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EVALUATION REPORT

approved according to Article 25

of the Rules of Organization and Functioning

GHEORGHE STRATULAT

candidate for the Supreme Court of Justice

subject of evaluation under Article 3 para. (1) Law No. 65/2023

12 June 2025

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The Vetting Commission established by Law No. 65/2023 on the External Evaluation of Judges and Candidates for Judges of the Supreme Court of Justice (hereinafter “Law No. 65/2023”) 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. Andrei BIVOL
3. Willem BROUWER
4. Lilian ENCIU
5. Iurie GAȚCAN
6. Lavly PERLING

The Commission prepared this 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. Gheorghe Stratulat (hereinafter the “subject”), a candidate for the position of judge of the Supreme Court of Justice.
2. The Commission conducted its evaluation pursuant to Law No. 65/2023 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. 65/2023 for ethical and financial integrity, as no serious doubts determined by facts have been found as to the subject’s compliance with this criterion.

II. Subject of the Evaluation

4. The subject has been a judge at the Chișinău District Court (Centru and Râșcani premises) since 2014. In April 2025, he was temporarily transferred to the Supreme Court of Justice.
5. Between 2013 and 2024, the subject was a lecturer at the Moldova State University. Between 2013 and 2014, he served as a judicial assistant at the Chișinău District Court (Centru Office).
6. The subject received a bachelor’s degree in law in 2011 from the Moldova State University. In 2013, he received a master’s degree in law from the same

university. Between 2011 and 2013, the subject was a student at the National Institute of Justice.

III. Evaluation Criteria

7. Under Article 11 para. (1) of Law No. 65/2023, the Commission evaluates the subject's ethical and financial integrity.

8. Under Article 11 para. (2), a subject:

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

a) in the last 5 years, they seriously violated the rules of ethics and professional conduct of judges, prosecutors or, as the case may be, other professions, 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 for Human Rights;

b) in the last 10 years, has admitted incompatibilities and conflicts of interest incompatible with the office of judge of the Supreme Court of Justice in his/her work."

9. 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, in total, 20 average salaries per economy, in the amount set by the Government for the year in which the judge's evaluation began;

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 in which the judge's evaluation began."

10. Under Article 20 para. (1):

"Candidates for the office of judge of the Supreme Court of Justice shall be evaluated in accordance with the provisions of this law."

11. The average salary per economy for 2025 was 16,100 MDL. Thus, the threshold of 20 average salaries is 322,000 MDL, and the threshold of five average salaries is 80,500 MDL.

12. Article 11 para. (4) of Law No. 65/2023 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.

13. In evaluating the subject's financial integrity, Article 11 para. (5) of Law No. 65/2023 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.
14. 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.
15. Finally, according to Article 11 para. (2) and (3) of Law 65/2023, the Commission determines that a subject does not meet the ethical and financial integrity criteria 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.
16. Regarding the standard of "serious doubts" in the context of the vetting exercise, the Constitutional Court noted with reference to 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).
17. 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 15 para. (1) of Law No. 65/2023. After weighing all the evidence and information gathered during the proceedings, the Commission makes its determination.

IV. Evaluation Procedure

18. On 23 January 2025, the Commission received the information from the Superior Council of Magistracy pursuant to Article 21 para. (5) lit. a) of Law

No. 65/2023. The information included the subject's candidacy for the Supreme Court of Justice.

19. On 13 February 2025, 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. 65/2023 within 10 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 19 February 2025.
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, respectively. 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 2013-2024 and 2015-2024. The evaluation period for the ethical criterion includes the past five or ten years, calculated backwards 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 (hereinafter "SFS"), the National Office of Social Insurance, the General Inspectorate of Border Police, banks (Eximbank JSC, Moldinconbank JSC, MAIB JSC, BCR Chișinău JSC, Victoriabank JSC, Banca de Finanțe și Comerț (FincomBank) JSC, OTP Bank JSC, Banca de Economii JSC), Office for Prevention and Fight Against Money Laundering, and the Public Service Agency (hereinafter "PSA"). 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. 65/2023.
24. On 8 April 2025, the Commission asked the subject to provide additional information by 18 April 2025 to clarify certain matters (hereinafter the "first round of questions"). The subject provided answers and documents within the deadline.
25. On 14 May 2025, the Commission asked the subject to provide additional information by 21 May 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 ethical and financial criteria. The subject was sent a written hearing notice. 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, approve a report on passing the evaluation. The subject was also informed that the evaluation report may refer to other issues that were considered during the evaluation.
27. As provided in Article 24 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 9 June 2025, the Commission held a public hearing. At the hearing, the subject reaffirmed the accuracy of his answers in the five-year declaration and the ethics questionnaire. He also stated that he did not have any corrections or additions to the answers previously provided to the Commission's requests for information.

