



Independent Evaluation Commission for assessing the integrity of candidates
for the position of member in the self-administration bodies of judges and prosecutors

Comisia independentă de evaluare a integrității candidaților la funcția
de membru în organele de autoadministrare ale judecătorilor și procurorilor

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FROM: Pre-Vetting Commission, Republic of Moldova

RE: Comments on the Friedrich-Ebert-Stiftung Report “Pre-Vetting Phases: the Unseen Face of Justice Reform”, published in February 2025 on FES-Moldova website ([ENG](#); [ROM](#))

28 May 2025

The Independent Evaluation Commission for assessing the integrity of candidates for the position of member in the self-administration bodies of judges and prosecutors (“the Pre-Vetting Commission” or “the Commission”) has considered the report “Pre-Vetting Phases: the Unseen Face of Justice Reform” (“FES report” or “report”), published by the Friedrich-Ebert-Stiftung on FES-Moldova’s website in February 2025. This letter expresses the Pre-Vetting Commission’s deep concern about the content of this report in light of multiple shortcomings in the report, including seriously flawed methodology. A number of the FES report’s deficiencies are highlighted below to illustrate the report’s faulty and one-sided representation of the pre-vetting process in the Republic of Moldova. In the interest of transparency, the Commission urges the Friedrich-Ebert-Stiftung (“FES”) to publish this response in order to permit readers to fairly assess the FES report’s observations and conclusions. The Pre-Vetting Commission emphasizes that the deficiencies identified in this letter are only examples and not a comprehensive listing of all of the FES report’s shortcomings. A thorough analysis of the FES report has revealed an extensive number of false, misleading and speculative statements, both of factual and legal character.

1. Flawed methodology:

- The Pre-Vetting Commission, the primary institution referred to in the FES report, was never given an opportunity to provide clarifications or answer questions in relation to the “facts and findings” in the FES report. As a general principle, to achieve credibility, monitoring reports are shared with the institutions that are the subject of a report. An example in this regard are the OSCE/ODIHR monitoring reports.¹
- Another significant flaw involves the information collected and analyzed for the FES report, specifically the report’s almost exclusive reliance upon the responses of failed

¹ See, for example, OSCE/ODIHR Monitoring report on the evaluation (pre-vetting) of candidates for members of the Superior Council of Magistracy in Moldova, 29 September 2023, available at <https://www.osce.org/odihr/553987>.

candidates to questions generated by the report's authors.² This reliance upon one-sided information, combined with the failure to permit the Pre-Vetting Commission to comment or provide input, is not consistent with professional methodologies and led to a serious misrepresentation of the Pre-Vetting Commission's work and its outcomes.

- Another deficiency of the FES report is that it is based almost exclusively on the initial evaluation decisions issued by the Pre-Vetting Commission and Supreme Court of Justice (SCJ) decisions of 1 August 2023 that annulled 21 initial evaluation decisions of the Pre-Vetting Commission. Significantly, with respect to the bias of the report, it completely ignores two SCJ decisions upholding the Pre-Vetting Commission's initial evaluation decisions in February 2023.³ The FES report also fails to consider SCJ decisions on resumed evaluation decisions issued by the Pre-Vetting Commission, many of which contradict the "facts" and findings presented in the report. For example, the FES report states, without a single citation, that on resumed evaluation of candidates, the Pre-Vetting Commission ignored the SCJ decisions ordering the resumed evaluations and considered the same issues as in the initial evaluation. Nowhere does the FES report address the SCJ decisions on reevaluation in each of which the SCJ noted that it had identified and examined new information collected and assessed by the Pre-Vetting Commission. The FES report fails to mention or appreciate that after two rounds of evaluations by the Pre-Vetting Commission and the SCJ, in some instances doubts were removed and in other instances new facts were established and doubts remained, and that final legal determinations were made in accordance with Law No. 26/2022 on certain measures relating to the selection of candidates for position as a member of the self-administration bodies of the judges and prosecutors ("Law No. 26/2022") as well as the principle of *res judicata*. As of 31 January 2025,⁴ the Pre-Vetting Commission had issued 21 resumed evaluation decisions, 18 of which were appealed to the SCJ. The SCJ had upheld 12 resumed evaluation decisions out of the 18 that were appealed and ordered one re-evaluation. Five resumed evaluation decisions were still pending as of 31 January.
- Another concern that raises doubts about the objectivity of the FES report is the fact that nowhere in the 132-page report was it disclosed that Cristina Ciubotaru, who is presented as an expert and the primary drafter of the report, is a practicing lawyer in the Republic of Moldova who has represented one of the SCJ judges, Mariana Ursachi

