

**Decision of 2 September 2025
regarding the request for recusal of Nadejda HRIPTIEVSCHI,
submitted by Andrei BALAN, subject of evaluation under Law No. 252/2023**

The Prosecutor Vetting Commission (“the Commission”) established by Law No. 252/2023 on the external evaluation of judges and prosecutors and amending some normative acts (“Law No. 252/2023”), discharging the powers under the same Law, adopted this decision via videoconference meeting. The members participating in the approval of the decision were:

*Ion GRAUR
Cornel LEBEDINSCHI
Christopher LEHMANN
Irmantas MIKELIONIS
Virginia MORARU
Laura ȘTEFAN
Saskia de VRIES*

Consistent with the Rules of Procedure of the Prosecutor Vetting Commission (“the Commission Rules”), the decision on this matter was made without the presence of member Nadejda HRIPTIEVSCHI, who had explained the factual circumstances mentioned in the recusal request. Based on the discussions held and subsequent votes cast, the Commission, by a majority vote of participating members, issued the following decision.

I. The Facts

1. On 24 May 2024, the Commission notified the subject of evaluation Andrei BALAN (“the subject”) of its initiation of evaluation.
2. On 16 August 2024, the Commission notified the subject by email that his evaluation file had been randomly assigned to Panel A (“the Panel”) with members Nadejda HRIPTIEVSCHI, Christopher LEHMANN, and Saskia de VRIES. The subject was informed that he may request, in writing and at the earliest possible time, the recusal of members from their evaluation.
3. On 25 June 2025, the Panel notified the subject that it had identified certain areas of doubt about the subject’s compliance with the financial and ethical criteria and invited the subject to attend a public hearing on 7 July 2025. The subject took part in a public hearing on that date.
4. On 18 August 2025, the Panel informed the subject that it has decided to extend the deadline for approving the evaluation report on the subject until 9 September 2025.

5. On 25 August 2025, the Panel sent the subject an updated analysis of the remaining doubts regarding the difference between the assets, expenses and income in four years of the evaluated period. The subject was informed that he is not required to submit any further information. However, if he wanted to submit any additional data and information, he was requested to submit it by 2 September 2025.
6. On 29 August 2025, the subject submitted a written request for the recusal of the member N. Hriptievschi, stating that the Panel had erred in its interpretation of Law No. 252/2023 and the Commission Rules. The subject complained about several aspects related to his evaluation as being incorrect or discriminatory towards him compared to other evaluations that he has identified. The subject attributed the Panel's errors of legal interpretation and application of Law No. 252/2023 to N. Hriptievschi's bias against him on two grounds.
7. First, the subject argued that the member N. Hriptievschi should be recused due to her close personal ties with persons directly involved in the subject's professional activity. In particular, he claimed that in 2009, he initiated a criminal case and prosecuted O. M. (the husband of V. Mihailov-Moraru, current Minister of Justice) on corruption charges. The subject added that V. Grecu, who is now a Secretary General at the Ministry of Justice and has a close relationship with the Minister of Justice, is the mother-in-law of N. Hriptievschi.
8. Second, the subject argued that N. Hriptievschi's appointment as a Commission member might have been based on political loyalty and as such, she is susceptible to be unduly influenced in her decision-making by the Minister of Justice.

II. The Law

9. According to art. 2 para. (2) lit. a) and b) of Law No. 252/2023, the Commission's evaluations shall be carried out based on the principles of independence and fairness.
10. According to art. 10 para. (1) lit. c) of Law No. 252/2023, the Commission's members shall not carry out activities that could give rise to a conflict of interest, and actions incompatible with their role and, if they do so – to disclose them in the manner laid down in the Commission Rules.
11. Subjects of evaluation have the right to request the recusal of Panel members, as provided by art. 16 para. (5) lit. g) of Law No. 252/2023. This right is reflected in art. 10 para. (3) of the Commission Rules, which requires that: "Such requests must be reasoned and submitted in writing 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 this requirement if the subject shows reasonable justification."
12. In considering recusal requests, the Commission is guided by the case-law of the European Court of Human Rights ("ECtHR"). Doubts of impartiality may be assessed under a subjective test and an objective test.

13. The subjective test considers whether the judge held any personal prejudice or bias in a given case (*Xhoxhaj v. Albania*, No. 15227/19, 9 February 2021, § 292).
14. The objective test considers whether a reasonable observer would conclude there is an appearance of bias or legitimate doubt about impartiality. That is, this test seeks to ascertain if the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality (*Xhoxhaj v. Albania*, cited above, § 292).
15. As per art. 10 para. (5) of the Commission Rules, 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.

III. Reasoning

16. The Commission notes that the subject raised various aspects related to the merits of his evaluation process in his recusal request. The subject's evaluation is carried out by Commission's Panel A and, as per art. 17 para. (5) of Law No. 252/2023, it will result in an evaluation report to be submitted to the subject and to the Superior Council of Prosecutors. In this recusal request the Commission will not address any issues related to the subject's evaluation but will only address the subject's arguments regarding the alleged bias of N. Hriptievschi.

