JOINT LEGAL OPINION

SENT ELECTRONICALLY

On the draft law amending certain normative acts concerning the strengthening of the mechanism for evaluating judges' performance

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Summary:	The Legal Resources Centre from Moldova and the Institute for European Policies and Reforms support the objective of strengthening integrity in the judiciary system. The integrity of first-instance judges is essential for public trust in justice, for the sustainability of judicial reform and for the credibility of the Republic of Moldova's EU accession process. First-instance courts examine the majority of cases directly affecting citizens, businesses and public authorities. Therefore, integrity vulnerabilities at this level may undermine the impact of reforms already implemented at the level of the Supreme Court of Justice, courts of appeal and judicial self-governance bodies. We also acknowledge the specific context and rationale of this legislative initiative. Completing the integrity assessment of the judiciary is one of the key justice sector benchmarks under Chapter 23 (Judiciary and Fundamental Rights) of the EU accession negotiations and a precondition for closing the cluster of fundamental reforms in due time. While the external evaluation under Law no. 252/2023 has so far covered the Supreme Court of Justice, the courts of appeal and the judicial self-governance bodies, judges of the first-instance courts, who decide the majority of cases that directly affect citizens, businesses and public authorities have not been subject to a comparable financial integrity assessment. Against this background, the draft seeks to accelerate the integrity component of the ordinary evaluation of judges, by temporarily relying on the institutional capacity already developed within the Secretariat of the Vetting Committee. We understand this approach as a targeted and time-bound borrowing of existing capacity for a clearly defined purpose:

ensuring that the original objective of the vetting process, namely to consolidate integrity across the judiciary is effectively achieved.

At the same time, while the urgency and the underlying rationale of the initiative are well understood, the draft law submitted for examination raises a number of substantive concerns regarding legal clarity, foreseeability, institutional coherence, procedural guarantees and the protection of judicial independence that should be addressed before the adoption of the law.

The draft law does not formally introduce a classic "full vetting" mechanism for all first-instance judges. Instead, it proposes a hybrid model: the ordinary performance evaluation procedure remains formally within the system of the Superior Council of Magistracy, while the financial integrity component would be assessed with the involvement of the Evaluation Commission established under Law no. 252/2023. This creates a mixed mechanism that is neither a fully-fledged external vetting procedure nor a purely internal performance evaluation.

This ambiguity is the central problem of the draft law. If the authorities intend to extend external integrity vetting to first-instance judges who have not yet undergone such a process, this should be clearly stated and regulated as such, with all procedural guarantees required for an exceptional vetting exercise. If, on the other hand, the purpose is to strengthen the ordinary performance evaluation of judges, the solution should focus on improving the methodology, capacity and analytical tools of the Board for Selection and Evaluation of Judges, rather than inserting an external vetting body into an ordinary career evaluation procedure.

Finally, we wish to emphasize that the temporary character of the proposed mechanism (until 31 December 2027) can only be meaningful if it is accompanied by a credible transition strategy. The competent national authorities should use this period to substantively strengthen the institutional capacity of the National Integrity Authority, of the Board for Selection and Evaluation of Judges within the Superior Council of Magistracy and by analogy of the corresponding structures within the Superior Council of Prosecutors, since the capacity gaps in financial integrity assessment exist on the prosecutorial side as well, even though the present draft does not address prosecutors. The objective is that, after 2027, the financial integrity assessment of judges and other justice actors can be carried out within the ordinary framework. This requires adequate staffing, technical and analytical tools, access to relevant data, and a salary policy capable of attracting and retaining qualified personnel. Without parallel investment in institutional capacities, there is a real risk that the extraordinary mechanism will need to be extended beyond its initial term, which would in turn defeat the purpose of its temporary character. We therefore recommend that the draft be improved both technically in order to address the ambiguities, the consistency with related laws, and the foreseeability concerns identified below and strategically, to ensure a clear and resourced transition towards an effective ordinary regime.

The undersigned organizations remain at your disposal should you require any additional information.

BACKGROUND

The draft law seeks to amend the legal framework governing the evaluation of judges' performance, especially the integrity criterion. According to the explanatory note, the initiative is based on the need to accelerate the process of evaluating judges' performance, which is carried out by the Board for Selection and Evaluation of Judges within the Superior Council of Magistracy.

