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EVALUATION REPORT

approved according to Article 40
of the Rules of Organization and Functioning

ANDREI MIRONOV

judge of South Court of Appeal

subject of evaluation under Article 3 para. (1) Law No. 252/2023

12 June 2025

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Evaluation Panel B of the Commission (hereinafter the “Commission”) established by Law No. 65/2023 on the External Evaluation of Judges and Candidates for Judges of the Supreme Court of Justice and discharging the powers under Law No. 252/2023 on the external evaluation of judges and prosecutors and amending some normative acts (hereinafter “Law No. 252/2023”) deliberated on the matter on 9 June 2025 and approved the following report on 12 June 2025. The members participating in the approval of the report were:

1. Scott BALES
2. Willem BROUWER
3. Iurie GAȚCAN

The Commission prepared the following evaluation report based on its work in collecting and reviewing the information, the subject’s explanations and its subsequent deliberations.

I. Introduction

1. This report concerns Mr. Andrei Mironov, a judge of the South Court of Appeal (hereinafter the “subject”).
2. The Commission conducted its evaluation pursuant to Law No. 252/2023 and the Commission’s Rules of Organization and Functioning (hereinafter “Rules”).
3. The Commission concluded that the subject meets the criteria identified in Law No. 252/2023 for ethical and financial integrity.

II. Subject of the Evaluation

4. Since 2019, the subject has served as a judge at the Comrat Court of Appeal. On 27 December 2024, this court merged with the Cahul Court of Appeal, resulting in the establishment of the South Court of Appeal. Since then, the subject has served as a judge at the newly created court.
5. Between 2007-2019, the subject was a judge at the Taraclia District Court and Cahul District Court.

III. Evaluation Criteria

6. Under Article 11 para. (1) of Law No. 252/2023, the Commission evaluates the subject’s ethical and financial integrity.
7. Under Article 11 para. (2), a subject:

“[...] does not meet ethical integrity requirements if the Evaluation Commission has determined that:

a) in the last 5 years, he/she seriously violated the rules of ethics and professional conduct of judges, or, as the case may be, prosecutors, as well as if they acted arbitrarily or issued arbitrary acts, over the last 10 years, contrary to the imperative rules of the law, and the European Court of Human Rights had established, before the adoption of the act, that a similar decision was contrary to the European Convention on Human Rights;

b) in the last 10 years, has admitted in his/her work incompatibilities and conflicts of interest that affect the office held."

8. Under Article 11 para. (3), a subject:

"[...] does not meet the criterion for financial integrity if the Evaluation Commission has serious doubts determined by the fact that:

a) the difference between assets, expenses and income for the last 12 years exceeds 20 average salaries per economy, in the amount set by the Government for the year 2023;

b) in the last 10 years, admitted tax irregularities as a result of which the amount of unpaid tax exceeded, in total, 5 average salaries per economy, in the amount set by the Government for the year 2023."

9. The applicable rules of ethics and professional conduct for judges in the relevant period were regulated by the:

- a. Law No. 544 of 20 July 1995 on Status of Judge;
- b. Law No. 178 of 25 July 2014 on Disciplinary Liability of Judges;
- c. Judge's Code of Ethics and Professional Conduct No. 8 of 11 September 2015 approved by the Decision of the General Assembly of Judge;
- d. Judge's Code of Ethics approved by the decision of the Superior Council of Magistracy no. 366/15 of 29 November 2007;
- e. Guide on the integrity of judges No. 318/16 of 3 July 2018 approved by the Superior Council of Magistracy.]

10. The average salary per economy for 2023 was 11,700 MDL. Thus, the threshold of 20 average salaries is 234,000 MDL, and the threshold of five average salaries is 58,500 MDL.

11. Article 11 para. (4) of Law No. 252/2023 allows the Commission to verify various things in evaluating the subject's financial integrity, including payment of taxes, compliance with the legal regime for declaring assets and personal interests, and the origins of the subject's wealth.

