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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

**DRAFT OPINION ON THE LAW
ON AMENDING AND SUPPLEMENTING THE CONSTITUTION OF THE
REPUBLIC OF MOLDOVA
(JUDICIARY)**

On the basis of comments by:

Mr Philip DIMITROV (Member, Bulgaria)
Ms Kateřina ŠIMÁČKOVÁ (Substitute Member, Czech Republic)
Mr András VARGA (Member, Hungary)

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Draft - restricted

I. Introduction

1. By letter of 27 December 2017, Mr Nicolae Esanu, State Secretary in the Ministry of Justice of the Republic of Moldova, requested an opinion by the Venice Commission on the Law on amending and supplementing the Constitution of the Republic of Moldova (hereinafter, the "Draft amendments", see document CDL-REF(2018)008, which also contains an Informative Note by the Ministry of Justice) with respect to the appointment and status of judges and the Superior Council of the Magistracy (SCM).
2. The Venice Commission invited Mr Philip Dimitrov, Ms Kateřina Šimáčková and Mr Andrés Varga to act as rapporteurs for this opinion.
3. On 5-6 February 2018, a delegation of the Venice Commission, composed of Mr Dimitrov and Mr Varga, accompanied by Mr Schnutz Dürr visited the Republic of Moldova and met with (in chronological order) the Ministry of Justice, the Superior Council of Magistracy, Parliament (opposition and majority), the Judge's Association and the Supreme Court of Justice, as well as with representatives of international organisations and civil society.
4. This opinion is based on the English translation of the Draft amendments provided by the Moldovan authorities. The translation may not accurately reflect the original version and certain comments and omissions may result.
5. The present opinion was prepared on the basis of the comments by the rapporteurs and the results of the visit to Chisinau.
6. *This opinion was adopted by the Venice Commission at its ... Plenary Session (Venice, ...).*

II. Background

7. The draft amendments are aimed at amending Articles 116, 121 and 122 of the Constitution of the Republic of Moldova and adding Articles 121¹ and Article 123.3 to it.
8. The Information Note of the Ministry of Justice explains that the Draft amendments are part of the implementation of the National Action Plan for the Republic of Moldova - EU Association Agreement for the period of 2017-2019. Constitutional amendments are also reflected in the Legislative Programme for the Implementation of the Association Agreement between the Republic of Moldova and the European Union for 2017. Finally, the project aims to implement Pillar I "Judicial System" of the Action Plan for the Implementation of the Moldovan Justice Sector Reform Strategy for 2011-2016.
9. In 2016, similar constitutional amendments had been submitted by the Government to Parliament, but this proposal had expired a year after its introduction¹, as no constitutionally required two-thirds majority rallied behind these amendments in Parliament.

III. Applicable standards

10. For the examination of the draft amendments, the following texts are of particular relevance:
 - Recommendation Rec(2010)12 of the Committee of Ministers of the Council of Europe on judges: independence, efficiency and responsibilities;
 - The Bangalore Principles on Judicial Conduct;

¹ Article 143.2 of the Constitution: "If, within a year from the date when the initiative amending the Constitution has been submitted, the Parliament did not pass the appropriate constitutional law, the proposal shall be deemed null and void"

- The Basic Principles of Independence of Justice, approved by United Nations General Assembly Resolutions 40/32 of November 29, 1985 and 40/146 of December 13, 1985;
- Opinion no. 10/2007 of the Consultative Council of European Judges.

11. The following general reports of the Venice Commission are also relevant:

- CDL-AD(2010)004, Report on the Independence of the Judicial System - Part I: the Independence of Judges;
- CDL-AD(2007)028, Report on Judicial Appointments.

12. In respect of the Republic of Moldova, the Venice Commission has notably given the following opinions in the field of the judiciary:

- CDL-AD(2017)002, Republic of Moldova - *Amicus curiae* brief for the Constitutional Court on the Criminal liability of judges;
- CDL-AD(2016)015, Republic of Moldova - *Amicus curiae* brief for the Constitutional Court on the Right of Recourse by the State against Judges;
- CDL-AD(2014)006, Joint Opinion on the draft Law on disciplinary liability of Judges of the Republic of Moldova;
- CDL-AD(2013)008, *Amicus curiae* brief on the Immunity of Judges for the Constitutional Court of Moldova.

