
BALKAN NETWORK TEMPLATE EMPTY

MOLDOVA

Official name in original language	Consiliul Superior al Magistraturii din Moldova
Official name in English	Superior Council of Magistracy of the Republic of Moldova
Address	Mihai Eminescu 5, Chisinau, Republic of Moldova
Telephone number	+373 22 990 808
Website	www.csm.md
e-mail	aparatul@csm.md
Brief history (300-400 character)	<p>The official name of "Superior Council of Magistracy" first appeared in the text of the Judicial and Legal Reform Concept in Moldova, approved by Parliament Decision no. 152-XIII of 21 June 1994 in Article 3 of that chapter "Judicial authority 'is specifically entitled" Superior Council of Magistracy. "</p> <p>The Superior Council of Magistracy is an independent body, created in view of organization and functioning of the judicial system, and is the guarantee of the judicial authority's independence. The Superior Council of Magistracy shall exercise the judicial self-administration.</p>
Legal acts regulating the Status of the Organization	<p>LAW OF THE REPUBLIC OF MOLDOVA ON THE SUPERIOR COUNCIL OF MAGISTRACY, No. 947-XIII from 07.19.1996;</p> <p>The Constitution of the Republic of Moldova from 29.07.1994;</p> <p>LAW ON THE STATUS OF JUDGE, No. 544-XIII from 20.07.1995;</p> <p>LAW ON THE ORGANIZATION OF JUDICIARY, No. 514-XIII from 06.07.1995.</p>
Composition (Generally)	<p>The Superior Council of Magistracy is made up of 12 magistrates. The members of the Superior Council of Magistracy are judges, full law professors, as well as Minister of Justice, President of the Supreme Court of Justice, General Prosecutor, being members ex officio.</p>
	<p>1. Total number of members: 12</p>
	<p>2. Term of office of the members: 4 years</p>

3. Election process:

Three members of the Supreme Court of Justice, from among titular professors in law, selected in an open and transparent way by the Parliament's Committee for Immunities and Appointments, following a public contest, shall be selected by the Parliament by majority votes of the deputies. Six members from among judges, including two alternates, are elected for the Superior Council of Magistracy, by secret ballot, by the General Assembly of Judges, representing all levels of courts. Elected members and alternate members of the Superior Council of Magistrates are considered those judges who have accumulated more than half the votes of those present at the meeting, according to decreasing order of votes obtained. In order to ensure the activity of the Superior Council of Magistrates, judges elected by the General Assembly of Judges, are detached during his/her mandate as a member of the Council.

4. Is there a possibility to be renewed as a member?

The members of the Supreme Court of Justice from among titular professors in law cannot be selected for two consecutive mandates.

5. Do the members have a full-time position or not?

In order to ensure the activity of the Superior Council of Magistrates, judges elected by the General Assembly of Judges, are detached during his/her mandate as a member of the Council. The members of the Superior Council of Magistracy, except for members ex officio members cannot be engaged in any gainful activity except the didactic and scientific ones.

Is there a majority of Judges?

Yes (6 members)

Presidency
(Generally)

The President of the Superior Council of Magistracy shall be elected by secret vote, for the duration of the mandate, by majority vote of members of the Council and is carrying out his/her activities on a permanent basis. During the absence of the President, his functions shall be exercised by a member of the Council, who shall be appointed by a decision by the Superior Council of Magistracy. The function of the president of the Superior Council of Magistracy cannot be held or exercised by the ex officio members.

Role of the Presidency

Convene and chair the sessions of the Council;
Coordinate the activity of the Council and distribute materials to be

BALKAN NETWORK TEMPLATE EMPTY

examined;
Represent the Council before domestic and foreign public authorities;
Exercise other responsibilities under law.

Main Competences of the Council:

- a) Submit proposals of appointment, promotion, transfer or removal from position of judges, presidents and deputy presidents of courts, to the President of the Republic of Moldova or to Parliament, take the oath of judges;
- b) Decide on the limited period of time promotion and limited period of time transfer of judges to another court of the same level, as well as on the suspension from position in cases provided for by law;
- c) Resolve the issue of judge's resignation, including the one of its cessation, under law;
- d) Select candidates for the position of judge;
- e) Approve the vocational training program for judicial candidates, appoint the judge who will supervise the judicial candidate's internship;
- f) Examine citizens' petitions on the issues related to judicial ethics;
- g) Validate the decisions (opinions) by the Qualification Board and Disciplinary Board;
- h) Apply incentive-related measures as well as disciplinary sanctions to judges;
- i) Ensure judge's inviolability, under law;
- j) Examine the appeals filed against the decisions (opinions) by the Disciplinary Board and Qualification Board;
- k) Ensure providing of vocational training for active judges and courts' personnel collaborators;
- l) Ask fiscal bodies to check the veracity of judges' family revenue declarations;
- m) Examine the information provided by the Ministry of Justice and the Economic Court of the Republic of Moldova on the manner in which organizational, material and financial needs of the courts were met, as well as the information provided by the Supreme Court of Justice on the administration of justice all over the country;
- n) Examine, confirm and propose the draft budget, which is necessary for a proper functioning of courts, to Parliament for approval, submit the draft budget to the Government to make the Government cognizant of it;
- o) Present to Parliament for approval proposals on the headquarters, district of courts and their number, as well as

