

Resetting the system of selection and promotion of judges – Lessons learned and (new) challenges

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POLICY PAPER

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Abbreviations

CA – court of appeals

BPEJ or Board for Evaluation – Board for Performance Evaluation of Judges

BSCJ or Board for Selection – Board for Selection and Career of Judge LRCM – Legal Resources Centre from Moldova

SCJ – Supreme Court of Justice

SCM – Superior Council of Magistracy

Dec. – Decision (of the SCM)

NIJ – National Institute of Justice

Law No. 514 – Law No. 514 of 6 July 1995 on Judicial Organization

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

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

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

Law No. 154 – Law No. 154 of 5 July 2012 on Selection, Performance evaluation and Career of Judges

Competitor registration procedure – the procedure for putting competitors for judicial vacancies in the Register of competitors, approved by SCM Decision No. 87/4 of 29 January 2013

Register of competitors – the Register of competitors for filling of the vacant position of judge, the chairperson or deputy chairperson of the court

JSRS – the Justice Sector Reform Strategy for 2011 – 2016 approved by the Parliament of the Republic of Moldova by Law No. 23 of 25 November 2011

Problem Statement

The selection and promotion of judges are key elements for ensuring an independent and professional judiciary. In 2012, the Parliament passed a package of legislative amendments as part of the implementation of the Justice Sector Reform Strategy (JSRS), which settled a new legal and institutional framework for selection and promotion of judges in Moldova.¹ The new system brought many novelties: unifying the point of access to the judges profession by introducing exams at the National Institute of Justice (NIJ), setting up specialized boards at the Superior Council of Magistracy (SCM) fully responsible to ensure the process of selection and evaluation of judges' performance, and last but not least, introduction of new criteria for the selection and performance evaluation of judges.²

The 2012 amendments were supposed to improve the quality of the selection process and to contribute to the promotion of the most upstanding and competent judges. Despite all these efforts, the mechanism brought modest results. Multiple monitoring studies and research³ carried out from 2013 through 2018 identified several shortcomings of the system introduced in 2012. Among them were (i) the impractical organization of contests for each vacancy, (ii) the duplication of responsibilities among the entities involved in the selection process, and (iii) the insufficient reasoning of SCM's decisions on the selection of candidates proposed for the position of judge, as well as in promotion of judges. The results of many contests very often left an independent observer with the impression that SCM members' personal beliefs weighted more than the entire judicial selection and promotion process carried out by the specialized SCM boards and exams at the NIJ.

In the autumn of 2018, the Parliament passed a new series of important legal amendments on judicial selection and the promotion of judges, which became effective in October 2018.⁴ These amendments mostly addressed the above-mentioned shortcomings. Under the 2018 amendments, contests for judicial selection and promotion will be organized, as a rule, no

¹ Justice Sector Reform Strategy for 2011 – 2016 approved by Law No. 231 of 25 November 2011, available at http://justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsj_pa_srsj/SRSJro.pdf.

² For more information about the selection and promotion mechanism in 2013 – 2018, see the LRCM's study Policy Paper: Selection and Career of Judges – Duplication of Responsibilities or Additional Guarantees?, 2015, available at <http://crjm.org/wp-content/uploads/2015/01/CRJM-DPP-Selectie-si-cariera.pdf>.

³ Policy Paper: Selection and Promotion of Judges in the Republic of Moldova – Challenges and Needs, July 2017, [and](#) The Selection and Promotion of Judges in the Republic of Moldova. June 2017 – December 2018.

⁴ Law No. 137 of 27 September 2018 for Amending Certain Legal Acts, effective since 19 October 2018, with some exceptions, available at https://www.legis.md/cautare/getResults?doc_id=105496&lang=ro.

more than twice a year. This enables a better career planning for candidates, while saving the SCM resources and time, which until then were used unwise to organize separate contests for each vacancy. Another important change consists in the mandatory requirement that all candidates for the judge posts express their choice for every vacancy put out to competition and that priority in the choice of vacancies be given to candidates with the highest scores, in the descending order of the average score obtained in the competition. In addition, the SCM was given an important role in evaluating judicial candidates. SCM evaluation conclusion will account for 20% of the final score offered to candidates.

Following all these changes, in December 2018, the SCM decided to reset the selection and promotion system. Thus, all candidates for judge, administrative positions, transfer, or promotion to higher courts who had previously passed the selection process and were in the Register, would have to pass a repeated evaluation.⁵ The SCM also cancelled the contests pending on that date.

The amendments introduced in 2018 were much awaited and are beneficial for the system of judicial selection and promotion. That said, the beginning of a new phase that would ensure merit-based selection and promotion of judges depends much on the sincere application of these new provisions. On 6 August 2019, eight months after the effective entry into force of the new changes, the SCM held the first contest under the new rules.

Building on previous monitoring studies and the available empirical data about the outcomes of the selection and promotion mechanism applied from 2013 through 2018, this policy paper analyzes the situation existing before the legal amendments of 2018, the practice of organization of selection and promotion contests during the period of 2013 through 2018, and the results of the first contest conducted by the SCM under the new rules on 6 August 2019.