Under the current Article 7 paragraph (4) of Law no. 147/2023, the integrity criterion is assessed on the basis of the following indicators: respect for professional ethics; number of disciplinary sanctions imposed during the assessment period; non-involvement in political activities; professional reputation; and financial integrity.

The draft proposes to supplement Law no. 147/2023 with a new Article 7^1. Under the proposed Article 7^1 paragraph (1), the Board for Selection and Evaluation of Judges would assess the indicators established in Article 7 paragraph (4) letters a)–d), while the Evaluation Commission would assess the financial integrity indicator established in Article 7 paragraph (4) letter e). It appears from the context of the draft and the proposed amendment to Law no. 252/2023 that the intended authority for financial integrity evaluation would be the Evaluation Commission established under Law no. 252/2023.

Under the proposed Article 7^1 paragraph (2), the financial integrity indicator would be assessed according to Article 11 paragraphs (3)–(6) of Law no. 252/2023 on the external evaluation of judges and prosecutors, applied "as appropriate" and according to the procedure set forth therein. Under paragraph (3), failure to achieve the 40% rating for the integrity criterion would constitute grounds for assigning a "failed" rating. Under paragraph (4), the article would not apply to judges appointed after 21 September 2023.

The draft also amends Law no. 252/2023 by repealing Article 3 paragraph (2) letter d) and by supplementing Article 22 with a new paragraph (3^1). According to this proposed provision, by 31 December 2027 the Evaluation Commission shall evaluate, in accordance with Article 7^1 of Law no. 147/2023, the financial criteria in respect of judges who are not subjects of Law no. 252/2023. The report of the Commission regarding financial integrity and the materials collected during the assessment shall be sent to the Board for Selection and Evaluation of Judges within three days.

Article III of the draft provides that the law shall enter into force one month after publication and shall apply until 31 December 2027. The Superior Council of Magistracy would have one month from publication to harmonise its normative acts, update the performance evaluation plan and submit to the Evaluation Commission the list of judges to be evaluated. The draft further provides that the evaluation shall be conducted in the following order: Chișinău District Court, Bălți District Court, Cahul District Court and then other district courts.

The rationale underlying this initiative responds to a specific institutional reality and to a clear EU accession context. The external integrity evaluation under Law no. 252/2023 was designed as transitional justice measure, an extraordinary, time-limited mechanism applied to a defined category of judges and prosecutors, primarily at the level of the Supreme Court of Justice, the courts of appeal, and the judicial self-governance bodies. Judges of the first-instance courts have not been subject to a comparable financial integrity assessment, even though they decide the great majority of cases that affect citizens, businesses and public authorities. Closing this integrity gap is a substantive element of the justice sector benchmarks and is essential to ensure the credibility and completeness of the judicial reform agenda. The draft seeks to address this gap by temporarily until 31 December 2027, relying on the institutional capacity already developed by the Vetting Committee established under Law no. 252/2023, but primarily of its Secretariat, which possess specialised expertise in financial integrity analysis. The Board for Selection and Evaluation of Judges within the Superior Council of Magistracy and the National Integrity Authority, in their current configuration, do not yet have equivalent dedicated analytical and verification capacities. The Opinion below does not contest this rationale. Rather, it identifies the elements of the draft that require technical improvement to ensure that the chosen solution achieves its original purpose, while remaining clear, predictable and consistent with the legal framework on the status of judges and the guarantees of judicial independence.

LRCM and IPRE recommendations to the bill are the following:

- **THE DRAFT CREATES A HYBRID MECHANISM WITHOUT CLEARLY DEFINING WHETHER IT IS VETTING OR ORDINARY PERFORMANCE EVALUATION**

The draft law does not formally introduce full external vetting of all first-instance judges. It does not create a separate and complete external evaluation procedure comparable to previous vetting mechanisms. Nor does it appear to provide an opt-out mechanism, which was characteristic of certain previous vetting exercise regulated by Law no. 252/2023.

However, the draft introduces into the ordinary performance evaluation procedure a core element of external vetting: the assessment of financial integrity by the Evaluation Commission, under the standards of Law no. 252/2023. This creates the impression that performance evaluation remains within the Superior Council of Magistracy system, while one of its decisive components is outsourced to an external vetting body. At the same time, it is very unclear what the competences of the BSEJ and of the SCM are. The SCM is the body that takes the decision on the judges' career. On the other hand, the draft does not say anything about the status of the BSEJ decision in terms of dismissing a judge.

