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RE-EVALUATION REPORT

approved according to Article 41

of the Rules of Organization and Functioning

ANA PANOV

judge of the Central Court of Appeal

subject of evaluation under Article 3 para. (1) Law No. 252/2023

25 November 2025

Contents

Evaluation Panel B 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 15 October 2025 and approved the following re-evaluation report on 25 November 2025. The members participating in the approval of the report were:

1. Scott BALES
2. Willem BROUWER
3. Iurie GAŢCAN

The Commission prepared this re-evaluation report which is confined to the matters referred to by the Superior Council of Magistracy and shall be examined only in conjunction with the initial evaluation report.

I. Introduction

1. On 22 April 2025, the Commission approved the report concerning Mrs. Ana Panov (hereinafter the "subject") under Law No. 252/2023. It proposed that the subject promotes the external evaluation made according to the criteria set in Article 11 of Law No. 252/2023 (hereinafter the "initial evaluation report").

2. On 20 June 2025, the Superior Council of Magistracy (hereinafter the „SCM"), by decision No. 328/26, rejected the report and ordered the Commission to resume the evaluation procedure (hereinafter the "SCM's decision").

3. The Commission conducted its resumed evaluation pursuant to Law No. 252/2023 and the Commission's Rules of Organization and Functioning (hereinafter "Rules").

4. Following the re-evaluation, the Commission concluded that the subject meets the criteria identified in Law No. 252/2023 for ethical integrity as no serious doubts determined by facts have been found as to the subject's compliance.

II. Grounds for the resumed evaluation

5. Under Article 18 para. (3) lit. b) of Law No. 252/2023:

> "(3) By reasoned decision, adopted no later than 30 days after receipt of the documents referred to in Article 17 para. (6), the Superior Council of Magistracy shall: […] b) reject the evaluation report and order, once only, that the evaluation procedure of the judge be reopened if it finds factual

circumstances or procedural errors which could have led to the passing or, as the case may be, the failure to pass the evaluation."

6. Under Article 20 para. (2) and (3) of Law No. 252/2023:

> "(2) When the evaluation procedure is reopened, the Evaluation Commission shall examine the matters referred to it by the respective council or, as the case may be, by the Supreme Court of Justice, as well as additional information which for objective reasons could not be presented previously, and if the subject of the evaluation agrees, shall hold repeated hearings. The agreement or, as the case may be, its absence shall be communicated to the Evaluation Commission within 3 working days from the request of the Evaluation Commission.
>
> (3) The report on the judge's re-evaluation shall be approved by the Evaluation Commission in accordance with the rules laid down in Article 17."

7. The initial evaluation report identified three matters which, upon initial review, raised doubts as to compliance with the ethical and financial criteria established by law.

8. The SCM concurred with the Commission's conclusions regarding the potential inexplicable wealth and the subject's involvement in cases examined by the ECtHR. However, it disagreed with the findings concerning the potential ethical breaches related to the subject's judicial decisions in the *Keramin* and *Caravita* cases. Additionally, the SCM identified new issues, which had not been examined in the initial evaluation report, concerning the declarations of assets and personal interests submitted by the subject to the NIA.

9. In doing so, the SCM did not identify any procedural errors but referred to the irrevocable decisions of the Supreme Court of Justice in the *Keramin* and *Caravita* cases, to potential new ECtHR cases, and to aspects of the declarations that should be further analyzed by the Commission.

III. Resumed evaluation procedure

10. On 27 June 2025, the Commission received the SCM's decision. The SCM did not send any additional information or documents.

11. On 10 July 2025, the Commission asked the subject to provide additional information by 20 July 2025 to clarify certain matters (hereinafter the "first round of questions"). On 18 July 2025, the subject requested an extension until 23 July 2025 to respond, which the Commission granted. The subject provided answers and documents within the extended deadline.

12. On 15 August 2025, the Commission asked the subject to provide additional information by 22 August 2025 to clarify certain matters (hereinafter the "second round of questions"). On 25 August 2025, the subject requested an extension to respond, which the Commission granted until 4 September 2025. The subject provided answers and documents within the extended deadline.

13. During the resumed evaluation, two petitions were received from individuals. These did not refer to the aspects mentioned in SCM's decision but rather reflected dissatisfaction with the subject's decisions. In one petition, the petitioner alleged potential irregularities concerning the distribution of cases involving a specific claimant, without substantiating these claims with any concrete evidence. The petitioners did not explain what objective circumstances prevented them from submitting the petitions in the initial evaluation, as required by Article 20 para. (2) of Law 252/2023. Therefore, the petitions were not analyzed but only included in the evaluation file.

14. On 3 October 2025, the Commission notified the subject that, based on the information collected and reviewed during the resumed evaluation, it intended to discuss the matters referred to in the SCM's decision about the subject's compliance with the ethical criteria and invited her to attend a public hearing on 15 October 2025.

15. As provided in Article 41 para. (4) of the Rules, the subject sought and was provided access to all the materials in her re-evaluation and initial evaluation file on 8 October 2025.

16. On 14 October 2025, the subject submitted additional information and documents. The Commission included them in the evaluation file and considered them in its analysis.

17. On 15 October 2025, the Commission held a public hearing with both in-person and remote participation via electronic means. At the hearing, the subject stated that she did not have any corrections or additions to the answers previously provided to the Commission's requests for information.

IV. Analysis in the resumed evaluation

18. The Commission analyzed and, where necessary, requested further clarifications on the matters noted in the SCM's decision:

    a. compliance with the wealth and personal interests' declaration regime;

    b. potential ethical breaches related to the subject's judicial decisions;

c. involvement in cases examined by the European Court of Human Rights.

A. Compliance with the wealth and personal interests' declaration regime

SCM's findings (Decision of 20 June 2025, § 3.5.5.)

19. The SCM noted that the Commission failed to consider several issues concerning the subject's asset and interest declarations submitted to the NIA, noting that she had erroneously declared certain assets or failed to declare some income.

Re-evaluation procedure

20. The Commission assessed in the re-evaluation procedure the discrepancies between the husband's income declared by the subject to the NIA and that reported by him to the SFS, the failure to declare the market value of several agricultural plots of land and vehicles, and the inaccurate declaration of loans and certain assets belonging to her husband's individual enterprise.

Discrepancies between the husband's income declared by the subject to the NIA and the income reported by him to the SFS

21. For the period 2012–2023, the subject declared to the NIA a 10,880,995 MDL income received by her husband from the individual enterprise "V.P." (hereinafter "husband's enterprise").

22. According to the SFS (tax form FVID), during the same period the subject's husband obtained an income of 6,283,921 MDL from his enterprise resulting in a discrepancy of 4,597,074 MDL compared to the income declared by the subject.

23. The Commission identified a similar discrepancy when comparing the income declared by the subject to the NIC/NIA with the gross profits obtained by the husband's enterprise amounting to a difference of 3,740,119 MDL.

24. In response to the first round of questions, the subject claimed that the discrepancy between the amounts was due to an error. She noted that the declaration to the NIA must be submitted by 31 March each year, whereas declarations to the SFS are submitted in May.

