legis.md/cautare/getResults?doc\\_id=120093&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=120093&lang=ro#).

Year 2020 – Composition of the SCM consists of 15 members: 3 ex-officio members (President of SCJ, Minister of Justice and Prosecutor General), 5 members from law professors, 7 members judges from all levels of courts (4 from district courts, 2 from CA and 1 from SCJ), available at: [https://www.legis.md/cautare/getResults?doc\\_id=124913&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=124913&lang=ro#).

Year 2021 – Composition of the SCM consists of 12 members: 3 ex-officio members (President of SCJ, Minister of Justice and Prosecutor General), 3 members from law professors, 6 members judges from all levels of courts (4 from district courts, 1 from CA and 1 from SCJ), available at: [https://www.legis.md/cautare/getResults?doc\\_id=127869&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=127869&lang=ro#).

<sup>13</sup> Law No. 26 of March 10, 2022, on Some Measures related to Selection of Candidates for Membership of Self-governing Bodies of Judges and Prosecutors, available at: [https://www.legis.md/cautare/getResults?doc\\_id=131114&lang=ro](https://www.legis.md/cautare/getResults?doc_id=131114&lang=ro).



adopted, creating the necessary legal framework for assessing the integrity of candidates for membership of the SCM. Candidates for membership in the SCM (both judges and non-judges) should be ethically and financially screened by the Independent Commission for Integrity Evaluation of Candidates for Membership in the Self-administrative Bodies of Judges and Prosecutors (the Evaluation Commission).

At the General Assembly of Judges on April 28, 2023,<sup>14</sup> four members from the courts and one alternate member were elected (Vasile Şchiopu, Ioana Chironet, Sergiu Caraman, Maria Frunze, and Livia Mitrofan – alternate member). In addition, five members of the SCM who are not judges were appointed by the decisions of the Parliament in March and September 2023 (Tatiana Ciaglic, Alexandru Postica, Ion Guzun, Iulian Muntean and Lucia Popescu). Subsequently, in October 2023, one of the newly appointed members (Iulian Muntean) resigned after it turned out that he was a defendant in a corruption case, which was not mentioned in his evaluation. This is the first time that the SCM has reacted to the integrity issue of its members, stating that „the optimal solution for Iulian Muntean would be to submit his resignation.”<sup>15</sup>

During the reference period (October 2023 – October 2024), the SCM constituting process was a continuous one. During the General Assembly of Judges on March 1, 2024, the SCM member from the SCJ (Aliona Miron) was elected, and in September 2024, the last two members of the SCM from the non-judicial side (Tatiana Tabuncic and Sergiu Băieşu) were appointed by the Parliament. At the end of the reference period, the position of SCM member from the appellate courts remained vacant (following the resignation of member Nina Cernat from the position of judge at Chişinău CA).

The only potential candidate for SCM membership from among judges of appellate courts was Judge Ştefan Starciuc of Comrat CA. However, the candidate did not pass the evaluation of the External Evaluation Commission. In this context, the SCM announced a new competition to fill the vacant positions of members from the appellate courts. The appointment of a new member of the SCM will take at least 9 to 12 months, as the evaluation of a candidate takes an average of six months.

**We recommend that the SCM take a proactive stance to fill the last vacant position within the SCM, which includes launching or re-launching the competition for that position.**

<sup>14</sup> About the General Assembly of Judges on April 28, 2023: <https://www.zdg.md/stiri/stiri-justitie/video-sedinta-adunarii-generale-a-judecatorilor-au-fost-alesi-membrii-judecatori-ai-csm/>.

<sup>15</sup> Statements of SCM members of September 22, 2023: <https://www.csm.md/ro/noutatii/3666-declaratiile-membrilor-consiliului-superior-al-magistraturii-referitor-la-situatia-unui-membru-al-csm.html>. The SCM states that “given the high standards of ethics and conduct required of the entire judiciary, we cannot allow its integrity to be judged by persons who did not behave sincerely and honestly in the extraordinary evaluation process.”

On July 18, 2024, the Constitutional Court (CC) declared unconstitutional certain provisions of the Law on the SCM,<sup>16</sup> which regulates the quorum for the organization of SCM meetings and the adoption of decisions by its members. According to the revised rules, meetings are deliberative with the participation of at least two thirds of the members (8 out of 12) and decisions can be taken with at least seven votes. In case of rejection of a candidate by the President of the Republic of Moldova, the SCM will propose the same or another candidate with the vote of two thirds of its members, i.e. at least 8 votes.

In 2022, the authorities justified the changes with a number of reasons, including the risk of blocking the activities of the SCM due to an insufficient number of active members after the preliminary examination and the need to ensure the continued functioning of the Council. In its ruling of July 18 this year, the CC decided to return to the provisions of 2022, in the version prior to the entry into force of the amendments declared unconstitutional. The CC noted that the legislator, by amending the provision, lowered the threshold for the quorum of the SCM meetings from the total number of 12 members to the number of sitting members of the SCM. According to the CC, the application of these rules has become difficult to justify due to the recent increase in the number of members appointed to the SCM.

Also, with regard to the organization and functioning of the SCM, it is imperative to highlight the findings of the CC of October 1, 2024, regarding the selection procedure of candidates from among non-judges, as well as the extension of the expired terms of office of the Council members. The Court held that the current wording of Art. 3 para (3) of Law No. 947/1996 on the Organization of the Competition for the Selection of Candidates for Non-Judge Membership of the Superior Council of Magistracy by the Legal, Appointments and Immunities Committee of the Parliament does not meet the requirements of independence from the Parliament. Therefore, in order to comply with all constitutional requirements, it is incumbent upon the legislature to provide for the establishment of a special committee to conduct a fair and impartial competition for the selection of the most deserving members from among the non-judges and submit them to Parliament for appointment.<sup>17</sup> The Court also declared unconstitutional the provisions regulating the extension of the term of office of the SCM members after its expiry until the new members take office, without setting a

**We recommend amending the legislative framework derived from the findings of the CC (Art. 3 para (3), Art. 9 para (2), Art. 15 para (2), Art. 24 para (1) of Law No. 947/1996 and Art. 15 para (11) of Law No. 26/2022) for the enforcement of the decisions concerned.**

<sup>16</sup> CC Judgment No. 17 of July 18, 2024, on Interpretation of Certain Constitutional Provisions and on Review of Constitutionality of Articles 15 para (2) and 24 para (1) of the Law on the Superior Council of Magistracy (quorum for meetings of the Superior Council of Magistracy), available at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=859&l=ro>.

<sup>17</sup> Reference to the Opinion of the Venice Commission: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)015-e).

**We recommend that the SCM regularly update its website with the latest internal regulations in order to avoid confusion in the consultation process and to ensure its transparency. At the same time, we recommend that repealed regulations be removed from the SCM website.**

time limit. At the same time, the Court considers that this does not preclude the adoption by the legislature of a law allowing the extension of the term of office of the incumbent members in exceptional cases in order to avoid blocking the functioning of the Council.

### **Specialized Bodies of the SCM**

The Law No. 147/2023<sup>18</sup> on the Selection and Performance Evaluation of Judges merged the Board for the Selection and Career of Judges and the Board for the Performance Evaluation of Judges, creating the Board for the Selection and Performance Evaluation of Judges. In addition, Law No. 5/2023 strengthened the institution of the Judicial Inspection and completed the list of criteria constituting disciplinary offenses. The activity of the Disciplinary Board is regulated by the Law No. 178/2024<sup>19</sup> on the Disciplinary Liability of Judges. In 2024, Law No. 226/2024 made some concretizations regarding the examination of appeals against decisions of the Judicial Inspection.

