

PROSECUTOR VETTING COMMISSION

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RULES

OF PROCEDURE

of the Prosecutor Vetting Commission

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PREAMBLE

These Rules (hereinafter “Rules”) are adopted according to Article 5 para. (4) of Law No. 252/2023 “on the external evaluation of judges and prosecutors and amendments of some regulatory acts” (hereinafter “Law No. 252/2023”) to govern the organization and functioning of the Prosecutor Vetting Commission.

SECTION I. GENERAL PROVISIONS

Article 1. Definitions and calculation of deadlines

In these Rules:

- a. “Chairperson” and “Vice-Chairperson” is a function on the Commission as a whole, while “Chair” is a function on the Panels;
- b. “Commission” means the Prosecutor Vetting Commission mentioned in Article 4 para. (2) of Law No. 252/2023;
- c. “Data” includes facts that are processed, interpreted, or organized (information);
- d. “Days” means calendar days, unless indicated as “working days”, in which case weekends and national holidays are excluded. Deadlines are calculated starting the day after the event setting the deadline in motion, such as when the Commission sends an email to the subject. If a deadline so calculated ends on a weekend or bank holiday, it is extended to the next working day;
- e. “Evaluation” means assessing the ethical and financial integrity of subjects mentioned in Article 1 of Law No. 252/2023;
- f. “Member” means a member of the Commission;
- g. “Other persons covered by the evaluation” means persons close to the declarant as defined in Law No. 133/2016 on the Declaration of Assets and Personal Interests and persons indicated in Article 33 para. (4) and (5) of Law No. 132/2016 on the National Integrity Authority;
- h. “Panel” means one of the evaluation panels mentioned in Article 15 of Law No. 252/2023;
- i. “Panel member” means a member of a panel;
- j. “Rapporteur” means a member as mentioned in Article 15 para. (3) of Law No. 252/2023, to whom a case was allocated according to para. (4)-(6) of “Article 17. Allocation of files” or para. (4) of “Article 30. Resumed proceedings” of these Rules;

- k. "Secretariat" means the Secretariat mentioned in Article 9 of Law No. 252/2023;
- l. "Subject" means a person subject to the evaluation pursuant to Article 3 and Article 4 para. (2) of Law No. 252/2023.

Article 2. Composition and mandate of the Commission

- 1. The Commission comprises three "national members" and "three international members" appointed, respectively, according to Article 6 para. (1) lit. a) and b) of Law No. 252/2023. There shall be at least four members for the Commission meetings to take place, as stipulated in Article 13 para (2) of Law 252/2023.
- 2. The Commission shall be governed by the Constitution of the Republic of Moldova, Law No. 252/2023, these Rules, and other normative acts.
- 3. The Commission is set up to carry out the external evaluation of the ethical and financial integrity of prosecutors stipulated in Article 1 and Article 4 para. (2) of Law No. 252/2023.

Article 3. Chairperson

- 1. The Chairperson shall:
 - a. coordinate the work of the Commission and the Secretariat;
 - b. convene and chair the meetings of the Commission;
 - c. represent the Commission in relations with other natural and legal persons governed by public or private law and conclude acts on behalf of the Commission;
 - d. sign minutes of meetings, decisions, letters, and other correspondence on behalf of the Commission;
 - e. sign memoranda of understanding with civil society organizations, public authorities, or other organizations in support of the Commission's mandate;
 - f. perform any other duties stipulated in Law No. 252/2023, these Rules, or decisions by the Commission.
- 2. The Commission may at any time provide guidance or directives to the Chairperson.
- 3. In accordance with Article 8 para. (1) of Law No. 252/2023, the Chairperson may appoint a designated member. This person will be identified as the Vice-

Chairperson. If the Chairperson cannot be present, including through electronic means, the Vice-Chairperson shall perform all duties of the Chairperson.

4. In accordance with Article 8 para. (3) of Law No. 252/2023, the position of the Chairperson shall cease in the case of termination of membership on the Commission, resignation, or removal. A new Chairperson shall be elected as provided in Article 8 para. (1) of Law No. 252/2023. The resignation or removal as a chairperson or a designated member does not affect the status as a member.

Article 4. Language

The Secretariat will ensure interpretation of verbal communication and translation of documents for members, staff, candidates, and all other persons throughout all stages of the evaluation as needed.

Article 5. Protection of personal data

1. Personal data of the subjects and other persons shall be collected, stored, published, and otherwise processed in accordance with Article 14 of Law No. 252/2023 and these Rules.
2. If the subject is provided access by the Panel or Commission to personal or other protected data the subject does not otherwise possess, the subject must acknowledge in writing the subject's obligation to keep the personal data confidential.
3. In conducting public hearings, the Panel or Commission will disclose only the necessary minimum of personal data and may, in accordance with Article 16 para. (3) of Law No. 252/2023, order that all or part of the hearing be conducted in closed session if absolutely necessary to ensure privacy.
4. When publishing an evaluation report in accordance with Article 17 para. (5) of Law No. 252/2023, the Panel or Commission will take necessary measures to protect the privacy of the subject and other persons.

Article 6. Amendments

The Commission may amend these Rules anytime by a decision taken in line with "Article 11. Voting".

