

COMISIA DE EVALUARE A JUDECĂTORILOR | JUDICIAL VETTING COMMISSION
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RULES

OF ORGANIZATION AND FUNCTIONING

of the Independent Evaluation Commission on the External Evaluation of
Judges and Candidates for the Position of Judge of The Supreme Court of
Justice

**APPROVED ON 11 JULY 2023, AS AMENDED ON 26 SEPTEMBER 2023,
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TABLE OF CONTENTS

| | |
|---|-----------|
| SECTION I. GENERAL PROVISIONS | 4 |
| ARTICLE 1. DEFINITIONS AND CALCULATION OF DEADLINES..... | 4 |
| ARTICLE 2. COMPOSITION AND MANDATE OF THE COMMISSION | 5 |
| ARTICLE 3. CHAIRPERSON | 5 |
| ARTICLE 4. LANGUAGE AND TRANSLATION..... | 6 |
| ARTICLE 5. PROTECTION OF PERSONAL DATA | 7 |
| ARTICLE 6. AMENDMENTS..... | 7 |
| ARTICLE 7. RULES OF CONDUCT | 7 |
| SECTION II. MEETINGS AND DECISIONS | 9 |
| ARTICLE 8. MEETINGS OF THE COMMISSION | 9 |
| ARTICLE 9. MATTERS | 9 |
| ARTICLE 10. CONFLICT OF INTEREST AND RECUSAL | 10 |
| ARTICLE 11. VOTING | 11 |
| ARTICLE 12. MINUTES | 11 |
| ARTICLE 13. TRANSPARENCY | 12 |
| ARTICLE 14. EMAIL COORDINATION | 12 |
| ARTICLE 15. EXTERNAL COMMUNICATION | 12 |
| SECTION III. FILING, ARCHIVING AND DESTRUCTION | 13 |
| ARTICLE 16. FILING | 13 |
| ARTICLE 17. ARCHIVING | 13 |
| ARTICLE 18. DESTRUCTION | 13 |
| SECTION IV. SECRETARIAT | 14 |
| ARTICLE 19. GENERAL PROVISIONS | 14 |
| ARTICLE 20. DUTIES AND CONDUCT | 14 |
| SECTION V. EVALUATION OF SUBJECTS UNDER LAW NO. 65/2023 | 15 |
| ARTICLE 21. EVALUATION CRITERIA | 15 |
| ARTICLE 22. INITIATION OF EVALUATION | 15 |
| ARTICLE 23. INFORMATION COLLECTION..... | 16 |
| ARTICLE 24. PUBLIC HEARING | 17 |
| ARTICLE 25. EVALUATION REPORT | 19 |
| ARTICLE 26. FURTHER PROCEEDINGS | 20 |
| SECTION VI. EVALUATION OF SUBJECTS UNDER LAW NO. 26/2022 | 21 |
| ARTICLE 27. EVALUATION CRITERIA | 21 |
| ARTICLE 28. INITIATION OF EVALUATION..... | 22 |
| ARTICLE 29. INFORMATION COLLECTION | 23 |
| ARTICLE 30. PUBLIC HEARING..... | 24 |
| ARTICLE 31. EVALUATION DECISION..... | 26 |

| | |
|---|-----------|
| ARTICLE 32. APPEALS AND FURTHER PROCEEDINGS | 27 |
| SECTION VII. EVALUATION OF SUBJECTS UNDER LAW NO. 252/2022 | 28 |
| ARTICLE 33. EVALUATION PANELS, QUORUM, MAJORITY, AND CHAIRS..... | 28 |
| ARTICLE 34. ASSIGNMENTS AND RECUSAL..... | 29 |
| ARTICLE 35. TASKS OF PANEL AND COMMISSION | 29 |
| ARTICLE 36. EVALUATION CRITERIA | 29 |
| ARTICLE 37. INITIATION OF EVALUATION | 30 |
| ARTICLE 38. INFORMATION COLLECTION..... | 31 |
| ARTICLE 39. PUBLIC HEARING | 32 |
| ARTICLE 40. EVALUATION REPORT | 34 |
| ARTICLE 41. FURTHER PROCEEDINGS | 35 |
| SECTION VIII: CONDUCT OF CONCURRENT EVALUATIONS..... | 36 |
| ARTICLE 42. PROHIBITION OF CONCURRENT EVALUATIONS | 36 |
| ARTICLE 43. PRIORITY OF EVALUATION PROCEDURES..... | 36 |
| SECTION IX. TRANSMISSION OF INFORMATION AT THE END OF THE MANDATE..... | 37 |
| ARTICLE 44. DEFINITIONS | 37 |
| ARTICLE 45. ACTIONS AT THE END OF THE MANDATE | 37 |
| ARTICLE 46. METHOD OF TRANSMISSION AND DOCUMENTATION | 37 |
| ARTICLE 47. SPECIAL COMMITTEE AND ORGANIZATIONAL MATTERS..... | 38 |
| ANNEX: UNJUSTIFIED WEALTH | 40 |

