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EVALUATION REPORT

approved according to Article 40

of the Rules of Organization and Functioning

CONSTANTIN DAMASCHIN

Interim Vice President of the Chișinău first level Court

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

25 November 2025

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Evaluation Panel D 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 4 November 2025 and approved the following report on 25 November 2025. The members participating in the approval of the report were:

1. Scott BALES
2. Lilian ENCIU
3. Iurie GAȚCAN

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. Constantin Damaschin (hereinafter the “subject”), Interim Vice President of the Chișinău first level Court.
2. The Commission conducted its evaluation pursuant to Law No. 252/2023 and the Commission’s Rules of Organization and Functioning (hereinafter “Rules”).
3. The Commission concluded that the subject meets the criteria identified in Law No. 252/2023.

II. Subject of the Evaluation

4. Since 2021, the subject has served as the Interim Vice President of the Chișinău first level Court, Ciocana office.
5. Between 2010 and 2021, the subject was an investigative judge at the Chișinău first level Court, initially at the Botanica Office, and since 2019, at the Ciocana office.
6. Between 2005 to 2010, the subject was a judge at the Chișinău first level Court, Botanica office.
7. Between 2003 and 2005, the subject was a prosecutor, and between 1997-2003, he was an interim assistant prosecutor, in Ialoveni.
8. The subject received a bachelor’s degree in law in 1997 from the Moldova State University.

III. Evaluation Criteria

9. Under Article 11 para. (1) of Law No. 252/2023, the Commission evaluates the subject's ethical and financial integrity.
10. Under Article 11 para. (2), a subject:

"[...] does not meet ethical integrity requirements if the Evaluation Commission has determined that:

 - a) in the last 5 years, he/she seriously violated the rules of ethics and professional conduct of judges, or, as the case may be, prosecutors, as well as if they acted arbitrarily or issued arbitrary acts, over the last 10 years, contrary to the imperative rules of the law, and the European Court of Human Rights had established, before the adoption of the act, that a similar decision was contrary to the European Convention on Human Rights;
 - b) in the last 10 years, has admitted in his/her work incompatibilities and conflicts of interest that affect the office held."
11. Under Article 11 para. (3), a subject:

"[...] does not meet the criterion for financial integrity if the Evaluation Commission has serious doubts determined by the fact that:

 - a) the difference between assets, expenses and income for the last 12 years exceeds 20 average salaries per economy, in the amount set by the Government for the year 2023;
 - b) in the last 10 years, admitted tax irregularities as a result of which the amount of unpaid tax exceeded, in total, 5 average salaries per economy, in the amount set by the Government for the year 2023."
12. 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.

13. The average salary per economy for 2023 was 11,700 MDL. Thus, the threshold of 20 average salaries is 234,000 MDL, and the threshold of five average salaries is 58,500 MDL.
14. Article 11 para. (4) of Law No. 252/2023 allows the Commission to verify various things in evaluating the subject's financial integrity, including payment of taxes, compliance with the legal regime for declaring assets and personal interests, and the origins of the subject's wealth.
15. In evaluating the subject's financial integrity, Article 11 para. (5) of Law No. 252/2023 directs the Commission also to consider the wealth, expenses, and income of close persons, as defined in Law No. 133/2016 on the declaration of wealth and personal interests, as well as of persons referred to in Article 33 paras. (4) and (5) of Law No. 132/2016 on the National Integrity Authority.
16. 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.
17. According to Article 11 para. (2) of Law No. 252/2023 a subject shall be deemed not to meet the ethical integrity criterion if the Commission has determined the existence of the situations provided for by that paragraph. Under Article 11 para. (3) of Law No. 252/2023, the Commission determines that a subject does not meet the financial integrity criterion if it establishes serious doubts determined by the facts considered breaches of the evaluation criteria. The Commission cannot apply the term "serious doubts" without considering the accompanying phrase "determined by the fact that". This phrase suggests that the Commission must identify as a "fact" that the specified conduct has occurred.
18. Regarding the standard of "serious doubts" in the context of the vetting exercise, the Constitutional Court noted concerning its previous decisions that the definition of standards of proof inevitably involves using flexible texts. The Court also said that the Superior Council of Magistracy can only decide not to promote a subject if the report examined contains "confirming evidence" regarding the non-compliance with the integrity criteria. The word "confirms" suggests a certainty that the subject does not meet the legal criteria. Thus, comparing the wording "serious doubts" with the text "confirming evidence", the Court considered that the former implies a high probability without rising to the level of certainty (Constitutional Court Judgement No. 2 of 16 January 2025, §§ 99, 101).