Article 7. Rules of Conduct

When performing their functions, the members shall:

- a. fulfill the obligations identified in Article 10 of Law No. 252/2023 and in these Rules;

- b. operate based on the principles of integrity, independence, impartiality, objectivity, fairness, respect for human rights and freedoms, professionalism, transparency, and public accountability;
- c. be independent and autonomous in their decisions from any person, public authority, organization, political factions, and development partners that nominated members;
- d. avoid actions or statements that may discredit or otherwise undermine the work of the Panels or Commission or raise doubts about the objectivity of its decisions;
- e. be mindful of the public character of their duties, act in the public interest and not abuse or take advantage of their position to obtain any undue benefit for themselves or anyone else;
- f. abstain from any direct or indirect contacts and communication with the subjects and their close persons, except if done according to Law No. 252/2023 or these Rules;
- g. not allow any person or organization to compromise their judgment or otherwise improperly influence them, and report without delay any such attempts to the Commission;
- h. other than for the evaluation purposes and as required by Law No. 252/2023 and these Rules, not use, transfer, or disclose personal data, sources of information, or other confidential information which become known to them during the performance of their function;
- i. disclose to the Panels or Commission information known already or obtained from external sources where the member believes that the information is credible and relevant to the evaluation of the subject;
- j. be courteous and respectful in dealings with others, including other members and the Secretariat;
- k. be mindful of conflicts of interest or circumstances affecting their impartiality, as further elaborated in “Article 10. Conflict of interest” below, and immediately bring any conflicts or circumstances which might affect their impartiality to the attention of the Panel or Commission;
- l. ensure continuous access to emails, accessibility by phone, and immediately notify the Head of Secretariat and all members of any change of their email address and mobile telephone number.

SECTION II. COMMISSION MEETINGS AND DECISIONS

Article 8. Meetings

1. Meetings shall be convened by the Chairperson, by the Vice-Chairperson if the Chairperson is absent, or at the request of at least three members.
2. Meetings shall be convened by email to all members with the indication of the date, time and place, as well as a suggested agenda.
3. The Commission may amend the agenda at any time at the proposal of any member.
4. Members shall attend meetings by physical presence or via videoconferencing. A member unable to attend a meeting shall notify the Chairperson.
5. Members may not delegate their powers to any person, including other members.
6. Meetings shall be held in camera except public hearings pursuant to Article 16 para. (3) of Law No. 252/2023.

Article 9. Matters

1. The following matters shall be considered by the Commission only at meetings:
 - a. change of these Rules;
 - b. adoption of any other rule the Commission may determine necessary;
 - c. election and removal of the Chairperson;
 - d. allocation of members to and chairing of the two panels;
 - e. recusals as per Article 16 para. (5) lit. g) of Law No. 252/2023;
 - f. approval of the forms for the declarations and ethics questionnaire as per Article 12 para. (5) of Law No. 252/2023;
 - g. approval of the evaluation report as per Article 17 para. (3) of Law No. 252/2023;
 - h. revocation of a member as per Article 7 para. (3) no. 2) and para. (4) of Law No. 252/2023.
2. The Commission may consider any other matter as requested by a member or as proposed by the Head of Secretariat.

Article 10. Conflict of interest and recusal

1. In accordance with Article 10 para. (1) lit. c) and d) of Law No. 252/2023, members shall not participate in activities that involve or could give rise to a conflict of interest, are incompatible with membership on the Commission, or that could discredit the Commission or raise doubts as to its objectivity.
2. If a member learns of activities described in para. (1) of this Article as concerns themselves or other members the member shall promptly provide a written description to all other members. The Commission will determine at the earliest possible time if recusal is appropriate. With respect to staff of the Secretariat, unless the Commission directs otherwise, para. (5) of “Article 19. Duties and conduct” of these Rules shall apply; members shall notify the Head of Secretariat of activities described in para. (1) of this Article as concerns staff of the Secretariat.
3. Subjects may request that a member recuse themselves from their evaluation. Such requests must be reasoned and submitted in writing by email to the Secretariat at the earliest possible time. A subject is precluded from requesting recusal if the request is not submitted at the earliest opportunity. The Commission may allow exceptions to these requirements if the subject shows reasonable justification.
4. The Commission may deny requests that do not meet the requirements of these Rules or of Law No. 252/2023, in particular that seek the simultaneous recusal of all members.
5. The member whose recusal is requested may explain the circumstances to the other members, but the decision on recusal shall be made by the other members outside the presence of that member, unless a call for recusal of one or more members would undermine the quorum as per Article 13 para. (2) of Law No. 252/2023, in which case all members take part in the consideration and decision of the recusal.
6. Recusals may not affect more than two members at once (Article 13 para. (2) and Article 16 para. (8) of Law No. 252/2023). The Commission will decide on motions for recusing more than two members in a way that affects the impartiality the least. Possible solutions include but are not limited to the following:
 - a. The member with the least important reason for recusal is not recused;
 - b. From the total of members for whom reasons justifying recusal exist, one or two members are selected by lottery who are not recused;
 - c. All members are not recused.

7. If the Commission decides for a recusal, the respective member shall, with regard to the subject of the evaluation:
 - a. have no access to the non-public information;
 - b. refrain from taking part in collecting information;
 - c. not participate in preparation of materials;
 - d. not vote or discuss the subject; and,
 - e. absent themselves when the subject is discussed.
8. The recusal shall apply throughout all subsequent stages of the procedure, even if not declared again explicitly.

