

Republic of Moldova

PARLIAMENT

LAW No. 65 of 30.03.2023

**on the external evaluation of judges and candidates
for the position of judge of the Supreme Court of Justice**

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AMENDED

[LP239 of 13.09.2024, OG 408-410/26.09.2024 art.619; in force as of 26.09.2024](#)
[LP353 of 24.11.2023, OG 465-467/7.12.2023 art.804; in force as of 7.12.2023](#)
[LP252 of 17.08.2023, MO325-327/22.08.2023 art. 581; in force 22.08.2023](#)
[LP246 of 31.07.2023, MO318-321/02.05.2023 art.570; in force 18.08.2023](#)
[LP89 of 27.04.2023, MO154/02.05.2023 art.242; in force 02.05.2023](#)

In order to ensure the integrity of the judges of the Supreme Court of Justice and to increase society's confidence in its work and in the justice system,

The Parliament adopts this Organic Law.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of the Law

This Law regulates the legal relationships related to the procedure of external evaluation of ethical and financial integrity (hereinafter – evaluation) of Supreme Court of Justice judges and of candidates for the position of judge of the Supreme Court of Justice.

Article 2. Purpose and principles of evaluation

(1) The evaluation is an exceptional exercise, unique and limited in time, carried out to ascertain the integrity of the subjects referred to in Article 3 para. (1).

(2) The evaluation of the Supreme Court of Justice judges and of candidates for the position of judge of the Supreme Court of Justice shall be carried out based on the following principles:

- a) independence of the Evaluation Commission;
- b) fairness of the evaluation procedure;
- c) publicity of the acts issued in the evaluation process;
- d) exceptional nature of the evaluation.

Article 3. Subjects of evaluation

(1) Subjects of the evaluation are:

- a) judges of the Supreme Court of Justice in office on the date of entry into force of this Law, including those suspended from office;
- b) candidates for the position of judge of the Supreme Court of Justice.

(2) The following are not subject to evaluation:

- a) judges of the Supreme Court of Justice and candidates for the office of judge of the Supreme Court of Justice, who have passed the integrity evaluation provided for by Law No. 26/2022 on certain measures related to the selection of candidates for membership of self-administration bodies of judges and prosecutors;
- a¹) judges and prosecutors who have passed the integrity evaluation provided for by Law No. 252/2023 on the external evaluation of judges and prosecutors and amending some normative acts;
- b) judges who, within 20 days of notification of the initiation of the evaluation, submit a request for resignation.

(3) The request for resignation submitted under para. (2) lit. b) may be withdrawn only within 20 days. The submission by the judge of the request for resignation after the expiry of this period, irrespective of the reason given, shall be deemed equivalent to failure to pass the evaluation.

(4) Upon receipt of the resignation request, the Superior Council of Magistracy shall inform the Evaluation Commission. The Superior Council of Magistracy shall examine the resignation request, shall decide on it within 10 days of the expiry of the period referred to in para. (3) and shall inform the Evaluation Commission of the decision taken.

Chapter II

EVLUATION COMMISSION

Article 4. Powers and mandate of the Evaluation Commission

(1) The Evaluation Commission shall carry out the evaluation of the subjects referred to in Article 3 para. (1).

(2) The Evaluation Commission is not a public authority within the meaning of the Administrative Code. The work of the Evaluation Commission is not public, with the exceptions established by this Law and the Evaluation Commission's Rules of organisation and functioning.

(3) In exercising its mandate, the Evaluation Commission shall have the following powers:

a) to collect, accumulate and verify, by means not prohibited by law, any information relevant to the evaluation;

b) to access any information system containing information relevant to the fulfilment of its mandate, including via the interoperability platform (MConnect);

c) to request information from the subject of the evaluation;

d) to request and obtain, free of charge, information from other natural and legal persons governed by public or private law, including financial institutions;

e) to interview the subject of the evaluation and other persons holding information relevant to the evaluation;

f) to carry out the evaluation and approve reports on the evaluation results;

g) other powers provided for in this Law.

(4) The Evaluation Commission shall operate until the appointment of the last judge of the Supreme Court of Justice, eventually until the Supreme Court of Justice has completed its examination of the last appeal lodged against the decision of the Superior Council of Magistracy under Article 18.

(5) The financing of the work of the Evaluation Commission and its secretariat shall be carried out from the account and within the limits of the financial means approved in the annual budget law, from other sources not prohibited by law.

Article 5. Independence of the Evaluation Commission

(1) The Evaluation Commission shall be functionally and decisional independent from any natural or legal persons, irrespective of the type of ownership and legal form of organisation, including parliamentary factions and development partners, which have participated in the appointment of its members.

