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# EVALUATION REPORT

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

**IGOR CHIROȘCA**

judge of the Central Court of Appeal

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

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18 March 2025

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The Evaluation Panel A of the Commission (hereinafter the “Commission”) established by Law No. 65/2023 on the External Evaluation of Judges and Candidates for Judges of the Supreme Court of Justice and discharging the powers under Law No. 252/2023 on the external evaluation of judges and prosecutors and amending some normative acts (hereinafter “Law No. 252/2023”) deliberated on the matter on 7 February 2025 and approved the following report on 18 March 2025. The members participating in the approval of the report were:

1. Andrei BIVOL
2. Lilian ENCIU
3. Lavly PERLING

Based on its work in collecting and reviewing the information, and the explanations provided in the public hearing and its subsequent deliberations, the Commission prepared the following evaluation report.

## **I. Introduction**

1. This report concerns Mr. Igor Chiroșca (hereinafter the “subject”), a Central Court of Appeal judge.
2. The Commission conducted its evaluation pursuant to Law No. 252/2023 and the Commission’s Rules of Organization and Functioning (hereinafter “Rules”).
3. The Commission concluded that the subject meets the criteria identified in Law No. 252/2023.

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

4. The subject has been a Central Court of Appeal judge since 2020. This court was known as the Chișinău Court of Appeal, until it was renamed on 27 December 2024.
5. Between 2012 and 2020, the subject was a judge at the Strășeni Court. Before his appointment as a judge, the subject worked as an attorney-at-law between 2010 and 2012. Between 2003 and 2008 he was an in-house lawyer in several companies. Since 2004, the subject has been a university lecturer at the Moldova State University.
6. The subject received a bachelor’s degree in law in 2004 and a master’s degree in law in 2005 from Moldova State University. In 2008, he received a master’s degree in intellectual property law from the University of Turin (Italy). In 2009, the subject received a PhD in law from the Moldova State University. In 2011, the subject graduated from the National Institute of Justice.

### III. Evaluation Criteria

7. Under Article 11 para. (1) of Law No. 252/2023, the Commission evaluates the subject's ethical and financial integrity.
8. 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."
9. Under Article 11 para. (3), a subject:
 

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

  - a) the difference between assets, expenses and income for the last 12 years exceeds 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."
10. 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.

11. 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.
12. 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.
13. 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.
14. In assessing a subject's compliance with the ethical and financial integrity criteria, the Commission applies the rules and legal regime in effect when relevant acts occur.
15. 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.
16. 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).

17. 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**

18. On 5 April 2024, the Commission received the information from the Superior Council of Magistracy under Article 12 para. (1) of Law No. 252/2023. The information included the subject as a Central Court of Appeal judge.
19. On 11 April 2024, 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, both declarations referred together as the “five-year declaration”). The subject returned the completed five-year declaration and questionnaire on 30 April 2024.
20. On 13 August 2024, the Commission notified the subject that his evaluation file has been randomly assigned to Panel A with members Andrei Bivol, Lilian Enciu and Lavly Perling. He was also informed that subjects may request, in writing and at the earliest possible time, the recusal of members from their evaluation.
21. Because the law sets different evaluation periods for the ethical and financial integrity criteria cited above, the Commission evaluated compliance with these criteria over the past five, ten and 12 years. Due to the end-of-the-year availability of the tax declarations and declarations on wealth and personal interests, the financial criteria evaluation period included 2012-2023 and 2014-2023. The evaluation period for the ethical criterion includes the past five or ten years calculated backward from the date of the notification.
22. In the last 12 years of the evaluation period, the subject had an obligation to submit declarations, both under Law No. 133/2016 on the Declaration of Wealth and Personal Interests and under Law No. 1264/2002 on the Declaration and Income and Property Control for persons with positions of Public Dignity, Judges, Prosecutors, Civil Servants, positions of Management.
23. The Commission sought and obtained information from numerous sources. The sources that provided information on the subject included 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, EuroCreditBank JSC, Eximbank JSC, Moldinconbank JSC, MAIB JSC, BCR Chișinău JSC, Victoriabank JSC, Banca de Finanțe și Comerț (FincomBank) JSC, OTP Bank JSC, Banca Socială JSC, Banca de Economii JSC, Unibank 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 sought and, where applicable, obtained from other public institutions and private entities as well as open sources such as social media and investigative journalism reports. Several petitions were received from individuals. These were included in the evaluation file. All information received was carefully screened for accuracy and relevance.

