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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

JOINT OPINION
OF THE VENICE COMMISSION AND THE DIRECTORATE GENERAL OF HUMAN RIGHTS AND RULE OF LAW (DGI) OF THE COUNCIL OF EUROPE

ON
THE DRAFT LEGISLATIVE AMENDMENTS ON THE INTEGRITY CHECKS AND THE EVALUATION OF JUDGES

Adopted by the Venice Commission
at its 147th Plenary Session
(Venice, 12-13 June 2026)

On the basis of comments by

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Ms Renata DESKOSKA (Member, North Macedonia)
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I. Introduction

1. By letter of 5 May 2026, Mr Vladislav Cojuhari, Minister of Justice of the Republic of Moldova requested an opinion from the Venice Commission of the Council of Europe on the draft legislative amendments on the integrity checks and the evaluation of judges in the Republic of Moldova (CDL-REF (2026)017, hereinafter "**the draft Law**").

2. The Commission decided to prepare the present Opinion jointly with the Directorate General Human Rights and Rule of Law of the Council of Europe ("**DGI**").

3. Ms Nina Betetto, Ms Renata Deskoska and Mr Tomáš Langášek acted as rapporteurs for this Opinion on behalf of the Venice Commission. Mr Duro Sessa acted as rapporteur on behalf of DGI.

4. On 28 May 2026, the rapporteurs, together with Mr Taras Pashuk and Ms Tone Sorfonn Moe from the Secretariat, held online meetings with the Minister of Justice, representatives of Supreme Court of Justice, Superior Council of Magistracy, Board for the Selection and Evaluation of Judges, the parliament, Evaluation Commission of Judges, civil society organisations, judicial associations and international partners. The Commission and DGI are grateful to the authorities of the Republic of Moldova for the excellent organisation of these online meetings.

5. This Opinion was prepared in reliance on the English translation of the draft Law. The translation may not accurately reflect the original version on all points. The Ministry of Justice of the Republic of Moldova provided their written comments to the draft Opinion.

6. This Opinion was drafted on the basis of comments by the rapporteurs and the results of the online meetings on 28 May 2026. It was discussed at the Sub-Commission on the Rule of Law and Democratic Institutions on 11 June 2026. Following an exchange of views with the Secretary of State of the Ministry of Justice of the Republic of Moldova, Mr Lilian Apostol, it was adopted by the Venice Commission at its 147th Plenary Session (Venice, 12-13 June 2026).

II. Background

A. Moldova's judicial vetting reforms

7. The vetting reforms in the Republic of Moldova have developed through a gradual and phased implementation. The first pre-vetting stage screened candidates for membership in the judiciary's collegial and self-governing bodies under Law No. 26/2022,[1] a process assessed by the Commission in an Opinion of December 2021.[2] This process was later taken over by the Evaluation Commission of Judges ("**EC No. 2**").

[1] Law No. 26/2022 regarding certain measures related to the selection of candidates for membership in the self-governing bodies of judges and prosecutors.

[2] CDL-AD (2021) 046 - Republic of Moldova - Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on some measures related to the selection of candidates for administrative positions in bodies of self-administration of judges and prosecutors and the amendment of some normative acts. Reference is also made to CDL-AD(2019)020, Republic of Moldova - Joint Interim Opinion of the Venice Commission and DGI on the draft law on the reform of the Supreme Court of Justice and the Prosecutor's Office, referring to first reform proposal of 2019 which was not adopted.

8. The second vetting stage targeted judges of the Supreme Courts,[3] assessed by the Commission in Opinions of October and December 2022.[4] This second stage also targeted judges in appeal courts and in managerial positions under Law No. 252/2023,[5] assessed by the Commission and DGI in Opinions of 2023 (see section II.B.). EC No. 2 conducts the vetting under these frameworks, including financial integrity review pursuant to Article 11 (3)-(6) of Law No. 252/2023, entailing *inter alia* an examination of discrepancies between declared assets, expenditure and income over the last 12 years and tax irregularities over the last 10 years.[6]

9. Third, an ongoing performance-evaluation framework applies to all judges.[7] This framework is administered by the Board for the Selection and Evaluation of Judges ("**CSEJ**") within the Superior Council of Magistracy ("**SCM**"). With limited exceptions,[8] the evaluations are structured around three criteria: professional competence, managerial competence and integrity.[9] After evaluation, judges receive one of five ratings: excellent, very good, good, unsatisfactory, or failed. An "unsatisfactory" rating leads to an extraordinary evaluation after at least one year, and two consecutive "unsatisfactory" ratings are grounds for dismissal.[10] A "failed" evaluation may be issued if a judge is manifestly unsuitable or a president/vice-president fails to perform their duties properly.[11] In such cases, the CSEJ's decision is grounds for suspension and for the SCM to "initiate removal" from office.[12]