Following these legislative changes, the SCM adopted new regulations on its organization and functioning, namely the Regulation on the Work of the Disciplinary Board,<sup>20</sup> Regulation on the Organization, Competence and Functioning of the Judicial Inspection<sup>21</sup> and the Regulation on the Selection and Evaluation of Judges. The latter regulation, according to publicly available data (agenda<sup>22</sup> and meeting summary<sup>23</sup>), was adopted at the meeting of May 28, 2024, but was published late on the website.<sup>24</sup>

In December 2023, the process of assessing the integrity of candidates for positions in the two specialized boards: the Board for the Selection and Performance Evaluation of Judges and the Disciplinary Board, began.<sup>25</sup> The Commission evaluated 13 candidates for membership of the Board for the Selection

<sup>18</sup> Law No. 147 on the Selection and Performance Evaluation of Judges of June 9, 2023 (in force from June 21, 2023), available at: [https://www.legis.md/cautare/getResults?doc\\_id=138410&lang=ro](https://www.legis.md/cautare/getResults?doc_id=138410&lang=ro).

<sup>19</sup> Law No. 178 of July 25, 2024, available at: [https://www.legis.md/cautare/getResults?doc\\_id=144930&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=144930&lang=ro#).

<sup>20</sup> Decision No. 87/8 of February 27, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/08/87-8.pdf>.

<sup>21</sup> Decision No. 120/11 of March 19, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/11/120-11.pdf>.

<sup>22</sup> Agenda of the meeting of May 28, 2024: [https://www.csm.md/files/Ordinea\\_de\\_zi\\_CSM/2024/19/AgendaCSM.pdf](https://www.csm.md/files/Ordinea_de_zi_CSM/2024/19/AgendaCSM.pdf).

<sup>23</sup> Summary of the meeting of May 28, 2024: [https://www.csm.md/files/Ordinea\\_de\\_zi\\_CSM/2024/19/Sinteza.pdf](https://www.csm.md/files/Ordinea_de_zi_CSM/2024/19/Sinteza.pdf).

<sup>24</sup> Decision No. 274/19 of May 28, 2024: <https://www.csm.md/files/Hotaririle/2024/19/274-19.pdf>. Approval of the Regulations on the Selection and Evaluation of Judges, available at: [https://www.csm.md/files/Acte\\_normative/Legislatia/Interne/2024/Regulament\\_selectie\\_evaluare\\_ro.pdf](https://www.csm.md/files/Acte_normative/Legislatia/Interne/2024/Regulament_selectie_evaluare_ro.pdf).

<sup>25</sup> Vetting Commission Communication of October 11, 2024, available at: <https://www.vettingmd.eu/ro/comunicate-de-presa/evaluare-finalizata-pentru-toti-candidatii-in-cele-doua-colegii-specializate-ale-judecatorilor>.

**In order to ensure the efficiency of the specialized bodies, it is essential to fill all vacancies, both in the SCM and in the specialized bodies, so that they can properly carry out their mandates. Once the new compositions of the Boards become operational, we recommend that a differentiated workload for the judge members of the SCM Boards be established and implemented through the Integrated Case Management System and a SCM decision.**

and Performance Evaluation of Judges and 12 candidates for membership of the Disciplinary Board. Of the 13 candidates for membership of the Board for the Selection and Performance Evaluation of Judges, one candidate withdrew from the competition,<sup>26</sup> and another candidate was withdrawn by the SCM.<sup>27</sup> The other 11 candidates passed.

With regard to the Disciplinary Board, of the 12 candidates referred to the Evaluation Commission, one candidate withdrew from the competition,<sup>28</sup> and two others were withdrawn by the SCM.<sup>29</sup> Six candidates passed the evaluation and three failed. The pass or fail decisions are communicated to the candidate and to the institutions responsible for organizing the competition.

The current situation regarding the process of establishing the new compositions of the specialized boards has prompted the SCM to announce another competition<sup>30</sup> for the selection of members of the Board for the Selection and Performance Evaluation of Judges from among the representatives of civil society.

The 2016 LRCM study noted that the SCM had established a differentiated workload for judges who were also members of the SCM Boards. According to this decision, these judges took over 70% of the total number of cases assigned to an ordinary judge. In this context, a member of the Disciplinary Board, who had called for compliance with the SCM's decision on differential assignment, resigned from his post, mainly because of the heavy workload.<sup>31</sup>

<sup>26</sup> Candidate Natalia Gavrilenco, available at: <https://www.vettingmd.eu/ro/subiecti-ai-evaluarii>.

<sup>27</sup> Candidate Evghenii Sănduța (attorney removed by SCM), SCM Decision No. 404/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/404-25.pdf>.

<sup>28</sup> Candidate Eugeniu Pșenița withdraws from the competition, available at: <https://www.vettingmd.eu/ro/subiecti-ai-evaluarii>.

<sup>29</sup> By SCM Decision No. 412/26 of July 09, 2024, and SCM Decision No. 550/34 of October 01, 2024, on the Admissibility of Candidates for Membership of the Disciplinary Board. Stelian Teleucă and Serafim Vasilache, having submitted their requests for resignation from the office of judge, no longer meet the conditions for participation in the competition, available at: <https://www.csm.md/files/Hotaririle/2024/26/412-26.pdf> și <https://www.csm.md/files/Hotaririle/2024/34/550-34.pdf>.

<sup>30</sup> SCM Decision No. 592/35 of October 10, 2024, on the announcement of the competition to fill the vacant positions of members of the Board for the Selection and Performance Evaluation of Judges, available at: <https://www.csm.md/files/Hotaririle/2024/35/592-35.pdf>.

<sup>31</sup> LRCM, Monitoring Report „Transparency and Efficiency of the Superior Council of Magistracy of the Republic of Moldova: January 2015 – March 2016”, available at: <https://crjm.org/en/transparency-efficiency-superior-council-of-magistracy-moldova-january-2015-march-2016/8836/>.

**We recommend that the SCM ensure the timely publication of draft decisions and all additional materials related to meetings. These should be made available to the public in advance of meetings in order to increase the transparency of decision-making and to facilitate stakeholders' participation and information.**

**We recommend that the SCM review the practice of including general items on the supplementary agenda. The supplemental agenda should only be submitted for urgent or unannounced matters.**

## 1.2. Organization of SCM Activity

The work of the SCM must be transparent and conducted in such a way that the public and the media have access to relevant information. According to the legislation, the SCM meeting agenda, draft decisions and additional materials to be submitted for examination (except for those that cannot be published) must be published on the Council's website at least three days before the meeting.

During the period under review, the plenum of the SCM held 49 meetings, of which 46 were ordinary meetings and 3 were extraordinary meetings. As a rule, meetings were held on a weekly basis – on Tuesdays, with the day of the meeting fixed in advance. Minor exceptions occurred in August and October 2024, when meetings were not held according to the same periodicity.

With respect to ensuring transparency in the publication of SCM meeting agendas and related materials, this requirement is largely met. The draft agenda is posted on the SCM website three days before the meeting and matters that cannot be postponed or are urgent are included in the supplementary agenda.

During the period under review, the agenda of the meetings was published in all cases, but this requirement was not fully met in the case of draft decisions and additional materials. For example, the unpublished additional materials concern, in particular, the allocation of additional financial resources to the courts, the awarding of distinctions to judges, the examination of draft laws when the opinion of the SCM is requested, the notes of the Judicial Inspection, and so on. Only in a few cases it has been observed that the agenda of the meeting is accompanied by only some materials, such as the list of candidates for participation in the competition for the appointment of judges, the list of judges for participation in various trainings or delegations to various events, etc.

Failure to publish all draft decisions and supporting materials in a complete and timely manner limits transparency and access to information. Issues of non-publication of supporting materials have also been previously identified by the LRCM in its analysis, which recommended that the SCM publish the agenda and relevant materials.<sup>32</sup>

<sup>32</sup> LRCM, Monitoring Report „Transparency and Efficiency of the Superior Council of Magistracy of the Republic of Moldova: January 2015 – March 2016”, available at: <https://crjm.org/en/transparency-efficiency-superior-council-of-magistracy-moldova-january-2015-march-2016/8836/>.

