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## **DECISION**

adopted according to Article 31  
of the Rules of Organization and Functioning

### **DENIS LESNIC**

candidate for the Selection and Evaluation Board for Judges  
subject of evaluation under Article 2 para. (1) Law No. 26/2022

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**9 December 2025**

(Reviewed under Article 31 para. (5) of Commission's Rules, to correct certain  
technical, grammatical and spelling mistakes)

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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. 26/2022 on Measures Related to the Selection of Candidates for the Positions of Members in the Self-Administration Bodies of Judges and Prosecutors (hereinafter “Law No. 26/2022”) deliberated on the matter on 15 September 2025 and adopted the following decision on 9 December 2025. The members participating in the adoption of the decision were:

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

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

## **I. Introduction**

1. This decision concerns Mr. Denis Lesnic, a candidate for the position of member of the Selection and Evaluation Board for Judges (hereinafter the “candidate”).
2. The Commission conducted its evaluation pursuant to Law No. 26/2022 and the Commission’s Rules of Organization and Functioning (hereinafter the “Rules”).
3. The Commission concluded that the candidate fails the evaluation because it found serious doubts as to the candidate’s compliance with the criterion for financial integrity identified in Law No. 26/2022.

## **II. Subject of the Evaluation**

4. The candidate has been an attorney-at-law since 2011.
5. From August 2009 until March 2010, the candidate served in the bailiff’s offices for the Ciocana and Rîșcani districts in Chișinău. Between 2007 and 2009, he worked as an in-house lawyer with a company dealing with engineering construction.

6. The candidate received a bachelor's degree in law in 2007 from the Moldova State University. In 2008, the candidate received a master's degree in law from the same university.

### III. Evaluation Criteria

7. Under Article 8 para. (2) of Law No. 26/2022:

“(2) The candidate shall be deemed to meet the criterion of ethical integrity if:

- a) he/she has not seriously violated the rules of ethics and professional conduct of judges, prosecutors or, where applicable, other professions, and has not committed, in his/her activity, any wrongful actions or inactions, which would be inexplicable from the point of view of a legal professional and an impartial observer;
  - b) there are no reasonable suspicions that the candidate has committed corruption acts, acts related to corruption or corruptible acts, within the meaning of the Law on Integrity No. 82/2017;
  - c) has not violated the legal regime of declaring personal assets and interests, conflicts of interest, incompatibilities, restrictions and/or limitations.”
8. The applicable rules of ethics and professional conduct for attorneys-at-law in the relevant period were regulated by the:
  - a. Law No. 1260/2002 on Attorney Activity;
  - b. Statute of the attorney-at-law profession in the Republic of Moldova, adopted by the Lawyer's Union on 29 January 2011;
  - c. Code of Ethics for Lawyers of the Republic of Moldova, adopted by the Congress of Lawyers on 20 December 2002, with amendments and additions adopted by the Lawyers' Congress on 23 March 2007 and 1 July 2016.

9. Under Article 8 para. (4) of Law No. 26/2022:

“A candidate shall be deemed to meet the criterion of financial integrity if:

- a) the candidate's assets have been declared in the manner established by law;
  - b) the Evaluation Commission finds that his/her wealth acquired in the past 15 years corresponds to the declared revenues.”
10. Article 8 para. (5) of Law No. 26/2022 allows the Commission to verify various aspects in evaluating the candidate's financial integrity, including payment of taxes, compliance with the legal regime for declaring assets and personal interests and the origins of the candidate's wealth.

11. In evaluating the candidates' integrity, Article 2 para. (2) of Law No. 26/2022 directs the Commission also to consider the wealth of their close persons, as defined in Law No. 133/2016 on declaration of assets and personal interests, as well as of the persons referred to in art. 33 para. (4) and (5) of Law No. 132/2016 on the National Integrity Authority.
12. Under Article 10 para. (9) of Law No. 26/2022, the Commission shall assess the gathered materials using its own judgement, formed as a result of a multifaceted, comprehensive, and objective review of the information. None of the submitted materials has a predetermined probative value without being assessed by the Commission.
13. According to Article 13 para. (5) of Law No. 26/2022:

"A candidate shall be deemed not to meet the integrity criteria if serious doubts have been found as to the candidate's compliance with the requirements laid down in Article 8, which have not been mitigated by the evaluated person."

14. Regarding the standard of "serious doubts" in the context of pre-vetting evaluation, the Constitutional Court noted that the definition of standards of proof inevitably involves using flexible texts. In this case, the standard of proof established by the legislature is intended to guide the Commission in assessing the evaluation results. The Commission is required to issue a reasoned decision that includes the relevant facts, reasons, and the Commission's conclusion on whether a candidate shall pass the evaluation. In addition, the law allows the candidate to challenge the existence of serious doubts about compliance with the criteria of ethical and financial integrity before the special panel of the Supreme Court of Justice (Constitutional Court Decision No. 42 of 6 April 2023, §§ 134, 135).
15. In this context, the Venice Commission underlined that in a system of prior integrity checks, the decision not to recruit a candidate can be justified in case of mere doubt, based on a risk assessment (Opinion no. 1064/2021 of 20 June 2022, CDL-AD(2022)011-e, §§ 9, 10).

#### **IV. Evaluation Procedure**

16. On 12 March 2025, the Commission received the information from the Superior Council of Magistracy pursuant to Article 9 para. (1) of Law No. 26/2022. The information included the candidate's application for the Selection and Evaluation Board for Judges.

17. On 2 May 2025, the Commission notified the candidate of the evaluation and asked him to submit, within seven days, the declaration of assets and personal interests for the past five years, as required by Article 9 para. (2) of Law No. 26/2022 (hereinafter, these declarations are referred to together as the “five-year declaration”). This declaration also included the list of close persons in the judiciary, prosecution, and public service. The candidate was also invited to submit a voluntary ethics questionnaire. The candidate returned the completed five-year declaration and the ethics questionnaire to the Commission on 8 May 2025.
18. The Commission evaluated the candidate's compliance with the financial criterion established in Article 8 para. (4) lit. b) for the last 15 years. The evaluation period for this criterion, due to the end-of-year availability of the tax declarations and declarations on wealth and personal interests, included 2010-2024.
19. In the last 15 years of the evaluation period, the candidate was not obliged to submit annual declarations under either Law No. 133/2016 on the Declaration of Wealth and Personal Interests or under the previous 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.
20. The Commission sought and obtained information from numerous sources. No source advised the Commission of later developments or any corrections regarding the information provided.
21. The sources asked to provide information on the candidate 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 (Energbank JSC, Eximbank JSC, Moldinconbank JSC, MAIB JSC, Victoriabank JSC, Banca de Economii JSC, Unibank JSC), the 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.

