

## DECLARATION

### CIVIL SOCIETY ORGANIZATIONS EXPRESS REGRET FOR THE REDUCED LEVEL OF TRANSPARENCY OF ELECTION TO THE SUPERIOR COUNCIL OF MAGISTRACY

17 October 2017

The mandate of several members of the Superior Council of Magistracy (SCM) expires at the end of 2017, and new members of the SCM are to be elected until the expiration of those mandates. Organization of free and fair elections to the SCM is the main condition for this body to act in the interest of society as a true guarantor of the independence of judges. Regrettably, the low level of transparency in the process of nomination of candidates, failure to publish sufficiently in advance information about candidates and their activity programs, and the lack of interest in organizing public debates between candidates, further lowers the level of society trust in a free and fair process of electing new members to the SCM. We state with regret that the opportunity to prove that the judicial reform is implemented in practice is again missed, although it is so necessary to create the premises for strengthening the integrity, authority and independence of the judiciary of the Republic of Moldova.

On 8 August 2017, the SCM convened the General Assembly of the Judges (GAJ) for 20 October 2017, where six members of the SCM have to be elected: two from the members of the Supreme Court of Justice (SCJ), two from the judges of the courts of appeal and two from the judges of the courts. Judges could come forward as candidates until 14 September 2017.

According to p. 21 of the [Regulation on the functioning of the GAJ](#), the materials submitted by the candidates (CVs and activity programs) should be placed on the SCM website in order to allow judges and civil society to get acquainted with the files and express views on the suitability of candidates for membership in the SCM. Notwithstanding these provisions and unlike the 2013 elections, when the identity and files of the candidates were placed immediately on the SCM website, in 2017 the SCM did not publish the list of candidates and their files immediately after the deadline for application.

On 20 September 2017, the Legal Resources Centre from Moldova sent a letter to the SCM requesting the publication of the files submitted by the candidates and organization of the debates between the candidates. Neither the SCM, nor the members of the Council reacted to this request in any way. Only on 5 October [the list of candidates for membership in the SCM](#), was published on the SCM website, but not also their CVs and activity programs. Only eight candidates compete for six vacant positions. Two of them are judges from the district courts and have submitted their candidatures personally. The other six were nominated by the judge's assemblies of the courts: two by the Supreme Court of Justice, two by Chisinau Court and by one candidate by Balti Court of Appeal and Chisinau Court of Appeal. Three candidates currently have the status of a member of the SCM.

Taking into account the absence of the SCM response to the request to hold debates between candidates for the SCM membership, on October 12, five non-governmental organizations invited the candidates to a public debate to be held today, on 17 October at 6 pm, that was supposed to be broadcasted online. The purpose of the debate was to provide better information about candidates to judges and the public. Unfortunately, the event was cancelled because only one candidate (Gheorghe BALAN) confirmed his presence. Four candidates (Victor MICU, Alexandru GHEORGHIEȘ, Nina CERNAT and Viorica PUICĂ) refused to attend the event, invoking a busy agenda or being abroad, and the other three (Petru MORARU, Dorel MUSTEAȚĂ and Andrei GALBEN) did not respond to the invitation.

In the morning of October 17, 2017, more than 32 days after the deadline for filing the applications and two days before the elections, [the candidates' files were published on the SCM website](#).

Candidates Balan and Puica were included in the list last, although they submitted their files before other candidates.

Regretfully and unlike the previous contests, only eight candidates for six vacant positions participate in this contest. For the positions belonging to the SCJ and the courts of appeal there are by two candidates for two vacant positions, which means that the General Assembly of the Judges just has to validate these candidates, having no real choice. We can speak of the choice only in case of those two vacant positions that belong to the judges from the courts, for which there are four candidates. The small number of candidates for these elections could have been determined, inter alia, by the way candidatures were submitted. Six out of eight candidates (for six vacant positions) were nominated by the staff of the courts. This, de facto, undermines the fairness of the elections, since the judges nominated by the staff of the courts have advantages from the very beginning without any guarantee that these nominations are based on merit. In fact, the nomination by Chisinau Court, where 1/3 of all judges in the country work, predetermines the outcome of the elections.

Transparency is an intrinsic element of democracy, and without it, the trust in justice can not grow. In 2017, the elections to the SCM were less transparent than in [2013](#) and [2014](#) and this is a strong sign of concern about the state of affairs in the judiciary. Getting acquainted with candidates by the judiciary staff would provide an informed choice, an indispensable condition for any free, fair and democratic elections. Without timely publication of the list of candidates and the documents submitted by them, it is impossible to provide detailed information about the candidates, which will negatively affect the quality of the elections. Debate between candidates for the SCM membership can not be harmful to justice. They have been successful in many European countries, including Romania and Poland. In these countries, the given debates, facilitated by civil society, have become a good practice, which has helped to strengthen the authority and integrity of the judiciary.

**Thus, we regret the low level of transparency on the part of the SCM in the process of nomination of candidates, failure to publish in good time in advance information about candidates and their activity programs, as well as the lack of interest in organizing public debates between candidates, that further lowers the level of society trust in a free and fair process of electing new members to the SCM.**

**We state with regret that the opportunity to prove that the judicial reform is implemented in practice is again missed, although it is so necessary to create the premises for strengthening the integrity, authority and independence of the judiciary of the Republic of Moldova. We call on public opinion, civil society and the development partners' community to closely follow the process and results of the election of new members to the SCM at the General Assembly of Judges planned for Friday, October 20, 2017. We also hope that all candidates will have free and fair elections and that the judges participating in the General Assembly will be able to express their opinion freely and give their votes for those candidates who really deserve their trust and represent them.**

Signatories:

Association for Participatory Democracy (ADEPT)  
Association of Independent Press (API)  
Promo-LEX Association  
Legal Resources Centre from Moldova (CRJM)  
Institute for European Policies and Reforms (IPRE)