PROSECUTOR VETTING COMMISSION

Evaluation Report No. 5 of 22 July 2025, under Law No. 252/2023 on: Mariana LEAHU, Interim Deputy Chief, Anticorruption Prosecutor's Office

Evaluation Panel A ("the Panel") of 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, deliberated in private on 30 June 2025 and 22 July 2025.

The members participating in the approval of the evaluation report were:

Nadejda HRIPTIEVSCHI
Christopher LEHMANN
Saskia de VRIES

Based on its work in collecting and reviewing the information, and subsequent deliberations, the Panel prepared the following evaluation report.

I. Introduction

1. This report concerns Mariana LEAHU, Interim Deputy Chief of the Anticorruption Prosecutor's Office ("APO").

2. The Panel evaluated the subject of evaluation ("the subject") according to the procedure and criteria regulated by Law No. 252/2023 and according to the Rules of Procedure of the Prosecutor Vetting Commission ("the Commission Rules") approved by the Commission pursuant to art. 5 para. (4) of Law No. 252/2023.

3. The Panel unanimously concluded that Mariana LEAHU meets the ethical and financial integrity criteria identified in Law No. 252/2023.

II. Subject of the Evaluation

4. Mariana LEAHU was initially appointed as a prosecutor in the Prosecutor's Office of Riscani district, Chisinau municipality, on 21 February 2008. She was delegated to the APO on 4 April 2016, and transferred to that office on 20 July 2016. She was appointed as Interim Deputy Chief of the APO on 25 November 2024.

III. Evaluation Criteria

5. Under art. 11 para. (1) of Law No. 252/2023, the Commission evaluates the subject's ethical and financial integrity.

6. Art. 11 para. (2) of Law No. 252/2023 provides that a subject is deemed not to meet the requirements of ethical integrity if the Commission has established that:

a) over the last 5 years, the subject has seriously violated the rules of ethics and professional conduct of judges or, as the case may be, of prosecutors, as well as if the subject acted arbitrarily or issued arbitrary acts, over the last 10 years, contrary to the imperative rules of law, and the European Court of Human Rights ("ECtHR") has established, before the adoption of the act, that a similar decision was contrary to the European Convention for Human Rights ("ECHR").

b) over the last 10 years, the subject has admitted in his/her activity incompatibilities and conflicts of interest that affect the position held.

7. Art. 11 para. (3) of Law No. 252/2023 provides that the subject of the evaluation shall be deemed not to meet the criterion of financial integrity if the 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 as set by the Government for the year 2023.

   b) over the last 10 years, the subject admitted tax irregularities as a result of which the amount of unpaid tax exceeded, in total, 5 average salaries per economy, in the amount as set by the Government for the year 2023.

8. The average salary per economy for 2023 is 11,700 MDL[1]. Thus, the threshold of 20 average salaries is 234,000 MDL, and the threshold of five average salaries is 58,500 MDL.

9. Art. 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, the sources of funds of the subject's wealth.

10. Art. 11 para. (5) of Law No. 252/2023 provides that in evaluating compliance with the criteria set out in para. (3) of this article, the Commission shall also take into account the wealth, expenses, income of close persons, as defined in Law No. 133/2016 on the declaration of assets and personal interests ("Law No. 133/2016"), as well as of the persons referred to in art. 33 paras. (4) and (5) of Law No 132/2016 on the National Integrity Authority ("Law No. 132/2016").

11. Art. 11 para. (6) of Law No. 252/2023 provides that in assessing compliance with the criteria set out in art. 11 paras. (2) and (3), the legal provisions in force when the relevant acts occurred are applied. The documents or findings of other entities with competence in the areas concerned shall have no predetermined value for the Commission. Findings in final judgments shall be taken into account by the Commission, except for judgments that the Commission considers to be arbitrary or manifestly unreasonable. The Commission may rule only on breaches of the rules of ethics and professional conduct, without ruling on the legality of the decisions in question.

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[1] Government decision No. 936/2022 on the approval of the amount of the average monthly salary per economy, forecast for 2023.

12. In applying art. 11 para. (3) of Law No. 252/2023, 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.

13. Regarding the standard of "serious doubts" in the context of the vetting exercise, the Constitutional Court noted with reference to its previous decisions that the definition of standards of proof inevitably involves using flexible texts. The Court also said that the Superior Council of Prosecutors ("SCP") 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).

14. The Commission notes that the Venice Commission underlined that in "a system of prior integrity checks, the decision not to recruit a subject can be justified in case of mere doubt, on the basis of a risk assessment. However, the decision to negatively assess a current post holder should be linked to an indication of impropriety, for instance inexplicable wealth, even if it cannot be proven beyond doubt that this wealth does come from illegal sources" (Opinion No. 1064/2021 of 20 June 2022, CDL-AD (2022)011-e, para. 10; Joint Opinion of 14 March 2023, CDL-AD(2023)005, para. 69).