B. Previous opinions of the Venice Commission on the vetting regime

10. The Commission and the DGI have assessed the external vetting regime of the Republic of Moldova in three separate opinions. First, a joint opinion by the Commission and the DGI on the draft law on the external assessment of judges and prosecutors was adopted in March 2023 (hereinafter "**March 2023 Opinion**").[13] First follow-up opinion was adopted in June 2023,[14] while the second was adopted in October 2023.[15]

11. The Commission and DGI initially acknowledged the rationale for extraordinary vetting in the Republic of Moldova based on the "extraordinary situation" within the judiciary, rampant corruption illustrated by a large number of criminal cases against judges, participation of

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[3] Governed by Law No. 65/2023 on the external evaluation of judges and candidates to the position of judge of the Supreme Court of Justice.
[4] CDL-AD (2022) 024, Republic of Moldova - Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law on the Supreme Court of Justice. CDL-AD (2022) 049 - Republic of Moldova- Joint follow-up opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law of the Council of Europe to the opinion on the Draft Law on the Supreme Court of Justice.
[5] Governed by Law No. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain legislative acts.
[6] Law No 252/2023 Article 11 (3) provides that "(..)*serious doubts arising from the fact that: a) the difference between assets, expenditure and income over the last 12 years exceeds 20 times the average national wage, as set by the Government for the year 2023: b) over the last 10 years(...)*".
[7] Law No. 147/2023 on the selection and performance evaluation of judges.
[8] See Article 9(2) of Law No. 147/2023.
[9] See Articles 7(1) and 9(1) of Law No. 147/2023. See Article 7(4) of Law No. 147/2023.
[10] Article 25 of Law No. 544/1995, on the status of judges.
[11] Article 19 (2) of Law No. 147/2023.
[12] Article 19 (3) of Law No. 147/2023.
[13] CDL-AD(2023)005 – Republic of Moldova - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law on the external assessment of judges and prosecutors.
[14] CDL-AD(2023)023 – Republic of Moldova - Follow-up Opinion to the Joint Opinion on the draft law on the external assessment of judges and prosecutors.
[15] CDL-AD(2023)035 – Republic of Moldova - Follow-up Opinion to the Joint Opinion on the draft law on the external assessment of judges and prosecutors.

judges in the Russian laundromat money-laundering scheme, the inability of existing mechanisms to address the issue, and the requirement in the EU Association Agreement.[16] At the same time, the Commission and DGI warned that such radical measures must remain subject to constitutional guarantees of independence and non-arbitrariness, stressing that the scope of the proposed vetting was initially very large, going far beyond previous attempts to "cleanse" the judiciary and the prosecution service.[17] Over successive drafts, the Moldovan authorities implemented the Commission's key recommendations, including by refining and implementing several key procedural safeguards and adjusting the financial requirements.[18]

12. In parallel with the present opinion, the Venice Commission also adopted a further opinion relating to the Moldovan vetting process. This opinion relates to amendments adopted in March 2026 introducing an anti-deadlock mechanism for the election by Parliament of the international members of the evaluation commissions (CDL-AD (2026)014).

III. Analysis

A. The effects of the draft Law

13. Article 1 of the draft Law provides new elements to the evaluation framework under Law 147/2023: "*the indicator established in art. 7 para (4) letter e) shall be assessed according to art. 11 para (3) – (6) of the Law No. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain legislative acts, which shall be applied as appropriate and in accordance with the procedure set forth therein*". New Article 7 (3) further provides that "*failure to achieve the 40 % rating for the integrity criteria shall be considered grounds for assigning a "failed" rating*", while new Article 7 (4) provides that "*the present article shall not be applicable to judges appointed after September 21, 2023*".

14. Article 2 of the draft Law supplements Article 22 (3) of Law No 252/2023 (vetting law) as follows: "*by December 31, 2026, the Commission for the Evaluation of Judges shall evaluate, in accordance with Article 7 of the Law No 147/2023 on selection and evaluation of judges' performances, the financial criteria in respect of judges, who are not subject to the present law. The Report of the Commission regarding financial integrity and the materials collected during the assessment of the financial integrity criteria shall be sent to the Board for the Selection and Evaluation of Judges within 3 days*".

15. According to Article 3 of the draft Law, the law applies until 31 December 2027 and indicates a phased implementation by courts: Chișinău, then Bălți, then Cahul, then other district courts.

16. In its essence, the draft Law introduces four main changes: (1) responsibility for assessing "financial integrity" is transferred to EC No. 2, a body within the vetting infrastructure, (2) financial integrity checks within the evaluation of judges are aligned with the standards under Article 11 (3)-(6) of Law No. 252/2023, (3) "integrity" is treated as an exclusionary criterion with a 40% threshold, and (4) these arrangements are set to remain in force until 31 December 2027.

