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EVALUATION REPORT

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

VITALIE MOVILĂ

judge of the 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 A 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 10 June 2025 and approved the following report on 12 June 2025. The members participating in the approval of the report were:

1. Andrei BIVOL
2. Lavly PERLING
3. Lilian ENCIU

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. Vitalie Movilă (hereinafter the “subject”), a judge of the South Court of Appeal (Cahul headquarters).
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.

II. Subject of the Evaluation

4. Since 2011, the subject has served as a judge at the Cahul Court of Appeal. On 27 December 2024, this court merged with the Comrat 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 and since April 2025 as Interim President.
5. Between June 2004 and December 2011, the subject was a judge at the Cahul District Court. During 2003-2004, he served as prosecutor at the Cahul Prosecutor Office. Previously, the subject was a criminal investigator at the Cahul Prosecutor Office (2000-2003) and at the Chişinău (Rîşcani) Police Department (1997-2000).
6. The subject received a bachelor’s degree in law from the “Ştefan cel Mare” Academy of the Ministry of Internal Affairs in 1997.

III. Evaluation Criteria

7. Under Article 11 para. (1) of Law No. 252/2023, the Commission evaluates the subject's ethical and financial integrity.
8. 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."
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 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."
10. 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.

11. 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.
12. 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.
13. 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.
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. 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.
16. 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).

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 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

18. 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 South Court of Appeal judge.
19. 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, both declarations referred to together as the “five-year declaration”). The subject returned the completed five-year declaration and questionnaire on 21 November 2024.
20. On 13 December 2024, the Commission notified the subject that his evaluation file has been randomly assigned to Panel A with members Andrei Bivol, Lilian Enciu and Lavly Perling. He was also informed that subjects may request, in writing and at the earliest possible time, the recusal of members from their evaluation.
21. 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.
22. 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.
23. 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 (Energbank JSC, EuroCreditBank JSC, Eximbank JSC, Moldinconbank JSC, MAIB 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. Two petitions were received, from a citizen and from a group of economic agents. These were included in the evaluation file. All information received was carefully screened for accuracy and relevance.

24. In their responses to the Commission, the NAC reported on a criminal case initiated in 2016 by them under article 326 para. (2) lit. b) of the Criminal Code. This case was subsequently merged with another criminal case by the APO. According to the APO, the case remains under investigation and the subject does not hold any procedural status in the ongoing investigation.
25. 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.
26. On 3 March 2025, the Commission asked the subject to provide additional information by 12 March 2025 to clarify certain matters (hereinafter the "first round of questions"). The subject provided answers and documents within the deadline. On 20 March 2025, he provided an additional document obtained in the same day from the Romanian Agency for Cadaster and Real Estate.
27. On 3 April 2025, the Commission asked the subject to provide additional information by 10 April 2025 to clarify certain matters (hereinafter the "second round of questions"). The subject provided answers and documents within the deadline.
28. 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 notice of the hearing. 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. The subject was also informed that the evaluation report may refer to other issues considered during the evaluation.

29. 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.
30. On 1 June 2025, the subject confirmed the accuracy and correctness of the information provided in the declarations, the ethics questionnaire and subsequent answers, as well as he declined participation in the hearing.

V. Analysis

31. This section discusses the relevant facts and reasons for the Commission's conclusion.
32. 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. involvement in two cases examined by the European Court on Human Rights (hereinafter "ECtHR");
 - b. compliance with the conflict-of-interest regime;
 - c. potential difference between the assets, expenses, and income (hereinafter "unjustified or inexplicable wealth") for 2012 and 2016.

A. Involvement in two cases examined by the ECtHR

33. According to the Government Agent, as a judge, the subject was involved in two cases which led to the finding of a violation of the European Convention on Human Rights (hereinafter the "Convention"), namely:
 - *Cravcenco v. Republic of Moldova*, no. 13012/02, 15 January 2008,
 - *Imperialex Grup S.R.L. v. Republic of Moldova*, no. 77546/12, 1 March 2022.
34. Under Article 11 para. (2) lit. a) of Law No. 252/2023, a subject does not meet the criterion of ethical integrity if the Commission determined that he or she issued arbitrary acts, over the last 10 years, contrary to the imperative rules of

the law, and the ECtHR had established, before the adoption of the act, that a similar decision was contrary to the Convention.

35. The Commission found that both national decisions involving the subject - judgement of the Cahul District Court of 17 April 2006 and the decision of the Cahul Court of Appeal of 30 October 2012 - fall outside the ten-year reference period. Consequently, the Commission did not conduct any further analysis of these decisions.

