

**Decision of 13 August 2026
regarding the request for recusal of Ion GRAUR from the evaluation of Valeriu SÎRBU,
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 during a meeting held via videoconference.

The members participating in the approval of the decision were:

Virginia MORARU – Vice-Chairperson of the Commission
Herman von HEBEL
Bernard LAVIGNE
Cornel LEBEDINSCHI
Irmantas MIKELIONIS

Christopher LEHMANN, Chairperson of the Commission, did not participate in the deliberation or vote on this matter.

Commission member Ion GRAUR did not participate in the deliberation or vote concerning the request for his recusal.

Commission member Laura ȘTEFAN, whose recusal was requested by the subject in the same submission and is determined separately, did not participate in the deliberation or vote concerning the request for Ion GRAUR’s recusal.

Commission member Nadejda HRIPTIEVSCHI, who had previously been recused from the evaluation of the subject, did not participate in the consideration of this matter.

Based on the subject’s request, the applicable legal framework and the subsequent votes cast, the Commission adopted the following decision.

I. Facts and the subject’s request

1. Valeriu SÎRBU (“the subject”), prosecutor within the Prosecutor’s Office for Combating Organized Crime and Special Cases (“PCCOCS”), is undergoing external evaluation under Law No. 252/2023.

2. The subject's evaluation file was initially allocated to Panel F, composed of Pierangelo PADOVA, Laura ȘTEFAN and Ion GRAUR. On 27 November 2025, as Panel F could not proceed with its work because Pierangelo PADOVA had not yet been formally delegated to the Commission by his national authorities, the Commission decided to replace Pierangelo PADOVA with Nadejda HRIPTIEVSCHI for the purposes of the evaluation.
3. On 4 August 2026, the subject was sent a further round of written questions ("the fourth round of written questions"), seeking clarification concerning, *inter alia*, his involvement, in his capacity as prosecutor, in two criminal cases and the special investigative measures applied in those proceedings.
4. Due to Nadejda HRIPTIEVSCHI's unavailability on 4 – 5 August 2026, the fourth round of written questions was not coordinated with her before it was sent to the subject. She learned about the fourth round of written questions on 6 August 2026.
5. On the same date, Nadejda HRIPTIEVSCHI informed the Commission of circumstances which, in her view, could affect her impartiality and requested her recusal. Those circumstances concerned her professional links with persons affected by the special investigative measures examined in the two criminal cases and her links with other civil society representatives concerned by those events.
6. By decision of 7 August 2026, the Commission determined that those circumstances could objectively raise doubts as to Nadejda HRIPTIEVSCHI's impartiality in the evaluation and decided that she should be recused.
7. Following her recusal, Herman von HEBEL was randomly designated to replace her in the subject's evaluation and became Chair of Panel F. Panel F is presently composed of Ion GRAUR, Herman von HEBEL and Laura ȘTEFAN.
8. On 10 August 2026, the Commission sent the subject the decision on the recusal of Nadejda HRIPTIEVSCHI from the evaluation and informed him of the resulting changes in the composition of Panel F.
9. On the same day, the subject submitted a written request seeking the recusal of Laura ȘTEFAN and Ion GRAUR.
10. The subject expressly stated that he did not allege personal hostility or subjective bias on the part of either member. He relied on the objective aspect of impartiality.
11. In substance, the subject argued that the fourth round of written questions had been transmitted in the name of Panel F although Nadejda HRIPTIEVSCHI had not participated in its coordination and was unaware of it when it was sent. According to him, this raises a procedural issue concerning the manner in which the fourth round of written questions was formulated, approved and transmitted.

12. The subject further argued that Laura ȘTEFAN and Ion GRAUR, having participated in that procedural step, would now continue his evaluation and potentially be required to examine his objection concerning the fourth round of written questions, assess his answers, determine their evidentiary significance and subsequently participate in the assessment of the matters explored through the fourth round of written questions.
13. In the subject's view, the two members would therefore be placed in the position of assessing the regularity and effects of a procedural step in which they had themselves participated, which is capable of raising objectively justified doubts as to their impartiality.
14. The subject referred, inter alia, to the ECtHR judgments in *Piersack v. Belgium*, *De Cubber v. Belgium*, *Micallef v. Malta* [GC], *Morice v. France* [GC] and *Kyprianou v. Cyprus* [GC]. He also submitted that the same objective test of impartiality applied by the Commission in its decision of 7 August 2026 concerning Nadejda HRIPTIEVSCHI should lead to the recusal of Laura ȘTEFAN and Ion GRAUR.
15. The subject additionally requested that the Commission establish the precise role of each member in preparing and transmitting the fourth round of written questions. He also requested the suspension or extension of the deadline for responding to the fourth round of written questions and the continuation of his evaluation in a different composition.
16. The present decision concerns only the request for recusal of Ion GRAUR. The request concerning Laura ȘTEFAN is determined separately.

