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EVALUATION REPORT

approved according to Article 40

of the Rules of Organization and Functioning

ANGELA BRAGA

judge of the Central Court of Appeal

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

12 March 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 7 February 2025 and approved the following report on 12 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 and approved the following evaluation report.

I. Introduction

1. This report concerns Mrs. Angela Braga (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 2019. This court was known as the Chișinău Court of Appeal, until it was renamed on 27 December 2024.

5. Between 2014 and 2019, the subject was a judge at the Chișinău District Court. On 30 September 2008, the subject was appointed as a judge at the Hîncești Court. Between 2004 and 2008, the subject was an assistant of a Criminal Panel judge from the Supreme Court of Justice. Between 2003 and 2004, she worked as a specialist and consultant at the Chișinău Court of Appeal. Between June 2003 and September 2003, she worked as a law clerk at the Chișinău Court of Appeal. Between 1997 and 2003, the subject was a law clerk at the Chișinău Tribunal.

6. The subject received a bachelor's degree in law from Moldova State University in 2002 and a master's degree in law from the University of European Studies of Moldova in 2013.

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 she 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 her evaluation file has been randomly assigned to Panel A with members Andrei Bivol, Lilian Enciu and Lavly Perling. She 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 (Eximbank JSC, Moldinconbank JSC, MAIB JSC, Victoriabank JSC, Banca de Finanțe și Comerț (FincomBank) JSC, OTP Bank JSC, Banca Socială JSC, Banca de Economii JSC), Office for Prevention and Fight Against Money Laundering (in Romanian: *Serviciul Prevenirea și Combaterea Spălării Banilor*, hence hereinafter – "SPCSB"), and the Public Service Agency (hereinafter "PSA"). Information was also 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. Two petitions were received from individuals. They were included in the evaluation file. All information received was carefully screened for accuracy and relevance.

24. On 27 September 2024, the Commission asked the subject to provide additional information by 8 October 2024 to clarify certain matters (hereinafter the "first round of questions"). On 4 October 2024, the subject requested an extension. On the same day, the Commission granted an extension until 20 October 2024 by requiring the subject to provide the available answers, which the subject did. The subject offered further answers and documents within the extended deadline.

25. On 19 November 2024, the Commission asked the subject to provide additional information by 28 November 2024 to clarify certain matters (hereinafter the "second round of questions"). The subject provided answers and documents within the deadline.

26. 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"). The subject provided answers and documents within the deadline.

27. On 24 January 2025, the Commission notified the subject that it had identified some areas of doubt about the subject's compliance with the financial criterion and had preliminarily established a non-compliance with the ethical integrity criterion and invited her to attend a public hearing on 3

February 2025. Due to the impediments of one of the international members in the travel arrangement, the Commission rescheduled the hearing for 7 February 2025. The subject was also informed that the evaluation report may refer to other issues considered during the evaluation.

28. As provided in Article 39 para. (4) of the Rules, the subject sought and was provided access to all the materials in her evaluation file on 30 January 2025.

29. On 30 January 2025, the subject submitted additional information. On 31 January 2025, the subject submitted additional documents. The Commission included them in the evaluation file and discussed their relevance in the Analysis section.

30. On 7 February 2025, the Commission held a public hearing. At the hearing, the subject reaffirmed the accuracy of her answers in the five-year declaration and the ethics questionnaire. She also stated that she did not have any corrections or additions to the answers previously provided to the Commission's requests for information.

V. Analysis

31. This section discusses the relevant facts and reasons for the Commission's conclusion.

32. 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 2014, 2016, 2018, 2021, 2022, and 2023;

    b. providing inaccurate bank declarations on the purpose of the loan;

    c. non-declaration of salaries, a loan, and potential revenues from selling vehicles.

- **A potential difference between the assets, expenses, and income (inexplicable wealth) for the years 2014, 2016, 2018, 2021, 2022, and 2023**

33. The Commission identified potential inexplicable wealth for 2014, 2016, 2018, 2021, 2022, and 2023 in its preliminary analysis. According to the Commission's calculations, the difference between the incoming financial flow and the outgoing financial flow (negative balance) in these years was -249,192 MDL (2014: -151,791 MDL; 2016: -11,320 MDL; 2018: -16,395 MDL; 2021: -5,679 MDL; 2022: -51,068 MDL; 2023: -12,939 MDL).

34. After examination of the additional information submitted by the subject on 30 and 31 January 2025 and her explanations during the hearings, the Commission revised its calculation regarding the inexplicable wealth as follows.