The LRCM proposes several courses of action and recommendations for the SCM, which can improve the practice of conducting contests for judicial selection and promotion under the new rules to avoid the previously reported issues that led to the need for the legal amendments introduced in late 2018. The central aspect analyzed in this document is the role of the SCM in the selection of candidates for judge and how the SCM's 20% score for candidates weigh with their results in contests. The main recommendation of this policy paper is that the SCM needs to develop an interview methodology for conducting its own evaluation (missing on the contest from 6 August 2019). This interview methodology will help to score candidates and choose fairly between candidates with equal scores in contests for vacant spots in the judiciary. Pending the development and approval of this methodology, the LRCM recommends SCM to suspend new contests for selection and promotion of judges, including the one announced on 13 December 2019.

This policy paper is intended to restart discussions with decision-makers, not least considering the change of the SCM's composition in 2020.⁶ We consider that these discussions

⁵ SCM Decision No. 614/29 of 20 December 2018, <https://www.csm.md/files/Hotaririle/2018/28/614-29.pdf>.

⁶ On 20 December 2019, the Parliament of the Republic of Moldova passed Law No. 139/2019, which changed the composition, the way of forming, and the duties of the SCM. The SCM will have a new composition of 15 members, as opposed to 12 that

can help strengthen the selection and promotion system and ensure an objective revision of the selection and promotion criteria for judges. Judicial career is the showcase of the judicial system of a state. Any suspicions about its integrity can have a severe impact on the perception of justice in general. We count on the openness of decision-makers for discussing the issues highlighted in this document and identifying solutions to them together.

The data presented in this policy paper was collected through a monitoring exercise of the SCM activity. The information we used in this document had been collected during the period 2013 through 2019 and is available in the three monitoring reports about the system of selection and promotion prepared by the LRCM team in 2015,⁷ 2017,⁸ and 2019.⁹ These reports contain an extensive analysis of the legal framework on the selection and the promotion of judges applied from 2013 through 2018, describe the mandates of the involved entities and the criteria for appointment, transfer, and promotion, and contain an important empirical research component – the record and results of all contests for judicial appointment and promotion conducted in six years (January 2013 – December 2018).

A) The Practice of conducting Contests for Selection and Promotion from 2013 through 2018

The analysis of the practice of contests for the appointment and promotion of judges applied from 1 January 2013 through 31 December 2018 can be summed up in the following four main findings:

- ***The role of the evaluation by the Selection Board (the offered score) was minimized as the SCM did not nominate the candidates with the highest score from the Selection Board in many contests and did not offer the reasoning why it had disregarded this score.***
- ***Numerous contests had only one participant, and this trend was stronger the higher the court, especially for administrative positions.***
- ***The SCM declared many contests void without explaining the reasons and only saying that the participants did not receive the required number of votes.***
- ***The SCM organized separate contests for each vacancy.***

In what follows, we will present each of the above findings in more detail.

- 1) *The role of the evaluation by the Selection Board (the offered score) was minimized as the SCM most often did not nominate the candidates with the highest score from the Selection Board in contests and did not offer the reasoning why it had disregarded this score***

existed before, of whom: 7 will be elected from judges at the General Assembly of Judges, 5 will be appointed from tenure law professors by Parliament, and 3 will be ex officio members (SCJ chief justice, prosecutor general, and minister of justice).

⁷ LRCM, Policy Paper: Selection and Career of Judges – Duplication of Responsibilities or Additional Guarantees?, 2015, available at <http://crjm.org/wp-content/uploads/2015/01/CRJM-DPP-Selectie-si-cariera.pdf>.

⁸ LRCM, Policy Paper: Selection and Promotion of Judges in the Republic of Moldova – Challenges and Needs, July 2017, available at <https://crjm.org/wp-content/uploads/2017/07/CRJM-Selectia-si-cariera-jud-2017.pdf>.

⁹ LRCM, Policy Paper: The Selection and Promotion of Judges in the Republic of Moldova. June 2017 – December 2018.

1a) Selection and promotion from 2013 through 2018

<p>69% of the candidates had lower scores than their competitors</p>	<p><u>The selection of judicial candidates for district courts (first level courts):</u> 160 (78%) out of 205 candidates selected by the SCM were selected in contests that had more than one participant, and 45 (22%) were selected by default in contests with a single participant. At least 110 (69%) out of the 160 candidates selected in contests with more than one participant had lower scores from the Selection Board, and only 50 (31%), the highest.</p>
<p>43% of the candidates had lower scores than their competitors</p>	<p><u>The promotion of judges to the courts of appeal:</u> In contests for the promotion of judges to courts of appeal, the SCM selected 67 candidates. 21 (31%) of them were selected by default in contests with a single participant, and 46 (69%) were selected in contests with more than one participant. 26 (57%) out of the 46 candidates selected in contests with more than one participant had higher scores than their competitors, and 20 (43%), lower.</p>
<p>43% of the candidates had lower scores than their competitors</p>	<p><u>The promotion of judges to the SCJ:</u> 14 (74%) out of 19 judges nominated by the SCM for promotion to the SCJ were selected in contests with more than one participant, and five (26%), in contests with a single participant. Eight (57%) out of the 14 judges nominated in contests with more than one participant had higher scores than their competitors, and six (43%), lower. 12 (63%) out of the 19 judges the SCM nominated for promotion to the SCJ were from district courts.</p>