12. In evaluating the subject's financial integrity, Article 11 para. (5) of Law No. 252/2023 directs the Commission also to consider the wealth, expenses, and income of close persons, as defined in Law No. 133/2016 on the declaration of wealth and personal interests, as well as of persons referred to in Article 33 paras. (4) and (5) of Law No. 132/2016 on the National Integrity Authority.
13. In assessing a subject's compliance with the ethical and financial integrity criteria, the Commission applies the rules and legal regime that were in effect when the relevant acts occurred.
14. According to Article 11 para. (2) of Law No. 252/2023 a subject shall be deemed not to meet the ethical integrity criterion if the Commission has determined the existence of the situations provided for by that paragraph. Under Article 11 para. (3) of Law No. 252/2023, the Commission determines that a subject does not meet the financial integrity criterion if it establishes serious doubts determined by the facts considered breaches of the evaluation criteria. The Commission cannot apply the term "serious doubts" without considering the accompanying phrase "determined by the fact that". This phrase suggests that the Commission must identify as a "fact" that the specified conduct has occurred.
15. Regarding the standard of "serious doubts" in the context of the vetting exercise, the Constitutional Court noted concerning its previous decisions that the definition of standards of proof inevitably involves using flexible texts. The Court also said that the Superior Council of Magistracy can only decide not to promote a subject if the report examined contains "confirming evidence" regarding the non-compliance with the integrity criteria. The word "confirms" suggests a certainty that the subject does not meet the legal criteria. Thus, comparing the wording "serious doubts" with the text "confirming evidence", the Court considered that the former implies a high probability without rising to the level of certainty (Constitutional Court Judgement No. 2 of 16 January 2025, §§ 99, 101).
16. Once the Commission establishes substantiated doubts regarding particular facts that could lead to failure of evaluation, the subject will be given the opportunity to oppose those findings and to submit arguments in defense, as provided by Article 16 para. (1) of Law No. 252/2023. After weighing all the evidence and information gathered during the proceedings, the Commission makes its determination.

IV. Evaluation Procedure

17. On 18 October 2024, the Commission received the information from the Superior Council of Magistracy under Article 12 para. (1) of Law No.

252/2023. The information included the subject as a judge of South Court of Appeal.

18. On 7 November 2024, the Commission notified the subject and requested that he complete and return an ethics questionnaire and the declarations as provided in Article 12 para. (3) of Law No. 252/2023 within 20 days from the date of notification (hereinafter these declarations are referred to as the “five-year declaration”). The subject returned the completed five-year declaration and questionnaire on 25 November 2024.
19. On 13 December 2024, the Commission notified the subject that his evaluation file had been randomly assigned to Panel B, which includes members Scott Bales, Iurie Gațcan and Willem Brouwer. He was also informed that subjects may request, in writing and at the earliest possible time, the recusal of members from their evaluation.
20. Because the law sets different evaluation periods for the ethical and financial integrity criteria cited above, the Commission evaluated compliance with these criteria over the past five, ten and 12 years. Due to the end-of-the-year availability of the tax declarations and declarations on wealth and personal interests, the financial criteria evaluation period included 2012-2023 and 2014-2023. The evaluation period for the ethical criterion includes the past five or ten years calculated backward from the date of the notification.
21. In the last 12 years of the evaluation period, the subject had an obligation to submit declarations, both under Law No. 133/2016 on the Declaration of Wealth and Personal Interests and under Law No. 1264/2002 on the Declaration and Income and Property Control for persons with positions of Public Dignity, Judges, Prosecutors, Civil Servants, positions of Management.
22. The Commission sought and obtained information from numerous sources. No source advised the Commission of later developments or any corrections regarding the information provided. The sources asked to provide information on the subject included the General Prosecutor's Office, the Anti-Corruption Prosecutor's Office (hereinafter “APO”), the Prosecutor's Office for Combating Organized Crime and Special Cases (hereinafter “PCCOCS”), the Ministry of Internal Affairs, the National Anticorruption Center (hereinafter “NAC”), the National Integrity Authority (hereinafter “NIA”), the State Fiscal Service, the National Office of Social Insurance, the General Inspectorate of Border Police, banks (EuroCreditBank JSC, Moldinconbank JSC, MAIB JSC, Procredit Bank JSC, Victoriabank JSC, Banca de Finanțe și Comerț (FincomBank) JSC, OTP Bank JSC, Banca Socială JSC,

Banca de Economii JSC), Office for Prevention and Fight Against Money Laundering, and the Public Service Agency. Information was also obtained from other public institutions and private entities, open sources such as social media and investigative journalism reports. No complaints or information was received from civil society. All information received was carefully screened for accuracy and relevance.

