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UPDATED Analytical Note

TRANSPARENCY OF ACTIVITY OF THE SUPERIOR COUNCIL OF PROSECUTORS (1 January – 31 October 2024)

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EXECUTIVE SUMMARY

In January 2024, the Superior Council of Prosecutors (SCP) reconstituted itself following the delegation of five vetted prosecutor representatives by the General Assembly of Prosecutors on 22 December 2023. Around the same time, the SCP expanded its membership to include three lay members who had also been vetted.

Considering these changes and the publication of an analytical note by the LRCM in December 2023 on the transparency of the SCP's work from 1 January 2020 to 30 June 2023, it was necessary to perform an updated analysis to evaluate how the new membership ensures institutional transparency.

The previous analysis revealed that 17% of SCP meetings were postponed due to poor communication among members. There were frequent extraordinary meetings and supplementary agendas that often covered nonurgent, noncritical matters. Half of the examined matters were irrelevant to prosecutors' work. Additionally, 96% of decisions were published late, with many lacking clear reasoning. Public disciplinary cases and many other matters requiring transparency were discussed in closed sessions, and voting often occurred in deliberation sessions or behind closed doors, contrary to the regulations governing the SCP (SCP Regulation). These issues underscore the need for greater transparency within the SCP.

The latest analysis highlighted some progress. Of the 53 scheduled meetings, only one was postponed, reflecting improved planning and active member participation to ensure the necessary quorum. The expanded use of information technology enabled the organization of two meetings via email and the participation of competition candidates through teleconference, while the General Assembly of Prosecutors was held entirely online. This allowed for greater flexibility and accessibility.

Only two meetings were extraordinary, each addressing important and urgent matters. Additionally, the SCP streamed its sessions live using its own equipment, which reduced reliance on external providers. This improvement enhanced both the visibility and security of proceedings as the SCP stored the video recordings on its official website and YouTube channel. The proportion of essential matters for the work of prosecutors increased from 50% to 70%.

Disciplinary appeals were typically reviewed in public sessions, with most voting on issues also conducted publicly, the practice of secret ballots being abandoned. The majority of decisions made addressed matters related to the

selection and career progression of prosecutors, indicating a focus on enhancing the prosecution system. Numerous requests from the Prosecutor General were considered in public sessions.

On the other hand, the analysis identified significant limitations, too, beginning in January 2024. It has become challenging to determine the publication date of most of the SCP's agendas and decisions, a situation not observed between 2020 and 2023. During the consultation on the draft analytical note, SCP members indicated that these difficulties were due to temporary technical adjustments and did not represent an intentional change in the SCP's policy regarding access to essential information. Nonetheless, this situation negatively impacts the institution's credibility and transparency. It is important to take prompt action to restore and ensure full transparency in accessing data from the SCP's documents.

The SCP continues to publish resolved agendas instead of full minutes. This practice limits access to key information such as attendance, debate summaries, and vote breakdowns. It is necessary to comply with the legal requirement of publishing SCP meeting minutes. Additionally, it has been noted that complainants' names in disciplinary matters are removed from the reasoning part of decisions, although their names often appear in agendas or are mentioned during public meetings. It is suggested to revise the SCP Regulation to address the removal of complainants' names in disciplinary matters.

The SCP Regulation should be revised to require only the meeting chair's signature for decisions, aligning with the Law on the Public Prosecution Service. Promoting electronic signatures as a standard will further streamline procedures and boost administrative efficiency.

During SCP meetings, half of the time spent in them, the proceedings were closed to the public, raising transparency concerns. Decisions on interim executive positions often used insufficient, generalized reasoning. It is recommended to replace this with thorough explanations that include facts and rationale.

The SCP did not consistently handle the Prosecutor General's requests for interim appointments or deputy confirmations. Some were discussed in closed deliberations, others in public, without explanation. It is necessary to ensure consistent public examination of these motions and limit deliberations to disciplinary matters, as per the SCP Regulation.

The LRCM recommends several measures to improve SCP transparency, including publishing decisions, agendas, and meeting minutes, reducing excessive anonymization in some decisions, ensuring decisions are signed and properly reasoned, and improving examinations of matters, especially for the approval of interim executive appointments.

BACKGROUND

Previous Research

In December 2023, the Legal Resources Centre from Moldova¹ published the analytical note *Transparency of Activity of Superior Council of Prosecutors (1 January 2020 – 30 June 2023)*.² The paper analyzed the application and observance of legal provisions regarding the transparency of the Superior Council of Prosecutors (SCP) during this period. This topic was selected due to its significant role in maintaining the independence of prosecutors.

The document identified problems with SCP meetings, examination procedure, and adherence to deadlines for publishing agendas and decisions. Key findings included:

- 83% of scheduled meetings were held. The remaining 17% were postponed due to lack of quorum, mostly from poor communication between prosecutor members and members representing civil society or ex officio members.
- 10% of the meetings conducted were extraordinary, despite having many nonurgent agenda items.
- Approximately 14% of the agendas for ordinary meetings were not published on time. The majority of items on the supplementary agendas pertained to transfers, promotions, interim appointments, and similar matters that did not require immediate action.
- Only half of the examined issues were essential to prosecutors' work, including selection and career progression, disciplinary reviews, regulation changes, and interim appointments.
- A third of the matters, notably disciplinary procedures for prosecutors, were discussed in closed sessions instead of being public.
- The SCP published its decisions within an average of 42 business days, compared to the legal timeframe of ten business days.
- SCP decisions had vague reasoning that mainly cited legal provisions without detailed rationale and relevant factual information.

Based on these findings, the following recommendations were made to enhance SCP transparency:

¹ Website: <https://crjm.org/en/>

² LRCM, analytical note, 2023, available at <https://crjm.org/en/transparency-of-activity-of-superior-council-of-prosecutors-1-january-2020-30-june-2023/19838/>.

SCP meeting arrangements:

- Schedule a fixed day for ordinary meetings and convene extraordinary ones only for pressing matters.
- Specify the types of matters that can appear on supplementary agendas.
- Streamline and record meetings using equipment owned by the SCP.
- Arrange individual hearings for every competition candidate; use a standardized interview scoring sheet.

Discussion of matters at meetings:

- Discuss all matters in public sessions, unless expressly required otherwise by the law; establish clear criteria for closed sessions.
- Announce deliberations only for urgent matters, for example, disciplinary procedures.

Publication of the SCP's documents and decisions:

- Resume the publication of minutes in accordance with the SCP Regulation.
- Fill vacancies or expand the SCP's administrative personnel to avoid delays in publishing agendas and decisions.
- Adopt electronic signatures to streamline the approval of decisions.
- Improve the reasoning for decisions, especially those regarding the approval of interim executive appointments at prosecution offices.
- Always append dissenting opinions to the corresponding SCP decisions.

New SCP Membership

At the General Assembly of Prosecutors of 22 December 2023, prosecutors elected five new vetted prosecutor representatives to the SCP in accordance with the *Act on Certain Measures Related to the Selection of Candidates for Self-administration Entities of Judges and Prosecutors (Act 26/2022)*.

Currently, the SCP has 11 members, including eight vetted, namely prosecutor Dumitru Obadă from the Prosecutor General's Office, as chair of the SCP; prosecutors Aliona Nesterov, Elena Roșior, Eduard Panea, and

Mariana Cherpec from territorial and specialized prosecution offices; civil society representatives Rodica Ciobanu and Mihail Sorbala, nominated by the Academy of Sciences and the government, respectively; and chair of the Superior Council of Magistracy Sergiu Caraman, as an ex officio member.

The new SCP members met for the first time on 3 January 2024. Considering membership change, it became essential to assess the transparency and efficiency of the new SCP and whether they have addressed the LRCM's findings and recommendations from 2023.

The research excludes July to December 2023 to prevent affecting the assessment of the new SCP's work, which started in January 2024.



METHODOLOGY

Research Purpose

This document analyzes the transparency of the new SCP during the first ten months of 2024. It assesses how well the SCP addressed the issues identified in the LRCM's December 2023 analytical note, focusing on the implementation status of the recommendations and their incorporation into SCP practices and procedures.

Comparing the current situation with previous findings will highlight progress and remaining challenges. This analysis will lead to recommendations that enhance SCP's transparency and accountability in the current context.

Research Period

The LRCM monitored all meetings the SCP held from 1 January through 31 October 2024.

Research Objectives

- I. Assess the SCP's transparency in light of the December 2023 findings to identify progress in critical areas, such as meeting schedule predictability, timely publication of agendas and decisions, discussion and substantiation of decisions, organization of prosecutor selection and appointment competitions, examination of disciplinary procedures, and approval of interim and permanent executive appointments.
- II. Assess the implementation status of the LRCM's recommendations from the December 2023 analytical note by checking how the SCP has integrated these recommendations into its processes and practices.
- III. Make findings and recommend measures to improve the transparency of the SCP.

Research Method

The research draws on information from the SCP's website www.csp.md. It focuses on meetings, main and supplementary agendas, procedures for discussions, decision adoption and publication, competitions, and dissenting opinions during the reference period. Other relevant public data about the SCP's work was also considered.

The data was organized in Excel spreadsheets, included with this analytical note,³ to offer clear statistics that emphasize key aspects of the SCP's work and transparency.

Research Phases

- 01 ► Review of video recordings of SCP meetings to gain a comprehensive understanding of the decision-making process and the approach to agenda items.
- 02 ► Compilation of relevant data in Excel spreadsheets, including essential details for assessing transparency at the SCP.
- 03 ► Analysis of the collected data to identify trends in SCP activities and draft pertinent findings and recommendations.

Document Consultation

The draft analytical note was sent to the SCP for consultation on 27 November 2024 and later presented to the public on 6 December 2024.⁴ SCP prosecutor members Eduard Panea, Elena Roșior, and Mariana Cherpec attended the event. They emphasized the SCP's commitment to transparency, dialogue with civil society, and public trust in the prosecution system. They also stressed the importance of the public understanding SCP decisions and their underpinning reasoning, the SCP's results-oriented approach in arranging meetings, and the need to balance transparency with investigation secrecy and privacy.

The specific comments and recommendations provided by the SCP were incorporated into the final version of the document within designated boxes like this one.

Acknowledgments

We would like to express our gratitude and appreciation for the SCP's involvement in the document consultation and validation process. Their contributions and openness enhance our joint efforts to build an efficient and transparent prosecution system.