IV. Evaluation of the draft amendments

13. In the evaluation below, the Venice Commission follows the order of the Draft amendments.

A. Abolishment of probationary periods for judges (Article 116.2)

14. The current version of Article 116.2 of the Constitution provides that “Judges who successfully passed the contest shall be firstly appointed for a 5-year term of office. After the expiration of the 5-year term of office, the judges shall be appointed to this position until reaching the age limit fixed by the law.” Draft Article 116.2 abolishes the five-year probationary period and provides that judges shall be appointed, according to the law, until they reach the age limit (retirement).

15. The principle of the independence of judges requires that the removal of judges should be an exception. Therefore, any dismissal of a judge has to follow a thorough procedure that provides sufficient guarantees for the judge concerned. On the other hand, when new judges are being appointed, no one can guarantee that they will live up to the high standards that the profession requires. Therefore, some states² provide for initial probationary periods during which the professional qualities of the newly appointed judge can be ascertained. However, during such a probationary period, judges are in danger of being influenced in their judicial decision making because, rather than deciding on the basis of their interpretation of the law, they may want to please the appointing authority in order to ensure their permanent appointment.

² The Informative Note to the draft Law on the modification and completion of the Constitution of the Republic of Moldova of 29 March 2016 mentions Ukraine, Slovakia and the Czech Republic as examples of countries where an initial term is practiced in judicial appointments. This, however, is not correct. Both in the Czech Republic and in Slovakia, judges are appointed for life (See § 61 of the Czech Act No. 6/2002 Coll., on courts, judges, lay judges and the state administration of judiciary; and § 6 of the Slovak Act No. 385/2000 Coll., on judges and lay judges). In Slovakia, the probationary period was abolished by a legislative amendment in 2002 and in Ukraine by a constitutional amendment in 2006. In the Czech Republic, the idea of an initial judicial term was discussed in the past, but was never put into practice.

16. In Bulgaria, junior judges are appointed to regional courts for a period of two years. They sit in panels, so even though they may be reporting judges, the final decision of these courts is made by the panel, which means they do not decide cases alone. Junior judges act under the authority of a tutor judge who monitors and supports the professional development of the junior judge. After the two-year probationary period, the junior judge is appointed to a district court.³

17. Austria has established a system whereby candidate judges are being evaluated during a four-year period during which they assist in the preparation of judgments, but they cannot yet take judicial decisions, which are reserved to permanent judges.⁴

18. In the Czech Republic and Slovakia too, there is a category of “judicial candidates”. They are lawyers who aspire to become judges and who get to know various branches of the judiciary within their training period of a minimum length of three years. These judicial candidates are, however, not judges and do not adopt judgments.

19. Abolishing probationary periods for judges is a guarantee against attempts to influence their behaviour and is a definite improvement in terms of the judicial independence. “... the Venice Commission strongly recommends that ordinary judges be appointed permanently until retirement. Probationary periods for judges in office are problematic from the point of view of independence.”⁵

20. Consequently, the Venice Commission welcomes this amendment as a clear improvement of judicial independence. On the legislative level, the Moldovan authorities might wish to consider introducing a system similar to the one applied to Czech, Slovak or Austrian candidate judges.

B. Appointment of judges by the President (Article 116.2)

21. The draft Article 116.2 limits the possibility for the President to reject a proposal for an appointment by the Superior Council for the Magistracy to once only.

22. Appointments of judges by the Head of State are a widely used model. Nonetheless, “... it is the Venice Commission’s view that it is an appropriate method for guaranteeing for the independence of the judiciary that an independent judicial council have decisive influence on decisions on the appointment and career of judges. Owing to the richness of legal culture in Europe, which is precious and should be safeguarded, there is no single model which applies to all countries.”⁶ By allowing the President to reject a proposal by the SCM only once, the draft amendment to Article 116.2 of the Constitution maintains the decisive influence of the SCM.

C. Appointment of presidents and vice-presidents of the courts – removal of Article 116.3)

23. Article 116.3 of the Constitution currently provides that the presidents and vice-presidents (and judges) of the courts are appointed by the President of the Republic of Moldova for a four-year term upon proposal by the SCM. The Draft amendments have removed this paragraph.

³ Articles 162, 164, 181 and 238-243 of the Judiciary System Act of Bulgaria.