the number of judges from courts, including from specialized courts, tribunals, the Appellate Court and the Supreme Court of Justice;

p) Approve and amend the Regulation on the structure and functioning of the Superior Council of Magistracy's personnel, the Regulation on the internship of judge, as well as other regulations related to the judicial system's activity;

r) Approve the forms and directions of the methodic assistance provided by judges from the Supreme Court of Justice;

s) Convene conferences and sessions of judges on the issues related to judicial activity;

t) Submit annually, no later than April 1st, to Parliament and the President of the Republic of Moldova, a report on the manner in which the courts were organized and functioned during the previous year.

u) Appoint, promote, transfer and remove from position collaborators of the Superior Council of Magistracy's personnel, and apply incentive-related measures and disciplinary sanctions to them;

1. Career of judges and/or prosecutors:

Career of judges means promotion to judge office in a higher court, appointment as court chair or deputy chair and transferring him/her to a court of the same level or a lower court. Promotion to the position of judge in a higher court, appointment as court chair or deputy chair and transferring him/her to a court of the same level or a lower court shall be preceded by performance evaluation of the judge under article 13 of this law, Law no. 154 of 5 July 2012 on selection, performance appraisal and career of judges and regulations of the Superior Council of Magistracy. Judges may request transfer to a court of the same level after the expiry of 5 years from the appointment, and judges who hold the office of court chair or deputy chair may require transfer to a court of the same level or to a lower court after the expiry of their terms of office or revocation. Promotion to the judge office in a higher court, appointment as court chair or deputy chair and transfer to a court of the same level or a lower court shall be made only with the consent of him/her, upon the proposal of the Superior Council of Magistracy, by the President of the Republic of Moldova or, where appropriate, by Parliament. In case of reorganization or dissolution of the court, the judge shall be transferred, with his/her consent, under law, to another court. If s/he refuses the transfer to another court, the judge has the right to resign under Article 26. The judge is considered as being promoted to judge office in a superior court, shall be considered appointed as court chair or deputy chair or shall be considered transferred to a court of the same level or a

lower court on the date of publication of the decree of Moldovan President or of the respective decision of Parliament. A judge who has been granted the qualification grade "insufficient" as result of performance evaluation can not be promoted to a higher court judge, can not be appointed as court chair or deputy chair, can not be transferred to another court, can not be elected as a member of the Superior Council of Magistracy and of the boards or of subordinated bodies during one year from the date of adopting the decision of the Judges' Performance Evaluation Board.

2. Judicial training:

The The National Institute of Justice organizes continuous training of acting judges and prosecutors, according to an annual program. The program is submitted to the Council for approval, but not later than July of the year preceding the academic year envisaged by it. The judges and prosecutors have the right to continuous training and may choose from the subjects proposed by the program, but they have the duty to cumulate at least 40 hours annually. The selected subjects shall be communicated to the Institute by the end of October.

To exercise its functions, the Superior Council of Magistracy shall have the following competences in the field of initial and continuous training of judges and court's Secretariat staff:

- a) appoints judges to the Council of the National Institute of Judges;
- b) approves the strategy on initial and continuous training of judges, presents its opinion on the action plan for its implementation;
- c) considers and submits its opinion on the rules for organizing the contest for admission to National Institute of Justice, on training programs and curricula for initial and continuous training in the Institute, the rules of contest organization for teaching positions, and the composition of admission and graduation committees of the National Institute of Justice;
- c²) delegates judges to participate at seminars, conferences, training courses and business trips;
- d) presents its opinion on the number of vacancies opened for the contest for admission to the initial training of judges at the National Institute of Justice;
- e) examines the appeals filed against the decisions (opinions) by the Selection and Career Board and Qualification Board;

3. Discipline:

To exercise its functions, the Superior Council of Magistracy shall have the following competences in respect to discipline and ethics of judges:

- a) examines citizens' petitions on the issues related to judicial ethics;
- b) examines the appeals filed against the decisions (opinions) by the Disciplinary Board;
- c) based on the decision of the Disciplinary Board, submits to the President of Moldova or, where appropriate, to the Parliament, a proposal on the dismissal of a president or vice president of a court or on the dismissal of a judge;
- e) asks competent bodies information with regard to judges' revenues and property declarations;
- f) asks fiscal bodies to check the veracity of judges' family revenue declarations;
- g) places on internet web page judges' revenues and property declarations, keeping them for the entire year.