**We recommend that the SCM ensure that the minutes and summaries of each meeting are published in a consistent and useful manner.**

**We recommend that the SCM continue this practice and, where possible, diversify the live streaming channels in order to avoid eventual impossibility of watching the meetings. For example, cooperation with certain media platforms such as Privesc.eu or Rlive.md would contribute to the continuity of broadcasts and uninterrupted public access to the Council's meetings, as well as ensuring greater transparency and visibility of the SCM's work.**

In its previous analysis,<sup>33</sup> the LRCM recommended a more rigorous approach to the management of the inclusion of items on the supplementary agenda, restricting itself to matters that could not be postponed. However, the facts observed during the period under review indicate that this situation has not improved significantly. Of the 49 meetings reviewed, 32% (i.e. 16 meetings) had supplementary agendas containing general items, not always of an urgent nature. In many cases, these items could have been included in the main agenda if it had been published in due time.

In previous analyses concerning the work of the SCM, the LRCM emphasized that the publication of the SCM meeting minutes and their summaries was a useful practice. It allowed third parties to better understand the work and decisions of the SCM, which is why the LRCM recommended that this practice be continued. During the period under review, this practice was not uniform.

An analysis of the 49 meetings monitored showed that in 27 of them (55%) the minutes and summaries of the meetings were published in full. For 19 meetings (39%), partial publication of documents was observed, either only the summary or only the minutes of the meeting. For three other meetings (6%),<sup>34</sup> neither the minutes nor the summaries were published. Although there is a lack of consistency in the publication of these materials, the current situation is an improvement over the previous one, as the amount of information published has increased. This positive development indicates an increased commitment by the SCM to improve transparency and access to information on its work.

Regarding the audiovisual recording of SCM meetings, it was found that during the period under review all meetings were streamed online on the SCM website. Until September 2024, the meetings were streamed live also on the Privesc.eu platform. Subsequently, the recordings were uploaded on the SCM website and in cyberspace (YouTube channel).<sup>35</sup> This practice is positive and enables monitoring of the meetings in real time and/or afterwards.

<sup>33</sup> LRCM, Monitoring Report „Transparency and Efficiency of the Superior Council of Magistracy of the Republic of Moldova: January 2015 – March 2016”, available at: <https://crjm.org/en/transparency-efficiency-superior-council-of-magistracy-moldova-january-2015-march-2016/8836/>.

<sup>34</sup> SCM Meeting No. 16 of April 23, 2024; SCM Meeting No. 17 of May 7, 2024, and SCM Meeting No. 18 of May 16/23, 2024, available at: <https://www.csm.md/ro/sedinte/sedinte/documents.html>.

<sup>35</sup> SCM YouTube channel: <https://www.youtube.com/@consiliulsuperioralmagistr2075>.



**We recommend that Law No. 947/1996 be amended so that technical matters, such as the authority to grant annual leave to chief judges and deputy chief judges as well as the authority to delegate judges for various training or travel, are delegated to the President of the SCM, to be established by regulations.**

## **Adoption of Decisions by the SCM**

During the reporting period, the SCM adopted more than 750 decisions. While these dealt with various issues on the agenda, a significant proportion concerned the delegation of judges for training, travel, conferences and the approval of leave requests for chief judges and deputy chief judges of courts. Previously, the LRCM recommended that the plenary of the SCM be relieved of consideration of these issues and that the authority be delegated to the President of the SCM. Monitoring of the work of the SCM in this regard indicates that the SCM has continued to consider and take decisions on these matters, thereby maintaining a heavy agenda of administrative matters that could be managed more efficiently.

Regarding the procedure for indicating the voting option, the LRCM recommended in the previous study that the number of votes for each decision debated should be indicated in each judgment. The purpose of this recommendation was to clearly indicate the number of 'pro' and 'con' votes. During the reference period of this review, all SCM decisions included the number of 'pro' and 'con' votes. This practice has been consistently applied and represents a significant improvement over previous situation. It also provides certainty that a given decision will be adopted by the number of votes required by law. This practice is salutary and should be continued.

With regard to the adoption of SCM decisions, it is important to note that the provisions of art. 15(2) and art. 24(1) of Law No. 947/1996 on the Superior Council of Magistracy, in the previous wording of Law No. 246/2022, as amended by CC Decision no. 17 of July 18, 2024.<sup>36</sup> The Court found that the lowering of the quorum for the meetings of the SCM (from a total of 12 members to the number of members in office) had several shortcomings from the point of view of the independence of the judiciary and the condition of avoiding self-governing and corporatism within the SCM, and therefore ordered the reinstatement of the previous provisions. The Court's findings do not affect ongoing proceedings and do not apply to the situation *ex ante* at the time of the entry into force of the CC judgment. In other words, they have a prospective effect.

## **Transparency of SCM Meetings**

As a rule, the meetings of the SCM are open to the public, except when, at the reasoned request of the President or of at least three members, it is decided that the meetings shall be closed in order

<sup>36</sup> CC Judgement of July 18, 2024: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=859&l=ro>.



to protect information constituting a State secret or when, due to special circumstances, the public character might prejudice the interests of justice or the privacy of individuals.

During the period under review, the meetings of the SCM were generally open to the public. However, there was a tendency that when the agenda included issues related to the consideration of appeals to the Disciplinary Board or proposals for the release of consent to initiate criminal proceedings against judges, these issues were discussed in closed session. The practice followed by the SCM in this regard was to start the meetings with the consideration of public business, followed by a proposal to continue the closed session for the consideration of appeals or other matters, so as not to prejudice the interests of justice or infringe upon the privacy of individuals. Another positive aspect was that the meetings devoted to the organization of the competitions were held in open session, thus ensuring the necessary transparency of the selection process.

A positive practice of announcing the outcome of disciplinary cases was observed at some SCM meetings. Although their consideration was not open to the public, the results were announced by the President of the SCM, including the total number of complaints considered, how many of them were upheld, dismissed, or deferred, and the decisions were subsequently posted on the Council's website.

Another positive trend is the public discussion of appeals lodged by inspectors against the decisions of the Disciplinary Board on the actions of individual judges. The judicial inspectors and the judges concerned are invited to the examination of these cases in order to defend their position. In these cases, the deliberations of the full SCM take place and voting is open, except in cases where the issues have been considered in closed session.<sup>37</sup> The majority of the complaints examined in open session concerned disciplinary violations, as provided for in Article 4 of Law No. 178/2014. The most frequent violations discussed concerned the violation, for reasons attributable to the judge and without reasonable justification, of a service obligation, including the deadlines for the completion of procedural actions and, in particular, the violation of the deadlines for the justification of judicial decisions.

## Responding to Matters of Public Interest

During the period under review, the new composition of the Council was quite active in using the tool of public reactions (atypical for other members of the SCM) by taking public positions on guaranteeing the independence of the judiciary.

On November 17, 2023,<sup>38</sup> the members of the SCM signed a declaration on defending the honor and dignity of judges. The statement was signed after the SCM, on November 14, 2023, approved four requests to grant consent to conduct criminal proceedings against three judges and to grant consent to initiate criminal proceedings and to conduct criminal proceedings against one judge. As a result, the law enforcement agencies conducted criminal prosecutions in their offices. The detained judges were verbally assaulted by persons using obscene language. At the same time, verbal attacks and hate speeches against the entire judiciary were made in public and on some social networks. The members of the SCM emphasized that the judges in question benefited from the presumption of innocence, having

<sup>37</sup> The majority of the appeals concerned disciplinary misconduct, namely: violations, for reasons attributable to the judge and without reasonable justification, of a work obligation, including the deadlines for the completion of procedural actions.

<sup>38</sup> SCM Statement of November 17, 2023: <https://www.csm.md/ro/noutatii/3699-declaratie-privind-apararea-onoarei-si-demnitatii-magistratilor.html>.

**We recommend that the SCM adopt and maintain a proactive approach to communication and continue to use public feedback tools, especially on issues of heightened public interest. At the same time, this communication must be carefully calibrated to avoid tensions or misunderstandings, both among professionals in the field and the general public. We also believe it is necessary to develop a communication strategy, expressed in a transparent and clear manner, with the goal of building public trust.**

the status of suspects. The Council condemned any attack on the integrity of the judiciary and urged the Prosecutor's Office to protect the private and family life of the persons concerned, so as not to create the conditions for televised justice and the violation of the presumption of innocence of the persons concerned. At the same time, the SCM recommended to the administrators of social networking sites, as well as to the media, to moderate discussions on social networks and not to allow the promotion of hate speech against the entire judiciary.