25. The subject stated that the error resulted from her reliance on the information provided by her husband, without verifying the accounting records of his enterprise. For each year, she explained the composition of the declared amounts, which generally included both the total gross income of the

enterprise for the previous year and the income earned during January–March of the year in which the declaration was submitted.

26. The subject further clarified that her financial capacity should be assessed based on the amounts declared by her husband to the SFS, rather than those declared by her to the NIA.

Failure to declare the market value of nine agricultural land plots and two vehicles

27. According to the subject's asset declarations for 2022 and 2023 submitted to the NIA, she did not declare the market value for 11 immovable and movable assets acquired starting from 2018 (9 agricultural plots and 2 vehicles). However, the subject declared both the purchase price and the market value for two other vehicles (Toyota Hilux, y/m 2020, SWL 040, and Agricultural Machine AO 4111 – excavator).

28. In the first round of questions, the subject explained that she did not declare the market value of two agricultural machines because they were purchased from an official dealer and the contract and invoice confirmed their value. Regarding the agricultural plots, she stated that she had only declared the purchase value because the cadastral authorities had not yet determined their market value.

Inaccurate reporting of several loans taken by the subject's husband

Loan of 420,000 MDL received in 2021 from individual C.S.

29. In 2021, the subject's husband contracted a 420,000 MDL loan from an individual, C.S. The subject declared this loan in her 2021 NIA annual declaration but did not declare it in her 2022 declaration. According to the information and documents provided during the initial evaluation (first round, Q 7), out of the total loan of 420,000 MDL:

- 250,000 MDL were repaid by bank transfer on 17 March 2022;
- 168,000 MDL were repaid between December 2021 and March 2023, through monthly installments of 10,500 MDL.

30. In the re-evaluation procedure, the subject confirmed that the loan had been repaid according to the payments indicated in the initial evaluation. Therefore, by 23 March 2023, when she submitted her 2022 NIA declaration, the loan had been fully repaid. She argued that she did not include the portion of the loan repaid in 2022 in her 2022 declaration because she mistakenly believed the loan had been entirely repaid in 2021–2022.

Erroneous declaration in 2021 of several loans received by the subject's husband 'enterprise, while in fact they were received by her husband

31. In 2021, the subject's husband contracted four loans from individuals, each with a four-year duration, as a natural person. However, in NIA declarations for 2021, 2022, and 2023, the subject reported these loans as being contracted by the husband's enterprise, with a maturity date in 2024.

32. In the first round of questions, the subject confirmed that her husband received the loans as a natural person. However, all loans had been used for works and expenses related to his enterprise, which is why she declared them to have been received by the enterprise. Regarding the erroneous due dates, she explained that they were based on the actual repayment dates. She added that this error does not affect her situation in the re-evaluation procedure, since the financial situation was assessed *de facto*, not according to the NIA's declarations.

Failure to declare an income of 4,500 MDL obtained from the sale of the trailer (PTS-9, m/y 1992) and to declare an excavator (AO 4111), both belonging to the husband's enterprise.

33. The husband's enterprise acquired a PTS-9 trailer (m/y 1992) in 2019 for 4,380 MDL. The subject reported this asset in her 2018, 2019, and 2020 declarations. According to the SCM Decision of 20 June 2025 and the NIA finding report no. 60/05 of 1 March 2023, the subject failed to declare the income of 4,500 MDL obtained from the sale of the trailer in her 2021 annual declaration.

34. Under the sale-purchase contract no. 22/10 of 22 October 2015, the husband's enterprise purchased an excavator (AO 4111) for 69,500 MDL. The subject began reporting this asset only in 2018, indicating that year as the year of acquisition.

35. In the first round of questions, the subject stated that the trailer was sold to an individual, R.V., for 4,500 MDL on 25 January 2021. The husband's enterprise received the income and included it in the calculation of the enterprise's activity after taxes, which was then part of her husband's declared personal income. She stated that declaring the 4,500 MDL as her husband's personal income would result in a double declaration.

36. Regarding the excavator, the subject stated that the husband's enterprise purchased it on 29 October 2015. The equipment was acquired dismantled and non-functional and it was not registered in the state register of vehicles in accordance with the legal procedure. It was later transferred to a natural person without generating profit.

The Commission's assessment

37. The subject discharged her formal requirement to submit the declarations, but issues were identified as to the content, accuracy, and completeness of the information included in the declarations.

38. According to Article 4 para. (1) lit. a) of Law No. 133/2016, declarants must report their own income and that of their family members and cohabitants obtained during the previous fiscal year.

39. Under Article 2 of Law No. 133/2016, income means any financial benefit, regardless of its source, obtained by the declarant, their family members or their partner, both within the country and abroad.

40. According to Article 4 para. (2) of Law No. 133/2016, for immovable and movable property acquired in 2018 or later, the declarant must indicate the actual price paid and the expenses for improvement or repair exceeding two average monthly salaries in the economy, as well as the market value of the property on the date of acquisition. The market value is defined as the price at which similar assets were sold on the date the asset was acquired.

41. Article 4 para. (1) lit. e) of Law No. 133/2016 (in force until the amendment introduced by Law No. 34/2025) required declarants to report their personal debts, as well as those of their family members, including loans, pledges, mortgages, guarantees issued in favor of third parties, or any other debt or credit, where the value exceeded the equivalent of ten average monthly salaries in the national economy.

42. The Commission notes that the 420,000 MDL loan obtained from C.S. was repaid in installments between 2022 and March 2023. Based on the subject's statements and supporting evidence, such as copies of receipts, the subject's husband fully repaid the loan before she submitted the 2022 declaration (§ 30). Article 4 para. (1) lit. k), requiring declarants to indicate amounts reimbursed during the previous fiscal year, entered into force in 2025. Therefore, as of 23 March 2023, the loan had been fully repaid and the subject was not obliged to declare it for that year.

43. The subject was required to declare her husband's net income deriving from his individual enterprise but instead she declared the enterprise's gross income as her husband's personal income. This resulted in a discrepancy of 3,740,119 MDL between the amounts declared to the NIA and those reported by her husband to the SFS.

44. Furthermore, the subject only declared the contractual or purchase value (as

supported by invoices) of nine agricultural plots and two vehicles, without specifying their market value at the date of acquisition. The argument that the cadastral authority had not yet carried out a valuation is not legally relevant, since the market value is defined as the price at which similar assets were sold on the acquisition date. Finally, several loans received by her husband were declared incorrectly.

45. According to Article 1 para. (2) of Law No. 133/2016, the purpose of this law is to establish measures to prevent and combat unjustified enrichment. The purpose of Law No. 252/2023 is not to sanction every breach of ethics, but rather to determine whether the subjects meet the integrity criteria.

46. Despite the identified breaches, the Commission notes that the obtained information does not suggest that the subject intended to conceal assets or evade the payment of taxes. The financial analysis reveals no inconsistencies suggesting inexplicable wealth. The omissions appear to result from a misinterpretation of legal requirements rather than deliberate misconduct.

47. Considering these factors, and considering the purposes of Laws No. 133/2016 and No. 252/2023, the Commission concludes that the breaches identified do not reach the level of seriousness required by Article 11 para. (2) lit. a) of Law No. 252/2023.

