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# EVALUATION REPORT

approved by the Commission according to Article 23  
of the Rules of Organization and Functioning

OF

## STELA PROCOPCIUC

Candidate for Supreme Court of Justice

Subject of evaluation under Article 3 para. (1) Law No. 65/2023

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14 March 2024

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The Vetting Commission established by Law No. 65/2023 on the External Evaluation of Judges and Candidates for Judges of the Supreme Court of Justice (hereinafter “Law No. 65/2023”) deliberated in private on 4 March and 14 March 2024. The members participating were:

1. Scott BALES
2. Andrei BIVOL
3. Lilian ENCIU
4. Iurie GAȚCAN
5. Lavly PERLING

Commission member Maria Giuliana CIVININI was absent from the hearing on 4 March 2024 and did not participate in the approval of this report. Based on its work in collecting, accumulating, and reviewing the information, and subsequent deliberations, the Commission prepared the following evaluation report.

### **I. Introduction**

1. This report concerns Stela Procopciuc (hereinafter the “subject”), a candidate for the position of judge on the Supreme Court of Justice.
2. The Commission conducted its evaluation pursuant to Law No. 65/2023 and the Commission’s Rules of Organization and Functioning (hereinafter “Rules”).
3. The Commission by a majority concludes that the subject meets the criteria identified in Law No. 65/2023 for ethical and financial integrity.

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

4. Between 1996-1998, the subject worked as a prosecutor’s assistant at the Fălești District Prosecutor’s Office. Between 1998 – 2000 she held the position of deputy prosecutor at the Fălești District Prosecutor’s Office.
5. On 27 July 2000, the subject was appointed as judge at the Fălești District Court.
6. From 11 June 2007 to date, she has held the position of a judge at the Bălți Court of Appeal. Also, since 2 November 2021 she has held the position of the *ad interim* Vice-President of the Bălți Court of Appeal
7. The subject received a bachelor’s degree in law from the University of Bucharest, Romania in 1995.

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### III. Evaluation Criteria

8. Under Article 11 para. (1) of Law No. 65/2023, the Commission evaluates the ethical and financial integrity of the subject.
9. Under Article 11 para. (2), a subject:

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

  - a) in the last 5 years, they seriously violated the rules of ethics and professional conduct of judges, prosecutors or, as the case may be, other professions, 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 for Human Rights;
  - b) in the last 10 years, has admitted incompatibilities and conflicts of interest incompatible with the office of judge of the Supreme Court of Justice in his/her work."
10. 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, in total, 20 average salaries per economy, in the amount set by the Government for the year in which the judge's evaluation began;
  - 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 in which the judge's evaluation began."
11. Under Article 20 para. (1):

"Candidates for the office of judge of the Supreme Court of Justice shall be evaluated in accordance with the provisions of this law."
12. The average salary per economy for 2023 is 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.
13. Article 11 para. (4) of Law No. 65/2023 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.

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14. In evaluating the subject's financial integrity, Article 11 para. (5) of Law No. 65/2023 directs the Commission to also 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.
15. The Commission is guided by the rules and legal regime in effect at the time of the conduct in question in determining if the subject has complied with rules of ethics and professional conduct, engaged in conduct or conflicts of interest incompatible with the position of Supreme Court of Justice, complied with tax laws, or complied with the legal regime for declaring wealth and personal interests.
16. Finally, according to Article 11 para. (2) and (3) of Law 65/2023, the Commission determines that a subject does not meet the criteria for ethical and financial integrity if it establishes serious doubts determined by the facts that are 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. Once the Commission establishes substantiated doubts regarding particular facts that could lead to failure of evaluation, the subject will be afforded the opportunity to oppose those findings and to submit arguments in defense, as provided by Article 15 para. (1) of Law No. 65/2023. After weighing all the evidence and information gathered during the proceedings, the Commission makes its determination.

### IV. Evaluation Procedure

17. On 23 October 2023, the Commission received the information from the Superior Council of Magistracy pursuant to Article 21 para. (5) lit. a) of Law No. 65/2023. The information included the subject's candidacy for the Supreme Court of Justice.
18. On 3 November 2023, 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. 65/2023 within 10 days from the date of notification. The subject returned the completed declarations and questionnaire on 13 November 2023.
19. Because the law sets different evaluation periods for the ethical and financial integrity criteria cited above, the Commission evaluated the compliance with these criteria over the past five, 10 and 12 years, respectively. The evaluation

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periods included the years 2018-2022, 2013-2022 and 2011-2022, depending on the relevant criterion.