On January 17, 2024,<sup>39</sup> the SCM informed about the refutation of some information in a TV program. The refutation was necessary in the context that the Deputy Head of the Anti-Corruption Prosecutor's Office (APO) Octavian Iachimovschi reported that premises for the APO had been identified and that the SCM and the SCJ allegedly participated in the decision on the identification of the premises. The SCM refuted the information published in the public space that the SCM and the SCJ allegedly had certain discussions with the APO regarding the identification of premises for the APO.

On January 24, 2024,<sup>40</sup> the SCM was concerned about the repeated statements of the Prime Minister of the Republic of Moldova, made during the meeting of the Government of the Republic of Moldova, regarding the actions of some judges. The SCM requested that the names of judges should not be publicly mentioned in conclusions on judicial decisions.

On September 13, 2024,<sup>41</sup> the SCM expressed its position on the reactions of the Judges Association regarding the dismissal of some judges. In this communiqué, the SCM reaffirmed its determination to act in accordance with the law and the fundamental values of the judiciary.

On September 20, 2024,<sup>42</sup> the SCM commented on the unjustified delay of judicial proceedings. The SCM emphasized that judges have the responsibility to counter any attempt to unduly delay cases and to prevent abuses of the law that affect the length and efficiency of trials. The SCM noted that any attempt to manipulate or unjustifiably delay the course of justice constitutes an abuse and will not be tolerated.

<sup>39</sup> SCM Refutation of January 17, 2024: <https://www.csm.md/ro/noutatii/3748-dezmintire-cu-privire-la-informatia-din-cadrul-emisiunii-cutia-neagra-plus-eronat-expusa-in-spatiul-public-de-catre-octavian-iachimovschi-sef-adjunct-al-procuraturii-anticoruptie.html>.

<sup>40</sup> SCM Statement of January 24, 2024: <https://www.csm.md/ro/noutatii/3758-solicitam-abtinerea-de-la-expunerile-in-mod-public-a-numelor-judecatorilor-in-expunerea-concluziilor-pe-marginea-unor-decizii-judecatoresti.html>.

<sup>41</sup> SCM Position of September 13, 2024: <https://www.csm.md/ro/noutatii/3992-pozitia-csm-fata-de-reactiile-privind-eliberarea-din-functie-a-judecatorilor.html>.

<sup>42</sup> SCM Opinion of September 20, 2024: <https://www.csm.md/ro/noutatii/4001-csm-descurajeaza-ferm-tergiversarea-nejustificata-a-proceselor-judiciare.html>.

On October 10, 2024,<sup>43</sup> the SCM responded to statements by some authorities about pressure to verify a judge. The SCM noted that such statements constituted intimidation of a judge, which should be promptly and impartially investigated, otherwise it would undermine public confidence in the vetting process and the independence of judges.

On October 29, 2024,<sup>44</sup> the SCM responded to statements made by senior officials regarding the work of the judiciary in the context of electoral processes and cases of heightened public interest. The SCM called for respect for the independence of the judiciary and recalled that in any constitutional state, the authorities should avoid public statements that could put pressure on judges or jeopardize the image of the judicial system as a whole.

In the previous study, the LRCM found that the previous composition of the SCM was extremely passive and generally did not make any public reactions or statements, although the image of the judiciary was seriously damaged. There were situations when, as a result of several journalistic investigations, media materials were published indicating unjustified wealth, adoption of decisions that harmed the state budget or even affected state security. However, the SCM did not react to these materials.<sup>45</sup>

The SCM has the power to respond when serious harm is done to the professional reputation of the judge or to the image of the judiciary. It is encouraging that the new composition of the SCM has adopted a more proactive approach to communication. At the same time, some public interventions of the SCM have led to conflictual situations with other representatives of the legal profession (e.g. the Moldovan Bar Association, associations of judges).

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<sup>43</sup> SCM Response of October 10, 2024: <https://www.youtube.com/watch?v=3d33TjmN7dM>.

<sup>44</sup> SCM Response of October 29, 2024: <https://www.csm.md/ro/noutatii/4044-reactia-consiliului-superior-al-magistraturii-si-reafirmarea-angajamentului-fata-de-independenta-si-eficienta-actului-de-justitie.html>.

<sup>45</sup> LRCM, Monitoring Report "Transparency and Efficiency of the Superior Council of Magistracy of the Republic of Moldova: January 2015 – March 2016", available at: <https://crjm.org/en/transparency-efficiency-superior-council-of-magistracy-moldova-january-2015-march-2016/8836/>.

## **CHAPTER II.**

### **CAREER OF JUDGES**

## 2.1. Organizing Competitions

According to the Law No. 544/1995,<sup>46</sup> the SCM organizes the competition for the vacant positions of judge, chief judge and deputy chief judge of a court, usually twice a year. In order to ensure transparency, the SCM publishes on its website information on all vacant judicial posts or posts that are likely to become vacant within the next six months until the announcement of the competition. All vacant or likely to become vacant judgeships shall be filled by the next competition. The competition to fill the posts of judge, deputy chief judge and chief judge of a court shall be organized by the Council on the basis of rules approved by it. The competition is open to persons entered in the register. This new mechanism has been applicable since 2020, following a series of legislative changes concerning the appointment and promotion of judges. These changes have remedied a flawed practice whereby the SCM organized a competition for each vacancy. This involved considerable administrative resources for the SCM, as there was no guarantee that all positions would be filled, and it did not provide predictability for judges in their career planning.<sup>47</sup>

**We recommend that the SCM revise and publish the Regulations on the Register of Participants in Competitions for the Position of Judge, Chief Judge or Deputy Chief Judge in accordance with the new legislative amendments, as well as the lists of persons to be excluded, in order to ensure a transparent and predictable selection process for candidates.**

By SCM Decision No. 253/17 of May 7, 2024,<sup>48</sup> the Register of Participants in Competitions for the Position of Judge, Chief Judge or Deputy Chief Judge of a Court was updated. However, the procedure was characterized by a lack of transparency, as the list of those to be excluded was not published in due time (the materials of the hearing), thus preventing the persons concerned from intervening or supporting their position. As a result, nine persons submitted petitions for the withdrawal of the unfavorable individual act. Recently, the SCM has initiated a procedure to amend the Regulation on the Register of Participants in Competitions for the Position of Judge, Chief Judge or Deputy Chief Judge of a Court.<sup>49</sup>

<sup>46</sup> Law No. 544 of 20 July 1995 on the Status of the Judge, available at: [https://www.legis.md/cautare/getResults?doc\\_id=144861&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=144861&lang=ro#).

<sup>47</sup> LRCM, Analytical Paper „Selection and Promotion of Judges in the Republic of Moldova: June 2017 – December 2019”, available at: [https://crjm.org/wp-content/uploads/2019/12/2019-12-09\\_Promovarea-judecatorilor.pdf](https://crjm.org/wp-content/uploads/2019/12/2019-12-09_Promovarea-judecatorilor.pdf).

<sup>48</sup> SCM Decision No. 253/17 of May 7, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/17/253-17.pdf>.

<sup>49</sup> SCM Communication, available at: <https://www.csm.md/ro/noutatii/4026-consiliul-superior-al-magistraturii-csm-a-initiat-procesul-de-modificare-a-regulamentului-privind-organizarea-si-functionarea-csm-si-a-regulamentului-privind-registrul-participantilor-la-concursul-pentru-ocuparea-functiilor-de-judecator-presedinte-sau-vicepresedinte-al-instantelor-judecatoresti.html>.

**The new selection procedure used a weighted scoring system, taking into account the performance in the NIJ exams – maximum 60% of the evaluation, the marks obtained by the candidates from the Selection Committee – maximum 20% of the evaluation, and the evaluation of the members of the SCM – maximum 20% of the evaluation. After the two competitions, the SCM proposed 39 candidates for appointment as judges. Of these, 27 are NIJ graduates and 12 come from among the candidates who participated in the competition for access to judgeship on the basis of seniority. Hence, 69% of the vacancies for judges in both competitions**

With regard to competitions for the appointment of judges, the SCM organized two competitions during the period under review. They were held in November 2023<sup>50</sup> and May 2024.<sup>51</sup> In the November 2023 competition, more than 80 registered candidates competed for 15 vacant positions of judges in various courts. In the May 2024 competition, 57 candidates registered for the 36 vacant positions.