(2) In its work, the Evaluation Commission shall be guided by the Constitution, by this Law and by other regulatory documents governing the areas related to its work. The evaluation procedure is laid down in this Law and in the Evaluation Commission's Rules of organisation and functioning.

(3) The Evaluation Commission shall draw up and approve its own Rules of organisation and functioning, which shall be published on the official website of the Evaluation Commission.

(4) Development partners cannot give indications to the Evaluation Commission or its secretariat on matters relating to the implementation of the mandate of the Evaluation Commission.

(5) Members of the Evaluation Commission and employees of the secretariat shall enjoy functional immunity and may not be held liable for opinions expressed in the exercise of their mandate and duties. Criminal proceedings against them shall be instituted by the Prosecutor General with the consent of the Evaluation Commission. In the event of a flagrant offence, the consent of the Evaluation Commission is not required.

Article 6. Membership of the Evaluation Commission

(1) The Evaluation Commission shall consist of 9 members appointed by a vote of 3/5 of the elected deputies as follows:

a) 4 members, citizens of the Republic of Moldova – proposed by parliamentary factions, respecting the proportional representation of the majority and the opposition;

b) 5 members – proposed by development partners.

(2) For the purpose of appointing the members referred to in para. (1) lit. a) of this Article, the parliamentary factions shall submit to Parliament's Committee on Legal Affairs, Appointments and Immunities information on the candidates they propose. The candidate proposed by the opposition may be rejected only if he or she does not meet the requirements laid down in Article (7) para. (1). The Committee on Legal Affairs, Appointments and Immunities shall examine the proposed candidates and approve, by a majority vote, reports on each candidate. Draft Parliament decisions shall be drawn up by the Committee on Legal Affairs, Appointments and Immunities separately for each candidate and shall be submitted to the plenary of Parliament for debate and adoption by the majority vote provided for in para. (1) of this Article.

(3) If one of the parliamentary factions does not ensure the nomination of the candidate within the prescribed time limit, the Committee on Legal Affairs, Appointments and Immunities shall submit the draft parliamentary decisions and

reports on the candidates proposed in accordance with para. (2) for debate in Parliament's plenary.

(4) If one of the parliamentary factions fails to nominate a candidate, or if the proposed candidate is not approved by the required number of votes, the Evaluation Commission shall be set up and shall operate with the number of members confirmed by Parliament's decision in accordance with para. (7).

(5) For the purpose of appointing the members referred to in para. (1)(b), the development partners shall submit to the Parliament, by joint letter, a list of not more than 10 eligible persons. The Committee on Legal Affairs, Appointments and Immunities shall examine the proposed candidates and elect 5 persons who obtained the highest number of votes in the meeting of that Commission. They are then presented to Parliament's plenary for appointment as members of the Evaluation Commission. The Committee on Legal Affairs, Appointments and Immunities shall draw up a draft decision of Parliament, accompanied by a report, which shall be debated in Parliament's plenary and adopted by majority vote provided for in para. (1).

(6) For the purposes of this Law, development partners shall mean international donors (international organisations, diplomatic missions and their representations in the Republic of Moldova) active in the areas of justice reform and fight against corruption in the last 2 years. The list of development partners shall be approved by Government order.

(7) The nominal composition of the Evaluation Commission shall be confirmed by Parliament's decision.

(8) The members of the Evaluation Commission referred to in para. (1) lit. (a) shall receive a monthly allowance equivalent to twice the basic salary of a judge of the Supreme Court of Justice who has passed the evaluation under the provisions of this law.

[Art.21 para. (2) as amended by LP246 of 31.07.23, MO318-321/02.05.23 art.570; in force 18.08.23]

Article 7. Membership of the Evaluation Commission

(1) The member of the Evaluation Commission must meet the following requirements:

a) has higher education;

b) has an impeccable reputation;

c) has at least 10 years' experience in one or more of the following fields: law, economics, tax, finance;

d) does not hold and has not held office as a Member of Parliament or member of the Government in the last 3 years;

e) has not been a member of a political party in the last 3 years;

f) has not held the office of judge or prosecutor in the Republic of Moldova in the last 3 years;

g) has sufficient knowledge of English to carry out the tasks of the Evaluation Commission.

(2) Membership of the Evaluation Commission is incompatible with any public office in the Republic of Moldova. Circumstances of incompatibility of the members of the Evaluation Commission are declared immediately and must be resolved within 10 days of the declaration.