² The drafters expressly mention in the introduction chapter of the report that it "was not primarily based on the attendance of monitors/observers of the candidates' public hearings and court hearings considering the candidates' appeals".

³ See SCJ decision of 6 February 2023, case No. 3-5/23, available at https://jurisprudenta.csj.md/search_col_civil.php?id=70713; and SCJ decision of 28 February 2023, case No. 3-13/23, available at https://jurisprudenta.csj.md/search_col_civil.php?id=71098.

⁴ This date is used here since the FES report was published in February 2025.

(Pitic) in various proceedings, including the judicial vetting process.⁵ Judge Ursachi (Pitic) failed the vetting process.⁶ Judge Ursachi (Pitic) was also one of the three judges on the SCJ special panel that annulled 21 initial evaluation decisions of the Pre-Vetting Commission on 1 August 2023.

In summary, an objective assessment of the Pre-Vetting Commission's performance should include not only the Pre-Vetting Commission's initial evaluation decisions, but also its resumed evaluation decisions and the SCJ's decisions on the resumed evaluation of the candidates. This was not done in this report. Moreover, instead of a comprehensive analysis of the decisions at each phase of the process, the FES report relies instead on anecdotal reports without determining their merit or reliability. Other than candidates' opinions, the report relies heavily on news articles and broadcasts. The report is one-sided and not of the professional caliber expected of an organization such as FES, in whose name the report has been issued. In terms of addressing the role of pre-vetting and issues related to pre-vetting, the report's bias and superficiality renders it misleading and unhelpful.

2. Misinterpretations and misrepresentations of the law:

- Misrepresentation of the legal obligation concerning the financial disclosure of "close persons"

The Pre-Vetting Commission has operated in full compliance with the Moldovan legislation that established the Commission, Law No. 26/2022. This legislation was developed and adopted by the Parliament of the Republic of Moldova based on close consultation with the Venice Commission.

The FES report faults the Pre-Vetting Commission for "assigning to candidates all of the alleged sins of spouses, cohabitants etc." These assertions are both legally inaccurate and misleading. Contrary to the insinuations advanced by the report's authors⁷, Law No. 26/2022 does not impose an automatic obligation on candidates to provide detailed information concerning the income or assets of the persons deemed "close" to them. Rather, art. 8 para. (5) let. d) of the Law No. 26/2022 expressly provides that "*To assess the candidate's financial integrity, the Evaluation Commission shall verify: ... d) the sources of income of the*

⁵ Judicial vetting related procedures, including representation before the Superior Council of Magistracy and SCJ, as well as, at least since 9 August 2024, Ms. Ciubotaru acted as an attorney for judge Mariana Ursachi (Pitic) in a criminal case opened at her complaint against a member of the Judicial Vetting Commission.

⁶ Judicial Vetting Commission report proposing the failure of Mariana URSACHI, judge of the Supreme Court of Justice, 5 November 2024, available at [https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/674f2e8d79b71367e4edc18c_Mariana_Ursachi%20\(Pitic\)_report_ENG.sig ned.pdf](https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/674f2e8d79b71367e4edc18c_Mariana_Ursachi%20(Pitic)_report_ENG.sig ned.pdf).