19. Once the Commission establishes substantiated doubts regarding particular facts that could lead to failure of evaluation, the subject will be given the opportunity to oppose those findings and to submit arguments in defense, as provided by Article 16 para. (1) of Law No. 252/2023. After weighing all the evidence and information gathered during the proceedings, the Commission makes its determination.

IV. Evaluation Procedure

20. On 15 April 2025, the Commission received from the Superior Council of Magistracy, under Article 12 para. (1) of Law No. 252/2023, the list of judges who have exercised the office of President and/or Vice-President of the Judges, including those who have interim these positions for a term of more than one year. The information included the subject as a vice president of the Chişinău first level Court.
21. On 2 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. 252/2023 within 20 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 20 May 2025.
22. On 30 May 2025, the Commission notified the subject that his evaluation file had been randomly assigned to Panel B with members Scott Bales, Lilian Enciu and Iurie Gaţcan. He was also informed that subjects may request, in writing and at the earliest possible time, the recusal of members from their evaluation.
23. On 20 August 2025, the Commission notified the subject that the evaluation panel composed of members Scott Bales, Lilian Enciu, and Iurie Gaţcan has been renamed Panel D.
24. Because the law sets different evaluation periods for the ethical and financial integrity criteria cited above, the Commission evaluated compliance with these criteria over the past five, ten and 12 years. Due to the end-of-the-year availability of the tax declarations and declarations on wealth and personal interests, the financial criteria evaluation period included 2013-2024 and 2015-2024. The evaluation period for the ethical criterion includes the past five or ten years calculated backward from the date of the notification.
25. 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 four years of the evaluation period.

26. The Commission sought and obtained information from numerous sources. No source advised the Commission of later developments or any corrections regarding the information provided.
27. 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 (in Romanian: *Casa Națională de Asigurări Sociale*, hence hereinafter – "CNAS"), the General Inspectorate of Border Police, banks (EuroCreditBank JSC, Eximbank JSC, Moldinconbank JSC, MAIB JSC, Victoriabank JSC, OTP Bank JSC, Banca de Economii JSC), Office for Prevention and Fight Against Money Laundering (in Romanian: *Serviciul Prevenirea și Combaterea Spălării Banilor*, hence hereinafter – "SPCSB"), 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. One petition was received from an individual. This was included in the evaluation file. All information received was carefully screened for accuracy and relevance.
28. On 22 July 2025, the Commission asked the subject to provide additional information by 31 July 2025 to clarify certain matters (hereinafter the "first round of questions"). The subject provided answers and documents within the deadline.
29. On 26 September 2025, the Commission asked the subject to provide additional information by 5 October 2025 to clarify certain matters (hereinafter the "second round of questions"). The subject provided answers and documents within the deadline.
30. On 10 October 2025, the Commission asked the subject to provide additional information by 17 October 2025 to clarify certain matters (hereinafter the "third round of questions"). The subject provided answers and documents within the deadline.

31. On 24 October 2024, the Commission notified the subject that it had preliminarily established a non-compliance with the ethical integrity criterion and invited him to attend a public hearing on 4 November 2025. The subject was also informed that the evaluation report may refer to other issues considered during the evaluation.
32. As provided in Article 39 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.
33. On 3 November 2025, the subject submitted additional information and documents. The Commission included them in the evaluation file and considered them in its analysis.
34. On 4 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

35. This section discusses the relevant facts and reasons for the Commission's conclusion.
36. 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. potential difference between the assets, expenses, and income (hereinafter "unjustified or inexplicable wealth") for 2013, 2014, 2016 and 2018;
 - b. potential non-compliance with the conflict-of-interest regime;
 - c. involvement in three cases examined by the European Court on Human Rights.

A. Potential difference between the assets, expenses, and income (hereinafter "unjustified or inexplicable wealth") for 2013, 2014, 2016 and 2018

37. In its analysis of the subject's household income and expenses, the Commission identified a potential difference between the incoming and outgoing financial flows (negative balance) for 2013 (-42,198 MDL), 2014 (-7,009 MDL), 2016 (-27,516 MDL), and 2018 (-16,312 MDL).