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. potential difference between the assets, expenses, and income (hereinafter “unjustified or inexplicable wealth”) for 2013;
 - b. potential tax irregularities.
- A. Potential difference between the assets, expenses, and income (hereinafter “unjustified or inexplicable wealth”) for 2013**
31. On 31 December 2012, the subject declared to the SFS, under a fiscal amnesty declaration, possession of 950,000 MDL in cash as of 1 January 2012. He explained that this amount originated from a donation received from his father in 2011.
32. The subject provided written statements on own responsibility from his father and other documents indicating that the funds used for the donation originated primarily from three sources. First, in 2007, his father sold for 1,800,000 MDL a 4.7% shareholding in the cooperative “T.”, where he had previously served as vice-president and chief accountant. The sale was conditioned on his resignation from all official positions within the cooperative and his waiver of any future claims over its assets. The cooperative was implementing a project financed by the European Bank for Reconstruction and Development (EBRD) for the renovation of the water supply network in Chişinău.
33. The subject further explained that his father earned additional income through entrepreneurial activity and the provision of accounting services to companies with foreign capital. To support this claim, the subject submitted several contracts concluded between his father and such companies, specifying the duration of the services and the hourly remuneration.
34. In addition, the subject stated that in 2005, his father inherited a real estate property located on Vasile Alecsandri Street, along with certain movable assets, including 7,000 USD.
35. The subject explained that the funds declared under the fiscal amnesty were initially intended for the purchase of an apartment, however, the transaction did not take place. In 2013, the subject returned 500,000 MDL to his father, and approximately 400,000 MDL was retained as savings and consistently reported in the subject’s annual asset declarations submitted to the NIA. The remaining 50,000 MDL was apparently used to cover various expenses.

36. The Commission treated the 500,000 MDL reimbursement as an expense for 2013; therefore, the amount further analyzed as an incoming financial flow was 450,000 MDL. The Commission has previously held that a fiscal amnesty declaration does not, in itself, constitute sufficient evidence of the existence or legality of the declared funds. For such amounts to be accepted, they must be corroborated by supporting documentary evidence (see, e.g., *Ion Buruiană* Report, §§ 101–102, *Mariana Ursachi* Report, §§ 178-181).
37. In the present case, the submitted documents confirm that the subject's father held a 4.75% share in the cooperative "T." and served as vice-president and chief accountant. A certificate issued by the PSA confirms his renunciation of a 4.76% shareholding. According to Article 177 para. (3) of the Civil Code (as in force at the time), a member who withdraws from a cooperative is entitled either to receive compensation for the value of their shareholding or to have assets equivalent to that value transferred to them. Additionally, the subject submitted documents confirming that his father provided consultancy services to various companies, as evidenced by several contracts.
38. Therefore, based on the supporting documents, corroborated by the subject's explanations and the fact that during the relevant period the subject did not acquire any movable or immovable assets, the existence of the amount of 450,000 MDL appears plausible.
39. Moreover, even if the Commission were to exclude the 450,000 MDL from the calculation, the resulting negative balance for 2013 would amount to -30,596 MDL. Even if this negative balance were considered inexplicable wealth, it would not exceed the threshold of 322,000 MDL as set out in Article 11 para. (3) lit. a) of Law No. 65/2023.

B. Potential tax irregularities

40. In 2021 and 2022, the subject participated as an expert in two Council of Europe projects. In his annual declarations submitted to the NIA for 2021 and 2022, the subject declared income of 5,600 EUR and 3,000 EUR, respectively from these projects. However, he did not report these amounts to the SFS.
41. In response to the Commission's questions, the subject acknowledged that he had not declared the two amounts to the SFS. He explained that this was an omission, as he had not read the contract thoroughly and was unaware of the obligation to report the income to the SFS. However, following the

Commission's notification, he declared the amounts to the SFS and paid the corresponding taxes and penalties, totaling 28,756 MDL.

42. According to Article 11 para. (3) lit. b) of Law No. 65/2023, a subject does not meet the criterion for financial integrity if, within the last 10 years, admitted tax irregularities resulting in unpaid tax exceeded, in total, five average salaries per economy, which in the present case amounts to 80,500 MDL.
43. The Commission notes that the subject declared both amounts to the NIA which makes it plausible the failure to report the income to the SFS was due to an omission rather than an intent to conceal income. Moreover, following the Commission's notification, the subject declared the income to the SFS and paid 28,756 MDL in taxes and penalties.
44. Even if the undeclared amounts were considered tax irregularities, it would not exceed the threshold of 80,500 MDL as established by Article 11 para. (3) lit. b) of Law No. 65/2023.

VI. Conclusion

45. 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. 65/2023.

VII. Further action and publication

46. As provided in Article 25 para. (3) 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.
47. No later than three days after the approval, a printed paper copy of the report, electronically signed by the Chairperson, 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.
48. 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.

49. This evaluation report was approved by unanimous vote of the participating members on 12 June 2025 and signed pursuant to Article 8 para. (1) and (2) of Law No. 65/2023.
50. Done in English and Romanian.

Scott Bales

Chairperson