1b) Promotion to administrative positions during the period 2013 through 2018

<p>32% of judges were promoted with lower scores than their competitors</p>	<p><u>The promotion of judges to administrative positions at district courts:</u> 25 (32%) out of 78 judges nominated by the SCM for promotion were selected in contests that had more than one participant, and 53 (68%) were selected by default in contests with a single participant. Eight (32%) out of the 25 judges nominated in contests with more than one participant had lower scores from the Selection Board, and 17 (68%), the highest.</p>
<p>100%* of judges were promoted with lower scores than their competitors</p>	<p><u>The promotion of judges to administrative positions at appellate courts:</u> From 2013 through 2018, the SCM organized 35 contests for promotion to chief judge or deputy chief judge of court of appeal. In 20 (57%) contests, no applications were filed, or the candidates withdrew at some stage of the contest. In 13 (87%) out of the 15 contests that actually took place, judges were nominated by default (13 judges), as the contests had a single participant, and in two, the SCM nominated candidates with lower scores from the Selection Board.</p>

100%**

of judges were promoted with lower scores than their competitors

The promotion of judges to administrative positions at the SCJ: From January 2017 through 31 December 2018, the SCM organized 16 contests for promotion to chief justice and deputy chief justice of the SCJ. Five contests did not have applicants, and another two were invalidated because none of the participants received the required number of votes from the SCM. Another competition was put on hold until an indefinite date due to lack of quorum at the Selection Board. The 8 contests that took place had one participant each, which is 100% of all contests that resulted in promotions to administrative positions.

*At courts of appeal, only two contests for administrative positions had more than one participant each. In both contests, the winning participant had a lower score from the Selection Board.

**At the SCJ, none of the contests for administrative positions had more than one participant.

2) Numerous contests had only one participant, and this trend was stronger the higher the court, especially for administrative positions.

2a) Selection and promotion of judges from 2013 through 2018

22%

of the contests had a single participant each

The selection of candidates for district courts: 45 (22%) out of 205 candidates selected during the period 2013 through 2018 were selected in contests with one participant.

31%

of the contests had a single participant each

The promotion of judges to courts of appeal: 21 (31%) out of 67 candidates were selected in contests with one participant.

26%

of the contests had a single participant each

The promotion of judges to the SCJ: Five (26%) out of 19 candidates were selected in contests with one participant.

2b) Promotion to administrative positions during the period 2013 through 2018

68%

of the contests had a single participant each

Promotion to administrative positions at district courts: 53 (68%) out of 78 judges nominated by the SCM during the period 2013 through 2018 were nominated in contests with one participant.

87%

of the contests had a single participant each

Promotion to administrative positions at courts of appeal: 13 (87%) out of 15 judges nominated by the SCM during the period 2013 through 2018 were nominated in contests with one participant.

100%

*of the contests
had a single
participant each*

The promotion to administrative positions at the SCJ: All eight candidates (100%) were selected based on contests with one participant.

3) The SCM declared many contests void without explaining the reasons and only saying that participants did not receive the required number of votes.

3a) Judicial selection and promotion from 2013 through 2018

15%

invalidated contests

Selection at district courts: In 23 (15%) out of the 156 conducted contests, the participants failed to gain the required number of votes from the SCM.

9%

invalidated contests

Promotion to courts of appeal: In eight (9%) of the 88 conducted contests, the participants failed to gain the required number of votes from the SCM.

15%

invalidated contests

Promotion to the SCJ: Three (15%) out of the 20 conducted contests were invalidated because the participants failed to gain the required number of votes from the SCM.

3b) Promotion to administrative positions during the period 2013 through 2018

14%

invalidated contests

Promotion to administrative positions at district courts: In 12 (14%) out of the 86 contests organized from January 2013 through December 2018, the participants failed to gain the required number of votes.

0%

invalidated contests

Promotion to administrative positions at courts of appeal: None of the 35 contests conducted from January 2013 through December 2018 was declared void.

13%

invalidated contests

Promotion to administrative positions at the SCJ: Two (13%) out of 16 announced contests were invalidated, and another competition was put off until an indefinite date.

4) The SCM organized separate contests for each vacancy.¹⁰¹¹

2.1

contests per month

The selection of judges: From January 2013 through December 2018, the SCM organized an average of two contests per month (156 contests in 72 months).¹⁰ Only in isolated instances, the SCM joined contests for certain courts with other contests.¹¹

¹⁰ SCM, Selection and Promotion of Judges in the Republic of Moldova—Challenges and Needs, July 2017, p. 18, available at <https://crjm.org/wp-content/uploads/2017/07/CRJM-Selectia-si-cariera-jud-2017.pdf>.

¹¹ SCM Decision No. 411/20 of 2 October 2018, https://www.csm.md/files/Hotaririle/411_20.pdf.

<p>1.5 contests per month</p>	<p>The promotion of judges: From January 2013 through December 2018, the SCM organized an average of 1.5 contests per month (110 contests in 72 months).</p>
<p>1.9 contests per month</p>	<p>Promotion to administrative positions: From January 2013 through December 2018, the SCM organized an average of 1.9 contests per month (137 contests in 72 months). Notably, judges were not interested in them, which might have been caused by the insufficient reasoning of SCM decisions and a relatively frequent organization of contests, many of which were invalidated.</p>

B) The Reset of the System in 2019

In autumn 2018, the Parliament passed a series of legal amendments¹², which were first applied in January 2019.¹³ These amendments introduced the following novelties:

The rule concerning the organization of contests twice a year. This rule was meant to let candidates plan their career in advance and to ensure a better predictability of the judicial selection and promotion system. In addition, this change can save the SCM time and resources. The SCM's regulation that transposes the new changes contains, however, an exception that allows more frequent contests when the courts' work is impacted by existing vacancies for judge or administrative position.¹⁴ This rule was already applied on two occasions in 2019 allegedly because of the shortage of judges and a high workload at the Chişinău Court (Ciocana Office).¹⁵

The obligation to participate and express option about every announced vacancy. The new amendments introduced the mandatory requirement that all candidates to the position of judge – graduates of the NIJ on the Register of competitors – express their option about the vacancies put out to competition and that priority in vacancy choice be given to candidates with the highest scores, in the descending order of their average score in the competition. The new system can offer advantage to the best candidates and can ensure that all vacancies are filled at once, including those from less attractive regions that are farther from the capital city.