23. Before approving its report, the Commission asked the General Prosecutor's Office, APO, PCCOCS and NAC to confirm that there were no changes in their previous responses. PCCOCS, NAC and APO responded, but the Prosecutor's General Office has not responded within the deadline provided by Law No. 252/2023.
24. On 6 March 2025, the Commission asked the subject to provide additional information by 16 March 2025 to clarify certain matters (hereinafter the "first round of questions"). The subject provided answers and documents within the deadline.
25. On 4 April 2025, the Commission asked the subject to provide additional information by 13 April 2025 to clarify certain matters (hereinafter the "second round of questions"). The subject provided answers and documents within the deadline.
26. On 30 May 2025, the Commission notified the subject that, based on the information collected and reviewed, it had not identified in its evaluation any areas of doubt about his compliance with the financial criterion and had not established a non-compliance with the ethical integrity criterion. The subject was sent a written hearing notice and an invitation to attend a public hearing on 9 June 2025. The notice stated that if the subject declined to participate, but confirmed the accuracy of the information previously provided, the Commission would, absent any new information or developments, adopt a decision on passing the evaluation.
27. As provided in Article 39 para. (4) of the Rules, the subject could have requested access to all the materials in his evaluation file at least seven days before the hearing. However, the subject decided not to exercise this right.
28. On 1 June 2025, the subject confirmed the accuracy and correctness of the information provided in the declarations, the ethics questionnaire, and subsequent answers. He also declined participation in the hearing.

V. Analysis

29. This section discusses the relevant facts and reasons for the Commission's conclusion.

30. Based on the information it collected, the Commission analyzed and, where necessary, requested further clarifications on the matters which, upon initial review, raised doubts as to compliance with the criteria established by law:
- a) compliance with the wealth declaration regime;
 - b) potential difference between the assets, expenses, and income (hereinafter “unjustified or inexplicable wealth”) for 2019;
 - c) compliance with the conflict-of-interest regime;
 - d) potential ethical breaches related to decisions issued by the subject.

A. Compliance with the wealth declaration regime

31. During the evaluation procedure, the subject disclosed that he received donations from his parents over the same period, totaling 99,000 MDL, distributed annually as follows: 1,000 MDL per year between 2012 and 2016; 2,000 MDL in each of the years 2017, 2018, 2020, 2021 and 2023; 52,000 MDL in 2019; and 32,000 MDL in 2022.
32. However, the subject’s annual declarations submitted to the NIA and previously to the National Integrity Commission (hereinafter “NIC”) for the years 2012 to 2023 do not reflect any declared donations.
33. In the first round of questions, the subject stated that the donations were received on various family occasions and holidays and were largely intended to benefit his children. He explained that 50,000 MDL out of the donations received in 2019 and 30,000 MDL out of the donations received in 2022 were used for the purchase of vehicles, while the remaining amounts were spent on daily maintenance expenses and celebrations related to his children. The subject submitted a handwritten declaration signed by his parents, allegedly confirming a donation of 50,000 MDL in 2019 for the purchase of a vehicle and a donation of 30,000 MDL in 2022 for the same purpose.
34. In the second round of questions, the subject presented the following justifications for not declaring the donations:
- a. He thought the donations of 50,000 MDL (in 2019) and 30,000 MDL (in 2022) fell below the threshold established by Article 4 para. (3) of Law No. 133/2016 on the Declaration of Assets and Personal Interests (hereinafter “Law No. 133/2016”), which exempts from declaration any gifts received from close relatives that do not exceed ten average national salaries. The subject also stated he was uncomfortable at his

age (approximately 40 years) declaring financial dependence on his parents;