Article 11. Voting

1. Decisions are adopted by a simple majority of the votes cast, unless otherwise provided by Law No. 252/2023 or these Rules.
2. Votes are casted as “for” or “against”. Members shall not abstain. Members who are recused pursuant to “Article 10. Conflict of interest and recusal” are considered not taking part in the vote.
3. In case of a tie vote, the decision supported by at least two of the international members shall be adopted.
4. The Chairperson shall declare the outcome of the vote.

Article 12. Minutes¹

1. Summary minutes shall include the day and time, participating members, information about other participants, the matters dealt with, decisions taken including the vote of each member (except for secret ballots where only the total of votes “in favor” and “against” shall be noted), and any statement a member requests to be included.
2. The Chairperson shall distribute draft minutes to the members via email as soon as possible and within 7 working days at the latest. The minutes are approved via email, when, there is no objection within 3 working days, or if all members approve. The minutes can also be approved by majority decision as per “Article 11. Voting”, reflecting all statements declared by members objecting. The Chairperson shall sign the minutes within 7 working days after approval.

¹ Article 12 para. 2 amended on 20 February 2024. The amendment changed the period specified in sentences 1 and 4 from 3 to 7 working days.

3. Once approved and signed, the Head of Secretariat shall, without any delay, send the minutes to all members via email.

SECTION III. EVALUATION PANELS

Article 13. Selection

1. The Commission shall establish two evaluation panels as foreseen in Article 15 of Law No. 252/2023. The Panels are labeled "Panel A" and "Panel B". Their members are selected by the Commission. At least one "international member" (proposed as per Article 6 para. (1) lit. b) of Law No. 252/2023) is on each Panel. Each panel should have both genders represented.
2. The Commission publishes information about the composition of each Panel as per "Article 22. Transparency".
3. The Commission evaluates biannually the possible benefits of re-allocating members to the Panels.

Article 14. Quorum, majority

1. The Panels are operational if all three panel members are present.
2. Votes are casted as "for" or "against". Members shall not abstain.
3. Decisions are adopted if all three panel members decide unanimously.
4. In case a panel cannot reach a unanimous decision in any other case as the one described in Article 17 para. (3) of Law No. 252/2023, the Commission decides (Article 17 para. (3) of Law No. 252/2023).
5. If a panel member is temporarily unable to attend a hearing the Commission may temporarily assign a member from the other Panel to fill in during that hearing, if the assigned panel member can take part in all hearings and in the decision concerning all subjects of that hearing; if not, that hearing is rescheduled. If the assigned member is filling in for the Chair of the Panel, he or she exercises the function of Chair during the hearing of the respective subjects.

Article 15. Chair

1. The Chairperson and Vice-Chairperson of the Commission are each member of a different panel, and they are Chair of their Panel.
2. The Chair exercises all functions of the Chairperson foreseen in Law No. 252/2023 and in these Rules insofar it is required by the Panel's tasks in the evaluation.

3. If the position of a Chairperson or Vice-Chairperson has ceased, without a new Chairperson or Vice-Chairperson being elected or designated, the oldest member of the affected panel serves as interim Chair.

Article 16. Conflicts of interest and recusal

If a situation would require a recusal of a panel member according to “Article 10. Conflict of interest and recusal”, the Commission verifies whether the situation can be addressed by reallocating the files or panel members according to para. (2) of “Article 17. Allocation of files”. If this is not the case, “Article 10. Conflict of interest and recusal” applies, in particular its para. (6).

Article 17. Allocation of files

1. Case files are allocated following the initiation of the evaluation as per Article 12 para. (3) of Law No. 252/2023.
2. For the random allocation of evaluation files to panels, a list of all subjects is drawn up in alphabetical order. The entire list or a fraction of it may be chosen for a certain evaluation period. An online tool² for random generation of numbers between 1 and 2 is used to allocate each file to Panel A (in case of number 1) and B (in case of number 2), until both panels have half the number of evaluation files (rounded down in case of an uneven total). Any remaining extra file in case of an uneven number of files is allocated to the panel not having received the last file, unless this is the case two evaluation periods in a row.
3. Members of each panel review the names of subjects for possible conflicts of interest or other reasons for recusal immediately after allocation of the files. Recusal has the following consequences:
 - a. If a member in one panel has to recuse regarding an evaluation file allocated to that panel, and no member in the other panel has to recuse regarding this file, the file is allocated to the other panel in exchange for the file most recently allocated to that other panel.
 - b. If there is a member in both panels which has to recuse regarding an evaluation file, the file stays with the panel to which it was randomly allocated, and the panel member which has to recuse is replaced by a member of the other panel for any decision, hearing or similar collective action of the panel regarding this file; members are chosen randomly by lottery and on a rotating basis. If the panel member which has to recuse is the Chair of the panel, the replacing member of the other panel exercises the function of Chair during the hearing of the respective subject.

² <https://numbergenerator.org/randomnumbergenerator/1-2>.

4. Evaluation files will be randomly allocated to rapporteurs in each panel. To this end, a list of all subjects allocated to each Panel as per para. (2) to (3) of this Article is drawn up in alphabetical order. Panel members are numbered from 1 to 3 in the alphabetical order of their family name. An online tool¹ for random generation of numbers between 1 and 3 is used to allocate each file to all three members, until each member has one third of all evaluation files (rounded down). Any remaining extra file is allocated to whosever number is randomly generated first. Members who were allocated more than one third of all files will not be allocated a remaining file during the next evaluation period.
5. If resignation decisions as per Article 3 para. (5) of Law No. 252/2023 affect more than one file of a rapporteur, a new file is assigned to the rapporteur from the rapporteurs of any panel, who were assigned the most files in total. The new file is chosen randomly by assigning numbers to all files to be selected from.
6. The Chairperson and another member oversee the allocation of evaluation files as per this Article and the Chairperson signs minutes on the allocation.