II. Applicable Rules and Principles

17. Art. 10 para. (1) lit. c) and d) of Law No. 252/2023 requires Commission members not to engage in activities which could generate a conflict of interest and not to commit acts which could discredit the Commission or create doubts as to its objectivity.
18. Art. 7 lit. b) of the Rules of Procedure of the Commission ("the Commission Rules") requires members to perform their functions based on, *inter alia*, the principles of independence, impartiality, objectivity and fairness. Under art. 7 lit. d), members shall avoid actions or statements which may discredit or otherwise undermine the work of the Panels or Commission or raise doubts about the objectivity of their decisions. Art. 7 lit. k) requires members to be mindful of conflicts of interest or circumstances affecting their impartiality and to bring such circumstances immediately to the attention of the Panel or Commission.
19. Art. 10 para. (1) of the Commission Rules provides that members shall not participate in activities which involve or could give rise to a conflict of interest, are incompatible with membership on the Commission, or could discredit the Commission or raise doubts as to its objectivity. Under para. (3), a subject may request that a member be recused from the evaluation. Pursuant to para. (5), the decision is taken by the other members outside the

presence of the member concerned, subject to the exception provided by the same provision.

20. Under art. 14 para. (6) of Law No. 252/2023, for the purpose of clarifying identified uncertainties, additional data and information may be requested from the subject or other persons at any stage of the evaluation procedure.
21. Under art. 15 para. (1) of Law No. 252/2023, the evaluation is conducted by a Panel composed of three Commission members. At the same time, art. 15 para. (3) provides that the evaluation file is compiled by one member acting as rapporteur, assisted by the Secretariat.
22. The Commission Rules further regulate the information-gathering stage. Under art. 23 para. (1), the rights and obligations assigned by Law No. 252/2023 to the Commission in relation to information gathering apply to the Panels. Under art. 26 para. (1), one member serves as rapporteur and leads the Secretariat in collecting and reviewing information, while para. (2) provides for requests for additional information or documents from the subject and for the collection or receipt of other information relevant to the evaluation.
23. The assessment of the information collected is undertaken by the Panel. Under art. 26 para. (5) of the Commission Rules, the Panel considers the results of the investigation and identifies the areas of doubt that should be addressed at the hearing. Similarly, under art. 16 para. (1) of Law No. 252/2023, after analyzing the accumulated information, the Panel communicates to the subject all doubts which are to be discussed at the hearing.
24. Under art. 17 paras. (1) and (2) of Law No. 252/2023, following the evaluation, the Panel prepares a reasoned evaluation report containing the relevant facts, reasons and conclusion as to whether the subject passes or fails the evaluation. The report is approved by unanimous vote of the Panel members. If unanimity is not reached, the report is examined by the Commission in accordance with art. 17 para. (3).
25. Art. 14 of the Commission Rules provides that the Panel is operational if all three members are present and that Panel decisions require unanimity. Art. 20 of the Commission Rules allows the Panels to coordinate their work by email and provides when a work aspect coordinated in this manner is considered final.
26. The Commission also takes into account, by analogy, the principles developed in the case-law of the European Court of Human Rights (“ECtHR”) concerning impartiality. Under the objective test, the question is whether there are ascertainable facts, capable of raising legitimate doubts as to impartiality. The position of the person concerned is relevant but not decisive; the doubts must be objectively justified, and appearances may be relevant (*Micallef v. Malta* [GC], no. 17056/06, paras. 93–99; *Morice v. France* [GC], no. 29369/10, paras. 73–78).

27. Prior involvement in the investigation or earlier stages of the same proceedings does not, in itself, establish a lack of objective impartiality. The nature and extent of that involvement and whether it involved prejudgment of the matter subsequently requiring determination are relevant (*Hauschildt v. Denmark*, no. 10486/83, para. 50; *Morel v. France*, no. 34130/96, para. 45; *Xhoxhaj v. Albania*, no. 15227/19, paras. 305–308).

