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# EVALUATION REPORT

approved according to Article 25

of the Rules of Organization and Functioning

**SERGIU STRATAN**

candidate for the Supreme Court of Justice

subject of evaluation under Article 3 para. (1) Law No. 65/2023

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**2 December 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 3 November 2025 and approved the following report on 2 December 2025. The members participating in the approval of the report were:

1. Scott BALES
2. Andrei BIVOL
3. Willem BROUWER
4. Lilian ENCIU
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6. Lavly PERLING
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8. Gerrit-Marc SPRENGER
9. Marcel van de WETERING

The Commission prepared this evaluation report based on its work in collecting and reviewing the information, the subject’s explanations, and its subsequent deliberations.

## **I. Introduction**

1. This report concerns Mr. Sergiu Stratan (hereinafter the “subject”), a candidate for the position of judge on 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 judge at the Chișinău Court (Center District) since 2015.
5. The subject was a judicial assistant at the Constitutional Court from mid-January 2014 until August 2015. Between June 2013 and mid-January 2014, he worked as a judicial assistant at the Chișinău Court (Botanica District) and as an archivist at the same court in May 2013.

6. The subject received a bachelor's degree in law in 2011 from the Moldova State University. In 2013, the subject received a master's degree in law from the same university.

### 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 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 2025 is 16,100 MDL. Thus, the threshold of 20 average salaries is 322,000 MDL and the threshold of five average salaries is 80,500 MDL.
  13. 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.
  14. In evaluating the subject's financial integrity, Article 11 para. (5) of Law No. 65/2023 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. 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.
  17. 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 found 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 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**

19. On 16 May 2025, 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.
20. On 19 May 2025, 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, these declarations are referred to as the “five-year declaration”). The subject returned the completed five-year declaration and questionnaire on 27 May 2025.
21. Because the law sets different evaluation periods for the ethical and financial integrity criteria cited above, the Commission evaluated compliance with these criteria over the past five, ten and 12 years, 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 2013-2024 and 2015-2024. The evaluation period for the ethical criterion includes the past five or ten years calculated backwards from the date of the notification.
22. In the last 12 years of the evaluation period, the subject had an obligation to submit declarations, both under Law No. 133/2016 on the Declaration of Wealth and Personal Interests, and under Law No. 1264/2002 on the Declaration and Income and Property Control for persons with positions of Public Dignity, Judges, Prosecutors, Civil Servants, positions of Management. The subject’s wife also had an obligation to submit declarations in the last eight years of the evaluation period.
23. The Commission sought and obtained information from numerous sources. No source advised the Commission of later developments or any corrections regarding the information provided.

24. The sources asked to provide information on the subject included the General Prosecutor's Office, the Anti-Corruption Prosecutor's Office, the Prosecutor's Office for Combating Organized Crime and Special Cases, the Ministry of Internal Affairs, the National Anticorruption Center, the National Integrity Authority (hereinafter "NIA"), the State Fiscal Service (hereinafter "SFS"), the National Office of Social Insurance, the General Inspectorate of Border Police, banks (Energbank JSC, EuroCreditBank JSC, Eximbank JSC, Moldinconbank JSC, MAIB JSC, Victoriabank JSC, Banca de 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 were received from civil society. All information received was carefully screened for accuracy and relevance.
25. 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"). The subject provided answers and documents within the deadline.
26. On 11 September 2025, the Commission asked the subject to provide additional information by 21 September 2025 to clarify certain matters (hereinafter the "second round of questions"). The subject provided answers and documents within the deadline.
27. On 23 October 2025, the Commission notified the subject that some areas of doubt about the subject's compliance with the ethical and financial criteria were identified and invited him to attend a public hearing on 3 November 2025. The subject was also informed that the evaluation report may refer to other issues that were considered during the evaluation.
28. As provided in Article 24 para. (4) of the Rules, the subject could have requested access to all the materials in his evaluation file at least seven days before the hearing. However, the subject decided not to exercise this right.
29. On 3 November 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**

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 matters which, upon initial review, raised doubts as to compliance with the criteria established by law:
  - a. involvement in a case examined by the European Court of Human Rights (hereinafter "ECtHR");
  - b. a potential difference between the assets, expenses, and income (hereinafter "unjustified or inexplicable wealth") for 2013 and 2016;
  - c. potential tax irregularities.