38. In its analysis of the subject's household income and expenses, the Commission, analyzed among others the following matters: a 40,000 EUR loan received from V.V. on 27 March 2016, the purchase of two vehicles at possibly undervalued prices, and the subject's challenges to the Consumption Expenditure per Population.

The 40,000 EUR loan received from V.V.

39. On 27 March 2016, the subject took a 40,000 EUR loan from V.V., for ten years. The loan agreement allowed for early repayment, which had to be documented in writing. A debt verification report of 2 May 2025, signed by both parties, showed an outstanding balance of 7,000 EUR, to be reimbursed by the contractual due date. The subject declared the loan in all his annual NIA declarations.
40. In the first round of questions, the subject explained that the loan was for the purchase of an apartment. He stated that he has known V.V. for a long time and they are originally from the same locality and share mutual acquaintances and friends. Since V.V. is a businessman, the subject asked him for advice on taking out a bank loan. V.V. offered to lend the amount, interest-free, because he had sufficient funds available and the amount was not significant for him.
41. The subject explained that the ten-year repayment term was determined based on his financial capacity. The loan contract was drafted by V.V.'s accountant who was present when the cash was handed over.
42. On 3 May 2017, the subject registered ownership rights over an apartment for 40,000 EUR, as stated in the sale-purchase contract.
43. Regarding the time gap between receiving the loan and purchasing the apartment, the subject explained that he had initially identified a property in 2016 but did not purchase it after reviewing the conditions. He continued searching for another apartment and retained the funds to have them available once he found a suitable option.
44. Regarding V.V.'s financial capacity, the subject stated that, based on the information provided, V.V. is the founder of E.-C. LLC, a company specialized in vine planting material and recognized as the largest producer in the country.
45. At the Commission's request, V.V. provided written explanations and supporting documents. He confirmed the authenticity of the loan contract and his relationship with the subject. He noted that 40,000 EUR was not a

substantial amount for him, considering his income and available funds. He explained that he received dividends from his company and bank interest in 2016, and that he often provided loans to friends and acquaintances. V.V. also mentioned that another individual reimbursed him for a 20,000 EUR loan in 2016, and that he generally keeps 100,000–150,000 EUR available for various transactions.

46. According to SFS information, V.V. had a net income of 4,156,578 MDL in 2016, the year he made the loan, and a net income of 5,725,338 MDL in 2015. In addition to the information provided by the SFS, V.V. provided the following documents:

- a. a 2012 fiscal amnesty declaration confirming holdings of approximately 25 million MDL, verified by the SFS;
- b. bank statements from 2012 showing several deposit accounts totaling approximately 400,000 EUR;
- c. bank certificates confirming multiple deposit accounts in MDL and EUR with substantial balances;
- d. documents confirming dividend payments from E.-C. LLC for the years 2016 (4,329,787.23 MDL) and 2017.
- e. several loan contracts with different individuals.

47. V.V.'s fiscal information demonstrates his financial capacity to provide the loan in question. Furthermore, the debt verification report confirms that 33,000 EUR had been repaid by May 2025. Additionally, the subject declared the loan in his annual asset declarations submitted to the NIA. Finally, he purchased an apartment for 40,000 EUR, in which he has lived since, confirming the stated purpose of the loan. Based on this information, the Commission had no doubts about the 40,000 EUR loan and accepted it as an incoming financial flow.

The purchase of two vehicles at possibly deflated prices

Renault Megane (m/y 2012)

48. The subject purchased a Renault Megane (m/y 2012) on 24 December 2016 for 30,000 MDL and sold it on 2 July 2018 for the same amount, according to his 2016 and 2018 annual NIA declarations.

49. According to the Customs Service, a private individual imported this vehicle on 3 March 2015. The total import value was 134,776 MDL, including additional taxes.