⁴ *Richteramtsanwärter*, Sections 9 seq. of the Federal Act on the Employment Relationship of Judges, Prosecutors and Judicial Candidates (*Richter- und Staatsanwaltschaftsdienstgesetz - RStDG*).

⁵ CDL-AD(2010)004, Report on the Independence of the Judicial System Part I: The Independence of Judges, para. 38.

⁶ CDL-AD(2010)004, Report on the Independence of the Judicial System Part I: The Independence of Judges, para. 32.

24. There are no standards on whether the appointment of court presidents should be explicitly regulated on the constitutional or legislative level. In any case, in view of the important functions of the court presidents, a clear regulation on their appointment must be adopted. As an alternative to nominations by the SCM, their election by their fellow judges could be considered.

D. Appointment of the judges of the Supreme Court by the President upon proposal by the SCM (removal of Article 116.4)

25. According to Article 116.4 of the Constitution currently in force, the judges of the Supreme Court are elected by Parliament upon proposal by the SCM. The Draft amendments provide that the judges of the Supreme Court are appointed by the President of the Republic of Moldova upon proposal by the SCM, as this is already the case for the judges of the lower instances.

26. According to the Venice Commission's Report on Judicial Appointments, "[t]he involvement of parliament in the process may result in the politicisation of judicial appointments. In the light of European standards the selection and career of judges should be 'based on merit, having regard to qualifications, integrity, ability and efficiency'. Elections by parliament are discretionary acts, therefore even if the proposals are made by a judicial council, it cannot be excluded that an elected parliament will not self-restrain from rejecting candidates. Consequently, political considerations may prevail over the objective criteria."⁷ "Appointments of ordinary judges are not an appropriate subject for a vote by Parliament because the danger that political considerations prevail over the objective merits of a candidate cannot be excluded."⁸

27. Therefore, shifting the competence of the appointment of the judges of the Supreme Court to the President is likely to contribute to depoliticising these appointments, notably also because the President can veto the nominations by the SCM only once. This amendment is welcome.

E. Experience of judges of the Supreme Court (removal of Article 116.4)

28. According to Article 116.4 of the Constitution currently in force, the judges of the Supreme Court should have at least 10 years' experience. With the deletion of paragraph 4 of Article 116, the draft amendment would remove that requirement.

29. According to Article 19.2 of the Law on the Republic of Moldova on the Superior Council of Magistracy No. 947-XIII of 19 July 1996: "In order to make the respective proposal, the Superior Council of Magistracy shall examine the candidates and select candidates with the highest performance indicators provided for by law as to the appointment to this position". Article 6.5 of the Law on the Status of Judge no. 544-XIII from 20.07.1995 provides that a candidate for the office of a judge at a court of appeal should have six years' experience and for the Supreme Court 10 years' experience as a judge.

30. During the visit in Chisinau, the delegation of the Venice Commission learned that the removal of the requirement of 10 years' experience for judges of the Supreme Court should allow admission to the Supreme Court both for outstanding younger judges and for professionals from other legal fields (university professors, advocates, etc.).

31. Strictly limiting access to the Supreme Court to candidates from lower courts could lead to the isolation of the judiciary and promote conservative and rigid opinions, as opposed to being open to new thoughts and concepts, which could be brought in by legal professionals from different backgrounds.

⁷ CDL-AD(2007)028, Report on Judicial Appointments, para. 10.

⁸ Ibid, para. 12.

32. In the Czech Republic, for instance, the Supreme Court is a stable institution which has existed since the communist years and the composition of which is only gradually supplemented by new judges, who are mostly from lower instance courts. The case-law of this Court has been criticised as being detached from legal practice and from modern jurisprudential concepts. The Supreme Administrative Court of the Czech Republic, on the other hand, was established in 2003 and its first composition included not only judges, but also academics, attorneys or highly-qualified representatives of public administration or the legislature. The Supreme Administrative Court enjoys a higher public trust and is known for its fast, flexible and high-quality judicial decision-making. Therefore, the condition of having an extensive work experience in a judicial function is not necessarily an advantage, especially when it comes to transforming societies.

33. As concerns the Supreme Court of the Republic of Moldova, it is essential to note that the removal of this condition should go hand-in-hand with a better legislative regulation of the selection of the judges of the Supreme Court. The selection process should guarantee the judges' expertise, independence, and acceptance by the community of legal professionals. Therefore, the removal of this condition, as such, should be commended, as long as it brings into the judicial profession other highly-qualified persons from different legal professional backgrounds and as long as it improves the quality and legitimacy of the Supreme Court's decision-making. This is necessary to avoid that politically supported judges enter the highest judicial forum.