**A. Involvement in a case examined by the ECtHR**

32. According to the Government Agent, the subject was involved in a case that was the subject of application before the ECtHR, namely:

*Cosovan v. the Republic of Moldova*, no. 13472/18, 22 March 2022.<sup>1</sup>

33. This case concerns the positive obligations of the authorities under Article 3 of the European Convention on Human Rights (hereinafter "Convention"), regarding the medical treatment of a person with a serious illness in its terminal phase, as well as the compatibility of such a condition with pre-trial detention. It also concerns under Article 5 § 3 of the Convention the insufficient reasons given for the applicant's pre-trial detention.

*Facts concerning criminal proceedings against the applicant*

34. The applicant was a Moldovan businessman. In September 2017, the applicant was arrested on suspicion of fraud and abuse of service and placed in detention on remand in prison for 30 days. The detention on remand in prison (*arestul preventiv*) was extended on numerous occasions, essentially on the same grounds as before.
35. The subject was involved in this case as an investigating judge. He issued the ruling of 24 April 2018 and replaced the preventive measure taken in respect of the applicant with house arrest for a period of 30 days. On the same day,

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<sup>1</sup> The ECtHR judgment in the case of *Cosovan* is available on this link <https://hudoc.echr.coe.int/?i=001-216352>



the applicant was re-arrested in the context of another criminal investigation and placed in detention on remand in prison on 27 April 2018 by another judge. Following the prosecutor's request, the subject annulled the ruling regarding the house arrest on 17 May 2018.

36. In the subject's ruling of 24 April 2018, the court found no evidence that would confirm the prosecutor's alleged risks (absconding, reoffending, interfering with the investigation) requesting remand in prison, apart from public disorder. In justifying the risk of public disorder, the subject referred to the victims' disagreement with the possibility of rejecting the request for remand in prison, as expressed during the court session.
37. As regards the applicant's state of health, invoked by his attorney, the subject acknowledged that his illness was in its terminal stage, which presented a danger to his life.
38. Considering the applicant's condition, the subject held that it would be disproportionate to continue the applicant's detention on remand in prison; the aim of preventing a disturbance to public order would be achieved by placing him under house arrest.
39. In the subject's ruling of 24 April 2018, the reasoning for releasing the applicant from remand in prison relied on the argument that applicant's illness and complications were amongst those which the Moldovan legislation considered serious enough to allow a court to relieve a convicted person from serving his or her sentence.<sup>2</sup> The subject found it absurd that a person held in detention on remand in prison should not benefit from the same right. Continuing to detain a person with such a condition would expose him to suffering which could amount to torture.
40. On 11 July 2018, the Chişinău Court (Buiucani District) found the applicant guilty and sentenced him to 7 years imprisonment. On 28 November 2018, the Chişinău Court of Appeal upheld the first instance judgment. The Supreme Court of Justice quashed the lower court's judgment and sent the case for a retrial by the Chişinău Court of Appeal.
41. The applicant's medical condition was described in previous evaluation reports of subjects *Balmuş* (§§ 72-75) and *Robu* (§§ 77-81). Over some two years, the applicant was detained in prison No. 13 and also spent significant time in

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<sup>2</sup> The Ministry of Justice Order No. 331 of 6 September 2006, adopting the Regulation on the presentation of seriously ill convicted persons for release.

prison hospital No. 16, as well as shorter periods of treatment in public hospitals. The applicant died in a civil hospital in Chişinău on 25 March 2021.

*The ECtHR's findings*

42. Under Article 3 of the Convention ("prohibition of torture"), the ECtHR examined the applicant's case in the light of three factors: his state of health and the effect on the latter of the manner of his imprisonment, the adequacy of his medical treatment provided in detention and the compatibility of his pre-trial detention with his condition.
43. The ECtHR noted that the applicant's illness and complications were amongst those which the Moldovan law considered serious enough to allow a court to relieve a convicted person from serving his or her sentence (§ 87 of the judgment).
44. In § 89 of the judgment, the ECtHR agreed with the domestic investigating judge that issued the 24 April 2018 ruling (i.e. the subject) and stated that, for the purpose of Article 3 of the Convention and in the circumstances before it, there is no reason to distinguish between a person convicted by a final judgment and one detained pending trial, when it comes to the suffering caused by detention incompatible with that person's medical condition. Neither the domestic courts nor the Government offered a satisfactory explanation for such a difference in treatment. In fact, such a difference may well be discriminatory.
45. Under article 5 of the Convention, the ECtHR found that while the domestic courts' reasons for ordering the applicant's detention were relevant as such, they were not sufficiently grounded on evidence in the file, and the justification for the applicant's extended detention was not convincingly demonstrated. The Court criticized the separation of criminal investigations into various episodes of the same alleged criminal activity, which allowed the prosecution to circumvent the court order replacing the applicant's detention with house arrest (§§ 99, 101 of the judgment).