22. On 27 June 2025, the Commission asked the candidate to provide additional information by 6 July 2025 to clarify certain matters (hereinafter the “first round of questions”). The candidate provided answers and documents within the deadline.
23. On 8 August 2025, the Commission asked the candidate to provide additional information by 17 August 2025 to clarify certain matters (hereinafter the “second round of questions”). The candidate provided answers and documents within the deadline.
24. On 5 September 2025, the Commission notified the candidate that, based on the information collected and reviewed, it had found some areas of doubt about the candidate’s compliance with the ethical and financial criteria and invited him to attend a public hearing on 15 September 2025. The candidate was also informed that the evaluation report may refer to other issues that were considered during the evaluation.
25. As provided in Article 30 para. (4) of the Rules, the candidate sought and was provided access to all the materials in his evaluation file on 8 September 2025.
26. On 12 September 2025 the candidate submitted additional information and documents. The Commission included them in the evaluation file and considered them in its analysis.
27. On 15 September 2025, the Commission held a public hearing. At the hearing, the candidate 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.
28. After the hearing, on 21 September 2025, the candidate submitted additional information and documents. The Commission included them in the evaluation file and considered them in its analysis.
29. On 30 September 2025, the Commission asked the candidate to provide additional information by 7 October 2025 to clarify certain matters (hereinafter the “third round of questions”). This request was submitted to clarify certain matters communicated to the Commission for the first time during the public hearing. The candidate provided answers and documents within the deadline.

## **V. Analysis**

30. This section discusses the relevant facts and reasons for the Commission’s decision.

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. potential ethical breaches related to the candidate's attorney activity;
  - b. whether the candidate's wealth acquired in the past 15 years corresponds to the declared revenues (inexplicable wealth for the years 2010, 2011, 2023 and 2024).
32. Only the last matter served as separate ground for non-promotion.

**A. Potential ethical breaches related to the candidate's attorney activity**

33. According to the information from the Integrated Case Management Program (hereinafter "PIGD"), the "Denis Lesnic" Law Office has registered its correspondence address with the courts as 41/B Sciusev Street, Chișinău.
34. However, the official address of the Law Office, as noted in the Register of law offices and law firms<sup>1</sup>, held by the Minister of Justice, is 61/3 Nicolae Costin Street, Chișinău. The same address is registered with the State Fiscal Service. This address has been registered since the "Denis Lesnic" Law Office's incorporation on 30 June 2011, more than 14 years ago.
35. During the hearing, the candidate explained that he actually works at 41/B Sciusev Street, which is the official address of another law firm, hereinafter called "P" Law Firm, as noted in the above Register of law offices and law firms.
36. After the hearing, the Commission obtained information from "P" Law Firm explaining that, in 2015, the firm sought young specialists to assist its attorneys. The candidate was among those specialists. In this context, "P" Law Firm allowed the candidate to use a workspace consisting of a desk in one of the rooms, free of charge.
37. According to the same information, no written contract has been concluded with the candidate or his law office since then. In exchange for free space, the candidate, as an attorney, provides support and assistance to the "P" Law Firm's attorneys. The candidate did not pay for office utilities and supplies. He purchased his own supplies for his law office.
38. The Commission asked the candidate to clarify why he had not updated the official address of his law office for more than ten years and how he handled both electronic and paper correspondence with his clients. The Commission

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<sup>1</sup> [Registrul cabinetelor avocatilor si birourilor asociate de avocati | Ministerul Justitiei al RM](https://www.justice.gov.md/ro/content/registrul-cabinetelor-avocatilor-si-birourilor-asociate-de-avocati)  
See: <https://www.justice.gov.md/ro/content/registrul-cabinetelor-avocatilor-si-birourilor-asociate-de-avocati>

also requested clarification regarding the legal relationship between his law office and the "P" Law Firm, including the nature, value, and frequency of the services he provided to that firm.

39. In the third round of questions (Question 1 let. b), Question 3 let. a), g)), the candidate explained that he did not register "P" Law Firm's premises as the official address of his law office because there was no rental contract in place, which is a requirement of the Ministry of Justice and the SFS. He stated "P" Law Firm allows him to use a desk, free of charge, when necessary, and he was not permanently based at that office. The candidate confirmed that he did not contribute to utility or supply expenses. He explained:

"The specific nature of the collaboration with "P" Law Firm did not involve the provision of regular monthly assistance, but rather occasional services, sometimes only once every two to three months".

40. He stated that this collaboration was for him to obtain workspace, gain professional experience, and attract clients. For that reason, he said the value of legal assistance cannot be determined. His assistance included:

- a) representing shared clients;
- b) representing his own clients, including the "P" Law Firm attorneys; and
- c) appearing in court or during investigations when "P" Law Firm attorneys were unavailable.

41. According to the candidate, his services benefited the clients, not the attorneys. He submitted eight mandates, issued between 2015 and 2018, in which he substituted for the "P" Law Firm's attorneys - based on the authority under Article 81 para. (1) of the Civil Procedure Code to transmit the representing authority to another person. These clients were duly recorded in his law office's register. He also said that there had been no cases in which his law office provided legal assistance to parties with conflicting interests (Round 3, Question 3).

42. The candidate further stated that he used his personal email accounts for client communication and did not have access to "P" Law Firm's corporate email system. Likewise, no one else had access to his correspondence (Round 3, Question 2).

43. The Commission subsequently requested additional information from the "P" Law Firm regarding the rent of their premises and the cost associated with the desk occasionally used by the candidate. In their response, the firm stated that rent expenses were shared among the firm's attorneys, with each contributing

126 EUR per month. They noted that the candidate's occasional use of a desk could not be assigned a monetary value, as no prior arrangement had been made. The "P" Law Firm confirmed that they had offered the candidate an opportunity to join the firm, which he declined. The "P" Law Firm stated that their professional relationship with the candidate's law office was not limited in duration.

*Commission's assessment*

44. The Commission analyzed the information in its possession to assess whether the candidate's law office complied with the ethical rules and legal responsibilities applicable to the attorney's profession.
45. The practice of the attorney profession shall be conducted in compliance with the principles of legality, confidentiality, and respect for professional secrecy, as set forth in Articles 3 and 55 of the Law on Attorney Profession No. 1260/2002 and Articles 3, 57 para. (20) and Article 58 of the Statute of the Attorney Profession dated 29 January 2011.
46. Article 57 para. (33) of the Statute of the Attorney Profession stipulates that "an attorney shall not act as counsel, representative or defender for more than one client in the same case when the clients' interests are in conflict or when there is a real risk of such a conflict of interests."
47. Under article 11 para. (3) of Law No.1260/2002, attorneys generally are not permitted to provide legal assistance representing interests in court on any basis other than a legal assistance contract registered with the attorney's office or law firm. Under Article 60 of the same law, an attorney provides the client with legal assistance based on a written legal assistance contract.
48. Although a risk of conflict of interest between the clients represented by the candidate and those of the "P" Law Firm attorneys whom he occasionally assisted cannot be excluded, the Commission did neither identify any actual or potential conflict.
49. Similarly, the Commission did not identify any indication that the candidate represented clients in court without a legal assistance contract. In fact, the Commission checked and confirmed that the "P" Law Firm attorneys were included in the candidate's register of legal assistance contracts.
50. The candidate demonstrated awareness of his duty of confidentiality and of his obligation to avoid representation of clients with conflicting interests.
51. The recent case-law of the Supreme Court of Justice (hereinafter "SCJ") concerning the standard of proof emphasizes that the Commission must not

rely on general negative presumptions without considering the reasonable explanations and evidence provided (*Ion Chirtoacă v. Pre-Vetting Commission*, Decision of 26 June 2025, §§ 199-200).

