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RE-EVALUATION REPORT

approved according to Article 41

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

16 December 2025

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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 5 November 2025 and approved the following report on 16 December 2025. The members participating in the approval of the report were:

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

The Commission prepared this re-evaluation report, which is limited to the matters referred by the Superior Council of Magistracy, and should be considered alongside the initial evaluation report.

I. Introduction

1. On 18 March 2025, the Commission approved the report concerning Igor Chiroșca (hereinafter the “subject”) under Law No. 252/2023. It proposed that the subject promotes the external evaluation made according to the criteria set in Article 11 of Law No. 252/2023 (hereinafter the “initial evaluation report”).
2. On 6 May 2025, the Superior Council of Magistracy (hereinafter the „SCM”), by decision No. 216/18, rejected the report and ordered the resumption of the evaluation procedure (hereinafter the “SCM’s decision”).
3. The Commission conducted its resumed evaluation pursuant to Law No. 252/2023 and the Commission’s Rules of Organization and Functioning (hereinafter the “Rules”).
4. Following the re-evaluation, the Commission concluded that the subject meets the criteria set in Article 11 of Law No. 252/2023, as no serious doubts determined by facts have been found regarding the subject’s compliance.

II. Grounds for the resumed evaluation

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

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

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

6. Under Article 20 of Law No. 252/2023:

“(2) When resuming the evaluation procedure, the Evaluation Commission shall examine the aspects indicated by the respective Council or, as the case may be, by the Supreme Court of Justice, as well as any additional information which, for objective reasons, could not be submitted previously. If the subject of the evaluation agrees, the Commission shall organize repeated hearings. The subject’s agreement or, as the case may be, refusal, shall be communicated to the Evaluation Commission within 3 working days from the date of the Commission’s request.

(3) The report on the re-evaluation of the subject shall be adopted by the Evaluation Commission in accordance with the rules set forth in Article 17.”

7. The initial evaluation report identified two matters. The first one (potential inexplicable wealth) was not investigated further because, even if treated as unjustified wealth, it would not have exceeded the legal threshold. The second one (violation of the legal regime governing conflicts of interest) raised preliminary doubts about compliance with the ethical integrity criterion established by law.
8. The SCM concurred with the Commission’s determination regarding the subject’s compliance with the financial criterion. On the ethical integrity, however, it mentioned that the *Manoli* case (Report of 19 November 2024), outlined a “minimum requirement” that appearances of impartiality be at least communicated to the parties and participants in the proceedings. The objective test of impartiality requires the same degree of caution regardless of how the judge delegated the conclusion of legal assistance contracts. In SCM’s opinion, the Commission did not present convincingly enough the differences between these cases that would condition that “minimum requirement” (§ 3.6.10, SCM’s decision).
9. The SCM noted the absence in the initial evaluation file of the subject’s declarations of self-recusal referred to by the Commission. It also mentioned that two of the three cases in which the subject self-recused are irrelevant. The SCM concluded that these circumstances require further analysis (§ 3.6.10, SCM’s decision).

III. Resumed evaluation procedure

A. Procedural history

10. On 7 May 2025, the Commission received the SCM's decision. The SCM did not send any additional information or documents.
11. On 26 June 2025, the Commission asked the subject to provide additional information by 3 July 2025 to clarify certain matters (hereinafter the "first round of questions"). The subject provided answers and documents within the deadline.
12. On 30 September 2025, the Commission asked the subject to provide additional information by 7 October 2025 to clarify certain matters (hereinafter the "second round of questions"). The subject provided answers and documents within the deadline.
13. During the resumed evaluation, a petition was received from an individual. The petitioner alleged that the subject is in a godfather relationship with G.R., whose son owns a company that was a defendant in one of the cases examined by the subject, in which the subject did not self-recuse. The petition was included in the re-evaluation file.
14. On 24 October 2025, the Commission notified the subject that, based on the information collected and reviewed during the resumed evaluation, it intended to discuss the matters referred to in the SCM's decision regarding the subject's compliance with the ethical criterion and invited him to attend a public hearing on 5 November 2025.
15. As provided in Article 41 para. (4) of the Rules, the subject could have requested access to all the materials in his re-evaluation and initial evaluation file at least seven days before the hearing. However, the subject decided not to exercise this right.
16. On 4 November 2025, the subject requested that the hearing be held in a closed session, arguing that distinguishing his case from those of other evaluated subjects would require reference to their names and to factual and legal circumstances. The Commission, inferring that the subject refers to his obligation to uphold ethical standards toward fellow judges, granted the request and determined to hold part of the hearing in a closed session.
17. On 5 November 2025, the Commission held a public hearing. At the hearing, the subject stated that he had no corrections or additions to the answers previously provided in response to the Commission's requests for information.

18. After the hearing, on 13 November 2025, the subject submitted additional documents. The Commission added the materials to the re-evaluation file and considered them in its analysis.