This architecture is problematic from the perspective of legal clarity and foreseeability. Vetting is, by its nature, an exceptional mechanism with potentially severe consequences for judicial careers. Performance evaluation is an ordinary, recurrent career-management procedure. Mixing the two regimes risks weakening the guarantees attached to both: vetting becomes less transparent as an exceptional measure, while performance evaluation is transformed into a quasi-eliminatory mechanism.

The authorities should clarify the policy choice. If the actual purpose is to externally evaluate the financial integrity of first-instance judges who have not undergone vetting, the law should state this openly and regulate the procedure accordingly. If the purpose is to strengthen performance evaluation, the intervention should focus on strengthening the Board for Selection and Evaluation of Judges, its methodology and its access to relevant data, without transferring a decisive component of the evaluation to an external commission. Nevertheless, it is highly questionable if periodic performance evaluation should include a component of financial integrity verification that involves direct access to financial and banking data by the Evaluation Board, or rather the reliance of the Evaluation Board on collecting information on evaluated judges' violations of related legislation, such as tax legislation (State Tax Service), declaration of assets (National Integrity Authority), contraventions and criminal offences.

- **ORDINARY PERFORMANCE EVALUATION MUST NOT BECOME A DISGUISED VETTING PROCEDURE**

Ordinary performance evaluation should assess the professional activity, efficiency, quality of reasoning, conduct, ethics and integrity of judges in a recurrent and predictable manner. External vetting, by contrast, is an exceptional measure justified only by a profound integrity crisis and requiring a special legal framework and strong procedural guarantees.

If the financial integrity component becomes decisive and is assessed externally, the procedure moves closer to vetting. In that case, it should be called vetting and regulated as such. If the authorities do not intend to introduce vetting, then the Evaluation Commission's role must be clearly delineated, and the final assessment must remain genuinely within the ordinary evaluation framework.

A hidden or partial vetting mechanism may create the perception that the authorities are avoiding the political and legal responsibility of openly regulating a full vetting exercise while still seeking to obtain similar effects. Such a perception would be damaging both for the legitimacy of the reform and for the confidence of judges and the public in the process.

- **THE CONSEQUENCES OF THE "FAILED" QUALIFICATION ARE NOT SUFFICIENTLY CLEAR**

The most serious concern concerns the consequences of failing to reach the 40% threshold under the integrity criterion. According to the draft, failure to reach this threshold constitutes grounds for assigning the qualification "failed". This wording effectively turns financial integrity, into a potentially decisive criterion for the final result of the evaluation. On the other hand, the law no. 147/2023 lists 21 evaluation indicators for performance evaluation, with financial integrity being just one out of 21 indicators.

However, the draft does not clearly define the legal regime of the "failed" qualification. In particular, it is unclear whether this qualification is equivalent to the existing "insufficient" qualification under the legislation on the status of judges, whether it produces immediate consequences for the judge's mandate, whether it triggers suspension, or whether it must be applied together with the existing rule requiring two consecutive insufficient evaluations.

This uncertainty is particularly important because Article 6 paragraph (4) of Law no. 147/2023 on selection and performance evaluation of judges provides that, in the case of an "insufficient" rating, the judge is subject to an extraordinary evaluation within a period established by the Board, which cannot be less than one year. The same provision states that assigning the qualification "insufficient" in two consecutive evaluations constitutes grounds for dismissal. Law no. 544/1995 on the status of judges also provides for dismissal in the case of two consecutive "insufficient" performance evaluations (art. 25 paragraph (1) b)).

By contrast, the draft does not explain whether the newly proposed "failed" qualification resulting from failure to achieve the 40% integrity threshold replaces this logic, supplements it or creates a distinct regime. This may lead to inconsistent application and the perception that the draft indirectly introduces a new ground for dismissal that is not expressly and sufficiently regulated.

The issue is aggravated by Article 24 paragraph (1^1) letter a) of Law no. 544/1995, which provides that a judge is suspended by operation of law until dismissal if the judge has failed the performance evaluation. Therefore, the proposed Article 7^1 paragraph (3) is not a neutral technical rule. It may activate a chain of legal consequences affecting the exercise of judicial office.

