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EVALUATION REPORT

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

ELENA BOLOCAN

candidate for the Central 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 subsequent deliberations.

I. Introduction

1. This report concerns Mrs. Elena Bolocan (hereinafter the “subject”), candidate for the Central Court of Appeal.
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. The subject has been serving as a judge at the Chisinau Court since December 2023. In May 2025, she was temporarily transferred to the Central Court of Appeal. This court was known as the Chișinău Court of Appeal, until it was renamed on 27 December 2024.
5. Before that, the subject was appointed judge at the Calarasi Court in 2016 and subsequently appointed to the Straseni Court, Calarasi Office, in 2017.
6. Before her appointment as a judge, the subject held the position of judicial assistant at the Chisinau Court of Appeal.
7. The subject received a bachelor’s degree in law in 2010 from the Moldova State University. In 2012, the subject received a master’s degree in Civil Judicial Procedures from the same university.

III. Evaluation Criteria

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

9. 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."

10. 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."

11. 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.

12. 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.

13. 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.
14. 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.
15. 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.
16. 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.
17. 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).
18. 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

19. On 5 February 2025, 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's candidacy for the Central Court of Appeal.
20. On 7 February 2025, 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. 252/2023 within 10 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 14 February 2025.
21. On 28 February 2025, the Commission notified the subject that her evaluation file has been randomly assigned to Panel A with members Andrei Bivol, Lilian Enciu and Lavly Perling. She was also informed that subjects may request, in writing and at the earliest possible time, the recusal of members from their evaluation.
22. 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.
23. 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.
24. 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 (in Romanian: *Casa Națională de Asigurări Sociale*, hence hereinafter – “CNAS”), the General Inspectorate of Border Police, banks (Moldinconbank JSC, MAIB JSC, Victoriabank 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 individuals. These were included in the evaluation file. All information received was carefully screened for accuracy and relevance.

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 the law to the Commission’s request.
26. On 3 April 2025, the Commission asked the subject to provide additional information by 13 April 2025 to clarify certain matters (hereinafter the “first round of questions”). The subject provided answers and documents within the deadline.
27. 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 her 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, approve a report to pass the evaluation.
28. As provided in Article 39 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.
29. On 10 June 2025, the Commission held an online public hearing. At the hearing, the subject reaffirmed the accuracy of her answers in the five-year declaration and the ethics questionnaire. She also stated that she did not have any corrections or additions to the answers previously provided to the Commission’s requests for information. Consequently, the Commission evaluated the subject based on the information gathered during the evaluation.

V. Analysis

30. This section discusses the relevant facts and reasons for the Commission's conclusion.
31. Based on the information it collected, the Commission analyzed and, where necessary, requested further clarifications on the potential ethical breach related to the subject's judicial decisions. This was the only issue that, upon initial review, raised doubts as to compliance with the criteria established by law.

A. Potential ethical breaches related to the subject's judicial decisions

32. The Commission received two petitions concerning the subject's judgments. Upon analyzing the cases, the Commission notes that, in general, the complaints reflect dissatisfaction with the judicial outcomes rather than providing evidence of ethical misconduct. However, the cases were reviewed for potential ethical breaches.

First petition

33. The petitioner, S.B., filed an action in the administrative contentious court against the Equality Council, third party General Inspectorate of Border Police of the Ministry of Internal Affairs of the Republic of Moldova, regarding the annulment of the unfavorable administrative act concerning his job and based on his alleged discrimination. The subject dismissed this action as unfounded and partly inadmissible.
34. The petitioner stated that the subject's judgment is based on alleged false statements and evidence. He mentioned that he presented the court with evidence and official documents that proved the false statements.
35. In the judgment issued on 6 February 2025, the subject stated that the alleged acts did not constitute harassment or discrimination under Law No. 121/2012 on ensuring equality. Therefore, the subject concluded that the petitioner failed to prove discriminatory behavior and that the Equality Council has sufficiently justified its decision. The subject noted that although S.B. faced measures affecting his professional comfort, these actions appeared to have a legal basis and were not proven to be motivated solely by discrimination or harassment.

Second petition

36. The petitioner, O.O., filed an action in the administrative contentious court against CNAS, third party General Police Inspectorate, regarding the

annulment of the unfavorable administrative act establishing the amount of his pension. He claimed that CNAS excluded certain additional payments from his pension calculation base without proper justification. The subject dismissed this action as unfounded.

37. The petitioner alleged that the subject breached procedural norms and the principle of impartiality by conducting a superficial assessment of the evidence and misinterpreting the relevant legislation. He further contended that the judgment sets a concerning judicial precedent for state authorities involved in the European Union accession process, as it may result in the denial of state recognition in the form of pension entitlements.
38. In its judgment of 20 February 2025, the subject justified the exclusion of the additional payments cited by the petitioner from the pension calculation base, with reference to the applicable legal provisions.

The Commission's assessment

39. Regarding the ethical integrity requirements under Article 11 para. (2) lit. a) of Law No. 252/2023, the Constitutional Court has clarified that the term "seriously violated" sets a high threshold for establishing breaches of ethical and professional rules applicable to judges and prosecutors (Constitutional Court Judgment No. 2 of 16 January 2025, § 185). Additionally, the Court has noted that the Commission should not rule on the legality of the decisions issued by the judges.
40. The judgment of 6 February 2025 and the judgment of 20 February 2025 explain the reasoning of the judge. The Commission does not find that the judgments violated the criteria for ethical integrity.
41. Considering the evidence provided by the petitioners or otherwise gathered by the Commission, no facts raise doubts as to whether the subject meets the criteria of ethical integrity pursuant to Article 11 para. (2) of Law No. 252/2023.

VI. Conclusion

42. 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

43. 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.

44. 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.
45. 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.
46. 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.
47. Done in English and Romanian.

Andrei Bivol

Vice-chairperson of the Commission

Chair of Panel A