24. The Commission twice sought information from the General Prosecutor’s Office, the Anticorruption Prosecutor’s Office, and the Prosecutor’s Office for Combating Organized Crime and Special Causes. These requests were prompted by the Chișinău Court of Appeal press release<sup>1</sup> with reference to the public information regarding the alleged bribery of the judges of the Chișinău Court of Appeal. This relates to the replacement of the remand in prison with the house arrest for several Ukrainian citizens. Because none of the identified official sources confirmed their examination of the alleged activities, this was not further investigated, as per Article 14 para. (10) of Law No. 252/2023.
25. On 4 October 2024, the Commission asked the subject to provide additional information by 16 October 2024 to clarify certain matters (hereinafter the “first round of questions”). On 16 October 2024, the subject requested an extension until 23 October 2024 to respond, which the Commission granted. The subject offered answers and documents within the extended deadline. On 16 December 2024 the subject provided additional documents and explanations regarding several questions from the first round.
26. On 12 November 2024, the Commission asked the subject to provide additional information by 21 November 2024 to clarify certain matters (hereinafter the “second round of questions”). The subject provided answers and documents within the deadline.

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<sup>1</sup> Chișinău Court of Appeal press release

27. On 18 December 2024, the Commission asked the subject to provide additional information by 29 December 2024 to clarify certain matters (hereinafter the “third round of questions”). On 22 December 2024, the subject requested clarification on several questions from the third round. On 26 December 2024, the Commission provided the necessary clarifications to the subject. On 27 December 2024, the subject requested an extension until 31 December 2024 to respond, which the Commission granted. The subject provided answers and documents within the extended deadline.
28. On 24 January 2025, the Commission notified the subject that it had identified some areas of doubt about the subject’s compliance with the ethical integrity criterion and invited him to attend a public hearing on 7 February 2025. The subject was also informed that the evaluation report may refer to other issues that were considered during the evaluation.
29. As provided in Article 39 para. (4) of the Rules, the subject sought and was provided access to all the materials in his evaluation file on 29 January 2025.
30. On 27 January 2025, the subject requested to be heard in partially closed session. By a decision of 27 January 2025, the request was admitted. The Commission decided to discuss in closed session the issue related to one of the attorneys-at-law identified to be in a potential conflict of interest with him. As the subject reasoned, this was inextricably linked to his private life and the public nature of the potential questions could have had a negative impact on it and limit his freedom in giving full and reasoned answers.
31. On 31 January 2025, the subject submitted additional information and documents. The Commission included them in the evaluation file and discussed their relevance in the Analysis section.
32. On 7 February 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.
33. After the hearing, on 7 February 2025, the subject submitted additional documents. The Commission included them in the evaluation file and discussed their relevance in the Analysis section.

## **V. Analysis**

34. This section discusses the relevant facts and reasons for the Commission’s conclusion.



35. Based on the information it collected, the Commission analyzed and, where necessary, sought further clarifications from the subject on the following matters:

- a. a potential difference between the assets, expenses, and income (unjustified or inexplicable wealth) for the years 2012, 2016, 2017, and 2019;
- b. violation of the legal regime of conflict of interests.

- **Potential difference between the assets, expenses, and income (inexplicable wealth) for the years 2012, 2016, 2017 and 2019**

36. The Commission identified potential inexplicable wealth for the years 2012 (-76,782 MDL), 2016 (-63,997 MDL), 2017 (-11,188 MDL), and 2019 (-4,265 MDL), in a total amount of -156,232 MDL.

37. Even if the negative financial balance for these years was treated as unjustified wealth, it would not exceed the threshold of 234,000 MDL under Article 11 para. (3) lit. a) of Law No. 252/2023. Accordingly, the Commission did not request further explanations on this issue.