52. The Commission did not identify any indication of possible tax non-payment. There is no clear information regarding the number of hours the candidate spent in the concerned office space and the income he may have generated there for the assistance provided to the "P" Law Firm attorneys. Neither the law firm nor the candidate provided any financial details. Although in theory such income may have existed, no concrete amounts could be calculated.
53. Regarding the candidate's failure to register the change of address of his law office, he explained that the authorities require a written rent agreement for registration, which he does not have since he occasionally uses the firm premises free of charge. The Commission notes that the lack of such an agreement is the result of the decisions of the candidate and the "P" Law Firm, although the Commission did not identify information here suggesting that the candidate failed to register the change of address for an improper motive.
54. The issue of concern remains the potential accounting misreporting. Based on the available information, the "P" Law Firm allowed the candidate to use the workspace occasionally, and the candidate provided legal support and assistance to the "P" Law Firm's attorneys and clients. This arrangement might be characterized as a barter agreement.
55. According to the National Accounting Standard on Revenue, approved by the Ministry of Finance (Order No. 118 of 13 august 2013), in barter transactions (exchange of goods and services), the seller should: 1) record the sale of assets and services, 2) record the purchase of goods and services at fair value, and 3) account for the mutual settlement of the corresponding receivables and payables (see point 8).<sup>2</sup> The candidate does not appear to have made such accounting entries in his annual tax declaration forms.
56. When consulted on comparable situations, the SFS provided three clarifications:
  - a) if a person does not generate income, there is no taxable object;
  - b) taxpayers are required to keep accounting records in accordance with national law (*să țină contabilitate*) and to submit tax returns (*dări de seamă fiscale*) to the SFS; failure to do so may result in penalties under Article 260 para. (1) of the Tax Code (a fine up to 10,000 MDL (500 EUR)); and

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<sup>2</sup> [Ministry of Finance Order No.118/2013 on National Accounting Standards](https://www.legis.md/cautare/getResults?doc_id=131868&lang=ro)  
See: [https://www.legis.md/cautare/getResults?doc\\_id=131868&lang=ro](https://www.legis.md/cautare/getResults?doc_id=131868&lang=ro)

- c) freelancers must declare to SFS their main place of activity (*locul desfășurării*) and the failure to comply with this obligation is punishable under Article 255 of the Tax Code (a fine up to 5,000 MDL (250 EUR)).

57. Considering the above, the candidate's circumstances reflect minor potential accounting misreporting issues and a formal failure to declare his place of activity to the SFS.

58. Although the way in which the candidate organized his activity as an attorney raises certain concerns about the reporting issues and his dependence on an informal relationship with the "P" Law Firm, his actions cannot be characterized as serious violations of the rules of ethics and professional conduct applicable to attorneys, or the other actions set out in Article 8 para. (2) of Law No. 26/2022.

**B. Inexplicable wealth for the years 2010, 2011, 2023, and 2024**

59. In its initial analysis, the Commission identified that, in the entire evaluation period, the candidate registered a total negative financial balance of - 89,126 MDL in 2010, 2011, 2023, and 2024. The differences between the income (incoming financial flow) and the expenses (outgoing financial flow) for these years were, respectively, -8,992 MDL, -13,953 MDL, -22,485 MDL, and -43,697 MDL.

60. For reasons that will be examined below, the Commission updated its preliminary calculations. The difference between the income and expenses in these years would be -72,754 MDL. The breakdown of the identified inexplicable wealth by year is presented in the following table:

Year	Inexplicable Wealth
2010	-7,492 MDL
2011	-12,952 MDL
2023	-19,485 MDL
2024	-32,825 MDL
<b>Total</b>	<b>-72,754 MDL</b>

**1. The issue of consumption expenditures for population**

61. In assessing if the candidate's wealth acquired in the last 15 years corresponds to declared revenues, the Commission uses the method for calculating inexplicable wealth identified in the Annex to the Rules. The Commission has previously explained the methodology which guides its assessment in this area (see, e.g., *Ion Rusu*, Decision of 18 July 2024, §§ 87, 88). It has thus identified the

Consumption Expenditures for Population (hereinafter “CEP”) as part of “expenses” (or outgoing financial flows).

62. The Commission employs the National Bureau of Statistics (hereinafter “NBS”) estimations of the CEP to quantify daily maintenance expenses. The CEP was selected particularly due to the NBS’s reliance on surveys of real expenses incurred by randomly selected households. Accordingly, the CEP communicates reliable data on monthly expenses incurred based on demographic background, household size, and geographic location (urban/rural) (*Andrei Cazacicov*, Decision of 30 July 2024, § 56).
63. The CEP expenditures, according to the information published on the NBS website, include the following categories: 1) food and non-alcoholic beverages; 2) alcoholic beverages and tobacco; 3) clothing and footwear; 4) housing, water, electricity and gas; 5) furnishings, household equipment and their routine maintenance; 6) health; 7) transport; 8) communication; 9) recreation and culture; 10) education; 11) restaurants and hotels; 12) miscellaneous goods and services. With minor variations of the expenditure share and slight changes in the name of the categories, these are repeated in all the years in the evaluation period.
64. Regarding the use of the CEP when calculating the candidate expenses, in the context of the external evaluation under Law No. 65/2023, the SCJ noted that the CEP is based on a detailed methodology, thousands of households are involved in the questionnaires, the questioning is thorough, and the results are checked several times. A similar methodology is also used in other European countries for analyses of this kind. The CEP methodology, however, has some limitations, particularly a margin of error of +/-5% and the reporting of products received free of charge as expenditures (see *Rodica Chirtoacă v. Superior Council of Magistracy*, §§ 51, 52; *Irina Iacub v. Superior Council of Magistracy*, §§ 59, 60, 16 August 2024).
65. The Commission established that the candidate’s household comprised one adult in the period 2010-2015, two adults during 2016-2020 and one child and two adults between 2021 and 2024. Based on the NBS data, in an urban area, the candidate’s household incurred consumption expenses in the years with negative balance, as per the left column in table below.

Year	Candidate's household CEP <sup>3</sup> per NBS (MDL)	Candidate's household income from salaries and social security (MDL)	National average income per NBS (MDL)
2010	22,884 <sup>4</sup>	13,892	21,524 <sup>5</sup>
2011	23,820 <sup>6</sup>	9,868	23,434 <sup>7</sup>
2023	194,472 <sup>8</sup>	169,987	211,953 <sup>9</sup>
2024	201,528 <sup>10</sup>	173,083	240,627 <sup>11</sup>

66. During both the second round of questions (Questions 1, 2, 4, 5) and the hearing, the candidate contested the CEP calculation for the identified years. He stated that in some CEP categories he had no expenses and in others, the expenses were lower. In particular, the candidate explained that he did not use hotel and restaurants services, nor did he need to furnish a home, as he lived in a student dormitory from 2010 to early 2011 and in a relative's apartment in Chișinău between 2011 and 2015. Since December 2015, he has been living with his wife in an apartment in Chișinău owned by his parents. The candidate stated that he did not incur any expenses while residing in a student dormitory in 2010, in a relative's apartment from 2011 to 2015, or in his parents' apartment since 2016.