50. In the first round of questions, the subject stated that the purchase and sale prices were probably the amounts indicated in his NIA declarations. He found the vehicle on the 999.md website; it was in good technical condition and had only minor cosmetic repairs.
51. Regarding the discrepancy between the 2015 import value and the 2016 purchase price, the subject explained that the price reflected market conditions and the seller's particular circumstances, not any irregularity. The customs value represents only the value at the time of import and does not necessarily correspond to the market value at the time of subsequent sale.
52. The Commission notes that the vehicle was imported for a total value of 134,776 MDL. Twenty-two months later, the subject allegedly purchased the vehicle for 30,000 MDL and subsequently sold it 18 months later for the same amount.
53. On 30 March 2017 (three months after the declared acquisition), the vehicle passed a technical inspection with no identified deficiencies and a mileage reading of 164,151 km. Therefore, it is unclear why the vehicle's value decreased by approximately 78% (from 134,776 MDL to 30,000 MDL) within the first 22 months yet did not depreciate further within the subsequent 18 months between purchase and sale.
54. Currently, vehicles of the same model and year with a mileage exceeding 300,000 km are listed for sale at prices ranging from 4,000 EUR to 6,000 EUR, suggesting that the declared amounts may not have reflected the actual market value.
55. The Commission maintains its doubts regarding the actual purchase price of the Renault Megane. At the same time, twenty-two months elapsed between the vehicle's import and its purchase by the subject, during which time some depreciation may have occurred.
56. Consequently, while the Commission has doubts about the actual purchase and sale prices, it considers 30,000 MDL as the reference price for both transactions in the absence of any directly verifiable value, such as a resale valuation, insurance contract, or other supporting evidence.
57. Furthermore, even if the Commission were to include the import value of 134,746 MDL as the purchase price in December 2016, this would not result in estimated inexplicable wealth above the threshold of 20 average salaries (234,000 MDL), as required by Article 11, para. (3), lit. a) of Law No. 252/2023 to establish a lack of the subject's financial integrity.

Hyundai Grand Santa Fe (m/y 2013)

58. On 28 July 2018, based on a sale–purchase contract, the subject purchased a Hyundai Grand Santa Fe (m/y 2013) for 200,000 MDL. Six years later, in 2024, he sold the vehicle for 300,000 MDL. The subject declared the same amounts in his 2018 and 2024 annual NIA declarations.
59. According to the Customs Service, a legal entity imported this vehicle, together with two other Hyundai Grand Santa Fe units of the same model year and identical specifications, on 4 September 2017. Customs declarations indicate import values (including taxes) ranging from 350,116 MDL to 406,723 MDL.
60. In reply to the Commission’s questions regarding the price discrepancy, the subject stated that the declared purchase and sale prices were accurate. He indicated that the vehicle had been imported from South Korea and might have been flood damaged, which discouraged potential buyers. After several unsuccessful attempts to sell the vehicle, the seller accepted his offer of 200,000 MDL.
61. The subject reported moderate use of the car, approximately 15,000 kilometers per year, and stated that it remained in good technical condition, requiring only professional interior cleaning and no major repairs. He maintained that the resale price was consistent with market conditions in 2024.
62. The subject further argued that the customs value represents the declared import value, which may differ from the actual market value. He explained that such differences may result from factors such as the car’s technical condition, history, or general market fluctuations. Although similar vehicles were sold for 20–30% more at the time, he considered the alleged “flood history” and South Korean origin as factors that could have justified the lower price.
63. The Commission notes, however, a significant inconsistency between the declared purchase price of 200,000 MDL and the import value of at least 350,000 MDL. The resale price of 300,000 MDL further undermines the plausibility of the declared acquisition cost. Such a discrepancy could indicate underreporting of the purchase price or unreported repairs. In other cases, the Commission accepted a lower purchase price after the subject submitted evidence of major repair expenses (*Elena Grumeza Report*, §§ 53–59).

64. In this case, the technical inspection and PSA report realized at the time of purchase revealed no visible exterior damage, suggesting that the vehicle was in good condition. The odometer reading of 68,700 km further suggests that the car was not excessively used prior to acquisition.
65. According to market data from the public marketplace 999.md, comparable vehicles (Hyundai Grand Santa Fe, m/y 2013) are listed at prices ranging from 13,500 EUR (approximately 263,520 MDL) to 19,999 EUR (approximately 390,380 MDL).
66. These findings call into question the plausibility of the subject's claim that market rumors about potential flood damage could justify such a significant reduction in the purchase price. While proper maintenance and normal market fluctuations could explain moderate depreciation, the asset's value appreciated by 50% in this case. This appreciation suggests that the declared purchase price was undervalued. Furthermore, the resale price aligns more closely with the import valuation, which reinforces this conclusion.
67. In the absence of credible economic justification for the low purchase price, the Commission concludes that the declared amount of 200,000 MDL does not reflect the actual transaction value. Accordingly, for the purpose of the financial analysis, the Commission used the resale price of 300,000 MDL in 2024 as a reasonable proxy for the vehicle's actual purchase price in 2018