SECTION IV. SECRETARIAT

Article 18. General provisions

1. The Secretariat supports and assists the work of the Commission, the Panels, and of each member.
2. The work of the Secretariat shall be coordinated by the Head of the Secretariat.
3. The Head of Secretariat shall report to the Chairperson regarding everyday operations, notwithstanding his/her responsibility to the entire Commission.
4. The Secretariat, including any staff provided by development partners or other entities, shall be subordinated exclusively to the Commission.
5. Within the Secretariat, unless barred from participating in a matter under para. (5) of “Article 19. Duties and conduct” of these Rules, staff shall have access to all information about subjects with a view to analyzing it, processing, and preparing materials for members. Translators/interpreters shall have access to the extent it is necessary for translations/interpretations.
6. Unless directed by the Commission, staff of the Secretariat and other persons supporting or assisting in the activity of the Commission shall not disclose any information about the Commission’s deliberations, voting, or preparation of evaluation reports.
7. The Head of Secretariat is mandated to execute all decisions of the Panels or Commission and to manage all necessary steps for communication of the Secretariat with third parties.

Article 19. Duties and conduct

1. The Secretariat staff shall assist the Commission in facilitating its work as defined by these Rules and Law No. 252/2023, including assistance in the collection, verification, and analysis of information on the subjects.
2. The Secretariat will maintain a docketing and records management system that tracks communications between the Panels or Commission and others; calendars and records actions by the Panels or Commission; and facilitates access by members and staff to facilitate the Panels' or Commission's work.
3. Secretariat staff shall adhere appropriately to the Rules of Conduct for members identified in "Article 7. Rules of Conduct".
4. Staff of the Secretariat must comply with the obligations identified in Article 10 para. (1) lit. b) - e) of Law No. 252/2023.
5. If staff members learn of activities described in para. (1) of "Article 10. Conflict of interest and recusal" of these Rules as concerns themselves, other staff of the Secretariat, or a member, the staff member shall promptly provide a written description to the Head of the Secretariat, who shall inform the Chairperson. The Head shall confer with the Chairperson to determine if a staff member shall be excluded from participating in the evaluation of a subject and restricted from access to the related information.

SECTION V. COMMUNICATION

Article 20. Internal communication

1. The Panels or Commission may coordinate their work by email. Decisions taken pursuant to "Article 8. Meetings " may only be adopted at meetings.
2. A work aspect of the Panels or Commission shall be considered defined by email when the minimum number of votes as per Article 13 para. (2) of Law No. 252/2023 or "Article 14. Quorum, majority" of these Rules have been cast.
3. The Chair or Chairperson announces results defined via email to all Panel or Commission members as soon as possible.

Article 21. External communication

1. Media and the public should direct inquiries and requests for public appearances to the Secretariat by email.
2. The Secretariat will assist the Commission in coordinating responses to external inquiries and requests. Commission members will inform the Secretariat and

Chairperson about inquiries, appearances, or their public communications related to the Panels' or Commission's work.

3. Members of the Commission will not comment on evaluations of particular subjects except through its official notices or other announcements. Without prior authorization of the Chairperson or by these Rules, the Secretariat staff may neither disclose any information nor comment on the work of the Commission or Secretariat to third parties.
4. The Commission may maintain its own internet presence, including on social media.
5. The Panels or Commission shall communicate with subjects via email.

Article 22. Transparency

1. The Secretariat shall publish these Rules, announce information about public meetings, and provide regular updates about the Panels' or Commission's work on the Commission's website.
2. Public hearings of the Panels or Commission shall be conducted according to Article 16 para. (3) of Law No. 252/2023 and these Rules.

SECTION VI. EVALUATION OF SUBJECTS

Article 23. Tasks of Panels and Commission

1. Where Law No. 252/2023 or these Rules define rights or obligations of the Commission, they apply to the two Panels for the evaluation of subjects regarding the following tasks:
 - a. Information gathering (Article 14 of Law No. 252/2023);
 - b. Hearings (Article 16 of Law No. 252/2023);
 - c. Evaluation reports (Article 17 of Law No. 252/2023, except for its para. (3)).
2. Where Law No. 252/2023 or these Rules define rights or obligations of the Panels, they apply to the Commission insofar it is tasked to conduct the evaluation:
 - a. In case of Article 17 para. (3) of Law No. 252/2023;
 - b. In case of resumed evaluations (Article 20 of Law No. 252/2023).