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

Keramin case

Commission's findings (§§ 72-76 of the initial evaluation report)

48. The Commission found that the subject's judicial decision in the *Keramin* case, although contrary to procedural and substantive legal provisions, reflected a professional error rather than a serious breach of the ethical criterion set out in Article 11 para. (2) lit. a). In the initial evaluation, the case had been named as "disciplinary case".

SCM's findings (Decision of 20 June 2025, §§ 3.6.5.)

49. The SCM disagreed with the conclusions, considering them unconvincing (*neconvingatoare*). It referred to the findings of the SCJ (decision of 16 June 2021, §§ 31–32), which established that the operative part of the Chişinău Court of Appeal's decision of 26 January 2021, as included in the case file, differed from that pronounced in open court, thereby breaching procedural rules.

50. The SCM further noted that the manner of pronouncement and the subsequent redrafting of a written judgment omitting part of the defendant's financial obligations warranted additional examination for potential arbitrariness within the meaning of Article 11 para. (2) lit. a) of Law No. 252/2023.

Re-evaluation procedure

Facts

51. A.B. served as the administrator of "Keramin" LLC from its incorporation until 6 March 2018. In 2009, the company granted A.B. financial assistance totaling 10,138,598 MDL under three contracts, recorded as long-term investments in affiliated parties.

52. That same year, "Keramin" LLC established the subsidiary, "Keramin-Invest," in the Transnistrian Region of the Republic of Moldova. A.B. (as lender) and "Keramin-Invest" (as borrower) signed three financial assistance agreements totaling 900,000 USD. An audit confirmed that the funds were transferred to "Keramin-Invest" and used to repay its loans.

53. "Keramin-Invest's" debt to A.B. remained unchanged until July 2015, when repayments began. A.B. simultaneously reimbursed "Keramin" LLC, repaying 451,090 USD by 2018, leaving 450,529 USD outstanding.

54. In December 2018, "Keramin" LLC sued A.B. to annul the 2009 contracts (for lack of shareholder approval), recover 450,529 USD, and cover legal costs.

55. In 2020, the majority shareholder (51%), "Keramin" JSC (Belarus), filed a related claim seeking 229,770 USD in damages (undistributed profit), 412,764 USD in interest, and costs.

56. The first instance court dismissed both claims, found the contracts to be valid and confirmed that A.B. acted merely as an intermediary and not for personal gain. It referred also to a Prosecutor's Office ordinance that had dropped criminal proceedings against her.

57. On 26 January 2021, the Court of Appeal, with the subject as judge rapporteur, reversed the judgment, declared the contracts and addenda null, and ordered restitution. The court's oral ruling required A.B. to pay:

- to "Keramin" JSC – 642,545.09 USD and 87,500 MDL, and
- to "Keramin" LLC – 619,070 USD and 87,500 MDL.

58. However, the claims in favor of "Keramin" JSC were removed in the final written decision. Paragraphs 121 and 125 of the decision stated that the "Keramin" JSC's claims overlapped with those of "Keramin" LLC, leading to their exclusion.

59. On 16 June 2021, SCJ quashed that decision and sent the case back for retrial before a different panel. It found that the written decision did not correspond to the operative part pronounced at the hearing. Thus, the written decision was adopted in breach of procedural law.

60. The SCJ also criticized the appellate court's reasoning as unclear, notably the finding that the funds had been "taken out of Moldova". The SCJ also held that the contracts could not be deemed null (*nulitate absolută*).

61. Upon retrial in October 2021, the Court of Appeal dismissed the claims of "Keramin" LLC and "Keramin" JSC, and the SCJ declared the subsequent appeal inadmissible.

Subject's explanations

62. The subject argued that in the *Keramin* case there had been no change to the solution itself but a discrepancy (*inadvertență*) constituting a "material error" that could be corrected under Article 249 of the Code of Civil Procedure (hereinafter "CCP"). She compared the situation to a discrepancy between the written minutes and the audio recording of a hearing.

63. The subject noted that the SCM had previously found a disciplinary breach but discontinued the proceedings due to prescription, a decision she challenged before the SCJ. She also claimed that SCM's decision to order an additional analysis while simultaneously finding a disciplinary breach appeared to amount to repeated liability for the same facts.

64. According to the subject, the SCJ's decision of 16 June 2021 implicitly acknowledged the discrepancy was a correctable error, and the fact that the case was not remitted for correction did not prove otherwise.

65. Relying on the Constitutional Court's case law, she argued that judges can be disciplinarily liable only in cases of intent or gross negligence. She reiterated that she could not be held personally responsible for a panel decision and stressed that any error was ultimately corrected through appeal.

66. When asked whether the court took steps to correct the discrepancy, the subject stated that no request had been filed, and the court had not been

aware of the issue. She acknowledged that merely a drafting error had occurred unnoticed by the panel.

67. In her additional explanation provided on 14 October 2025 and during the hearing, the subject reiterated her previous statements.

Commission's assessment

68. Article 11 para. (2) lit. a) of Law No. 252/2023 covers two distinct elements. The first concerns serious breaches of ethical and professional conduct in the last five years, while the second concerns the issuance of arbitrary acts within the last ten years.

69. In the initial evaluation procedure, the Commission analyzed the *Keramin* case under the first element — a potential breach of ethical rules. The SCM, however, asked for an analysis of arbitrariness under Article 11 para. (2) lit. a) of Law No. 252/2023 (§ 50).

70. The Commission generally applies this prong to acts by subjects that have resulted in findings by the ECtHR that the Convention has been violated, which did not occur here.

71. The criterion of arbitrariness under Article 11 para. (2) lit. a) requires that the ECtHR must have previously found a similar decision contrary to the Convention. No such prior judgment was identified. Although in *Paliouras and Others v. Greece* (Nos. 51031/16 51040/16 51054/16, 10 September 2024), the ECtHR addressed internal contradictions in judgments, it post-dated the 2021 decision and therefore cannot be regarded as "previous" case law within the meaning of Article 11 para. (2) lit. a).

72. Consequently, the Commission reassessed the subject's conduct in the *Keramin* case under the serious breach of ethical rules and professional conduct component of Article 11 para. (2) lit. a).

73. Article 249 of the CCP provides that:

> (1)"After the judgment has been pronounced, the court that issued it has no right to annul or amend it.
>
> (2) At the request of the participants in the proceedings or *ex officio*, the court shall correct errors or omissions in the judgment relating to names, procedural status, or any other obvious material or calculation errors.
>
> (2²) If the request for correction of errors or omissions concerns acts issued by the court of appeal or cassation, it shall be resolved by that same court."

74. In the present case, the Court of Appeal, with the subject as judge rapporteur, pronounced a judgment admitting both claims and ordering the defendant to pay two substantial amounts for two different entities (§ 57). However, in the written version of the decision, the obligation toward one entity was excluded.

75. Based on the applicable legal provisions (§ 73), the circumstances of the case, and the SCJ's findings, the discrepancy amounting to 642,000 USD does not appear to be a correctable "material error" under Article 249 of the CCP.