<sup>3</sup> The CEP for any year between 2006-2018 is calculated based on NBS methodology, available on the NBS website here: [Consumption expenditures average monthly per capita by Years, Expenditure group, Area, Children in household and Unit. PxWeb \(statistica.md\)](http://Consumption expenditures average monthly per capita by Years, Expenditure group, Area, Children in household and Unit. PxWeb (statistica.md)). This link is reached from the home page of the NBS website following these steps (tabs): - Statistics by theme – Society and social conditions - Living standard of population - Stat bank - Population expenditure – Discontinued series - Household expenditures (2006-2018, based on resident population) - Consumption expenditures of population by purpose of expenditures, number of children in household and area, 2006-2018.

On the above link, the following variables were selected: Year - Consumption expenditures total – Area (Urban/Rural) – Number of children (if no children, without children is chosen) – Lei, average monthly per capita for one person. The generated result was multiplied by the number of family members and then was further multiplied by 12 calendar months.

The CEP for any year between 2019-2024 is calculated based on NBS methodology, available on the NBS website here: [Consumption expenditures average monthly per capita by Years, Expenditure group, Area, Children in household and Unit. PxWeb \(statistica.md\)](http://Consumption expenditures average monthly per capita by Years, Expenditure group, Area, Children in household and Unit. PxWeb (statistica.md)). This link is reached from the home page of the NBS website following these steps (tabs): - Statistics by theme – Society and social conditions - Living standard of population - Stat bank - Population expenditure - Consumption expenditures of population by purpose of expenditures, number of children in household and area, 2019-2024.

On the above link, the following variables were selected: Year - Consumption expenditures total – Area (Urban/Rural) – Number of children (if no children, without children is chosen) – Lei, average monthly per capita for one person. The generated result was multiplied by the number of family members and then was further multiplied by 12 calendar months.

<sup>4</sup> (CEP 2010) 22,884 MDL = 1,907 MDL\*1 person\*12 months

<sup>5</sup> (National average income 2010) 21,524 MDL=1,793.7 MDL\* 1 person \* 12 months

<sup>6</sup> (CEP 2011) 23,820 MDL = 1,985 MDL\*1 person\*12 months

<sup>7</sup> (National average income 2011) 23,434 MDL=1,952.9 MDL \* 1 person \* 12 months

<sup>8</sup> (CEP 2023) 194,472 MDL = 5,402 MDL\*3 people (candidate, candidate's wife and child) \*12 months

<sup>9</sup> (National average income 2023) 211,953 MDL=5,887.6 MDL \* 3 people \* 12 months

<sup>10</sup> (CEP 2024) 201,528 MDL=5,598 MDL\*3 people (candidate, candidate's wife and child) \*12 months

<sup>11</sup> (National average income 2024) 240,627 MDL=6,684.1 MDL \*3 people \* 12 months

67. The candidate further stated that he did not incur any education expenses during this period (he said he lived with friends in the student dormitory although not a student in 2010-2011), did not consume alcoholic beverages or tobacco and travelled primarily by public transport (purchasing travel passes), except on a few occasions when he and his wife travelled with their child to the countryside or used taxi services. According to him, his modest salary and lifestyle did not allow for leisure activities.
68. Throughout 2010, the candidate reported not having used any medical services. In 2023 and 2024, the candidate noted some unquantified medical expenses for his child after hospital procedures, although the state covered the treatment costs. The candidate clarified that the child and his wife spent about three months in the countryside in 2023 and one month in 2024 for rehabilitation purposes. In support of this, the bank account excerpts that he presents reflect card payments made in the countryside. He claimed that daily expenses were lower when his wife was with the child in the hospital or in the countryside.
69. Regarding the food expenditure, the candidate stated that most food products were not purchased but received from the countryside. His parents, who live there, would send food supplies by bus, specifically weekly during 2010-2011 and once every two or three weeks between 2023 and 2024.
70. The Commission notes that the candidate's explanations regarding the lower expenses incurred than those provided by CEP and that his household expenses were within the limits of his income are not supported by any documents.
71. Regarding the argument that the candidate lived in a student dormitory, the Commission notes that according to his graduation diplomas for the Bachelor's and master's programs, he completed his studies in July 2008. In this situation, it is unclear what factual and legal circumstances allowed the candidate to continue residing free of charge in the student dormitory. Moreover, he did not provide any evidence to demonstrate that, during that period, he resided in a student dormitory.
72. As for the candidate's argument that he should be exempt from the CEP because he received in-kind support from his parents, the candidate did not provide any estimates or other indicators to quantify the value of the groceries he received. Although he stated that he regularly received this support, he did not submit any concrete figures to substantiate this claim. The SCJ has emphasized that the Commission cannot be expected to know the value of goods received gratuitously or at prices significantly below market value. Accordingly, the burden rests with the evaluated person to provide a convincing justification for reducing consumption expenditures, considering the 12 categories of expenses

used by the NBS (see, *Irina Iacub v. Superior Council of Magistracy*, 16 August 2024, § 60).

73. In a more recent decision, the SCJ explained that the claimant failed to provide a detailed methodology for calculating the suggested reductions to the CEP. Although the claimant argued that the CEP should be reduced because the in-laws provided support in the form of food, footwear, and clothing, this assertion was not accompanied by any clear or measurable calculation to substantiate the proposed reductions (see, *Andrian Ciobanu v. Superior Council of Magistracy*, 4 March 2025, § 75).
74. Regarding the claim that his wife and child lived at the candidate's parents in the countryside for three months in 2023 and one month in 2024 and were materially supported by them, the Commission notes that, although the candidate submitted pictures of the child in the countryside and excerpts from his wife's bank account regarding store purchases during that period, these elements do not exclude the possibility that certain living expenses were nevertheless borne by the candidate's household. The Commission nevertheless presented an alternative calculation illustrating the negative balance when the candidate's arguments were accepted (see §§ 103, 112 below).
75. The Commission notes that the national average income calculated by the NBS is close to the CEP estimations, as can be seen in the left and right columns of the table from § 65 above.
76. The candidate's income, however, was in all years below the national average income. Although this may be a reason to admit that he incurred expenses below the CEP level, in his case the revenue was, in almost all years with inexplicable wealth, above the minimum guaranteed salary for the real sector.

Year	Candidate's household income from salaries and social security (MDL)	Minimum guaranteed salary per country (MDL)	Monthly guaranteed salary, per Government Decision (MDL)
2010	13,892	13,200	1,100 <sup>12</sup>
2011	9,868	13,200	1,100 <sup>13</sup>

<sup>12</sup> Government Decision No. 165 of 9 March 2010 on the minimum guaranteed wage in the real sector, as amended. See: [https://www.legis.md/cautare/getResults?doc\\_id=124911&lang=ro](https://www.legis.md/cautare/getResults?doc_id=124911&lang=ro)

<sup>13</sup> Ibidem

2023	169,987	48,000	4,000 <sup>14</sup>
2024	173,083	60,000	5,000 <sup>15</sup>

77. Having an income below the national average does not imply that the candidate and, where applicable, his family lived below the CEP consumption level. A different conclusion might apply if he worked continuously and with no indication of inexplicable revenue but always earned around or less than the minimum guaranteed salary.