15. Shifting the burden of proof to the subject, once the evaluating body has identified integrity issues, has been found permissible by the ECtHR, even in the vetting of sitting judges who may lose their positions or otherwise be sanctioned as a consequence of the evaluation. In *Xhoxhaj v. Albania*, no. 15227/19, 31 May 2021, § 352, the Court stated that "it is not per se arbitrary, for the purposes of the 'civil' limb of Article 6 § 1 of the Convention, that the burden of proof shifted onto the applicant in the vetting proceedings after the IQC [Independent Qualification Commission] had made available the preliminary findings resulting from the conclusion of the investigation and had given access to the evidence in the case file" (confirmed for the vetting of prosecutors in *Sevdari v. Albania*, no. 40662/19, 13 December 2022, § 130).

16. Once the Commission establishes substantiated doubts based on 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 art. 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

17. Mariana LEAHU was on the list of subjects submitted by the SCP to the Commission on 23 May 2024 for evaluation, pursuant to art. 12 para. (1) of Law No. 252/2023.

18. The subject was evaluated based on provisions of art. 3 para. (1) lit. e) of Law No. 252/2023.

19. On 24 May 2024, the Commission notified the subject of its initiation of evaluation and requested that she completes and returns the declaration of assets and personal interests for the last five years ("five-year declaration"), which includes the list of close persons in the judiciary, prosecution, and public service, and an ethics questionnaire within 20 days, as provided in art. 25 para. (3) of the Commission Rules, consistent with art. 12 para. (4) of Law No. 252/2023. The subject returned the completed five-year declaration and ethics questionnaire within the deadline, on 12 June 2024.

20. Pursuant to art. 15 para. (2) of Law No. 252/2023 and art. 17 of the Commission Rules, the file in this matter was randomly assigned to Panel A.

21. On 16 August 2024, the Commission notified the subject by email that her evaluation file had been randomly assigned to Panel A with members Nadejda HRIPTIEVSCHI, Christopher LEHMANN, and Saskia de VRIES. The subject was informed that she may request, in writing and at the earliest possible time, the recusal of members from their evaluation.

22. Because the law sets different evaluation periods for the ethical and financial integrity criteria cited above, the Panel evaluated compliance with these criteria over the past 5, 10, and 12 years, respectively. Due to the end-of-the-year availability of the tax declarations and declarations on assets and personal interests, the financial criteria for evaluation included 2012-2023 (*inexplicable wealth*) and 2014-2023 (*tax irregularities*). The evaluation period for the ethical criterion includes the past 5 or 10 years calculated as per art. 24 para. (3) lit. b) of the Commission Rules.

23. During the last 12 years of the evaluation period, the subject was required to file declarations, both under Law No. 133/2016, and under the previous Law No. 1264/2002 on the declaration and control of income and property of persons with public dignity positions, judges, prosecutors, civil servants and some persons with managing positions ("Law No. 1264/2002").

24. As part of the evaluation of the ethical and financial integrity of the subjects, the Commission obtained information from numerous sources. The sources generally included the General Prosecutor's Office ("GPO"), specialized Prosecutor's Offices, SCP, National Integrity Authority ("NIA"), National Anticorruption Center ("NAC"), Office for Prevention and Fight against Money Laundering ("AML"), Ministry of Internal Affairs ("MIA"), State Tax Service ("STS"), General Inspectorate of Border Police, National Office of Social Insurance ("CNAS"), Public Services Agency ("PSA"), Governmental Agent within the Ministry of Justice, banks, financial institutions etc. Information was also sought, and where applicable obtained, from other public and private entities, as well as open sources, such as social media and investigative journalism reports. The Commission also received and the Panel examined a complaint from a member of civil society. All information received was carefully screened for accuracy and relevance.

25. To the extent that issues were raised from the subject's five-year declaration, and ethics questionnaire and collected information, those issues were raised in written questions with the subject.

26. On 2 December 2024, the Panel asked the subject to provide additional information by 10 December 2024 to clarify certain matters (the "first round of questions"). On 2 April 2025,

the Panel asked the subject to provide additional information by 9 April 2025 to clarify certain matters (the "second round of questions"). On 15 April 2025, the Panel asked the subject to provide additional information by 23 April 2025 to clarify certain matters (the "third round of questions"). On 2 May 2025, the Panel asked the subject to provide additional information by 12 May 2025 to clarify certain matters (the "fourth round of questions"). The subject provided answers and documents within the set deadlines to all four rounds of questions.

27. On 16 June 2025, the Panel notified the subject that it had not identified in its evaluation any areas of doubt about her compliance with the ethical and financial integrity criteria, and invited the subject to attend a hearing on 30 June 2025. The subject was informed that she could request access to the evaluation materials.

28. Following the subject's request, on 19 June 2025, the subject was granted access to the evaluation materials according to art. 16 para. (5) lit. c) of Law No. 252/2023

29. On 30 June 2025, the subject took part in a public hearing of the Panel.

30. At the hearing, the subject reaffirmed the accuracy of her answers in the five-year declaration and 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.