Both the first and second competitions involved extensive and lengthy interviews under the new legislation, with significant differences from the competitions held under the previous legislation.<sup>52</sup> During the interviews, candidates were asked about their motivation to become a judge, challenges facing the judiciary, integrity issues, and were asked to solve cases. The candidates with the highest scores were selected for the vacancies. The SCM plenary then voted openly to select the candidates for the 15 vacancies from the first competition and the 24 vacancies from the second competition.

Previously, the SCM members did not organize an interview as such, asking a set of specific questions and evaluating all candidates on the basis of common criteria/evaluation questions, but rather short interviews, with an average duration of 2-3 minutes, during which the SCM members asked the candidates one or a maximum of two questions. In most cases, SCM members asked about (i) the reasons for resigning from previous positions (prosecutor or lawyer) or (ii) which court other than the one chosen by the candidate (usually from among the ones in Chişinău) the candidate could choose. In addition, the questions were not addressed in a similar manner to all candidates and no systematic approach to the way they were addressed could be observed. In the end, the SCM's score ranged from 4 to 20 points for more or less similar performances, without any verbal explanation by the SCM members during the meeting or any written explanation in the SCM's reasoned judgment.<sup>53</sup>

<sup>50</sup> Audiovisual recording of November 16-17, 2023 competition, available at: [https://www.youtube.com/watch?v=YKrTcSqsRUc&list=PLwaOltq-TpqqZl8rs\\_pksWT0ybbiYvFYc&index=33](https://www.youtube.com/watch?v=YKrTcSqsRUc&list=PLwaOltq-TpqqZl8rs_pksWT0ybbiYvFYc&index=33).

<sup>51</sup> Audiovisual recording of May 21-23, 2024 competition, available at: <https://www.youtube.com/watch?v=BmTk14JpNf8&list=PLwaOltq-Tpqr4DerSMf4TfFG5pIlFLRmr&index=20>.

<sup>52</sup> Law No. 147 of 9 June 2023 on Selection and Performance Evaluation of Judges (in force from 21 June 2023), available at: [https://www.legis.md/cautare/getResults?doc\\_id=138410&lang=ro](https://www.legis.md/cautare/getResults?doc_id=138410&lang=ro).

<sup>53</sup> For more details on the 2019 Selection and Promotion Mechanism, see: LRCM, Public Policy Paper „Resetting the Selection and Promotion System for Judges – Lessons Learned and New Challenges”, 2020, available at: <https://crjm.org/wp-content/uploads/2020/05/Resetare-sistem-selectie-si-promovare-2013-2019.pdf>.

were filled by NIJ graduates and 31% by candidates with seniority. This distribution reflects the SCM's focus on promoting NIJ graduates. There has been a significant positive development in conducting competitions for the appointment of judges, both in terms of the transparency of the process and the qualitative assessment of the candidates, carried out through the weighted scoring system. Previously, the competitions did not provide such a level of transparency for the whole process, and the interviews with each candidate were superficial and more formal.

During the reporting period, the SCM also announced other competitions for the Courts of Appeal and the SCJ. During the period under review, two competitions were held to fill vacancies at the SCJ. On the basis of the competitions of May 21<sup>54</sup> and June 5, 2024,<sup>55</sup> it was proposed to the President of the Republic of Moldova to appoint five candidates as judges of the SCJ until the age limit is reached.

At the same time, it should be noted that although the candidates for the position of judge at the SCJ passed the evaluation on ethical and financial criteria, out of the 11 candidates who participated in the interviews for these positions, only five were awarded a sufficient score to pass the competition.

On October 1, 2024, the SCM decided on the admissibility of five applications<sup>56</sup> of candidates to participate in the following competition to fill vacant positions at the SCJ. The process is continuous and will continue until all vacancies are filled. At the same time, the SCM organized several competitions for the temporary transfer and filling of vacancies in the Courts of Appeal and the SCJ. This measure was necessary to ensure the functioning of the courts in the context of the wave of resignations submitted during this period.

Regarding the **transfer** to a court of the same level, during the reporting period, by SCM Decision No. 451 of October 11, 2023,<sup>57</sup> the SCM ordered the filling of 18 vacant positions by transfer (15 of which were filled at Chişinău District Court), and by Decision No. 262/1/18<sup>58</sup> and Decision No. 262/18<sup>59</sup> of May 16, 2024, 11 judges were transferred to courts of the same level (four of which were filled at Chişinău District Court).

We note that vacancies in Chişinău District Court are mainly filled by transfer. One of the conditions for a judge to be transferred is that he/she must have served at least three years in a court and have no disciplinary sanctions.<sup>60</sup> The SCM complied with

<sup>54</sup> SCM meeting of May 21, 2024, available at: <https://www.youtube.com/watch?v=k18b-pZirk>.

<sup>55</sup> SCM meeting of June 05, 2024, available at: <https://www.youtube.com/watch?v=Jlposz5FRKU&list=PLwaOltq-Tpqr4DerSMf4TfFG5pIIFLRmr&index=24>.

<sup>56</sup> SCM Decision No. 556/34 of October 1, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/34/556-34.pdf>.

<sup>57</sup> SCM Decision No. 451 of October 11, 2023, available at: <https://www.csm.md/files/Hotaririle/2023/28/451-28.pdf>.

<sup>58</sup> SCM Decision No. 262/2/18 of May 16, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/18/262-18-1.pdf>.

<sup>59</sup> SCM Decision No. 262/18 of May 16, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/18/262-18.pdf>.

<sup>60</sup> Article 20 of the Law no. 544 of July 20, 1995, on the Status of the Judge, available at: [https://www.legis.md/cautare/getResults?doc\\_id=144861&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=144861&lang=ro#) and Article 7 of Law No. 178 of July 25, 2014, available at: [https://www.legis.md/cautare/getResults?doc\\_id=144930&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=144930&lang=ro#).



these legal requirements. The reasoned decision of the SCM describes the situation concerning the rejection of a request for transfer of a judge. The reason for the rejection of the transfer request was the finding that the judge had committed a disciplinary offense and the disciplinary sanction imposed was a 'warning'.

This practice is positive and was recommended in the 2016 LRCM analysis, which emphasized that the SCM should avoid appointing large numbers of inexperienced judges to courts with high workloads and cases of high complexity.<sup>61</sup> Most vacancies in large courts are filled primarily by transfer. This is to ensure that the appointed judge has at least three years' experience and no disciplinary record.

## Resignation, Suspension, and Removal of Judges

During the period under review, the SCM ruled on 31 requests for resignation submitted by judges on their own initiative. Of these cases, two judges requested to resign in connection with reaching the age limit. One judge's request for honorable resignation was accepted,<sup>62</sup> and in the case of the other judge, the SCM accepted the request for resignation related to reaching the age limit, but without maintaining the status of honorable resignation.<sup>63</sup> Of these 31 requests, 25 are for the resignation of judges of Chişinău CA, one is for the resignation of a judge of Cahul CA, and only in five cases<sup>64</sup> the requests are for the resignation of judges of lower courts.

Out of the 25 requests for resignation from Chişinău CA, 20 requests for resignation<sup>65</sup> were submitted after the judges were informed about the start of the extraordinary evaluation procedure, and the other five requests<sup>66</sup> were submitted between October 2023 and April 2024.

<sup>61</sup> LRCM, Public Policy Paper „Resetting the System of Selection and Promotion of Judges – Lessons Learned and New Challenges”, 2020, available at: <https://crjm.org/wp-content/uploads/2020/05/Resetare-sistem-selectie-si-promovare-2013-2019.pdf>.

<sup>62</sup> SCM Decision No. 228/17 of May 7, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/17/228-17.pdf>.

<sup>63</sup> SCM Decision No. 208/17 of May 7, 2024, available at <https://www.csm.md/files/Hotaririle/2024/17/208-17.pdf>.