17. According to the authorities, while the performance-evaluation channel is already in place and covers financial integrity, there is a practical capacity gap in assessing this specific indicator within the CSEJ and SCM. For this reason, the draft Law proposes a temporary (until 31 December 2027) hybrid model, whereby the EC No. 2 would assess the financial-integrity indicator, while the CSEJ would focus on the other integrity indicators. When assessing the financial-integrity indicator, EC No. 2 is to base its review on the external evaluation (vetting)

[16] CDL-AD(2023)005 – *op.cit*, para 16.
[17] CDL-AD(2023)005 – *op.cit*, para 20.
[18] CDL-AD(2023)005 – *op.cit*, para 103 – 110. CDL-AD(2023)023 – *op.cit*, para 23 – 26. CDL-AD(2023)035 – *op.cit*, para 9-14.

standards (Law No. 252/2023). The draft also proposes that, if a judge's overall integrity score is below 40%, this will be considered as grounds for assigning a failed rating in the overall performance evaluation.

18. The explanatory note justifies the amendments primarily for the purposes of ensuring consistent integrity standards across all levels of the judiciary, as required for EU accession, strengthening public trust in the courts, and addressing practical institutional capacity problems within the ordinary evaluation system. The note also stresses that the CSEJ lacks the specialised expertise and resources necessary to conduct complex financial integrity assessments, while recruiting or seconding qualified experts is said to be difficult due to shortages of specialists, low remuneration levels, budgetary constraints, and staffing limitations affecting other public institutions.

19. The Venice Commission has consistently differentiated between vetting processes, disciplinary procedures and ordinary performance evaluation. Not only are these frameworks different in their content and processes, they also serve entirely different purposes and rest on different rationales.[19] Whereas performance evaluation is a structured, regular process applicable to all judges as part of the normal functioning of the judicial system[20] with disciplinary proceedings requiring a disciplinary offence,[21] vetting, by contrast, is an exceptional and inherently transitional measure.[22] As clarified by the Commission in its Opinion on Ukraine of 2025, „*Vetting, (…), is generally associated with transitional or crisis contexts and is designed to assess the suitability of judicial officials by examining their integrity, independence, and possible connections to corruption or organised crime. Unlike integrity checks, vetting may lead to immediate and severe consequences, including removal from office, and often involves broader scrutiny, including aspects of a judge's personal background and private life".*[23] Critically, ordinary evaluation systems must therefore remain distinct from any vetting regime and may not become disguised disciplinary mechanisms.[24]

20. In the view of the Commission and the DGI, the cumulative effect of the draft Law is that it transforms the regular evaluation process - within a limited timeframe – into an integrity vetting scheme, introducing a central component of the extraordinary vetting framework into the regular evaluation process.[25] Although the stated intention of the authorities has been to strengthen the existing regular evaluation framework, the draft Law in effect subjects district court judges, not originally covered by the vetting scheme, to a vetting-intensified financial examination.

[19] CDL-AD(2018)032, Kazakhstan, Opinion on the Concept Paper on the reform of the High Judicial Council of Kazakhstan, para 77.

[20] CDL-AD(2025)010, Kosovo - Opinion on the draft law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors and on the draft law amending the Law on the disciplinary liability of judges and prosecutors, para 25. CDL-AD(2021)015, Bosnia and Herzegovina - Opinion on the draft Law on amendments to the Law on the High Judicial and Prosecutorial Council, para 60. Opinion No. 17 (2014), Consultative Council of European Judges (CCJE) - On the evaluation of judges work, the quality of justice and respect of judicial independence, para 48 "*The formal individual evaluation of judges, where it exists, should help to improve and maintain a judicial system of high quality for the benefit of the citizens of member states*".

[21] CDL-AD(2015)042, Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of "The Former Yugoslav Republic of Macedonia", para 52-54. Opinion No. 27 (2024), Consultative Council of European Judges ("CCJE") on disciplinary liability of judges, para 10.

[22] CDL-AD(2023)005 – *op.cit*, para 15. CDL-AD(2019)020, *op.cit.*, para 37-40.

[23] CDL-AD(2025)044, Ukraine – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on draft amendments on disciplinary procedures against judges, declarations of integrity, and other procedures, para 85.

[24] CDL-AD(2019)020, *op. cit.*, para 44. CDL-AD (2024)012, Montenegro – Urgent Follow-up Opinion on the revised draft amendments to the Law on the Judicial Council and Judges, issued on 6 May 2024 pursuant to Article 14a of the Venice Commission's Revised Rules of Procedure, para 37. Opinion No. 17 (2014), *op.cit*, para 6 and 29.

[25] See also CDL-AD(2019)020, *op cit*, para 44.