³ Statistical record Excel spreadsheets, available at <https://crjm.org/wp-content/uploads/2024/11/2024-Tabel-monitor-sed-CSP.xlsx>

⁴ LRCM, press release, SCP transparency, between old and new practices; available at <https://crjm.org/en/scp-transparency-between-old-and-new-practices-what-are-the-successes-of-the-new-composition-according-to-a-report-published-by-the-lrcm/24583/> (accessed on 20 January 2025).

SCP MEETING ORGANIZATION

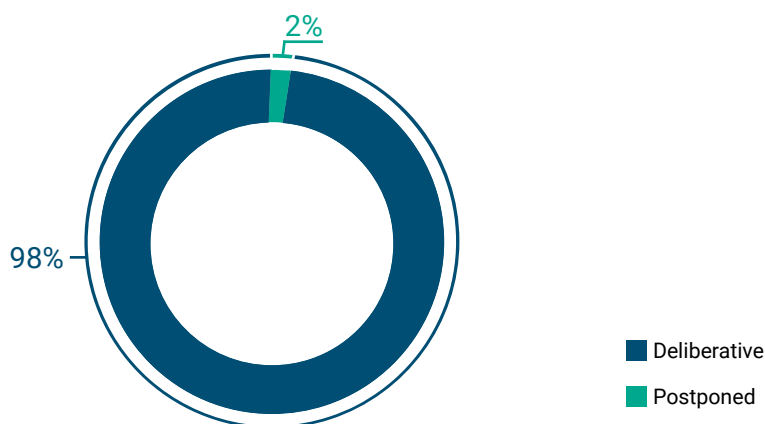
Scheduled Meetings vs. Conducted Meetings

According to the law, the SCP is required to convene meetings as needed, with a minimum frequency of once per month. These meetings are considered deliberative when at least two thirds of the SCP members are in attendance.⁵

Attendance at the SCP's meetings may be in person at the designated venue or remotely via teleconference, provided that the SCP member can be identified and their voting preference verified.⁶ In urgent circumstances, SCP members may, with a vote of at least three quarters of the members, resolve to make certain decisions via email. When a decision is made through email, it is assumed that all members are participating.⁷

During the reporting period, the SCP scheduled 53 meetings, held 52 (98%), and postponed one (2%) due to lack of quorum. The postponed meeting on 21 March 2024 was ordinary and had four prosecutor members and two civil society members in attendance.

SCP meetings, January - October 2024



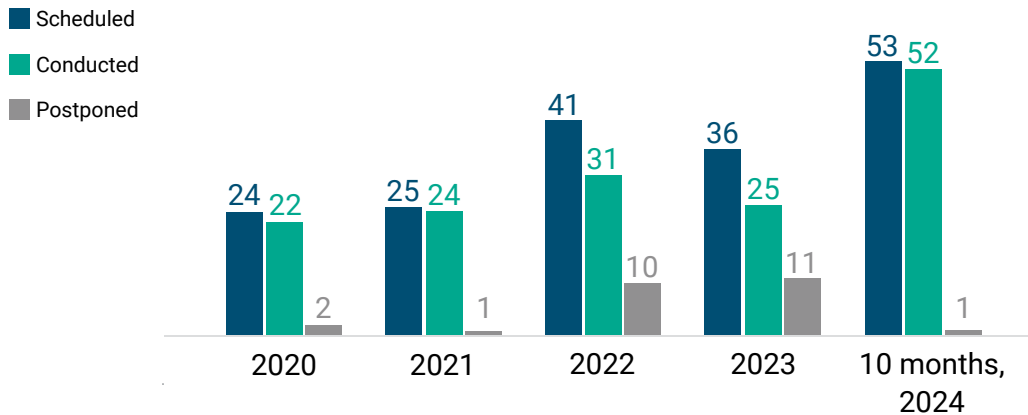
⁵ Article 77 (1) and (4) of the Law on the Public Prosecution Service (Law 3/2016), available at https://www.legis.md/cautare/getResults?doc_id=144973&lang=ro#.

⁶ Para 6.7 of the SCP Regulation, approved by SCP Decision 12-225/16 of 14 September 2016, with subsequent amendments and additions, available at https://www.csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.%2021.05.2024_0.pdf.

⁷ Para 6.8 of the SCP Regulation.

Compared to the period 2020 through 2023, the SCP improved its meeting arrangements. During that period, it scheduled 126 meetings and postponed 24 (19%). Breaking down these figures, 24 meetings were scheduled and two (8%) postponed in 2020, 25 were scheduled and one (4%) postponed in 2021, 41 were scheduled and 10 (24%) postponed in 2022, and 36 were scheduled and 11 (30.5%) postponed in 2023.

Scheduled and conducted SCP meetings, by years



In 2024, there was a notable improvement in the organization of SCP meetings. During the first ten months of 2024, the SCP scheduled and conducted more meetings than in any previous year. The number of postponed meetings also decreased, particularly when compared to 2022–2023. The postponement rate dropped from an average of 19% in the past four years to just 2% (one postponed meeting out of 53 scheduled). This progress reflects better cooperation among SCP members and their commitment to the effective organization of the SCP's activities.

Use of Information Technology

One positive aspect in the organization of SCP meetings is the ever-growing use of information technology due to the modernization of institutional processes. The meetings of 5 April and 15 August 2024 were held via email, in accordance with para 6.8 of the SCP Regulation. This allowed for a fast resolution of issues related to the organization of competitions for inspector prosecutor and prosecutor of territorial prosecution offices, thus preventing delays in decisions and procrastination of proceedings.

The General Assembly of Prosecutors (GAP) of 29 February 2024 was also held online.⁸ During its proceedings, the attendance heard activity reports of the

⁸ Video recording is available at https://www.youtube.com/watch?v=QYCxm_n0I7w&t=1561s.

prosecution system and the SCP for 2023 and discussed the priorities of the prosecution system for 2024. The online format of the event took one hour and a half, saving prosecutors a day on travel, which was used for work instead. The online format also saved financial resources by eliminating logistic expenses, such as venue rental or livestreaming. Other benefits of this format included improvements in efficiency and transparency. We encourage the SCP to use this mechanism again when appropriate.

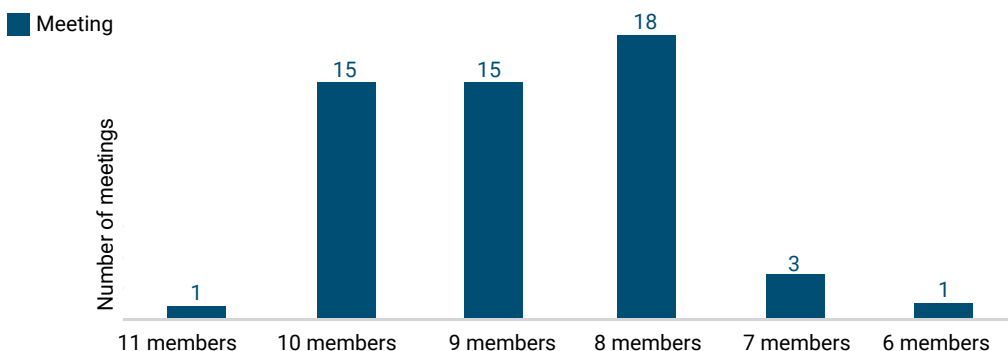
The SCP meeting of 12 August 2024 took place via teleconference, resulting in the fast delegation of SCP chair powers to ensure the continuity of operations. On several other occasions, some SCP members joined the meeting remotely, thus ensuring the required quorum. Interviews with several candidates for prosecutor and one candidate for Deputy Prosecutor General were also online, which significantly facilitated the competition process.

Openness toward digital transformation is a notable change in the SCP's approach and indicates the willingness of the new membership to simplify and streamline its processes. It increases the SCP's efficiency and adapts it to the modern technological era, facilitating faster and more flexible access to the institution's activities.

Member Attendance Rate

In 2024, SCP member attendance at scheduled meetings was more responsible, likely reducing the number of rescheduled meetings. One meeting had all 11 members in attendance. At 15 meetings, member attendance was ten, and at another 15, nine. Member attendance at 18 meetings was eight, and at three meetings, seven. The only postponed meeting, on 21 March 2024, had six members in attendance – four prosecutor members and two civil society members nominated by the Academy of Sciences and the President's Office. Once again, these data indicate a positive commitment of SCP members to the smooth running of the institution.

Meeting attendance rate



Our analysis covered the engagement of lay members during the meetings, excluding the meetings held via email and the postponed one. In 94% of the meetings (47 out of 50) lay members engaged in discussions, expressing opinions, making proposals, asking questions, or taking a position on certain matters. In three meetings (6%), on 11 September, 17 October, and 28 October 2024, the involvement of lay members was limited, without interventions in discussions and the making of opinions or proposals. Overall, the engagement of the SCP lay members was high and they contributed to thorough discussions, especially by asking questions in candidate hearings during competitions organized by the SCP.

Ordinary Meetings vs. Extraordinary Meetings

Aside from the two meetings held via email, out of the remaining 51 meetings, 49 (96%) were ordinary, and two (4%) were extraordinary. The first extraordinary meeting, on 15 April 2024, was to refine the regulations regarding the arrangement of the competition for Prosecutor General nomination and to initiate another competition of this type. The second extraordinary meeting, on 12 August 2024, was online and concerned temporary delegation of SCP chair powers.

Matters discussed in these extraordinary meetings were of major importance and required immediate action to ensure the proper functioning of the SCP and the prosecution system – so, these meetings were justified.

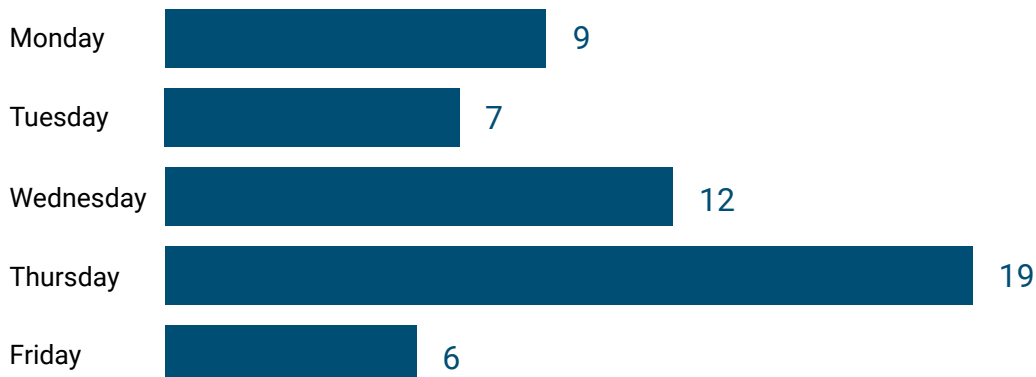
In comparison, from 2020 through 2023, 10% of all meetings were extraordinary. Their agendas often included such matters as appeals from decisions of the Disciplinary and Ethics Board, approval for the combination of prosecutor job with teaching activity, distinction awards, and the delegation of SCP members to various working groups. These matters are usually nonurgent, and it would have been more productive to discuss and resolve them in ordinary meetings.

