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EVALUATION REPORT

approved according to article 25
of the Rules of Organization and Functioning

LUDMILA BOLOCAN

candidate for Supreme Court of Justice
subject of evaluation under Article 3 para. (1) Law No. 65/2023

20 June 2024

COMISIA VETTING | VETTING COMMISSION

Contents

I. Introduction.....	3
II. Subject of the Evaluation.....	3
III. Evaluation Criteria	3
IV. Evaluation Procedure.....	5
V. Analysis.....	7
VI. Conclusion.....	8
VII. Further action and publication	8

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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 11 June 2024 and approved the following report on 20 June 2024. The members participating in the approval of the report were:

1. Scott BALES
2. Lilian ENCIU
3. Iurie GAȚCAN
4. Lavly PERLING

Based on its work in collecting and reviewing the information, and subsequent deliberations, the Commission prepared the following evaluation report.

I. Introduction

1. This report concerns Ludmila Bolocan (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.

II. Subject of the Evaluation

4. The subject has been a licensed attorney since 2010. Since 2013, the subject has been providing legal services within the National Council for Legal Assistance Guaranteed by the State (CNAJGS).
5. In 2014, the subject founded the civic association “AB INITIO – pentru o societate mai prosperă”.
6. In 2003, the subject graduated from the Law Faculty of the International Free University of Moldova. In addition, in 1995 and in 1997, the subject obtained two bachelor’s degrees in Romania from the Faculty of Foreign Languages and the Faculty of Letters and History.

III. Evaluation Criteria

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

COMISIA VETTING | VETTING COMMISSION

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 2024 was 13,700 MDL. Thus, the threshold of 20 average salaries is 274,000 MDL and the threshold of five average salaries is 68,500 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 to also consider the wealth, expenses, and income of close persons, as defined in Law No. 133/2016 on the declaration

COMISIA VETTING | VETTING COMMISSION

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. The Commission is guided by the rules and legal regime in effect at the time of the conduct in question in determining if the subject has complied with rules of ethics and professional conduct, engaged in conduct or conflicts of interest incompatible with the position of Supreme Court of Justice, complied with tax laws, or complied with the legal regime for declaring wealth and personal interests.
15. Finally, according to Article 11 para. (2) and (3) of Law 65/2023, the Commission determines that a subject does not meet the criteria for ethical and financial integrity if it establishes serious doubts determined by the facts that are 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. Once the Commission establishes substantiated doubts regarding particular facts that could lead to failure of evaluation, the subject will be afforded 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

16. On 1 February 2024, 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.
17. On 15 February 2024, the Commission notified the subject and requested that she 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. The subject returned the completed declarations and questionnaire on 20 February 2024.
18. Because the law sets different evaluation periods for the ethical and financial integrity criteria cited above, the Commission evaluated the compliance with these criteria over the past five, ten and 12 years, respectively. The evaluation period for the financial criterion, due to end of the year availability of the tax declarations and declarations on wealth and personal interests, included 2012-2023 and 2014-2023. The evaluation period for the ethical criterion

COMISIA VETTING | VETTING COMMISSION

includes the past five or ten years calculated backwards from the first day preceding the date of the notification.

19. The subject was never a subject of declaration both under the Law No. 133/2016 on the Declaration of Wealth and Personal Interests, and under the previous 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.
20. The Commission sought and obtained information from numerous sources. The sources that provided information on the candidate included the State Fiscal Service (hereinafter "SFS"), banks (Moldinconbank S.A., MAIB S.A., Victoriabank S.A.), Anti-Money Laundering Service, Public Service Agency (hereinafter "PSA"), other public institutions, private entities and open sources such as social media. No complaints or information were received from civil society. All information received was carefully screened for accuracy and relevance.
21. On 1 May 2024, the Commission asked the subject to provide additional information by 7 May 2024 to clarify certain matters (hereinafter the "first round of questions"). The subject provided answers and documents on 8 May 2024.
22. On 17 May 2024, the Commission asked the subject to provide additional information by 21 May 2024 to clarify certain matters (hereinafter the "second round of questions"). The candidate responded on 23 May 2024.
23. On 31 May 2024, 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 her compliance with the ethical and financial criteria. 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 report with the proposal to pass the evaluation.
24. As provided in Article 22 para. (4) of the Rules, the subject could have requested access to all the materials in her evaluation file at least seven days before the hearing. However, the subject decided not to exercise this right.
25. On 11 June 2024, the Commission held a public hearing. At the hearing, the subject reaffirmed the accuracy of her answers in the ethics questionnaire

COMISIA VETTING | VETTING COMMISSION

and stated that she did not have any corrections or additions to the answers she had previously provided to the Commission's requests for information.