We recommend authorities to clarify the rule according to which failure to achieve the 40% rating for the financial integrity criterion constitutes grounds for assigning a "failed" rating. If the authorities decide to retain such a rule, the law must expressly clarify whether "failed" is distinct from "insufficient", whether it triggers suspension, whether it may lead to dismissal, whether a subsequent evaluation is required and how the result may be challenged.

It should also be considered that Article 7 paragraph (1) (c) of Law No. 147/2023 establishes that the integrity criterion accounts for 40% of the overall evaluation score, while paragraph (4) provides that this criterion is assessed on the basis of five indicators, financial integrity being only one of those indicators. Accordingly, making the continuation of a judge's career conditional upon obtaining the full 40% solely in relation to one of the five indicators used to assess the integrity criterion may constitute a disproportionate measure within the framework of an extraordinary evaluation mechanism such as vetting.

- **THE REPORT OF THE EVALUATION COMMISSION SHOULD NOT HAVE DECISIVE EFFECT WITHOUT FULL PROCEDURAL GUARANTEES**

The draft appears to keep the final decision with the Board for Selection and Evaluation of Judges. However, the report of the Evaluation Commission on financial integrity may become practically decisive for the final outcome. If failure to reach the financial integrity threshold leads to a "failed" qualification, and financial integrity is assessed by the Evaluation Commission, the Commission's report cannot be treated as a merely technical opinion.

The draft provides that the Commission's report and the materials collected during the assessment shall be transmitted to the Board within three days. However, it does not define the legal status of the report. It does not specify whether the report is binding on the Board, whether it has advisory value, whether the Board may depart from it, whether the Board may request additional clarifications, whether the Board may administer additional evidence, or whether the evaluated judge may challenge the report separately or only together with the final decision.

If the report is treated as binding or practically decisive, the judge must benefit from all procedural guarantees applicable to a genuine external evaluation procedure. If the report is only advisory, the law should expressly state that the Board remains responsible for the final assessment and must provide its own reasoning, including where it relies on or departs from the report of the Evaluation Commission.

The law should therefore clarify that the financial integrity report is not automatically binding on the Board, and expressly provide the financial integrity evaluation procedure to take place according to the procedure and safeguards set forth in Law No. 252/2023, which includes clear provision on the burden of proof and procedural rights of the evaluated subjects.

- **THE DRAFT SELECTIVELY BORROWS FROM LAW NO. 252/2023 WITHOUT CLEARLY IMPORTING THE FULL PROCEDURAL FRAMEWORK**

The draft applies Article 11 paragraphs (3)–(6) of Law no. 252/2023 "as appropriate" to the assessment of financial integrity. These provisions concern the substantive financial integrity criteria, including the consistency between assets, income, expenses and lifestyle, and the legal justification of assets.

However, the draft does not expressly import the full procedural framework of Law no. 252/2023, including rules on the collection of information, hearings, reports, access to materials, confidentiality, the right to be heard and appeal. This creates a risk of selective borrowing from the external vetting legislation: the draft borrows the financial integrity standard, but not necessarily the full set of guarantees attached to that standard.

This is particularly problematic if the outcome of the financial integrity assessment may lead to a "failed" performance evaluation and, potentially, to suspension or dismissal. A legal mechanism cannot borrow only the stricter substantive standards of vetting while leaving unclear whether the procedural safeguards of vetting apply.

The law should therefore clarify that whenever the Evaluation Commission assesses financial integrity under the proposed mechanism, the evaluated judge benefits from procedural guarantees equivalent to those available under external evaluation: access to the file, sufficient time to respond, the right to submit evidence, the right to be heard, a reasoned report and an effective remedy.

- **EVALUATING ENTIRE COURTS AT ONCE MAY AFFECT THE FUNCTIONING OF JUSTICE**

The draft proposes phased implementation, starting with the Chișinău District Court, followed by the Bălți District Court, the Cahul District Court and then the other district courts. A phased approach per court, meaning evaluating consecutively judges from the same court rather than all at once is preferable to simultaneous evaluation of all judges concerned. However, evaluating or notifying an entire court at once, especially the Chișinău District Court, may seriously affect the functioning of that court.