76. Moreover, Article 249 para. (2^2) of the CCP provides that, if errors or omissions concern acts issued by a court of appeal or cassation, they must be corrected by that same court. The SCJ did not remit the case to the Court of Appeal for correction. Although the subject argued that this does not prove the discrepancy was not a material error, she did not provide a plausible explanation for this inconsistency.

77. Contrary to the subject's claim, the SCJ did not characterize the issue as a material error; rather, it found: "*as the judicial error cannot be corrected by the court of cassation, the appellate court's decision must be quashed, with the case remitted for retrial before the appellate court*." (page 14 of the SCJ decision).

78. In response to the Commission's question on whether the court took measures to correct the error, as would normally be required in the event of a material error, the subject stated that neither the parties had requested correction nor was the court aware of the discrepancy.

79. It is noteworthy that "Keramin" JSC, the party disadvantaged by the written version of the judgment, did not raise the issue of discrepancy, which was instead identified by A.B., whose position was improved by the written decision. Moreover, according to the case materials, neither "Keramin" LLC nor "Keramin" JSC appealed the decision.

80. Finally, the fact that the decision was issued by a panel does not remove the individual responsibility of each judge who signed it.

81. That said, although the discrepancy between the pronounced and written versions of the judgment was of a substantive and visible nature, there is no evidence suggesting that it resulted from intentional conduct. Several contextual factors support this conclusion.

82. Any intentional alteration of the decision would have been easily detectable and of little practical use, given that the decision was to be examined by the SCJ. In addition, the existence of an audio recording and the public

pronouncement of the operative part also make the hypothesis of deliberate modification appear unlikely. The discrepancy was subsequently remedied through appeal on points of law and retrial, with no lasting prejudice to the parties.

83. The available information indicates a serious procedural irregularity stemming from professional negligence or deficient internal verification, rather than a serious breach of rules of ethics and professional conduct within the meaning of Article 11 para. (2) lit. a) of Law No. 252/2023.

Caravita case

Commission's findings (§§ 69-71, and §§ 75-76 in the initial evaluation report)

84. The Commission noted that the subject's decision raised legitimate concerns, especially in relation to procedural irregularities and non-compliance with mandatory legal provisions. Nevertheless, it concluded that these aspects reflected professional shortcomings rather than a serious breach of ethical standards under Article 11 para. (2) lit. a) of Law No. 252/2023.

SCM's findings (Decision of 20 June 2025, § 3.6.6.)

85. The SCM noted that, with regard to the decisions issued in the *Caravita* case, it considers relevant the findings of the SCJ's irrevocable decision of 3 November 2021. The SCM noted that the report does not clearly show whether the Commission even examined the findings concerning the decisions as being arbitrary or manifestly unreasonable.

86. The SCM emphasized the SCJ's conclusions that the Court of Appeal's reclassification of the appeal (*apel*) *ex officio* as an appeal on points of law (*recurs*) was abusive, had no legal basis, and was not requested by the parties. The SCJ also found that the decision of 1 July 2021 was vitiated.

87. Additionally, the SCM found that the subject modified the composition of the panel that examined the merits on 1 July 2021 in breach of the rules governing the formation of judicial panels and the replacement of their members.

88. It stressed that these actions should be assessed in light of the subject's position as Acting President of the Court of Appeal and that, upon re-evaluation, the Commission should clarify all doubts, either confirming or refuting them, while taking into account the SCJ's irrevocable decision.

Re-evaluation procedure

Facts

89. On 15 September 2016, the court ordered the dissolution of Caravita for liquidation purposes and the liquidator organized a public auction for the sale of 226 hectares of agricultural land, won by the company "CVC E.".

90. The former administrator, V.R., challenged the auction results. By ruling of 12 February 2020, the Court of Appeal found that the liquidation had not been ordered under the Insolvency Law, but pursuant to a court judgment. Consequently, the insolvency rules were inapplicable, and the case had to be examined in adversarial proceedings by the ordinary courts. On 16 November 2020, the first instance court dismissed V.R.'s claim as unfounded.

91. V.R. appealed, and on 24 February 2021, the Court of Appeal admitted the appeal for examination. However, on 25 May 2021, Panel No. 4 (A. Pahopol, R. Pulbere, and O. Cojocaru) reclassified the appeal ex officio as an appeal on points of law (recurs), reasoning that the auction allegedly related to enforcement proceedings, and thus should have been examined by a ruling (*încheiere*), rather than a judgment (*hotărâre*).

92. On 1 July 2021, the subject, acting as President of the Court of Appeal, modified the composition of Panel No. 4 through two consecutive rulings (§§ 105). The reconstituted panel (the subject, M. Anton, and O. Cojocaru) annulled the first-instance judgment and the auction results, finding non-compliance with legal requirements. Although this decision was irrevocable, "CVC E." challenged the decision on merits, and the reclassification ruling before the SCJ, alleging serious procedural violations.

93. On 3 November 2021, the SCJ upheld "CVC E." arguments, finding that the reclassification had no legal basis, was not requested by the parties and was abusive. The Court also found that the decision of 1 July 2021 was vitiated, and the statement in its operative part indicating that it is final (irrevocable) was abusive. It held that the court denied the parties fair access to justice, annulled the Court of Appeal's decisions and returned the case for a fresh examination.

94. Upon reconsideration, the Court of Appeal dismissed V.R.'s appeal, and the SCJ subsequently upheld that decision, confirming the legality of the auction.

95. The *Caravita* case concerns three aspects:

- the reclassification of the appeal as an appeal on points of law;
- the resolution of the case by an irrevocable decision; and

- the modification of the judicial panel.

96. In the re-evaluation procedure, the reclassification of the appeal and the resolution of the case by irrevocable decision were not examined because the subject had provided detailed explanations in initial evaluation.

Subject's explanations in the initial evaluation

97. Being asked (Round IV, Q7) whether the Court of Appeal had considered other options than resolving the case through an irrevocable decision, the subject explained that it has no competence to examine or annul its own rulings. This competence belongs exclusively to the SCJ. Therefore, she considered herself obliged to examine the case as an appeal on points of law, since it had already been reclassified on 25 May 2021. The subject noted that she had not participated in the reclassification decision.

98. The subject added that, in examining the case, the court applied the procedural rules governing the examination of appeals on points of law.

Reclassification of the appeal as an appeal on points of law (ruling of 25 May 2021)

99. The SCJ held that the reclassification lacked any legal justification and was abusive (§ 93 above). While the SCM noted that the subject participated in the reclassification decision, the Commission notes that the subject did not take part in the ruling of 25 May 2021. Consequently, responsibility for that procedural act cannot be attributed to her.

Resolution of the case by an irrevocable decision (1 July 2021)

100. Following the reclassification, the subject participated in the examination of the case and annulled the first-instance judgment by an irrevocable decision.

101. According to Article 427 of the CCP, when examining an appeal on points of law (*recurs*) against a ruling (*încheiere*), a court may: (1) dismiss the appeal and uphold the challenged ruling; (2) admit the appeal and quash the ruling in whole or in part, remitting the case for re-examination; or (3) to admit the appeal and quash the ruling in whole or in part, resolving the matter by its own decision.