78. According to the candidate's Curriculum Vitae, in 2010 he only worked for two months and about 11 days at a bailiff office. Similarly, in 2011 he worked for seven months and about 8 days at his attorneys' office. Although the SFS data suggests that the candidate also worked at a company dealing with engineering construction, it remains unclear how much time he worked there.

79. Under the circumstances, the Commission sees no reason to depart from the established formula for calculating the consumption expenditures. Moreover, in its previous reports, the Commission demonstrated through calculations that the value of expenditures estimated under CEP methodology is very close to the subsistence minimum, meaning that the method already incorporates a margin that accounts for basic living conditions (*Irina Iacub*, Report of 2 April 2024, §§ 78, 79). This report was accepted by the Superior Council of Magistracy, and the SCJ, by its reasoned decision of 16 August 2024, upheld the Council's findings, and implicitly, those of the Commission.

80. The Commission notes that the candidate contested the CEP calculations for all the years with inexplicable wealth (2010, 2011, 2023, 2024). Therefore, the Commission's reasoning regarding the maintenance of the CEP (see §§ 61-79 above) applies to all the years in question.

## 2. Inexplicable wealth per year

### 2.1. Inexplicable wealth in 2010

#### *Incoming financial flows*

81. Based on information available on the SFS database, in 2010 the candidate received a net salary of +7,906 MDL from a company dealing with engineering construction and a net salary of 5,986 MDL from the bailiff office.

<sup>14</sup> Government Decision No. 670 of 29 September 2022 on the minimum guaranteed wage per country, as amended. See: [https://www.legis.md/cautare/getResults?doc\\_id=140427&lang=ro](https://www.legis.md/cautare/getResults?doc_id=140427&lang=ro)

<sup>15</sup> Government Decision No. 985 of 6 December 2023 on the minimum guaranteed wage per country, as amended. See: [https://www.legis.md/cautare/getResults?doc\\_id=146344&lang=ro](https://www.legis.md/cautare/getResults?doc_id=146344&lang=ro)

82. Concerning the cash savings in 2009, which were declared as insignificant in the first round of questions (Question 1), the candidate provided additional clarifications during the hearing. He stated that the cash savings estimates at the end of 2009 were up to 2,000-3,000 MDL resulting from his salary for the last month of 2009. Based on the candidate's clarifications, the Commission considered their average, i.e. 2,500 MDL, and adjusted the calculation of inexplicable wealth. Pursuant to the Annex of the Rules, the cash savings at the end of 2009 are considered incoming cash flow for 2010, because they are carried over for the following year<sup>16</sup>.

83. The total incoming financial flow was +16,392 MDL.

*Outgoing financial flows*

84. The candidate's outflows included -22,884 MDL based on the CEP level for 2010.

85. Concerning the cash savings in 2010, which were declared as insignificant in the first round of questions (Question 1), the candidate provided additional clarifications during the hearing. He stated that the cash savings estimates were up to 1,000 MDL at the end of 2010. The Commission considered them and adjusted the calculation of the inexplicable wealth.

86. Thus, the total outgoing financial flow was -23,884 MDL.

87. It follows that, in 2010 the candidate's total outgoing financial flow exceeded the incoming financial flow by -7,492 MDL.

*Table 1. Incoming and outgoing financial flows for 2010*

Income, MDL		Expenses, MDL	
Cash savings from 2009	+ 2,500	Consumption expenditure for population (CEP) <sup>17</sup>	-22,884
Salary – company dealing with engineering construction	+7,906	Cash savings at the end of 2010	- 1,000
Salary – bailiff office	+5,986		
Total, MDL	+16,392		-23,884

<sup>16</sup> As accepted by the ECtHR in *Xhoxhaj v. Albania* (see footnote no.1 of the Judgement), savings (both cash and bank) may have a double nature: at the start of the year, they count as incoming cash flow; at the end of the year, they count as outgoing cash flow. The outgoing cash flow of savings at the end of the previous period (2009) equals with the incoming cash flow of savings at the start of the following period (2010).

<sup>17</sup> (CEP 2010) 22,884 MDL = 1,907 MDL\*1 person\*12 months

Difference, MDL	- 7,492
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## 2.2. Inexplicable wealth in 2011

### *Incoming financial flows*

88. Based on information available on the SFS database, in 2011 the candidate received a net salary of +4,445 MDL from a company dealing with engineering construction and a net salary of 5,423 MDL from the "Denis Lesnic" Law Office.
89. At the end of 2010, which consequently means at the beginning of 2011, the candidate declared cash savings estimates of 1,000 MDL (see § 85 above).
90. The total incoming financial flow was +10,868 MDL.

### *Outgoing financial flows*

91. The candidate's outgoing financial flow included -23,820 MDL based on the CEP level for 2011.
92. In response to the first round of questions (Question 1), the candidate declared to have had available cash savings in unsignificant amounts at the end of the year. However, the candidate did not quantify them. The Commission therefore calculated the financial outflows without considering any savings at the end of 2011.
93. The total outgoing financial flow was -23,820 MDL.
94. It follows that, in 2011 the candidate's total outgoing financial flow exceeded the incoming financial flow by -12,952 MDL.

*Table 2. Incoming and outgoing financial flows for 2011*

Income, MDL		Expenses, MDL	
Cash savings from 2010	+ 1,000	Consumption expenditure for population (CEP) <sup>18</sup>	-23,820
Salary – company dealing with engineering construction	+4,445	Cash savings at the end of 2011	0
Salary – law office	+5,423		
Total, MDL	+10,868		-23,820
Difference, MDL	- 12,952		

<sup>18</sup> (CEP 2011) 23,820 MDL = 1,985 MDL\*1 person\*12 months

### 2.3. Inexplicable wealth in 2023

#### *Incoming financial flows*

95. Based on information available on the SFS database, in 2023 the candidate received a net salary of 141,993 MDL from "Denis Lesnic" Law Office. The candidate's wife received allowances from CNAS totaling 27,977 MDL. The candidate also received 17 MDL as bank interest from MAIB JSC.
96. In response to the first round of questions (Question 1), the candidate declared that he had available cash savings of 10,000 MDL at the end of 2022. Pursuant to the Annex of the Rules, this sum is considered incoming financial flow for 2023, as savings from the previous year.
97. The total incoming financial flow was +179,987 MDL.