*Subject's explanations*

46. In response to the first round of questions (Question 23), the subject noted that the ECtHR did not criticize the ruling he issued on 24 April 2018 ordering the applicant's house arrest. Rather the ECtHR criticized the extension of the detention on remand in prison applied by other investigating judges.
47. When asked if he had complied with the ECtHR's principles, the subject agreed that house arrest constitutes deprivation of liberty under the ECtHR's

case law and confirmed the autonomous nature of this concept. To justify his decision, the subject cited the relevant parts of his ruling of 24 April 2018.

48. Suggesting that other judges who ordered detention on remand in prison lacked the courage to make findings like he had in his 24 April 2018 ruling, the subject referred to § 89 of the ECtHR judgement (quoted above).
49. The subject pointed out that the reasoning behind his 24 April 2018 ruling had been praised at a press conference dedicated to the ECtHR's findings in the *Cosovan*, organized by Promo-Lex, the association whose lawyers represented the applicant before the ECtHR.<sup>3</sup>
50. In answer to the question of whether the risk of disturbing public order, invoked in the ruling of 24 April 2018, was based on relevant and sufficient facts capable of showing that the applicant's release would effectively disturb public order, the subject stated that "the nineteen injured parties were noisy and at the hearings they expressed their dissatisfaction with the defendant's failure to appear before the court. This created a tense atmosphere both before and after the hearing."
51. When asked if he had analyzed the possibility of applying preventive measures other than arrest (provided for by art.175 para. (3) of the Code of Criminal Procedure, such as provisional release under judicial supervision) in light of the applicant's serious illness, the subject replied that house arrest does not imply prohibition on investigations and treatment at medical institutions. In line with the 24 April 2018 ruling, he stated that "if the defendant requires treatment at a medical institution, he must request permission from the court in accordance with the provisions of the Enforcement Code."

#### *Commission's assessment*

52. In *Cosovan*, the Commission notes that ECtHR found violations of articles 3 and 5 § 3 of the Convention. Although the subject was involved in this case through two rulings (see § 35 above), the Commission will only analyze the ruling of 24 April 2018, as it is the one relevant to the ECtHR's findings. This ruling falls within the 10-year period.
53. The subject was the only judge to consider that the applicant's illness was incompatible with detention and that continuing to detain him would be discriminatory. Like the ECtHR, the Commission notes that the subject's

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<sup>3</sup> <https://www.privesc.eu/arhiva/98679/Conferinta-de-presa-organizata-de-Asociatia-Promo-LEX-cu-tema--Problemele-sistemice-constatate-de-CtEDO-in-cauza-Cosovan-vs--Moldova->  
Find the minute 5:37 in the video.

ruling of 24 April 2018 is not connected to the violation of article 3 of the Convention.

54. It is reasonable to assume, however, in analyzing the findings under article 5 of the Convention, that the ECtHR referred to the applicant's "detention pending trial" as a whole, including both preventive measures: remand in prison (or "pre-trial detention") and house arrest. Under the ECtHR's case-law, house arrest constitutes a deprivation of liberty (*Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 104, 5 July 2016). In his explanations, the subject agreed with this principle.
55. In § 96 of the judgment in *Cosovan*, the ECtHR cited the Grand Chamber judgment in *Buzadji*, which established principles subsequently followed by the ECtHR. Therefore, there is no reason to believe that the Court departed from its case law in the present case.
56. The applicant's detention on remand in prison was extended by various judges. The subject was the only judge to modify the applicant's detention on remand in prison to house arrest on the grounds of his serious illness. In doing so, he based his decision on the grounds of maintaining public order. Unlike other judges who ordered preventive measures in respect of the applicant, the subject provided certain factual arguments.
57. The ECtHR agreed with the subject's reasoning regarding the discriminatory nature of the regulation on the presentation of seriously ill convicted people for release.
58. Considering the above and the subject's explanations, the ruling of 24 April 2018 issued by the subject cannot be characterized as arbitrary under ethical criterion provided by article 11 para. (2) of Law No. 65/2023.
59. The subject's role in the *Cosovan* is to be distinguished from those of other evaluated subjects (*Svetlana Balmuş*, report of 4 April 2024, and *Oxana Robu*, Report of 25 March 2025). The last ones were members of the Court of Appeal panel that upheld the applicant's conviction and denied his release on 28 November 2018, based on different circumstances and legal grounds.