20. In the last 12 years evaluation period, the subject was a subject of declaration, both under the Law No. 133/2016 on the Declaration of Wealth and Personal Interests, and under the previous Law No. 1264/2002 on the Declaration and Income and Property Control for persons with positions of Public Dignity, Judges, Prosecutors, Civil Servants, positions of Management.
21. The Commission sought and obtained information from numerous sources. The sources that provided information on the candidate included the State Fiscal Service, General Inspectorate of Border Police, banks (MAIB S.A., Moldinconbank S.A., OTP Bank S.A.), Anti-Money Laundering Service, Public Service Agency (PSA), other public institutions and private entities, open sources such as social media and investigative journalism reports. On 7 December 2023, the Commission received a petition from an individual who was a party in a case heard by a panel of which the subject was a member. The Commission has added this petition to the file, and it has been reviewed along with other materials. All information received was carefully screened for accuracy and relevance.
22. On 29 December 2023, the Commission asked the subject to provide additional information by 9 January 2024 to clarify certain matters. On 9 January 2024, the subject requested an extension until 24 January 2024 to respond, which the Commission granted. The subject provided answers and documents within the extended deadline.
23. On 22 February 2024, the Commission notified the subject that it had not in its evaluation identified any areas of doubt about her compliance with the ethical and financial criteria and informed her that she could attend an online hearing on 4 March 2024. As provided in Article 22 para. (4) of the Rules, the subject sought, and hence, was provided access to all the materials in her evaluation file on 28 February 2024.
24. On 4 March 2024, the Commission held an online public hearing. At the hearing, the subject reaffirmed the accuracy of her answers in the ethics questionnaire and stated that she did not have any corrections or additions to the answers she had previously provided to the Commission's requests for information.

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### V. Analysis

25. This section discusses the relevant facts and reasons for the Commission's conclusion.
26. Based on the information it collected, the Commission sought further clarifications from the subject on following matters:
  - (a) transactions with vehicles at possibly deflated prices;
  - (b) involvement in two cases leading to violations of the ECHR.
    - **Transactions with vehicles at possibly deflated prices**
27. The subject purchased in 2016 a Mercedes B150, m/y 2006, for the contractual value of 50,000 MDL.
28. The subject included in her 2020 declaration of wealth and interests submitted to National Integrity Authority (NIA) information on sale of this vehicle, declaring that she sold it for 20,000 MDL. According to the national marketplaces, vehicles of similar model and manufacture year are currently being sold for prices varying between 4,300— 6,500 EUR.
29. The subject was asked in the Commission's written questions to clarify the actual price paid for the vehicle she paid in 2016, as well as the actual price for which she sold the vehicle in 2020, as well as to clarify the low price of the vehicle compared to the market value.
30. The subject replied that the actual prices, both for purchase and for sale, are the ones indicated in the sale-purchase contracts and in the declarations of wealth and interests submitted to NIA. She explained that the purchase price was low given the technical condition of the vehicle affected by previous accidents. The subject explained that the vehicle was sold for a low price (*i.e.* 20,000 MDL) due to a high mileage (over 180.000 km) and poor technical condition. The subject submitted copies of the sale-purchase agreements for the vehicle both from 2016 and 2020.
31. The subject also submitted documents confirming the expenses she incurred for repair work for this vehicle. However, based on the description of the services/spare parts purchased, these expenses appear related to normal maintenance and not repairs to damages from accidents. The car's mileage when sold in 2020 also may not justify the price, because according to the national marketplaces, vehicles of similar model, manufacture year and mileage are sold at much higher prices.

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32. The subject included in the declarations of wealth and personal interest submitted to NIA (in 2016 and 2020) the amount as per the sale-purchase contracts of the vehicle, in line with the instructions for filling out the declaration in force at that time.
33. Even if there remains a question whether the vehicle was purchased or sold for more than amounts identified in the 2016 and 2020 contracts, respectively, the available information does not suggest a violation of the financial integrity criteria. The subject had a sufficient positive balance of income in 2015 and 2016 to purchase the vehicle at a higher price consistent with market estimates, and if it had been sold in 2020 at the market estimated price, any capital gain from the sale would not have resulted in unpaid taxes exceeding the threshold of 58,500 MDL under Article 11 para. (3) lit. a) of Law No. 65/2023.
34. In 2020, the subject purchased a Renault Kadjar, m/y 2017. In the 2020 annual declaration of assets and interests, she declared the purchase price of 45,000 MDL. However, the purchase price declared in the 2021 annual declaration is 160,000 MDL.
35. According to the information from the Customs database, this car was imported in Republic of Moldova on 5 August 2020 and the declared customs value plus taxes amounted to 156,188.69 MDL. Vehicles of similar model and year are currently sold on national marketplaces for an average price ranging from 12,000 to 13,900 EUR.
36. In the Commission's written questions, the subject was asked to clarify the difference between the declared vehicle value in 2020 and 2021 as well as the actual price paid for the vehicle.
37. The subject explained that the vehicle was damaged, which was the reason for its low price. Since the vehicle needed serious repairs, she agreed with the seller that he would take care of the repairs and she would pay for the parts and services. The repair work amounted to 115,000 MDL. According to the subject's reply, the seller refused to include the entire amount in the sale-purchase contract (*i.e.* the originally agreed price of 45,000 MDL plus the repair costs of 115,000 MDL). The seller allegedly insisted on including only the originally agreed price. Therefore, in the declaration of assets and interests for 2020, the subject included the price according to the purchase agreement, in line with the valid instructions for filling in the declaration in force at that time. As in 2021 the instructions for filling in the declaration were amended and the legislation required to include the value of the



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vehicle, and not the contractual price, she included the actual value of the vehicle, with the repair and improvement expenses.