(3) Membership of the Evaluation Commission shall cease in the following cases:

1) resignation;

2) removal of a member for:

a) occurrence of circumstances of incompatibility or non-compliance with the requirements laid down in para. (1);

b) intentional violation of the provisions of this Law or of the Rules of organisation and functioning of the Evaluation Commission;

c) committing an offence with intent;

d) failure to attend at least 3 meetings of the Evaluation Commission without good reason;

e) the inability to serve as a member of the Evaluation Commission, including for health reasons, for more than 30 days;

3) death;

4) termination of the work of the Evaluation Commission.

(4) The member of the Evaluation Commission shall be removed by a reasoned decision of the Evaluation Commission adopted by secret vote of at least 2/3 of the members of the Evaluation Commission, which shall be forwarded to Parliament for information. The member concerned shall not vote.

(5) In the event of termination of membership of the Evaluation Commission on the grounds set out in paras. (3) points 1) to 3), the chairperson of the Evaluation

Commission or, where appropriate, the head of the secretariat of the Evaluation Commission shall immediately refer the matter to Parliament for the selection and appointment of a new member in accordance with the procedure laid down for the member whose term of office has expired.

(6) The members of the Evaluation Commission referred to in Article 6(1)(a) shall complete annually the declaration of assets and personal interests within the meaning of Law No. 133/2016 on the declaration of assets and personal interests. The declarations of assets and personal interests of the members indicated in Article 6 para. (1) lit. a) and curricula vitae of all members shall be published on the official website of the Evaluation Commission.

Article 8. Chairperson of the Evaluation Commission

(1) The Evaluation Commission shall be chaired by a chairperson elected by secret ballot from among its members by a majority vote of the members of the Evaluation Commission. In the absence of the chairperson of the Evaluation Commission, his/her duties shall be carried out by a member designated by the chairperson of the Evaluation Commission.

(2) The Chairperson of the Evaluation Commission shall have the following duties:

- a) to coordinate the work of the Evaluation Commission and the secretariat of the Evaluation Commission;
- b) to convene the meetings of the Evaluation Commission;
- c) to chair the meetings of the Evaluation Commission;
- d) to represent the Evaluation Commission in dealings with other natural and legal persons governed by public or private law and conclude acts on behalf of the Evaluation Commission;
- e) other duties provided for in this Law and in the Rules of organisation and functioning of the Evaluation Commission.

(3) The office of Chairperson of the Evaluation Commission shall cease in the event of:

- a) termination, in accordance with Article 7(3) of membership of the Evaluation Commission;
- b) failure to perform the duties of the office, on the proposal of a majority of the members of the Evaluation Commission, by secret vote of at least 2/3 of its members.

Article 9. Secretariat of the Evaluation Commission

(1) The Evaluation Commission has a secretariat, which is a structure without legal personality. The Secretariat of the Evaluation Commission (hereinafter - the Secretariat) is independent of any public authority or institution and functions solely for the purpose of assisting the Evaluation Commission in the performance of its duties. The organisation and functioning of the Secretariat and its staffing are laid down in the Rules of organisation and functioning of the Evaluation Commission.

(2) Recruitment of Secretariat staff is carried out by development partners.

(3) The work of the Secretariat is coordinated by the head of the Secretariat.

(4) At the request of the chairperson of the Evaluation Commission or the head of the Secretariat, public authorities and institutions shall be obliged to delegate or second employees to assist the Evaluation Commission in the performance of its duties, where appropriate, by way of derogation from the provisions of the regulations governing the functioning of those public authorities and institutions and the regulations governing the status of certain categories of civil servants.

(5) The Secretariat shall be subordinate exclusively to the Evaluation Commission.

Article 10. Obligations of the members of the Evaluation Commission

(1) The members of the Evaluation Commission shall have the following obligations:

a) to participate, in person or by videoconference, in the meetings of the Evaluation Commission;

b) to use only for the purpose of the evaluation and to ensure the confidentiality of personal data which become known to them in the exercise of their mandate as a member of the Evaluation Commission;

c) to not engage in activities that could give rise to a conflict of interest and actions incompatible with membership of the Evaluation Commission and to declare them in the manner laid down in the Rules of organisation and functioning of the Evaluation Commission;

d) to not commit acts which might discredit the Evaluation Commission or cast doubt on its objectivity;

e) to perform their duties professionally, diligently and promptly.

(2) The obligations laid down in para. (1) lit. b) to e) shall also apply, as appropriate, to employees of the Secretariat.

Chapter III

EVALUATION PROCEDURE

Article 11. Evaluation criteria

(1) For the purposes of this Law, the evaluation shall consist in verifying the ethical and financial integrity of the subjects indicated in Article 3(1).