B. Requests to relevant courts

19. In its decision, SCM mentioned that data from the Integrated Case Management System (hereinafter “PIGD”) does not allow for the identification of whether the subject self-recused each time the attorneys appeared before him (§ 3.6.10 of the SCM’s decision). Accordingly, the Commission investigated this issue further by sending requests to the relevant courts. It asked them to present, from the paper case files, copies of self-recusal declarations, submitted by Judge Chiroșca, copies of the minutes of court hearings or any other evidence which would prove that he informed the parties about his relationship with attorneys S.R., V.J. and G.A. in 33 out of 36 identified cases.¹
20. The Strășeni Court stated that two case files (No. 4-102/2016 and No. 10-7/2017) were destroyed in accordance with SCM-approved regulations, but the judgments remain in the archives. No declarations of self-recusal concerning the subject were identified, and no notes in the hearing minutes regarding the announcement of the parties about the subject’s relationship with the attorney S.R.
21. The Central Court of Appeal stated that one case is at the examination of merits stage, while five have a “Closed” status, meaning the appeals were decided on the merits. In these five cases, the files were returned to the first-level court. No declarations of self-recusal were identified in these cases in the PIGD database. Only in two cases (No. Ia-665/24 and No. Ia-37/24) were the hearing minutes drawn up. However, the case files were returned to the first-level court.
22. To the request for copies of the subject’s self-recusals in cases other than those identified by the Commission, both courts informed that PIGD search algorithms do not allow such broad and complex operations.
23. The Commission further requested that the Central Court of Appeal provide copies of the file documents for the cases examined by the subject, who was a member of the panel (non-rapporteur). The Court answered that eight case files were returned to the first-level court, while the remaining cases (Ia-

¹ The subject self-recused in three cases.

324/24, 4r-3756/24, 1a-621/24, 4r-1293/25, 1r-107/25) are under examination by panels that do not include the subject.

24. On 13 October 2025, the Commission also asked the Strășeni Court, Orhei Court, and Chișinău Court to provide copies of the file documents in the mentioned cases.
25. According to the Strășeni Court letter of 16 October 2025, the Orhei Court letter of 20 October 2025, and the Chișinău Court letter of 22 October 2025, no self-recusal declarations or notes in the hearing minutes regarding the relationship of the subject with the attorneys S.R. and V.J. were identified in the case files.
26. In its letter of 4 November 2025, the Central Court of Appeal stated that, in case No. 1r-884/2024, no self-recusal declaration was found in the file. At the same time, the case was examined in written procedure (without parties' participation), so no hearing minutes were drawn up.
27. According to the Supreme Court of Justice's letter of 10 November 2025, no self-recusal declaration was identified in the file of case No. 1a-37/2024. The defendant B.E. was provided the service of a state-guaranteed legal assistance attorney, being represented at the court hearing by I.M. According to the case file materials, the attorney V.J. did not participate in the court hearings, although he submitted the appeal and several requests to postpone the hearing in the interests of B.E.

IV. Analysis in the resumed evaluation

28. The Commission analyzed and, where necessary, requested further clarification regarding the subject's compliance with the ethical integrity criterion, as set out in the SCM's decision.

A. Petition concerning the subject

A.1. Commission's findings

29. In relation to the petition mentioned at § 13, the Commission examined the case involving the company owned by A.R. (G.R.'s son) in the initial evaluation. The latter, according to the petitioner, is in a godfather relationship with the subject.
30. The Commission identified, in the resumed evaluation, three additional cases concerning A.R. that were examined by the subject. Relevant questions in this regard were addressed in the second round of questions (Question 4).

A.2. Subject's explanation in the resumed evaluation

31. According to the subject's answers from the first (Question 2) and second round of questions (Question 4), he denied any relationship with these persons.
32. He noted that the examination of cases concerning A.R. resulted from the PIGD's random assignment. Moreover, the subject stated that he examined cases concerning the petitioner as well, but he does not know him personally.
33. The subject stressed that he does not have any relatives by blood, by marriage, or spiritual kinship who are originally from and/or have (or had) their residence and/or work (or worked) in the Strășeni district.

A.3. Commission's assessment in the resumed evaluation

34. Given that no evidence was provided or obtained regarding the relationship between the judge and one of the participants in the case (e.g., family or professional), this issue is mitigated.

B. Compliance with the conflict of interests regime

B.1. Commission's findings (initial evaluation report, §§ 38-48, 65-81)

35. During the initial 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.
36. The subject then examined five cases involving attorney-at-law S.R. during the period of validity of the legal assistance relationship (the last of which was provided while the subject was represented by S.R. before the SCJ), and 11 cases after its validity.
37. He examined but self-recused in three cases involving attorney-at-law V.J., within the validity period of the legal assistance relationship, as confirmed by the documents presented in response to the third round of questions of the initial evaluation. And examined without self-recusing two cases involving V.J. after the validity period of the legal assistance relationship. A third case was distributed to him on 21 August 2024, but was pending.
38. He also examined one case involving attorney G.A.'s clients, after the validity period of the legal assistance relationship.
39. In its initial assessment, the Commission noted several mitigating factors, which at the same time make the subject's case different from the cases of previously evaluated subjects, e.g., *Manoli* (Report of 19 November 2024) and *Ciobanu* (Report of 14 May 2024) (§ 78 from the initial evaluation report).