⁷ "the Law [...] impose the following duties on them: [...] - the obligation to submit financial and asset information about themselves and persons considered to have been "close" to them [...]" (Section 4.6 of the FES report)

candidate and, where appropriate, of the persons referred to in art. 2 para. (2).”⁸

The inclusion of the conditional language “*where appropriate*” is not accidental – it reflects a deliberate legislative determination to ensure that scrutiny of “close persons” occurs in situations where there is a link between a candidate’s financial profile and that of a “close person”. The FES report disregards this essential requirement, creating the false impression that the legislation extends a candidate’s integrity-related obligations to third parties, which is simply untrue.

Typically, the Pre-Vetting Commission addressed questions to candidates about the financial circumstances of “close persons” in cases where there was a manifest basis to do so – for instance, when property appeared to be registered in the name of a “close person” under circumstances suggesting a connection or benefit to the candidate. This approach conforms to the provisions of Law No. 26/2022 and is consistent with established corruption detection practices,⁹ which recognize the frequent use of intermediaries in attempts to conceal wealth. In addition to the Moldovan legislation, the Pre-Vetting Commission was constantly guided in its work by the case law of the European Court of Human Rights (ECtHR) relating to issues of vetting of judges and prosecutors.

By failing to account for the above legal context and the Pre-Vetting Commission’s consistent adherence to these principles, the FES report presents a distorted narrative of both the law and the Commission’s practice.

- Retroactive legal arguments and misrepresentation of the nature of the Pre-Vetting Commission’s information requests

The FES report faults the Commission for having “*abused the use of special means of investigation and made use of secret services, contrary to the Council of Europe’s standards in the field of ensuring integrity processes in the judiciary*”. Specifically, the FES report accuses the Pre-Vetting Commission of improper use of special investigative measures used only in criminal investigations and prosecutions by requesting (operational analysis) reports from the National Anticorruption Center (NAC) on evaluated candidates and information

⁸ Art. 2 para. (2) of Law No. 26/2022 provides that the evaluation of candidates includes a verification of the assets of persons close to candidates, as defined in Law No. 133/2016 on the declaration of assets and personal interests, as well as of the persons referred to in art. 33 para. (4) and (5) of Law No. 132/2016 on the National Integrity Authority. “Close persons,” as defined in Law No. 133/2016 on declaration of assets and personal interests are: “husband/wife, child, cohabitant of the subject of the declaration, the person supported by the subject of the declaration, as well as any person related through blood or adoption to the subject of the declaration (parent, brother/sister, grandparent, nephew/niece, uncle/aunt) and any person related by affinity with the subject of the declaration (brother-in-law/sister-in-law, father-in-law/mother-in-law, son-in-law/daughter-in-law).”

⁹ See, for example, OECD (2011), Asset Declarations for Public Officials: A Tool to Prevent Corruption, OECD Publishing, p 14 (“It should be recognized that corrupt officials often hide their assets under the names of their relatives, their spouses and other individuals. Therefore, it should be possible to monitor the wealth not only of a public official, but that of close relatives and household members.”).

from the Security and Intelligence Service (SIS). These accusations are baseless and unsupported by law.

One of the integrity criteria established by art. 8 para. (2) lit. b) Law No. 26/2022 required the Pre-Vetting Commission to verify that “there are no reasonable suspicions that the candidate has committed corruption acts, acts related to corruption, or corruptible acts, within the meaning of the Law on Integrity No. 82/2017”. According to art. 4 para. (1) let. f) of the Law No. 1104/2002 on the National Anticorruption Center, it is charged with “conducting operational and strategic analysis of corruption acts, acts related to corruption and corruptible acts, of information regarding analytical studies of the corruption phenomenon”. In accordance with these legal provisions the Pre-Vetting Commission requested pertinent information from the NAC on candidates to be evaluated, including information on on-going or past criminal and contravention records, as well as information on income and wealth. All of these requests were lawful, proportionate and fully consistent with the evaluation criteria and the Commission’s mandate under Law No. 26/2022.