102. While the Court of Appeal has no authority to annul or modify its own ruling, the above provision suggests that it had alternatives to issuing an irrevocable judgment, including remitting the case for retrial. Ultimately, the SCJ found that including the irrevocability statement was abusive (§ 93).

103. The Commission does not assess the legality of judicial decisions but rather their ethical implications. Although the irrevocable character of the 1 July 2021 decision is debatable, particularly in light of the options provided by Article 427 of the CCP, this appears to be more a matter of erroneous interpretation and application of the law than an integrity issue as provided by Article 11 para. (2) lit. a). Nevertheless, the Commission assessed this aspect in conjunction with the modification of the panel.

Modification of the panel

104. After the re-registration of the appeal as an appeal on points of law, the case apparently remained assigned to Panel No. 4 of the Civil, Commercial and Administrative Disputes Chamber (hereinafter "Panel no. 4"), composed of judges A. Pahopol (presiding), R. Pulbere, and O. Cojocaru.

105. On 1 July 2021, acting as interim President of the Court of Appeal, the subject issued two consecutive rulings (*încheieri*):

- the first replaced Pulbere with Anton, citing medical leave. By the same ruling, Anton was also designated as presiding judge of the panel instead of Pahopol;
- the second replaced Pahopol with the subject, on the grounds that Pahopol refused to sit on the panel reconfigured earlier that day.

106. On the same day, Pahopol submitted a written request to the subject. He argued that the subject had already modified the composition of the panel on 28 June 2021 for the examination of another case. On 30 June 2021, he had already expressed his disagreement with his replacement as presiding judge by Anton, which he considered contrary to the order of 30 December 2020.

107. He reiterated that he would not participate in panels presided over by Anton, whom he regarded as unlawfully appointed and personally offensive. He emphasized that Anton was already presiding judge of another panel and had hearings scheduled for 1 July 2021. Consequently, when the subject again modified the panel on 1 July 2021 and replaced him as presiding judge with Anton, he refused to participate in the proceedings, claiming that the panel had been constituted in breach of the law.

Subject's explanations in re-evaluation procedure

108. In the first round of questions, the subject explained that the replacement of Pulbere with Anton was carried out under point 14 of the *Rules on the establishment of judicial panels and the replacement of their members*, approved by the SCM by decision No. 111/5 of 5 February 2013 (hereinafter "Rules on

judicial panel"), as it was based on a medical leave. She added that Anton was appointed because she was available and had no pending cases.

109. Concerning the replacement of Pahopol with Anton as presiding judge, the subject stated that although their professional experience was approximately the same, Anton possessed better communication skills than Pahopol.

110. Regarding the replacement of Pahopol with herself, the subject stated that he had refused to participate in the examination of cases within the modified panel. She had intervened in the panel's composition to defuse a conflict among judges who were accusing each other of betrayal, describing it as an unprecedented situation.

111. The subject noted that the modification of panels was common practice and that the SCM reviewed the situation without finding any disciplinary violations. The measure was intended to resolve the conflict and protect the judiciary's image.

112. In her additional explanations of 15 October 2025, the subject stated that within the Court of Appeal there is a consistent practice whereby the reporting judge is responsible for entering into the PIGD the changes concerning the composition of judicial panels. The reporting judge is also responsible for attaching the relevant extracts and modification orders to the case file.

113. During the hearing in the re-evaluation procedure, the subject added that Pahopol was a Russian speaker, while Anton a Romanian speaker, and that the replacement was also intended to ensure a more efficient examination of cases, given the large number of cases under review.

114. In response to the question about whether she had the authority to modify the order of the President of the Court of Appeal, the subject stated that this was not an act of exceeding her powers. She explained that her intervention aimed to defuse a conflict and ensure a more efficient examination of the cases. She also noted that Pahopol had previously accepted similar replacements without objection, raising disagreement only in this particular case.

115. In response to the Commission's question as to why she assigned herself to the panel instead of another judge, the subject explained that it occurred during the summer holiday period, and no other judges were available. She added that discussions among the members had raised tensions and suspicions and she had no alternative; she had to choose between allowing the issue to become public or intervening personally in the panel.

Commission's assessment

116. Article 6^1 paragraphs (1) and (1^1) of Law No. 514/1995 on judicial organization (hereinafter "Law No.514/1995") provides that:

> "The adjudication of cases is carried out in compliance with the principle of random case allocation through the Integrated Case Management System.
>
> The formation of judicial panels and the designation of their presiding judges shall be carried out at the beginning of the year by order of the president of the court. Any change in the composition of a panel shall be made only in exceptional cases, on the basis of a reasoned order issued by the president of the court, and in accordance with the objective criteria established by the regulation approved by the Superior Council of Magistracy. The reasoned order concerning the change of the panel's members shall be attached to the case file."

117. According to points 5–13 of Rules on judicial panel, panels are constituted in advance, either permanently or ad hoc, and their composition is confirmed through the President's order (*dispozitie*). Such panels must be formed based on objective, transparent and impartial criteria, while their modification is strictly limited to the grounds enumerated in point 14 of the Rules

118. Point 14 of the Rules on judicial panels provides that the replacement of members of the panel is required in cases where one of the following grounds exists: a) prolonged illness; b) death; c) dismissal from office; d) abstention; e) recusal; f) secondment; g) transfer; h) promotion; i) suspension from office; j) incompatibilities.

119. Article 2 of Rules on the random allocation of cases for examination in courts of law approved by the SCM decision No. 110/5 of 5 February 2013 (hereinafter "Rules on the random allocation") provides:

> "The random allocation of cases is carried out in accordance with the provisions of Article 6^1 of Law No. 514/1995, Article 344 of the Code of Criminal Procedure, and Article 168 of the Code of Civil Procedure, and is mandatory for all courts of law."

120. Article 8 of the Rules on the random allocation provides:

> "If a judge takes annual leave for a period exceeding half of the total duration of the annual leave for the current year, the president of the court shall, by means of a reasoned ruling, order the blocking (marking) of the judge in the system five calendar days prior to the start of the leave. The unblocking of the judge shall be carried out on the day of his or her return to duty, except in the case of the Supreme Court of Justice.

> The president of the court may also order the temporary blocking (marking) of the judge in other justified cases, by issuing a reasoned ruling."

121. According to order (*Dispoziție*) No. 48 of 30 December 2020 on the composition of the boards, the formation of judicial panels, and the designation of their presiding judges within the Chișinău Court of Appeal for the year 2021 (hereinafter "order No. 48"), Panel No. 4 was composed of judges Pahopol (presiding), Pulbere, and Cojocaru.

122. Pursuant to point 5.2 of the same order:

> "in the event that it becomes necessary to replace a judge of a panel constituted under this order who is not the reporting judge in a specific case, the replacement shall be made randomly through the Integrated Case Management Program, and the allocation sheet shall serve as the basis for examining the case in the composition of the judicial panel to which the replaced judge belonged."