40. The Commission concluded that 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 mitigating factors, does not constitute a grounded reason for failing the evaluation.

B.2. SCM's findings (SCM's decision, § 3.6.10.)

41. From the SCM's perspective, the Commission did not present convincingly enough the differences between the subject's and Manoli's cases, which would condition the "minimum requirement" to inform the parties of the appearance of a conflict of interests.
42. The SCM stated that the primary mitigating factor identified by the Commission in the subject's case was the delegation of management of relations with the attorneys. In SCM's opinion, even if authorized third persons concluded the legal assistance contracts, they took effect until their complete enforcement (the last day of validity). The objective test of impartiality calls for the same degree of caution regardless of the manner in which the judge delegated their conclusion.

B.3. Subject's explanation in the resumed evaluation

B.3.1. In relation to S.R.

43. Regarding the attorney S.R., the subject mentioned in the initial hearing that he did not recall exactly if he self-recused in some of the cases examined by him as a judge (§ 69 from the initial evaluation report). He also stated that he had probably announced the parties at the beginning of the court hearings, in some initial cases. However, later, given the well-established practice in the Strășeni Court of self-recusals, and in light of the President of the Court's indication not to jeopardize the court's activity and not to overload other judges' agendas, the subject didn't do so (§ 71 of the initial evaluation report).
44. According to the subject's answers from the first round of questions (Question 1, b), in one case (No. 2rh-17/2014), he did not self-recuse but informed the parties of the case about his contractual relationship with the attorney S.R. He was reminded about this by E.A., who assisted him as a judicial clerk at the time.
45. The subject presented the written statement of E.A. dated 29 June 2025. In the statement, E.A. stated that the subject initiated a discussion with the parties, announced his contractual relationship with S.R., and that the opposing party did not submit a recusal request. She did not recall if this was recorded in the hearing minutes. E.A. also admitted that the subject could

have disclosed the parties to this relationship in other cases, but does not recall which one and whether she recorded these facts in the hearing minutes.

46. In addition, the subject mentioned that the issue of the potential conflict of interest was discussed at the regular weekly meeting of the judges of the Strășeni Court, where the following was agreed:
 - (i) the recusal requests related to the existence of conflict of interest between Igor Chiroșca and S.R. to be rejected;
 - (ii) the subject was advised not to self-recuse and to avoid any personal contacts with attorney S.R.;
 - (iii) it was put in charge of the Head of the Secretariat of the Court V.S. to inform the court employees, attorneys and prosecutors within the Strășeni jurisdiction about this issue and the eventual solution of the court on the requests for recusal on this ground.
47. In support of his arguments, the subject presented the written statement of V.S., the former Head of the Secretariat of the Strășeni Court, the joint statement of the former judges of the Strășeni Court, the joint statement of the attorneys² who practiced in the Strășeni district during 2014-2015, and the written statement of E.A., the subject's former judicial clerk.
48. In the remaining cases³ that were assigned to him in which the attorney S.R. participated, the subject mentioned that he did not self-recuse, and that he does not remember if he informed the parties about the potential conflict of interests (but possibly he did so once more), based on the same arguments presented in the initial evaluation (§ 71 from the initial evaluation report).
49. In the subject's opinion, the only fact that in the above case (No. 2rh-17/2014), he informed the parties about his contractual relationship with the attorney S.R., and subsequently, this issue was discussed at the regular weekly meeting of the judges with the subsequent dissemination in the local community of attorneys of the problem addressed and the solutions agreed

² The subject highlighted the fact that in order to avoid possible conflicts of interest with the signatory attorneys, the joint statement was drawn up by the head of the Public Relations Service of the Strășeni Court, I.S., who in the period 2014-2015 also activated as an attorney in the Strășeni district.

³ Case No. 3-2/2015: "Amanet-ST" JSC (represented by S.R.) vs Cadastral Territorial Office Strășeni;
 Case No. 1-375/15 Criminal case of indictment of B.A. (the injured party represented by S.R.);
 Case No. 4 - 102/2016: Administrative offence case provided for by Article 243 of the Administrative Offence Code of the RM regarding C.A. (C.P. - injured party represented by S.R.);
 Case No. 10-7/2017: G.A. (represented by S.R.) - complaint against the prosecutor's order (Prosecutor's Office of Strășeni).

upon, was sufficient for him, as a judge to ensure the objective and transparent character. This, for an independent observer, would not have created any doubt regarding the lack of the subject's impartiality during the examination of the other cases during the period of validity of the legal assistance contract.

50. Regarding the cases examined by the subject after 24 May 2017, when the legal assistance contract with S.R. was terminated, the subject reiterated his position from the initial evaluation (§ 55 from the initial evaluation report).

B.3.2. In relation to V.J.

51. In response to the first round of questions (Question 1 (a)), the subject stated the following regarding the three cases he examined following the validity of the legal assistance relationship with V.J.

