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EVALUATION REPORT

approved according to Article 25

of the Rules of Organization and Functioning

DUMITRU CALENDARI

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 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. Dumitru Calendari (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 these criteria.

II. Subject of the Evaluation

4. The subject has been a prosecutor since 2006.
5. Since 2010, the subject has held the position of prosecutor and Chief Prosecutor of the Cahul Territorial Prosecutor’s Office. Previously, the subject was a prosecutor at the Cahul District Prosecutor’s Office.
6. The subject received a bachelor’s degree in law in 2006 from the Bogdan Petriceicu Hașdeu State University of Cahul. In 2015, the subject received a master’s degree in administrative law from the same university. In 2020, the subject received a master’s degree in International Relations and Cross-

Border Cooperation from Dunarea de Jos University of Galati, Romania. In 2022, the subject obtained the title of Doctor of Law.

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 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 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 21 October 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.
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. 65/2023 within 10 days from the date of notification (hereinafter the two declarations are referred to as the "five-year declaration"). The subject returned the completed five-year declaration and questionnaire on 16 November 2024.
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 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 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. The subject's wife also had an obligation to submit declarations from 2014 to 2018 and from 2021 to 2023.
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, the State Fiscal Service, the National Office of Social Insurance, the General Inspectorate of Border Police, banks (Energbank JSC, Eximbank JSC, Moldinconbank JSC, MAIB JSC, BCR Chişinău JSC, Victoriabank 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 the law to the Commission’s request.
24. 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.
25. On 9 April 2025, the Commission asked the subject to provide additional information by 16 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 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 previously provided information, the Commission would, absent any new information or developments, approve a report on passing the evaluation.
27. As provided in Article 24 para. (4) of the Rules, the subject sought and was provided access to all the materials in his evaluation file on 2 June 2025.
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 compliance with the wealth and personal interests declaration regime. Upon initial review, this was the only issue that raised doubts about compliance with the criteria established by law.

A. Compliance with the wealth and personal interests declaration regime

First instance

31. Between 2013 and 2020, the subject's family received 6,840 EUR via international transfers from the subject's sister-in-law. None of these transfers were declared as income by the subject in his annual declarations.
32. The subject explained that the transfers were not donations, contractual payments, loans, or gifts, but were received solely for safekeeping. He stated that the funds were not used and were returned to his sister-in-law in 2018 (3,000 EUR in cash) and in 2023 (3,000 EUR in cash and 500 EUR via bank transfer). Moreover, 365 EUR in 2017 and 330 EUR in 2019 were converted into Moldovan MDL and sent to a relative to cover funeral expenses and to purchase a cemetery monument.
33. The subject presented documents attesting that the subject's sister-in-law had lawful income to accumulate the transferred amounts.

Second instance

34. Between 2018 and 2021, the subject paid gas bills for an apartment located on Hasdeu Street in Cahul.
35. In response to the first round of questions, the subject explained that between 2016 and 2021, his family had temporarily rented this apartment. He acknowledged that, due to an oversight, he had failed to declare the right of habitation in this apartment.
36. In response to the Commission's written questions, the subject clarified that the temporary residence in the apartment located on Hasdeu Street in Cahul was for personal reasons. Furthermore, the subject stated that the annual expenses related to the use of this apartment did not exceed 25,000 MDL. He said that he did not formally register the right of use of this apartment because he did not possess any documents related to it.

The Commission's assessment

37. The Commission notes that both instances fall within the 5-year term provided in Article 11 para. (2) lit. a) of Law No. 65/2023. The last money

transfer related to the first instance of non-declaration was on 30 December 2020. If it were revenue, it should have been declared in the 2021 annual declaration. The Commission considered both instances of non-declaration from an ethical perspective.

38. According to Article 6 para (1) lit. (g) of Law No. 3/2016 on the Prosecutor's Office and Article 13 para. (1) of Law No. 82/2017 on integrity, the prosecutors are obliged to submit the declaration of assets and personal interests to the NIA.
39. According to the Prosecutor's Code of Ethics (Code of Ethics), approved by decision No. 4 of the General Assembly of Prosecutors no. 4 of 27 May 2016, and amended by decision No. 1 of the General Assembly of Prosecutors of 22 February 2019, no prosecutor shall hide and distort the information regarding the assets held. These must be made public by virtue of their position.
40. In relation to the first instance of non-declaration, the Commission finds credible the subject's explanations and evidence that the transfers were not intended for the subject's family and did not represent income.
41. Regarding the second instance of non-declaration, the Commission notes that under the provisions of Article 4 para. 1 lit. b) of Law No. 133/2016, the subject had the duty to declare the right to possess and to use of the real estate, regardless of the title (usufruct, habitation, superficies, possession based on mandate, commission or trust agreements, as well as based on other translatative agreements of possession and use).
42. The Commission acknowledges that although the subject's omission to declare the use of the apartment could formally constitute an infringement of the legal regime for declaring personal assets and interests, there is no evidence that he sought to conceal this fact or that there are other reasons to doubt his integrity related to this matter.
43. The aim of Law No. 133/2016 is to establish measures to prevent and combat unjustified enrichment, conflicts of interest, incompatibilities, and violations of the legal regime of restrictions and limitations. The Commission does not see how the non-disclosure in question would infringe the purpose of the law or otherwise endanger the public interest.
44. It would be a formalistic or even a superficial exercise to simply equate a potential non-declaration of assets (*lato sensu* – which includes the use of assets) with a lack of integrity.

45. In light of the above and considering the explanations provided by the subject, the Commission did not find serious ethical breaches that would lead to the subject's non-promotion under Law No. 65/2023.

VI. Conclusion

46. Based on the information it obtained and that presented by the subject, 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

47. 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.
48. 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.
49. 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.
50. 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.
51. Done in English and Romanian.

Scott Bales

Chairperson