123. Under Article 6 § 1 of the Convention, a tribunal must always be "established by law". The phrase "established by law" covers not only the legal basis for the very existence of a "tribunal" but also the compliance by the court or tribunal with the particular rules that govern it and the composition of the bench in each case (*Guðmundur Andri Ástráðsson v. Iceland*, No. 26374/18, 1/12/2020, § 223).

124. Under Article 6 para. (2) of the Code of Ethics and Conduct for Judges, approved by the General Assembly of Judges Decision No. 8 of 11 September 2015 (as amended by Decision No. 12 of 11 March 2016), a judge must "refrain from any behavior, action or manifestation that could undermine public confidence in the judiciary."

125. The modification of the panel on 1 July 2021 involved three elements. First, the replacement of Pulbere with Anton. Second, the change of Pahopol as presiding judge of the panel with Anton. And third, the replacement of Pahopol with the subject (self-replacement).

126. On 29 August 2025, the National Social Insurance House confirmed that Pulbere was on medical leave from 15 June 2021 to 26 August 2021 (extended on 25 June 2021 until 2 August 2021), confirming that her absence covered an extended period.

127. In the letter of 1 September 2025, the SCM clarified that the notion of "*prolonged illness*" has no autonomous meaning and must be interpreted in light of Law No. 289/2004 concerning allowances for temporary incapacity for work and other social insurance benefits.

128. It added that a judge on short-term medical leave (e.g., 5–20 days) does not automatically entail replacement, as hearings may be postponed until the judge's return; however, in other situations (e.g. expiry of detention), the panel member who is unable to examine the cases is replaced, on the basis of a procedural act issued by the president/vice-president of the court, with another judge selected by the Integrated Case Management Program. In certain situations, ad hoc panels may be established by an order of the court's president or vice-president.

129. Accordingly, the replacement of Pulbere appears to have been carried out in accordance with point 14 lit. a) of the Rules on judicial panels, although it was not made randomly through the Integrated Case Management Program (hereinafter "PIGD"), as required by the President's order on judicial panels (see § 122).

130. Concerning the change of Pahopol as presiding judge with Anton, the subject stated that it was to ensure a more efficient examination of the cases. Although they had similar professional experience, Anton would have better communication skills (see §§ 109 and 113).

131. In the letter of 1 September 2025, the SCM noted that the Rules on judicial panels do not expressly regulate the procedure for the change of a panel's presiding judge. Nevertheless, they stipulate that the initial appointment shall be made by the president of the court, taking into account objective criteria such as organizational skills, professional authority, and the absence of disciplinary sanctions.

132. The change of a presiding judge must be made by a procedural act of the president of the court, applying the same objective criteria. The grounds may include the general reasons for replacing members of a panel, as set out in point 14 of the Rules on judicial panels (§ 118), as well as managerial considerations necessary to ensure the proper functioning of the court. The act of replacement must be communicated to the judges and registered in PIGD, in accordance with the principle of transparency (§ 7 of the Rules).

133. While the Rules on judicial panels do not expressly set out the procedure for replacing a presiding judge, such a measure cannot be taken arbitrarily. Order No. 48 designating Pahopol as presiding judge remained in force. His replacement was not based on any of the grounds provided by point 14 of the Rules, nor apparently on managerial considerations necessary to ensure the proper functioning of the court, as mentioned by the SCM. The subject referred to communications skills during the re-evaluation procedure,

however the ruling contains no indication that Pahopol had failed to perform his duties properly as presiding judge of the panel.

134. Finally, according to the subject, she replaced Pahopol with herself to dissipate the conflict and deal with an unprecedented situation. She also mentioned that Pahopol's refusal had been merely formal (see § 114).

135. The Rules on judicial panels provide an exhaustive list of grounds for modifying a judicial panel. The refusal of a judge to sit or participate in the examination of a case is not among them.

136. The situation created by Pahopol's refusal to participate in the examination of the case may have been unprecedented. However, point 5.2 of Order No. 48 stipulates that the replacement of any panel member who is not the reporting judge must be carried out through the PIGD system.

137. The subject explained the necessity of replacing Pahopol, yet she did not explain why this was not done in accordance with the prescribed procedure. Moreover, the replacement of Pulbere with Anton was likewise not performed through the PIGD system.

138. The subject mentioned that it was summertime and that many judges were on leave. However, under the Rules on random allocation (§ 120), judges on leave may be blocked in the PIGD system.

139. In addition, although Pahopol's refusal could be regarded as unprecedented, the materials submitted by the subject, particularly Pahopol's letter addressed to her on 1 July 2021, indicate that his refusal was prompted by his replacement as presiding judge by Anton.

140. The same letter shows that Pahopol had already communicated his disagreement with Anton's designation as presiding judge. Nevertheless, by the ruling of 1 July 2021, the subject again appointed Anton as presiding judge.

141. As previously mentioned, neither the ruling nor the explanations provided by the subject appear to fall within the situations described by the SCM for the change of a presiding judge (§ 131). Finally, based on the materials submitted by the subject, she notified the SCM of the situation only on 3 August 2021. According to the subject, the SCM returned the documents to the Court of Appeal without adopting any formal decision in this regard.

142. The seriousness of the situation is reinforced by the fact that this modified panel examined the case on the merits and issued an irrevocable judgment (§§ 100). The modification of the panel on the very day of the hearing,

followed by the examination of the case in the absence of the parties, may infringe the guarantees of a fair trial under Article 6 of the Convention. In *Kontalexis v. Greece* (No. 59000/08, 31 May 2011, §§ 42–44), the replacement of a judge on the day of the hearing without legal justification was found to violate this guarantee. Similarly, in *DMD Group A.S. v. Slovakia* (No. 19334/03, 5 October 2010, §§ 62–72), the president of a court reallocated a case to himself contrary to the allocation rules, lead to a violation of Article 6 § 1.

143. Everything considered, the subject had been serving as acting president of the court for only fifteen days at the time of the events, which constitutes a mitigating circumstance. Pahopol's refusal to participate in the examination of the case was not provided by the applicable legal provisions, and it appears that such a situation had not previously occurred. It appears also that there is no explicit legal basis for replacing the chair of the panel. At the same time, considering that the president of the court is competent to make appointments, it may be interpreted that the president also has the authority to modify it. The absence of a clear and foreseeable procedure for such a change constitutes an element in the subject's favor. No indicators or evidence to suggest that the subject engaged in unethical behavior has been identified or presented by the Commission.

144. Therefore, the subject's actions in this case appear to constitute procedural, professional and managerial errors rather than a serious breach of judicial ethics as provided by Article 11 para. (2) lit. a) of Law No. 252/2023.

C. Involvement in cases examined by the European Court of Human Rights

Commission's findings (§§ 77-128 of the initial evaluation report)

145. Based on Government's Agent information, the Commission reviewed the subject's decisions in fifteen cases examined by the European Court of Human Rights (hereinafter "ECtHR"). It found that eight fell outside the 10-year evaluation period, two were struck out, and in four cases the subject's decisions were either unrelated to the ECtHR's findings or were part of a broader systemic issue. Only one decision, in *Bocșa v. Republic of Moldova* (No. 6147/18, April 4, 2023) was found to be arbitrary. The Commission concluded that failing the evaluation based solely on this single case would be disproportionate.