Case No. 4r-329/23: S.I. – appeal on points of law by V.M. against the judgement of the Strășeni Court (regarding the annulment of the administrative protocol regarding the offence committed by S.I., represented by V.J.)

52. According to the subject, the first procedural action in relation to this case was carried out on 14 November 2023 (about one year and 9 months after the termination of the contractual relationship with V.J. (2 February 2022)). The case was examined in the absence of the parties or their representatives.
53. The subject stated that adopting a solution in a case under examination on points of law in the order of appeal, in the absence of the parties, does not necessarily require examination of the hearing minutes or other procedural acts of the first-level court. Moreover, when the practice on specific questions of law is uniform, the rapporteur's study of the case file is limited to the appellant's arguments in correlation with the court's arguments in the judgment under appeal. He noted that, in PIGD, the attorney V.J. had no correspondence with the appellate court, such as a request for postponement, recusal, or relocation of the case, which would appear to indicate that the subject knew, or should have known, that the attorney had previously participated in this case. The subject presented confirmatory documents in support of his arguments.

Case No. 1a-37/24: B.E. (represented by V.J.) - appeal against the sentence of the Strășeni Court

54. The first procedural action in relation to this case was carried out on 16 January 2024 (about two years after the termination of the contractual relationship with V.J. (2 February 2022)). The case was examined in the

absence of both the defendant B.E. and the attorney V.J., as they had requested the systematic postponement of the court hearings on unfounded grounds. On the grounds of a manifest delay in the judicial process, the judicial panel suppressed the defense's bad-faith actions. The panel appointed a public defender, examined the case on the merits, and rejected the appeal of attorney V.J. in the interests of the defendant.

55. V.J. acted in the interests of the defendant before the first-level court based on the decision of the Chişinău Office of the National Legal Aid Council. Consequently, he had no direct contractual relationship with the defendant. Also, he did not have any significant interest, such as success fees, etc., which is prohibited by law for these types of legal services.
56. According to the file assignment sheet and the decision, the members of the judicial panel were randomly appointed: A.S., D.B., and Igor Chiroşca. Before the examination of the case, the subject affirmed that he had reminded Judges A.S. and D.B. that he had previously had a legal assistance relationship with V.J., which was terminated two years ago. Following the discussions with the members of the panel, it was concluded that the probability that a declaration of self-recusal on the grounds indicated above would be admitted is low.
57. The subject presented confirmatory documents in support of his arguments, including the written statements of judges A.S. and D.B. In their written statements, the judges confirmed the discussion and noted that the decision on the recusal was left to the subject. Both judges referred to the cases (No. 1rs-13/21 and No. 10r-1071/21) where the subject self-recused, and his self-recusals were accepted.

Case No. 4-24063857-02-4r-21082024: C.A. (represented by V.J.) - request for change of penalty measure

58. The first procedural action in relation to this case was carried out on 16 June 2025 (after three years since the legal assistance contract was terminated (2 February 2022)), when the first court hearing was set for 21 July 2025.
59. In the hearing, the subject mentioned that he followed the same practice. He reminded his panel colleagues that he previously had a legal assistance relationship with V.J. The subject did not self-recuse because he examined and offered a solution years after the legal assistance contract was terminated. Although the attorney's client obtained a favorable decision in

the first-level court, the subject's panel disagreed with that decision and referred the case for retrial.

60. The Commission identified, in the resumed evaluation, an additional case (No. 1a-608/25)⁴ assigned to the subject as a judge rapporteur. The subject was asked whether he self-recused or informed the parties about his contractual relationship with V.J. In his response to the second round of questions (Question 3), the subject stated that he informed the other two members of the panel (M.P. and A.S.) of his contractual relationship with attorney V.J. and that it ended approximately four years ago. Following the discussions, they concluded that the likelihood of a self-recusal declaration, based on such reasons, being accepted was low.
61. The decision on this case was issued on 1 October 2025. The subject stated that V.J. represented C.V. pursuant to an attorney mandate issued by the Chişinău Office of the National Legal Aid Council. On 6 March 2024, the defendant requested an adjournment of the hearing, stating his intention to enter into a contract with another attorney. On 18 June 2024, he agreed with attorney I.P., who also represented him in the appellate court.

B.3.3. In relation to non-rapporteur cases

62. During the resumed evaluation, the Commission has identified several new cases, concerning attorneys S.R., V.J., and G.A., distributed to or examined by the Central Court of Appeal panels of which the subject was a member.
63. In his response (Question 2, b, e) to the second round of questions, the subject mentioned that he did not self-recuse and did not inform the parties about his relationship with S.R., V.J. and G.A. He referred to his previously presented arguments in the initial evaluation (Round 3, Question 21, c, d, f, h, i), see §§ 44, 46, 47 and 49, and in the resumed evaluation (Round 1, Question 1, a, b, d, f) see also §§ 51-61 and 72-81.
64. Additionally, the subject stated that he was not the judge rapporteur in these cases and therefore could not know that the attorneys in question had participated in the prior proceedings. He presented the written statement of the acting Chair of the Criminal Chamber of the Central Court of Appeal, which explains the practices for organizing the judges of this Court in panels. According to it, no internal rules have been established at this time on how

⁴ Case No. 1-24019075-02-1a-20062025, C.V. (represented in the first level court by V.J.).

rapporteur judges should prepare their case files. Each panel decides on what the report should cover when deliberating on the case.