In conclusion, in 2024, the SCP's practice of extraordinary meetings improved from the previous period. It had considerably fewer extraordinary meetings, and the discussed matters were truly important and urgent.

SCP Meeting “Day”

Out of the 53 analyzed meetings, most, 19 (36%), were scheduled for Thursday. This day was followed by Wednesday with 12 scheduled meetings (27%), and Monday with 9 scheduled meetings (17%). Seven meetings (13%) took place on Tuesday, and six (11%), on Friday. Between 2020 and 2023, Thursday was also the most common day for meetings, with 45% (49 out of 109) scheduled for this day.

SCP meeting day



Although the meeting postponement rate was low in 2024, the recommendation from the previous analytical note to establish a fixed day for SCP meetings still stands. This practice would increase the transparency and predictability of SCP activities, thus facilitating better communication with prosecutors and the public.

During the public consultation on the document, SCP members explained that the challenge of using a dedicated day for meetings was due to fluctuating agendas, but efforts were underway to standardize meeting arrangements to facilitate the attendance of all members.

We acknowledge that SCP members must remain ready to hold meetings on other days, too, when circumstances require, considering their tight schedules. However, a general practice would ensure more predictability for all those involved in the SCP's work.

Meetings Publicity

Our analysis did not identify issues related to the streaming and viewing availability of SCP meetings. It is noteworthy that, unlike previous years when meeting recording and streaming were managed by a national private company, the SCP now uses its own equipment. This change has eliminated reliance on external providers in ensuring publicity for the meetings.

Since October 2023, the SCP has streamed its meetings both on its official website and its YouTube channel,⁹ where they are stored to ensure transparency and easy access for the public. We welcome the SCP's decision to use its own

⁹ The SCP's YouTube channel is available at <https://www.youtube.com/@Consil.Superior.Procurorilor/featured>.

equipment and store the recordings on two distinct platforms – the SCP’s website and YouTube – which adds an additional layer of security and reduces the risk of information loss or corruption.

Live transmission and the archiving of recordings on YouTube help increase awareness of the SCP’s work. The institution’s website and Facebook page¹⁰ frequently publish press releases covering its members’ activities, business visits, and event participation. These efforts enhance visibility and interaction with the public, contributing to trust in the institution.

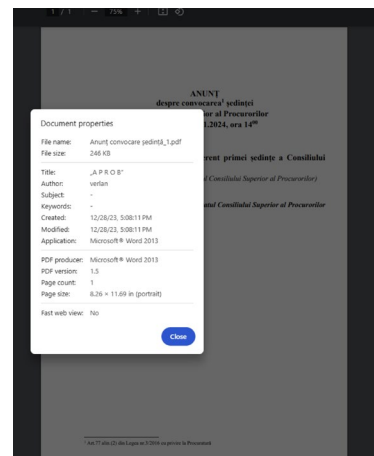
Timely Publication of Agendas

According to the law, the administrative department of the SCP is required to publish meeting agendas on the institution’s official website at least two business days before the meeting.¹¹

When the LRCM worked on the December 2023 analytical note, the team used the “PDF Document Properties” function in browser settings (top right corner) to determine the publication time of agendas, decisions, and other documents from the SCP’s website. This allowed us to identify when any given document was created and modified, from which we inferred the time of its publication on the website. For example, the accompanying screenshot with the announcement of the first meeting of the SCP in the current year, held on 3 January, shows that the document was published on the website on 28 December 2023, at 5:08 p.m.

The analysis for the period from 2020 to 2023 showed that 14% of main agendas (15 out of 109) were published after the legal deadline. Four of these agendas were published on the day of the meeting. No instances were found where information about publication time was missing.

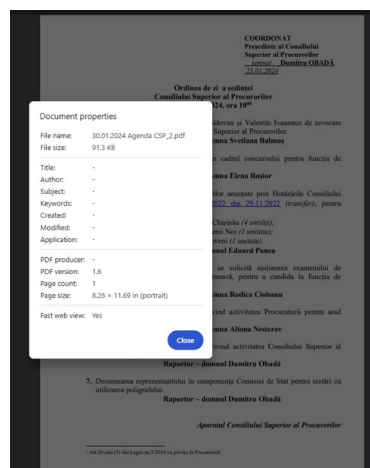
Unfortunately, starting with January 2024, many documents published on the SCP’s website, including meeting agendas and decisions, no longer contained the dates of creation and publication in the “PDF Document Properties” section. The first agenda that lacked this information was for the meeting of 30 January 2024. The accompanying screenshot illustrates the lack of publication information.



¹⁰ SCP’s Facebook page available at: <https://www.facebook.com/www.csp.md/>

¹¹ Article 77 para. (5) of the Law on the Public Prosecution Service (Law 3/2016), available at: https://www.legis.md/cautare/getResults?doc_id=144973&lang=ro, and Para (6.4) of the SCP Regulation, approved by SCP Decision 12-225/16 of 14 September 2016, with subsequent amendments and additions, available at https://www.csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.%2021.05.2024_0.pdf

Hopefully, this is just a coincidence caused by technical adjustments to the operating mode rather than a deliberate intention of the SCP's administrative department to hide essential information about document publication time. This concern arises in the context in which, in its December 2023 research, the LRCM expressly detailed the method used to determine publication dates.

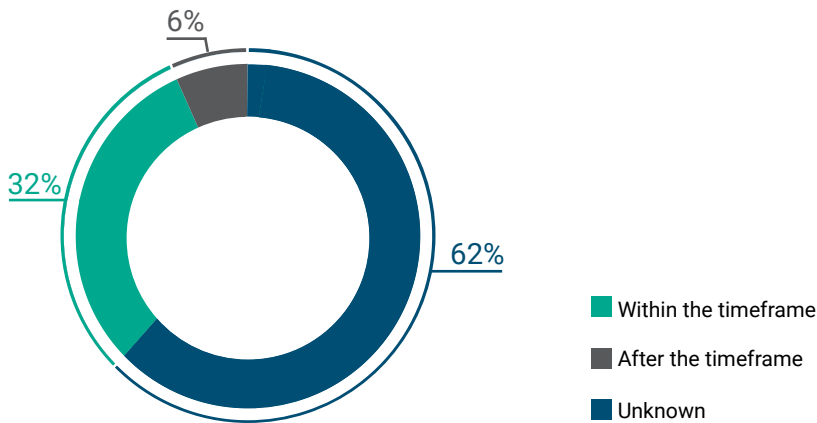


During consultations, the SCP attributed the lack of publication dates for agendas to technical issues they had not been informed about. However, they stressed that the method used to identify publication dates might be unreliable because any modification to the document after initial publication might alter the displayed publication date.

Regardless of the nature of this issue, whether technical or deliberate, it could seriously diminish transparency in SCP activities, weakening public trust in the integrity and openness of the institution. The SCP should intervene promptly to clarify this issue and ensure full transparency regarding the publication date of documents related to the institution's work.

In the above context, out of the total of 53 main agendas, 33 (62%) did not show publication dates, and 20 (38%) did. 17 of these agendas were published on time – namely, one was published six days before the corresponding meeting; four, four days before the corresponding meetings; 11, two days before the corresponding meetings; and one, three days before the corresponding meeting. Three agendas that showed publication dates were published late – namely, the agendas for the meetings of 10 January and 24 July 2024 were published one day before the corresponding meetings, and the agenda for the meeting of 12 June 2024 was published on the meeting day.

Publication of main agendas



During the consultation of the document, the SCP explained that, although the publication dates for three agendas appeared to be late, they were actually published on time. Later, however, they were modified, which altered the displayed publication date. This aspect has been mentioned above.

In conclusion, the available data does not allow determining whether publishing occurred on time for 62% of the agendas (33 out of 53). On the other hand, 32% of the agendas (17 out of 53) were published on time, and for 6% (3 out of 53) the data shows that they were published late.

Supplementary Agendas

According to the SCP Regulation, issues admitting of no delay must be included in supplementary agendas, which go to SCP members by email, and must be published on the official website before the start of the meeting. The SCP usually examines matters from supplementary agendas after finishing all matters from the initial agenda.¹²

According to the SCP, even though these matters appear in the supplementary agenda, they get moved to the meeting agenda only when necessary and if all SCP members agree.

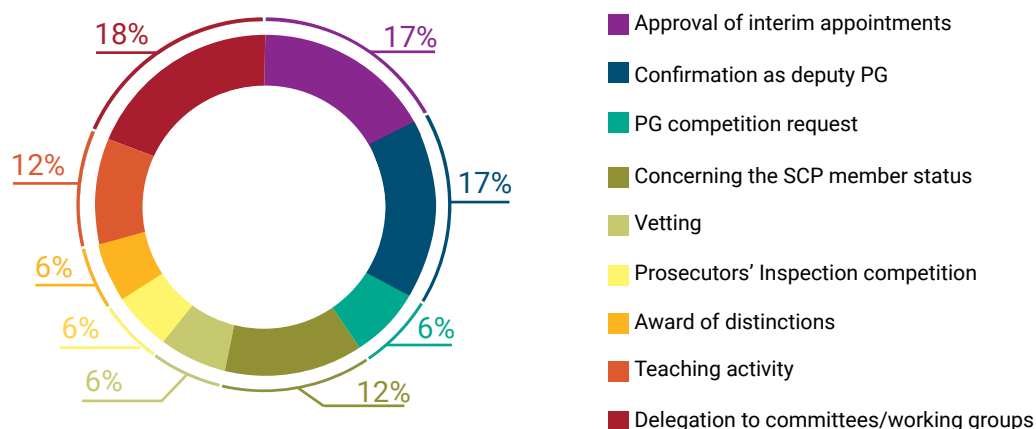
During the research period, the SCP had 12 supplementary agendas (18.4% of the total). They contained 17 matters, including 11 of major importance, such

¹² Para 6.6 of the SCP Regulation, approved by SCP Decision 12-225/16 of 14 September 2016, with subsequent amendments and additions available at https://www.csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.%2021.05.2024_0.pdf

as the approval of interim executive appointments ordered by the Prosecutor General (3 matters); the approval of Deputy Prosecutor General appointments (3 matters); a request concerning a competition for Prosecutor General (1 matter); a request concerning the resignation of a SCP member and the establishment of a SCP member vacancy (2 matters); a request from the Prosecutor Vetting Commission concerning the vetting procedure for anticorruption prosecutors (1 matter); and organizational arrangements for the competition for inspector prosecutors (1 matter).