- **Violation of the legal regime of conflict of interests**

38. In carrying out its evaluation, the Commission identified the subject's participation in three lawsuits. He was represented by attorneys-at-law S.R., V.J. and G.A.

*Representation by S.R.*

39. On 16 December 2011, the subject filed a lawsuit against an Individual Enterprise claiming the late performance under the works contract signed on 3 August 2011 (four wooden doors).

40. On 10 September 2014, V.C., a representative of the subject, based on a notarized power of attorney, concluded in the subject's name a legal assistance contract with the attorney-at-law S.R. On 16 October 2014, the attorney-at-law submitted a court application regarding the increase in the amount of claims in the civil case regarding the collection of penalties and non-pecuniary damages for breach of consumer rights. On 23 June 2015, the first-level court dismissed the lawsuit as unfounded.

41. On 20 July 2015, the attorney-at-law filed an appeal and on 1 April 2016 an appeal on points of law representing the subject before the Court of Appeal and the Supreme Court of Justice (hereinafter "SCJ"). The case was solved in favor of the subject by the decision from 16 November 2016 of the Chişinău

Court of Appeal. This decision was upheld by the decision of SCJ from 24 May 2017.

42. The legal assistance relationship with the attorney-at-law S.R. was valid between 10 September 2014 and likely by 24 May 2017 (provided that S.R. represented the subject before the SCJ).

*Representation by V.J.*

43. On 11 March 2020, the subject's wife, based on a notarized power of attorney, signed the mandate of the attorney-at-law V.J., empowering him to provide legal assistance in a lawsuit against Chişinău City Hall, Chişinău Municipal Council regarding the annulment of administrative acts. The power of attorney given to the subject's wife had the authority to sign for legal assistance contracts.
44. On 9 June 2020, the attorney-at-law filed a lawsuit in the interest of the subject against Chişinău City Hall, Chişinău Municipal Council. The lawsuit concerned the annulment of administrative acts that authorized the construction of a residential building, which affected the natural lighting of the subject's apartment and prevented its normal use. On 2 February 2022, the first level Court dismissed the lawsuit as unfounded.
45. The legal assistance relationship with the attorney-at-law V.J. was valid between 11 March 2020 and 2 February 2022, the date the first level court issued its judgement. The subject informed to have terminated his legal assistance relationship on that date.

*Representation by G.A.*

46. The Commission also identified that on 4 March 2021, the subject was represented by the attorney-at-law G.A. in a private matter trial. Later, on 9 November 2022, the subject examined a case concerning one of G.A.'s clients as a member of the panel. The subject's panel adopted a decision in favor of the attorney's client. The legal assistance relationship with the attorney-at-law G.A. was valid between 4 March 2021 and 15 October 2021.
47. According to data from Integrated Case Management System (PIGD), the Commission identified multiple cases examined by the subject as rapporteur or which were at the stage of examination with the participation of the attorneys-at-law S.R. and V.J. The Commission did not identify cases concerning the attorney-at-law G.A. examined by the subject as rapporteur.
48. The subject was asked to provide more details regarding the identified cases and to provide explanations regarding this issue.