Vetting, or an evaluation mechanism with similar consequences, operates in practice as an "on/off" process. Once triggered, it may lead to resignations, professional uncertainty, redistribution of cases, delays and administrative pressure on courts. These effects must be anticipated and managed.

The explanatory note itself anticipates that, considering possible resignations, the number of district court judges to be evaluated could remain below the benchmark of 200. If resignations occur in concentrated waves within one

court, especially a large court such as the Chișinău District Court, the impact on case distribution, continuity of panels and the length of proceedings may be significant.

We recommend replacing the "whole court" sequencing logic with a more balanced mechanism based on reasonable groups of judges, selected according to objective and transparent criteria. The planning should take into account caseload, the number of active judges, vacancies, specialisation, pending complex cases and the risk of disrupting ongoing proceedings.

The law should expressly require the Superior Council of Magistracy to approve and publish the sequencing criteria before transmitting the list of judges to the Evaluation Commission. The evaluation calendar should not affect the functioning of courts.

- **THE EXCLUSION OF JUDGES APPOINTED AFTER 21 SEPTEMBER 2023 REQUIRES STRONGER JUSTIFICATION**

The draft excludes judges appointed after 21 September 2023, on the ground that they are newly appointed and will be evaluated after the relevant period of judicial activity. According to the explanatory note, this category includes approximately 58 judges.

This exclusion may be justified if those judges recently underwent sufficiently robust selection and integrity checks. However, the justification should be expressly and convincingly set out. If the purpose of the draft is to apply uniform financial integrity standards to first-instance judges who have not undergone external evaluation, excluding a significant category of judges must be based on objective criteria.

The draft and explanatory note should explain why 21 September 2023 is the relevant cut-off date, what checks were applied to these judges at appointment, whether those checks are comparable to the proposed financial integrity analysis, and how equal treatment of judges in similar situations will be ensured.

Without such explanation, the exclusion may create the perception of unequal treatment between judges who have not undergone external evaluation.

- **THE DRAFT RESPONDS TO A REAL PROBLEM: THE CURRENT METHODOLOGY OF INTEGRITY EVALUATION IS EXCESSIVELY FORMALISTIC**

The need to strengthen financial integrity assessment is real. The current practice of the Board for Selection and Evaluation of Judges (BSEJ) reveals significant methodological weaknesses. In several recent reports concerning ordinary evaluations or candidates for judicial office, the financial integrity analysis appears to be limited mainly to summarising information received from the National Integrity Authority on the timely submission of declarations of assets and personal interests. There is often no genuine analysis of the relationship between income, expenses, assets, debts, lifestyle, use of third-party assets or potential unexplained wealth.

What can be seen from the practice of the BSEJ, in the beginning of implementing the new performance evaluation system under Law No. 147/2023, the BSEJ was conducting a deeper financial analysis for assessing the financial integrity, by requesting information from public and private entities, and also by accessing data on income, expenses and conducting a wealth analysis (BSEJ decision no. 1e/1 from 16 January 2026). However, in the latest reports, one can see that for assessing the financial integrity, the BSEJ is only requesting information from relevant authorities that do not do any wealth analysis (BSEJ decision no. 25e/10 from 4 May 2026).

For candidates for judicial office, illustrative examples include the Board's reports concerning as a matter of example two subjects as per the BSEJ decision no. Nr.14s/6 from 30 March 2026) or BSEJ decision no. from 6 April 2026. In both cases, the financial integrity part of the evaluation appears to be largely descriptive and formal. It

records institutional responses, including information from integrity authorities, but does not appear to conduct a structured financial analysis.

The first subject[1] example is especially relevant from a methodological perspective. Earlier public reporting had raised integrity and reputation concerns in connection with his candidacy for judicial office, including references to the fact that a previous presidential refusal had invoked circumstances related to integrity and reputation. This does not mean that such public allegations should be treated as proven facts. However, a serious evaluation methodology should show whether and how such publicly available integrity concerns were checked, dismissed, confirmed or found irrelevant. A purely formal reference to institutional replies does not meet that standard.