#### *Outgoing financial flows*

98. The candidate's outgoing financial flow included -194,472 MDL based on the CEP level for 2023.
99. The candidate incurred also expenses of 3,000 MDL for attending a fitness center (Round 1, Question 10). The Commission analyzed the CEP variables, which incorporate sport expenses to avoid double-counting. Thus, in 2023 the CEP variable "recreation and culture" was 6,835 MDL (284.8 MDL per month × 12 months × 3 members = 6,835 MDL). Since 3,000 MDL sport expenses are lower than the CEP corresponding variable, they were excluded from the candidate's outflows.
100. In response to the first round of questions (Question 1), the candidate stated he had available cash savings of 5,000 MDL at the end of the year.
101. The total adjusted outgoing financial flow was -199,472 MDL.
102. It follows that, in 2023 the candidate's total outgoing financial flow exceeded the incoming financial flow by -19,485 MDL.

*Table 3. Incoming and outgoing financial flows for 2023*

Income, MDL		Expenses, MDL	
Cash savings from 2022	+ 10,000	Consumption expenditure for population (CEP) <sup>19</sup>	-194,472
Salary – Attorney Office	+141,993	Cash savings at the end of 2023	-5,000

<sup>19</sup> (CEP 2023) 194,472 MDL = 5,402 MDL\*3 people (candidate, candidate's wife and child) \*12 months

Allowances from NOSI	+27,977		
Bank interest	+17		
Total, MDL	+179,987		-199,472
Difference, MDL	- 19,485		

103. However, if the Commission accepts the candidate's arguments that the CEP should be adjusted for three months to exclude the candidate's wife and his child (+32,412 MDL), there would be no negative balance.

104. This alternative calculation does not account for the period when the candidate's child was in hospital because the negative balance was already removed.

#### 2.4. Inexplicable wealth in 2024

##### *Incoming financial flows*

105. Based on information available on the SFS database, in 2024 the candidate received a net salary of 172,774 MDL from "Denis Lesnic" Law Office. The candidate's household received also allowances (energy compensation) of 300 MDL from CNAS, and 9 MDL as bank interest from MAIB JSC.

106. In response to the first round of questions (Question 1), the candidate declared that he had available cash savings of 5,000 MDL at the end of 2023. Pursuant to the Annex of the Rules, this sum is considered incoming financial flow for 2024, as savings from the previous year.

107. The total incoming flow was +178,083 MDL.

##### *Outgoing financial flows*

108. The candidate's outgoing financial flow included -201,528 MDL based on the CEP level for 2024.

109. The candidate incurred also 1,000 MDL expenses for attending a fitness center (Round 1, Question 10). At the same time, the candidate's household incurred expenses of 1,000 EUR for a vacation in Greece, which, if converted at the central bank's average exchange rate in 2024 is 19,252 MDL (Round 1, Question 7). The Commission analyzed the CEP variables, which incorporate these expenses (sport and leisure) to avoid double-counting. Thus, in 2024 the CEP variable "recreation and culture" was 10,872 MDL (302.5 per month x 12 months x 3 members = 10,872 MDL). The Commission thus retained only the amount exceeding the CEP variable, namely: 20,252 MDL (19,252+1,000) – 10,872 MDL = 9,380 MDL.

110. The total outgoing financial flow was -210,908 MDL.

111. It follows that, in 2024, the candidate's total outgoing financial flow exceeded the incoming financial flow by -32,825 MDL.

*Table 4. Incoming and outgoing financial flows for 2024*

Income, MDL		Expenses, MDL	
Cash savings from 2023	+5,000	Consumption expenditure for population (CEP) <sup>20</sup>	-201,528
Salary – Attorney Office	+172,774	Vacation in Greece (exceeding CEP)	-9,380
Allowances from NOSI (energy compensation)	+300		
Bank interest	+9		
Total, MDL	+178,083		-210,908
Difference, MDL	- 32,825		

112. However, if the Commission accepts the candidate's arguments that the CEP should be adjusted for one month to exclude the candidate's wife and his child (+11,196 MDL), the negative balance would be -21,629 MDL.

### **3. Conclusion regarding the inexplicable wealth issue**

113. Considering the estimative nature of the calculation of the inexplicable wealth, the adjusted total negative balance between the candidate's incoming and outgoing financial flows in 2010, 2011, 2023 and 2024 would be -72,754 MDL, as mentioned at § 60 above.

114. Alternatively, if the Commission accepts the candidate's arguments that the CEP should be adjusted for three months in 2023 and one month in 2024 to exclude the candidate's wife and his child, the total negative balance in 2010, 2011, 2023 and 2024 would be -42,073 MDL.

115. The Commission observes that the identified negative balance is primarily due to living expenses reflected by CEP, calculated according to the NBS information and methodology.

<sup>20</sup> (CEP 2024) 201,528 MDL=5,598 MDL\*3 people (candidate, candidate's wife and child) \*12 months

116. Even with the consideration of the CEP limitations referred to by the SCJ (see § 64 above), the candidate's household maintains still a negative balance for the whole evaluated period.

117. Admittedly the CEP has a margin of error of +/-5%, so in the candidate's case, this would be +/-22,135<sup>21</sup> MDL for all years with negative balance. After applying these corrections in favor of the candidate, the total inexplicable wealth would be -50,618 MDL. Alternatively, if the error is calculated from the adjusted CEP with the exclusion of the candidate's wife and child for three months in 2023 and one month in 2024, this would be +/-19,954<sup>22</sup> MDL. Therefore, the total inexplicable wealth would be -22,119 MDL.

118. It is not *per se* arbitrary that the burden of proof is shifted onto the candidate in the vetting proceedings, as established in the ECtHR case-law<sup>23</sup>, with regard to the extraordinary measures to vet judges and prosecutors. Also, the Venice Commission emphasized that an impossible burden to give explanations and evidence should not be imposed on judges and prosecutors.<sup>24</sup>

119. The Commission does not overlook the fact that the registered annual income of the candidate in 2010, 2011, 2023 and 2024 was lower than his estimated CEP (as shown in the middle and left columns of the table at § 65 above), even with the application of the CEP limitations. Therefore, in assessing the candidate's inexplicable wealth, especially in connection with the CEP application, the Commission will separately examine this issue.

120. The circumstances of the candidate do not suggest that he has incurred significant expenditure during the period under examination. The negative balance in these four years overlaps with the candidate's work in a bailiff office in 2010 and at the "Denis Lesnic" Law Office since 2011. In 2023 and 2024, the candidate was the one earning income, as his wife cared for their two to three-year-old child, who did not attend kindergarten.

121. The Commission acknowledges that the sources of income for judges and prosecutors are limited by law and the amount of work makes it unlikely to obtain supplementary income from other allowed by law activities. In the context of evaluation under Law No. 65/2023, the SCJ noted that this approach is not applicable for the candidates to judicial offices that are not judges and

<sup>21</sup> The total of 1,144.2 MDL, 1,191 MDL, 9,723.6 MDL, 10,076.4 MDL in, respectively, 2010, 2011, 2023 and 2024.

<sup>22</sup> The total of 1,144.2 MDL, 1,191 MDL, 8,103 MDL, 9,516.6 MDL in, respectively, 2010, 2011, 2023 and 2024.

<sup>23</sup> See European Court of Human Rights, *Xhoxhaj v. Albania*, no. 15227/19, § 352, 9 February 2021; *Sevdari v. Albania*, no. 40662/19, § 130, 13 December 2022.