35. For 2018, the Commission established that the retail expenses of the subject and her husband constituted –17,654 MDL. According to the subject's explanations, she and her husband incurred retail expenses primarily for food, clothing, household products, medication, and utilities. In this case, to ensure that the subject is correctly evaluated, the Commission decided to exclude the retail expenses and to maintain the CEP (-103,846 MDL) to exclude the double counting of some amounts.

36. Regarding 2023, the subject stated that the amount of declared cash savings (-100,000 MDL) at the end of 2023 also included the amount that was on the bank account at that date (-36,699 MDL), which was considered a separate line of expenses (bank savings) by the Commission. The subject maintained this argument in the third round of questions, in the additional explanations, and during the hearing.

37. The subject argued that on the date of completing the answers regarding the available cash savings during the evaluation period, she could not remember whether the funds were available in cash or in the bank accounts. Considering the subject's explanations and consistency, the Commission accepted the subject's statements. Thus, it excluded the -36,699 MDL as bank savings, acknowledging that they were included in the declared available cash savings of -100,000 MDL at the end of 2023.

38. According to the Commission's updated calculations, the incoming financial flows for 2018 and 2023 exceeded the outgoing ones. It follows that all initial doubts regarding the inexplicable wealth for these years have been mitigated.

39. Considering the above circumstances, the remaining negative financial balance accumulated by the subject's household is resumed to a total of -209,858 MDL.

40. 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 explanation on this issue.

- **Providing inaccurate bank declarations on the purpose of the loan**

41. On 11 August 2014, the subject contracted a bank loan of 250,000 MDL. The loan was given for 120 months and was repaid in 2016.

42. According to the contract, the loan was given for the purpose of renovating the subject's apartment located in Chișinău (Cuza Vodă Boulevard). The subject was obliged to use the loan exclusively for this purpose.

43. In the first round of questions, the subject revealed that she used only a part of the loan for the apartment's renovations. The rest of it was used for the installment payments for another apartment located in Chișinău (Ceucari Street). She also stated that she most likely did not inform the bank about using part of the loan outside of the contractual purpose. Under the contract, she was obliged to inform the bank about changes or breaches of contractual agreements.

44. At the same time, in order to justify the use of the loan, the subject presented receipts to the bank that were not related to the renovation of the apartment from Cuza Vodă Boulevard. Several of these receipts were even dated before the loan was contracted.

45. When asked during the hearing about these issues, the subject acknowledged that she presented receipts to the bank not related to the renovation of the apartment and expressed her regrets regarding her actions, asserting her conviction that the bank's interests were not affected, as she repaid the entire loan.

46. The Commission analyzed this from an ethical perspective because judges are held to the highest standard of integrity and responsibility, both personally and professionally. Using the loan for something else when it was declared to be used for a specific purpose could be seen as a form of misrepresentation or dishonesty.

47. However, in this case, the Commission noted several mitigating factors. First, the subject voluntarily disclosed how the loan was spent. Second, an analysis of the relevant legal framework shows that there are no penalties for such conduct other than action by the bank. Third, the subject did not harm the bank because she provided adequate guarantees (by mortgaging her apartment) that she would repay the loan, which was fully repaid in 2016, before the repayment deadline (11 August 2024). Fourth, the Commission did not identify other similar deeds.

48. Therefore, the Commission concluded that while the incident raises some ethical concerns, it does not constitute a reason for not promoting the evaluation.

- **Non-declaration of salaries, a loan, a donation, and potential revenues from selling vehicles**

49. The Commission identified four non-declarations that could have constituted potential breaches of the NIA declaration regime. The first instance concerns the non-declaration of her husband's salary in 2016. The second concerns the subject's failure to indicate her salary in 2020. The third concerns the non-declaration of a loan contracted by her husband in 2021. The fourth concerns the non-declaration of a monetary donation from the subject's parents and her in-laws in 2022. The fifth concerns the potential non-declaration of revenues from possible intermediation in selling several vehicles listed on the 999.md online marketplace in 2022 and 2023.

The first instance of non-declaration

50. According to the information obtained by the Commission, the subject did not declare in her 2016 NIA declaration her husband's salary of 6,411 MDL from an LLC primarily engaged in public passenger transport and international road haulage.

51. In response to the second round of questions, the subject confirmed this and mentioned that it was an unintentional omission. She added that because in this year her husband worked for two different LLCs, she most likely omitted to ask about the income from one of them.

The second instance of non-declaration

52. In her 2020 NIA declaration, the subject did not declare her salary of 2,813 MDL from Chișinău District Court.

53. In response to the second round of questions, the subject confirmed this and mentioned that it was an unintentional omission, as well. According to the subject, this amount was paid when she was already on child-care leave. When she returned to work after the leave, the subject completed the NIA declaration. Because the information to be declared was related to a longer period (two years), she omitted to declare this amount.