The report on the other subject raises a similar methodological issue. She is a wide known lawyer and there are media reports relating to her ethics behavior.[2] The problem is not the final score or the outcome as such, but the visible structure of the analysis. A meaningful integrity assessment should explain what information was examined, what financial or reputational risks were considered, whether there were relevant third-party links or public-interest concerns, and why the Board considered the integrity criterion satisfied or not satisfied. A formalistic report makes it difficult for the public, the judiciary and the evaluated person to understand the reasoning.

These examples show that the current ordinary evaluation system requires serious improvement. We recommend that the draft be complemented with a clear obligation for the Superior Council of Magistracy to adopt a detailed methodology for financial integrity assessment.

- **CONSULTATION WITH THE SCM AND THE JUDICIARY WAS INSUFFICIENT**

Reforms affecting the status, career and independence of judges must be developed through a transparent and inclusive process. The Superior Council of Magistracy does not have a veto over justice policy. However, it has a constitutional role in safeguarding judicial independence. Excluding the SCM or consulting it only formally at an advanced stage undermines the credibility of the reform.

The public announcement of the Ministry of Justice concerned the initiation of the drafting process and the examination of possible options for reconfiguring the integrity evaluation mechanism. Such an announcement does not amount to a full public consultation on the text of the draft law.

In such a sensitive matter, genuine consultation with the SCM, first-instance courts, the Board for Selection and Evaluation of Judges, the Evaluation Commission and civil society should have preceded the transmission of the draft to the Venice Commission.

Consultation should not be reduced to the formal transmission of a draft for endorsement. The authorities should organise real consultations, publish the draft, allow sufficient time for comments and provide a reasoned synthesis of accepted and rejected proposals.

- **THE DRAFT MUST PROVIDE A CLEAR AND EFFECTIVE APPEAL MECHANISM**

Any mechanism that may affect the career of a judge must provide an effective remedy. In the present case, the draft should clarify what may be challenged: the report of the Evaluation Commission, the decision of the Board

[1] Among others: https://anticoruptie.md/ro/investigatii/justitie/corneliu-cretu-si-petru-harmaniuc-fiii-a-doi-fosti-magistrati-compromisi-respinsi-anterior-de-seful-statului-insista-sa-devina-judecatori, https://www.zdg.md/investigatii/ancheta/viitorii-judecatori-cu-case-de-milioane-automobile-de-lux-si-cu-firme-in-sua/

[2] https://www.facebook.com/watch/?v=971216921085104 https://www.jurnaltv.md/news/23d61aa3f780c95d/procesul-de-judecata-in-care-postul-jurnal-tv-era-acuzat-de-calomnie-a-fost-incetat.html.

for Selection and Evaluation of Judges, the decision of the Superior Council of Magistracy, or all of them depending on their legal nature.

It is also necessary to clarify the standard of judicial review. If a judge may challenge only the final decision, while the external report is practically decisive and cannot be reviewed effectively, the remedy risks becoming formal. If the external report contains findings regarding financial integrity, the judge must have a real possibility to challenge the factual and legal findings on which the final outcome is based.

The draft should expressly regulate the appeal route, time limits, competent court, suspensive or non-suspensive effect of the appeal and the scope of judicial review.

At a minimum, the law should provide that the evaluated judge may challenge the financial integrity findings together with the final decision of the Board and that the reviewing body has competence to examine both procedural and substantive aspects of the financial integrity assessment.

- **THE TEMPORARY APPLICATION UNTIL 31 DECEMBER 2027 MUST BE CORRELATED WITH REAL IMPLEMENTATION CAPACITY**

The draft is temporary and would apply until 31 December 2027. This is positive in principle, because it prevents an exceptional mechanism from becoming permanent. However, the deadline must be assessed realistically in relation to the number of judges concerned, the capacity of the Evaluation Commission, the capacity of the Board for Selection and Evaluation of Judges, the volume of financial information, the need for hearings and possible appeals.

The draft law should be supplemented with transitional provisions establishing the obligation of the competent authorities to strengthen and build the institutional capacity of the Superior Council of Magistracy, the Judicial Selection and Performance Evaluation Board, and the National Integrity Authority, so that these institutions possess sufficient functional capacity to take over the assessment of judges' financial integrity within the framework of ordinary evaluation procedures after December 2027.