V. Analysis

26. This section discusses the relevant facts and reasons for the Commission's conclusion.
27. Based on the information it collected, the Commission sought further clarifications from the subject on following matters:
 - a. difference between the assets, expenses and income (inexplicable wealth) for 2012 – 2014;
 - b. bank transfers received from abroad.

▪ Inexplicable wealth for 2012 – 2014

28. The Commission obtained information identifying the sources of income of the subject's household. In 2012 and 2013, neither the subject nor her then-husband had registered official income. In 2014, according to SFS data, the subject received income of 3,413 MDL from attorney's activity. Also, in 2014, the subject received 1,176 EUR (21,980 MDL) as transfers to her bank account.
29. In the evaluation period, the Commission calculated a negative cash flow for the subject's household only for the years 2012 (-52,175 MDL), 2013 (-99,656 MDL) and 2014 (-30,791 MDL). This totaled -182,622 MDL. The main category of expenses incurred by the subject's household, which caused the negative balance, is represented by the living expenses (Consumption Expenditure for Population) calculated as per the National Bureau of Statistics information and methodology.
30. The subject explained that at the time she resided in Italy together with her former husband and his family. The subject affirmed that her former husband worked in a real estate agency. The Commission researched open sources on the Internet and established that the subject's ex-husband's name appears in numerous real estate agency advertisements in his hometown in Italy.
31. Moreover, according to the subject, they were financially supported by her parents-in-law upon necessity. The subject said she cannot provide corroborating documents, as her relationship with her ex-husband has ended.

COMISIA VETTING | VETTING COMMISSION

32. The Commission finds the subject's arguments reasonable. The Commission confirmed the subject was married to an Italian citizen and may have been living in Italy at the time in question, where she could be helped financially by her ex-husband and his family. Moreover, even if the negative cash-flow for these years was treated as unjustified wealth, it would not exceed the threshold of 274,000 MDL under Article 11 para. (3) lit. a) of Law No. 65/2023.

▪ **Bank transfers received from abroad**

33. Between 2017 and 2020, the subject registered 15 transfers to her bank accounts opened in three banks from the Republic of Moldova. The transfers ranged from 150 to 800 EUR, for a total of approximately 60,134 MDL and were wired by various people apparently from different countries.

34. In response to the Commission's written questions, the subject affirmed that all the transfers were, in fact, "gifts" made through different intermediaries by a close person residing in Germany. The subject stated that she did not know the people who intermediated the transfers.

35. The Commission could not identify any connection between the subject and the people who actually carried out the transfers. The candidate had recorded travels in Germany, where she said the close person resided. The Commission admits that these amounts were transferred by a close person as gifts.

36. The Commission notes that the largest transfers were 500 EUR, 580 USD and 800 EUR. All the others were around 200 EUR. The subject did not hold any public office which would have raised any suspicion that she was receiving these sums as illicit remuneration.

37. Also, according to Article 20 lit. i) Fiscal Code, the donations received by natural persons are not taxable income, so the identified gifts do not raise issues under the financial criterion in Article 11 para. (3) lit. b), of Law No. 65/2023.

VI. Conclusion

38. Based on the information it obtained and was presented by the subject, the Commission proposes that Ludmila Bolocan passes the external evaluation conducted according to the criteria set in Article 11 of Law No. 65/2023.

VII. Further action and publication

39. As provided in Article 25 para. (3) of the Rules, this evaluation report shall be sent by e-mail to the subject and the Superior Council of Magistracy, and

COMISIA VETTING | VETTING COMMISSION

on the same day, the Commission will publish on its official website the information on the result of the evaluation.

40. No later than three days after the approval, a printed 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.
41. As provided in Article 16 para. (5) of Law No. 65/2023, 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 Superior Council of Magistracy adopts a decision pursuant to Article 17 para. (2) of Law No. 65/2023.
42. This evaluation report was approved by the unanimous vote of the participating members on 20 June 2024 and signed pursuant to Article 8 para. (2) of Law No. 65/2023.

Chairperson

Scott BALES