The third instance of non-declaration

54. In 2021, the subject's husband contracted a loan of 26,999 MDL from a non-banking credit organization. This information was not indicated in the subject's declaration submitted to NIA on 30 September 2022, where the subject was obliged to declare her wealth for the 2021 year as well (declaration at reinstatement).

55. In response to the third round of questions, the subject admitted that. She also explained that it was an unintentional omission on her part. During the hearing, the subject affirmed that she perceived this contract as a sale-purchase one and not a loan because her husband purchased and received a cell phone, not the money directly.

The fourth instance of non-declaration

56. During the hearing, the subject confirmed that in 2022, she received a monetary donation of 10,000 MDL from her parents and in-laws. She also admitted for the first time before the Commission that this donation was not declared in her annual declaration to NIA due to an omission.

57. She also stated that this was a gift for her birthday. According to her knowledge and pursuant to Law No. 133/2016, gifts received by the subject of the declaration free of charge from family members and parents, the value of which does not exceed 10 average salaries per economy in a year, are exempt from the declaration.

The fifth instance of a potential non-declaration

58. According to information available to the Commission, the subject's husband holds an account on the 999.md online marketplace. He seemed to have listed several vehicles for sale, of which he had no registered or declared rights.

59. The Commission expressed doubts regarding potential revenues obtained by the subject's family from possible intermediation by the subject's husband in the sale of listed vehicles.

60. In response to the first round of questions, the subject indicated that most of the vehicles were owned by her husband's employer, an LLC engaged primarily in transportation services. She mentioned that the 999.md account created by her husband was also used for trading by other employees of the company.

61. The Commission further identified that most of the listed vehicles were owned by the husband's employer, apart from two Ford Fusion sale announcements (which seem to most likely concern the same vehicle) and one Honda Accord vehicle.

62. The subject argued that neither she nor her husband had, *de jure* or *de facto*, owned these vehicles and did not incur any costs related to them.

63. During the hearing, the subject stated that, although they tried, they could not identify who posted the two Ford Fusion sale announcements. They noted that these might concern the same vehicle, and she could not identify who was the owner. Regarding the Honda Accord, the subject presented documents confirming its owner and the person who posted the sale announcement.

Commission's findings

64. The Commission notes that only the last four non-declarations fall within the 5-year term provided by Article 11 para. (2) lit. a) of Law No. 252/2023, and they were considered from an ethical perspective.

65. At the same time, the Commission emphasizes that not every breach of ethics leads to the failure of the evaluation under Law No. 252/2023. Article 11 para. (2) lit. a) of the Law provides that only serious breaches lead to failure.

66. In relation to the second, third and fourth non-declarations, the Commission notes that according to Article 4 para. (1) lit. a) and e) of Law No. 133/2016 and the NIC Instruction on how to fill in the declaration of wealth and personal interests[1], the subject was obliged to declare the income (including the monetary donations) obtained by her and her family members in the previous fiscal year, as well as the debts in the form of loans if their cumulative value exceeds 10 average salaries per economy.

[1] NIC Instruction

67. Monetary donations do not fall within the legal notion of "gifts" from Article 4 para. (3) of Law No. 133/2016. This was also confirmed in a letter by NIA to the Commission. Therefore, the 10,000 MDL had to be declared by the subject as income obtained from donations.

68. Law No. 133/2016 aims to establish measures to prevent and combat unjustified enrichment. In this regard, the Commission does not see how the above non-disclosures would have infringed the purpose of the law or otherwise endangered the public interest.

69. Concerning the fifth non-declaration, the Commission notes that this doubt was mitigated due to the subject's explanations and confirmatory documents presented before and during the hearing.

70. Under the circumstances of this case, the Commission does not find that the remaining formal breaches represent serious ethical breaches that would lead to the subject's non-promotion, according to Law No. 252/2023.

VI. Conclusion

71. 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

72. As provided in Article 40 para. (4) of the Rules, this evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy, and on the same day, the Commission will publish on its official website the information on the result of the evaluation.

73. 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.

74. 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 whereby it rejects the appeal or orders the promotion or non-promotion of the evaluation.

75. This evaluation report was approved by a unanimous vote of the Panel members on 12 March 2025 and signed pursuant to Articles 33 point (2) and 40 point (5) of the Rules.

76. Done in English and Romanian.

Andrei Bivol

Vice-chairperson of the Commission

Chair of Panel A