21.In the view of the Commission and DGI, the substance of the draft Law requires it to be assessed against the Commission's well-established requirements for vetting schemes: extraordinary vetting is an exceptional measure, of a one-time character, requiring specific contextual justification, subject to the tests of necessity and proportionality, as well as robust procedural guarantees.[26]

B. Requirement of "extraordinary circumstances"

22. Judicial independence, entailing that the judiciary must be free from external pressure,[27] is an integral part of the fundamental democratic principles of the separation of powers and the rule of law,[28] as enshrined in the Constitution of the Republic of Moldova.[29] Vetting of judges, especially when carried out by an executive body, may constitute "*external pressure*",[30] and often involves an interference with the right to private life protected *inter alia* by Article 8 of the ECHR.[31] As stressed by the Venice Commission in previous opinions, extraordinary vetting may thus only be justified in case of exceptional circumstances.[32] Moreover, vetting is a tool of last resort and other methods of judicial accountability must be explored.[33]

23. The authorities have advanced a number of policy and governance considerations as potential justifications, including the importance of completing the judicial reform, maintaining public trust and alignment with EU commitments. The Commission and DGI note that these legitimate policy and governance concerns should be supported by specific evidence of the need to extend vetting to district court judges.[34]

24. While such evidence is not reflected in the material made available for this Opinion, the Commission and DGI have already acknowledged the need for extraordinary vetting in the Republic of Moldova in its March 2023 Opinion.[35] The justifications advanced also related to first-instance judges, with the same situation appearing to also persist today. In this respect, the perceived level of corruption in the Republic of Moldova continues to remain high,[36] with GRECO stating that determined action is required to rebuild trust in the judiciary.[37] In its report,

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[26] CDL-AD(2022)011, Kosovo - Opinion on the Concept Paper on the Vetting of Judges and Prosecutors and draft amendments to the Constitution, para 9-18.
[27] CDL-AD (2016) 009, Rule of Law Checklist, para 74. CDL-AD(2025)002 – The Updated Rule of Law Checklist, para 102-104. Magna Carta of Judges (2010) – Consultative Council of European Judges (CCJE), principle 2.
[28] Guaranteed *inter alia* by Article 6 of the European Convention on Human Rights. European Court of Human Rights ("the Court"), Xhoxhaj v. Albania, No 15227/19, 9 February 2021, para 24 and 25. The Court, Baka v. Hungary, No. 20261/12, 23 June 2016, para 172".
[29] The general principle of judicial independence is embedded in Article 116 of the Constitution of the Republic of Moldova, as well as the general principle of rule of law in Article 1 (3) of the Constitution.
[30] CDL-AD(2022)011, *op. cit.*, para 9-18.
[31] The Court, *Amann v. Switzerland*, no. 27798/95, 16 February 2000; *Chare née Jullien v. France*, no. 14461/88, 9 July 1991; *M.S. v. Sweden*, no. 20837/92, 27 August 1997.
[32] CDL-AD(2022)011, *op. cit.*, para 9-18. CDL-AD(2022)011, *op. cit.*, para 9-18. CDL-AD(2016)009, Albania - Final Opinion on the revised draft constitutional amendments on the Judiciary of Albania, para 52..
[33] CDL-AD (2021) 053, Albania - Opinion on the Extension of the Term of Office of the Transitional Bodies in charge of the re-evaluation of Judges and Prosecutors, para 15. CDL-AD(2019)024, Armenia – Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the amendments to the Judicial Code and some other laws. In para 12-13. CDL-AD(2019)020, *op.cit*, para 47.
[34] CDL-AD(2019)020, *op cit.*, para 47.
[35] CDL-AD(2023)005 – *op.cit*, para 16.
[36] Republic of Moldova scores 43/100 in Transparency International's 2024 Corruption Perceptions Index and ranked 76th out of 180 countries. The score reflects a minor improvement compared to previous years (42/100 in 2023).
[37] GRECO's Fourth Evaluation Round on the Republic of Moldova (2016) dealt with judges and prosecutors and corruption prevention in the judiciary. In its report, GRECO noted that "*The judiciary is affected by a negative public perception and determined action will be necessary to rebuild public trust*"

the EU Commission further highlights that the ongoing vetting is improving the independence and impartiality of the judiciary.[38] Moreover, during meetings with interlocutors, broad support for the objectives of judicial reform and strengthening integrity across the judiciary was expressed, including for expanding vetting to all sitting judges. According to several interlocutors, the reform would otherwise remain incomplete.