65. He noted that the only applicable provision to the preparation of the file is contained in the Regulation on the constitution of court panels and the replacement of their members, approved by Decision No. 111/5 of the Superior Council of Magistracy of 5 February 2013. This requires the rapporteur judge "to prepare and submit a report on compliance with the formal requirements and the grounds on which the claims of the parties to the proceedings are based". For this reason, rapporteur judges are not required to report to the panel the identities of all persons involved in the various stages of the proceedings (investigating officers, prosecutors, attorneys, judges, etc.) or to present all materials submitted in the criminal proceedings.
66. The subject presented several sample lists of cases reflecting how other rapporteur judges from the Central Court of Appeal draft them. The lists illustrate different approaches to including party information. Some lists contain the names of the attorneys and parties, while others do not.
67. He also noted that the decisions in the examined cases were made after the legal assistance relationship with the attorneys in question had ended.
68. Cases No. 4r-2152/21, 4r-1553/21, 4r-1777/22, and 4r-1926/22 were examined in a public hearing, but the attorneys in question were absent. The cases No. 4r-2524/22, 1r-884/24, 1r-232/24 were examined without the parties' participation. Thus, when deliberating and adopting the decision, based solely on the rapporteur judge's report, he could not know that the attorneys in question had participated in prior proceedings in these cases.
69. In the case No. 1a-560/24, the subject mentioned that he informed the other two members of the panel about his contractual relationship with attorney V.J. and that it ended approximately three years ago. Following the discussions, they concluded that the likelihood of a self-recusal declaration, based on such reasons, being accepted was low. The subject presented written statements of his panel's colleagues.
70. Regarding cases No. 1a-324/24, 4r-3756/24, 1a-621/24, 4r-1293/25, and 1r-107/25, the subject stated that these are currently pending. They will be examined by the rapporteur judges D.B. and E.B. He clarified that he is listed in the PIGD database because, when the cases were distributed, he was a member of those panels. Still, he is not anymore.

71. In the context of SCM's reasoning (§ 3.6.10. of the SCM's decision), the subject admitted that the delegation of the conclusion of the legal assistance contracts does not remove the objective appearance of a link with the attorneys. However, he sustained that this is one of the mitigating factors which, when applied cumulatively with the rest of the mitigating factors, substantially diminishes the appearance of impartiality to an independent observer.
72. In addition, the subject listed several mitigating factors compared with other subjects who promoted the evaluation and with those who did not. Also, the subject presented two mitigating circumstances that were not considered by the Commission in the initial evaluation, but which, in the subject's opinion, make his case different.
73. According to the first one, the non-declaration of self-recusal and the failure to inform the parties about the potential conflict of interest with the attorney S.R. is to be analyzed in corroboration with the territory where the subject worked as a judge in 2014-2017, the Strășeni district and its population. Given that, as a rule, people working in the field of justice usually live in urban settlements, as a result, the community of lawyers in the Strășeni district was concentrated in the municipality of Strășeni, which is one of the smallest municipalities in the Republic of Moldova.
74. The subject referred to relevant ECtHR case law⁵, according to which when analyzing whether a judge should have self-recused, the contextual particularities of the national judicial system, such as: a) the small territorial-jurisdictional dimension; b) the inevitable relations between the actors of the legal community; c) the real capacity to avoid conflicts of interest without paralyzing the legal system, etc., must be considered.
75. The second concerns the authority of the court president and senior judges, which could undermine the judge's discretion and independence.⁶
76. Furthermore, the subject provided a brief analysis of ECtHR cases (*Xhoxhaj v. Albania*; *Sevdari v. Albania*). He mentioned that, unlike Albanian law, Article 18 para. (5) of Law No. 252/2023 provides for only one consequence of non-promotion of the external evaluation – dismissal from office, which, from the outset, contradicts the findings of the ECtHR in the case of *Xhoxhaj v. Albania*. However, in his opinion, if the Commission, the SCM, and the SCJ

⁵ See: § 39 *Steck-Risch and Others v. Liechtenstein*; § 82 *A.K. v. Liechtenstein*; § 102 *Micallef v. Malta*.

⁶ See: §§ 82, 86, 91 *Parlov-Tkalčić v. Croatia*.

were to consider the standard of proportionality developed in the case of *Sevdari v. Albania*, the mere fact that there is only one sanction would not automatically lead to a violation of Article 8 of the ECHR.