<sup>64</sup> SCM Decision No. 485/30 of October 24, 2023, on request for resignation of Judge Stanislav Sorbalo from Bălţi District Court, available at: <https://www.csm.md/files/Hotaririle/2023/30/485-30.pdf>.

SCM Decision No. 583/37 of December 21, 2023, on resignation of Judge Lucia Danilişin from Edineţ District Court (Donduşeni premises), available at: <https://www.csm.md/files/Hotaririle/2023/37/583-37.pdf>.

SCM Decision No. 51/5 of February 6, 2024, on resignation of Judge Aliona Donos from the Bălţi District Court, available at: <https://www.csm.md/files/Hotaririle/2024/05/51-5.pdf>.

SCM Decision No. 266/18 of May 20, 2024 on request for resignation of Judge Djeta Chistol from Chişinău District Court, available at: <https://www.csm.md/files/Hotaririle/2024/18/266-18.pdf>.

SCM Decision No. 443/29 of September 4, 2024, on request for resignation of Judge Serafim Vasilache of Chişinău Court, available at: <https://www.csm.md/files/Hotaririle/2024/29/443-29.pdf>.

<sup>65</sup> Agenda of the SCM meeting of May 07, 2024, available at: [https://www.csm.md/files/Ordinea\\_de\\_zi\\_CSM/2024/17/AgendaCSM.pdf](https://www.csm.md/files/Ordinea_de_zi_CSM/2024/17/AgendaCSM.pdf).

<sup>66</sup> SCM Decision No. 512/31 of Nov 2, 2023 on request for resignation of Judge Alexandru Gafton from Chişinău Court of Appeals, available at: <https://www.csm.md/files/Hotaririle/2023/31/512-31.pdf>.

SCM Decision No. 582/37 of Dec 21, 2023 on request for resignation of Judge Iurie Iordan from Chişinău Court of Appeals, available at: <https://www.csm.md/files/Hotaririle/2023/37/582-37.pdf>.

SCM Decision No. 588/38 of Dec 29, 2023 on request for resignation of Judge Ghenadie Moroza from Chişinău Court of Appeals, available at: <https://www.csm.md/files/Hotaririle/2023/38/588-38.pdf>.

SCM Decision No. 589/38 of Dec 29, 2023 on request for resignation of Judge Iurie Cotruţă from Chişinău Court of Appeals, available at: <https://www.csm.md/files/Hotaririle/2023/38/589-38.pdf>.

SCM Decision No. 156/14 of April 9, 2024 on request for resignation of Judge Elena Cojocari from Chişinău Court of Appeals, available at: <https://www.csm.md/files/Hotaririle/2024/14/156-14.pdf>.

Regarding the suspension of judges, four SCM decisions<sup>67</sup> in November 2023 and six decisions<sup>68</sup> in 2024 ordered the suspension of judges accused of committing crimes. The judges remain suspended until a final decision on the cases against them is issued.

The SCM also commented on the dismissal of 10 judges during the period under review. Three<sup>69</sup> of them are those who did not pass the external evaluation, being candidates for the position of judge at the SCJ. Six released judges are those who were awaiting reappointment until they reached the age limit, while one judge was released following a conviction decision by the SCM.<sup>70</sup>

## 2.2. Requests for Re-appointment

On April 1, 2022,<sup>71</sup> several changes to the Constitution took effect, including the elimination of the five-year initial appointment requirement for judges. According to the Venice Commission,<sup>72</sup> this requirement compromised the independence of judges. However, this change does not apply to judges whose initial five-year term expired before April 1, 2022. Approximately 40 judges' terms had expired by that date.

During the period under review, the SCM held two hearings to consider the requests of judges to be proposed for appointment until reaching the age limit,<sup>73</sup> in October 2023 and July 2024.

In October 2023, the SCM ruled on six requests with the following results: four requests were accepted and two requests were rejected. In July 2024, the SCM accepted 11 requests and rejected four requests. There were also dissenting opinions on the four requests rejected by the SCM.

As a result, on September 11, 2024, the President of the Republic of Moldova issued a

<sup>67</sup> SCM Decision No. 526/33 of Nov 14, 2023, available at: <https://www.csm.md/files/Hotaririle/2023/33/526-33.pdf>.  
SCM Decision No. 527/33 of Nov 14, 2023, available at: <https://www.csm.md/files/Hotaririle/2023/33/527-33.pdf>.  
SCM Decision No. 528/33 of Nov 14, 2023, available at: <https://www.csm.md/files/Hotaririle/2023/33/528-33.pdf>.  
SCM Decision No. 529/33 of Nov 14, 2023, available at: <https://www.csm.md/files/Hotaririle/2023/33/529-33.pdf>.

<sup>68</sup> SCM Decision No. 391/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/391-25.pdf>.  
SCM Decision No. 392/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/392-25.pdf>.  
SCM Decision No. 393/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/393-25.pdf>.  
SCM Decision No. 394/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/394-25.pdf>.  
SCM Decision No. 395/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/395-25.pdf>.  
SCM Decision No. 396/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/396-25.pdf>.

<sup>69</sup> SCM Decision No. 387/25 of July 2, 2024 on the report of the External Evaluation Commission on SCJ judge Anatolie Turcan, available at: <https://www.csm.md/files/Hotaririle/2024/25/387-25.pdf>.

SCM Decision No. 385/25 of July 2, 2024 on the report of the External Evaluation Commission on Candidate for Judgeship at SCJ Adrian Ciobanu, available at: <https://www.csm.md/files/Hotaririle/2024/25/385-25.pdf>.

SCM Decision No. 595/36 on the report of the External Evaluation Commission on Candidate for Judgeship at SCJ Dorin Munteanu, available at: <https://www.csm.md/files/Hotaririle/2024/36/595-36.pdf>.

<sup>70</sup> SCM Decision No. 397/25 of July 2, 2024, available at: <https://www.csm.md/files/Hotaririle/2024/25/397-25.pdf>.

<sup>71</sup> Law No. 120 of September 23, 2021 on amending the Constitution of the Republic of Moldova, available at: [https://www.legis.md/cautare/getResults?doc\\_id=127960&lang=ro](https://www.legis.md/cautare/getResults?doc_id=127960&lang=ro).

<sup>72</sup> Venice Commission Opinion No. 1082/2022 of June 20, 2022, available at: [https://www.constcourt.md/public/files/file/comisia\\_venetia/CDL-AD2022019.pdf](https://www.constcourt.md/public/files/file/comisia_venetia/CDL-AD2022019.pdf).

<sup>73</sup> Details of the applications for reappointment of around 40 judges, available at: <https://crjm.org/wp-content/uploads/2024/10/Lista-40-de-judecatori.pdf>.

decree<sup>74</sup> dismissing six of the 40 judges with expired terms. The decree is based on the decisions of the SCM of July 1, 2024<sup>75</sup> (Irina Păduraru, Victoria Hadîrca, Rodica Berdilo and Victoria Sanduța), as well as on the decisions of October 24, 2023<sup>76</sup> (on the requests of Judges Svetlana Tizu and Eugen Popovici).

It was noted that the voting of the members of the SCM does not follow a 'corporatist' model, i.e. it does not exclusively reflect the views of groups of judges or non-judges. In situations where decisions are not unanimous, the votes of the members of the SCM plenary are divided between representatives of judges and non-judges.

For example, in the case of the vote on the reappointment of judges up to the age limit, of the nine members present, six voted in favor and three voted against. In another case, seven members voted in favor and two against. Those who voted against were not exclusively judges or non-judges. This shows a trend towards transparency and diversification of voting, ensuring a balanced representation of both categories of members. Also, on these topics in particular, several dissenting opinions were noted, with authors who were both judges and non-judges. The expression of dissenting opinions also reflects a balanced and inclusive expression of voting options by both categories of members – judges and non-judges.<sup>77</sup>

The SCM is currently considering one request for reappointment, that of Judge Alexei Panis. On July 9, 2024,<sup>78</sup> his request was submitted for consideration, but the meeting was adjourned. Since then, Judge Panis' request has not been placed on the agenda for consideration and is pending. Once this request is considered, the reappointment cycle will be closed. In December 2024, the subject of reappointment was again postponed.