The explanatory note states that the Evaluation Commission and its Secretariat have the necessary expertise and that the Commission's workload would allow it to provide support to the Board. At the same time, the note acknowledges that the activity of the Commission and its Secretariat is based on a mixed funding model, shared between the state budget and development partners, and indicates that the allowances for the four national members of the Commission amount to 5,309,280 MDL per year, budgeted for 2027.

The financial information provided is useful, but insufficient. The draft does not contain a full institutional and operational impact assessment. It does not estimate the number of files to be assessed per month, the average duration of one assessment, the number of hearings, the Secretariat's capacity, the costs of additional support, or the impact on courts and pending cases.

We recommend that the authorities conduct a capacity assessment before adoption. This should include the estimated number of judges evaluated per semester, the expected number of hearings, the average time required for one file, the capacity to verify financial information, staffing needs, costs and the impact on pending cases.

Equally important, the 31 December 2027 deadline can only operate as a genuine clause if it is accompanied by a credible and resourced strategy for transitioning the financial integrity component of the evaluation back into the ordinary regime. This implies a parallel, government-led effort to build sustainable analytical and verification capacities within the National Integrity Authority, the Board for Selection and Evaluation of Judges of the Superior Council of Magistracy (SCM) and also of the Superior Council of Prosecutors (SCP), considering that similar challenges can be identified, even though the current draft is not referring to prosecutors, so that, upon the expiry of the vetting mechanism, these institutions are operationally ready to carry out a robust financial integrity

assessment as part of the ordinary career evaluation of justice actors. This effort should include, in particular: (i) clearly identified staffing and structural needs of the Board and of the Secretariat of the SCM and SCP; (ii) strengthened analytical instruments and access to relevant databases held by the National Integrity Authority, the State Tax Service, the financial intelligence unit and other competent authorities; (iii) inter-institutional cooperation protocols; and (iv) a coherent remuneration and salary policy capable of attracting and retaining qualified staff with the financial-investigative expertise required for credible integrity analysis. Without such a transition strategy, there is a tangible risk that the extraordinary mechanism will need to be extended beyond 31 December 2027, thereby undermining the very rationale of its temporary character. We therefore consider that the Venice Commission may wish to invite the Moldovan authorities to articulate this transition strategy in parallel with the adoption of the draft law, including in the explanatory note and in the relevant budgetary documents.

Recommendations

LRCM and IPRE recommend that the Venice Commission invite the Moldovan authorities to substantially revise the draft before its adoption. In particular, we recommend:

1. Clarifying the legal nature of the mechanism: external vetting, ordinary performance evaluation or a distinct mechanism. The current hybrid model should be avoided unless it is accompanied by clear rules.

2. Expressly regulating the consequences of the "failed" qualification, including its relationship with the "insufficient" qualification and the rule of two consecutive insufficient evaluations under the legislation on the status of judges.

3. Deleting the automatic rule according to which failure to achieve the 40% rating for the integrity criterion constitutes grounds for assigning a "failed" rating, or, at minimum, clarifying its legal consequences.

4. Clarifying the legal status of the Evaluation Commission's report. If the report has decisive effects, full vetting-level procedural guarantees must apply.

5. Ensuring that the evaluated judge receives the financial integrity report and the materials on which it is based and has the right to submit objections and additional evidence before the final decision.

6. Introducing an effective appeal mechanism allowing real review of findings concerning financial integrity.

7. If BSEJ remains in charge of the evaluation, strengthening the methodology of financial integrity evaluation, including clear indicators concerning income, expenses, assets, debts, loans, donations, third-party support, beneficial ownership and unexplained wealth.

8. Ensuring that public integrity concerns, including credible media investigations and earlier institutional concerns, are not ignored but are examined, verified and reasoned in an individualised manner.

9. Revising the sequencing model so that entire courts are not evaluated or notified at once, especially large courts such as the Chișinău District Court.

10. Providing stronger justification for excluding judges appointed after 21 September 2023.

11. Organising genuine public consultations with the SCM, the Board for Selection and Evaluation of Judges, first-instance courts, the Evaluation Commission and civil society.

12. Conducting an institutional, financial and operational impact assessment, including the effect on the duration of proceedings and the functioning of first-instance courts.

13. Publishing a revised explanatory note clearly explaining the problem, the alternatives considered, the chosen solution, the costs, the risks and the measures to prevent negative effects.