(2) The judge shall be deemed not to meet the criterion of ethical integrity if the Evaluation Commission has serious doubts determined by the fact that:

a) in the last 5 years, he/she has seriously violated the rules of ethics and professional conduct of judges, prosecutors or, as the case may be, other professions, as well as if he/she has had arbitrary behavior or issued arbitrary acts, in the last 10 years, contrary to the mandatory rules of law, and the European Court of Human Rights had established, prior to the adoption of the act, that a similar decision was contrary to the European Convention on Human Rights;

[Art.11 para. (2) as amended by LP252 of 17.08.2023, OG 352-327/22.08.23 art. 581.; in force as of 22.08.2023]

b) in the last 10 years, has admitted incompatibilities and conflicts of interest incompatible with the office of judge of the Supreme Court of Justice in his/her work.

(3) The judge shall be deemed not to meet the criterion of financial integrity if the Evaluation Commission has serious doubts determined by the fact that:

a) the difference between assets, expenses and income for the last 12 years exceeds, in total, 20 average salaries per economy, in the amount set by the Government for the year in which the judge's evaluation began;

b) in the last 10 years, admitted tax irregularities as a result of which the amount of unpaid tax exceeded, in total, 5 average wages per economy, in the amount set by the Government for the year in which the judge's evaluation began.

(4) In the process of assessing financial integrity, the evaluation committee may verify:

[Art.11 para. (4) as amended by LP353 of 24.11.2023, OG 465-467/7.12.23 art.; in force as of 7.12.2023]

a) compliance by the judge with the tax system as regards the payment of taxes on the use of means and income derived from the property owned, taxable income and the payment of import and export duties;

b) compliance by the judge with the legal regime for the declaration of assets and personal interests;

c) the manner of acquisition of assets in the ownership or possession of the judge or the persons referred to in para. (5), and the expenses relating to the maintenance of such assets;

d) the sources of income of the judge and, where applicable, of the persons referred to in para. (5);

e) whether or not there are any loan, credit, leasing, insurance or other contracts which may provide financial benefits, in which the judge, the person referred to in para. (5) or the legal person to which they are the beneficial owner is a contracting party;

f) whether or not there are donations in which the judge or the person specified in para. (5) has the status of donee or donor;

g) other aspects relevant to identifying the origin of the judge's wealth and its justification.

(5) In assessing compliance with the criteria laid down in para. (3) of this Article, the Evaluation Commission shall also take into account the wealth, expenses, income of close persons, as defined in the Law No. 133/2016 on the declaration of wealth and personal interests, as well as of persons referred to in Article 33 (4) and (5) of the Law No. 132/2016 on the National Integrity Authority.

(6) In assessing compliance with the criteria set out in para. (2) to (3) there shall be considered the legal provisions in force at the time when the relevant facts were committed. The acts or findings of other entities with competence in the areas concerned shall have no predetermined value for the Evaluation Commission. Findings in final judgments must be taken into account by the Evaluation Commission, except for judgments which the Evaluation Commission considers arbitrary or manifestly unreasonable. The Evaluation Commission may rule only on breaches of the rules of ethics and professional conduct, without ruling on the legality of the decisions in question.

[Art.11 para. (6) as amended by LP353 of 24.11.2023, OG 465-467/7.12.23 art.; in force as of 7.12.2023]

Article 12. Initiation of the evaluation procedure for judges of the Supreme Court of Justice

(1) Within 5 days of the establishment of the Evaluation Commission, the Superior Council of Magistracy shall forward to the Evaluation Commission the list of judges of the Supreme Court of Justice to be evaluated and their contact details (home address, telephone number, e-mail address).

(2) The Evaluation Commission shall initiate the evaluation upon receipt from the Superior Council of Magistracy of the list of judges of the Supreme Court of Justice indicated in para. (1).

(3) The Evaluation Commission shall notify the judge of the commencement of his evaluation and request him to submit:

a) statement of assets and personal interests, with updated data, for the last 5 years, including expenses during that period;

b) ethics questionnaire;

c) statement of the list of close persons, as defined in the Law No. 133/2016 on the declaration of wealth and personal interests, who work or have worked in the last 5 years in the judiciary, prosecution and public service.

(4) The statements and the questionnaire referred to in para. (3) shall be submitted within the time limit set by the Evaluation Commission, which may not be less than 10 days from the date of the request, and shall be signed with an electronic signature. Failure to provide a reasonable justification for the refusal to submit or for the failure to submit the declarations or the questionnaire in due time shall constitute grounds for the Evaluation Commission to decide that the evaluation has not been passed.