F. Objective criteria for the appointment of judges (Article 116.5)

34. Draft Article 116.5 states that the decisions on the appointment of judges and their career must be adopted on the basis of objective criteria, based on merit and on a transparent procedure, according to the law. The statement that judges may be promoted and transferred only with their consent is already part of the current version of paragraph 5.

35. While these provisions on the appointment of judges are rather declarative, they give valuable guidelines for the career development procedures that are to be specified by the law.

G. Functional immunity for judges

36. New paragraph 5¹ of Article 116 provides only for functional immunity of judges.

37. In its *Amicus curiae* brief on the Immunity of Judges for the Constitutional Court of Moldova, the Venice Commission explained the purpose of functional immunity for judges: "The justification for procedural immunity for judges - where it exists - cannot be to protect the judge from criminal prosecution, but only from false accusations that are levelled against a judge in order to exert pressure on him or her. In all other cases, procedural immunity has to be lifted by the competent organ within the judicial system."⁹

38. Indeed, "judges – like any other person – should be punished for any crimes they commit, be they general crimes, for example causing a car accident in a state of drunkenness, or specific crimes related to the judicial function, such as taking bribes for handing down favourable judgments. No criminal act should be covered by non-liability immunity and obviously judges should be prosecuted for all crimes. This general statement only needs to be qualified for judges, when penal (or disciplinary) norms are formulated too vaguely, such as 'violating the law in adjudication'".¹⁰

⁹ CDL-AD(2013)008, para. 23.

¹⁰ *Ibid.*, para. 22.

39. During the visit in Chisinau, the delegation of the Venice Commission was informed that, until the Judgment of 5 December 2017 of the Constitutional Court, judges in the Republic of Moldova were regularly scrutinised by the secret service. Furthermore, Article 307 of the Criminal Code is still applied against judges for their interpretation of the law in adjudicating.¹¹

40. Raising functional immunity to the level of the Constitution is welcome.

H. Budget of the judiciary (Article 121.1¹ and 121.1²)

41. According to the two new draft paragraphs, Article 121.1¹ and 121.1,² the SCM must be consulted in the process of drafting, examining, approving and amending the budget of the judiciary and the SCM may submit proposals to Parliament on the financial means needed for the proper functioning of the courts.

42. It seems that consultation of the SCM does not necessarily mean that the SCM also drafts the judicial budget. In any case, consultation in the process of the preparation of the budget is not linked to the execution of the budget. A judicial council should focus on the career and discipline of judges rather than on court buildings and office supplies.¹²

43. According to the Venice Commission's Report on the Independence of the Judicial System - Part I: the Independence of Judges, "[d]ecisions on the allocation of funds to courts must be taken with the strictest respect for the principle of judicial independence and the judiciary should have an opportunity to express its views about the proposed budget to parliament, possibly through the judicial council"

44. The obligatory participation of the SCM in the drafting of the budget of the judiciary is therefore commendable.

I. Role of the Superior Council of the Judiciary (Article 121¹)

45. Draft Article 121¹ provides that "The Superior Council of Magistracy is the guarantor of the independence of the judiciary bodies".

46. There is no standard model that a democratic country is bound to follow in setting up its judicial system. With the exception of very few countries where the independence of the judiciary is maintained by other checks and balances, most European countries have established an independent judicial council which has the task of ensuring the proper functioning of an independent judiciary within a democratic state.

47. Such an independent judicial council has decisive influence on decisions on the appointment and career of judges (including promotion and disciplinary measures), which is considered to be one of the most important guarantees of the independence of the judiciary.

48. Although public trust over the past 20 years in the efficiency of this approach has not been unequivocal in some countries, no other more efficient form of guarantee has been developed and accepted since. Notably, in countries without an established culture of judicial

¹¹ See also CDL-AD(2017)002, Republic of Moldova - *Amicus curiae* brief for the Constitutional Court on the Criminal liability of judges; Judgment of the Constitutional Court of the Republic of Moldova of 28 March 2017, declaring Article 307 of the Criminal Code constitutional to the extent that judges may be held liable for intentionally rendering a decision that is contrary to the law.