The remaining six matters from supplementary agendas were less important, namely a request from the Association of Prosecution System Veterans regarding distinctions for former prosecutors (1 matter); the combination of prosecutor job with teaching activity (2 matters); and appointment of SCP members to various committees or working groups (3 matters).

Types of subject matter on supplementary agendas



More than half of items from supplementary agendas were of major importance, which justified their inclusion. However, the SCP should be cautious with this practice, considering the impact it can have on its image.

The smooth functioning of the prosecution system is a priority, and it may be necessary to examine motions for the approval of interim executive appointments or the confirmation of Deputy Prosecutor General as a matter of urgency. However, additional justification and a transparent approach are required for the inclusion of these matters in supplementary agendas. Decisions about executive appointments require thorough preparation, extensive consultation, and multidimensional analysis to allow all SCP members to objectively assess all relevant facts.

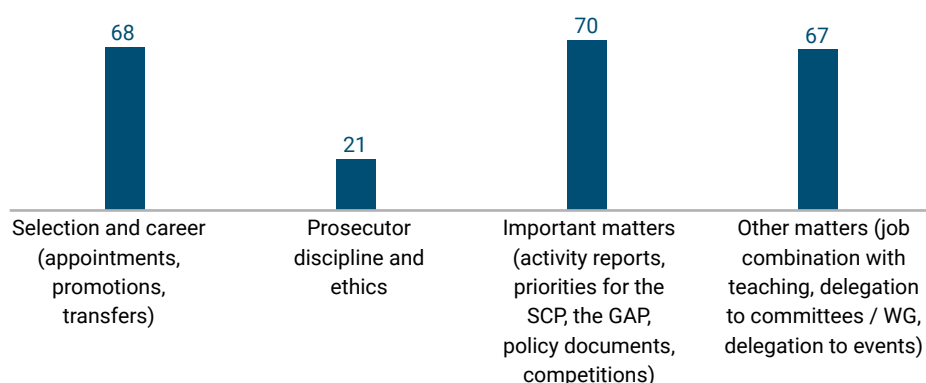
Insufficient analysis of these important matters could affect not only the quality of decisions, but also public trust in decision-making. Better planning and the inclusion of these matters in the main agenda as a general rule would provide all SCP members with sufficient time for proper preparation and would increase public trust in the SCP.

Examined Matters

In the first ten months of 2024, the SCP included 230 matters in its agendas, of which 213 (93%) in main agendas and 17 (7%) in supplementary ones. Counting by the agendas approved at the beginning of each meeting, the SCP admitted 226 matters (98%) for examination. 19 (8%) were postponed during the meetings, usually due to the need for more clarification or at the request of interested parties. During the analyzed period, the SCP resolved 207 matters (92%).

Out of the 226 matters admitted for examination, 68 (30%) concerned the selection and career progression of prosecutors. Another 21 (9%) concerned prosecutor discipline and ethics. 70 matters (31%) concerned important organizational aspects of the prosecution system, such as reports from subordinated boards or the Prosecutors' Inspection, priorities for the SCP, the GAP, the establishment of the Prosecutors' Inspection, etc. The other matters (30%) concerned issues with a lower stake, such as the combination of prosecutor job with teaching activity, requests unrelated to disciplinary issues, member delegation to various commissions, working groups, and events, etc.

Matters admitted to the SCP's agendas



70% of agenda items were essential and concerned the organization and functioning of the prosecution system. This is a significant improvement from 2020–2023, when only half of discussed matters addressed such issues.

Open Meetings vs. Closed Meetings

Out of the total of 207 matters resolved by the SCP during the reference period, 163 (79%) were discussed in open sessions, and 44 (21%), in closed sessions.

The SCP accepted all requests by rapporteurs to discuss matters in closed session. During the reviewed period, the SCP examined two appeals¹³ from decisions of the Disciplinary and Ethics Board. The small number of these appeals is explained by the fact that the Prosecutors' Inspection resumed its work only in September.¹⁴ Out of these appeals, the one filed by suspended prosecutor Vladimir Martea was examined publicly, even though the inspector prosecutor requested a closed session. The other appeal was examined in a closed session, at the request of the concerned prosecutor on the grounds that the discussion would touch on aspects related to his personal life and details from certain ongoing criminal cases.

Although it falls outside the reference period, it is worth noting that, in November 2024, the SCP examined four more disciplinary appeals, only one of which in closed session as it concerned the family members of a person involved in the disciplinary procedure. The other three appeals were examined publicly.

Thus, four out of six appeals were examined publicly, and as for the two closed sessions, they seem to have been justified. The examination of appeals from disciplinary decisions has also improved. Now the SCP tends to examine them in open session. Previously, such examinations occurred exclusively in closed sessions, even when the appellant's lawyers would expressly request a public session. This noteworthy and welcome change significantly improves functional transparency, and we encourage the SCP to continue this practice.

Another positive aspect is that, currently, voting takes place in open session (with some exceptions in January that are addressed in the chapter about the requests of the Prosecutor General), even if prior discussions were in deliberation or closed session. By contrast, the previous SCP used to debate and vote on certain matters in closed sessions and would only read out the operative part of decisions in public. This practice meant that prosecutors and the public were left

¹³ Appeals examined by the SCP:

- Prosecutor Liliana Bugăescu against Decision 3-52/2023 of 28 April 2023 of the Disciplinary and Ethics Board, resolved by SCP Decision 1-338/2024 of 9 October 2024, available at: <https://csp.md/sites/default/files/2024-10/338.%20Hot%20Liliana%20Bugăescu%20admitere%20contesta%C8%9Bie....pdf>

- Prosecutor Vladimir Martea (suspended from office) against Decision 3-82/2023 of 30 June 2023 of the Disciplinary and Ethics Board, resolved by SCP Decision 1-305/2024 of 26 September 2024, available at: <https://csp.md/sites/default/files/2024-10/305.%20Hot%20Vladimir%20Martea%20%28%20cont%20admis%C4%83%20%29-modif..pdf>

¹⁴ Prosecutors' Inspection, Decision of 6 September 2024 on the ascertainment of the functionality of the Prosecutors' Inspection, the resumption of disciplinary procedures and the limitation periods for disciplinary liability, available at: <https://www.csp.md/sites/default/files/inline-files/Decizie%20IP%20din%2006.09.2024.pdf>

in darkness about the way SCP members examined matters and what positions they had, which violated the principle of transparency in decision-making.

Secret voting violates the SCP Regulation, which stipulates that SCP members pass decisions in public sessions by open vote of the majority of attending members.¹⁵ The only exception that allows secret voting is the election of SCP chair.¹⁶

Our calculations show that on average the video recordings of SCP meetings are 161 minutes long (approximately 2.5 hours). However, some meetings started late, while livestreaming started at the announced meeting time. Therefore, the recording length does not always reflect the actual duration of the meeting. To address this inconvenience, we excluded the time intervals in which the actual meeting had not started yet from calculations, even though the streaming was on. After this adjustment, the average duration of SCP meetings was 151 minutes.

Further, we examined the actual duration of the SCP's open session discussions, excluding periods of deliberation, closed sessions, or breaks. The results showed that the SCP worked in open sessions 75 minutes per meeting on average. In other words, approximately half of the proceedings were inaccessible to the public.

Certain matters, such as those related to private life or ongoing criminal matters, naturally require discussion in closed sessions. Technical breaks for the calculation of candidates' scores are also justified. However, when a considerable proportion of the SCP's work happens behind closed doors, it is necessary to consider ways of increasing transparency, while maintaining confidentiality required in certain cases. Deliberations and closed sessions should be a well-justified exception rather than the rule.

In this context, it appears appropriate that SCP examine this data and identify ways to increase transparency. It would be an ambitious yet achievable objective to conduct at least two thirds of the SCP's work in public. Such an achievement would send a strong message of openness and accountability to the public and prosecutors, thus significantly strengthening trust in the SCP.

¹⁵ Para 7.1 and 7.5 of the SCP Regulation, approved by SCP Decision 12-225/16 of 14 September 2016, with subsequent amendments and additions, available at: https://www.csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.%2021.05.2024_0.pdf

¹⁶ Para 5.1 of the SCP Regulation.

Publication of Minutes

The Law on the Public Prosecution Service and the SCP Regulation require the SCP to have the meetings audio/video recorded and the meeting minutes drafted, signed by the chairperson and the secretary, and published on its official website within three business days. The notes on matters examined in closed sessions are not public.¹⁷

SCP meeting minutes must include detailed information about the attendance of members and other people, debate summary, adopted decisions, and the breakdown of votes.¹⁸

However, as it is evident from the “Minutes” section of the SCP’s official website, out of the 52 conducted meetings, the SCP published only the minutes for the meeting of 5 April 2024, held via email.¹⁹ For other meetings, they replaced minutes with “resolved agendas.” This type of documents provides summary information limited to discussed matters, adopted solutions, and the attendance of SCP members and does not include a debate summary or vote breakdown, which are mandatory for minutes according to the law.

During the interviews conducted for the December 2023 analytical note, SCP members explained that the practice of replacing minutes with resolved agendas was due to the difficulty and complexity of manual anonymization of minutes. The demanding nature of this task, coupled with the shortage of administrative personnel at the SCP, excluded any chance of having minutes published within a reasonable time.

The SCP members attending the release of this document mentioned that the publication of these minutes might be redundant because all relevant information was already reflected in meeting recordings and reasoned decisions.

However, as long as the current laws require the publication of SCP meeting minutes, this requirement must be respected to ensure transparency. The SCP could initiate a legislative initiative to revise or eliminate this requirement.

¹⁷ Article 77 para (8) of the Law on the Public Prosecution Service (Law 3/2016), available at: https://www.legis.md/cautare/getResults?doc_id=144969&lang=ro.

¹⁸ Para 6.21 and 6.22 of the SCP Regulation.