*Subject's explanations*

49. In response to the third round of questions, the subject explained that he has no relationship with the attorneys-at-law S.R. and V.J., he has never met or spoken to them in private. He knows them exclusively from the institutional point, as attorneys, and only from their activity during the court hearings.
50. The legal services provided by them were paid based on legal assistance contracts signed by his representatives (V.C. and his wife) empowered by powers of attorney.
51. The subject mentioned that he was not in the circumstances that would require him to self-recuse in cases which concerned S.R. and V.J. because he had no direct contractual relations with them. He delegated the conclusion of the legal assistance contracts in order to avoid contacts with these attorneys-at-law outside the judicial processes.
52. Regarding S.R., the subject informed the late president of the Strășeni Court about the legal assistance contract concluded with him. The matter was discussed in a meeting with the fellow judges. It was concluded that there are a few attorneys-at-law in the Strășeni district, all know one other, and if every judge would self-recuse on formal criteria, the court's work will be jeopardized. Nevertheless, the subject was advised to avoid any contact with this attorney-at-law outside the Court hearings for the duration of the contract, a rule he continues to follow to this day.
53. Regarding V.J., the subject mentioned that not knowing the practice of the Court of Appeal, he recused himself every time the attorney-at-law appeared before him in the courtroom, during the validity of the legal assistance contract. However, on several occasions, his self-recusals were dismissed. Moreover, after the judgment of the Chișinău Court (Rîșcani district) of 2 February 2022, the legal assistance contract with V.J. was terminated, and the subject personally handled correspondence with the Court of Appeal and the SCJ (confirmatory documents were presented).
54. The subject mentioned that in the Chișinău Court of Appeal he was rapporteur on thousands of cases a year. A judge can't avoid examining cases in which an attorney-at-law known to him participated at certain stages of the proceedings (*e.g.*, criminal prosecution or trial in the first-level court). There are criminal cases with dozens of volumes, and the existence in one of these volumes of the attorney's mandate is hard to detect. At the same time, many cases are examined in written procedure (*i.e.* without the parties'

participation), and during deliberations, the judges discuss the case and do not the identity of the attorneys-at-law.

55. In the subject's opinion, the ground for self-recusal appears only during the validity of the legal assistance contract and only when the judge has direct or indirect communication with the attorney-at-law that could affect the judge's impartiality. The existence of past contractual relations with an attorney-at-law is not a ground for self-recusal, except in one case: when the attorney-at-law is himself a party to the case (complainant, respondent, intervenor, defendant etc.).

*Legal principles*

56. Under Article 11 para. (2) lit. b) of Law No. 252/2023, a subject does not meet the criteria of ethical integrity if the Commission determined that in the last 10 years, has admitted in his/her work incompatibilities and conflicts of interest that affect the office held.
57. As already noted in the Commission's previous reports, *e.g.*, *Ursachi* (Report of 5 November 2024), the Constitutional Court mentioned in its Judgement No. 18 of 27 September 2022 that a distinction must be made between the conflicts of interest of judges arising in administrative activity (*e.g.*, presidents of courts) and in jurisdictional activity.
58. Judges have an obligation to perform their functional duties impartially and objectively. In general terms, this obligation requires the judge to refrain from examining an application or making a decision if he or she has a personal interest that influences or could influence the impartial exercise of his or her duties.
59. Article 52 para. (1) of the Code of Civil Procedure, Article 34 para. (1) of the Code of Criminal Procedure and Article 202 para. (1) of the Administrative Code obliges the judge to refrain from examining the case when there are reasons affecting his impartiality.
60. Under Article 4 para. (1) lit. a) of Law No. 178/2014 on disciplinary responsibility of judges, a disciplinary offense can be:
 

“non-compliance by intention or gross negligence with the duty to abstain when the judge knew or should have known that circumstances provided by law requiring abstention existed [...]”.
61. Under Article 15 para. (1) lit. a) and d) of Law No. 544/1995 on the status of judges, a judge is obliged to be impartial and to refrain from acts that harm

the interests of the service and the prestige of justice, that compromise the honor and dignity of judges, cause doubts about their objectivity.

62. Under Article 4 para. (4) and (5) of the Code of Ethics:

“The judge shall refrain from making decisions, when his/her interests, those related by blood, adoption, affinity, or other persons who have close ties with his/her family, could influence the correctness of decisions.”

“The family and social relations of the judge must not influence the court decisions he/she adopts in the performance of his/her professional duties.”

63. Under the Commentary of the Code of Ethics, if a judge:

“[...] finds a conflict of interest, his task is to disclose this fact to the appropriate parties, taking all necessary steps to eliminate the conflict of interest and/or to refrain from judging the case.”