III. Assessment

28. The subject's request raises two related issues. First, he questions the manner in which the fourth round of written questions was prepared and sent without prior coordination with Nadejda HRIPTIEVSCHI. Second, he argues that Ion GRAUR's participation in the fourth round of written questions prevents him from objectively participating in the subsequent evaluation of the matters addressed in those questions.
29. The Commission considers that the fourth round of written questions was properly sent despite Nadejda HRIPTIEVSCHI's temporary unavailability.
30. The fourth round of written questions formed part of the information-gathering stage of the evaluation. It sought further explanations from the subject concerning matters relevant to his evaluation. Art. 14 para. (6) of Law No. 252/2023 expressly permits additional data and information to be requested from the subject at any stage of the procedure for the purpose of clarifying identified uncertainties.
31. The legal framework does not require the simultaneous participation of all three Panel members in every step of information gathering. Under art. 15 para. (3) of Law No. 252/2023, the evaluation file is compiled by one member, assisted by the Secretariat. Art. 26 para. (1) of the Commission Rules similarly assigns one member the task of leading the Secretariat in collecting and reviewing information.
32. The requirement that all three Panel members participate and decide unanimously applies to the collegial functions and decisions of the Panel. It does not require every request for additional information or every question addressed to the subject to be jointly prepared and approved by all three members.
33. Art. 20 of the Commission Rules does not change this distinction. It regulates coordination by email and when a work aspect requiring collective agreement is considered defined in that manner. It does not make each step in collecting information a separate Panel decision requiring unanimity.
34. The fourth round of written questions did not contain a determination by Panel F on the matters addressed in the questions. It did not communicate the Panel's doubts under art. 16 para. (1) of Law No. 252/2023, make findings concerning the subject's conduct or determine whether he met the applicable integrity criteria. It sought further explanations before those matters were assessed.

35. The fact that the fourth round of written questions was sent in the name of Panel F does not change its nature. Panel F was the Panel to which the subject's evaluation had been allocated. Correspondence concerning the evaluation was therefore sent in its name. This did not make each question contained in the fourth round of written questions a separate Panel decision requiring a unanimous vote.
36. Nadejda HRIPTIEVSCHI's temporary unavailability on 4 – 5 August 2026 therefore did not suspend the collection of information or prevent further clarification from being sought through the fourth round of written questions.
37. Nadejda HRIPTIEVSCHI did not participate in preparing or coordinating the fourth round of written questions concerning the matter which later gave rise to her recusal. When she learned about the fourth round of written questions on 6 August 2026, she informed the Commission of the circumstances affecting her impartiality and requested her recusal.
38. Consequently, the questions concerning the two criminal cases were prepared without the involvement of the member whose professional links with persons affected by the special investigative measures subsequently warranted her recusal.
39. Following her recusal, Herman von HEBEL was designated to replace her. The reconstituted Panel will assess the information obtained, including the subject's answers to the fourth round of written questions, determine what doubts, if any, exist, conduct the hearing and participate in the adoption of the evaluation report.
40. Laura ȘTEFAN and Ion GRAUR cannot determine the significance of the subject's answers or the outcome of the evaluation on their own. The evaluation report requires the unanimous vote of all three Panel members. In the absence of unanimity, the report is examined by the Commission under art. 17 para. (3) of Law No. 252/2023.
41. For these reasons, the Commission finds that sending the fourth round of written questions without prior coordination with Nadejda HRIPTIEVSCHI was consistent with the rules governing information gathering in the evaluation.
42. The Commission nevertheless considers that the subject was entitled to raise the procedural issue. The fourth round of written questions had been sent in the name of a three-member Panel without prior coordination with one of its members, and the subject could properly seek clarification as to the effect of that circumstance. The Commission has examined the issue above and finds that it did not affect the legality of the fourth round of written questions.
43. A request for recusal, however, concerns the impartiality of a member. It is not the means by which the legality of a procedural step is determined or corrected. Even where a subject has grounds to challenge a procedural step, recusal requires circumstances capable of objectively calling into question the impartiality of the member concerned.