Article 24. Evaluation criteria

1. The Panels or Commission will determine if the subject meets the criteria for ethical integrity and financial integrity identified in Article 11 para. (2) of Law

- 252/2023. A subject will not meet the criteria if the Panels or Commission have serious doubts whether any of circumstances identified in Article 11 para. (2) exist.
2. For applying the term “serious violation” (Article 11 para. (2) lit. a) of Law No. 252/2023), the Panels or Commission are guided by the following:
 - a. Taking into account proportionality, the violation has to be serious enough to justify removal from office.
 - b. The Panels or Commission may take into consideration the gravity or severity, the surrounding context, and the wilfulness, of any ethical incident.
 3. The periods in Article 11 para. (2) of Law No. 252/2023 are calculated as follows:
 - a. If the question relates to ethical violations as per Article 11 para. (2) lit. a) of Law No. 252/2023, the applicable period is 5 years. If the question relates to ethical violations as per Article 11 para. (2) lit. b) of Law No. 252/2023, the applicable period is 10 years.
 - b. The period is calculated as follows: The beginning of the period is the first day of the month 5 or 10 years ago, in which the Panels or Commission sent the questionnaire to the subject with a request to fill it out. The period ends the last day preceding the month in which the Panels or Commission sent the questionnaire to the subject.
 - c. Any fact related to a potential violation falling into the respective period needs to be reported in the questionnaire as per Article 12 para. (3) lit. b) of Law No. 252/2023, even if the fact occurred before the respective period.
 - d. A continuous ethical violation, such as an incompatibility or conflicts of interest, falls into the 5- or 10-year-period, if it was still ongoing when the period started.
 4. For applying the term “serious doubts” (Article 11 para. (3) of Law No. 252/2023), the Panels or Commission take guidance from the following terms:
 - a. “Legitimate reason to fear”, or, concluding “ascertainable facts which may raise doubts” (European Court of Human Rights, Grand Chamber, judgment of 15 December 2005, Kyprianou v. Cyprus, 73797/01, at § 118, in the context of assessing the independence or impartiality of a court). Doubts are not serious, if they are not supported by ascertainable facts.
 - b. Concluding that alleged facts are implausible (“In addition, the vetting bodies expressed serious doubts about the real extent of the expenses

incurred to make those flats habitable. The Court considers that the vetting bodies' approach was not arbitrary or manifestly unreasonable in that regard", European Court of Human Rights, *Thanza v. Albania*, judgement of 4 July 2023, 41047/19, at § 155).

5. "12 years" and "10 years" in Article 11 para. (3) of Law No. 252/2023 are calculated as the last 12 or 10 full calendar years preceding the year in which the evaluation is initiated as per Article 12 para. (3) of Law No. 252/2023.
6. The Panels or Commission will be 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 a prosecutor, complied with tax laws, or complied with the legal regime for declaring wealth and personal interests.
7. In assessing if the difference between wealth, expenses and income for the last 12 years exceeds the threshold identified in Article 11 para. (3) lit. a) of Law No. 252/2023, the Panels or Commission will use the method for calculating unjustified wealth defined in the Annex. The amounts of unjustified wealth in the periods in which it existed during the last 12 years will be totaled and compared to 20 average salaries per economy in the amount determined by the Government for 2023.
8. In assessing if the subject admitted fiscal irregularities for the last 10 years resulting in unpaid taxes that exceed the threshold identified in Article 11 para. (3) lit. b) of Law No. 252/2023, the Panels or Commission will estimate the unpaid taxes in consultation with the fiscal authorities. The amounts of unpaid taxes for each tax period in which it existed during the last 10 years will be totaled and compared to 10 average salaries per economy in the amount determined by the Government for 2023.
9. The Panels or Commission may consider a subject's cooperation or lack of cooperation during the evaluation process in determining whether the subject has mitigated serious doubts about the subject's compliance with the ethical and financial integrity criteria.

Article 25. Initiation of evaluation³

1. The Panels or Commission will use e-mail to exchange written communications with the subject. For subjects who are prosecutors, the prosecutor office's e-mail system will be used. Absent an e-mail address in that system, communications will be sent to the personal e-mail address identified by the subject.

³ Article 25 para. 3 amended on 20 February 2024. The amendment deleted the word "working" from the sentence, in front of "20 days".

2. The evaluation is initiated when the Commission notifies the subject by e-mail and asks the subject to submit the declaration of assets and personal interests, the declaration on the list of close persons, and the ethics questionnaire referenced in Article 12 para. (3) of Law No. 252/2023.
3. The Commission will set a deadline for the submission of the declarations and questionnaire of 20 days after its email.
4. The subject must complete the declarations and questionnaire, sign them by electronic signature, and submit them by e-mail within the deadline. The Panels or Commission may find that the subject has not met the ethical criteria if the subject, without reasonable justification, does not provide timely and complete responses to the declarations, questionnaire, or other requests for information by the Panels or Commission.
5. The Panels or Commission will grant a reasonable extension of deadlines for the subject to make the submissions in para. (3) of this Article, or to respond to other Panel or Commission requests for information, if the subject shows that meeting the deadline is impossible for reasons beyond the subject's control or otherwise shows reasonable justification. Inability to answer some parts of an information request does not justify an extension of the time to respond to other parts of a request.
6. Subjects may seek clarification of requests for information by sending an e-mail to the Head of Secretariat, who will respond or, if necessary, seek guidance from the Panels or Commission for a response.

Article 26. Information collection

1. One member of the Panel or Commission will serve as the rapporteur and lead the Secretariat in collecting and reviewing information.
2. The Commission may request additional information or documents from the subject and may collect or receive information relevant to the evaluation from any party (Article 14 of the Law). The Panel or Commission may receive and process anonymously submitted information about the subjects and other persons covered by the evaluation if such information concerns specific facts about the subject or another person, is relevant to the evaluation, and is substantial enough to be verified.
3. The rapporteur, with assistance from the Secretariat, will prepare a draft evaluation report and present it to other members of the Panel or Commission (Article 17 of Law No. 252/2023).