38. The subject also submitted pictures of a damaged Renault vehicle, allegedly illustrating the car before it was repaired. However, no documentation of the repair work and its cost was provided.
39. While the explanations put forward by the subject seem reasonable, the pictures of the Renault car attached to the dossier received from PSA for the first registration of the vehicle show that the car was not damaged. This is also confirmed by the customs value determined when the vehicle was imported. However, it is possible that the vehicle was damaged after it was imported and registered in Moldova, but before it was purchased by the subject.
40. The subject had a positive balance of income in 2019 (*i.e.* over 148,000 MDL) and 2020 (*i.e.* over 138,000 MDL) to the extent that, even considering that the value of the vehicle is higher than the value stated by the subject in the declarations, no inexplicable wealth would be registered.

### ▪ Involvement in two cases leading to violations of the ECHR

41. According to information received from the Government Agent, the subject was involved in the examination of two cases at the national level in which the European Court of Human Rights (hereinafter the "ECtHR") found further violations of the European Convention on Human Rights. The subject examined the two cases as a judge of the appeal court. The cases are:
  - *E.B. v. Republic of Moldova*, No. 41542/13, 14 December 2021
  - *Gospodaria Taraneasca "Alcaz G.A." v. Republic of Moldova*, No. 72968/14, 1 March 2022.
42. Under Article 11 para. (2) lit. a), a subject does not meet the criterion of ethical integrity if the Evaluation Commission has serious doubts determined by the fact that he issued arbitrary acts, over the last 10 years, contrary to the imperative rules of the law, and the ECtHR had established, before the adoption of the act, that a similar decision was contrary to the European Convention for Human Rights.
43. To determine if the conditions in this article are met, the Commission will generally consider if, within the last 10 years, the ECtHR has found a violation in a case in which the subject was involved, and if the ECtHR had established, prior to the act, that a similar decision was contrary to the

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European Convention of Human Rights. The Commission will deem the act “arbitrary” if no reasons are provided or if the reasons given are based on a manifest factual or legal error, resulting in a “denial of justice” (see *Moreira Ferreira v. Portugal* (no. 2) [GC], 11 July 2017, § 85; *Navalnyy and Ofitserov v. Russia*, No. 46632/13 28671/14, 23 February 2016, § 119).

44. With regard to the case *E.B. v. Republic of Moldova*, the Commission found that the Decision of the Bălți Court of Appeal, in which the subject was involved, was issued on 12 June 2012, beyond the time-limit of 10 years provided in Article 11 para 2) lit. a) of Law 65/2023. Therefore, the Commission did not consider this decision further for a possible breach of ethical integrity.
45. The case *Gospodaria Taraneasca “Alcaz G.A.” v. Republic of Moldova* concerns the deprivation of the applicant’s right to deduct the VAT it had paid on received goods because its supplier’s VAT registration had been cancelled. The applicant challenged the decision of the Ungheni Tax Inspectorate which deprived the right to deduct VAT. While the court of first instance upheld the applicant’s claims, the Balti Court of Appeal and the Supreme Court of Justice rejected them. The subject was part of the panel of the Balti Court of Appeal that issued the decision on 28 January 2014.
46. The subject provided explanations regarding the relevant facts of the case and the interpretation of the legal provisions that were applied. The decision of the Balti Court of Appeal of 28 January 2014 explains the reasoning of the panel judges. The Commission does not find that the decision was arbitrary or otherwise violated the criteria for ethical integrity.
47. For these reasons, the Commission did not find any facts pursuant to Article 11 paras. (2) or (3) of Law No. 65/2023, which raise serious doubts as to whether the subject meets the criteria of ethical and financial integrity.

### VI. Conclusion

48. Based on the information it obtained and that presented by the subject, the Commission proposes that Stela Procopciuc passes the external evaluation made according to the criteria set in Article 11 of Law No. 65/2023.

### VII. Further action and publication

49. As provided in Article 23 para. (3) of the Rules, this evaluation report shall 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

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conclusion whether the subject meets the criteria for ethical and financial integrity.

50. No later than three days after the approval of this report, an original paper copy of this report will be submitted to the Superior Council of Magistracy, along with an electronic copy of the evaluation file containing all the evaluation materials gathered by the Commission.
51. As provided in Article 16 para. (5) of Law No. 65/2023, 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 Superior Council of Magistracy adopts a decision pursuant to Article 17 para. (2) of Law No. 65/2023.
52. This evaluation report was approved by a majority of the Commission on 14 March 2024 and signed pursuant to Article 8 para. (2) of Law No. 65/2023.

Digitally signed by Bales William Scott  
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Reason: MoldSign Signature  
Location: Moldova



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Scott BALES

Chairperson