¹⁹ See the minutes of the meeting of 5 April 2024, available at: <https://csp.md/sites/default/files/2024-04/Proces-verbal%2005.04.2024%20-%20e-mail.pdf>

SCP DECISIONS

Subject Matters of Decisions

The SCP Regulation stipulates that the SCP passes decisions by the open vote of the majority of attending members and that members whose (self-)recusal was accepted or who were absent from the debates, cannot vote. Voting takes place after the completion of debates.

The decisions of the SCP must be reasoned. Usually, before the meeting, the SCP's administrative department together with the reporting member prepares a draft decision. The final text of the reasoned decision must be produced within five business days of adoption.

As for the voting procedure, SCP members can only vote in favor or against and cannot abstain. The vote is expressed by raising a hand, and the SCP chair votes last. Each SCP member may have a dissenting opinion, which must be announced immediately after the voting. The dissenting opinion must be drafted within three business days of the finalization of the reasoned decision.

The regulation also stipulates that reasoned SCP decisions must be signed by hand or electronically by all members involved in their adoption.

During the research period, the SCP adopted 357 decisions, all of which are available on the institution's website.²⁰ Most of them, 155 (43.4%), concerned the procedure for the selection and career progression of prosecutors. These decisions concerned competition announcements and arrangements, the evaluation of candidates, the approval of scores, winner designation, etc.

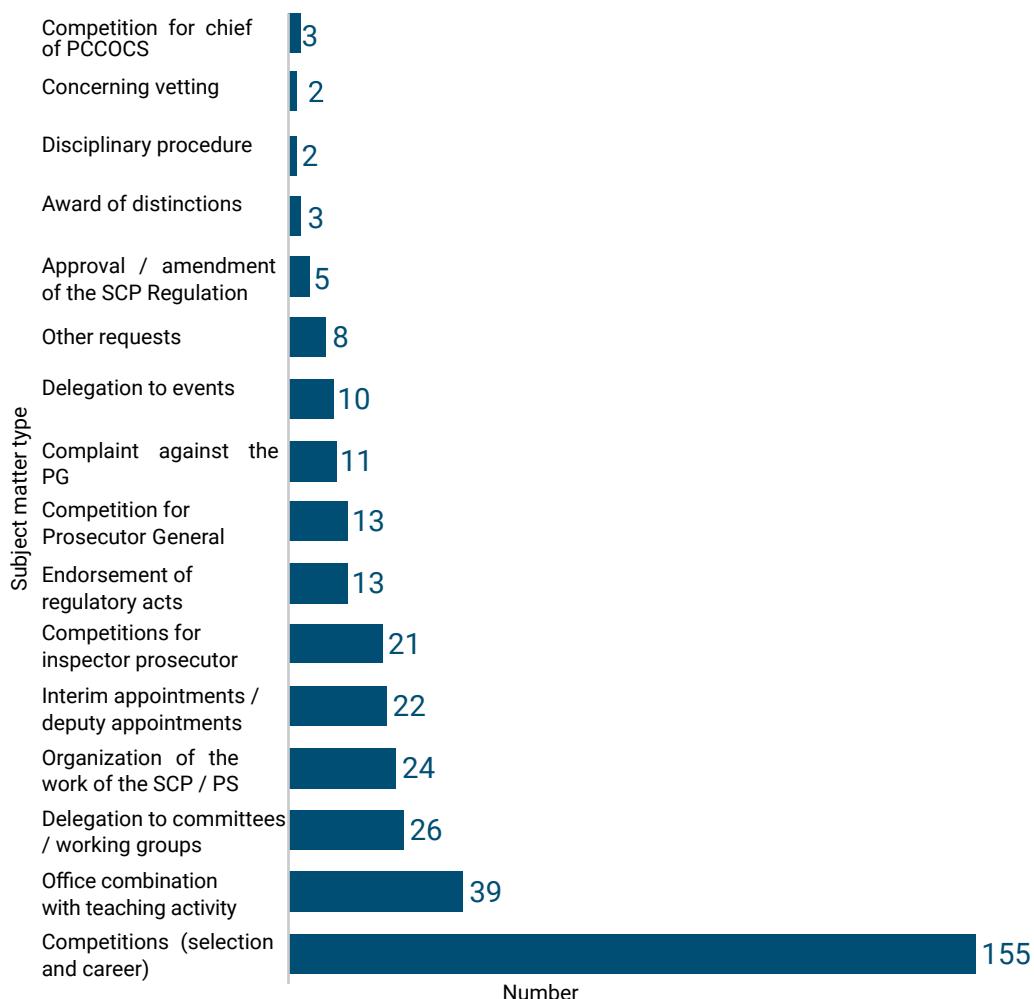
The second most frequent matter from adopted decisions was the approval of the combination of prosecutor job with teaching activity – 39 decisions (11%). These were followed by 26 decisions (7.3%) regarding the appointment of SCP members or other prosecutors to various commissions or working groups, usually for the development of draft regulatory acts.

24 decisions (6.7%) concerned the organization of the work of the SCP and the prosecution system. They mainly referred to the election of SCP chair, the temporary delegation of chairperson powers, the announcement of SCP member vacancy, the organization of the General Assembly of Prosecutors, etc. 22 decisions (6%) were about the approval of interim executive appointments and the acceptance of Deputy Prosecutor General appointments as well as the organization of competitions for inspector prosecutor. 13 decisions

²⁰ Published on the SCP's website at: <https://www.csp.md/consiliu/consiliul-superior-al-procurorilor/hotarari>

(3.6%) concerned draft regulatory acts, and another 13 (3.6%), competitions for Prosecutor General. 10 decisions (2.8%) concerned member delegation to various events.

Type of subject matter of decisions and their number



The presented graph shows SCP decisions disaggregated by subject matters. In 2024, the SCP carried out a broad and diverse range of activities, addressing various matters. The vast majority of SCP decisions focused on a very important aspect for the proper functioning of the prosecution system, namely competitions for prosecutor. This indicates that SCP members are committed to strengthening and optimizing the functioning of the prosecution system.

Publication of Decisions

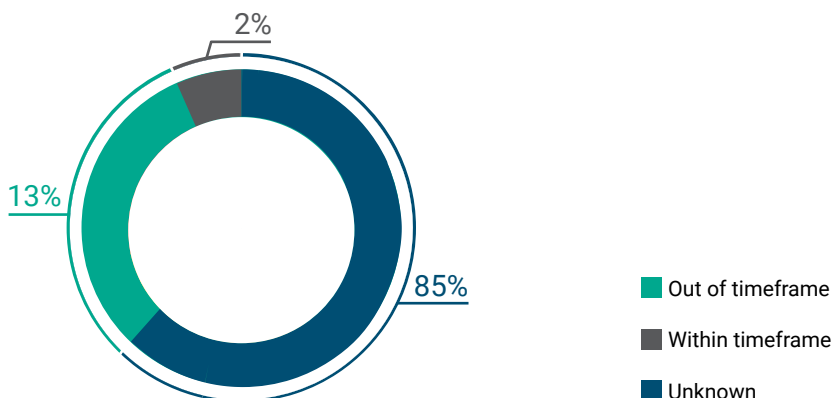
The SCP publishes its decisions on its official website within ten business days, in compliance with the rules concerning personal data, classified information, and confidentiality.²¹

For an overwhelming majority of decisions, 304 (85%), it is not possible to determine the exact publication date. This major issue is caused by the fact that the “PDF Document Properties” function does not contain relevant information regarding the time of creation and publication of the analyzed document, as explained in detail in the section “Timely publication of agendas.”

It is stringent to clarify and address this issue to ensure transparency regarding the publication time of SCP acts. The credibility of the SCP is severely impacted by the ambiguity about the publication time of 85% of its decisions. This lack of transparency negatively influences the perception of the SCP’s work, both among prosecutors and the public, eroding their trust in the fairness and accountability of the institution.

The remaining 53 decisions (15%) allow determining the time of creation and publication. 46 of them (13%) were published within the legal ten-day timeframe, while seven (2%) were published after its expiration. The longest publication delay, identified for one decision, was eight days.²² Two decisions were published three days late; one, two days late; and three, one day late. On average, the publication delay for these seven decisions was three days.

Compliance with the legal timeframe for publishing decisions



²¹ Para 7.9¹ of the SCP Regulation, approved by SCP Decision 12-225/16 of 14 September 2016, with subsequent amendments and additions, available at: https://www.csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.%2021.05.2024_0.pdf

²² See SCP Decision 1-149/2024 on amending the Regulation of the Superior Council of Prosecutors, published on 14 June 2024, available at: <https://csp.md/sites/default/files/2024-06/149.%20Hot.modificarea%20Regulamentului%20CSP.pdf>

This is an improvement from the period from 2020 to 2023, as evidenced by the December 2023 document, when decisions were published with an average delay of 39 days. However, it would not be objective to compare these two situations directly, because between 2020 and 2023, there were very few decisions whose publication time was unidentifiable.

We believe that SCP members should intervene promptly to address this issue and ensure full transparency regarding decision publication date.

Anonymization of Decisions

According to the SCP Regulation, the SCP is required to anonymize decisions before publication to protect the personal data of concerned parties. Specifically, the SCP must remove the last and first names of complainants in disciplinary matters against prosecutors if the complainants are individuals. There is no need to remove the names of complainants who either are public figures, hold an executive or high-ranking public office, or represent a legal entity under public or private law.

Details like individuals' last and first names, birthplace and birthdate, domicile or residence, and telephone numbers, except for service numbers, must also be removed. Information that falls under the scope of the personal data protection law must also be removed.²³

Out of a total of 357 published decisions, 12 (3.3%) had the last and first names of the authors of the requests or complaints that prompted respective decisions removed.²⁴

²³ Para 7.9² of the SCP Regulation, approved by SCP Decision 12-225/16 of 14 September 2016, with subsequent amendments and additions, available at: https://www.csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.%2021.05.2024_0.pdf

²⁴ 1. Anonymized SCP decisions:

- Decision 1-15/2024, concerning a complaint, available at: <https://www.csp.md/sites/default/files/2024-01/15.%20Hotarare%20adresare%20REDACT.pdf>
2. Decision 1-33/2024, concerning a request concerning the qualification examination based on seniority in service at the National Institute of Justice, available at: <https://www.csp.md/sites/default/files/2024-02/33.%20Sust.%20exam.%20INJ.pdf>
3. Decision 1-47/2024 concerning certain requests, available at: <https://www.csp.md/sites/default/files/2024-03/47.%20Hot.respingere.pdf>
4. Decision 1-118/2024 concerning a complaint about allegedly illegal actions of Interim Prosecutor General Ion Munteanu, available at: <https://csp.md/sites/default/files/2024-05/118.%20Hot%20pl%C3%AEngere%20final.pdf>
5. Decision 1-201/2024 concerning the complaint of Mr. Xxxxxxx Xxxxxxx, filed on behalf of Xxxxxxx Xxxxxxx, concerning the allegedly illegal actions of Interim Prosecutor General Ion Munteanu, available at: <https://csp.md/sites/default/files/2024-07/201.%20Hot%20pl%C3%AEngere.pdf>
6. Decision 1-202/2024 concerning the complaint of Mr. Xxxx Xxxxx about the allegedly illegal actions of Interim Prosecutor General Ion Munteanu, available at: <https://csp.md/sites/default/files/2024-07/202.%20Hot%20pl%C3%AEngere%20xx.pdf>
7. Decision 1-203/2024 concerning a complaint, available at: <https://csp.md/sites/default/files/2024-07/203.%20Hot%20pl%C3%AEngere.pdf>
8. Decision 1-225/2024 concerning a complaint, available at: https://csp.md/sites/default/files/2024-07/225.%20examinare%20adresare_0.pdf

We fully acknowledge the importance of protecting the personal data of every citizen. However, the provision in the SCP Regulation that requires the removal of the last and first names of complainants in disciplinary matters and other individuals involved in SCP activities seems unjustified and excessive.