4. The Panel or Commission, without participation by any recused members, will consider the draft evaluation report and the results of the investigation, and then identify any areas of doubt that should be addressed in a public hearing.
5. Only information that can be shared with the subject can be used in the evaluation process.
6. If citizens provide information at their own initiative and wish that their identity remains confidential, information provided by them will not be used for assessing the subject and the identity of the source will not be revealed to the subject. If the Panel or Commission obtained the same information from one or more other sources, which are non-confidential, the information may be used in the evaluation process and is disclosed to the subject as per para. (4) of “Article 28. Public hearing”.

Article 27. Filing

1. The Commission maintains two files: An evaluation file, and a general data file.
2. The evaluation file contains the following:
 - a. Documents received as per Article 12 para. (3) of Law No. 252/2023;
 - b. Data received from the subject as per Article 14 para. (6) of Law No. 252/2023;
 - c. Other data collected and received, which are relevant for corroborating or doubting facts about the evaluation criteria, in particular all data related to facts, on which the Panel or Commission asked questions to the subject, or which are mentioned in the evaluation report.
3. The general data file contains the following:
 - a. All data collected and received by the Panels or Commission as per Article 14 of Law No. 252/2023;
 - b. Communication accompanying the submission of data, such as emails sending or explaining an attachment.
4. Data saved electronically in the general data file contains the source and the date of receipt by the Secretariat in its file-name.
5. The decision as per Article 17 of Law No. 252/2023 may only use data contained in the evaluation file, or data generally known to the public.
6. Temporary personal or internal notes of members and Secretariat staff, which only analyzes data contained in one of the two files, as well as other internal documents, such as minutes or internal email correspondence, are not part of the

files as per para. (1) of this Article; neither are data excluded as per para. (5) and (6) of “Article 26. Information collection” of these Rules.

7. The Rapporteur is responsible for both files, subject to decisions by the Panel or Commission.
8. All data shall be stored in electronic format. Data submitted in paper format shall be digitalized at the earliest possible time, even if submitted in parallel in electronic format.
9. The Commission duplicates all its electronic files through an automated back-up system.

Article 28. Public hearing⁴

1. The Panel or Commission will provide notice on the Commission’s website in advance of public hearings, identifying the subjects whose evaluations will be considered.
2. If the Panel or Commission concludes based on its investigation that the subject meets the criteria for ethical and financial integrity, it may publicly announce that determination without a public hearing.
3. If the Panel or Commission has doubts based on its investigation about the subject’s compliance with the integrity criteria, it shall send the subject a written notice identifying all of its doubts and setting a hearing, not earlier than 10 days after the notice, to discuss them. If the subject refuses to attend, the Panel or Commission will complete its assessment based on the information it has gathered and without conducting the hearing.
4. The Panel or Commission will provide the subject with access to all materials in its evaluation and general data file.
 - a. The subject shall request access by e-mail to the Secretariat at least 7 days before the hearing.

⁴ Article 28 para. (3) amended on 20 June 2024. The amendment changed deadline “20 working days” to “10 days”.

Article 28 para. (4) lit. a) amended on 20 June 2024. The amendment deleted the word “working” from the sentence, in front of “days”.

Article 28 para. (4) lit. b) amended on 20 June 2024. The amendment deleted the word “working” from the sentence, in front of “days”.

Article 28 para. (6) amended on 20 June 2024. The amendment changed deadline “5 working days” to “3 days”.

- b. Within 3 days of the request, the Secretariat will organize the requested access to the files.
 - c. The Secretariat will provide copies of materials in a read-only digital format.
 - d. Before providing access to the evaluation materials, the Secretariat will require the subject to sign an acknowledgement as described in para. (2) of “Article 5. Protection of personal data” of these Rules regarding the obligation to respect the confidentiality of data. The subject shall also sign a document confirming the receipt of evaluation materials, which includes his/her name, surname, IDNP, signature, the list of materials, and the date the materials were received.
 - e. Subjects can request access to evaluation materials for use in proceedings before the Superior Council of Prosecutors or appeals to the Supreme Court of Justice even if the subject did not request access before the Panel’s or Commission’s hearing.
5. The hearing will be public unless the Panel or Commission orders that all or part of the hearing will be closed because it is absolutely necessary to ensure public order, privacy, or morality. A hearing will not be closed merely because personal data might be discussed.
 6. No later than 3 days after the notice of hearing, a subject shall confirm participation in the hearing and shall, if the subject considers necessary, submit a reasoned request that all or part of the hearing be closed. The Commission will decide upon such request with a reasoned decision. If the Commission rejects such a request, the subject may refuse to attend the hearing and, in that event, the Panel or Commission may complete its evaluation without conducting a hearing.
 7. Members of the public and the media may attend public hearings. Attendance may be limited if the number of participants cannot fit in the premises where the hearing takes place. In that event, if practicable, the public hearing will also be video streamed to additional rooms at the same hearing location.
 8. The hearing, whether or not held in public, shall be recorded by audio and video and the video recordings of public hearings will be placed on the Panel or Commission’s website within 3 working days after the date of the hearing. Recordings translated or subtitled in English shall be placed on the website at the earliest possible time.
 9. At the hearing, a subject will have the rights identified in Article 16 para. (5) of Law No. 252/2023. A subject will also have the right not to incriminate him- or herself in the commission of a crime or misdemeanor.