44. The Commission must therefore determine whether Ion GRAUR's participation in the fourth round of written questions gives rise to such circumstances.
45. Ion GRAUR participated in the fourth round of written questions in his capacity as a member of Panel F and as part of the information-gathering stage of the same evaluation.
46. His participation in preparing the fourth round of written questions did not involve a finding on the matters raised in them. The subject was asked to provide explanations before the Panel assessed the relevant facts and their significance for the evaluation.
47. Nor did his participation amount to prejudgment. The fourth round of written questions preceded the Panel's assessment of the information collected and the identification of doubts under art. 16 para. (1) of Law No. 252/2023. The answers remained to be received and assessed together with the other information available to the Panel.
48. The subject also argues that Ion GRAUR would in effect be required to assess his own conduct. The Commission considers that the procedural issue identified by the subject does not place Ion GRAUR in such a position. The evaluation concerns the subject's ethical and financial integrity, and Ion GRAUR has no personal interest in the validity of the fourth round of written questions or in the outcome of the subject's procedural objection.
49. The subject's objection to the fourth round of written questions therefore does not change the nature of Ion GRAUR's participation in the evaluation. A disagreement concerning a procedural step does not, without circumstances relating to the member's impartiality, constitute a ground for recusal.
50. The reasoning in *Xhoxhaj v. Albania* is relevant in this respect. There, the applicant questioned the impartiality of the same vetting body because it had conducted the preliminary investigation and subsequently determined the merits of her evaluation. The ECtHR accepted that this could cause concern, but found that the concern was not objectively justified. The vetting body had made preliminary findings without reaching final conclusions, had invited the applicant to respond, and subsequently reached its decision after considering the evidence and arguments presented by her (*Xhoxhaj v. Albania*, cited above, paras. 305–308).
51. The fourth round of written questions went less far than the preliminary findings considered in *Xhoxhaj v. Albania*. It contained questions seeking explanations from the subject, rather than findings. In addition, the Panel which will assess the subject's answers now includes Herman von HEBEL, who did not participate in preparing or transmitting the fourth round of written questions.
52. The other ECtHR judgments relied upon by the subject concern materially different circumstances. *Piersack v. Belgium* and *De Cubber v. Belgium* concerned the successive exercise of prosecutorial, investigative and judicial functions in criminal proceedings.

Kyprianou v. Cyprus [GC] concerned judges personally involved in the incident which they subsequently adjudicated.

53. Ion GRAUR's involvement is confined to his functions as a member of Panel F in the subject's evaluation. No personal or professional connection has been identified between him and the subject, or between him and the persons affected by the special investigative measures, nor any involvement by him in the underlying criminal cases.
54. This also distinguishes his situation from that of Nadejda HRIPTIEVSCHI.
55. Nadejda HRIPTIEVSCHI's recusal was based on circumstances existing independently of her functions in the Commission, namely her professional links with persons affected by the special investigative measures and other connections to the substantive matter under examination.
56. In Ion GRAUR's case, the circumstance relied upon is his participation, as a Panel member, in obtaining information from the subject in the course of the same evaluation.
57. The same objective test of impartiality applies to both members. In Nadejda HRIPTIEVSCHI's case, circumstances external to the evaluation were sufficient to raise objectively justified doubts. Ion GRAUR's participation in the information-gathering stage of the evaluation does not raise such doubts.
58. The Commission also considers it unnecessary to establish who drafted each individual question, who approved its wording or who transmitted the fourth round of written questions. Even assuming Ion GRAUR participated fully in those steps, this was part of the information-gathering stage and does not provide a ground for recusal.
59. The Commission therefore finds that Ion GRAUR's participation in the fourth round of written questions was consistent with his functions in the evaluation and did not involve prejudgment, a personal interest or other circumstances capable of objectively justifying doubts as to his impartiality.
60. The request for his recusal must therefore be rejected.

IV. Decision

61. Based on art. 10 para. (1) lit. c) and d) and art. 16 para. (5) lit. g) of Law No. 252/2023, as well as art. 7 lit. b), d) and k), art. 10 paras. (1), (3) and (5), and art. 11 para. (1) of the Commission Rules, the Commission determines that the circumstances invoked by the subject do not give rise to a conflict of interest and do not objectively justify doubts as to the impartiality of Commission member Ion GRAUR.
62. The Commission therefore rejects the request to recuse Ion GRAUR from the evaluation of Valeriu SÎRBU.

63. Ion GRAUR remains a member of Panel F for the subject's evaluation.

V. Decision Notification

64. The Commission will send the subject this decision by email.

65. Done in English and Romanian.

Signature:

Virginia MORARU
Vice-Chairperson
Prosecutor Vetting Commission