- b. He did not perceive the donations of 500–1,000 MDL as income and they were used for minor family-related expenses, particularly children's events and gifts.
35. The Commission notes that the term "income" as defined in Article 2 of Law No. 133/2016 includes any financial benefit, regardless of the source of origin, obtained by the subject of the declaration and by the members of his/her family. A similar definition was contained in Law No. 1264/2002, *i.e.* "income" represents any increase, addition to or growth in assets, irrespective of their source, expressed in pecuniary rights or in any other patrimonial benefit, obtained by the subject of the declaration or by the members of his family
 36. According to NIA's response to the Commission's inquiry, monetary gifts do not qualify for the exemption provided by Article 4 para. (3) of Law No. 133/2016. This means that the exemption applies primarily to tangible gifts (*e.g.* furniture, electronics) and not to direct cash transfers or financial assistance.
 37. According to Article 11 para. (4) lit. b) of Law No. 252/2023, in the process of verifying financial integrity, the Commission may verify whether the subject has complied with the legal regime of declaration of assets and personal interests.
 38. At the same time, under Article 11 para. (2) lit. a) of Law No. 252/2023, a judge does not meet the criterion of ethical integrity if the Commission has serious doubts determined by the fact that, in the last 5 years, he/she seriously violated the rules of ethics and professional conduct of judges.
 39. In accordance with Article 15 para. (1) lit. g) of Law No. 544/1995 on the Status of Judges, and Article 13 para. (1) of Law No. 82/2017 on Integrity, judges are obliged to submit the declaration of assets and personal interests to the NIA.
 40. Considering the above, the Commission must determine whether the subject's failure to declare donations amounts to a serious breach, within the meaning of Article 11 para. (2) of Law No. 252/2023, considering both the purpose of the applicable legislation and the specific circumstances of the case.
 41. While it is established that the subject did not comply with the declaration requirements under Law No. 133/2016, the omission appears to have

resulted not from concealment or fraudulent intent, but rather from a misinterpretation of Article 4 para. (3) of the same law. Specifically, the subject declared to have erroneously believed that donations received from his parents regardless of their form were exempt from declaration under the “close relatives” clause.

42. The undeclared amounts received in 2012-2018, 2020, 2021 and 2023 were modest. Based on the information obtained, the subject’s parents had the financial capacity to provide all the reported donations, including the larger amounts in 2019 and 2022. This circumstance reduces concern regarding the origin of the funds.
43. In its previous decisions and reports, the Commission stated that it would be a formalistic or even a superficial exercise to equate any potential non-declaration of assets with a lack of integrity, see, *e.g.* case of *Talpa* (Decision of 30 May 2024, §§ 47- 50), case of Dorin Munteanu (Report of 1 October 2024, §§ 67-68).
44. Therefore, the Commission finds that the failure to declare the donations constitutes a formal non-compliance with the declaration regime established under Law No. 133/2016, insufficient to establish an ethical integrity failure under Article 11 para. (2) of Law No. 252/2023.

B. Potential inexplicable wealth in 2019

45. If the Commission were to exclude the entire amount of 99,000 MDL in claimed donations received from the subject’s parents between 2012 and 2023, on grounds of non-declaration to NIA or NIC, this would result in a negative balance of 31,058 MDL for the year 2019. For the other years, the Commission identified no negative discrepancies between income, expenses, and assets.
46. In either case, even if the negative financial flow for these years was treated as unjustified wealth, it would not exceed the threshold of 234,000 MDL under Article 11 para. (3) lit. a) of Law No. 252/2023. Accordingly, the Commission did not request further explanation on this issue.

C. Compliance with the conflict-of-interest regime

47. According to the information available in the Integrated Case Management System, in his capacity as a judge at the Comrat Court of Appeal, the subject examined 12 cases involving the legal entity Gagauz-Gaz LLC, where his wife has been employed since 2020.