10. A subject may not provide information, documents or other materials during the hearing if the Panel or Commission had requested these earlier and the subject did not provide them within the time specified, or if the candidate could have provided them at his/her own initiative earlier. The Panel or Commission may allow exceptions when justified. The Panel or Commission may direct a subject to present originals of documents earlier provided as copies.
11. The hearing will begin with an opening by the Chair or Chairperson, followed by one or more rounds of possible questions by members. At the end of the hearing, a subject may make a brief final statement.
12. Subjects and other persons who are present at the hearing shall follow proper order of the proceedings. If a person violates this rule after a warning, the Chair or Chairperson may exclude the person from the hearing.
13. All members participating in the subject's evaluation shall attend the hearing, either in person or by video conference. The Panel or Commission will deliberate on the results of the hearings in a closed meeting without the presence of the subject.

Article 29. Evaluation report

1. The Panel or Commission will prepare a reasoned report containing the relevant facts, reasons, and the conclusion whether the subject meets the criteria for ethical and financial integrity. The evaluation report shall be approved by unanimous vote of panel members, or by a majority vote of all non-recused Commission members, who may not abstain from voting.
2. If a member dissents from the Panel's or Commission's report, the dissenting member shall provide a written statement of reasons to all other members within 3 working days after the Panel or Commission votes. If, based on the dissenting member's statement, the members voting in favor of the report believe that it should be corrected or comments added to respond to address issues raised in the dissent, the majority may do so within 3 working days after the dissent is submitted. The dissenting statement, unless withdrawn, shall be appended to the report of the Panel or Commission. An evaluation report by the Commission will be deemed to be approved when the process described in this para. is completed. An evaluation by a Panel will be transferred to the Commission if all members cannot vote unanimously.
3. Upon approval, the evaluation report will be sent by e-mail to the subject and the Superior Council of Prosecutors, and on the same day the Commission will publish on its official website the evaluation report's conclusion whether the subject meets the criteria for ethical and financial integrity.

4. No later than 3 days after approval, an original paper copy of the report, signed by the Chairperson, will be submitted to the Superior Council of Prosecutors, along with an electronic copy of the evaluation file.
5. As provided in Article 17 para. (5) of Law No. 252/2023, the evaluation report will be published on the Commission's official website, with appropriate precautions to protect the privacy of the subject and other persons, within 3 days after the Superior Council of Prosecutors adopts a decision pursuant to Article 18 para. (3) of Law No. 252/2023.
6. Other authorities are requested to regularly review the publication of decisions on evaluations not passed, whether any violation by a subject reflected in the decision could be relevant for further investigation. Other authorities will have to request data contained in the Commission files before their deletion as per "Article 31. Archiving" of these Rules. If the Panel or Commission concludes that the subject or any other natural or legal person has provided information that is fraudulent or might describe violations of law, and this is not reflected in the published decision, the Panel or Commission will refer the matter to a competent authority for further investigation and, where appropriate, enforcement action. Notwithstanding all this, the panel/commission can at any time report on a candidate to whom they want (Article 17 para. 7 of Law No. 252/2023).
7. In case of Article 17 para. (3) of Law No. 252/2023, the rapporteur for the Panel stays the same for the Commission, unless the Commission decides otherwise. Where a random allocation of evaluation files to rapporteurs is needed, para. (3) of "Article 17. Allocation of files" of these Rules applies by analogy and in a way that all members serve as rapporteurs in a randomly chosen order with ultimately equal workload.

Article 30. Resumed proceedings

1. If the Panel or Commission is ordered to resume proceedings by the Superior Council of Prosecutors pursuant to Article 18 para. (3) lit. b) of Law No. 252/2023, or the Commission is ordered so by the Supreme Court of Justice pursuant to Article 19 para. (5) no. 2 lit. a) of Law No. 252/2023, the Commission will resume the evaluation procedure consistent with Article 20 of Law No. 252/2023 and these Rules.
2. The Commission will confine any resumed proceeding to examining the matters referred by the Superior Council of Prosecutors or the Supreme Court of Justice.
3. After further investigation, and an opportunity for a public hearing, the Commission will approve a report on the re-evaluation of the subject in accordance with the procedures described in Article 17 of Law No. 252/2023 and "Article 29. Evaluation report" of these Rules.

4. The evaluation file is assigned to a new rapporteur using the method defined in para. (4)-(6) of “Article 17. Allocation of files” of these Rules by analogy.

Article 31. Archiving

1. After the Commission transfers a copy of the evaluation file to the Superior Council of Prosecutors pursuant to para. (4) of “Article 29. Evaluation report” of these Rules, the Commission will destroy its copies of the evaluation file and of the general data file, as well as all other personal data at the earlier of:
 - a. a decision by the Superior Council of Prosecutors on the passing of the evaluation;
 - b. the subject passing of the deadline for appeal under Article 19 of Law No. 252/2023;
 - c. the final completion of an appeal pursuant to Articles 19 to 20 of Law No. 252/2023.
2. Notwithstanding other decisions by the Commission, the following documents shall be retained and transferred to the Superior Council of Prosecutors after termination of the Commission mandate (unless already transferred during the evaluation):
 - a. signed minutes; and,
 - b. signed evaluation reports.