Consumption expenditure per population (hereinafter "the CEP")

68. In the third round of questions, the subject contested the amount of the CEP, providing alternative calculations. He noted that his parents covered part of the fees for his son's English courses. He also mentioned that the expenses for extracurricular activities and leisure were estimated. Finally, he noted that his parents provided him with products mentioning that he could not provide supporting documents.
69. The Commission analyzed the subject's calculations and observed that he did not make a distinction between urban and rural areas, which may explain the difference in the amounts. Upon further review, the Commission identified minor discrepancies in the subject's CEP calculations. After correction, the final adjusted amounts are as follows: 2013 (-73,584 MDL), 2014 (-76,464 MDL), 2016 (-86,940 MDL), and 2018 (-98,964 MDL).
70. Regarding the claim that some of the expenses were estimates and some were covered by the parents, in the absence of any supporting documents, the Commission maintains the amounts declared by the subject during the earlier rounds of questioning.

71. Based on the findings in §§ 39–70 and the subsequent adjusted calculations, the Commission identified discrepancies between the incoming and outgoing financial flows (negative balances) for the following years: 2013 (-42,198 MDL), 2014 (-7,009 MDL), 2016 (-27,516 MDL), and 2018 (-16,312 MDL), resulting in a total negative balance of -93,035 MDL.
72. Even if this negative balance were to be treated as inexplicable wealth, it would not exceed the threshold of 234,000 MDL, as provided under Article 11 para. (3) lit. a) of Law No. 252/2023.

B. Potential non-compliance with the conflict-of-interest regime

73. In a petition dated 19 July 2024 to the Judicial Inspection, D.Z. alleged that the subject admitted a conflict of interest when he examined two criminal cases against A.T., an individual who allegedly defrauded the petitioner.
74. The petitioner claimed that A.T. is a friend and business partner of A.D., the subject's nephew (*nepot*), who allegedly influenced the subject to rule in A.T.'s favor. The petitioner claimed that the subject should have declared a recusal in the two cases.
75. The petitioner submitted materials from the criminal case to the Commission, as well as several audio recordings in which an individual, who, according to the petitioner, is A.D., acknowledges that the subject is his father's cousin and, therefore, his uncle.
76. The Commission requested information from A.D. and A.T., and it asked the PSA to confirm or deny whether the subject is related to A.D., providing their identification details.
77. The subject denied having such a relative. In written statements submitted prior to the hearing, the subject stated that his father was an only child, which would make the alleged family relationship impossible.
78. A.D. likewise denied knowing the subject or having any family relationship with him. A.T. denied being aware of any connection between A.D. and the subject.
79. On 29 October 2025, the PSA informed the Commission that it had found no evidence of any kinship or affinity between the subject and A.D.
80. Based on the PSA's confirmation that there is no family relationship between the subject and A.D., and in the absence of other evidence suggesting a potential conflict of interest, no further enquiry was made to this end.

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

81. According to the Government Agent, the subject was involved in three cases which led to the finding of a violation by the European Court of Human Rights (hereinafter "the ECtHR"):

- *Vasiliciuc v. Republic of Moldova* (No. 15944/11, 2 May 2017);
- *Mîțu v. Republic of Moldova* (No. 23524/14, 30 June 2020);
- *Eșanu v. Republic of Moldova* (No. 15230/18, 31 January 2023).

82. Under Article 11 para. (2) lit. a) of Law No. 252/2023, a subject does not meet the criterion of ethical integrity if the Commission determined that he or she issued arbitrary acts, over the last 10 years, contrary to the imperative rules of the law, and the ECtHR had established, before the adoption of the act, that a similar decision was contrary to the Convention.

83. By judgment No. 2 of 16 January 2025, the Constitutional Court declared the provision as being constitutional. It stated that according to this provision, to determine the arbitrariness of an act issued by a subject, the Evaluation Commission must establish that two cumulative conditions are met. The first condition is that the act in question is contrary to imperative rules of law. The second condition is that, prior to the adoption of the act, the ECtHR had found a similar decision to be contrary to the European Convention on Human Rights.