<sup>24</sup> See Venice Commission, CDL-AD(2023)005-e, Republic of Moldova - Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft Law on the external assessment of Judges and Prosecutors, adopted by the Venice Commission at its 134th Plenary Session (Venice, 10-11 March 2023), para. 73, 80.

prosecutors, namely for attorneys and university teachers (*profesori universitari*).<sup>25</sup>

122. The circumstances of the candidate suggest that he has collaborated with at least one law firm to gain clients, as shown § 39 above. It remains without corroboration whether the candidate's legal services always matched the value of the office space provided by the law firm.
123. Having regard to the foregoing and the circumstances of the case, the Commission considers that the calculated difference between the candidate's salary and his CEP remains applicable.
124. With particular emphasis on the purpose of Law No. 26/2022, the Commission reiterates that it was intended to contribute to improving confidence in the judiciary, to increase the integrity of the judicial system as a whole and in particular of the Superior Council of Magistracy and its specialized bodies.
125. The Commission therefore concludes that the candidate has not mitigated the issue of inexplicable wealth. In its recent decision of 7 November 2025, the SCJ noted that unlike the ethical integrity criterion under Article. 8 para. (2) let. a) of Law No. 26/2022, the financial integrity criterion under Article 8 para. (4) let. b) does not admit any tolerance. Even the smallest unexplained difference is sufficient to justify a negative evaluation. The "serious doubts" standard refers to the rigor of factual assessment, not to the size of the discrepancy (*Tețcu v. Prosecution Vetting Commission*, § 43).
126. In its practice under Law No. 26/2022, the Commission has evaluated candidates who passed the evaluation despite reporting negative balances, such as, *Cazacicov* with -109,657 MDL (Decision of 30 July 2024), *Zabulica* with -60,869 MDL (Decision of 20 June 2024). The present case must be distinguished from those of *Zabulica* and *Cazacicov*, as the candidate did not present evidence of the amount of parental support and was not a student while residing in a student dormitory for a certain period.

## VI. Decision

127. Based on Article 8 para. (1), (4) let. b), para. (5) let. c) - g) and Article 13 para. (1) and (5) of Law No. 26/2022, the Commission found serious doubts as to the candidate's compliance with the financial integrity criterion and the candidate thus fails the evaluation.

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<sup>25</sup> See Supreme Court of Justice, *Rodica Chirtoacă v. Superior Council of Magistracy*, § 53, 16 August 2024.

## VII. Appeal and publication

128. Under Article 14 para. (1) of Law No. 26/2022, the candidate is entitled to appeal this decision within five days of receiving the decision. The appeal shall be lodged at the Supreme Court of Justice, with the address on 18 Petru Rareş Street, Chişinău municipality.
129. The decision written in Romanian will be sent by e-mail to the candidate and the Superior Council of Magistracy. On the same day, the Commission will publish on its official website the information if the candidate has passed or not passed the evaluation.
130. If within 48 hours of sending the decision, the candidate does not notify the Commission otherwise, the full text of the decision will be published on the website of the Superior Council of Magistracy and of the Commission in a depersonalized form, except for the full name of the candidate that remains public.
131. This decision was adopted by a majority of the participating members on 9 December 2025 and signed according to Article 3 para. (2) of Law No. 26/2022.
132. The members Scott Bales, Andrei Bivol and Lavly Perling submitted a dissenting opinion on 11 December 2025. The members who voted in favor of adopting the decision did not correct or comment on it, to address the issues raised in the dissent, within the deadline provided by in Article 31 para. (3) of the Rules. According to that article, this decision is considered approved by the majority of the participating members on 15 December 2025.
133. The dissenting opinion of members Scott Bales, Andrei Bivol and Lavly Perling is appended to this decision as provided in Article 31 para. (3) of the Rules.
134. Done in English and Romanian.

Andrei Bivol

Chairperson



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## DISSENTING OPINION

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11 December 2025

## A. INTRODUCTION

1. This Dissenting Opinion is submitted under Article 31 para. (3) of the Rules by the members Scott BALES, Andrei BIVOL, and Lavly PERLING
2. We concur with the findings and conclusions of our esteemed colleagues regarding the ethical criterion (Sections V.A. §§ 33-58 of the Decision). We, however, disagree with the majority's findings regarding the financial criterion and its conclusion that the candidate fails the evaluation.

## B. RELEVANT FACTS

3. The identified inexplicable wealth resulted from the candidate's financial inflows and outflows in 2010, 2011, 2023, and 2024. The total inexplicable wealth is estimated to range from -22,119 MDL to -72,754 MDL, depending on applicable deductions for CEP expenses for certain periods.
4. The entire identified negative balance is attributable solely to essential living expenses, as reflected in the CEP, calculated using the NBS information and methodology. The Commission has not identified any other expenses of the candidate that would have been covered with unjustified sources of money.
5. In the present case, the CEP most likely would not reflect the general lifestyle expenses applicable to the candidate's household.
6. The candidate has no immovable property, other than two agricultural plots in his native village, and no vehicles registered in his or his wife's name. He has been living rent-free in an apartment under an arrangement with the candidate's parents. On his and his wife's bank accounts, there is no evidence of a posh or lavish style, no expensive clothes or jewelry, restaurants, or hotel payments. His first two-week vacation was in Greece in 2024, costing approximately 1,000 EUR. The candidate himself reported this vacation.
7. Considering his modest lifestyle observed and the relatively minor negative balance for each year within the evaluated period, the candidate has most likely not accumulated any inexplicable wealth.

## C. ANALYSIS

### C.1. The relevant practice of the Commission

8. In its practice under Law No. 26/2022, the Commission has evaluated candidates who passed the evaluation despite reporting negative balances, heavily stemming from CEP calculations, such as *Cazacicov* with -109,657 MDL (Decision of 30 July 2024), *Zabulica* with -60,869 MDL (Decision of 20 June 2024), *Grosu* with no concrete amount indicated (Decision of 20 June 2024), and one

other unpublished case<sup>1</sup> with -118,143 MDL in 2016, -14,353 MDL in 2018, -142,322 MDL in 2022 (Decision of 1 October 2024).

9. The present case bears similarities to those of *Zabulica*, *Grosu*, and *Cazacicov*, as the candidate likewise argued, with corroborating evidence, that the likelihood of receiving (but not the total amount of) parental support or of residing in a student dormitory for a certain period exists.
10. In *Zabulica*, the candidate explained that, although she graduated in 2010 and started to work, she continued to live with and to be supported by her parents (§ 28 of the decision).<sup>2</sup>
11. In *Grosu*, the candidate noted he was helped by the family while he did not register any income as a student and a trainee attorney in the period with a negative balance 2009-2014 (§ 32 of the decision).<sup>3</sup>
12. In *Cazacicov*, the candidate, as a student at the Police Academy, stayed at the barracks in 2009-2010. He had no official income, aside from the scholarship, from 2009 to 2012, and reported no clothing expenses because he primarily wore the issued uniforms. He began earning official income in 2013, after graduating, and provided his mother and sister with approximately 50% of his income (§§ 59, 64 of the decision).<sup>4</sup>
13. In the unpublished case, the candidate explained that her household could reasonably have had sufficient cash savings to cover the identified negative balances.
14. In other cases, where candidates did not pass the evaluations, doubts concerning the inexplicable wealth were mitigated or not treated as grounds for non-promotion. For instance, an unpublished case with -48,763 MDL inexplicable wealth (Decision of 18 July 2024)<sup>5</sup>, and another unpublished case with -35,893 MDL inexplicable wealth (Decision of 4 October 2024)<sup>6</sup>.
15. In the first unpublished case, the initial finding of a negative financial balance for 2015 was no longer maintained, as the candidate clarified that he had received a higher pension than initially calculated and explained that part of

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<sup>1</sup> Pursuant to article 13 para. (7) of the Law No. 26/2002, the decision is not public.