(5) By submitting the statements and the questionnaire provided for in para. (3), the judge declares on his/her own responsibility that the data submitted are true and complete and consents to the processing of personal data. The template of such statements and questionnaire shall be approved by the Evaluation Commission.

Article 13. Gathering information

(1) The Evaluation Commission and its secretariat shall have real-time access to information systems containing the information necessary for the fulfilment of mandate, under the terms of the legislation on data exchange and interoperability. The Evaluation Commission may receive from any person relevant information about the judge being evaluated and may gather such information by itself.

(2) The information requested by the Evaluation Commission shall be submitted to it free of charge, including in electronic form, within 10 days from the date of the request.

[Art.13 para. (2) as amended by LP239 of 13.09.24, OG408-410/26.09.24 art.619; in force as of 26.09.24]

(3) Natural and legal persons under public and private law, including financial institutions, may not refuse to provide information on the grounds of protection of

personal data, banking secrecy or other data with limited access, except for information that falls under the provisions of Law No.245/2008 on state secrecy and has not been declassified.

(4) Failure to submit the requested information within the set time limit shall be sanctioned in accordance with the provisions of the legislation.

(5) By way of derogation from the provisions of Law No. 133/2011 on the protection of personal data, the processing of personal data is allowed during the work of the Evaluation Commission and its secretariat. The right of access of the evaluated judge to these data is ensured by the secretariat. The evaluated judge is bound to maintain the confidentiality of the personal data in the evaluation materials submitted by the Evaluation Commission.

(6) For the purpose of clarifying identified uncertainties, the Evaluation Commission may request, at any stage of the evaluation procedure, additional data and information from the evaluated judge or other persons, indicating the deadline for submission.

(7) Communication with the evaluated judge shall take place electronically using the court's e-mail system. If no e-mail address is available in the system, the judge's personal e-mail address shall be used.

(8) Failure by the evaluated judge to submit the information requested by the Evaluation Commission within the time limit set, without justifiable reasons, may constitute grounds for refusing to include the information submitted late in the evaluation file. In this case, the Evaluation Commission shall evaluate the judge based on the information gathered.

(9) Information that is a state secret and has not been declassified may not be used in the evaluation process.

(10) The information gathered by the Evaluation Commission on the subjects of evaluation shall be kept, archived, deleted and destroyed in the manner laid down in the Rules of organisation and functioning of the Evaluation Commission. The deletion and destruction of the information concerned shall be carried out after its transmission to the Superior Council of Magistracy.

[Art.13 para. (10) as amended by LP239 of 13.09.24, OG408-410/26.09.24 art.619; in force as of 26.09.24]

(11) In the evaluation process, the Evaluation Commission may use the information on the subjects of the evaluation gathered on the basis of Law No. 26/2022 on measures related to the selection of candidates for the position of member of the self-administrative bodies of judges and prosecutors and Law No. 252/2023 on the external evaluation of judges and prosecutors and amending some normative acts.

[Art.13 para. (11) as added by LP239 of 13.09.24, OG408-410/26.09.24 art.619; in force as of

Article 14. Evaluation Commission meetings

- (1) The Evaluation Commission shall conduct its work in closed meetings, with the exceptions set out in this Law.
- (2) The Evaluation Commission meetings shall be attended by at least 5 members.
- (3) Meetings shall be convened by the Chairperson of the Evaluation Commission or at the request of at least 3 members of the Commission.
- (4) The members of the Evaluation Commission are obliged to attend the meetings in person or by videoconference. If a member of the Evaluation Commission is unable to attend the meeting, he/she shall notify the chairperson of the Evaluation Commission.
- (5) The evaluation dossier is drawn up by the designated rapporteur member, assisted by the secretariat. The procedure for appointing the rapporteur member shall be laid down in the Rules of organisation and functioning of the Evaluation Commission.
- (6) The rapporteur member presents the draft report on the evaluation to the other members of the Evaluation Commission.

Article 15. Hearing

- (1) After reviewing the information gathered, the Evaluation Commission shall notify the judge, in written form, of any doubts it has about the judge which are to be discussed at the hearing, giving the judge access to the materials in the evaluation file relating to those doubts.
- (2) At least 7 days after notification of the doubts, the Evaluation Commission shall hear the judge. If the judge refuses to attend the hearing, the Commission shall not organise the hearing and shall evaluate the judge based on the information gathered.
- (3) The hearing shall take place in public session, which shall be recorded by audio and video means. If necessary, the hearing may continue at an additional meeting.
- (3¹) At the reasoned request of the subject of the evaluation, the hearing, or part of it, may be held in a closed session, if necessary for reasons of public order, protection of privacy or morality. The Evaluation Commission may refuse such a request only if there are well-founded reasons. The Commission's refusal may be challenged within 3 days before the Superior Council of Magistracy, which shall

examine the matter as a priority in its next session. The decision of the Superior Council of Magistracy shall not be subject to any appeal.