84. The Constitutional Court also noted that, in order to clarify the meaning of the concept of arbitrary acts, the addressees of the law may take into account, among others, the meaning attributed to this concept by the ECtHR.

85. Thus, for example, in *Bochan v. Ukraine* (No. 2), 5 February 2015, § 62, the ECtHR stated that a judicial decision is arbitrary if, in essence, it has no legal basis in domestic law and does not establish any connection between the facts of the dispute, the applicable law and the outcome of the proceedings. The ECtHR considers such a decision to be a "denial of justice".

86. Furthermore, in *Ballıktaş Bingöllü v. Turkey*, 22 June 2021, § 75, the ECtHR stated that a "manifest error" may be considered to have been committed by a judicial decision if the court has committed an error of law or of fact that no reasonable court could ever have made, and which may disturb the fairness of the proceedings.

87. The Commission notes, in line with the first condition listed by the Constitutional Court, that along with the provisions of the national laws, the

Convention and the ECtHR case-law may establish imperative rules for purposes of Article 11 para. (2) lit. a) of Law No. 252/2023. Article 4 of the Constitution provides that wherever disagreements appear between the international conventions and treaties on fundamental human rights to which the Republic of Moldova is a party and its domestic laws, priority shall be given to international regulations. In addition, in this analysis, the Commission considers the ECtHR's interpretation of arbitrary acts, as is detailed in the above paragraph.

88. In two cases, the subject issued decisions outside the 10-year period (19 June 2009 and 18 September 2010 in *Vasilciuc* and 8 October 2013 in *Mîțu*) and therefore were not considered by the Commission.
89. The Commission further analyzed the involvement of the subject in the Eșanu case applying the criteria under Article 11 para. (2) lit. a) of Law No. 252/2023.

Eșanu v. Republic of Moldova (No. 15230/18 of 31 January 2023)

90. The case concerns the applicant's pre-trial detention for 22 months without relevant and sufficient reasons. The ECtHR found violations of Article 5 §§ 3 and 4 of the Convention.
91. The subject participated as an investigative judge that prolonged the pre-trial detention of the applicant for twenty days on 9 January 2019.

Facts concerning national proceedings

92. In 2014, a criminal investigation for money laundering was opened against the applicant and his company. He was accused of tax evasion through fictitious or overstated scrap metal transactions. The alleged proceeds were used to purchase vehicles and real estate, forming the basis for the money laundering charge.
93. In August 2017, an investigative judge ordered the applicant's remand in prison, citing risks of influencing witnesses, tampering with evidence, absconding, and continuing criminal activity. In November 2017, part of the case was severed and sent to trial.
94. The applicant was detained from August 2017 to June 2019 under separate proceedings, that were either severed from or initiated after the initial case. Each time he was released, he was immediately re-arrested at the prison gate on the basis of new or related charges. This resulted in his being deprived of his liberty nearly without interruption for almost two years.

95. By 2020, all charges in all cases had been discontinued or resulted in acquittals. Domestic courts found the investigations unlawful, as they were based on annulled administrative acts.

The ECtHR findings

96. The Court held that the domestic courts failed to provide adequate justification for the applicant's prolonged detention. It also noted that the reasons given by them were stereotyped and abstract, with no attempt to explain how they applied to the applicant's individual circumstances (§ 24 of the judgment).
97. The Court also criticized the artificial separation of the original case into parallel proceedings, a maneuver that appeared designed to circumvent the constitutional time limits for pre-trial detention. Such conduct was found to be incompatible with the requirements of Article 5 of the Convention.