V. Analysis

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

32. Based on the information it collected, the Panel analyzed and sought further written clarifications from the subject on the following matter: potential inconsistencies between the annual declarations on assets and personal interests ("annual declarations") submitted by the subject and the information provided by the subject to the Panel regarding the income of her husband in the period 2016 – 2018.

33. The issue was mitigated before the hearing, and it was not discussed at the hearing.

34. In response to the first round of questions asked by the Panel, the subject explained that in the period 2007 – 2021, her husband worked in Spain, in the service sector as a metal structures installer. She also explained that her husband worked as an employee in Spain between 2007 and 2011. Since 2011, the subject explained that her husband worked with several companies under the legal regime of self-employment, being registered with the Spanish tax authority and the social security system. She also explained that her husband, during his work in Spain, had a tax identification number and a bank account that was declared to the tax authorities, from which the necessary taxes were deducted. In 2021, he ended his activity in Spain and returned to the Republic of Moldova without anticipating that he would need any supporting documents.

35. In the 2016 annual declaration submitted to the NIA, the subject declared her husband's income of 18,826 EUR. However, in response to the third round of questions, she explained that it was approximately 44,000 EUR. In her 2017 annual declaration she declared her husband's income of 15,000 EUR, while in response to the third round of questions she

explained that it was approximately 64,000 EUR. From 2018 to 2021, the subject was on maternity leave. Accordingly, she only submitted her declaration on assets and personal interests in 2021 for the period of 2018 – 2021, where she indicated the total income for the entire period received by her husband. The Panel asked the subject to explain what income her husband received specifically for 2018. In response to the first round of questions, she explained that her husband's income in 2018 was 33,190 EUR, while in the third round of questions she explained that it was approximately 59,000 EUR.

36. In the fourth round of questions, the subject was asked to explain the inconsistencies between the amounts declared by her as her husband's income in the period 2016 – 2018. The subject explained that these differences existed because in the annual declarations she declared her husband's net income, while in responses to the third round of questions she indicated the gross income of her husband. She explained that in the annual declarations for the years 2016 and 2017, she declared the net income communicated by her husband on the date of submission of those declarations and according to his words; this income was generated from the analysis of all the documents he had at that time, the calculations being carried out by a lawyer who assisted him in drawing up the documents for the tax institutions.

37. In addition to her explanations, the subject also presented the Panel copies of documents issued by the public authorities in Spain, which confirm that her husband was registered with the Spanish tax authority and the social security system for a total of nine years, four months and 29 days. The subject also provided copies of several excerpts from her husband's bank account in Spain for the period 2012-2020, several invoices confirming the payment for the work he had provided to various companies, as well as other documents related to her husband's work in Spain. The subject also explained and provided copies of documents confirming the fact that the companies that contracted her husband have paid her husband both for the work to be performed and the business expenses for carrying out the contracted work.

38. Following the explanations provided by the subject and the Panel's subsequent analysis of the documents provided by the subject that confirmed the income her husband received while working in Spain in 2012 - 2021, the Panel concluded that the gross income received by her husband in 2016 – 2018 corresponded largely to the amounts declared by the subject in response to the Panel's written questions, while the net amounts to the amounts declared by the subject in her annual declarations. The discrepancy between the gross and net amounts was sufficiently explained by the fact that the gross amounts that the subject's husband received included both the remuneration for his work for which he has paid taxes (gross income) and the expenses for business purposes (such as per diems, procurements of equipment etc.).

39. The Panel unanimously concluded that it has no serious doubts about the compliance of the subject with the criteria of financial and ethical integrity as per art. 11 paras. (2) and (3) of Law No. 252/2023.

VI. Conclusion

40. Based on the information it obtained and that was presented by the subject, the Panel proposes that Mariana LEAHU passes the external evaluation made according to the criteria set in art. 11 of Law No. 252/2023.

VII. Further Action and Publication

41. According to art. 17 para. (5) of Law No. 252/2023, this evaluation report shall be sent by e-mail to the subject and the SCP within three days of its approval, and on the same day the Commission will publish on its official website the information on the result of the evaluation.

42. Under art. 17 para. (6) of Law No. 252/2023, the Commission will submit to the SCP, within three days of approval of the evaluation report, a hard copy of that evaluation report, along with an electronic copy of the evaluation file of the subject.

43. Under art. 17 para. (8) of Law No. 252/2023, the evaluation report, in full, will be published on the Commission's official website, with appropriate precautions to protect the privacy of the subject and other people, within three days from the expiry of the deadline for appealing the SCP's decision (pursuant to art. 18 para. (3) lit. a) and c) of Law No. 252/2023) or from the date of issuance of the Supreme Court of Justice's decision (pursuant to art. 19 para. (5) point 1) and point 2) lit. c) of Law No. 252/2023.

44. Pursuant to art. 17 para (2) of Law No. 252/2023, this evaluation report was approved unanimously by the evaluation Panel on 22 July 2025 and signed by the Chairperson of the Commission.

45. Done in English and Romanian.

Signature:

Christopher LEHMANN
Chairperson
Prosecutor Vetting Commission