Timeliness of the recusal request

17. The phrase "at the earliest possible time" at art. 10 para. (3) of the Commission Rules is understood to mean that the recusal request must be submitted without delay, considering the specific circumstances of the case and the diligence that the subject is required to exercise.
18. The Commission attests that the subject was notified on 16 August 2024 about the composition of the Evaluation Panel. He received three rounds of written questions from the Panel starting in January 2025, a notice of hearing on 25 June 2025 and participated at the hearing on 7 July 2025. The subject further received a post-hearing round of questions on 25 July 2025 and an updated analysis of the remaining doubts regarding the difference between the assets, expenses and income in four years of the evaluated period. Although he had plenty of opportunity, since 16 August 2024, to raise any bias related concerns regarding the member N. Hriptievschi, he chose to do so only on 29 August 2025, more than one year later, and only after he had received an updated analysis of doubts regarding his integrity in light of criteria provided by Law No. 252/2023.
19. The subject did not present any arguments or justification explaining his late submission of his recusal request, except that, until the request was filed, he was unaware of the reasons for N. Hriptievschi's alleged bias. The subject did not specify when he learned of these reasons, even though all relevant public sources cited by the subject were available no later than 2024. However, given the grave nature of the subject's arguments and accusations,

and the importance of public confidence in the Commission's work, the Commission will examine the subject's arguments on their merit.

Allegations of bias

20. Essentially, the subject expressed his disagreement with Panel A's interpretation of Law No. 252/2023 and the Commission Rules, attributing the Panel's interpretations to bias by N. Hriptievschi against the subject. He claims that N. Hriptievschi is the daughter-in-law of V. Grecu, General Secretary at the Ministry of Justice, who is close to the Minister of Justice, V. Mihailov-Moraru. He also claims that the Minister of Justice is married to O. M., who was the target of a corruption case that the subject handled as a prosecutor in 2009.
21. The Commission notes that each of its evaluation panels, which have the power to carry out the evaluation procedure on the basis of Law No. 252/2023, is considered a "tribunal" within the meaning of art. 6 § 1 of the ECHR.
22. According to art. 6 § 1 of the ECHR, tribunals must be impartial. Impartiality is usually defined as the absence of any prejudice or partiality and can be analyzed in various ways (*Wettstein v. Switzerland*, No. 33958/96, 21 December 2000, § 43).
23. The grounds for N. Hriptievschi's alleged bias, as presented by the subject, boil down to the personal conviction of the recused member of the Panel. According to the case-law of the ECtHR, such an assessment of impartiality is a subjective test (*Micallef v. Malta* (GC), No. 17056/06, 15 October 2009, §§ 93-101).
24. The principle that, until proven otherwise, a tribunal must be considered to be free from prejudice or partiality has long been established in the case-law of the ECtHR (*Le Compte, Van Leuven and De Meyere v. Belgium*, Nos. 6878/75; 7238/75, § 58). At the same time, the ECtHR has emphasized that appearances may also be important; recusal may be based on a legitimate fear of bias on the part of the tribunal (*Micallef v. Malta* (GC), No. 17056/06, 15 October 2009, § 98).
25. In support of his request, the subject submitted copies of documents from the criminal case file against O. M. under art. 326 para. (1) of the Criminal Code, which confirm that the criminal investigation against the latter was initiated by the subject in 2009. It also appears from the materials submitted by the subject that he took other procedural steps during the criminal investigation and represented the prosecution in the court of first instance.
26. The member N. Hriptievschi explained that she had no relationship with O. M. and had only professional interactions with the Minister of Justice. N. Hriptievschi also explained that V. Grecu has a professional relationship with the Minister of Justice and she was appointed as Secretary General of the Ministry of Justice via a public contest in the summer of 2024. From this perspective, the Commission considers that the relationship between N. Hriptievschi and V. Grecu's son is too tangential, even in appearance, to indicate N. Hriptievschi's bias in relation to the subject. The subject's version is only an allegation, in the absence of any evidence, that there is a chain of relationships between the Minister of

Justice and N. Hriptievschi, extending over a period of 16 years, through which the former's alleged animosity towards the subject led to N. Hriptievschi's breach of her legal obligation of impartiality.

27. Furthermore, it is clear that the starting point for the subject's concern regarding N. Hriptievschi's alleged bias is the interpretation and application by Panel A of Law No. 252/2023 and the Commission Rules. Here, the Commission notes that each evaluation panel is a collegial body in which decisions are taken by mutual agreement. Contrary to the subject's allegations, each member of Panel A had and continues to have full access to the subject's entire evaluation file. In the subject's evaluation procedure, decisions regarding the content of the questions addressed to him and the issues that raised doubts about his financial and ethical integrity were taken collegially and unanimously. Moreover, the evaluation process follows a commonly agreed methodology by Commission members that cannot be changed individually by one member of the Commission.
28. At the same time, in view of the subject's allegation regarding N. Hriptievschi's politicized motivation, the Commission finds it important to highlight an essential element of the legal status of its members. According to Law No. 252/2023, they cannot be dismissed by Parliament or any other state body. Art. 7 para. (3) of Law No. 252/2023 exhaustively lists the situations in which Commission membership ceases. These provisions constitute an important guarantee against external pressure, including of a political nature (*Guðmundur Andri Ástráðsson* (MC), No. 26374/18, 1 December 2020, §§ 239-240).
29. In light of the above, the Commission concluded that the recusal request must be rejected on the merits of raised allegations.

IV. Decision

30. Based on art. 10 para. (1) lit. c) of Law No. 252/2023 and art. 9 para. (1) lit. e) and art. 10 para. (4) of the Commission Rules, the Commission, by a majority vote of participating members, rejected the request for the recusal of Nadejda HRIPTIEVSCHI.

V. Further Action and Publication

31. The Commission will send a copy of this decision via email to the subject and publish it on the Commission's official website.
32. Done in English and Romanian.

Signature: 
Christopher LEHMANN
Chairperson
Prosecutor Vetting Commission