#### **B. Potential inexplicable wealth for 2013 and 2016**

60. Following a detailed analysis of the subject's financial situation and the explanations of the subject provided during two rounds of questions, the Commission established inexplicable wealth for two years: 2013 and 2016.
61. According to the calculations, the negative balance between income (incoming financial flows) and expenses (outgoing financial flows) for these years was,

respectively, -19,771 MDL and -4,201 MDL, resulting in a total of -23,972 MDL inexplicable wealth. Accordingly, the Commission did not request further explanations on this issue.

62. At the same time the Commission asked questions and analyzed, among others, the subjects' explanations concerning the cost of finishing works for the 41,6 sq.m. apartment on Hristo Botev Street. The subject purchased this apartment in 2015, while it was still under construction, and signed the takeover act in a "white-wall variant" on 27 July 2017. The Commission expressed doubts concerning the feasibility of completing necessary finishing works to make the apartment habitable by mid-September 2017 with only the identified expenditure of 20,056 MDL, particularly without the assistance of a professional team.
63. In response to the first of questions (Question 16 let. d)) and during the hearing, the subject stated that most of the finishing works were performed by himself with the help of his father, while the works themselves (such as leveling and painting walls, laying tiles on the floor) were carried out by a master from a neighboring village, a friend of the father. The subject said that he personally installed the laminate flooring, skirting boards, and moldings. As for the furniture, he explained it was simple and not complete when he moved in. He said he purchased a corridor wardrobe for 2,000 MDL from the "Calea Basarabiei" market, and a kitchen table with chairs for 4,000 MDL. He had no bed at first and slept instead on a mattress on the floor. As his father was mostly involved in the finishing works, the subject stated that he did not keep a record of the expenses incurred and could not quantify them.
64. During the hearing, the subject acknowledged that when he moved in mid-September 2017, the apartment was not finished entirely, and work was still going on.
65. In 2017, during the same period in which the subject said the finishing works took place, the subject incurred on his bank accounts expenses of 14,056 MDL at specialized construction stores.
66. The Commission could only reliably establish that the subject incurred a total expenditure of 20,056 MDL for making the apartment habitable. Although these expenses appear unlikely to make an apartment in "white-wall variant" habitable, the subject's explanations and his financial situation since 2017 reflects a positive balance that would cover more realistic costs for finishing works and furniture.

67. Consequently, even if the negative financial flows for 2013 and 2016 were treated as unjustified wealth, it would not exceed the threshold of 322,000 MDL under Article 11 para. (3) lit. a) of Law No. 65/2023.

### C. Potential tax irregularities

#### *Capital gains tax on the sale of the apartment on Eugen Coca Street in Chișinău*

68. In January 2008, the subject purchased a 27 sq.m. apartment on Eugen Coca Street in Chișinău for a contractual price of 121,504 MDL. At that time, he was a 19-year-old student. In September 2021, he sold this apartment for a contractual price of 331,923 MDL (16,000 EUR). Both the purchase and sale prices are consistent with the amounts reported in the subject's NIA declarations.
69. The subject did not file in 2021–2024 the fiscal form CET18 to declare and pay the capital gains tax.
70. When asked in the first round of questions (Question 18 let. f)) about the fiscal obligations related to this apartment, the subject explained that he purchased the apartment during his first year of university, without personal income, financially supported by his parents. The subject's father made the payment using funds originating from the work of the subject's mother, who had been employed abroad in Italy since 2003.
71. Although the acquisition of the apartment fell outside the evaluation period, the tax obligations occurred in the evaluation period. The subject sold the apartment in 2021 and both purchase and sale contracts were concluded by him.
72. The subject stated that the contractual price of 121,504 MDL reflected the cadastral value, as it was common practice at that time to record cadastral values. He said that the actual purchase price was 20,000 EUR. The subject explained that the apartment was in an old block with dormitory status (*cămin*), which is why he sold it in 2021 for a 16,000 EUR price.
73. According to the subject, no capital gains tax was due because no actual profit was obtained. To support the purchase price statement of 20,000 EUR, the subject submitted a handwritten receipt signed by the seller regarding the money received for the apartment sale on 24 January 2008.
74. The handwritten receipt did not contain the seller's personal identification data, apart from name, surname and patronymic. It was undated and did not specify who made the payment. Moreover, it did not indicate which specific apartment the payment concerned.