Evaluation by the SCM and the interview with candidates. For the first time, interviews at the SCM will account for 20% of the final score. The absence of a candidate will result in their exclusion from competition. Thus, the SCM will be able to offer a new appraisal of the candidates and to influence with 20% their final score. Prior to December 2018, although formally the SCM could not score candidates directly, the result of the interview at the SCM

¹² Law No. 137 of 27 September 2018 introduced changes to the Law on Judicial Organization, the Law on the Status of Judge, the Law on the SCM, the Law on the Selection, Performance Review, and Career of Judges, the Law on the Appointment and Promotion of Judges, and the Law on the Disciplinary Liability of Judges.

¹³ Law No. 137 of 27 September 2018 for Amending Certain Legal Acts, effective since 19 October 2018, with some exceptions, available at https://www.legis.md/cautare/getResults?doc_id=105496&lang=ro.

¹⁴ SCM Decision No. 612/29 of 20 December 2018, <https://www.csm.md/files/Hotaririle/2018/28/612-29.pdf>.

¹⁵ SCM Decisions No. 81/4 of 26 February 2019, <https://www.csm.md/files/Hotaririle/2019/04/81-4.pdf>, and No. 83/5 of 12 March 2019, <https://www.csm.md/files/Hotaririle/2019/05/83-5.pdf>.

was often decisive for the outcome of the competition when appointments and promotions were made in disregard of the score (see the previous section on the minimization of the role of the Selection Boards). Thus, this change attaches some weight to the score from the SCM but limits its influence on the final score to 20%.

The extension of contests for administrative positions (only once, at the discretion of the SCM).

Under the new regulation, the SCM must extend a competition for chief judge or deputy chief judge of a court if only one application is filed until the application deadline (see the section on contests with one participant).

Considering significant changes in the judicial recruitment and promotion procedure, including the weight of the SCM's score, on 20 December 2018, the SCM decided that all candidates from the Register of competitors must pass a repeated evaluation (including for promotion to higher courts or administrative position).¹⁶ The SCM also cancelled the contests pending on that date.

C) Graduates of the NIJ Challenge the New Selection and Promotion System

Some candidates for the position of judge criticized the new mechanism introduced in 2019. On 24 January 2019 (one month after the effective date of the new rule), 15 graduates of the NIJ requested the SCM to revise the regulation on the organization and conduct of contests for judge, deputy chief judge, and chief judge.¹⁷ According to the NIJ graduates who enrolled during the periods 2014 – 2016 and 2015 – 2016, the obligation to express one's option about all announced vacancies should not be applied to them. They argued that, under the Law on the NIJ, on the date of admission to the NIJ, they had had the obligation to participate in contests for judicial vacancies but not the obligation to accept any vacancy.

On 5 February 2019, the SCM dismissed the NIJ graduates request. According to the SCM, the obligation to participate in all contests for vacancies is obvious in both readings of the Law on the NIJ and Law No. 544 on the Status of Judge.¹⁸ The SCM argued that "*the Parliament has only established a detailed procedure for applying previous rules,*" considering that some courts had only one judge and all other judge's positions vacant. However, the NIJ graduates keep refusing to participate in these contests.

In addition, the SCM found that the applicants who challenged the SCM's regulation had participated previously only in contests for judge announced for the Chişinău Court, with the exception of three, each of whom had participated in contests for the district courts of Criuleni and Orhei. The NIJ graduates did not challenge this decision of the SCM.

¹⁶ SCM Decision No. 614/29 of 20 December 2018, <https://www.csm.md/files/Hotaririle/2018/28/614-29.pdf>.

¹⁷ SCM Decision No. 42/3 of 5 February 2019 on the Request of Some Graduates of the NIJ for the Partial Revision of the Regulation on the Organization and Conduct of Competitions for Judge, Deputy Chief Judge, and Chief Judge.

¹⁸ SCM Decision No. 42/3 of 5 February 2019, <https://www.csm.md/files/Hotaririle/2019/03/42-3.pdf>.

d) The Outcomes of the First Competition Held in 2019, under the new system of selection and promotion

On 6 August 2019, more than eight months after the amendment of the laws governing the selection and promotion procedure, the SCM held the first contest, considering the new rules.¹⁹ For the first time, the SCM allowed candidates to choose positions in the order of their score right at the SCM meeting. Details about the list of candidates and the scores offered by the SCM are presented in Annex 1 at the end of this document.

The prospective candidates selected 31 positions out of 35 announced vacancies. None of the prospective candidates opted for positions at the district courts of Vulcănești, Ceadăr-Lunga, and Cahul. Many graduates of the NIJ refused the positions remaining on the list after the most attractive ones (in Chișinău and its neighboring localities) were filled. Under the SCM's Regulation, they may refuse a position only once. On 13 December 2019, the 31 candidates were sworn in at the SCM, and assumed office. The same day, the SCM announced another competition for 29 vacancies for judges and a few administrative vacancies.²⁰

The monitoring of the contest of 6 August 2019 has identified three problematic aspects that can negatively impact the outcome of contests for judicial selection and severely compromise the purpose of the legal amendments introduced in late 2018.