ANNEX: UNJUSTIFIED WEALTH

1. Background

In its judgement *Xhoxhaj v. Albania*, the European Court of Human Rights calculated unjustified wealth as follows:

“For the purpose of this judgment, ‘liquid assets’ means (A) the balance of cash savings at the end of a given calendar year, as determined by the vetting bodies, which should be equal to (B) the carryover cash balance of the applicant and her partner from the previous calendar year, plus (C) the annual income of the applicant and her partner generated during the reporting calendar year as substantiated by legal/official documents, less (D) any expenses (including, but not limited to, living expenses, travel expenses, mortgage repayments). Any discrepancies where (A) is higher than (B + C – D) would give rise to unjustifiable liquid assets that are not supported by the cash flow determined from the documents in the case file.”⁵

Dividing the mentioned financial items as in- and outgoing cash-flows into two separate columns, this formula looks as follows:

Calendar year (or any other period)	
Incoming cash flows	Outgoing cash flows
“(B) the carryover cash balance of the applicant and his/her partner from the previous calendar year”	“(D) any expenses (including, but not limited to, living expenses, travel expenses, mortgage repayments)”
“(C) the annual income of the applicant and her partner generated during the reporting calendar year as substantiated by legal/official documents”	“(A) the balance of cash savings at the end of a given calendar year”

Thus, there is unjustified wealth if: $A > B + C - D$. When rearranging the equation by adding D on both sides: $A + D > B + C$ (or: $B + C < A + D$). Expressed verbally in short, this formula calculates whether the outgoing cash flows (“lifestyle” (A + D)) are larger than the legitimate income (B + C).

2. Terminology

2.1. “**Incoming** cash flows” are income plus other cash flows (loans received, cash leftover from previous periods, etc.) that increase the financial means (liquidity), which the declarant can dispose of during the current period.

⁵ Of 9 February 2021, application 15227/19, para. 31, footnote 1.

- 2.2. “**Outgoing** cash flows” are expenditures plus other ways in which the declarant spends/invests his/her financial means (liquidity), such as loans to others, savings at the end of the current period, etc.

3. Application

The formula is applied in accordance with the following rules:

- 3.1. A **period** is defined first for each calculation. The fiscal year is the default period. However, the period may be shortened in case of potential irregularities during the calendar year.
- 3.2. Only **actual cash flows** are relevant for the formula (For example, whereas the actual purchase price paid is a cash flow, representations on transactional documents or non-monetary gifts are not).
- 3.3. Only cash flows that occurred **during** the respective declaration **period** are inserted.
- 3.4. As stated by the ECtHR, **savings** (including cash) have a double nature: At the beginning of the period, they count as incoming cash-flow (“coming into the period”); at the end of the period, they count as outgoing cash-flow. The outgoing cash-flow of savings at the end of the period equals the incoming cash-flow of savings at the beginning of the next period.
- 3.5. In line with principles approved by the ECtHR in its judgement *Thanza v. Albania*,⁶ the **Consumption Expenditures for Population (CEP)** are determined and published on annual basis by the National Bureau of Statistics (NBS).⁷ These expenditures include the following categories: 1) food and non-alcoholic beverages; 2) alcoholic beverages and tobacco; 3) clothing and footwear; 4) housing, water, electricity and gas; 5) furnishings, household equipment and their routine maintenance; 6) health; 7) transport; 8) communication; 9) recreation and culture; 10) education; 11) restaurants and hotels; 12) miscellaneous goods and services. The exact amount per each subject is calculated by the Secretariat of the Commission using the NBS data, taking into account the number of family members, residence area (rural or urban). CEP is part of “**expenses**” (or **outgoing cash-flows**).

Practical Note: “Consumption Expenditures for Population” refers to the fact that the declarant has to spend a certain amount on essential (non-declared) expenditures such as rent/property utilities, clothing, transportation, food, medication, household appliances, gadgets, etc.

- 3.6. If the subtotal outgoing is higher than the subtotal income, then there is a **financial imbalance** regarding the declarant.

⁶ Of 4 July 2023, application 41047/19, para. 102.

⁷ See for details NBS, social statistics, Consumption Expenditures for Population (http://statbank.statistica.md/PxWeb/pxweb/ro/30%20Statistica%20sociala/30%20Statistica%20sociala_04%20NIV_NI_V020/?rxid=8ebd14c1-7adf-494b-9840-9cb85498f247 (Ro) or http://statbank.statistica.md/PxWeb/pxweb/en/30%20Statistica%20sociala/30%20Statistica%20sociala_04%20NIV_NIV_020/?rxid=8ebd14c1-7adf-494b-9840-9cb85498f247 (En)).

3.7. The formula is applied for the entire household together, but if appropriate may be applied separately for the declarant, and each family member.

3.8. Thus, in a more detailed layout, the formula looks as follows:

Cash flows during period [as defined]	
Incoming cash flows	Outgoing cash flows
Bank and cash savings at beginning of the period	
Income such as salary, fees, revenue, money gifts received, windfalls received, money inheritance, etc.	Expenses on assets such as real estate, vehicles, precious items, stocks, etc., or on immaterial items such as vacations, weddings, school fees, etc.
All other incoming cash flows such as loans received from creditors or loans repaid by debtors.	Other outgoing cash flows such as loans granted to a debtor or loans repaid to a creditor.
	Consumption Expenditures for Population (as defined)
	Bank and cash savings at end of the period
= Subtotal incoming	= Subtotal outgoing
If subtotal outgoing > subtotal income, then there is undeclared income.	