25. Concerns among interlocutors however persisted as concerns the lack of adequate impact analysis, and the inherent risk of high resignation numbers[39] in an already understaffed system. Several interlocutors also highlighted the possibility of strengthening the capacity of CSEJ and SCM as a more sustainable and less intrusive avenue, rather than exporting the competence to undertake financial integrity review to an external vetting body. According to several interlocutors, the CSEJ have to date successfully applied the financial integrity evaluation mechanism, as already included in the ordinary framework. Other interlocutors argued, however, that the financial integrity checks conducted by the CSEJ lacked sufficient rigour and effectiveness. Although the transfer of competence to EC No. 2 may be a legitimate policy choice to enhance the effectiveness of the process, the Commission and DGI stresses that any reform intended to subject all judges to extraordinary vetting should only proceed after a comprehensive analysis of the current situation and the impact of the proposed legislative change, including an analysis showing that less intrusive alternatives would not be sufficient.[40]

26. The Commission and DGI reiterate that "*it falls ultimately within the competence of the Moldovan authorities to decide whether the prevailing situation in the Moldovan judiciary creates sufficient basis for subjecting all judges (…) to extraordinary integrity assessments*".[41] In the view of the Commission and DGI, a more suitable approach would have been to address this objective of subjecting district court judges to vetting through the established vetting framework, with corresponding explicit statutory justification and with full procedural safeguards and clear legal basis. The Commission and DGI thus call on the authorities to examine the justification for the reform with particular scrutiny.

C. Substantive analysis

1. Transfer of competence from CSEJ to EC No. 2

27. As provided by the explanatory note, under the draft Law, EC No. 2 is to conduct the financial integrity assessment, apply the extraordinary vetting methodology and prepare the Financial Integrity Report which CSEJ is to incorporate into its overall assessment.

28. The Commission and DGI note that pursuant to this methodology, the Financial Integrity Report appears to become effectively determinative in practice, thereby shifting a decisive component of judicial career evaluation from the ordinary judicial governance bodies to an extraordinary external vetting mechanism. In this context, the transfer of competence for the financial integrity assessment to EC No. 2 will require clarification on how SCM retains its authority under the draft Law to determine and approve the evaluation methodology, including

(para 4). Although Moldova has undertaken significant judicial reforms since, GRECO's 2016 Fourth Evaluation Round Report, GRECO's Fifth Evaluation Report (2024) notes that corruption continues to be perceived as widespread (para 11).

[38] European Commission – Republic of Moldova 2024 Report, page 17.

[39] As provided by the authorities, a resignation rate of 10 % is expected. Various stakeholders, including judicial association, warns that it will be higher in practice.

[40] CDL-AD(2025)044, *op.cit,* para 35. CDL-PI(2026)007, Urgent Opinion on the 28 January 2026 Amendments to Laws Governing the Judiciary and the Prosecution, para 27.

[41] CDL-AD(2023)005 – *op.cit*, para 19.

on the criteria and weighing, in accordance with its statutory powers under Article 6(5) of Law No. 147/2023.[42]

29. While noting that the Ministry of Justice clarified in meetings that the EC No. 2 would solely have fact-finding competence and its report would be advisory, and stated in its written comments that it intended the report to be subject to full review by the CSEJ and the SCM, this is neither sufficiently clarified nor substantiated in the text of the draft Law. The Commission and DGI therefore recommend ensuring it more explicitly in the draft Law that the Financial Integrity Report remains advisory in its nature, and that it remains open to on-the-merits scrutiny by the CSEJ, which is tasked with assessing ethical integrity, an element closely linked to financial integrity. Correspondingly, the Commission and DGI further recommend (i) strengthening the CSEJ by hiring relevant staff and organising relevant trainings (depending on the availability of resources), and (ii) increasing institutional capacity so that CSEJ is empowered to review, reassess, and, if needed, reject EC No. 2's findings and make its own assessment, as well as collect additional evidence as appropriate.

2. Enhanced financial integrity review featuring exclusionary rule

30. As previously underlined by the Venice Commission, the aim of individual evaluations must be to improve the quality of the work of judges and prosecutors and thus the country's whole justice system.[43] Evaluation should thus primarily be based on qualitative data and focus on professional skills and personal competencies.

31. As noted, in the view of the Commission and DGI, the integrity criterion assessed by EC No. 2 effectively becomes decisive: any "fail" on the financial indicator will directly result in a "failed evaluation", regardless of performance on other criteria. As a result, failure to meet the financial integrity test would prevail over an otherwise positive record in professional or managerial competence. In meetings, some interlocutors confirmed that the methodology currently employed by EC No. 2 involves a binary method for determining financial integrity, which results in an assessment that is either positive or negative. In its written comments, the Ministry of Justice have acknowledged that methodological tensions may exist between the binary and score-based approaches, given that currently financial integrity under the CSEJ is only one component of the broader integrity criterion and may be open to score-manipulation.