48. The subject also examined two cases involving a legal entity that rents from the subject's parents eight plots ranging from 0.048 hectares to 2.14 hectares, under three separate agreements.
49. In response to the second round of questions, the subject provided the following explanations:
- a) The subject did not submit self-recusal requests in the cases involving Gagauz-Gaz LLC, as his wife was not involved in those proceedings. Specifically, she had not issued the challenged documents, had not represented the legal entity, had not held any management positions within the company, and had no relationships with any other parties involved in the proceedings. Accordingly, the subject asserted that his wife had no direct or indirect interest in the outcome of the cases. The subject also submitted a certificate issued by the employer, confirming his wife's employment history and the positions held. His wife held the following positions:
 - Archivist: from 2 October 2020 to 15 September 2022;
 - Secretary: from 16 September 2022 to 20 January 2025;
 - Gas Records Specialist: since 21 January 2025.
 - b) Regarding the cases involving the legal entity renting agricultural land from his parents, the subject explained that his parents were neither parties nor participants in the proceedings and held no direct or indirect interest in the outcome. Therefore, in his view, there was no procedural or ethical basis requiring him to recuse himself.
50. The analysis of the two situations described does not reveal the existence of either an actual or a potential conflict of interest. Neither the judge's wife nor his father was a party to the proceedings, held any procedural standing, or had a direct legal interest in the matters under adjudication.
51. In the first situation, the judge's wife was employed at Gagauz-Gaz LLC, a large local company, during the relevant period. She did not hold a managerial position, nor did she exercise any responsibilities related to the subject matter of the cases examined by her husband. There is no indication of her involvement in the actions or legal claims subject to judicial review. The identified cases involving Gagauz-Gaz LLC mostly concern either debt recovery claims or employment disputes with other employees—common matters arising in the ordinary course of business for a regional natural gas distribution company. As the Constitutional Court has stated, a judge's declaration of self-recusal, while serving as a safeguard of procedural

fairness, must be assessed in light of the need to balance competing principles—namely, the duty of impartiality and the duty to adjudicate a case (see Constitutional Court Judgment No. 18 of 27 September 2022, § 63).

52. In the second situation, the judge's father had concluded an agricultural lease agreement with one of the parties to the proceedings. However, this contractual arrangement was not subject to litigation and bore no direct relevance to the legal issues being examined. The father did not participate in the proceedings and did not hold any discernible legal interest in the outcome of the cases.
53. In accordance with the principles of judicial transparency and the obligation to avoid even the appearance of partiality, it would have been appropriate for the judge to disclose these circumstances to the parties and to afford them the opportunity to express any objections or concerns regarding his impartiality. While the absence of such disclosure may reflect a shortfall in ethical prudence, it does not, in itself, amount to a serious violation of the rules of ethics and professional conduct or to a conflict of interest that affected the office held, as defined by Law No. 252/2023.

D. Potential ethical breaches related to the decisions issued by the subject

54. The Supreme Court of Justice (hereinafter "SCJ") quashed recently two decisions issued by the former Comrat Court of Appeal in cases involving the subject. In the first case the decision was characterized as arbitrary.¹ In the second case although it did not use such strong language, the SCJ's reasoning contains multiple critical observations.²
55. Considering these circumstances, the Commission examined both cases for potential ethical integrity breaches. The procedural history of the two cases and the findings of the national courts are briefly listed below, followed by the Commission's conclusions regarding the applicability of the ethical integrity criteria set forth under Law No. 252/2023.

Omission to impose the complementary sanction of license withdrawal

56. The defendant, while reversing his car, struck a cyclist. The cyclist sustained serious injuries and later died. The defendant fled the scene without notifying the authorities.

¹ [search_col_penal.php](#)

² [search_col_penal.php](#)