SCM's findings (decision of 20 June 2025, § 3.7.3, 3.7.4.)

146. The SCM upheld the Commission's conclusions (§ 3.7.3. of the SCM decision). Regarding the *Bocșa* case, the SCM considered justified the Commission's conclusion that the subject's arbitrary decision in a single case,

taken alone, could not constitute sufficient grounds for non-promotion, given the implications of such a finding.

147. At the same time, the SCM noted that the overall level of gravity should be assessed comprehensively, taking into account any other relevant cases that might be identified during the resumed evaluation.

148. The SCM noted that, in the resumed evaluation, the Commission should clarify all the above concerns under Article 11 para. (2) lit. a) of Law No. 252/2023, considering the existence of irrevocable decisions, such as those in the *Caravita* and *Keramin* cases, which must be either confirmed or refuted by the Commission (§ 3.7.5. of the SCM decision).

Re-evaluation procedure

149. Following the SCM's decision, the Commission requested updated information from the Government Agent. On 14 July 2025, he submitted six new cases that were not reviewed during the initial evaluation:

- *Mereacre and Others v. Republic of Moldova* (nos. 9353/13, 11785/13, 18691/13, 30737/13, 30784/13, 41136/13, 42391/13, and 48098/13), 18 January 2024;
- *Tasoncom S.R.L. v. Republic of Moldova* (no. 59627/15), 22 October 2024;
- *Ungureanu v. Republic of Moldova* (no. 5629/21), 17 October 2024;
- *Străisteanu and Străistean v. Republic of Moldova* (no. 13114/22), 21 November 2024;
- *Ditmansen Mîndru v. Republic of Moldova* (no. 5190/22), 23 January 2025;
- *Paslari v. Republic of Moldova* (no. 7401/23), 5 December 2024.

150. The analysis of the above cases has been made in accordance with the requirements and criteria set out by previous practice, as detailed in §§ 78-81 of the initial evaluation report.

151. The cases *Ungureanu*, *Străisteanu and Străistean*, and *Paslari* were struck out by the ECtHR following either a friendly settlement, a unilateral declaration, or were declared inadmissible. Accordingly, the Commission did not analyze the decisions issued by the subject in these three cases.

152. The case of *Mereacre and Others* concerned eight applications relating to the non-enforcement of final domestic judgments requiring public authorities to provide housing to the applicants. In one application (No. 9353/13), the

subject issued a decision on 21 November 2012. As this decision falls outside the 10-year period, it was not examined.

153. The Commission therefore analyzed the subject's involvement in the cases of *Ditmansen Mîndru* and *Tasoncom S.R.L.* cases applying the criteria under Article 11 para. (2) lit. a) of Law No. 252/2023.

Ditmansen Mîndru v. Republic of Moldova (no. 5190/22, 23 January 2025)

154. The case concerns excessive length of civil proceedings (7 years and 7 months) and the inefficiency of national remedy established under Law No. 87/2011. The ECtHR found violations of Article 6 and 13 of the Convention.

Facts concerning the national proceedings

155. The applicant initiated civil proceedings in a succession dispute that lasted from April 2011 to November 2018 through three levels of jurisdiction. In May 2019, the applicant lodged a claim under Law no. 87/2011. On 26 May 2020, the subject as a member of the Court of Appeal panel dismissed the claim as ill-founded, referring to the case's complexity, the joinder with other claims, the number of parties, the expert reports, and the applicant's own conduct. The Supreme Court of Justice upheld this decision on 14 July 2021.

The ECtHR findings

156. The ECtHR noted that of the total duration of the proceedings, approximately seven months were attributable to the applicant. However, it found no fact or argument capable of justifying the overall length of the domestic proceedings.

The subject's explanations

157. In the second round of questions, the subject observed that, in the re-evaluation procedure, only additional information which, for objective reasons, could not have been presented during the initial procedure, may be examined. She argued that although the Government Agent was aware of the new cases, he did not communicate them during the initial evaluation procedure.

158. Regarding the *Ditmansen Mîndru* case, the subject explained that the Court of Appeal dismissed the applicant's claim after assessing the length of the proceedings in light of national judicial practice. She stated that the case's complexity had been evaluated based on the existence of counterclaims, the joinder of cases, and multiple inheritance issues. The remittal for retrial, which contributed to the overall duration, should, in her view, be assessed

through the perspective of equality of arms and the adversarial principle. Finally, the subject noted that the claim was dismissed because no fault attributable to the court had been established.

The Commission's assessment

159. Regarding the subject's general objection regarding the examination of the new cases, the Commission notes that the Government Agent submitted the additional information at the Commission's request, following the SCM's decision (§149).

160. In the initial evaluation procedure, the Government Agent submitted information on the cases involving the subject as of 10 June 2024. Except for the *Mereacre and Others* case, all other ECtHR judgments were delivered after that date (§ 149). What is relevant is that the subject's decisions in these cases were issued within the 10-year evaluation period and appear to fall within the criteria set out in Article 11 para. (2) lit. a) of Law No. 252/2023.

161. The Court of Appeal's decision of 26 May 2020 falls within the 10-year evaluation period, and the ECtHR found violations of Articles 6 and 13 of the Convention.

162. In this case, the violations were due to the excessive length of civil proceedings and the absence of an effective remedy. While the reasoning of the Court of Appeal appears inadequate or flawed, the court nevertheless engaged with the relevant facts and legal arguments.

163. By contrast, in cases where the ECtHR has found decisions to be arbitrary (e.g. *Bochan v. Ukraine* (No. 2) and *Dulaurans v. France*), domestic courts failed to provide any reasoning or issued decisions entirely disconnected from the applicable legal framework. In the present case, the subject's decision appears to result from an erroneous interpretation and application of the law rather than from an arbitrary act.

164. Therefore, although the subject's decision in this case contradicts ECtHR case-law and national law, it does not rise to the level of an "arbitrary act" as interpreted by the ECtHR.

Tasoncom S.R.L v. Republic of Moldova (no. 59627/15, 22 October 2024)

165. The case concerns two parallel proceedings, one fiscal and one criminal. The applicant company was found liable in the fiscal proceedings but later acquitted in the criminal case. Its subsequent request for revision of the decision issued in the fiscal proceedings was dismissed.

Facts concerning national proceedings

166. Following a 2009 tax audit, the State Fiscal Inspectorate (hereinafter "SFI") issued a decision finding that based on the examined fiscal invoices (36 fiscal invoices), the company had unjustifiably deducted without any supporting documents, in the years 2007–2008, expenses and VAT related to purchases from counterparts who had been deregistered as VAT payers (five companies). Consequently, the SFI issued a tax reassessment of approximately 29 million MDL, including fines and penalties.

167. The company challenged the SFI's decision, and the District Court upheld its claim finding that the company had acted in good faith and held valid tax invoices. However, the Chișinău Court of Appeal reversed that ruling and dismissed the claim on 12 September 2012 (hereinafter "fiscal judgment"). The court relied on the company's criminal conviction for tax evasion on 21 May 2010.