The 2016 LRCM study found that SCM decisions on reappointment requests did not always indicate the number of votes cast, raising questions about whether the requirement of a two-thirds majority of Council members was met. Today, the SCM's approach reflects a positive development by organizing public discussions with individual judges. Reasoned

<sup>74</sup> Decree of the President of the Republic of Moldova no. 1616-IX of September 11, 2024 on the dismissal of some judges, available at: <https://presedinte.md/app/webroot/Decrete/1616.pdf>.

<sup>75</sup> SCM Decision No. 369/24 of July 1, 2024 on the request of Judge Victoria Hadîrca of the Chişinău District Court regarding the submission of a repeated proposal to the President of the Republic of Moldova for appointment to office until the age limit is reached, available at: <https://www.csm.md/files/Hotaririle/2024/24/369-24.pdf>.

SCM Decision No. 370/24 of July 1, 2024 on the request of Judge Rodica Berdilo of the Chişinău District Court regarding the submission of a repeated proposal to the President of the Republic of Moldova for appointment to office until the age limit is reached, available at: <https://www.csm.md/files/Hotaririle/2024/24/370-24.pdf>.

SCM Decision No. 373/24 of July 1, 2024 on the request of Judge Victoria Sanduța of Chişinău District Court concerning the submission of a nomination for appointment as a judge until the age limit is reached, available at: <https://www.csm.md/files/Hotaririle/2024/24/373-%2024.pdf>.

SCM Decision No. 374/24 of July 1, 2024 on the request of Judge Irina Păduraru concerning the submission of a nomination for appointment as a judge until the age limit is reached, available at: <https://www.csm.md/files/Hotaririle/2024/24/374-24.pdf>.

<sup>76</sup> SCM Decision No. 474/30 of Oct 24, 2023 on the request of Judge Svetlana Tizu of Chişinău District Court concerning the submission of a nomination for appointment as a judge until the age limit is reached, available at: <https://www.csm.md/files/Hotaririle/2023/30/474-30.pdf>.

SCM Decision No. 475/30 of Oct 24, 2023 on the request of Judge Eugen Popovici concerning the submission of a nomination for appointment as a judge until the age limit is reached, available at: <https://www.csm.md/files/Hotaririle/2023/30/475-30.pdf>.

<sup>77</sup> For example: for reappointment votes: Svetlana Tizu, Eugen Popovici – 2 votes in favor of their requests (SCM members Chironeţ and Frunze), 5 votes against; Victoria Sanduța, Victoria Hadîrca – 6 votes in favor, 3 votes against (SCM members Caraman, Guzun, Postica); Irina Păduraru – 6 votes in favor, 3 votes against (SCM members Caraman, Guzun, Popescu); Rodica Berdilo – 7 votes in favor, 2 votes against (SCM members Caraman, Guzun).

<sup>78</sup> Agenda of the SCM Meeting No. 26, July 09, 2024, available at: [https://www.csm.md/files/Ordinea\\_de\\_zi\\_CSM/2024/26/AgendaCSM.pdf](https://www.csm.md/files/Ordinea_de_zi_CSM/2024/26/AgendaCSM.pdf).

**We recommend that the SCM adopt a uniform approach to the one-time severance payments upon the dismissal of judges who are not reappointed until they reach the age limit.**

decisions also include the number of pro and con votes as well as dissenting opinions, underscoring the particular importance of the issue at hand, but also the increased care taken in the decision-making process.

At the same time, it is worth highlighting a confusing aspect regarding the honorable resignation of judges and the receipt of one-time severance payment by judges who were not reappointed until they reached the age limit. The confusion concerns the legitimacy of making this payment to such judges. According to the decision on dismissing Judges Victoria Sanduța, Rodica Berdilo, Irina Păduraru, the grounds invoked is art. 25, par. (1) (k) of Law No. 544/1995, in force until August 26, 2022, without specifying whether this situation can be considered honorable within the meaning of Art. 26 of Law No. 544/1995. This situation creates legal uncertainty regarding their entitlement to the one-time severance payment.

However, during the period under review, we noted that the plenary session of the SCM, by Resolution No. 576/35 of October 10, 2024, approved the actions of the interim Chief Judge of Chișinău District Court Livia Mitrofan on the additional allocation of budgetary funds for the year 2024. The decision of the SCM includes the approval of one-time severance payments to four judges dismissed in 2024: Serafim Vasilache, Victoria Sanduța, Rodica Berdilo and Irina Păduraru. Although the situation of Judge Serafim Vasilache is different, since the legal grounds for dismissal are clearly stated in the decision (Art. 25, par. (1)(a) and Art. 26 of Law 544/1995), the inclusion of the other judges remains unclear.

## 2.3. Vetting Process

With the adoption of Law no. 26/2022,<sup>79</sup> Law no. 252/2023<sup>80</sup> and Law no. 65/2023,<sup>81</sup> the SCM was entrusted with new tasks related to the external evaluation of candidates. The SCM thus has the role of transmitting, within five days, to the corresponding Evaluation Commission: the list of subjects to be evaluated and their contact details. In addition, the SCM will review the results of the evaluation based on the evaluation file received from the vetting commission. The subject of the evaluation may submit additional information that he/she considers relevant only if he/she proves that he/she was previously unable to submit it. The representative of the Vetting Commission and the subject of the evaluation are entitled to present their positions in person. The SCM shall, within 30 days at the latest, issue a reasoned decision in which it may: (ii) reject the evaluation report and order a reopening of the evaluation procedure on a one-time basis, if factual circumstances or procedural errors are found that could lead to a different result from that stated in the evaluation report.

During the period under review (October 2023 – October 2024), the SCM reviewed 23 reports of the External Evaluation Commission on candidates for judgeship at the SCJ. Of the 23 reports, two reports concerned judges of the SCJ (Judge Aliona Miron and Judge Anatolie Țurcan). Of the total number of reports, the SCM rejected<sup>82</sup> only one report and instructed the vetting commission to resume the evaluation.

<sup>79</sup> Law No. 26/2022 on Some Measures related to Selection of Candidates for Membership in Self-governing Bodies of Judges and Prosecutors, available at: [https://www.legis.md/cautare/getResults?doc\\_id=131114&lang=ro](https://www.legis.md/cautare/getResults?doc_id=131114&lang=ro).

<sup>80</sup> Law No. 252/2023 on External Evaluation of Judges and Prosecutors and Amending Some Legislative Acts, available at: [https://www.legis.md/cautare/getResults?doc\\_id=145198&lang=ro](https://www.legis.md/cautare/getResults?doc_id=145198&lang=ro).

<sup>81</sup> Law No. 65/2023 on External Evaluation of Judges and Candidates for Judgeship at the Supreme Court of Justice, available at: [https://www.legis.md/cautare/getResults?doc\\_id=145194&lang=ro](https://www.legis.md/cautare/getResults?doc_id=145194&lang=ro).

<sup>82</sup> SCM Decision No. 310/21 of June 5, 2024 on the Report of the Vetting Commission on the External Evaluation of the Candidate for Judgeship at the Supreme Court of Justice Svetlana Balmuş available at: <https://www.csm.md/files/Hotaririle/2024/21/310-21.pdf>.

Of the total number of reports, the SCM rejected only one report and instructed the vetting commission to resume the evaluation. In addition, the SCM accepted 13 of the 23 reports<sup>83</sup> in which the vetting commission ordered a pass, i.e. the candidates met the criteria of financial and ethical integrity.

The SCM also accepted the nine reports<sup>84</sup> of the vetting commission in which the candidates did not meet these criteria. The candidate judges (of all levels) who did not pass the vetting were proposed for dismissal (Anatolie Țurcan, Adrian Ciobanu, Dorin Munteanu).

<sup>83</sup> SCM Decision No. 63/6 of Feb 13, 2024 on the Report of the Vetting Commission on Judge Aliona Miron of the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/06/63-6.pdf>.

SCM Decision No. 77/7 of Feb 20, 2024 on the Report of the Vetting Commission on Candidate Viorica Puica for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/07/77-7.pdf>.