Most of the time, this information is already public, being included in the description of matters on meeting agendas or explicitly mentioned during livestreamed public meetings. Making this information secret at a later phase, in decisions, only creates confusion and adds formalism without ensuring real protection of personal data. Moreover, this inconsistency leads to the perceived erosion of the transparency of the SCP.

A telling example in this regard is the very first anonymized SCP decision this year, *Decision 1-15/2024 of 19 January 2024 regarding a complaint by lawyer Xxxxxxx Xxxxxxx on behalf of XxxxxXxxxxxx, regarding the disciplinary liability of Interim Prosecutor General Ion Munteanu.*

The agenda of the meeting in which the SCP adopted this decision²⁵ has, as the second item, *"The complaint filed by lawyer Alexandru Bodrug on behalf of Sergiu Prodan regarding the disciplinary liability of Interim Prosecutor General Ion Munteanu."* The agenda has no other similar items, which means that the two matters actually refer to the same case. Moreover, during the meeting,²⁶ the reporting member openly mentioned the complainant's name and briefly presented the circumstances relevant to the case. This example shows that it is useless to anonymize this information in reasoned decisions as long as it has already been publicly communicated and made known during the public meeting.

Other SCP decisions also have this kind of inconsistency, where the first and last names of the authors of complaints, requests, or notifications are removed. In light of these findings, we consider it appropriate to have para 7.9² of the SCP Regulation revised by excluding sub-para 1), which requires the removal of the last and first names of complainants in disciplinary matters. This amendment is justified particularly because the Law on the Public Prosecution Service (Law 3/2016) does not impose such an obligation. This would eliminate unnecessary work, making procedures clearer and simpler without compromising the transparency of the SCP and personal data protection.

9. Decision 1-227/2024 concerning a complaint, available at: <https://csp.md/sites/default/files/2024-07/227.%20Hot.%20exam.%20adresare.pdf>

10. Decision 1-228/2024 concerning a complaint, available at: <https://csp.md/sites/default/files/2024-07/228.%20Hot%20dresare.pdf>

11. Decision 1-230/2024 concerning a complaint, available at: <https://csp.md/sites/default/files/2024-08/230.%20HOT.%20adresare.pdf>

12. Decision 1-238/2024 concerning a complaint, available at: <https://csp.md/sites/default/files/2024-09/238%20Hot%20examinare%20pl%C3%A2ngere.pdf>

²⁵ Agenda of the SCP meeting of 19 January 2024, available at: <https://csp.md/sites/default/files/2024-01/19.01.2024%20Agenda%20CSP%20subiecte%20pendinte.pdf>

Requests of the Prosecutor General

During the researched period, the SCP examined 12 matters that concerned requests filed by the Prosecutor General, five of which, during the interim period. Most requests concerned the approval of interim executive appointments in the prosecution system and nominations for Deputy Prosecutor General (including on an interim basis). Other requests referred to the budget for the prosecution system, changes in the structure and personnel of the prosecution system, a request related to the competition for Prosecutor General nominations, and the delegation of a SCP member to the Consultative Council of the Prosecutor General.

In what follows, we will analyze the manner of examining the Prosecutor General's motions regarding interim executive appointments and those regarding consent to the appointment/dismissal of Deputy Prosecutor General (including on an interim basis). This analysis is important, given the high stakes of these motions. We believe that the way the SCP examines matters concerning the leadership of the prosecution system indirectly reflects the general level of transparency of the institution.

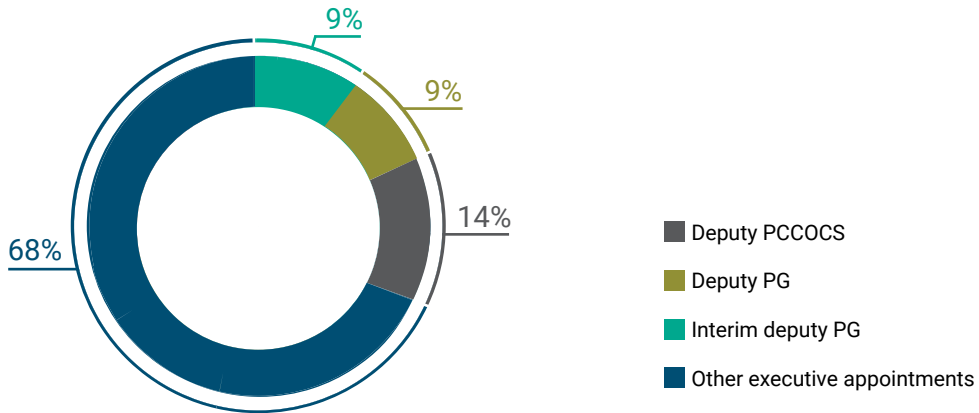
During the reference period, the SCP ruled on 22 such motions. Two of them (9%) concerned the approval of the appointment to, and dismissal from, the office of deputy of interim Prosecutor General,²⁷ and another two, the approval of the appointment to the office of Deputy Prosecutor General.²⁸ Three motions (14%) concerned the approval of interim appointment as Deputy Chief Prosecutor of the Prosecution Office for Fighting Organized Crime and Special Cases (PCCOCS). The remaining 15 motions (68%) concerned the approval of various interim executive appointments in the prosecution system.

²⁶ Video recording of the SCP meeting of 19 January 2024, available at: <https://www.csp.md/index.php/sedin-ta-consiliului-superior-al-procurorilor-din-19-ianuarie-2024>

²⁷ See SCP Decisions 1-74/2024 and 1-75/2024 of 4 March 2024, available at: <https://csp.md/sites/default/files/2024-03/74.%20Hot.%20exprimarea%20acordului%20S.Brigai%20adjunct%20PG%20interimar.pdf> and, accordingly, <https://csp.md/sites/default/files/2024-03/75.%20Hot.%20C3%AEencetare%20acordului%20L.Demciucin%20adjunct%20PG%20interimar.pdf>

²⁸ See SCP Decisions 1-158/2024 and 1-159/2024 of 12 June 2024, available at: <https://csp.md/sites/default/files/2024-06/158.Hot.%20exprimarea%20acordului%20adjunct%20PG%20Russu.pdf> and, accordingly, <https://csp.md/sites/default/files/2024-06/159..Hot.%20exprimarea%20acordului%20adjunct%20PG.pdf>

PG's requests concerning interim executive appointments and deputy appointments



Out of the 22 examined motions, the SCP dismissed only one (4.5%). It concerned the approval of interim appointment as Deputy Chief Prosecutor of the Prosecution Office of the District of Edineț.²⁹ The discussions and voting on this motion took place in deliberation, and as a result, the details and reasoning of the SCP remain unknown. The issued reasoned decision is vague, only mentioning that the nominee did not acquire the required votes, and that the institution has the discretionary right to accept or reject nominees to interim positions.

This practice was common in the past and led to the erosion of the institution's transparency and public image. We consider it imperative that, in the future, the SCP adopts a more open approach in managing such situations, providing clear and transparent reasoning for its decisions regarding executive positions in the prosecution system. This change would significantly contribute to strengthening public trust in the institution.

We previously mentioned, as a positive observation, that SCP members usually vote in public sessions. However, there were some exceptions. In the meetings of 5 and 15 February 2024, the SCP examined three motions of the interim Prosecutor General regarding the approval of certain interim executive appointments and appointed three interim executives after the rejection of previous candidates. In these cases, both the discussions and the voting took place in a closed session. The SCP only read out the operative parts of the decisions in a public session, without detailing the reasoning of the decisions or mentioning any dissenting opinions. The decisions' reasoning parts did not

²⁹ See SCP Decision 1-40/2024, available at: <https://www.csp.md/sites/default/files/2024-02/40.%20Hot.%20examin.%20ordin%20interim%20adj.Edine%C8%9B.pdf>

provide sufficient details either.³⁰ This practice contravenes the principle of decision-making transparency and diminishes public trust.

However, it is important to stress that these situations are limited to the six cases examined early in the term of the new SCP. Subsequently, voting on examined matters took place in public sessions, marking positive progress toward ensuring transparency.

It is noteworthy that in 20 cases (91%) the SCP heard the candidates these motions concerned and asked them questions in public hearings, thus highlighting the commitment to transparency and genuine evaluation. In the other two cases (9%), which concerned the termination of Igor Demciucin's mandate of Deputy Prosecutor General and the appointment of Dumitru Robu as interim Deputy Chief Prosecutor of PCCOCS, the candidates did not participate in SCP meetings. Mr. Robu requested the examination of the motion in his absence, invoking a scheduled leave.

We observed an inconsistent approach in using deliberations to examine Prosecutor General's requests. The two motions regarding the approval of interim appointment and the termination of the mandates of the deputies of the interim Prosecutor General were not discussed in deliberation, and neither were another two motions regarding the approval of appointments as Deputy Prosecutor General, nor one motion regarding the approval of the appointment of interim Deputy Chief Prosecutor of PCCOCS. By contrast, two other motions regarding the same appointment as interim Deputy Chief Prosecutor of PCCOCS were examined in deliberation.³¹

Out of the 15 motions for the approval of interim appointments to other executive offices in the prosecution system, 12 (80%) were examined in deliberation, and three (20%), without deliberation. The lack of clarity about this differentiation raises questions. It is not clear why similar requests are handled differently, which results in perceived inconsistency.