32. The Commission and DGI note that under the existing legislation, the judicial evaluation process is based on a balanced assessment of three criteria – professional competence, integrity, and managerial competence – with fixed weightings of 40%, 40%, and 20%, respectively. They therefore consider that the change in methodology brought about by the draft Law raises an inherent risk that divergent standards or evaluation practices could arise, potentially impacting the consistency and coherence of the judicial evaluation process. The introduction of a binary method thus represents a departure from the established method of CSEJ and SCM and is inconsistent with the generally accepted rationale and method governing performance evaluation, which requires that evaluation should cover all aspects that constitute good judicial performance.[44] Although recognising that a mechanism to exclude

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[42] Article 6 (5) provides, «*(Ordinary Assessment): (5) The Superior Council of Magistracy shall approve regulations setting out: a) the methodology, procedure and duration of the performance evaluation of judges; b) the scoring system for each of the ratings referred to in paragraph (3) of this Article, as well as for the criteria and indicators set out in Article 7.*»

[43] CDL-AD(2025)010, *op.cit*, para 29. Opinion No. 17 (2014), conclusion number 6, *„In every case, the indicators used must enable those evaluating to consider all aspects that constitute good judicial performance. Evaluation should not be based on quantitative criteria alone* (paragraphs 31-35)". Opinion No. 27 (2024) *op. cit.*, para 7. See also Guidelines on the evaluation of the quality of work of judges (12/2024), European Commission for the Efficiency of Justice (CEPEJ).

[44] Ibid. para 29. CDL-AD(2022)050, Opinion on the draft amendments to the Law on the Judicial Council and Judges of Montenegro, para. 48.

judges that are unable to carry out their function in the judiciary is legitimate, the Commission and DGI are of the view that under ordinary performance evaluations, a comprehensive individual examination, including assessment of relevant qualitative data, rather than a pass or fail, is required.[45]

33. Should the authorities nevertheless decide to maintain the current approach, the Commission and DGI recommend that the authorities amend the methodology so that it allows for broader individual assessments based on both qualitative and quantitative data, integrating a balanced analysis of all the aspects of judicial performance, falling under the competence of CSEJ and aligned with Article 6(5) of Law No. 147/2023.

34. The Commission and DGI also note that the draft Law excludes judges appointed after 21 September 2023 on the ground that they were newly appointed. It however does not provide additional justifications for the exclusion, such as that this group of judges have already underwent integrity checks of comparable depth. The Commission and DGI invite the authorities to provide additional justifications and clarify the reason for the exclusion of this group of judges.

3. Uncertainty on consequences and lack of a clear legal basis

35. With regard to the consequences of failing the integrity assessment, the explanatory note states that the provisions of Law No. 147/2023 and Law No. 544/1995 will apply. However, it does not further specify which articles become applicable or what consequences apply for failing to meet the integrity criteria. The Commission and DGI recall that a law has to be clear and predictable,[46] and so that clarity and foreseeability, especially concerning removal, are fundamental for judicial independence. The law must therefore define expressly and as far as possible in specific terms, the consequences for failing to meet the required threshold.[47]

36. Under Article 19 (2) of Law No. 147/2023, "failed evaluation" can be established when (a) the judge is "*manifestly unsuitable"* for the office held; or (b) the president or vice-president of the court fails to perform their duties properly. As the draft Law does not amend Article 19 (2), it is unclear whether this provision covers the new legislative arrangements, meaning that a judge who failed the integrity evaluation is designated as "manifestly unsuitable". If Article 19 (2) of Law No. 147/2023 is applicable to the "failed" evaluation on account of "failed" integrity check, the judge concerned will be "suspended" from office and the SCM will "initiate" the procedure for removal of the judge from office pursuant to Article 19 (3). In parallel, Article 25 (1)(b) of Law 544/1995 provides that a judge can be removed from office if, *inter alia*, the judge has received an "unsatisfactory" rating in two consecutive performance appraisals. However, Article 6(3) of Law No. 147/2023 distinguishes between "unsatisfactory" and "failed" outcomes, suggesting that Article 25 (1)(b) would neither govern the consequences of a "failed" integrity result.

37. The Commission and DGI note that the legal effects and precise statutory grounds require clarification, particularly to ensure predictable outcomes. In this respect, the Commission and DGI stresses that unsatisfactory performance and disciplinary misbehaviour are two different issues which should not be confused or treated in the same manner.[48] Moreover, the Commission and DGI caution against the unsatisfactory performance of a judge forming the sole basis for dismissal and reiterate that for a professional evaluation to serve as ground for dismissal, "bad evaluation" should convincingly demonstrate the incapability of the judge to

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[45] CDL-AD (2014)007, Armenia, Joint opinion on the draft law amending and supplementing the judicial code (evaluation system for judges) of Armenia, para 103 -105. CDL-AD(2019)020, *op cit*., para 76.
[46] The Court, Sanchez v France, Application No. 45581/15, 15 May 2023, para 124.
[47] CDL-AD(2016)009 - Final Opinion on the revised draft constitutional amendments on the Judiciary (15 January 2016) of Albania, para 34.Opinion No. 27 (2024) – *op. cit.*, para 27.
[48] CDL-AD(2025)010, *op. cit*, paras 49-50.

perform judicial functions.[49] In this respect, possible breaches of integrity may serve as a legitimate ground for removal.[50]

38. The authorities have indicated in their comments that they recognise these concerns and are willing to clarify the legal basis of the consequences for a failed integrity assessment. The Commission and DGI recommend that the draft Law should clearly set out the consequences of a negative integrity assessment, ensuring that any measure is based on rigorous and well-defined statutory grounds, in line with the requirements of legal certainty, due process, and proportionality.