4. Ethics

(the same rules as at the discipline, point 3)

5. Opinions on legislation/other opinions:

To exercise its functions, the Superior Council of Magistracy shall have the following competences in the administration of courts:

- a) examine the information provided by the Ministry of Justice on the manner in which organizational, material and financial needs of the courts are met.
- b) approves the Regulation on the random distribution of cases for review in the courts, which ensures transparency, objectivity and impartiality of the process;
- c) examines, confirms and proposes the draft budget of courts, as provided for by the law;
- d) submits annually, no later than April 1st, to Parliament and the President of the Republic of Moldova, a report on the manner in which the courts were organized and functioned during the previous year;
- e) approves the structure of the apparatus of the Superior Council of Magistracy, promotes, transfers and dismisses employees, applying to them measures of encouragement and disciplinary sanctions;
- f) grants annual leaves to presidents and deputy presidents of the courts;

For the proper achievement of its functions, the Superior Council of Magistracy shall approve laws for the enforcement of provisions of the law on organization and functioning of the judiciary.

6. Others:

No data

**Status of decisions
(Opinion, authorization,
recommendation, decision)**

The Superior Council of Magistracy shall adopt the decisions by the majority of votes of present members. The voting procedure shall be performed in the absence of person whose case is being examined and in the absence of other persons who were invited. The decision shall be developed in written form and signed by the chairman of the session. If a member of the Superior Council of Magistracy has a separate, it has to be motivated and attached to the decision, without reading it out. In case the Superior Council of Magistracy exercises its attributions, the member of the Council at whose proposal or initiative the disciplinary proceedings were instituted shall not attend the deliberations. The decisions of the Superior Council of Magistracy may be appealed at the Supreme Court of Justice, by any interested person within 15 days from the date of communication, but only the part, that relates to the procedure for issuing/adopting. The appeals shall be examined by a panel of 9 judges. The decisions of the Superior Council of Magistracy, adopted after examining the appeals against the decisions of the Disciplinary Board, can be appealed at the Supreme Court of Justice under the procedure.

**Supervision
(Transparency)**

The Superior Council of Magistracy's activity is transparent and is ensured by providing access to the society and the media to information on Council's activities. The meetings of the Superior Council of Magistracy shall be public, except for cases when, upon reasoned request of the President or of at least three members of the Council, it is decided by a majority vote of the present members, that the meetings shall be closed and when public debate issues included on the agenda could affect the privacy of individuals. The Superior Council of Magistracy shall create conditions and shall take the necessary measures to ensure the participation of media representatives and interested persons to attend its meetings. The Superior Council of Magistracy's meeting agenda, the draft resolutions and additional materials to be submitted for examination, shall be placed on the website of the Council at least three days before the meeting. The Superior Council of Magistracy's meetings are recorded through the use of video and audio and registered in the minutes, which are placed on the website of the Council. The regulations approved by the Superior Council of Magistracy and announcements on launching of competitions for judicial positions are published in the

Official Gazette of the Republic of Moldova. Decisions of the Superior Council of Magistracy and its bodies, individual opinions of members of the Council, as well as Council's annual reports are published on the website of the Superior Council of Magistracy.

The Superior Council of Magistracy shall prepare annually by 1 of February, a report on its work and on the work of the judicial sector in the previous year. The progress report is publicly presented and debated at the General Assembly of Judges. A copy of the report shall be handed to the President of the Republic of Moldova and the Parliament for information.

1. Over the Council:

The decisions of the Superior Council of Magistracy may be appealed at the Supreme Court of Justice, by any interested person within 15 days from the date of communication, but only the part, that relates to the procedure for issuing/adopting. The appeals shall be examined by a panel of 9 judges. The decisions of the Superior Council of Magistracy, adopted after examining the appeals against the decisions of the Disciplinary Board, can be appealed at the Supreme Court of Justice under the procedure established by Law on disciplinary responsibility of judges.

2. Over the decisions:

International relations

1. Global relations:

Member of the European Network of Councils for the Judiciary

2. Regional relations:

3. Bilateral relations:

Ongoing projects

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1. With the European Union:

ATRECO: "Boosting the efficiency, accountability and transparency courts in Moldova";

CEPEJ: "Enhancing the efficiency of the judiciary and the legal profession providing support to Moldova";

2. Regional: CRJM (Legal Resources Centre in Moldova)

3. Internal: SRSJ (THE JUSTICE SECTOR REFORM STRATEGY);

**Best regards,
Main specialist in Public Relations and
Media of the Superior Council of Magistracy,
Mangîr Carolina
+373 22 991-991**