64. According to the well-established case law of the European Court of Human Rights (hereinafter “ECtHR”), the existence of impartiality must be determined based on:

(1) **a subjective test**, where regard must be had to the personal conviction and behavior of a particular judge, that is, whether the judge held any personal prejudice or bias in a given case; and also

(2) **an objective test**, that is to say by ascertaining whether the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality. There is no watertight division between subjective and objective impartiality since the conduct of a judge may not only prompt objectively held misgivings as to impartiality from the point of view of the external observer (objective test) but may also go to the issue of his or her personal conviction (subjective test) (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 6 November 2018, § 145).

The ECtHR also stated that justice must not only be done, but it must also be seen to be done. Judges should comply with both subjective and objective tests of impartiality. Appearance of partiality under the objective test is to be measured by the standard of an objective observer. A personal friendship between a judge and any member of the public involved in the case or close acquaintance of a judge with any member of the public involved in the case might give rise to a reasonable apprehension of bias. The above standards serve to promote the confidence which the courts in a democratic society must inspire within the public (*Castillo Algar v. Spain*, 28 October 1998, § 45).

*The Commission's assessment*

65. The Commission identified that the subject examined five cases involving the attorney-at-law S.R. in the period of validity of the legal assistance relationship (the last one provided the subject was represented by S.R. before the SCJ), and 11 cases after its validity.
66. In seven of these cases, the claims submitted by the attorney-at-law S.R. or by the parties represented by him were accepted, in five cases the claims were accepted partially and in four of them the claims were dismissed.
67. The Commission identified that the subject examined two cases involving the attorney-at-law V.J. after the validity period of the legal assistance relationship. In one case, the claims submitted by this attorney-at-law or his clients were accepted, and in one case, the claims were dismissed. A third case was distributed to him on 21 August 2024 and was at the examination stage.
68. At the same time, the Commission identified that the subject examined three cases, regarding the attorney-at-law V.J., as a member of the panel, within the validity period of the legal assistance relationship, where according to the confirmatory documents presented in response to the third round of questions, he recused himself.
69. At the hearing the subject stated that he did not recall exactly if he self-recused in some of the cases examined by him as a judge which involved the attorney-at-law S.R. According to him, within the Strășeni Court, the judges were advised to be impartial and objective, regardless of who the parties are, and not to misuse the institution of self-recusal.
70. At the same time, he mentioned that he had not been in direct contractual relations with this attorney. This was a premeditated action as his intention was to avoid any type of communication with him. The subject emphasized that he had no private conversations with S.R., neither before nor after representation of his interests in the court. The attorney was identified and chosen by a subject's faculty colleague (V.C.) at the request of the subject.
71. The subject was asked if he announced the parties about the circumstances of his relationship with S.R. at the beginning of the court hearings. He answered that he had probably announced the parties in some initial cases. However, later, given the well-established practice in the Strășeni Court regarding self-recusals, the indication of the President of the Court to not jeopardize the court's activity and to not overload other judge's agenda, the subject didn't do this.

72. Concerning V.J., the subject mentioned that he had not been in direct contractual relations with this attorney as well. He reaffirmed his explanations from the third round of questions, according to which he self-recused every time the attorney-at-law appeared before him in the courtroom. He also mentioned that the practice within the Court of Appeal was inconsequential. In some cases, his self-recusals in relation to V.J. were accepted, and in other cases, they were dismissed.
73. In relation to G.A., the subject mentioned during the hearing that he signed the legal assistance contract with this attorney on 4 March 2021. On 15 October 2021, the subject terminated this contract.
74. The subject also stated that when examining the appeal on points of law concerning G.A.'s client case, as a member of the panel, the parties were not present. At that time, he was unaware that G.A. was involved as an attorney in the previous proceedings. Moreover, the legal assistance contract was terminated a year before the appeal on points of law was examined. Immediately after the hearing, he presented the confirmatory document in this regard.
75. Overall, the subject tried to argue that the complexity of the cases he examined involving the mentioned attorneys-at-law and the value in dispute were insignificant. At the same time, in some of the cases he adopted judgments strictly in accordance with the imperative rules of the legislation, and no discretion of the court was left in order to adopt a different solution.
76. In this regard, the Commission notes that it does not assess this type of issues from the perspective of the nature or the complexity of the case and the value of its claims. When the situation calls a judge to recuse himself, the law does not require him to make a decision depending on the complexity of the case, the value of the claims etc., but the persons involved and his relation to them and, more importantly the potential conflict of interests and potential doubts that might arise regarding his objectivity and impartiality. The Commission determines whether a judge's actions or inactions might cast doubts for an objective observer, which affects the public trust in the justice system.
77. Given the importance of appearances, when such a situation (which can give rise to a suggestion or appearance of bias) arises, it should be disclosed at the outset of the proceedings, and an assessment should be made. This is an important procedural safeguard necessary to assure objective and subjective impartiality. In order not to diminish society's confidence in justice, a judge must undertake the objective test before examining the case, which entails providing sufficient guarantees to exclude any doubt as to his impartiality.