¹² The Information Note refers to participation in the preparation of the budget as one of the principles of judicial self-administration. Raising the term "judicial self-administration" to the level of a principle is problematic. The independence of the judiciary does not depend on the judiciary also executing administrative tasks.

independence, judicial councils remain the best constitutional tool available to enable judicial independence and accountability.

49. On the other hand, the establishment of a judicial council, even if it is endowed with sufficient constitutional guarantees, is no guarantee for ensuring judicial independence in itself. As the experience in some countries has shown, in the presence of adverse political circumstances and/or the influence of manipulators in the judiciary, a judicial council can be misused as a tool to control the judges. It can even become an instrument of politicisation of justice. Therefore, a balanced composition of the judicial council is of the utmost importance.

50. The programmatic statement in draft Article 121¹ is welcome. It needs to be implemented through legislation and practice.

J. Composition of the Superior Council of the Judiciary (Article 122)

51. Article 122 of the current version of the Constitution provides that the SCM consists of judges and university lecturers elected for a tenure of four years and that the President of the Supreme Court of Justice, the Minister of Justice and the Prosecutor General are members *de jure* of the SCM.

52. The Draft amendments to Article 122 provide that the SCM consists of judges, elected by the General Assembly of Judges, representing all levels of the courts and representatives of civil society with experience in the field of law. Judges must be an important part of SCM, but the manner and procedure for electing or appointing the SCM members is delegated to the law. The members of the SCM shall be elected or appointed for a six-year term, without the possibility of having two successive terms. The draft amendments do not provide for *ex officio* members.

53. The exclusion of direct reappointment / re-election while prolonging the mandate is aimed at creating more independence for the SCM members. This is positive.

54. It is an essential requirement that the judicial members of a supreme judicial council be appointed by an election within the judiciary.¹³ Therefore, the Venice Commission welcomes that the Draft amendments provide – on the constitutional level – that the judicial members of the Council are elected by the General Assembly of Judges and that they must represent all court levels.

55. The rule that the judges must be an important part of the members of the SCM is vague and leaves a wide scope for the implementing legislation. An important part of the members could be more than half, half or even less than half of the members. According to paragraph 27 of Recommendation Rec(2010)12 of the Committee of Ministers of the Council of Europe on judges: independence, efficiency and responsibilities, “not less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary.” The delegation of the Venice Commission was informed that the Moldovan authorities intend to respect the international standards, including Recommendation Rec(2010)12.

56. There are various models of functioning of supreme judicial councils, but the fundamental legal status of each apex state institution, including the judicial council, should be embedded in

¹³ See the recent opinion on Poland which criticised a model where the judicial members of the judicial council were selected by the Parliament See opinion (CDL-AD(2017)031, Poland - Opinion on the Draft Act amending the Act on the National Council of the Judiciary; on the Draft Act amending the Act on the Supreme Court, proposed by the President of Poland, and on the Act on the Organisation of Ordinary Courts, para. 24).

the Constitution. The primary role of judicial councils is to be independent guarantors of judicial independence. However, this does not mean that such councils are bodies of judicial “self-government”. In order to avoid corporatism and politicisation, there is a need to monitor the judiciary through non-judicial members of the judicial council.¹⁴ Only a balanced method of appointment of the SCM members can guarantee the independence of the judiciary. Corporatism should be counterbalanced by membership of other legal professions, the “users” of the judicial system, e.g. attorneys, prosecutors, notaries, academics, civil society.

57. As the SCM is endowed with extensive competences, its members should be appointed through scrupulous procedures which guarantee their independence. The appointment of its members should be set out more clearly in the Draft amendments.¹⁵

58. The Draft amendments also remove the *ex officio* members from the composition of the SCM: the Minister of Justice, the Prosecutor General and the President of the Supreme Court.

59. There are no common standards on the membership of these *ex officio* members in the judicial council. It is clear that as an *ex officio* member, the President of the Supreme Court cannot be counted among the judges elected by their peers, as referred to in Recommendation Rec(2010)12. If the membership of the Prosecutor General were retained, it should be balanced by an *ex officio* membership of a representative of the Bar. In any case, this *ex officio* membership should be without the right to vote in matters concerning the career or discipline of judges.¹⁶

60. An argument in favour of these *ex officio* members within SCM would be that their presence allows for the Council to be a formal forum of exchange of views between the different stakeholders that enables regular consultations on the functioning of the judiciary. While the removal of the *ex officio* members from the SCM is fully acceptable, their removal should not lead to a lack of dialogue between the SCM and these institutions. Other means of communication should remain open and should be fostered by the implementing legislation.