Ideally, there should be a unified practice where all motions and discussions regarding the approval of interim and permanent executive appointments are

³⁰ See the SCP Decisions:

- Decision 1-39/2024 of 5 February 2024, available at: <https://csp.md/sites/default/files/2024-02/39.%20Hot.%20aprob%20interim%20adj.Anenii%20Noi.pdf>
- Decision 1-40/2024 of 5 February 2024, available at: <https://csp.md/sites/default/files/2024-02/40.%20Hot.%20examin.%20ordin%20interim%20adj.Edine%C8%9B.pdf>
- Decision 1-48/2024 of 5 February 2024, available at: <https://csp.md/sites/default/files/2024-02/48.%20Desemnare%20interimar%20adjunct%20of.Principal.pdf>
- Decision 1-49/2024 of 5 February 2024, available at: <https://csp.md/sites/default/files/2024-02/49.%20Desemnare%20interimar%20sef%20of.%20R%C3%AE%C8%99cani.pdf>
- Decision 1-50/2024 of 5 February 2024, available at: https://csp.md/sites/default/files/2024-02/50.%20Desemnare%20interimar%20adj.Edine%C8%9B_0.pdf
- Decision 1-57/2024 of 15 February 2024, available at: <https://csp.md/sites/default/files/2024-02/57.%20Hot.%20aprob%20interim%20adj.Ocnita.pdf>

addressed exclusively in public meetings. This proposal is supported by the fact that the SCP Regulation allows deliberations only for disciplinary procedures and never for other types of matters. Establishing such a practice would strengthen transparency and eliminate perceived arbitrariness in decision-making.

Another important aspect is that none of the Prosecutor General's requests raised disagreements during the public meetings of the SCP and none prompted dissenting opinions. In most cases, the Prosecutor General's motions were accepted unanimously. This may be indicative of either perfect harmony in the cooperation between SCP members and the Prosecutor General or a superficial approach to the examination of his/her requests. In the absence of dissenting opinions or visible public debates, it is not clear whether the approval of motions is supported by a thorough analysis or is a formally treated subject. A more rigorous public examination of these requests would contribute to increasing trust and strengthening the perception of institutional impartiality.

Reasoning of Decisions

According to the law,³² SCP decisions must be motivated, signed by the meeting chair, and published on the official website. Signing may be by hand or electronic.

The SCP Regulation³³ stipulates that the SCP's administrative personnel together with the reporting member must prepare draft decisions before the meeting and that all members who support their adoption must sign them. It also provides for the possibility of handwritten or electronic signatures.

Surprisingly, the SCP Regulation, which is a lower-level regulatory act than the law, sets stricter requirements, requiring the signature of all members participating in the adoption of decisions, whereas the law only requires the signature of the meeting chair.

This difference creates unnecessary and excessively bureaucratic over-regulation, making decision-making more difficult and reducing transparency. During the work on the December 2023 research, the interviewed SCP members mentioned complex signing procedure as one of the causes of delayed publication of decisions. The signing was often delayed by the absence of members on vacation or travel, which made it impossible to observe legal timeframes.

³¹ See the SCP meeting of 24 July 2024, on the approval of interim appointment of Oleg Cernenchi as Deputy Chief Prosecutor of PCCOCS, available at: <https://www.csp.md/index.php/sedinta-consiliului-superior-al-procurorilor-din-24-iulie-2024>

³² Article 77 (7) of the Law on the Public Prosecution Service (Law 3/2016), available at: https://www.legis.md/cautare/getResults?doc_id=144969&lang=ro

³³ Para 7.7–7.9 of the SCP Regulation, approved by SCP Decision 12-225/16 of 14 September 2016, with subsequent amendments and additions, available at: https://www.csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.%2021.05.2024_0.pdf

In this context, we suggest revising the SCP Regulation to align its requirements with the provisions of the law, eliminating the obligation for all participating members to sign decisions. Under the law, the signature of the meeting chair is sufficient. This adjustment will eliminate red tape from the process, increase institutional efficiency, and speed up the publication of decisions.

During the preliminary consultation of the document, the SCP specified that, in fact, only the chair signed decisions, as required by law.

We also consider it appropriate to adjust regulatory provisions to establish electronic signatures as standard for signing decisions, as long as the law does not prohibit this. This amendment would significantly reduce signing time and would contribute to the modernization of the administrative processes of the SCP. These changes would not only improve productivity but also boost transparency at the SCP.

In the part related to decision reasoning, all decisions adopted during the research period were published without issues. This observation is relevant considering the previous findings that, in some cases, the chronological numbering of decisions was interrupted. This indicated that some decisions had been adopted and had been assigned a number, but their reasoning had not yet been drafted and therefore they were absent from the website.

We noticed that SCP decisions concerning the Prosecutor General's motions for the approval of interim executive appointments lacked sufficient reasoning. Both the first³⁴ and the latest decisions³⁵ adopted by the new SCP have a typical structure of one and a half pages, which mainly reproduces applicable legal provisions, without showing the underlying reasoning or substantiating facts.

³⁴ See the SCP's decisions adopted at the meeting of 5 February 2024

- Decision 1-39/2024, available at: <https://www.csp.md/sites/default/files/2024-02/39.%20Hot.%20aprob%20interim%20adj.%20Anenii%20Noi.pdf>

- Decision 1-40/2024, available at: <https://www.csp.md/sites/default/files/2024-02/40.%20Hot.%20exam-in.%20ordin%20interim%20adj.%20Edine%20C8%9B.pdf>

- Decision 1-48/2024, available at: <https://www.csp.md/sites/default/files/2024-02/48.%20Desemnare%20interimar%20adjunct%20Of.Principal.pdf>

- Decision 1-49/2024, available at: <https://www.csp.md/sites/default/files/2024-02/49.%20Desemnare%20interimar%20sef%20Of.%20R%C3%AE%20C8%99cani.pdf>

- Decision 1-50/2024, available at: https://www.csp.md/sites/default/files/2024-02/50.%20Desemnare%20interimar%20adj.%20Edine%20C8%9B_0.pdf

³⁵ See the SCP's decisions adopted at the meeting of 26 September 2024:

- Decision 1-302/2024, available at: <https://csp.md/sites/default/files/2024-09/302.%20Hot.aprobare%20C8%99ef%20interimar%20sec%20C8%9Bia%20combatare%20trafic%20de%20fin%20C8%9Be%20PG.pdf>

- Decision 1-303/2024, available at: <https://csp.md/sites/default/files/2024-09/303.Hot..aprobare%20C8%99ef%20interimar%20Taraclia.pdf>

- Decision 1-304/2024, available at: <https://csp.md/sites/default/files/2024-09/304.Hot..%20aprob%20inter-im%20adjunct%20R%C3%AE%20C8%99cani.pdf>

The particulars regarding the examined candidates consisted only in the seniority in service, the latest evaluation grade, and medical screening results, without other relevant details. The obvious similarity in form and content between these decisions indicates a superficial approach, which negatively affects transparency and public trust.

During the consultation of the document, the SCP acknowledged the need for better reasoning in decisions on the approval of interim executive appointments.

The SCP should review its approach to the reasoning of decisions regarding the approval or rejection of interim appointments by abandoning standardized, “copy-pasted” decisions. Instead, their content should include the facts relevant to each individual case, debates, and members’ opinions about the discussed candidacies. This change would significantly contribute to increasing transparency and trust in decision-making.

We analyzed the reasoning from the decision by which the SCP had cancelled the interview results from the competition of 22 February 2024 for Prosecutor General nominations,³⁶ given its special importance, the uniqueness of the situation, and the impact on the prosecution system.

This decision stands out by its appropriate and detailed reasoning. In addition to indicating the applicable law and relevant international standards, most importantly, the reasoning provides a complete description of all the facts that preceded the adoption of the decision. It clearly details the substantiating facts and the members’ reasoning, facilitating the understanding of the rationale and reasons for the decision. This type of reasoning is an example of good practice, which should be replicated in all SCP decisions.

³⁶ SCP Decision 1-72/2024 of 28 February 2024, available at:

<https://www.csp.md/sites/default/files/2024-03/72.%20Hot.CSP%20Nr.72%20din%2028.02.2024.pdf>

FINDINGS

SCP meeting organization:

During the monitored period, the SCP scheduled 53 meetings, 52 (98%) of which took place and one (2%) was postponed due to lack of quorum, marking significant improvement over the period from 2020 to 2023, when the postponement rate was 19%. The new SCP showed better organization, without numerous postponements, which reflects better cooperation of its members and a stronger commitment to the proper functioning of the institution.

Use of information technology:

In 2024, the SCP expanded its use of information technology, revamping institutional processes. For the first time, it held two meetings via email. Hearings with several candidates from the SCP's competitions and one candidate for Deputy Prosecutor General were held via teleconference. SCP members ever more often tied in to meetings online, thus ensuring the required quorum. The General Assembly of Prosecutors of 29 February was held online, reducing costs and time and highlighting the efficiency of this format. The use of digital solutions increases the flexibility, efficiency, and adaptability of the SCP.

Member attendance rate:

SCP members attended responsibly scheduled meetings, which resulted in fewer postponed meetings. Most meetings had an attendance of 8–10 members out of the total of 11. Lay members engaged actively, participating in the examination of matters, and especially addressing questions to candidates during the competitions organized by the SCP.

Ordinary meetings vs. extraordinary meetings:

During the reference period, the SCP organized only two extraordinary meetings, 4% of all meetings, aside from those held via email. These meetings addressed such matters as adjusting provisions that regulate competitions for Prosecutor General and delegating SCP chair powers to ensure functional continuity. Compared to the period from 2020 to 2023, when extraordinary meetings accounted for 10% of all meetings, in 2024 their number decreased, and the addressed matters were truly urgent and important.

SCP meeting “day”:

36% of SCP meetings fell on Thursday, followed by 27%, on Wednesday, 17%, on Monday, 13%, on Tuesday, and 11%, on Friday. Just like from 2020 through 2023, Thursday was the most common day for meetings. That said, the SCP does not seem to have a certain dedicated day for meetings. The use of Thursdays is rather sporadic. The previous recommendation to establish a dedicated day for SCP meetings remains relevant. This would improve transparency and predictability in the institution’s work.

Meetings publicity:

Our analysis did not identify issues in the transmission and viewing availability of SCP meetings. Unlike previous years, when transmission was outsourced to a private company, the SCP now uses its own equipment and does not rely on external providers. Starting with October 2023, the SCP streams its meetings via its official website and YouTube channel, also using the latter platform to store the recordings for public access. This approach improves the transparency, security, and visibility of SCP activities.