Interviews at the SCM. The SCM did not organize what could be called a “proper interview”, with specific questions and evaluation of all the candidates by standard evaluation criteria. The SCM conducted short 3-minute interviews instead, where the candidates were asked one or maximum two questions. In most cases, the SCM asked (i) why the candidates had quitted their previous jobs (of prosecutor or lawyer) or (ii) what other court they could opt for instead of the selected one (usually candidates opted for Chișinău district courts). Moreover, questions were not addressed in similar fashion, and no systemic approach could be observed. In the end, **the final score offered by the SCM for more or less similar performances varied between 4 and 20 points**, and the SCM failed to explain verbally at the meeting, or in writing, in its decision, the underlying reasons for scoring each candidate's performance.²¹ This had a noticeable influence on the final score for some of the candidates, who lost up to 17 places in comparison with the initial ranking.²²

The obligation to express option about all announced vacancies. Some candidates did not apply for all 35 announced vacancies. Most of the candidates applied only for the district courts from Chișinău and the neighboring localities (Anenii Noi, Criuleni, and Hâncești) exactly the same way as before 2019. It is not clear why the SCM accepted these applications and did not require the candidates to express their option about all vacancies in the system right away.

¹⁹ The video recording of the competition of 6 August is available at <https://realitatealive.md/live-edin-a-consiliului-superior-al-magistraturii-din-6-august-2019--97957.html>.

²⁰ SCM Dec. No. 436/32 of 13 December 2019, <https://www.csm.md/files/Hotaririle/2019/32/436-32.pdf>.

²¹ SCM Decision No. 321/19 of 6 August 2019, <https://www.csm.md/files/Hotaririle/2019/19/321-19.pdf>.

²² See, for example, the candidates Matco and Zmeu.

“Exclusive vote” for nominating certain candidates. It seems that the SCM members failed to give up the practice of offering the “exclusive vote” of its members in the case of selection and the transfer of judges. Under the new regulation, the SCM takes decisions including by voting.²³ Thus, if a candidate does not receive the required number of votes to get their candidacy submitted to the President of the Republic of Moldova, the SCM will organize another contest. This provision is problematic in itself because it is not clear why voting for a candidate again when each member of the SCM has already scored them. The mere vote counting may not stand as sufficient and fair reasoning. The SCM’s decisions should lay out the majority’s arguments in favor of selection. All the selection and promotion filters are inefficient and useless if in the end all that matters is again just the exclusive vote of SCM members. The impact of this change will be assessed during the monitoring of the contest practice in the following years.

²³ See para. 3.37 of the SCM’s Regulation approved by SCM Decision No. 612/20 of 20 December 2018.

Conclusions and recommendations

- ***The practice of biannual contests is welcomed and should be kept.*** This change enables a better career planning for candidates and saves the SCM resources and time, which, until the 2018 changes, were unwisely used on separate contests for each vacancy within the system.
- ***The SCM should require the candidates to the position of judge who graduated the NIJ to express their option about all vacancies put out to contest.*** This change will solve the issue of unfilled positions and the impossibility of filling less attractive judge positions outside the Municipality of Chişinău, which usually have very few applications. Therefore, the SCM should genuinely implement the rule that candidates shall express their option about all vacancies in the system right away.
- ***The SCM needs to develop an interview methodology for evaluation of candidates.*** In the first contest held under the new rules, the SCM failed to organize a proper interview with the candidates, with specific questions and the evaluation of all candidates by standard evaluation criteria. The score offered by the SCM for more or less similar performances varied between 4 and 20 points, and the SCM did not explain at the meeting, or in writing, in its decisions, the underlying reasons for such discrepancies in the awarded scores.²⁴ This had a significant influence on the final score for some of the candidates, who lost up to 17 positions in comparison with the initial ranking.²⁵ Therefore, we recommend the SCM to develop a new methodology for conducting interviews for candidate evaluation. This methodology will help to score and choose in a merit-based way between candidates with equal scores in contests for the vacancies in the judiciary. Considering the number of participants, it would be wise to allocate several consecutive days for the last phase of contest at the SCM to allow enough time for the evaluation of each participant. In this case, the video recordings of the interviews can be released at a later moment, after the evaluation of all participants. Pending the development and approval of such methodology, the LRCM recommends suspending the contest announced on 13 December 2019.

²⁴ SCM Decision No. 321/19 of 6 August 2019, <https://www.csm.md/files/Hotaririle/2019/19/321-19.pdf>.

²⁵ See, for example, the candidates MATCO and ZMEU.

- ***The SCM should give away their “exclusive vote” when selecting and promoting judges.*** It seems that the SCM failed to give up the practice of nominating candidates for selection or promotion of judges based solely on the “exclusive vote” of each SCM member. Thus, if a candidate does not receive the required number of votes to get their candidacy submitted to the President of the Republic of Moldova, the SCM will organize another contest. This provision is problematic because it is not clear why there is a need to vote for a candidate again when each member of the SCM has evaluated and scored them. The mere vote counting may not stand as sufficient and fair reasoning. The SCM’s decisions should lay out the majority’s arguments in favor of these candidates. All the selection and performance filters as well as the legal amendments introduced in 2018 are inefficient and useless if in the end all that matters is “the exclusive vote” of the SCM members.