*Capital gains tax on the sale of the apartment on Hristo Botev Street in Chişinău*

75. The subject registered the ownership over the 41,6 sq.m. apartment on Hristo Botev Street on 1 August 2017 based on an investment contract concluded in 2015. The contractual purchase price was 297,117 MDL (15,120 EUR).
76. On 20 July 2021, the subject sold this apartment for a contractual price of 1,080,462 MDL (50,500 EUR). Both the purchase and sale prices are consistent with the amounts reported in the subject's NIA declarations.
77. According to PSA data (excerpt from the State Population Register), the subject registered this apartment as his domicile, i.e. primary residence, on 1 October 2019 although he acquired ownership in 2017.
78. Article 20 let. y<sup>3</sup>) of the Tax Code exempts from taxation the income obtained by individuals from the sale of their primary residence (*locuința de bază*), provided that the property was owned by the taxpayer and constituted his domicile for at least three years prior to the sale.
79. It appears that the requirement of three years of primary residence was not met for the application of the exemption on capital gains tax. The subject did not file in 2021–2024 the fiscal form CET18 to declare and pay the capital gains tax.
80. The subject explained in the first round of questions (Question 16) that the apartment was acquired at a preferential price, through the program for judges or staff of the Chişinău Court (Rîșcani District). In 2014 and 2015, as a judicial assistant at the Constitutional Court, he was eligible to purchase apartment at preferential price, which he did to improve his living conditions. He mentioned that he lived in the apartment for over three years and sold it only after the birth of his child.
81. The subject stated that no capital gains tax was due because the apartment was his primary residence and was sold after more than three years, in line with Article 40 para. (6) of the Tax Code.
82. To support his statements, the subject provided a document signed by the chair of the board of directors of the homeowners' association, dated 19 July 2021, certifying the subject's domicile in this apartment since August 2017.
83. When asked in the first round of questions (Question 17 let. d)) to indicate where he had lived during the evaluation period, the subject stated that he lived on Eugen Coca Street from 2013 to 2017 and on Hristo Botev Street from September 2017 to 2021.



84. In the second round of questions (Question 3), to confirm his residence on Hristo Botev Street apartment, the subject additionally presented:
- three photos of the Christmas tree set up in this apartment, taken on 24 December 2017, 24 December 2018 and 21 December 2019,
  - the natural gas supply contract signed on 15 November 2017,
  - a 200 EUR receipt for building maintenance issued by the construction company and dated 27 July 2017,
  - the invoice for the supply of internet equipment dated 2 April 2018,
  - the utility bills for water and electricity consumed in April and May 2021.

*Road use tax for the 2016 fiscal year*

85. The subject owned a Toyota Auris, m/y 2007, from January 2014 until July 2019. During the ownership period, the subject paid the road use tax for all years except 2016.
86. Under Article 340 of the Tax Code (in force at that time), the road-use tax had to be paid at the time of state registration, at the time of current registration if it had not yet been paid, or during the mandatory annual technical inspection if still unpaid. In practice, most vehicles owners pay the tax at the time of the annual technical inspection.
87. The missed payment appears to be due to the timing of technical inspections: one on 12 December 2015 and the next only on 14 January 2017, leaving 2016 without a trigger for payment. The unpaid tax was 818.40 MDL.