Paradoxically, while the FES report repeatedly criticizes the Pre-Vetting Commission for allegedly imposing obligations on candidates retroactively¹⁰, it seeks to substantiate its own conclusions by invoking art. 36⁴ of the Law No.59/2012 on Special Investigative Activity.¹¹ The FES report characterizes the Commission’s lawful requests for information from NAC as falling within the scope of “*special investigative measures through intelligence gathering*”¹², as defined by the aforementioned article. Apart from the fact that a request for information from NAC by the Pre-Vetting Commission was not a request for special investigative measures, the provision that FES report relies on only entered into force on 1 January 2024. The Commission did not request --nor receive-- NAC reports after 2023. This example is indicative of a broader pattern in the FES report – one marked by superficial reasoning and selective use of legal provisions and facts – which ultimately leads to unfounded and misleading conclusions. This pattern of selectivity and superficiality undermines the overall quality of the report’s findings about the pre-vetting process and also raises doubts about the objectivity of the authors and the underlying purpose of the FES report.

In addition, the FES report accuses the Pre-Vetting Commission of basing its assessment decisions on SIS or NAC reports and asserts that the reports were never shared with the evaluated candidates. Although the Pre-Vetting Commission requested information from SIS and NAC, the Commission never failed a candidate based exclusively on information from SIS or NAC. The Pre-Vetting Commission only used information that was corroborated by

¹⁰ See, for example, section 4.5 and 4.6 of the FES report.

¹¹ Art. 36⁴ provides that “The collection of information consists of acquiring information about natural and legal persons, movable and immovable property, facts, events and circumstances of interest, by direct communication with other persons, by studying documents, materials, databases, information systems and open sources, by addressing requests to natural and legal persons who possess or have information of interest, as well as by means of the photo robot and other methods that offer the possibility of identifying a person with an increased probability.”

¹² See the reference no. 226 in Section 9.1 of the FES report.

additional independent evidence and the Pre-Vetting Commission never cited or relied upon NAC or SIS reports in any of its decisions. Upon their request, evaluated candidates received all of the evidence that the Commission relied upon and referred to in its decisions. In support of its claim that the Pre-Vetting Commission based its decisions on SIS or NAC reports, the FES report falsely represents that information from SIS was included in a Pre-Vetting Commission decision regarding candidate Sandu.¹³ However, there was no issue in that decision that stemmed from information provided by SIS. Furthermore, the purported quotation from a SIS report was not included in any Pre-Vetting Commission decision regarding candidate Sandu (initial evaluation and resumed evaluation decisions).

- Misrepresentation of legal standards (presumption of innocence, burden of proof) in the pre-vetting process

Throughout the FES report, the authors repeatedly – and mistakenly – invoke the presumption of innocence principle as if it was applicable to the pre-vetting process.¹⁴ For example, in Section 4.1, they state that: „*Although this process was supposed to ensure a fair assessment of the integrity of candidates, numerous practices put in place by the Pre-Vetting Commission violated fundamental rights, including the right to defense and the presumption of innocence*”. This statement is not only legally inaccurate, but it reflects a fundamental misunderstanding of the nature and scope of constitutional guarantees.

The principle of the presumption of innocence, as provided in art. 21 of the Constitution of the Republic of Moldova, applies to individuals accused of committing criminal offences. The constitutional text reads unambiguously: „*Any person accused of a crime is presumed innocent ...*”. The pre-vetting process is not a criminal proceeding. At no time has the Constitutional Court or the SCJ characterized the pre-vetting process as having a criminal nature. As such, the presumption of innocence under art. 21 of the Constitution simply does not apply.

Moreover, according to well-established ECtHR case-law, the ‘civil’ limb of Article 6 para. 1 of the European Convention on Human Rights (ECHR) applies to pre-vetting proceedings. Thus, the presumption of innocence and the right to remain silent and not to incriminate oneself, as provided in criminal limb of Article 6 of the ECHR, are not applicable to the evaluation proceedings.¹⁵ There were very few instances in the Commission’s evaluations in which candidates were also facing accusations in criminal proceedings and thus, rarely any instances in which the rights of the criminally accused might have been invoked. Whenever

¹³ See section 9.1 of the FES report, case study No. 29 regarding judge Victor SANDU.