4. Availability of procedural safeguards

39. The draft Law is silent on procedural safeguards. It refers to Article 11(3)-(6) of Law No. 252/2023 concerning the substance of the financial integrity assessment but omits any further reference to the procedural guarantees provided in the external-vetting framework. Notably, Law No. 147/2023 provides for the right of appeal to the SCM against the CSEJ evaluation decisions, and Law No. 947/1995 provides for further judicial review of SCM decisions.

40. Under Law No. 252/2023, the procedural rights of the subject under evaluation are codified in detail. Articles 14-16 provide *inter alia* for the right to be notified in advance, the right to submit information and evidence, the right to be heard, and the right to request a private hearing. The provisions reflect the Commission's repeated insistence that vetting procedures must be accompanied by robust procedural guarantees.[51] The result of the draft Law and its omission to the procedural safeguards embedded in Law No. 252/2023 is thus potentially that judges subject to the procedure set out in the draft Law face the same substantive scrutiny and potentially the same ultimate consequence (removal from office) but through a legal pathway that is both procedurally thinner and statutorily less certain. This differential treatment sits uneasily with equality before the law and with the Commission's insistence on robust procedural guarantees for intrusive integrity assessments.[52] Correspondingly, and as noted above, concerns have been raised that the draft Law could result in a heightened risk of resignations among judges in an already understaffed judiciary, thereby exacerbating existing capacity challenges. These perspectives reinforce the importance of ensuring necessary procedural safeguards within the draft Law, to build trust and ensure predictability for judges affected by the draft Law. The Commission and DGI therefore recommend that the draft Law expressly extend the procedural safeguards embedded in Law No. 252/2023 to the new proposed model.

41. Moreover, under the draft's design, the SCM would act both as the appellate body (reviewing the evaluation outcome) and, if a "failed" rating is confirmed, as the initiator of removal proceedings (Law No. 147/2023, Article 19(3)). This raises concerns about impartial review in light of its dual role.[53] It is further unclear whether, and to what extent, the SCM (and subsequently the courts) could review on the merits the substance of EC No. 2's Financial Integrity Report, rather than only the CSEJ's overall rating. The Commission and DGI recall that effective review should extend to facts, law and the reasonable use of discretion. In line

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[49] CDL-AD(2022)050, Opinion on the draft amendments to the Law on the Judicial Council and Judges of Montenegro, para 63.

[50] CDL-AD(2019)020, *op cit.,* para 76. CDL-AD(2014)007, Armenia, Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Law amending and supplementing the judicial code (evaluation system for judges) of Armenia, para 103.

[51] CDL-AD(2023)005 – *op.cit*, para 103 – 110. CDL-AD(2023)023 – *op.cit*, para 23 – 26. CDL-AD(2023)035 – *op.cit*, para 9-14.

[52] CDL-AD(2010)004, Report on the Independence of the Judicial System, Part I: The Independence of Judges, para 43. Opinion No. 17 (2014), *op.cit*., paragraph 47.

[53] CDL-AD (2023) 005 – *op.cit*, para 98. The Court, Ramos Nunes de Carvalho e Sa v Portugal, Applications nos. 55391/13, 57728/13 and 74041/1, 6 November 2018, para 196.

with the European Court of Human Right's case-law and the Commission's previous opinions, it recommends incorporating these principles in the draft Law.[54]

5. Feasibility of the proposed time-frame

42. At the outset, the Commission and DGI note that the draft Law extends the mandate of a time-limited extraordinary evaluation body within the vetting framework. Several stakeholders have also expressed concerns that the proposed timeframe is unrealistic in view of the operational capacity required to process the volume of evaluations within the set period. This represents a risk of further extension of an already time-limited body. The Commission and DGI recommend that the authorities ensure legal provisions guaranteeing the temporary character of the vetting process,[55] whilst strengthening administrative capacity to ensure that the timeline can reasonably be met.

6. Risk of repeated application

43. Moreover, the Commission and DGI note that the draft Law does not contain safeguards against repeated application of enhanced integrity checks to the same judges. In its 2025 Opinion on Kosovo, the Commission cautioned against the risk of subjecting serving judges and prosecutors to a regime of "continuous" integrity checks, underlining the importance of limiting the intensity and permanence of such controls to what is strictly necessary.[56]

44. In light of these considerations, the Commission and DGI recommend including in the draft Law safeguards against repeated application.