168. In the parallel criminal proceedings, the company and its administrator were convicted in 2010 but were later acquitted by a final judgment on 27 December 2013. The judgment noted that, according to the Explanatory Decision of the Supreme Court of Justice No. 25 of 15 July 2002, the payment of VAT to the state budget, being an obligation of the seller, cannot be attributed to the buyer. As purchasers of goods, Tasoncom and its administrator paid the suppliers the price plus VAT, and they cannot be held liable (*sunt nevinovati*) (page 10 of the acquittal judgment).

169. Relying on this acquittal, the company sought revision of the 2012 fiscal judgment under Article 449 lit. b) and e) of the Code of Civil Procedure (hereinafter "CCP").

170. On 18 March 2015, the Court of Appeal (with the subject as presiding judge) dismissed the request as inadmissible finding that the invoked grounds did not fall within Article 449. The court held that the acquittal only concerned the administrator and that reopening the case would undermine legal certainty. The Supreme Court of Justice upheld that decision, reasoning that the absence of criminal liability did not imply compliance with fiscal obligations and that the fiscal sanctions were based on breaches of tax law independent of the criminal conviction.

171. Subsequently, on 29 December 2015, the Chișinău Court of Appeal declared the company insolvent and opened bankruptcy proceedings upon the company's own request.

The ECtHR findings

172. The ECtHR held that the tax and criminal proceedings were distinct and that Tasoncom was subjected to repeated criminal proceedings for the same facts (§ 47-48 of the judgment). It considered that the rejection of the revision request deprived Tasoncom of the useful effects of the acquittal.

173. The Court also found a violation of Article 6 para. 1 and of Article 1 of Protocol No. 1, as the fiscal sanctions unjustifiably interfered with the company's property rights.

The subject's explanations

174. The subject stated that the company's revision request had been based solely on Article 449 lit. b) of the Code of Civil Procedure (new facts) and not on lit. e), which refers to the annulment of a criminal conviction forming the basis of a civil judgment (second round of questions, Q 2 lit. a).

175. She also stated that the Court of Appeal's decision did not mention that the acquittal concerned only the administrator but argued that the acquittal did not constitute a valid ground for revision under Article 449 lit. b).

176. She reiterated that the administrator's acquittal could not serve as a ground for revising the company's fiscal case, since fiscal liability is autonomous from criminal liability. Accordingly, she maintained that the Court of Appeal correctly dismissed the revision request to preserve legal certainty and avoid re-examining the legality of a final judgment.

177. During the hearing, the subject stated that the fiscal judgment contained no reference to the company's criminal conviction, but merely mentioned the existence of the conviction as a fact invoked in the SFI's appeal, but not as a fact expressly established in the judgment.

178. The subject stated that she sought information from the SFS regarding the company's current debts, which amounted to approximately 40 million MDL. She argued that, in view of the SFI's decision, the Court of Appeal did not take into account the acquittal. Finally, she contended that the admission or rejection of a revision request lies within the court's discretion and that the court was not obliged to reopen the proceedings, particularly as the company had failed to pay VAT.

The Commission's assessment

179. The Chișinău Court of Appeal's decision of 18 March 2015 falls within the 10-year evaluation period. The ECtHR found violations of Article 6 § 1 and Article 1 of Protocol No. 1 of the Convention, arising from the rejection of the company's request for revision of the 2012 fiscal judgment.

180. According to Article 449 lit. b) and e) of the CCP, a revision shall be declared when new facts are discovered or if the judgment that was the basis of the contested decision is annulled or modified.

181. Tasoncom's revision request expressly relied on Article 449 lit. e), invoking the annulment of its criminal conviction, which served as the legal basis for the 2012 fiscal judgment (*Case material No. 1134, page 1-3*). The fiscal judgment stated that Tasoncom had already been convicted of tax evasion by the criminal judgment of 21 May 2010, and those findings are binding under Article 123 of the CCP (*Case material No. 1133, page 16-17*).

182. In the case *Bulves AD v. Bulgaria*, (No. 3991/03, 22 January 2009, § 60), the ECtHR held that since the company had fully complied with its VAT obligations, could not ensure the supplier's tax compliance, and because it had no knowledge or means of knowing about the fraud, it should not have been made to bear the consequences of the supplier's irregularities.

183. Although the revision request appeared to meet the admissibility requirements, the Court of Appeal dismissed it relying on deficient reasoning especially since the acquittal judgment explicitly covered both the company and its administrator (see § 168). The claimed broad discretion by the subject (see § 178), does not align with Article 449 and SCJ's Explanatory Decision No. 2 of 15 April 2013 on judicial practice in applying procedural law when examining civil cases in revision proceedings.[1]

184. However, while the reasoning was legally flawed, it does not appear that the subject's decision was entirely devoid of substance. It provided an explanation by stating that the annulment of the criminal conviction concerned only the administrator and not the company as a taxpayer. It further invoked the principle of legal certainty, albeit interpreting it in the opposite sense of its purpose, by preserving, rather than resolving, the inconsistency between the criminal and fiscal judgments.

185. Accordingly, the subject's decision appears to constitute an error in the interpretation and application of the law, rather than an arbitrary act within the meaning of Article 11 para. (2) lit. a) of Law No. 252/2023.

186. This case involved a certain degree of legal and factual complexity, particularly concerning the interdependence between fiscal and criminal proceedings. The complexity of the matter is further illustrated by a

[1] https://jurisprudenta.csj.md/search_hot_expl.php?id=110

comparable case, *Edata-Trans SRL v. Republic of Moldova* (No. 55887/07, 17 March 2020), in which the ECtHR also found a violation.

187. Finally, following the ECtHR judgment, both the Government Agent and the company sought the reopening of the domestic proceedings, which was granted on 30 May 2025. The SCJ annulled its previous judgment of 20 May 2015 and retained for re-examination Tasoncom's claim against the SFI's decision.

Conclusion on the involvement in cases leading to violations of the Convention

188. In its initial evaluation report, the Commission found that the subject's decision in the *Bocșa* case constituted an arbitrary act (§§ 116–129 of the initial evaluation report).

189. In the resumed evaluation, the Commission concluded that the subject's decisions in the *Ditmansen Mîndru*, and *Tasoncom* cases, although appearing contrary to national law and the ECtHR standards, reflect errors of interpretation and application of the law rather than arbitrary acts within the meaning of Article 11 para. (2) lit. a) of Law No. 252/2023 (§§ 161-164, and §§ 179-187).

190. Therefore, the Commission maintains the conclusion from the initial evaluation that a single arbitrary decision would not be a proportionate ground for non-promotion.

V. Conclusion of the resumed evaluation

191. 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. 252/2023.

VI. Further action and publication

192. As provided in Article 40 para. (4) of the Rules, this re-evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy. The Commission will publish the re-evaluation's result on its official website on the same day.

193. 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 re-evaluation file containing all the evaluation materials gathered by the Commission.

194. 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.

195. This re-evaluation report was approved by unanimous vote of the participating members on 25 November 2025 and signed pursuant to Articles 33 para. (7) and 40 para. (5) of the Rules.

196. Done in English and Romanian.

Scott Bales

Chair of Panel B