¹⁴ See sections 4.4, 4.6 of the FES report.

¹⁵ See, for example, Venice Commission, CDL-AD(2015)045-e, Interim Opinion on the Draft Constitutional Amendments on the Judiciary of Albania, adopted by the Venice Commission at its 105th Plenary Session (Venice, 18-19 December 2015), §121, available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)045-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)045-e); Gogitidze and Others v. Georgia, no. 36862/05, para. 126, 12 May 2015; Xhoxhaj v. Albania (no. 15227/19, §§ 236-46, 9 February 2021, Thanza v. Albania, no. 41047/19, §81, 4 July 2023.

there were on-going criminal proceedings, the Pre-Vetting Commission made it very clear that a determination by the Commission was not a criminal accusation, and its findings and conclusions have no bearing on the candidate's criminal case. The accusations in the FES report in this regard are simply incorrect.

It is deeply concerning – and professionally indefensible – that legal practitioners would invoke a constitutional principle that is limited to criminal proceedings in order to claim flaws in a non-criminal process, such as pre-vetting. The fact that the authors of the FES report repeatedly invoke this principle, without any reference to its clearly restricted scope, suggests either a basic misunderstanding of constitutional law and ECtHR principles or, more seriously, a deliberate attempt to mislead readers by applying inapplicable legal concepts to create the appearance of violations of fundamental rights where none exist.

The FES report also concluded that “*the pre-vetting mechanism [...] was marred by procedural shortcomings and abuses that undermined candidates’ fundamental rights and compromised the evaluation process*” because, among other things, “*the burden of proof was placed exclusively on candidates*”. This conclusion runs contrary to both the legal framework that governed the Pre-Vetting Commission’s work (Law No. 26/2022 in particular, as well as further guidelines in the Commission’s regulations) and the practice followed by the Pre-Vetting Commission in compliance with the ECtHR case law. All of the Commission’s decisions expressly referred to the shifting of the burden of proof *once the evaluating body identified integrity issues*, based on the ECtHR’s judgment in *Xhoxhaj v. Albania*.¹⁶ This shifting of the burden of proof was accepted by the SCJ in a number of its decisions relating to resumed evaluation decisions.¹⁷ Interpreting doubts to the detriment of the person who has failed to provide the required information has been a standard in national integrity-related legislation in the Republic of Moldova.¹⁸ Art. 13 para. (5) of Law No. 26/2022 expressly requires the Commission to adhere to this approach since the law states that “*a candidate shall be deemed not to meet the integrity criteria if serious doubts have been found as to the candidate’s compliance with the requirements laid down in art. 8, which the evaluated person has not mitigated*”.

- Distorted interpretation of the law’s purpose

The authors of the FES report fundamentally mischaracterized the nature and scope of the Pre-Vetting Commission’s work.¹⁹ It has been well-established that the Moldovan system of

¹⁶ *Xhoxhaj v. Albania*, no. 15227/19, para. 352, 31 May 2021.

¹⁷ See SCJ decision of 25 November 2024, case No. 3-8/24, available at https://jurisprudenta.csj.md/search_col_civil.php?id=76687; SCJ decision of 15 July 2024, No. 3-2/24, available at https://jurisprudenta.csj.md/search_col_civil.php?id=75552.

¹⁸ See, for example, art. 33 para. (9) and (10) of Law No. 132/2016 on the National Integrity Authority.