The subject's explanation

98. The subject confirmed issuing the ruling of 9 January 2019, extending the applicant's pre-trial detention for 20 days, although the prosecutor had requested 30 days.
99. He stated that he considered ECtHR standards on pre-trial detention and found the prosecutor's arguments relevant, well-founded, and supported by evidence. The applicant's release was deemed to pose a real risk of influencing witnesses, destroying evidence, or hindering the investigation.
100. The decision also considered the seriousness of the offences against the state's economic security and the high degree of social danger. The extension was therefore based on relevant and sufficient reasons.
101. The prosecutors' motions on preventive measures were successively assigned to different judges at the Ciocana seat of the Chişinău Court, which created objective difficulties in ensuring consistency and coherence, as each judge lacked full knowledge of the previous findings and evidence. This situation was remedied in February 2019 through an amendment to the Regulation on the random allocation of cases, providing that cases concerning judicial control of criminal investigation must be assigned and examined by the same judge.
102. Finally, the subject indicated that the judges involved in this case had been examined in disciplinary proceedings, and that the Disciplinary Board discontinued disciplinary proceedings (*încetat procedura disciplinară*) on the grounds that no disciplinary offence had been established.

The Commission's analysis

103. The Commission notes that the subject's decision of 9 January 2019 falls within the 10-year period, and that the ECtHR found a violation of Article 5 §§ 3 and 4, including in relation to the subject's decision to prolong the applicant's pre-trial detention.
104. There existed an extensive case law of the ECtHR on the same legal matter, including against the Republic of Moldova. See among others: *Becciev v. Moldova*, (No. 9190/03, §§ 53-64), *Sarban v. Moldova*, (No. 3456/05, §§ 95-104), *Castravet v. Moldova* (No. 23393/05, §§ 29-36). In all these cases, the ECtHR found a violation of Article 5 § 3 because the decision to order the applicants remand in prison was not based on relevant and sufficient reasons.
105. Article 176 of the Criminal Procedure Code, as well as the Supreme Court of Justice explanatory decision of No. 1 of 15 April 2013, provided clear and imperative norms concerning the conditions for applying pre-trial detention.
106. Moreover, Article 176 stipulated that preventive measures may only be applied when there are sufficient reasonable grounds, supported by evidence, to believe that the suspect, accused, or defendant might evade the prosecutor or court; pressure witnesses; destroy or damage evidence; otherwise obstruct the establishment of the truth in the proceedings; commit further offenses; or cause public disorder upon release. The Supreme Court of Justice emphasized that Article 176 para. (1) must be interpreted in light of ECtHR case law.
107. The Commission accepts the implication in the ECtHR ruling that the subject did not sufficiently identify the evidence he relied upon in concluding the risks justified detention and that the reasons given were stereotyped and abstract. The Commission, however, does not find that the subject's actions were without a legal or factual basis or that he committed an error of law or fact that no reasonable court ever have made.
108. The subject issued a six-page decision that reflected his recognition of the applicable legal principles under Moldovan law and the ECHR and his consideration of the arguments by both the prosecutor and the defendant. The subject did not simply adopt the prosecutor's arguments, but instead accepted only one rationale for detention (the risk that the defendant would interfere with the on-going investigation). The subject's decision noted the reasons identified by the prosecutor to support this risk, concluded no alternatives to detention would achieve its goal, and reflected attention to

the principle of proportionality by ordering only 20 days detention rather than the 30 days requested by the prosecutor.

109. Moreover, the subject's situation differs from that of the other judges involved in the examination of the same case. Those judges issued several decisions showing no individual assessment, reflecting formalistic reasoning. In contrast, the subject's decision demonstrates an attempt, albeit an inadequate one, to conduct an individual analysis.
110. Although the decision is contrary to ECtHR standards and imperative legal provisions, in the circumstances of this case, it appears to reflect a decisional error rather than an arbitrary act under Article 11, para. (2), lit. a), of Law No. 252/2023. Furthermore, the Commission notes that even if the subject's decision were to be considered arbitrary, non-promotion would not be proportionate based on this finding alone.

VI. Conclusion

111. Based on the information it obtained and the subject's explanations, the Commission proposes that the subject promotes the external evaluation made according to the criteria set in Article 11 of Law No. 252/2023.

VII. Further action and publication

112. As provided in Article 40 para. (4) of the Rules, this evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy. The Commission will publish the evaluation's result on its official website on the same day.
113. No later than three days after the approval, a printed paper copy of the electronically signed report, will be submitted to the Superior Council of Magistracy, along with the original electronic copy of the evaluation file containing all the evaluation materials gathered by the Commission.
114. 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.
115. This evaluation report was approved by a unanimous vote of the Panel members on 25 November 2025 and signed pursuant to Articles 33 para. (7) and 40 para. (5) of the Rules.

116. Done in English and Romanian.

Scott Bales

Chair of Panel B