<sup>2</sup>[https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/6679a786d5350ce21aed145e\\_Zabulica\\_decision\\_ENG.signed1.pdf](https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/6679a786d5350ce21aed145e_Zabulica_decision_ENG.signed1.pdf)

<sup>3</sup>[https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/6679a7f242c2866aa92daa8f\\_Grosu\\_decision\\_ENG.signed.pdf](https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/6679a7f242c2866aa92daa8f_Grosu_decision_ENG.signed.pdf)

<sup>4</sup>[https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/66ab6e4b41a193b316074b2e\\_Cazacicov\\_decision\\_ENG.signed1.pdf](https://cdn.prod.website-files.com/65dc9c889b671cd4987c7b51/66ab6e4b41a193b316074b2e_Cazacicov_decision_ENG.signed1.pdf)

<sup>5</sup> Pursuant to article 13 para. (7) of the Law No. 26/2002, the decision is not public.

<sup>6</sup> Idem

the cash savings declared at the beginning of the year may have been used during that year. Following the verification of banking transactions, a potential double-counting of an amount already included in the CEP was excluded from expenditures.

16. In the second unpublished case, inexplicable wealth was identified in 2012 against a background of a positive balance of approximately 50,000 MDL in the previous year. Because she claimed not to remember the amount of her cash savings, which may have offset the identified wealth in 2012, and because she was an attorney at law with in-kind revenue streams assessed in money, not a judge, the negative balance did not raise serious doubts.
17. We disagree with the majority that the Commission should depart from its previous practice in this case.

### **C.2. The candidate did not accumulate “wealth”**

18. The relevant provision for assessing financial integrity under Law No. 26/2022 is Article 8, para. (4) let. b):

"A candidate shall be deemed to meet the criterion of financial integrity if:

[...]

b) the Evaluation Commission finds that his/her **wealth acquired** in the past 15 years corresponds to the declared revenues." [emphasis added]

19. Article 2 of the Law no. 133/2016 on the declaration of wealth and personal interests (which the Law 26/2022 refers to) defines "wealth" as:

"all assets of the subject of the declaration, owned with the right of usufruct, use, habitation, surface area or in the possession of the subject of the declaration or of family members or his/her partner on the basis of mandate, commission, fiduciary administration contracts, transfer contracts of possession and use, as well as all patrimonial rights and obligations acquired by the subject of the declaration in the country or abroad"

20. Apart from the estimated expenses under CEP, the Commission has not identified any other expenses (or "patrimonial obligations" in the language of the law) that may fall under the definition of wealth.
21. CEP is an estimate of a household's annual consumption expenditures. The Commission and the SCJ have recognized that CEP may not accurately measure a candidate's expenditures in some situations (e.g., as the Court noted

regarding judges or prosecutors who earn less than CEP, or as the Commission recognized for some subjects of evaluation who made their purchases by card rather than in cash). A conclusion that a candidate fails the evaluation is not justified if it rests solely on a negative balance resulting from the CEP estimates.

22. On August 16, 2024, the SCJ issued its first decision in a vetting case. The reasoning explained that prosecutors and judges should not fail the evaluation merely because their identified incomes were less than the estimated CEP. The Supreme Court noted that incompatibility rules and heavy workloads limited individuals in these positions from obtaining alternative income (*Rodica Chirtoacă v. Superior Council of Magistracy*, § 53). Until 14 June 2021, the incompatibility applicable to attorneys at law was similar to that applicable to judges and prosecutors. Article 11 para. (1) of Law No. 1260/2002 on Attorney's Activity, was amended only on that date to relax the prohibitions, such as those of working based on an employment contract.
23. The practice of the SCJ and our Commission recognizes that CEP estimates should not be mechanically applied where the circumstances indicate that they may not accurately reflect a candidate's actual lifestyle and overall expenditures. We should follow that practice here.
24. Given the explanations provided by the candidate, such as the produce from the parents in parcels by bus, and the evidence gathered by the Commission, such as the stays of his wife and child in the countryside and the hospital stays, it seems likely that the candidate's expenses were less than the CEP estimates.

### C.3. The case of *Tețcu v. Prosecution Vetting Commission* is misinterpreted

25. The majority refers to the recent SCJ Decision of 7 November 2025, where the Court noted that:

"unlike the ethical integrity criterion under Article. 8 para. (2) let. a) of Law No. 26/2022, the financial integrity criterion under Article 8 para. (4) let. b) does not admit any tolerance. Even the smallest unexplained difference **is sufficient** to justify a negative evaluation. The "serious doubts" standard refers to the rigor of factual assessment, not to the size of the discrepancy" (*Tețcu v. Prosecution Vetting Commission*, § 43). [emphasis added]

26. The SCJ observation that there is no threshold under Law No. 26/2022 reflects that a small amount of inexplicable wealth (whether based on CEP or otherwise) may be a sufficient basis to fail the evaluation. But the Supreme Court's decision does not hold that the Commission must *necessarily* fail a candidate any time such a discrepancy is found. Where such exists, the Commission still

must assess whether, considering all the circumstances, it has “serious doubts”, based on this discrepancy, that the candidate has failed to mitigate.

27. We recognize the importance of SCJ precedent for the uniformity of judicial practice. However, a precedent only applies in similar circumstances. The circumstances here are readily distinguishable from those involved in *Tețcu*. There, in addition to CEP expenses, the candidate incurred: rent payments, private kindergarten fees, and vacation costs. He also had loan repayments. The pre-vetting evaluation identified for him two alternatives of inexplicable wealth (-250,705 MDL and -141,420 MDL, § 16 of the SCJ’s decision). SCJ noted that, despite all precautions, his negative balance would fall to -60,222 MDL (§ 51).
28. In this context, the SCJ has noted that the financial integrity criterion admits no tolerance. We agree that this is so where there is evidence of acquired wealth. In *Tețcu*, the Supreme Court explained that, even if all his arguments were accepted, the candidate would still have an inexplicable wealth of -60,222 MDL.
29. While any identified discrepancy between wealth and reported income may be a sufficient ground for the SCJ to uphold a Commission’s negative decision, that does not mean that the Commission is required to issue a failing decision whenever it identifies some inexplicable wealth by using CEP to calculate expenses.
30. For the reasons mentioned above, we consider that the candidate mitigated the doubts of inexplicable wealth and should pass the evaluation.

Scott Bales

Andrei Bivol

Lavly Perling