PREAMBLE

These Rules (hereinafter “Rules”) are adopted according to Article 5 para. (3) of Law No. 65/2023 on the external evaluation of judges and candidates to the position of judge of the Supreme Court of Justice (hereinafter “Law No. 65/2023”) to govern the organization and functioning of the Commission. Based on Article 22 paras. (3) and (12) of Law No. 252/2023 on the external evaluation of judges and prosecutors and amendments of some normative acts (hereinafter “Law No. 252/2023”), these Rules also govern the Commission’s powers under Law No. 26/2022 on measures related to the selection of candidates for the positions of members in the self-administration bodies of judges and prosecutors (hereinafter “Law No. 26/2022”).

SECTION I. GENERAL PROVISIONS

Article 1. Definitions and Calculation of Deadlines

In these Rules:

- a. “Commission” means the Independent Evaluation Commission mentioned in Article 4 para. (1) of Law No. 65/2023 and Article 4 para. (1) of Law No. 252/2023;
- b. “Days” means calendar days including weekends and bank holidays. Deadlines that follow events 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;
- c. “Evaluation” means assessing the ethical and financial integrity of subjects:
 - (i) mentioned in Article 1 of Law No. 65/2023; or
 - (ii) mentioned in Article 22 para. (12) of Law No. 252/2023; or
 - (iii) mentioned in Article 3 para. (1) lit. a), b), f), g) and h) of Law No. 252/2023, with the note that in relation to lit. f), g) and h) reference is made to judges and candidates for the positions for judges.
- d. “Member” means a member of the Commission;
- e. “Other persons covered by the evaluation” means persons close to the subject as defined in Law No. 133/2016 on the Declaration of Wealth and Personal Interests and persons indicated in Article 33 para. (4) and (5) of Law No. 132/2016 on the National Integrity Authority;
- f. “Secretariat” means the Secretariat which assists the Commission;
- g. “Subject” means a person subject to the evaluation:

- (i) pursuant to Article 2 para. (1) of Law No. 65/2023, current judges, including those who are suspended, and candidates for the position of judge of the Supreme Court of Justice; or
- (ii) pursuant to Article 22 para. (12) of Law No. 252/2023:
 - a. candidates for the position of member of the Superior Council of Magistracy for applications filed after 1 September 2023; and,
 - b. candidates, regardless of the date of submission of the application, for the position of member of the Board for the Selection and Evaluation of Judges or the Disciplinary Board for Judges;
- (iii) pursuant to Article 3 para. (1) lit. a), b), f), g) and h) of Law No. 252/2023:
 - a. judges who, from 1 January 2017 until the date of entry into force of this Law, have exercised the office of President and/or Vice-President of the Judges, including those who have held these positions on an interim basis for a term of more than one year;
 - b. judges of the courts of appeal in office on the date of entry into force of Law No. 252/2023;
 - c. judges referred to at lit. a and b above, who are suspended from office;
 - d. candidates who, by 31 December 2025, win the competitions for occupying the positions indicated in lit. b above;
 - e. at most two candidates for the positions indicated in lit. a above, who have accumulated the highest score in the contests held until 31 December 2025.