(4) Video recordings of hearings held in public sessions shall be placed on the official website of the Evaluation Commission no later than 3 days after the date of the hearing.

(5) The evaluated judge has the following rights:

a) to provide explanations at the hearing on the doubts notified in accordance with para. (1);

b) to be assisted by a lawyer or trainee lawyer during the evaluation procedure;

c) to take cognisance of the materials in the evaluation file before the hearing;

d) to submit, in written form, additional data and information which he/she considers relevant if he/she has been unable to do so previously;

e) to request for his/her hearing to take place in closed session.

(6) The judge is obliged to respect the order in the hearing and to answer the questions of the Evaluation Commission.

(7) Each member of the Evaluation Commission may address questions to the evaluated judge.

(8) Concurrent objection of all members of the Evaluation Commission is prohibited.

Article 16. Evaluation report

(1) Following the judge's evaluation, the Evaluation Commission shall draw up a reasoned report on the evaluation containing a proposal for passing or non-passing the evaluation.

(2) The evaluation report shall be approved by the Evaluation Commission by a majority vote of the members present, within no more than 30 working days from the date of the hearing. In complex cases, this time limit may be extended by up to 15 working days. Members of the Evaluation Commission may not abstain from voting.

(3) The evaluation report shall contain relevant facts, reasons and the conclusion as to whether or not the evaluation was passed.

(4) The judge shall be deemed not to have passed the evaluation if one or more grounds for non-compliance with the criteria laid down in Article 11 are found to exist.

(5) The evaluation report shall be sent to the evaluated judge, to his/her e-mail address, and to the Superior Council of Magistracy. On the same day, the Evaluation Commission shall publish on its official website the information on the outcome of the evaluation.

(6) Not later than 3 days after approval, the evaluation report signed by the chairperson of the Evaluation Commission shall be submitted to the Superior Council of Magistracy also in paper form, together with an electronic copy of the evaluation file containing all the evaluation materials gathered by the Evaluation Commission.

(7) If the Evaluation Commission finds that the information provided by the subject of the evaluation or by other natural or legal persons does not correspond to reality or finds violations of the law, it shall refer the matter to the competent bodies with a view to documenting the facts and, where appropriate, holding them liable in accordance with the law.

(8) The evaluation report shall be published, taking necessary measures to protect the privacy of the subject of the evaluation and other persons, on the official website of the Evaluation Commission no later than 3 days from:

- a) the date of expiry of the period for appealing the decision of the Superior Council of Magistracy referred to in Article 17 para. (2) lit. a) and c);
- b) the date of issuance of the decision of the Supreme Court of Justice referred to in Article 18 para. 2¹ point 1) and 2) lit. c).

Article 17. Examination by the Superior Council of Magistracy of the evaluation results

(1) The Superior Council of Magistracy examines the results of the judge's evaluation in a public meeting based on the evaluation file received from the Evaluation Commission. The judge may submit additional information that he/she considers relevant only if he/she proves that he/she was unable to submit it previously. The representative of the Evaluation Commission and the evaluated judge, in person, are entitled to present their position.

(1¹) In the process of examining the results of the judge's evaluation, the Superior Council of Magistracy shall consider evidence confirming that the subject of the evaluation has committed the acts referred to in Article 11 para. (2) and (3).

(2) By a reasoned decision adopted no later than 30 days after receipt of the documents referred to in Article 16 para. (6), the Superior Council of Magistracy shall:

- a) accept the evaluation report and decide whether the evaluation is passed or failed;

b) reject the evaluation report and order, once only, that the evaluation procedure of the judge be reopened if it finds factual circumstances or procedural errors which could have led to the passing or, as the case may be, the failure to pass the evaluation;

c) after receiving the evaluation report drawn up following the reopening of the evaluation procedure provided for in point (b), accept the report under point (a) or reject it and declare the evaluation passed or failed.

(3) The reasoned decision of the Superior Council of the Magistracy shall be sent by e-mail to the judge concerned and to the Evaluation Commission, within 3 days from the date of adoption. The decision shall be published on the official website of the Superior Council of Magistracy within 3 days from the expiry of the appeal period or, if the decision is challenged, from the date the Supreme Court of Justice delivers its decision..

(4) The decision of the Superior Council of Magistracy on the failure to pass the evaluation shall result in the dismissal of the judge.