57. On 1 March 2022, the Cimișlia District Court found the defendant guilty under Articles 264 para. (3) (negligent driving resulting in death) and 266 of the Criminal Code (fleeing the scene). The court imposed 3 years imprisonment in an open-type prison, withdrawal of the right to drive and awarded moral and material damages to the victim's family.
58. On 2 November 2022, the Comrat Court of Appeal with the participation of the subject upheld the conviction under Article 264 para. (3) of the Criminal Code, replaced imprisonment with suspended sentence (probation) and dismissed Article 266 charge due to expiration of statute of limitations. The Court did not apply the complementary sanction of license withdrawal. The Court of Appeal relied on Article 79 para. (1) of the Criminal Code which establishes that courts may not apply a certain complementary mandatory sanction in exceptional cases. The Court of Appeal noted the following mitigating circumstances: no prior criminal record; two dependent minor children; the defendant expressed remorse; and the defendant was registered with chronic alcoholism.
59. On 6 March 2025, the SCJ acknowledged the Court of Appeal's power to reduce or suspend sanctions under Article 79 para. (1) Criminal Code, but only in exceptional circumstances. The SCJ found that the mitigating factors cited by the Court of Appeal were not exceptional, especially because the accused fled the scene of the accident; he made no effort to compensate the victim's family; and the finding of "remorse" was not supported.
60. SCJ emphasized that the complementary penalty (license withdrawal) under Article 264 para. (3) is mandatory, and the Court of Appeal did not provide reasoning for omitting it. Therefore, it acted arbitrarily. SCJ also noted that the defendant's registration with chronic alcoholism should have supported applying the complementary penalty, not justify omitting it.

Requalification of the conduct of one accused and sentence reduction for the other

61. On 24 April 2016, I.S. and V.C. allegedly severely beat two individuals suspected of attempted burglary. Both victims died shortly after.
62. On 28 December 2016, Cahul District Court found both I.S. and V.C. guilty of aggravated murder under Article 145 para. (2) Criminal Code and sentenced them to 17 years in prison. The court emphasized direct intent, extreme cruelty, targeting vital organs, and deliberate concealment of the crime. Civil damages were also awarded to the victims' families.

63. On 11 November 2019, the Comrat Court of Appeal (without the subject's participation) upheld the convictions, with a partial sentence reduction for V.C.
64. On 8 September 2020, the SCJ annulled the decision and sent the case back for retrial, citing deficiencies in the reasoning of the appellate court's decision. Among other things, the SCJ noted.
- a) Superficial dismissal of the defense's arguments, particularly regarding lack of prior agreement.
 - b) Exclusive reliance on prosecution evidence, without addressing or rebutting defense evidence.
 - c) Lack of consideration of psychological and behavioral elements concerning I.S., including signs of trauma and shock.
 - d) Lack of objective analysis of both the expert report and I.S.'s testimony regarding "the self-defense mechanism triggered under prolonged psycho-traumatic conditions and activated as a result of the assailant's provocation."
65. On 28 December 2021, in its capacity as the court of retrial, the Comrat Court of Appeal, with the participation of the subject, requalified I.S.'s actions as facilitation of crime under Article 323 para. (1) of the Criminal Code and sentenced him to 2 years, already served. According to the Comrat Court of Appeal reasoning, when the blows were inflicted, I.S. was not aware that his actions could result in the victim's death, as supported by the expert declarations made during the hearing that I.S. acted with 70% unconscious. V.C.'s sentence was reduced due to alleged poor detention conditions.
66. On 10 March 2025, the SCJ annulled the decision issued with the participation of the subject stating, among other things, that:
- a) The claim that I.S. acted "70% unconsciously" was undermined by the expert's clarifications provided during the hearings before the SCJ, according to which the accused retained awareness of his actions.
 - b) The laws of Republic of Moldova do not recognize partial unconsciousness as a basis to downgrade murder.
 - c) I.S.'s motivation was found to be revenge, not distress.
 - d) Both accused gave mutually exclusive statements, undermining their credibility.

- e) SCJ concluded that both defendants were responsible for lethal blows.
- f) SCJ found no sufficient basis for reducing V.C.'s sentence on the grounds of detention conditions, as no individualized evidence was submitted in support of this claim.