4	MATCO Andrei (Chişinău Court)	work seniority	lawyer, BAA Pro Dreptate	79	7	86		1) Why did you quit the prosecution office? 2) How long have you worked as a prosecutor? Do you feel burntout?
5	ARHIP Valeriu (Chişinău Court, Călăraşi Court, Ialoveni Court)	work seniority	chief of the Department for Civil, Commercial, and Administrative Cases, SCJ	79	12	91	8 in favor	1) Why did you leave the judicial system and now want to come back?
6	SARBU Aliona (Cahul Court)	work seniority	judicial assistant, Cahul Court	79	11	90	8 in favor	1) What court did you apply for?
7	BUZU Elisaveta (Ialoveni Court)	work seniority	judicial assistant, SCJ	78	12	90	8 in favor	1) What court did you apply for?
8	NEGRU Vladislav (Ialoveni Court, Călăraşi Court, Anenii Noi Court)	graduate of the NIJ	senior specialist, NIA	77.5	12	89.5	8 in favor	1) Where have you worked previously? 2) What court did you apply for?
9	CULINCA Eugenia (Chişinău Court, Ialoveni Court...)	graduate of the NIJ	consultant at the SCM	77	19.75	96.75	8 in favor	1) What court did you apply for?

10	GORCEAC Alina (Călărași Court, Criuleni Court, Anenii Noi Court, Hîncești Court...)	graduate of the NIJ	judicial assistant, Chișinău CA	77	18	95	8 in favor	1) What court did you apply for?
11	ZMEU Sergiu (Chișinău Court)	work seniority	ex-pros- ecutor, unem- ployed	77	10	87		1) Why did you quit prosecution?
12	POPESCU Marcel (withdrew from competition)	work seniority	lawyer, BAA In- telepiciune	75				
13	CASCAVAL Andrei	work seniority	judicial assistant, SCJ	75	19.75	94.75	8 in favor	1) How many years have you worked in judi- cial system?
14	ROBU Victoria	work seniority	ex-pros- ecutor, Drochia	75	11	86	8 in favor	1) Why did you quit prosecution?
15	CEBANITA Do- rina (Anenii Noi Court, Ialoveni Court)	work seniority	judicial assistant, SCJ	75	9	84	8 in favor	1) What court did you apply for?
16	CORLATEANU Diana (Criuleni Court, Anenii Noi Court, Chișinău Court)	work seniority	judicial assistant, SCJ	74	13	87		1) What court did you apply for?
17	MILUS Tatiana (did not come)	work seniority	lawyer, BAA BV Partners	74				

18	GHERMAN Angela (no indication of the court applied for)	work seniority	judicial assistant, SCJ	74	14	88	8 in favor	1) What court did you apply for?
19	CUCULESCU Veronica (Criuleni Court, Bălți Court, Rezina Court)	work seniority	judicial assistant, SCJ	74	13	87	8 in favor	1) What court did you apply for?
20	COSTISANU Vit-alie (Anenii Noi Court)	work seniority	prosecutor, the Ciocana Office	74	6	80		1) Why did you quit prosecution? 2) What court did you apply for?
21	ARAPU-BUTCO Alina (Chișinău Court, Anenii Noi Court, Bălți Court, Ungheni Court...)	work seniority	judicial assistant, SCJ	73	17	90	8 in favor	1) What court did you apply for?
22	BOTNARI Vitalie (Chișinău Court)	work seniority	judicial assistant, Chișinău Court	72	10	82		1) What court did you apply for?
23	RAU Stanislav (Ialoveni Court, Anenii Noi Court, Călărași Court, Rezina Court)	work seniority	judicial assistant, SCJ	72	8	80		1) What court did you apply for?

24	FIDOROV Olga (any court near Chişinău)	graduate of the NIJ	judicial assistant, Chişinău Court	71.5	20	91.5	8 in favor	1) What court did you apply for? 2) Would you accept other positions outside Chişinău?
25	ALEXEEVA Viorica (Ialoveni Court, Anenii Noi Court...)	graduate of the NIJ	judicial assistant, Chişinău Court	71.5	20	91.5	8 in favor	1) What court did you apply for? 2) How many contests have you participated in previously?
26	STRATU Victor (Chişinău Court, Anenii Noi Court, Criuleni Court...)	graduate of the NIJ	senior consultant, Director for Regulatory Acts, Ministry of Justice	71.5	8	79.5		1) What court did you apply for?
27	DUBCEAC Sne-jana (Bălţi Court, Floreşti Court, Rîşcani Court)	work seniority	judicial assistant, Bălţi Court	71	17	88	8 in favor	1) What court did you apply for? 2) Where do you live? (with reference to the candidate's options for the district courts from the north of the country)
28	CHILIAN Constantin (no indication of the court applied for)	work seniority	judicial assistant, SCJ)	71	19	90	8 in favor	1) How long have you worked in the judicial system?