Timely publication of agendas:

62% of SCP meeting agendas (33 out of 53) do not show a publication date — so, it is impossible to determine whether they were published on time. The previous analysis did not identify this issue. Out of the 20 agendas that do show this information (38%), 17 were published on time and three, late. These findings raise significant concerns about the transparency of the SCP, and SCP members should clarify and address the situation.

Supplementary agendas:

The SCP had 12 supplementary agendas (18.4%), which covered 17 matters. 11 matters had major importance, including the approval of interim executive appointments and appointments as Deputy Prosecutor General. The remaining matters were of lesser importance, such as distinctions for former prosecutors or the combination of the prosecutor job with teaching activity. The inclusion of matters related to executive appointments in supplementary agendas requires caution and proper justification. These matters require thorough preparation and proper analysis to avoid compromising the quality of decisions and public trust. It is recommended to use better planning and to establish the rule that such matters be included in ordinary agendas.

Examined matters:

The SCP's agendas covered 230 matters, 213 (93%) of which were in main agendas and 17 (7%) in additional ones. After the approval of the agendas, the SCP admitted 226 matters for examination, 19 (8%) of which were postponed and 207 (92%), resolved. 30% of these matters concerned the selection and career progression of prosecutors, 9%, prosecutors' discipline and ethics, and 31%, the SCP's duties, such as the examination of reports from subordinated boards or the Prosecutors' Inspection, task prioritization, the General Assembly of Prosecutors, etc. The remaining 30% had a lower priority. Thus, 70% of the examined matters were essential for the organization and functioning of the prosecution system, an improvement over the period from 2020 through 2023, when this indicator stood at 50%.

Open meetings vs. closed meetings:

In 2024, 79% of the issues resolved by the SCP were discussed in open sessions. The SCP examined six appeals from disciplinary decisions, four of which in public, and the others in closed sessions on reasonable grounds. This was an improvement over the previous period when appeals were examined and voted on exclusively in closed sessions.

The SCP also routinely voted in open sessions, even when matters were discussed "in deliberation" or in closed sessions. In the past, the SCP often voted in deliberation and only read out the operative part of decisions in public sessions, which seriously affected transparency. The secret vote, applied previously, violated the SCP Regulation, which expressly requires open voting in public sessions, except for the election of SCP chair.

On the other hand, the average duration of meetings in 2024 was 151 minutes, and the SCP devoted approximately half of this time (75 minutes) to open sessions. This suggests that a significant share of SCP activities continue to be carried out behind closed doors. While certain matters, such as those concerning privacy or criminal matters, require closed sessions, this high percentage raises questions about how the SCP can increase its transparency.

Publication of minutes:

The practice of publishing "resolved agendas" instead of meeting minutes continued, although the law and the SCP Regulation require the publication of minutes within three business days. These must contain detailed information about member attendance, debates, adopted decisions, and the breakdown of votes – information that "resolved agendas" do not include. The SCP published

only one out of the required 53 minutes. SCP members have previously explained that this issue stemmed from the difficulty of manual anonymization of minutes due to a shortage of personnel. While we understand the challenges related to insufficient resources, compliance with the law is essential and the law requires the publication of minutes.

Subject matters of decisions:

The SCP adopted 357 decisions, all available on its website. Most of them, 155 (43.4%), concerned the selection and career progression of prosecutors. These are followed by 39 decisions (11%) regarding the combination of the prosecutor job with teaching activity, and 26 (7.3%) regarding the appointment of SCP members or prosecutors to various commissions and working groups. 24 decisions (6.7%) concerned the organization of the work of the SCP and the prosecution system. 22 (6%) concerned the approval of interim executive appointments and the confirmation of Deputy Prosecutor General appointments, and 13 (3.6%), the approval of regulatory acts and the organization of competitions for Prosecutor General. The diversity and breadth of matters covered in SCP decisions, with major focus on the career progression and selection of prosecutors, reflect the SCP's efforts to address essential elements of strengthening and streamlining the prosecution system.

Publication of decisions:

It was not possible to accurately determine whether the legally required ten-day timeframe for the publication of decisions was respected due to the lack of information about publication, as explained in the section on the publication of agendas. The overwhelming majority of decisions, 304 out of 357 (85%), did not show the publication time, which affected the credibility of the process. Only for 53 decisions (15%) was it possible to establish the publication date. 46 of them (13%) were published on time, and seven (2%) were not. Delays in publication vary between one and eight days, with an average of three days. SCP members should urgently resolve this issue to eliminate any doubt about good intentions in ensuring transparency.

Anonymization of decisions:

According to the SCP Regulation, before publishing decisions, the SCP is required to remove personal data, including the last and first names of complainants in disciplinary matters who are individuals. In 12 out of 357 decisions (3.3%) this information was removed. Although the protection of personal data is important, anonymization seems unnecessary since complainants' names either appear in

meeting agendas or are mentioned during public meetings. The removal of the names of complainants who are individuals creates confusion and erodes the transparency of SCP activities, and the law does not require this. Therefore, it would be justified to exclude this provision from the SCP Regulation so as to simplify the procedures without compromising transparency and the protection of personal data.

Requests of the Prosecutor General:

We identified 12 matters concerning the requests of the Prosecutor General, five of which were filed during the interim appointment period. Most requests concerned the approval of interim executive appointments or the approval of appointments as Deputy Prosecutor General (including on an interim basis). In total, the SCP examined 22 such requests and dismissed only one of them, the one concerning an interim executive appointment to a territorial prosecution office. The hearing of 20 candidates (91%) was public, and two candidates did not have a hearing because they did not attend the corresponding SCP meeting.

The approach to the examination of the Prosecutor General's requests was inconsistent. Some were discussed in deliberations, and others were not, and this was without a clear explanation about such a differentiation. It would be good to adopt the uniform practice of examining requests for the approval of interim and permanent appointments exclusively in public meetings. This would increase transparency and reduce any perception of bias in decision-making.

None of the Prosecutor General's requests raised disagreements in public sessions and none prompted dissenting opinions. The absence of public debates raises questions whether approvals undergo a thorough examination or are treated as formalities.

Reasoning of decisions:

Under the law, the chair of the SCP meeting must sign adopted decisions. The SCP Regulation imposes a stricter requirement that all attending members sign. This difference creates bureaucratic over-regulation, complicating decision-making and dragging out the publication of decisions. Removing the requirement concerning mandatory signing by all members from the SCP Regulation and establishing electronic signatures as a standard would reduce bureaucracy in the SCP's work and increase its transparency and efficiency.

The SCP published all adopted decisions. Decisions concerning the approval of interim executive appointments had poor reasoning. Their text was formulaic and mainly reproduced applicable legal provisions without detailing the

reasoning and specific facts of each individual case. To increase trust in, and the transparency of, the SCP, it is recommended to abandon formulaic wording in decisions and to improve their reasoning by including factual details relevant to each individual case, relevant arguments, and the opinions of SCP members.

The decision by which the SCP cancelled the interview results from the competition of 22 February 2024 for Prosecutor General is an example of good practice in the reasoning of decisions. It provides a complete description of relevant facts, mentions applicable legal provisions and international standards, and describes the underpinning reasoning of SCP members.

Final Conclusions

Progress – the planning and organization of meetings improved, and there were fewer postponements; the use of information technology was more extensive; SCP members showed more responsibility by participating in scheduled meetings, thus ensuring the required quorum; there were fewer extraordinary meetings, and those that took place were justified; livestreaming of meetings is now ensured through own equipment, thus removing reliance on an external private company; visibility and security increased as the SCP now stores meeting recordings on its website and YouTube channel; there were fewer supplementary agendas; the share of important matters resolved by the SCP increased from 50% to 70%; the SCP now examines disciplinary appeals in public meetings as a rule, and votes only in public meetings, having abandoned voting in deliberation, which was against the law; adopted decisions were numerous and various, and most concerned the career progression of prosecutors, which proves the commitment to strengthening the prosecution system; the examination of the requests of the Prosecutor General usually takes place in public hearings.

Constraints – it was impossible to identify the publication date of most agendas and decisions; half of the time spent in meetings the proceedings were inaccessible to the public; the SCP did not publish meeting minutes on its website, although this is required by the law and the SCP Regulation; the SCP unnecessarily removed the names of complainants in disciplinary matters in the reasoning of decisions; decisions concerning the approval or rejection of interim executive appointments had formulaic wording and poor reasoning; the practice of examining the Prosecutor General's requests for the approval of interim appointments and Deputy Prosecutor General appointments was inconsistent, involving deliberations only sporadically without clarity about this differentiation.

RECOMMENDATIONS

Publication of documents:

- Address the impossibility of determining the publication time of most documents related to the SCP's work, published in the beginning of 2024.
- Perform technical work on the SCP's website to add a dedicated section that will show the publication time of agendas, including supplementary agendas, announcements, and especially, reasoned decisions.
- Ensure compliance with the legal timeframes for publishing agendas, meeting minutes, and reasoned decisions.

Publication of minutes:

- Ensure compliance with the legal provisions regarding the mandatory publication of meeting minutes, which should include detailed information about the attendance of members and other people, debate summaries, adopted decisions, and vote breakdown.

Anonymization of decisions:

- Exclude the provision of the SCP Regulation that requires removing the last and first names of complainants in disciplinary matters who are individuals from reasoned SCP decisions, considering the uselessness of this practice.

Signing of decisions:

- Exclude the provision of the SCP Regulation that requires the signing of SCP decisions by all members involved in the adoption of the decision, thus aligning the regulation with the law, which stipulates that only the meeting chairperson must sign decisions.
- Add a new provision to the SCP Regulation to establish electronic signatures as a standard for signing reasoned decisions.

Reasoning of decisions:

- Abandon formulaic wording in reasoned decisions concerning the examination of the Prosecutor General's requests for the approval of interim executive appointments to ensure comprehensive reasoning that reflects relevant facts and arguments of SCP members.

Examination of matters:

- Establish the uniform practice of examining the Prosecutor General's requests for the approval of interim executive appointments and the confirmation of Deputy Prosecutor General appointments exclusively in public sessions.
- Minimize the use of deliberations, considering that the SCP Regulation does not provide for this mechanism except for disciplinary matters.
- If a closed meeting is necessary, ensure compliance with the provisions of the SCP Regulation that require a reasoned decision for holding discussions in closed sessions.





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