77. Pursuant to Article 11 para (2) of Law No. 252/2023, the subject shall be deemed not to meet ethical integrity requirements if the evaluation commission has determined that, in the last 10 years, he admitted incompatibilities and conflicts of interest affecting his position.
78. In this regard, the subject referred to the Constitutional Court's findings, according to which the condition that the conflict of interest must affect the position of a judge “allows the Commission to decide not to promote the candidate only if it has found violations of the rules of ethics and professional conduct of a serious nature. This means the candidate may question the seriousness of the violations identified by the Commission before SCJ, which may assess the “serious” nature of the violation depending on the particular circumstances of the case”.⁷
79. Furthermore, the Constitutional Court noted that, “Situations that give rise to conflicts of interest in the judicial activity of judges can be grouped into the following categories:
 - (i) situations of personal interest;
 - (ii) situations of kinship or affinity with the parties of the process or with a judge of the panel;
 - (iii) the exercise of both judicial and extrajudicial functions in the same case; and
 - (iv) other circumstances that cast reasonable doubt on the impartiality of the judge”.⁸
80. The subject mentioned that in his case, the conflicts of interest are related to the fourth category “other circumstances that cast reasonable doubt on the impartiality”, therefore § 208 is relevant: “this measure must be applied according to the particular circumstances of the case. It is important to establish that the subject of the evaluation was aware of the circumstances in question and did not self-recuse from examining the case, thereby

⁷ See: § 120 of Constitutional Court’s Decision No. 43 of 6 April 2023.

⁸ See: § 194 of Constitutional Court’s Judgement No. 2 of 16 January 2025.

undermining confidence in the justice system and the right of litigants to an impartial tribunal”.⁹

81. At the hearing, the subject supported his written arguments. He also stated that for reasons not imputable to him, the fact of informing the parties about his relationship with attorney S.R. in the case No. 2rh-17/2014 (see §45 above) was not mentioned in the hearing minutes. However, the subject noted that the obligation to include such facts in the minutes appeared only after he examined some of the cases with his former attorneys, in May 2018, when SCM adopted the Commentary on the Code of Ethics and Professional Conduct of Judges.
82. The subject affirmed that both the rapporteur and non-rapporteur judges have the same responsibility to recuse themselves in the event of a potential conflict of interest. At the same time, he noted the absence of a decision or methodology approved by SCM to establish the mode of cooperation among panel members or a methodology for the staff assisting the judges to identify the persons who participated in the previous proceedings and to inform the panel. In this context, there cannot be a legal presumption that the non-rapporteur judge knows or is obliged to know the complete information from the case file from the conflict of interests’ perspective.
83. In addition, the subject referenced a recent thematic guideline adopted by the SCJ. This document outlines which requests for transfer of jurisdiction should be accepted and which should be dismissed regarding the impartiality of the judges. Although the document refers to the institution of transfer, the subject’s opinion is that it is also applicable to the institutions of recusal and self-recusal.

B.4. Commission’s assessment in the resumed evaluation

84. In the re-evaluation procedure, the Commission identified 36 cases the subject examined with the involvement of the above-mentioned attorneys, who represented one of the parties at a certain stage of the process.
85. Of the 36 cases listed in the annex to the hearing notice, 13 identify the subject as the single judge at the Strășeni district court, seven identify the subject as the judge rapporteur, and 16 as a member of the panel (non-rapporteur) at the Central Court of Appeal.

⁹ Constitutional Court’s Judgement No. 2 of 16 January 2025.

86. The difference between the number of cases analyzed in the initial evaluation (23) and the resumed evaluation (36) is mainly due to the Commission identifying 13 additional cases that the subject examined as a panel member (non-rapporteur).
87. At the same time, the Commission did not include in the annex to the hearing notice the case concerning the attorney G.A. analyzed in the initial evaluation¹⁰, as no conflict of interest was established then. G.A. was not involved in the appeal procedure examined with the subject's participation. The legal assistance contract was terminated a year before the appeal on points of law was examined. This was done at the subject's initiative, due to the attorney's failure to fulfill contractual obligations.¹¹
88. Out of the 36 cases identified by the Commission, the subject self-recused in three cases that he examined as a non-rapporteur at the Central Court of Appeal. One self-recusal was rejected, and two were accepted. The copies of the rulings were presented to the Commission. The subject also claimed that he informed the parties in another case he examined as a single judge at the Strășeni district court.
89. According to the Central Court of Appeal's letter of 8 October 2025, the other five cases identified by the Commission, in which proceedings are still pending, are to be examined by different panels.
90. In addition, the Commission did not consider four identified cases in which the attorneys in question did not participate in the appeal process, as their clients were represented by other attorneys.
 - (i) in cases No. 1a-608/25 and No. 4r-1553/21, in the appeal procedure, the clients were represented by other attorneys, who also submitted the appeal in their interests;
 - (ii) in the case No. 1r-232/24, attorney V.J. represented V.T. only at the stage of criminal investigation. At the first level court hearing, the defendant refused V.J.'s services, stating that she had a contract with another attorney (A.M.). The Court removed V.J. from the case. The appeal on points of law, in the interests of V.T, was submitted by attorneys V.S. and A.M.;

¹⁰ See: § 46 from the initial Evaluation Report of 18 March 2025.

¹¹ See: §§ 73, 74 from the initial Evaluation Report of 18 March 2025.