(5) The judge dismissed from office pursuant to para. (4) of this Article:

a) shall not be entitled to hold the office of judge and other offices of public dignity for a period of 5-7 years from the date of the final decision of the Superior Council of Magistracy;

b) shall be deprived of his entitlement to the one-off severance pay provided for in Article 26(3) of Law No. 544/1995 on the status of judges;

c) shall be deprived of the entitlement to the special pension provided for in Article 32 of Law No. 544/1995 on the status of judges, while maintaining the general retirement pension in accordance with the general conditions laid down by Law No. 156/1998 on the public pension system.

Article 18. Appealing the decision of the Superior Council of Magistracy

(1) By derogation from the provisions of the Administrative Code, the decision of the Superior Council of Magistracy referred to in Article 17 para. (4) may be appealed by the judge concerned to the Supreme Court of Justice within 5 days from the notification of the reasoned decision of the Superior Council of Magistracy. The submission of the appeal suspends the enforcement of the decision of the Superior Council of Magistracy. During the period of examination of the appeal, the judge concerned may not issue any judicial acts of order.

[Art.18 para. (1) as amended by LP239 of 13.09.24, OG408-410/26.09.24 art.619; in force as of 26.09.24]

[Art.18 para. (1) as amended by LP353 of 24.11.2023, OG 465-467/7.12.23 art.; in force as of 7.12.23]

(2) The appeal is submitted to the Supreme Court of Justice and is examined within 30 days by a panel consisting of 3 judges who passed the evaluation and did not work in the Supreme Court of Justice until December 31, 2022.

[Art.18 para. (2) as amended by LP353 of 24.11.2023, OG 465-467/7.12.23 art.; in force as of 7.12.23]

(2¹) The Supreme Court of Justice:

1) rejects the appeal;

2) accepts the appeal and:

a) orders, once, the resumption of the evaluation procedure by the Evaluation Commission;

b) order, once, the resumption of the evaluation procedure by the Superior Council of Magistracy;

c) decides on the promotion or non-promotion of the evaluation in case it annuls the judgment of the Superior Council of Magistracy after the resumption of the evaluation.

(2²) The Supreme Court of Justice admits the appeal only if it finds that, during the evaluation procedure there were admitted gross procedural errors or if there are factual circumstances that could have led to the promotion or non-promotion of the evaluation.

(3) The appeal shall be examined in a public session, to which the judge concerned and the representative of the Superior Council of Magistracy and of the Evaluation Commission, if applicable, shall be invited to present their position. If necessary, other persons may be invited to attend.

[Art.18 para. (3) as amended by LP353 of 24.11.2023, OG 465-467/7.12.23 art.; in force as of 7.12.23]

(4) In the event of the abstention or objection of a member of the formation of the Court, the appeal shall be examined by the other members of the formation of the Court, the member whose abstention or objection is requested being replaced by the next Judge of the Supreme Court who meets the conditions laid down in para. (2).

(5) The objection of the entire formation of the Court and the repeated, improper and bad faith filing of an application for objection for the purpose of delaying the examination of the appeal are inadmissible.

(6) The decision of the formation of the Court shall be irrevocable from the moment of its issuance. The decision shall be deemed to have been issued when it

is placed on the official website of the Supreme Court of Justice and shall be notified to the participants within 5 days of the date of issue.

Article 19. Reopening of the evaluation procedure

(1) When the evaluation procedure is reopened, the Evaluation Commission shall examine the matters referred to it by the respective council or, as the case may be, by the Supreme Court of Justice, as well as additional information which for objective reasons could not be presented previously, and if the subject of the evaluation agrees, shall hold repeated hearings. The agreement or, as the case may be, its absence shall be communicated to the Evaluation Commission within 3 working days from the request of the Evaluation Commission.

[Art.19 para. (1) as amended by LP239 of 13.09.24, OG408-410/26.09.24 art.619; in force as of 26.09.24]

(2) The report on the judge's re-evaluation shall be approved by the Evaluation Commission in accordance with the rules laid down in Article 16.

Article 20. Evaluation of candidates for the office of judge of the Supreme Court of Justice

(1) Candidates for the office of judge of the Supreme Court of Justice shall be evaluated in accordance with the provisions of this law.

(2) In the absence of rules of ethics and professional conduct established for the field in which the candidate is or has been active, it shall be verified whether or not the candidate's conduct up to the date of the evaluation gives rise to reasonable suspicions as to his/her compliance with the requirements of ethics and professional conduct established for judges.