*Subject's explanations during the hearing*

88. The subject reiterated that his father called him to the notary to sign the 2008 contract for the purchase of the apartment on Eugen Coca Street, and that the contractual price corresponded to the property's cadastral value. He explained that, at the time, it was standard practice to record cadastral value in such contracts. As he was a student and did not hold public office, no one questioned this aspect. He requested only a receipt from the seller so that, if the contract were terminated, he would be reimbursed for the full purchase price paid.
89. The subject acknowledged at the hearing that now, as a legal professional, he does not think it is correct to state a value in a contract that differs from the actual price. He noted that his later transactions have reflected the actual value



that was declared to NIA. He also explained that, until 2021, the legal obligation was to declare the contractual value of the assets.

90. The subject agreed that if the handwritten receipt is not considered to confirm the actual price, then income tax should be paid on the capital gain.
91. Regarding the apartment on Hristo Botev Street and the fact that the co-owners' association confirmed facts which happened before the incorporation of this association (on 18 January 2019), the subject stated that when he sold the apartment in 2021, he asked the manager of the co-owners' association to certify the period during which he had lived there. In the subject's view, it is implausible that the manager would have misrepresented these facts. He is also convinced that, when the association was established, the manager received the older accounting documents confirming the subject's payments. He stated that he did not request those documents when he received the certificate in 2021.

*Commission's assessment*

92. The subject evidently did not declare or pay capital gains tax on the sales of the apartments on Eugen Coca and Hristo Botev Street and did not pay the 2016 road-use tax for his Toyota Auris. These omissions, assuming the subject owed the identified taxes, amount to total unpaid tax liability of 60,443 MDL.
93. Although the identified unpaid tax liability is below the threshold, the Commission analyzed whether the subject had any specific intention not to pay taxes owed, which would be an ethical integrity issue.
94. Under Article 40 para. (1) of the Tax Code, capital gains are the difference between the amount received (income obtained) and the value basis of these assets. Taxable income equals 50% of the capital gains, taxed at 12%.
95. Under Article 1 paras. (1) and (2) of the Annex the Ministry of Finance Order No. 40 of 6 February 2018, the value basis must be supported by official documents; additional proof of actual payment is acceptable only when the transaction value differs from the contractual price.
96. Based on the contractual amounts, the unpaid tax for the Eugen Coca apartment was 12,625 MDL. The handwritten receipt provided by the subject lacks essential identification details and it is unclear whether it could reliably establish the acquisition cost.
97. When consulted - based on a no name inquiry on comparable situations - the SFS did not unambiguously advise whether such a handwritten receipt could serve as evidence to determine the value basis of the asset.

98. Similarly, based on the contractual amounts, the unpaid tax for the Hristo Botev apartment was 47,000 MDL. Although the subject owned the apartment from 2017 and sold it in July 2021, his domicile at this address was officially registered only on 1 October 2019.
99. The provisions of Article 39 para. (1) of the Civil Code presume domicile to be the address recorded in the identity card and State Population Register held by PSA. These data showed the subject was domiciled at his parents' home until October 2019 and at Hristo Botev Street thereafter.
100. The subject argued that in line with para. (2) of the above-mentioned Article 39, he overturned the presumption that his domicile was that one recorded with the State Population Register, i.e. his parents' home until October 2019 and at Hristo Botev Street thereafter. He argued he lived on Hristo Botev Street since 2017 and submitted a homeowners' association certificate and various utility-related documents, as well as pictures with metadata indicating that on Christmas the subject's family was at Hristo Botev Street.
101. When consulted, the SFS noted only the general principles applicable in such cases: under Article 20 lit. y<sup>3</sup>) of the Tax Code, income from the sale of a primary residence is tax-exempt, and Articles 92 and 97 of Government Decision No. 125/2013 provide that an individual may have only one domicile, with the legally valid one being the most recently registered in identity documents and in the State Population Register.
102. The evidence and circumstances of this case suggest that the subject did not intend to evade taxes. In fact, it remains unclear whether his case would present tax irregularities amounting to 60,443 MDL. As noted, these amounts do not exceed the threshold of 80,500 MDL provided by Article 11 para. (3) lit. b) of Law No. 65/2023. Under the circumstances, the Commission does not find that the potential non-payment presents ethical issues under Article 11 para. (2).

## **VI. Conclusion**

103. 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**

104. 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.

105. 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.
106. 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.
107. This evaluation report was approved by unanimous vote of the participating members on 2 November 2025 and signed pursuant to Article 8 para. (1) and (2) of Law No. 65/2023.
108. Done in English and Romanian.

Andrei Bivol

Chairperson