SCM Decision No. 84/8 of Feb 27, 2024 on the Report of the Vetting Commission on Candidate Sergiu Brigai for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/08/84-8.pdf>.

SCM Decision No. 102/9 of March 7, 2024 on the Report of the Vetting Commission on Candidate Aurelia Cazacliu for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/09/102-9.pdf>.

SCM Decision No. 103/9 of March 7, 2024 on the Report of the Vetting Commission on Candidate Aliona Ciocanu for Judgeship at the Supreme Court of Justice: <https://www.csm.md/files/Hotaririle/2024/09/103-9.pdf>.

SCM Decision No. 130/11 of March 19, 2024 on the Report of the Vetting Commission on Candidate Stela Procopciuc for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/11/130-11.pdf>.

SCM Decision No. 133/12 of March 26, 2024 on the Report of the Vetting Commission on Candidate Diana Stănilă for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/12/133-12.pdf>.

SCM Decision No. 134/12 of March 26, 2024 on the Report of the Vetting Commission on Candidate Adrian Cerbu for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/12/134-12.pdf>.

SCM Decision No. 142/13 of April 2, 2024 on the Report of the Vetting Commission on Candidate Stella Bleșceaga for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/13/142-13.pdf>.

SCM Decision No. 171/15 of April 15, 2024 on the Report of the Vetting Commission on Candidate Ion Munteanu for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/15/171-15.pdf>.

SCM Decision No. 254/18 of May 16, 2024 on the Report of the Vetting Commission on Candidate Vladislav Gribincea for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/18/254-18.pdf>.

SCM Decision No. 388/25 of July 2, 2024 on the Report of the Vetting Commission on Candidate Ruslan Berzoi for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/25/388-25.pdf>.

SCM Decision No. 389/25 of July 2, 2024 on the Report of the Vetting Commission on Candidate Ludmila Bolocan for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/25/389-25.pdf>.

<sup>84</sup> SCM Decision No. 112/10 of March 14, 2024 on the Report of the Vetting Commission on Candidate Mihail Lvovschi for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/10/112-10.pdf>.

SCM Decision No. 135/12 of March 26, 2024 on the Report of the Vetting Commission on Candidate Ion Buruiană for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/12/135-12.pdf>.

SCM Decision No. 207/17 of May 7, 2024 on the Report of the Vetting Commission on Candidate Irina Iacub for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/17/207-17.pdf>.

SCM Decision No. 295/20 of June 4, 2024 on the Report of the Vetting Commission on Candidate Rodica Chirtoacă for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/20/295-20.pdf>.

SCM Decision No. 385/25 of July 2, 2024 on the Report of the Vetting Commission on Candidate Adrian Ciobanu for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/25/385-25.pdf>.

SCM Decision No. 387/25 of July 2, 2024 on the Report of the Vetting Commission on Candidate Anatolie Țurcan for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/25/387-25.pdf>.

SCM Decision No. 386/25 of July 2, 2024 on the Report of the Vetting Commission on Candidate Alexandru Rotari for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/25/386-25.pdf>.

SCM Decision No. 409/26 of July 9, 2024 on the Report of the Vetting Commission on Candidate Ion Tețcu for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/26/409-26.pdf>.

SCM Decision No. 595/36 of Oct 29, 2024 on the Report of the Vetting Commission on Candidate Dorin Munteanu for Judgeship at the Supreme Court of Justice, available at: <https://www.csm.md/files/Hotaririle/2024/36/595-36.pdf>.

**We recommend developing an institutional strategy that focuses on strengthening the capacity of the SCM by integrating the experience and expertise gained by evaluation commissions after the vetting has been completed. In this way, valuable know-how will be preserved and the institution will be able to take on the responsibilities of the evaluation panels more effectively.**

It is important that this integrity assessment continue after the vetting process is completed, by integrating at least some of the functions of vetting commissions into the functions of the SCM and/or specialized bodies. This will strengthen the capacity of the SCM to assess the performance of judges. Currently, according to SCM members, this capacity is lacking.



## FINDINGS

- The new composition of the SCM is representative and functional, with only one vacancy for an SCM member from the Court of Appeals judges.
- The reasoned judgments now include the number of votes for and against, as well as the dissenting opinions, which is a concrete improvement over the previous work of the SCM, which was criticized for hiding these details in its decisions.
- The agenda of SCM meetings was consistently published, but this requirement was not fully met for draft decisions and supplementary materials. Failure to publish all draft decisions and supporting documents in a complete and timely manner limits transparency and access to information. Issues of non-publication of supporting materials have also been noted previously, with a recommendation to publish agendas and relevant materials.
- Minutes and summaries of SCM meetings were not consistently published. In at least 45% of the cases, partial publication of documents was observed, either only the summary or only the minutes of the meeting. For three other meetings, neither the minutes nor the summaries were published.
- There have been significant positive developments in the conduct of competitions for the appointment of judges, both in terms of the transparency of the process and the qualitative assessment of the candidates through a weighted scoring system. Previously, competitions did not provide this level of transparency throughout the process, and interviews with each candidate were superficial and formal.
- In competitions for the appointment of judges, vacancies in large courts (Chişinău) are mainly filled by transfer. This ensures that the judges appointed have at least three years of experience and no disciplinary offenses.
- The new composition of the SCM has demonstrated an active commitment by taking public positions to guarantee the independence of the judiciary.

## RECOMMENDATIONS

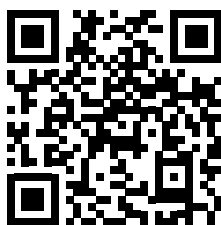
**To the Superior Council of Magistracy:**

- Maintain a proactive attitude toward filling the last vacancy in the SCM, which includes launching or re-launching competitions for that position.
- We recommend that the SCM regularly update the website with the latest internal regulations in order to avoid confusion in the consultation process and to ensure its transparency. At the same time, we recommend that repealed regulations be removed from the SCM website.
- Fill vacancies in the specialized bodies so that they can properly carry out their mandate. As soon as the new compositions of the Committees are operational, we recommend that a differentiated workload for the judges of the SCM Boards be established and implemented through the Integrated Case Management System and an SCM decision.
- Ensure the timely publication of draft decisions and all additional materials related to meetings. These should be made available to the public in advance of meetings to increase the transparency of the decision-making process and to facilitate stakeholder participation and information.
- Publish all minutes and transcripts in a timely manner.
- Reconsider the practice of placing general matters on the supplemental agenda. Supplemental agenda items should only be proposed for urgent and unexpected business.
- Revise the regulations on the register of candidates for the posts of judge, chief judge or deputy chief judge, in accordance with the new legislative amendments, and its publication, as well as the lists of persons to be excluded, in order to ensure a more transparent process.
- Maintain the practice of live-streaming meetings and, where possible, diversify the live-streaming channels to avoid the potential impossibility of visualizing the meetings, but also to increase the transparency and visibility of SCM meetings.
- Adopt a uniform approach to the one-time severance payments to judges who are not reappointed before reaching the age limit.
- Maintain a proactive approach to communication and continue to use public feedback tools, especially on issues of heightened public interest. At the same time, this communication needs to be carefully calibrated to avoid tensions or misunderstandings, both among professionals in the field and the general public. It is also necessary to develop a communication strategy, expressed in a transparent and clear manner, which is essential for building public trust.

**To the Parliament:**

- Amend the legislative framework resulting from the findings of the Constitutional Court (Art. 3 par. (3), Art. 9 par. (2), Art. 15 par. (2), Art. 24 par. (1) of Law No. 947/1996 and Art. 15 par. (11) of Law No. 26/2022) to execute the decisions concerned.
- Amend Law No. 947/1996, so that the competence to grant annual leave to chief judges and deputy chief judges as well as the delegation of judges to training or various events or trips, is delegated to the President of the SCM.
- Amend the legal framework (in particular the SCM Law, the Law on the Selection and Performance Evaluation of Judges, the related framework) to strengthen the capacity of the SCM by integrating the experience and expertise gained by evaluation commissions after the vetting process. In this way, valuable know-how will be preserved and the institution will be able to assume more effectively the responsibilities of evaluation commissions.





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