- (iii) in the case No. 1r-884/24, the appeal on points of law in the interest of B.G. was submitted by attorney P.B. The only involvement of the attorney V.J., identified by the Commission, was his participation in the first-level court, representing the injured party A.S. The appeal was dismissed as being submitted out of time (2 years and one month).
91. Thus, the subject examined 24 cases concerning his former attorneys-at-law without recusing himself. None of these cases contains evidence in the file on whether the subject self-recused or notified the parties of his former relationship with the attorneys, as noted in §§ 19-27 above.
 92. Of these 24 cases, 13 concerned the subject's participation as a single judge at the Strășeni district court. And 11 concerned his participation as a panel member of the Court of Appeal – six as rapporteur and five as a member of the panel (non-rapporteur).
 93. The 13 cases at the Strășeni district court involved attorney S.R. Of these, five were examined during the validity period of his legal assistance contract. The other 8 cases were examined after the validity period.
 94. The 6 cases he examined as rapporteur at the Court of Appeal involved attorneys S.R. and V.J. (each in three cases). These cases were examined after the validity of the legal assistance contracts.
 95. The 5 cases that he examined as a non-rapporteur at the Court of Appeal were with the involvement of attorney-at-law S.R. (two cases) and V.J. (three cases). These cases were also examined after the validity of the legal assistance contracts.
 96. The pattern shows a recurrent non-recusal involving different attorneys who had previously represented the subject. This presents concerns about the subject's observance of the principle of impartiality and his obligation to avoid "appearances of bias".
 97. The central issue of the case is whether a reasonable observer could have doubted the subject's impartiality, thereby undermining confidence in the justice system and the right of litigants to an impartial tribunal.
 98. In relation to the cases at the Strășeni district court, the subject's argument about the small jurisdictions with tight legal networks and the invocation of ECtHR case law (*Steck-Risch, A.K. v. Liechtenstein*; *Micallef v. Malta*) mitigates the severity but does not absolve responsibility. It may be that because the Strășeni district (82,675 residents in 2014) and the municipality (18,376

residents in 2014)¹² are small, prior personal legal representation could hinder the examination of cases by judges.

99. The potential influence of informal internal hierarchies shaping behavior (e.g., discouraging recusal) may also be valid in the above context. The *Parlov-Tkalčić v. Croatia* case and Report of the Parliamentary Assembly of the Council of Europe (§§ 71–78)¹³, may explain why the subject failed to act independently, but do not legally excuse the omission.
100. In relation to the cases at the Court of Appeal, the Commission notes that the members of a judicial panel share equal responsibility for ensuring impartiality. Even if not a rapporteur, the judge has an independent duty not to admit potential conflicts. The lack of internal regulation does not exempt a judge from ethical obligations.
101. The Commission notes that ethical duties are personal and stem from the Code of Ethics and the general impartiality standard, not from internal court rules. Also, ethical responsibility is individual, not collective. The subject's decision not to self-recuse, also determined possibly by his panel colleagues' "counseling", while it may have explained his actions, can hardly be sustained.
102. Another argument is that issuing decisions after the attorney-client relationship has ended eliminates any conflict. The timing of the decision, however, is not the determinative factor. Under the ethics framework, the problem arises when a judge examines a case involving his former attorney, as it creates at least an appearance of bias.
103. In most such cases, the analysis focuses on the objective test, which requires the identification of ascertainable facts that could give rise to legitimate doubts as to the judge's impartiality (see *Micallef v. Malta* [GC], 15 October 2009, §§ 93–97).
104. The objective test is functional in nature. It aims to identify professional, financial, or personal links between a judge and a participant that may give rise to objectively justified doubts concerning the impartiality of the tribunal (*BEG S.P.A. v. Italy*, 20 May 2021, § 131).

¹² https://statistica.gov.md/ro/rezultatele-recensamantului-populatiei-si-al-locuintelor-2014-rpl2014-122_4280.html.

¹³ https://pace.coe.int/en/files/21798/html?utm_source=chatgpt.com#_TOC_N04F98380N241DB3F4.

105. In one of the thematic guidelines of the SCJ, it stated that “the fact that a case is examined by a three-judge panel in the court of appeals reduces the risk of bias.”¹⁴ The Commission agrees that, in matters of transfer requests, which understandably also concern the need to maintain impartiality, there may be no basis to remove a judge solely based on a prior professional relationship.
106. In the case of the subject, his previous participation in three trials where, in two of the cases, the attorneys-at-law were selected by a third party and which related to relatively minor issues of contract enforcement, a takeover of his wife’s administrative trial due to procedural restrictions (repeated submission of the same application by the same complainant), and a private matter trial undoubtedly would have warranted at least the disclosure to the trial participants about these circumstances. This, however, cannot proportionally lead to the subject’s failing of the evaluation.
107. Further, in line with § 3.6.10. of the SCM’s decision, and upholding the arguments from the initial evaluation report, the Commission will present the differences between the *Manoli* and the subject’s case.