B. Compliance with the conflict-of-interest regime

36. According to the subject's ethics questionnaire submitted to the Commission and the information gathered, a bailiff, N.C., enforced the 2012 court judgment requiring the Cahul District Council and the Cahul City Hall to provide the subject with housing (*spațiu locativ*).
37. According to the subject's bank accounts, he paid the bailiff in 2013 for services related to enforcing the 2012 court judgment.
38. Based on the information collected from the Integrated Case Management System (hereinafter "PIGD"), the Commission identified that, between 2017-2024, the subject examined five cases involving the bailiff N.C.
39. All five cases were reviewed on the merits by the Court of Appeal (including the subject), acting as a court of cassation. The resulting decisions were final (*irevocabile*). The cases primarily concerned actions or challenges against the bailiff's rulings in both civil (e.g., disputes over enforcement costs) and criminal matters (e.g., requests on substitution of criminal penalties). In three of these five cases, the outcomes were unfavorable to the bailiff N.C.
40. In response to the second round of questions (Question 3 let.a), the subject stated that neither he nor anyone close to him has any familial ties, affiliations, or personal connections with the bailiff or any of her relatives. He clarified that the bailiff, in conducting the 2013 enforcement procedure where he was a creditor, performed her official duties without granting him any special favors, and that he paid the requisite enforcement fee. In his view, the mere enforcement of a title (*titlu executoriu*) - in this case voluntarily complied with by the debtor, without the need for enforcement measures - would not, in the absence of other relevant circumstances (such as familial or personal ties), constitute sufficient grounds for recusal from cases involving this bailiff.
41. In the subject's specific circumstances, the Commission has analyzed whether this prior connection with the bailiff was of such a nature and degree as to indicate a lack of impartiality of the subject.

42. First, the Commission found no evidence that would contradict the subject's statements or would suggest any apparent bias. In accordance with the applicable legislation (the Law No.113/2010 on bailiffs and the Enforcement Code), bailiffs perform their duties within the territorial jurisdiction of the court to which they are assigned. And a bailiff's decision may be challenged before the court holding jurisdiction over the area where the bailiff's office is located. It appears that both the bailiff and the subject acted within the scope of their official duties.
43. Second, there was a lapse of more than four years between the conclusion of the enforcement procedure (in 2013) and the first case was assigned to the subject (November 2017).
44. Given the above circumstances, the Commission believes that the mere fact that the bailiff conducted an enforcement procedure - wherein the debtor voluntarily complied with the enforceable title in favor of the subject, is insufficient to objectively substantiate the subject's lack of impartiality in the subsequent examination of cases involving the same bailiff.
45. Consequently, the subject's actions did not amount to a non-compliance with the ethical integrity criterion under Article 11 para. (2) let. b) of Law No. 252/2023.

C. Potential inexplicable wealth (2012 and 2016)

46. In its analysis of the subject's household income and expenses, the Commission preliminarily identified potential differences between the incoming and outgoing financial flows (negative balances) for only two years: -16,247 MDL in 2012 and -29,214 MDL in 2016.
47. In evaluating the subject's inexplicable wealth, the Commission also examined the potential deflated purchase price of a Hyundai Getz, m/y 2005. After discussing the inexplicable wealth for the years identified above, this report describes the relevant circumstances concerning the 2013 acquisition below.

Inexplicable wealth in 2012 and 2016

48. In the first round of questions, the subject did not provide estimates of cash savings at the end of the evaluated years, except for 2012 (est. 4,000 EUR) and 2019 (110,000 MDL). However, he did state that he had such savings but had not kept track of the exact amounts.
49. In the second round of questions (Question 1 let.a), the subject clarified that saving est. 4,000 EUR in a single year (2012) would not have been feasible considering his and his wife's salary. According to the subject, it can be

inferred that his cash savings at the end of 2011 were probably between 30,000 MDL and 40,000 MDL. The subject also indicated that his household had not made any significant purchases during 2005-2011. Additionally, he reported his household could have accumulated approximately 60,000 MDL by the end of 2015 (Question 2 let.a).

50. Based on the information in its possession and the subject's explanations, the Commission considers the reported cash savings at the end of 2011 (approximately 35,000 MDL) and 2015 (60,000 MDL) plausible. These savings are deemed sufficient to cover the negative balances of -16,247 MDL and -29,214 MDL in 2012 and 2016, respectively, which have therefore been removed.

Acquisition of a Hyundai Getz, m/y 2005, at a potentially deflated price

51. In the 2013 NIA declaration, the subject indicated this vehicle had been purchased for 50,000 MDL. The Commission had doubts about the real purchase price. According to online marketplaces (e.g. 999.md platform), in February 2025, such vehicles were valued between 3,500 EUR (68,000 MDL) and 4,000 EUR (77,000 MDL).
52. In response to the first round of questions (Question 18 let.a), the subject maintained that the declared price was real and not undervalued, noting that no supporting documentation had been retained, given the lapse of more than ten years since the purchase.
53. When assessing transactions that may involve undervalued prices, the Commission focuses on whether such discrepancies affect the analysis of inexplicable wealth. In this case, there is no direct evidence that a different price was paid by the subject, such as a subsequent resale at a significantly higher value (the subject is still the owner of the Hyundai Getz, m/y 2005), or any other indicators, that would allow a recalculation of the subject's incoming and outgoing financial flows for 2013.
54. Absent any evidence contradicting the declared transaction value, the Commission considers the price declared to the NIA as the valid reference point for evaluating the subject's financial situation. Even presuming the subject purchased the vehicle at the price listed on the online marketplaces, 2013 would still reflect a positive balance.
55. In light of the above, the Commission did not establish that the subject's household registered any inexplicable wealth in the evaluated period.

VI. Conclusion

56. Based on the information it obtained and the subject's explanations, 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

57. As provided in Article 40 para. (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.
58. 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.
59. 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.
60. This evaluation report was approved by a unanimous vote of the Panel members on 12 June 2025 and signed pursuant to Articles 33 para. (2) and 40 para. (5) of the Rules.
61. Done in English and Romanian.

Andrei Bivol

Vice-chairperson of the Commission

Chair of Panel A