61. The Draft amendments provide that the non-judicial members of the SCM come from “civil society”. This term is not very clear. It could include academics (who are the current non-judicial members of the SCM), the bar, notaries or representatives of NGOs. If the Draft amendments were to remain vague, at least the implementing legislation should be clear on this composition.

¹⁴ CDL-AD(2002)021, Supplementary Opinion on the Revision of the Constitution of Romania, para. 21 and 22; CDL-AD(2002)012, Opinion on the Draft Revision of the Romanian Constitution, para. 66; CDL-AD(2010)004, Report on the Independence of the Judicial System - Part I: the Independence of Judges, para. 30.

¹⁵ CDL-AD(2005)003, Joint opinion on a proposal for a constitutional law on the changes and amendments to the Constitution of Georgia by the Venice Commission and OSCE/ ODIHR, para. 102; CDL-AD(2012)014, Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina, para. 84; CDL-AD(2014)026, Opinion on the seven amendments to the Constitution of “the former Yugoslav Republic of Macedonia” concerning, in particular, the judicial Council, the competence of the Constitutional Court and special financial zones, para. 77.

¹⁶ see for example CDL-AD(2013)014, Opinion on the Draft Law on the amendments to the Constitution, strengthening the Independence of Judges and on the Changes to the Constitution proposed by the Constitutional Assembly of Ukraine, para. 5; CDL-AD(2010)003, Joint Opinion on the Draft Law on the Judicial System and the Status of Judges of Ukraine by the Venice Commission and the Directorate of Co-operation within the Directorate General of Human Rights and Legal Affairs of the Council of Europe; CDL-INF(1998)009, Opinion on recent amendments to the law on major constitutional provisions of the Republic of Albania; CDL-AD(2007)028, Report on Judicial Appointments by the Venice Commission; CDL-AD(2004)044, Interim Opinion on Constitutional Reforms in the Republic of Armenia; CDL-INF(1999)005, Opinion on the reform of the judiciary in Bulgaria.

62. What truly matters in the end is the personal integrity of the members of the judicial council. It is the task of the authorities appointing / electing the members to ensure that the councils are composed of members who defend judicial independence, accountability and efficiency.

K. Structure of the Superior Council of the Judiciary (Article 123.1)

63. The Draft amendments add a sentence to Article 123.1 providing that the SCM shall exercise its powers either directly or through its specialised bodies.

64. The delegation of the Venice Commission was informed that this is a reference to existing specialised bodies: three main boards have been set up, a selection board, an evaluation board and a disciplinary board. The disciplinary board in turn has a separate admissibility board. The membership in these boards is different from that of the SCM itself. Members are partly elected by the judges and partly appointed by the SCM. Decisions on the evaluation of judges, on their promotion or discipline are taken in the first instance by these boards and there is an appeal against these decisions to the SCM. The decision of the SCM can, in turn, be appealed to a court of law.

65. As such, the constitutional amendment is not problematic, but the existing structure seems too complex for a country with only 300 judges and should be simplified on the legislative level.

V. Conclusions

66. The Venice Commission welcomes the Draft amendments to the Constitution of the Republic of Moldova, which aim to improve the independence, accountability and efficiency of the judiciary. The amendments are generally positive and in line with the applicable standards.

67. The Venice Commission welcomes notably:

1. the removal of the probationary period for judges;
2. the appointment of judges of the Supreme Court by the President (with a one-time veto) rather than by Parliament;
3. the regulation on functional immunity at the constitutional level;
4. the role of the SCM in the preparation of the budget of the judiciary.

68. Nonetheless, the Venice Commission makes the following recommendations:

1. the part of the judges in the SCM should be determined in a clear manner;
2. the method of selection of the SCM members from civil society should be clarified.

69. The full effect of the Draft amendments will depend on their implementation on the legislative level. In order to maintain inter-institutional dialogue, if the *ex officio* members were removed from the composition of the SCM, other channels of institutional dialogue should be established at the legislative level.

70. The Venice Commission remains at the disposal of the authorities of the Republic of Moldova for any further assistance they may need on these Draft amendments and on their implementation at the legislative level.