¹⁹ Section 4.4. of FES report states: “Notwithstanding the principle of decided matter, the Pre-Vetting Commission re-examines any situation previously verified by other competent public authorities and finds, as a rule, the opposite of what is stated in the acts of those authorities, since the Commission is not obliged to gather evidence with regards

verification of integrity of judges and prosecutors was malfunctioning.²⁰ The Parliament of Moldova addressed these problems by adopting Law no. 26/2022. According to the law, the Pre-Vetting Commission has functional independence and decision-making autonomy from any individual or legal entity, irrespective of their legal form, as well as from political factions and development partners that participated in appointing its members (art. 4 para. (1) of Law No. 26/2022). A key element of the functional independence of the Commission is that it “shall not depend on the findings of other bodies competent in the field concerned” (art. 8 para. (6) of Law No. 26/2022). This approach recognizes the unreliability of past disciplinary and integrity determinations and thus, requires the Commission to make its own evaluation, based on the documents and information collected from the candidates and third parties (including public and private persons – art. 10 paras. (2) and (3) of Law No. 26/2022) and not merely rely on the previous facts, including disciplinary proceedings or the absence thereof. The Venice Commission did not raise a concern about this approach in connection with Law No. 26/2022.²¹

Another example of the FES report misrepresenting the purpose or scope of the law is section (5.8) of the report speculating that legal amendments adopted by Parliament in September 2024 regarding the transfer of evaluation materials from the Pre-Vetting Commission to the Superior Council of Magistracy and Superior Council of Prosecutors, prior to their deletion at the conclusion of the Commission’s mandate, were made to “*cover up politically motivated crimes*”. No evidence whatsoever is provided in support of this wild speculation.

The Pre-Vetting Commission is a temporary, ad-hoc body. Law No. 26/2022 initially did not require a specific procedure for the disposition of accumulated information once the Commission’s mandate ends, leaving the archiving and destruction of information to

to the innocence of the person assessed. The Commission often easily reached the conclusion that the person had failed of his or her own free will to remove doubts as to his or her integrity, as the authorities’ findings of innocence were treated as not binding on the Commission. This led to the absurd situation where the person assessed had to prove his/her innocence in any way other than by proving his/her innocence to the competent body, since the evidence, having already been assessed by the competent authority, was not considered binding. In this way, almost all candidates in respect of whom there were such acts were subject to repeated examination and were repeatedly held liable for the same act. Examples include the decision of the disciplinary college not to sanction on the grounds that the act is not a disciplinary misconduct; the finding of the National Integrity Authority (NIA) that there is no conflict of interest, incompatibility, improper declaration of personal assets and interests, or unexplained wealth; the prosecutor’s order not to initiate criminal proceedings or to cease/terminate criminal proceedings; and the court’s decision to annul an act of the NIA. Such solutions were in fact opportunities for the Pre-Vetting Commission to make candidates repeatedly prove their innocence.”

²⁰ GRECO’s Fourth Evaluation Report, Republic of Moldova, 1 July 2016, para. 135; Transparency International, and others, State Capture: the Case of the Republic of Moldova, 2017, p. 21.; GRECO’s Fourth Evaluation Report, Second Interim Compliance Report, Republic of Moldova, 24 March 2023, para. 43, 49, 60; OECD, Pilot 5th Round of Monitoring Under the Istanbul Anti-Corruption Action Plan, Moldova, 2022, p. 51, International Commission of Jurists, The Undelivered Promise of an Independent Judiciary in Moldova, 2019, p. 35; GRECO’s Fourth Evaluation Report, Republic of Moldova, 1 July 2016, para. 101.

²¹ See Venice Commission Opinion No. 1069/2021 on draft Law No. 26/2022 and Joint Opinion of the Venice Commission and DGI on the Draft law on the external assessment of judges and prosecutors, 14 March 2023, para. 49-50.

regulation by the Pre-Vetting Commission. Parliament later considered arguments from multiple perspectives. The Venice Commission had made a very clear recommendation about the use of accumulated materials for only one purpose – *“Any information and documents produced in the individual integrity checking process must not be published and must only be used for the narrow purpose of the evaluation. It must be clear that such information or documents cannot be used directly in a criminal or administrative investigation, except in relation to the giving of false answers.”*²² The candidates and third parties were very sensitive about the use of their personal data. The amended law adopted by the Parliament requires the Pre-Vetting Commission to transmit an electronic copy of the evaluation materials regarding candidates to the applicable judicial and prosecutorial self-governing bodies before deleting them. The Pre-Vetting Commission will fully respect the legal framework adopted by the Parliament. The FES report completely misrepresents the entire issue.