D. Drafting process

45. According to the Ministry of Justice, preliminary discussions on the draft law have involved meetings with the SCM and EC No. 2 over several months, with the process following Law No. 100/2017 on initial analysis, with initiation notices published for transparency. Some stakeholders have expressed a wish for further opportunities to provide input before the draft moves forward. The Commission and DGI encourages the authorities to maintain and further develop inclusive public consultation as the legislative process continues.[57]

IV. Conclusion

46. By letter dated 5 May 2026, Mr Vladislav Cojuhari, Minister of Justice of the Republic of Moldova, requested an Opinion of the Venice Commission on the draft legislative amendments on the integrity checks and the evaluation of judges in the Republic of Moldova.

47. The Commission and DGI welcome the authorities' commitment to strengthening judicial integrity and ensuring high standards in the judiciary, and acknowledge the constructive cooperation, including the request for an Opinion from the Venice Commission early in the drafting process.

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[54] Ibid. The Court, *Obermeier v. Austria,* Application no. 11761/85, 28 June 1990, para 70. *Diennet v. France*, 18160/91, 26 September 1995, para 34.

[55] CDL-AD (2023) 005, *op.cit*,, para 21-24. CDL-AD(2016)009, *op.cit*, paras 54-56. CDL-AD(2021)053, Albania – Opinion on the Extension of the Term of Office of the Transitional Bodies in Charge of the Re-Evaluation of Judges and Prosecutors, para 15. CDL-AD(2015)045, *op.cit*, para 102.

[56] CDL-AD(2025)010, *op.cit.*, paras 49-50.

[57] Updated Rule of Law Checklist – *op.cit.*, Section 6 "Law-making procedures", para 34. CDL-AD (2024)034 - Poland - Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para 13 -15. CDL-AD (2025) 044, *op.cit.*, para 35.

48. The draft Law proposes to temporarily bring the external vetting commission (EC No. 2) into the framework of ordinary performance review of district-court judges to undertake financial integrity review. The draft also proposes that failure to meet the integrity criterion shall result in a "failed" rating, regardless of performance in other areas. This temporary system is intended to operate until 31 December 2027.

49. In the view of the Commission and DGI, the model proposed by the authorities is integrity vetting in practice, subjecting district court judges, not originally covered by the vetting scheme, to a vetting-intensity financial examination by the external vetting commission. This triggers the Commission's well-established requirements for vetting schemes: extraordinary vetting is an exceptional measure, of a one-time character, requiring specific contextual justification, subject to the tests of necessity and proportionality, as well as robust procedural guarantees.

50. It falls ultimately within the competence of the Moldovan authorities to decide whether the prevailing situation in the Moldovan judiciary creates sufficient basis for subjecting all judges to extraordinary integrity assessments. Whilst the Commission and DGI have previously acknowledged the serious challenges affecting judicial integrity in the Republic of Moldova, any reform subjecting a large category of judges to extraordinary vetting should proceed only after a comprehensive analysis of the prevailing situation and the likely impact of legislative change, including specific evidence that less intrusive measures would not suffice. The Commission and DGI do not rule out that valid reasons for such a measure may exist. However, the Commission and DGI is of the view that the introduction of an enhanced retrospective financial integrity review by an external vetting body applying vetting standards is inconsistent with the purpose and framework of performance evaluation, and cannot be remedied by adjustments within that framework. The Commission and DGI call on the authorities to examine the justification for the reform with particular scrutiny. Should they decide to proceed, the integrity assessment as designed should be addressed through the vetting framework, with the full procedural safeguards, explicit statutory justification, and clear legal basis for consequences that such a framework requires.

51. If the authorities decide to maintain the current approach, the Commission and DGI make the following key recommendations:

i. The draft Law should make explicit that the EC No. 2's report is advisory in nature and open to substantive, on-the-merits scrutiny by the CSEJ. Institutional capacity should be increased to empower the CSEJ to review, reassess, and, if necessary, reject EC No. 2's findings, make its own assessment, and collect additional evidence as appropriate.
ii. The CSEJ should be strengthened, depending on availability of resources, through the recruitment of relevant staff and the organisation of targeted trainings.
iii. The methodology of the proposed model should be reviewed so that it allows for broader individual assessment based on balanced analysis of judicial performance.
iv. The draft Law should indicate clear and foreseeable legal consequences of a failed integrity assessment, in line with the requirements of legal certainty, due process, and proportionality.
v. The necessary procedural safeguards available under the vetting framework (Law No. 252/2023) should be extended to the new model.
vi. Judicial review of the financial integrity evaluation should be sufficient and should be conducted in a manner consistent with European Court of Human Rights standards.
vii. Legal provisions should be included guaranteeing the temporary character of the proposed model.
viii. Safeguards against repeated application of the proposed mechanism to the same judges should be available.

52. The Venice Commission and DGI remains at the disposal of the Moldovan authorities for further assistance in this matter.