N/o	Manoli	Chiroșca
1.	The subject himself identified the attorney and discussed the conditions of the legal assistance relationship with the attorney.	Delegated by a notarized power of attorney the selection of the attorneys and conclusion of the legal assistance contracts. ¹⁵
2.	The subject communicated directly with the attorney.	The subject did not communicate directly with the attorneys. ¹⁶
3.	The attorney represented the subject in a case where the first requested the annulment of a thirteen-year-old order to initiate the criminal investigation against him. This order was issued on 21 February 2005 concerning the offense provided by Article 361 para. (1) of the Criminal Code.	The subject was represented in civil cases of which one was a takeover of his wife’s trial discontinued by her for procedural reasons. The cases did not relate to the judge’s integrity. For an independent observer representation in such cases might create a far less personal dependency on the attorney and

¹⁴ https://csj.md/images/FT_-_str%C4%83mutare_actual.mai_2025__redactat%C4%83.pdf

¹⁵ With G.A., the subject concluded directly the legal assistance contract. However, the Commission did not identify any breach of the conflict of interests regime by the subject in connection with the cases concerning G.A. and his clients.

¹⁶ With exception of G.A.

	The case related to the subject's integrity. For an independent observer a representation in such matter might create a stronger sense of indebtedness and bias.	a less connection to future judicial decision-making.
4.	The subject was represented free of charge. Potential favors could be invoked.	The attorneys were remunerated. No potential favors could be invoked.
5.	A professional relationship was identified between the subject and the attorney (former colleagues at the same law firm).	No relationship was identified between the subject and the attorneys (e.g. friends, former colleagues, relatives, etc.)
6.	The subject did not self-recuse and did not inform the parties about the legal assistance relationship when examined the first identified case involving his attorney. Therefore, possibly by intention or by negligence he concealed this relationship demonstrating an undisclosed potential conflict of interests. This being the subject's behavior in the further cases.	The subject did not self-recuse but he seemed to have informed the parties when examined the first identified case involving one of the attorneys (see §§ 44, 45 above). Thus, the subject's intention to disclose the relationship with the attorney was expressed right from the very first case.
7.	The subject did not self-recuse in a criminal case examined within the period of the legal assistance relationship.	The subject presented three self-recusal declarations in relation to one of attorneys V.J. submitted within the period of the legal assistance contract.
8.	The subject did present a self-recusal submitted after the evaluation period on 5 April 2024 in a case involving his former attorney (5 years and 7 months after the last representation by his attorney before the Court of Appeal on September 2018).	The subject claimed he disclosed his potential conflict of interest in the first case, involving one of the attorneys, examined right after the conclusion of the legal assistance contract (see §§ 44, 45 above).
9.	The subject did not report any hierarchical influence or consultations with colleagues or court management.	The subject sustained that during his activity at Strășeni Court, his decision not to self-recuse was determined by the President of the Court

		recommendations who had a certain influence over the Court's activity and its internal practice, which senior judges complied with (see § 46 above). Although this does not absolve a judge from the responsibility to self-recuse, the Commission can admit that this influence had an impact on the subject, as he had a professional experience of only 2 years as a judge at the time.
10.	The subject was a judge of the first level Court. He examined the file of the cases and received the parties requests. The claim of not knowing the attorneys involved in a case would not be plausible.	Several cases were examined by the subject as a member of a panel, Court of Appeal. Considering the subject's explanations, written statements regarding the Court's practice, the Commission cannot ignore the possibility that the subject, in these particular cases, was not aware of the attorneys involved in the cases, although he should have known.
11.	The minimal requirement to inform at least the parties was relevant for both subjects. However, in the <i>Chiroșca</i> case, not meeting this requirement cannot, in the Commission's opinion, from the perspective of the proportionality principle and considering the mitigating factors, lead to non-promotion.	

B.6. The allegedly missing self-recusals from the initial evaluation file

108. Although the SCM noted the absence in the evaluation file of the subject's declarations of self-recusal referred to by the Commission in the initial evaluation report, the Commission clarifies that these documents were included in the subject's case file. The subject presented copies of these declarations during the initial and resumed evaluations. Also, in the resumed evaluation, the subject presented copies of the rulings regarding these declarations.
109. The Commission notes that these documents are relevant to the case because they support the subject's affirmations of self-recusal when attorney V.J. was present at the court hearing, regardless of whether the subject was the judge rapporteur.

V. Conclusion of the resumed evaluation

110. Based on the information it obtained and that presented by the subject, the Commission proposes that the subject promotes the external evaluation made according to the criteria set out in Article 11 of Law No. 252/2023.

VI. Further action and publication

111. As provided in Article 40 para. (4) of the Rules, this re-evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy. The Commission will publish the re-evaluation's result on its official website on the same day.
112. 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 re-evaluation file containing all the evaluation materials gathered by the Commission.
113. 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.
114. This re-evaluation report was approved by a unanimous vote of the Panel members on 16 December 2025 and signed pursuant to Articles 33 para. (2) and 40 para. (5) of the Rules.
115. Done in English and Romanian.

Andrei Bivol

Chairperson of the Commission

Chair of Panel A