29	CIPILEAGA Arina (Criuleni, Anenii Noi, Ialoveni)	work seniority	judicial assistant, SCJ	71	8	79		1) What court did you apply for?
30	PAUN Cristina (no indication of the court applied for)	graduate of the NIJ	judicial assistant, SCJ	71	10	81		No questions
31	VAMES Natalia (Edinet Court)	work seniority	judicial assistant, Edinet Court	71	10	81	8 in favor	1) What court did you apply for?
32	TIRULINIC Ina (Chişinău Court. TBD by the SCM)	graduate of the NIJ	judicial assistant, Chişinău CA	70.5	10	80.5		1) What court did you apply for?
33	MOROSANU Vitalie (Straseni Court, Călăraşi Office)	graduate of the NIJ	judicial assistant, Straseni Court	70.5	8	78.5	8 in favor	1) What court did you apply for?
34	BOGOMOLOVA Victoria (Ungheeni Court, Straseni Court, Ialoveni Court)	graduate of the NIJ	judicial assistant, Chişinău Court	70.5	8	78.5	8 in favor	1) What court did you apply for?
35	TULBURE Ion (Anenii Noi Court, Chişinău Court)	graduate of the NIJ	judicial assistant, SCJ	70	7	77		1) What court did you apply for?

36	CHIRILOV Nicolae (Criuleni Court)	work seniority	lawyer, ex-investigating Judge	70	7	77	8 in favor	1) What court did you apply for? 2) Would you accept appointment in other districts?
37	MARANDICI Elena (Anenii Noi Court, Ungheeni Court, Orhei Court...)	graduate of the NIJ	judicial assistant, Chişinău CA	69.5	7	76.5	8 in favor	1) What court did you apply for?
38	CAMERZAN – ROTARU Ludmila (a court closer to Chişinău, Criuleni, or Anenii Noi)	graduate of the NIJ	judicial assistant, Chişinău Court	68	11	79		1) What court did you apply for? 2) Do you know that as a graduate of the NIJ you must accept other positions as well?
39	PAPUSOI Dan (Chişinău Court, Anenii Noi Court...)	graduate of the NIJ	judicial assistant, SCJ	67.5	5	72.5		1) What court did you apply for? 2) Do you know that as a graduate of the NIJ you must accept other positions as well?
40	MUNTEAN Vitalie (Causeni Court, Ştefan Vodă Court...)	work seniority	judicial assistant, Chişinău CA	67.5	6	73.5		1) What court did you apply for? 2) Would you accept appointment in other districts?
41	ZADOROJNIUC Alexandru (any court but from the south of the country)	work seniority	judicial assistant, SCJ	67	5	72	8 in favor	1) What court did you apply for?
42	ZAGADAILOV Roman (Ungheni Court, Anenii Noi Court, Strasenii Court, Criuleni Court)	work seniority	judicial assistant, Strasenii Court	67	3	70		1) What court did you apply for? 2) Would you accept appointment in other districts?

43	SALAGOR Cris- tina (no indica- tion of the court applied for)	work seniority	judicial assistant, SCJ	67	15	82	8 in favor	No questions
44	SCRIPLIUC Mi- haela (Drochia Court)	work seniority	judicial assistant, SCJ	67	10	77	8 in favor	1) What court did you apply for?
45	POSTU Aliona (no indication of the court applied for)	work seniority	lawyer, CA Postu Aliona	67	10	77	8 in favor	1) Did you indicate the Leova Court?
46	CIRLAN Valeriu (Chişinău, Anenii Noi, Ialoveni...)	work seniority	prosecu- tor, the Ialoveni Prosecu- tion Office	66	4	70		1) What court did you apply for?
47	ZAHARIA Nicolae (all courts)	graduate of the NIJ	judicial assistant, SCJ	66	10	76		1) What court did you apply for?
48	BALAN Diana (Bălţi Court, Sângerei Court)	work seniority	judicial assistant, Bălţi CA	65	15	80	8 in favor	1) What court did you apply for?
49	LAZAR Igor (<i>did not come</i>)	work seniority	jurist, SRL Gherafam	65				
50	PSENITA Denis (no indication of the court applied for)	work seniority	judicial assistant, Edinet Court	65	3	68		No questions

51	BOLOGAN Ana (all courts)	graduate of the NIJ	judicial assistant, Chişinău Court	64	13	77	8 in favor	No questions
52	CURICHERU Valeriu (the district courts from Ungheni, Călăraşi, the north of the country or Leova)	work seniority	judicial assistant, Chişinău Court	64	3	67	8 in favor	1) What court did you apply for?
53	BRASOVEANU Dinu (no indication of the court applied for)	work seniority	lawyer, CA Dinu Brasoveanu	62.5	10	72.5	8 in favor	No questions
54	GROSU Stanislav (Drochia Court)	work seniority	lawyer, CA Grosu Stanislav	62.5	15	77.5	8 in favor	1) What court did you apply for?
55	CORJAN An- gela (Anenii Noi Court, Hînceşti Court, Rezina Court, Şoldăneşti Court)	work seniority	lawyer, CA Angela Corjan	62.5	4	66.5	8 in favor	1) What court did you apply for?
56	GUTU Denis (only the courts from Chişinău or Ungheni or their neighborhoods)	graduate of the NIJ	judicial assistant, Chişinău Court	60	5	65	8 in favor	1) What court did you apply for?