78. In this case, the Commission noted several mitigating factors, which at the same time make this case different from the cases of previously evaluated subjects, *e.g.*, *Manoli*, (Report of 19 November 2024) and *Ciobanu* (Report of 14 May 2024).
- a. according to the subject, the attorneys S.R. and V.J. were identified and chosen by his empowered representatives and not by him;
  - b. according to the subject, he was not in a personal relationship with S.R. and V.J. (*e.g.*, friends, former colleagues, relatives, etc.). Thus, there was no direct judge-attorney relationship that could compromise the integrity of the judicial process;
  - c. no joint professional or private activities between the subject and the attorneys-at-law have been identified within the evaluation period;
  - d. there was no direct communication or contractual relationship between the subject and the attorneys-at-law S.R. and V.J., representing a circumstance that could call into question a judge's objectivity and impartiality for an independent and objective observer. The subject delegated these tasks to empowered representatives;
  - e. concerning V.J., the subject stated that he recused himself every time V.J. appeared before him in the courtroom. The subject presented several self-recusals to the Commission;
  - f. in relation to G.A., the legal assistance contract was terminated, a year before the subject examined the case concerning G.A.'s client, due to the attorney's failure to fulfill contractual obligations;
  - g. in line with Article 36 point (6) of the Rules, the subject was cooperative and made efforts to provide confirmatory documents and explanations to support his arguments that he has not been personally or professionally linked to the attorneys in question and that they only represented his interests in court as a natural person.
79. According to the Commentary of the Code of Ethics of the Judge, "in cases not provided for in the Code of Ethics and the relevant legislation, but where the judge senses that his impartiality or independence can be reasonably questioned, he must publicly disclose, by a written record, any information which the parties or their representatives may put forward as relevant grounds for recusal, even if he considers that there is no real reason for it. After disclosing this information, the judge may ask the parties whether they agree to have their case examined. If having full knowledge of possible bias



on the part of the judge, the parties nevertheless wish the judge to examine their case and adopt a decision, the judge will continue the judicial proceedings”.

80. From a formal perspective, declaring a self-recusal, or at least informing the parties about circumstances potentially warranting a self-recusal, would have been the correct course of action. A judge is expected to act independently and not be influenced by the opinions or decisions of others. He must not seek the approval of a superior when the law provides clear regulations but act accordingly. Failure to self-recuse could constitute a disciplinary offense under Article 4 para. (1) of Law No 178/2014 on liability of judges.
81. Nevertheless, while it may have been sufficient for the subject to at least disclose his relationship with the attorneys-at-law at the outset of the proceedings, the failure to do so, in light of the above-mentioned mitigating factors, does not constitute a grounded reason for failing the evaluation.

## **VI. Conclusion**

82. Based on the information it obtained and the subject's explanations at the hearing, 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**

83. As provided in Article 40 point (4) of the Rules, this evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy. The Commission will publish the evaluation's result on its official website on the same day.
84. 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.
85. 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.

86. This evaluation report was approved by a unanimous vote of the Panel members on 18 March 2025 and signed pursuant to Articles 33 point (2) and 40 point (5) of the Rules.
87. Done in English and Romanian.

Andrei Bivol

Vice-chairperson of the Commission

Chair of Panel A