3. Misrepresentation of Pre-Vetting Commission’s practice and factual information:

- The FES report faults the Pre-Vetting Commission for providing short deadlines for candidates to respond to questions and present relevant documentation. However, the FES report fails to acknowledge that the Pre-Vetting Commission typically extended deadlines when reasoned requests for additional time were submitted. Moreover, the FES report fails to note that no candidate failed the evaluation for not responding or presenting information within the deadlines.
- The FES report further chastises the Pre-Vetting Commission for “the failure to grant candidates full access to the information gathered by the Commission from their files”. First, the evaluation materials were provided to all candidates that requested them, in accordance with art. 12 para. (4) lit. c) Law No. 26/2022, which very clearly conditioned the right to access to evaluation materials on a request being made, rather than requiring the automatic provision of materials. No candidate was denied access to evaluation materials if a request was submitted. Second, the Pre-Vetting Commission has made clear that initially only relevant materials, specifically those related to the integrity doubts raised by the Commission, were provided to the candidates. This approach tracked Venice Commission recommendations²³ and was not contrary to the national legislation. However, after the SCJ decisions of 1 August 2023 obliged the Pre-Vetting Commission to provide all materials collected in the evaluation process, the Pre-Vetting Commission strictly complied with the SCJ determination and provided all materials to all candidates who requested them.²⁴

²² Venice Commission No. 1069/2021 on the draft law on some measures related to the selection of candidate for administrative positions in bodies of self-administration of judges and prosecutors and the amendment of some normative acts, Republic of Moldova, para. 31.

²³ “The candidate’s right to become acquainted with the ‘evaluation materials’ should encompass all the materials gathered by the committee and taken into account in its decision.”, Venice Commission opinion No. 1069/2021 (CDL-AD(2021)046) of 13 December 2021, para. 32.

²⁴ See the Pre-Vetting Commission press statement related to access to evaluation materials of September 2024 at

- The FES report accuses the Pre-Vetting Commission of “discrimination of candidates” with no consideration being given to factual differences between cases. The Commission carefully analyzed all discrimination-related complaints raised by candidates before the SCJ during the resumed evaluation process in view of the concrete circumstances of each case and provided detailed explanations in its resumed evaluation decisions. The FES report undertook no analysis of the substance of the discrimination claims and ignored the Pre-Vetting Commission’s reasoned and detailed explanations in the resumed evaluation decisions altogether. The FES report also ignored the SCJ’s acceptance of the Commission’s explanations in all of its decisions to date.

In conclusion, the shortcomings described above are only a partial list, in order to illustrate the serious flaws of the FES report, including the one-sided interpretation of both the legal framework and the practices of the Pre-Vetting Commission in an apparent attempt to present a very gloomy picture of the pre-vetting process in the Republic of Moldova. The Pre-Vetting Commission does not address here the series of misrepresentations and false accusations regarding its members and staff, which have been rejected by the SCJ whenever raised and responded to publicly by the Pre-Vetting Commission on numerous occasions.

The Pre-Vetting Commission acknowledges the value of professional and unbiased monitoring and reporting on its work. We regret that the authors of the FES report did not use a robust and credible methodology to provide readers a useful report on the pre-vetting process in the Republic of Moldova. Instead, the FES report chose to completely ignore the SCJ decisions on resumed evaluations and SCJ decisions on initial evaluations that upheld the Pre-Vetting Commission’s decisions, relied primarily on opinions of candidates that failed the evaluation and anecdotal reports without determining their merit or reliability, as well as news articles and broadcasts. In terms of addressing the role of pre-vetting and issues related to pre-vetting, the bias and superficiality of the FES report render it misleading and unhelpful. Readers should be able to expect more from a publication sponsored by an organization such as FES.