(3) The Decision of the Superior Council of Magistracy provided for in Article 17 (2) and the report of the Evaluation Commission on the candidate's failure to pass the evaluation shall be forwarded, within 5 days, to the Superior Council of Prosecutors, the Union of Lawyers of the Republic of Moldova or, as the case may be, to the educational institution where the candidate is working for a decision on his/her career. The Superior Council of Magistracy may decide on the forwarding of its decision and the Evaluation Commission's report to other public institutions, authorised with verification and control functions.

(4) For candidates for the office of judge of the Supreme Court of Justice from among judges and prosecutors, the effects of failure to promote provided for in Article 17(4) and (5) shall be applied accordingly.

(5) Only candidates who have passed the evaluation will be admitted to the competition for the office of judge of the Supreme Court of Justice.

Chapter IV

FINAL AND TRANSITIONAL PROVISIONS

Article 21. Final and transitional provisions

(1) This Law shall enter into force on the date of its publication in the Official Monitor of the Republic of Moldova, with the exception of the provisions of Article 12 para. (1), which shall be applied once the Superior Council of Magistracy is operational.

(2) The Parliament, shall, within 30 working days from the date of entry into force of this Law, confirm the nominal composition of the Evaluation Commission.

[Art.21 para. (2) as amended by LP89 of 27.04.23, MO154/02.05.23 art.242; in force 02.05.23]

(3) The Government shall take the necessary steps to ensure the implementation of this Law, including:

a) shall, within 5 working days of the date of entry into force of this Law, approve the provision on the list of development partners referred to in Article 6 para. (6) and shall ensure that the Parliament and the development partners are contacted with a view to their nomination of candidates and appointment of members of the Evaluation Commission, as well as to identification and employment of persons who will work in the Secretariat;

b) shall identify, within 15 days from the date of entry into force of this Law, the premises for the work of the Evaluation Commission.

(4) Ministry of Justice:

a) shall ensure the payment of the monthly allowance for the members of the Evaluation Commission, referred to in Article 6(1)(a), from the financial means approved in the budget for the external/extraordinary evaluation of judges and prosecutors;

b) shall organise the first meeting of the Evaluation Commission no later than 5 working days after confirmation of its nominal composition.

(5) Superior Council of Magistracy:

a) within 5 working days after the deadline for submission of applications, shall forward to the Evaluation Commission the list of candidates for the office of Judge of the Supreme Court of Justice, including their identification and contact details;

b) not later than two weeks after the first three candidates have passed the evaluation, it shall conduct the competition for the offices of judge of the Supreme Court of Justice.

(6) Evaluation Commission:

a) not later than 10 working days after confirmation of the nominal composition, shall elect its Chairperson;

b) not later than 20 working days after confirmation of the nominal composition, shall approve its own Rules of organisation and functioning, including the manner of organisation and operation of the secretariat;

[Art.21 para. (6) lit. (b) as amended by LP89 of 27.04.23, MO154/02.05.23 art.242; in force 02.05.23]

c) not later than 15 working days after receipt of the list referred to in Article 12(1), shall initiate the procedure for evaluation of the judges of the Supreme Court of Justice who have not filed for resignation;

d) within 10 working days following receipt of the candidate's file for the office of judge of the Supreme Court of Justice, shall initiate the evaluation procedure;

e) not later than 6 months after the evaluation procedure has been initiated, shall evaluate all candidates for the office of judge of the Supreme Court of Justice and issue reports on the evaluation of each subject.

(7) Judges of the Supreme Court of Justice, in office on the date of entry into force of this Law, who have passed the evaluation shall continue their work as judges of the Supreme Court of Justice.

(8) Should the proper functioning of the Supreme Court of Justice be seriously impaired due to the number of vacancies, the Superior Council of Magistracy may transfer, on a temporary basis, by way of derogation from the provisions of Law no.544/1995 on the status of the judge, from the lower courts judges who meet the legal criteria for the office of judge of the Supreme Court of Justice. The temporary transfer will be terminated when at least 11 of the Supreme Court of Justice judge posts are filled, and temporarily transferred judges shall return to the offices held prior to the transfer. During the period of the transfer, the transferred judges shall receive the salary of the Supreme Court of Justice judge in relation to their respective seniority in office.

(9) By way of derogation from the provisions of Law No. 158/2008 on civil service and the status of civil servants, as well as from the provisions of the regulations governing the special status of certain categories of civil servants, the secondment of civil servants from public authorities and institutions to the secretariat shall be permitted.

(10) This Law shall cease to have effect on the date of completion of the examination by the Supreme Court of Justice of the last appeal lodged against the decision of the Superior Council of Magistracy referred to in Article 18.

VICE-PRESIDENT OF PARLIAMENT

Mihail POPȘOI

No. 65. Chișinău, 30 March 2023.