



**THE EUROPEAN ASSOCIATION of JUDGES**  
**STATEMENT**  
**on**  
**MOLDOVA**

At its meeting in Taipei on 21 September 2023 the European Association of Judges - EAJ – was informed of recent developments affecting the judiciary in the Republic of Moldova which give rise to serious concerns.

Those developments include the introduction of a special Commission to carry out “pre-vetting” of judges wishing to stand for election to the Supreme Judicial Council. The Commission decided to exclude 23 of the 28 candidates, thereby effectively depriving the electorate of choice and thus determining the membership of the judicial section of the Council. Although the Supreme Court later quashed the Commission’s decisions, this judgement has not been properly implemented so far.

The governing party further intends to conduct a process of vetting of the private and financial circumstances of all judges of the Supreme Court, the Court of Appeal and presidents and vice-presidents in the District Courts.

The introduction of these vetting procedures takes place against the background of constant attacks, abuse and threats directed by politicians and the media against judges and the judiciary as a body, a frequent theme being that all judges are corrupt.

In that last regard, the EAJ draws attention to Recommendation (2010)12 of the Committee of Ministers of the Council of Europe which at para 18 states “If commenting on judges’ decisions, the executive and legislative powers should avoid criticism that would undermine the independence of or public confidence in the judiciary. They should also avoid actions which may call into question their willingness to abide by judges’ decisions, other than stating their intention to appeal.” The EAJ also observes that even if some cases of corruption have been detected within the justice system, public allegations putting each and every judge under suspicion undermines confidence in the system of justice and the morale of individual judges.

Vetting or lustration procedures for judges have been recognised as permissible (within limits), only in the exceptional circumstance of transition from an authoritarian regime to democratic government. In recent years, some countries have claimed the existence of other “exceptional circumstances” to introduce vetting systems, which in the view of the EAJ should not have a place in judicial systems.

That said, the EAJ naturally accepts the principle that judicial office holders should be accountable and subject to disciplinary procedures with all due procedural guarantees; and if guilty of corruption or criminal acts, liable to prosecution.

It must also be stressed, however, that whatever procedure may be adopted for ensuring that judges are accountable, the following principles are indispensable -

- The tribunal or body with power to decide must be independent.
- The appointment of its members must follow a transparent procedure in accordance with pre-established selection criteria.
- There must be clear and transparent criteria for determining the result, which cannot be changed during the process and those criteria should be laid down in advance on a legal basis.
- The judge or other person subject to the proceedings should have all guarantees of a fair procedure (with proper opportunities to access the files, to put forward testimonies, to comment on or challenge evidence).
- A remedy should be available.
- The consequences of the result should be proportionate.

The EAJ urgently recommends that the recent events in Moldova should be reviewed in light of this statement.