The Commission's assessment

- 67. With respect to the first case described above, the SCJ noted that the failure to provide adequate reasoning for the decision not to impose the mandatory complementary penalty constituted an arbitrary act. However, the Commission emphasizes that the notion of "arbitrariness", as applied by the SCJ under Article 427 para. (1) pt. 6 of the Criminal Procedure Code, is based on a different test and serves different purposes than the notion of "arbitrariness" considered by the Commission under Article 11 para. (2) of Law No. 252/2023 and cited above under § 7³.
- 68. Although the SCJ criticized the judgment issued by the appellate panel in strong terms, its findings were made in the context of assessing the legality of the decision and did not amount to a determination of ethical misconduct as defined by Law No. 252/2023. The criterion of arbitrariness under Article 11 para. (2) lit. a) of Law No. 252/2023 is not met, as the law expressly requires that the ECtHR must have previously ruled that a similar decision violated the Convention prior to the issuance of the act. In this case, there appears to be no judgment of the ECtHR that corresponds to the specific factual and legal circumstances under review.
- 69. In the second case, the SCJ did not explicitly state that the decision issued by the panel, which included the subject, was arbitrary. Such a conclusion may only be inferred implicitly from the SCJ's reasoning. However, with respect to this case as well, the Commission did not identify any judgments in which the ECtHR found that similar conduct violated the Convention. The ECtHR generally affords a wide margin of appreciation to national courts regarding the selection of appropriate sanctions in cases involving ill-treatment or homicide. Nonetheless, it exercises a limited power of review and may intervene where there is a "manifest disproportion" between the offense committed and the penalty imposed. The cases in which the ECtHR found such "manifest disproportion" are cases in which individuals were found

³ Under Article 427 para. (1) pt. 6 of the Criminal Procedure Code, an appeal on points of law is admissible if the judgment is arbitrary or is based primarily on a manifestly unreasonable assessment of the evidence.

guilty of serious offences but given excessively light punishments (*Armani Da Silva v. the United Kingdom* [GC], 30 March 2016, § 285).

70. The Commission did not identify any ECtHR judgment in which similar conduct, *i.e.*, the requalification of a homicide charge based on partial psychological incapacity, was found to violate the Convention.
71. Failing to meet the “arbitrary behavior and arbitrary acts” criterion under Article 11 para. (2) lit. (a) of Law No. 252/2023 does not entail an automatic reclassification of the conduct into the separate category of “serious ethical breach” under the same article. These are distinct legal grounds, each subject to independent evidentiary and normative thresholds.
72. A serious ethical breach implies conduct that, while not amounting to arbitrariness, still reflects a serious violation of ethical standards, such as impartiality, integrity, or independence, with significant impact on public confidence in the judiciary. In its Judgment No. 2 of 16 January 2025, Constitutional Court has clarified that the term “seriously violated” sets a high threshold for establishing breaches of ethical and professional rules applicable to judges. Additionally, the Court has noted that the Commission may rule only on violations of ethical and professional conduct rules, without making any determination regarding the legality of the respective judgments (§§ 154, 185).
73. The Commission considers that the subject’s decisions are more indicative of professional error or competence issues than of a serious violation of ethical standards as required under Article 11 para. (2) lit. a) of Law No. 252/2023.
74. In this context, the Commission observes that, in the case concerning the non-application of the sanction of withdrawal of the right to drive, the Supreme Court of Justice issued an interlocutory ruling referring the matter to the Judicial Inspection, citing the “seriousness of the error committed by the judges.” Therefore, it falls within the competence of the specialized bodies tasked with assessing judicial professionalism to determine the nature and gravity of the actions in question and, where appropriate, to apply proportionate sanctions.

VI. Conclusion

75. Based on the information obtained from the subject and other sources, the Commission proposes that the subject promotes the external evaluation made according to the criteria set in Article 11 of Law No. 252/2023.

VII. Further action and publication

76. As provided in Article 40 point (4) of the Rules, this evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy. The Commission will publish the evaluation's result on its official website on the same day.
77. No later than three days after the approval, a printed paper copy of the electronically signed report, will be submitted to the Superior Council of Magistracy, along with the original electronic copy of the evaluation file containing all the evaluation materials gathered by the Commission.
78. This report will be published on the Commission's official website, with appropriate precautions to protect the privacy of the subject and other persons, within three days after the expiry of the appeal period against the decision of the Superior Council of Magistracy or after the Supreme Court of Justice issues its decision rejecting the appeal or ordering the promotion or non-promotion of the evaluation.
79. This evaluation report was approved by a unanimous vote of the Panel members on 12 June 2025 and signed pursuant to Articles 33 point (2) and 40 point (5) of the Rules.
80. Done in English and Romanian.

Scott Bales

Chairperson of the Commission

Chair of Panel B