ANNEX 2. THE OUTCOME OF THE CONTEST HELD ON 6 AUGUST 2019 (THE IMPACT OF THE SCM'S SCORE)

Legend

SCM's score (scale)

Minimal score

Medium score

Maximal score

Candidate who failed to report for the competition

Ranking before the score from the SCM		
No.	Last name, first name	SB
1	MATCO Andrei	79
2	ARHIP Valeriu	79
3	SARBU Aliona	79
4	BUZU Elisaveta	78
5	NEGRU Vladislav	77.5
6	CULINCA Eugenia	77
7	GORCEAC Alina	77
8	ZMEU Sergiu	77
9	POPESCU Marcel <i>(withdrew from competition)</i>	75
10	CASCAVAL Andrei	75
11	ROBU Victoria	75
12	CEBANITA Dorina	75
13	CORLATEANU Diana	74
14	MILIS Tatiana <i>(did not come)</i>	74
15	GHERMAN Angela	74
16	CUCULESCU Veronica	74
17	COSTISANU Vitalie	74
18	ARAPU-BUTCO Alina	73
19	BOTNARI Vitalie	72
20	RAU Stanislav	72
21	FIODOROV Olga	71.5
22	ALEXEEVA Viorica	71.5
23	STRATU Victor	71.5
24	DUBCEAC Snejana	71
25	CHILIAN Constantin	71


Ranking after the score from the SCM				
No.	Last name, first name	SB	SCM	Final
1	CULINCA Eugenia	77	19.75	96.75
2	GORCEAC Alina	77	18	95
3	CASCAVAL Andrei	75	19.75	94.75
4	FIODOROV Olga	71.5	20	91.5
5	ALEXEEVA Viorica	71.5	20	91.5
6	ARHIP Valeriu	79	12	91
7	SARBU Aliona	79	11	90
8	BUZU Elisaveta	78	12	90
9	ARAPU-BUTCO Alina	73	17	90
10	CHILIAN Constantin	71	19	90
11	NEGRU Vladislav	77.5	12	89.5
12	GHERMAN Angela	74	14	88
13	DUBCEAC Snejana	71	17	88
14	ZMEU Sergiu	77	10	87
15	CORLATEANU Diana	74	13	87
16	CUCULESCU Veronica	74	13	87
17	MATCO Andrei	79	7	86
18	ROBU Victoria	75	11	86
19	CEBANITA Doina	75	9	84
20	BOTNARI Vitalie	72	10	82
21	SALAGOR Cristina	67	15	82
22	PAUN Cristina	71	10	81
23	VAMES Natalia	71	10	81
24	TIRULINIC Ina	70.5	10	80.5
25	COSTISANU Vitalie	74	6	80


Ranking before the score from the SCM		
No.	Last name, first name	SB
26	CIPILEAGA Arina	71
27	PAUN Cristina	71
28	VAMES Natalia	71
29	TIRULINIC Ina	70.5
30	MOROSANU Vitalie	70.5
31	BOGOMOLOVA Victoria	70.5
32	TULBURE Ion	70
33	CHIRILOV Nicolae	70
34	MARANDICI Elena	69.5
35	CAMERZAN-ROTARU Ludmila	68
36	PAPUSOI Dan	67.5
37	MUNTEAN Vitalie	67.5
38	ZADOROJNIUC Alexandru	67
39	ZAGADAILOV Roman	67
40	SALAGOR Cristina	67
41	SCRIPLIUC Mihaela	67
42	POSTU Aliona	67
43	CIRLAN Valeriu	66
44	ZAHARIA Nicolae	66
45	BALAN Diana	65
46	LAZAR Igor <i>(did not come)</i>	65
47	PSENITA Denis	65
48	BOLOGAN Ana	64
49	CURICHERU Valeriu	64
50	BRASOVEANU Dinu	62.5
51	GROSU Stanislav	62.5
52	CORJAN Angela	62.5
53	GUTU Denis	60

Ranking after the score from the SCM				
No.	Last name, first name	SB	SCM	Final
26	RAU Stanislav	72	8	80
27	BALAN Diana	65	15	80
28	STRATU Victor	71.5	8	79.5
29	CIPILEAGA Arina	71	8	79
30	CAMERZAN-ROTARU Ludmila	68	11	79
31	MOROSANU Vitalie	70.5	8	78.5
32	BOGOMOLOVA Victoria	70.5	8	78.5
33	GROSU Stanislav	62.5	15	77.5
34	TULBURE Ion	70	7	77
35	CHIRILOV Nicolae	70	7	77
36	SCRIPLIUC Mihaela	67	10	77
37	POSTU Aliona	67	10	77
38	BOLOGAN Ana	64	13	77
39	MARANDICI Elena	69.5	7	76.5
40	ZAHARIA Nicolae	66	10	76
41	POPESCU Marcel <i>(withdrew from competition)</i>	75		75
42	MUNTEAN Vitalie	67.5	6	73.5
43	PAPUSOI Dan	67.5	5	72.5
44	BRASOVEANU Dinu	62.5	10	72.5
45	ZADOROJNIUC Alexandru	67	5	72
46	ZAGADAILOV Roman	67	3	70
47	CIRLAN Valeriu	66	4	70
48	PSENITA Denis	65	3	68
49	CURICHERU Valeriu	64	3	67
50	CORJAN Angela	62.5	4	66.5
51	GUTU Denis	60	5	65
52	MILIȘ Tatiana <i>(did not come)</i>	74		
53	LAZAR Igor <i>(did not come)</i>	65		

Legal Resources Center from Moldova (LRCM) is a nonprofit organization that contributes to strengthening democracy and the rule of law in the Republic of Moldova with emphasis on justice and human rights. Our work includes research and advocacy. We are independent and politically non-affiliated.

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