Article 2. Composition and Mandate of the Commission

1. The Commission comprises four “national members” and five “international members” appointed, respectively, according to Article 6 para. (1) lit. a) and b) of Law No. 65/2023.
2. The Commission shall be governed by the Constitution of the Republic of Moldova, Law No. 26/2022, No. 65/2023, Law No. 252/2023, other applicable normative acts, and these Rules.
3. The Commission is set up to carry out the external evaluation of the ethical and financial integrity of the subject of the evaluation.

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, reports, 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. 26/2022, Law No. 65/2023, 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. 65/2023, 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. The Vice-Chairperson has full signatory power as per Article 3 para. (1) lit. c), d) and e) of these Rules.
 4. In accordance with Article 8 para. (3) of Law No. 65/2023 and Law No. 252/2023, the position of the Chairperson shall cease in the case of termination of membership on the Commission, resignation or removal for non-fulfilment of duties. A new Chairperson shall be elected as provided in Article 8 para. (1) of Law No. 65/2023. The end of mandate as a Chairperson does not affect the status as a member.
 5. The position of the Vice-Chairperson shall cease in the case of termination of membership on the Commission, resignation, or designation of another member by the Chairperson. A new Vice-Chairperson shall be designated as provided in para. 3 of this Article. The end of mandate as a Vice-Chairperson does not affect the status as a member.

Article 4. Language and Translation

1. Meetings of the Commission and all written and electronic communication between members and between members and the Secretariat shall be in English, except for public meetings and hearings which shall be in Romanian with simultaneous or consecutive interpretation to English.

2. Reports, decisions and minutes shall be reviewed and approved in English and Romanian.
3. The external correspondence of the Commission to Moldovan entities and to subjects shall be in Romanian. The external correspondence of the Commission to Moldovan or foreign entities can be in English whenever there is reasonable knowledge that the addressee knows English.
4. The Secretariat will ensure interpretation of verbal communication and translation of documents for members, staff, subjects and all other people throughout all stages of the evaluation as needed. Translations can be done with the help of translators, artificial intelligence tools or with the help of the Secretariat and/or members of the Commission.

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 13 para. (5) of Law No. 65/2023, Article 14 para. (5) of Law No. 252/2023 or Article 10 para. (5) of Law No. 26/2022 and these Rules.
2. If the subject is provided access by the Commission to personal data 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 Commission will disclose only the necessary minimum of personal data and may, in accordance with Article 15 para. (3¹) of Law No. 65/2023, and Article 16 para. (3¹) of Law No. 252/2023, upon the reasoned request of the subject, order that all, or part of the hearing be conducted in closed session if this is necessary to ensure public order, privacy or morality.
4. When publishing an evaluation report in accordance with Article 16 para. (8) of Law No. 65/2023 or Article 17 para. (8) of Law No. 252/2023, the 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 of these Rules.

Article 7. Rules of Conduct

When performing their functions, the members shall:

- a. fulfill the obligations identified in Article 10 of Law No. 65/2023 and 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 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. 26/2022, Law No. 65/2023, 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. 26/2022, Law No. 65/2023 or Law No. 252/2023 and these Rules, not use, transfer, or disclose personal data, sources of information, or other confidential information about subjects and other persons which become known to them during the performance of their function;
- i. disclose to the Commission information 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 of these Rules, and immediately bring any conflicts or circumstances which might affect their impartiality to the attention of the 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. MEETINGS AND DECISIONS

Article 8. Meetings of the Commission

1. Meetings shall be convened by the Chairperson, by the Vice-Chairperson if the Chairperson is absent, by the Head of Secretariat on their behalf, or at the request of at least three members.
2. Meetings shall be convened by email to all members that identifies the date, time and place, and a suggested agenda. No convocation formalities shall be observed when all members are present at the meeting or when the only members absent knew of the meeting and gave notice of their inability to attend according to para. (4) of this Article.
3. The Commission may amend the agenda at any time at the proposal of any member or the Head of Secretariat.
4. Members shall attend meetings by physical presence or via videoconferencing. A member shall notify the Chairperson or the Head of Secretariat if the member is unable to attend a meeting.
5. Meetings shall be conducted with the participation of at least five members, including at least three international members. 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 15 para. (3) of Law No. 65/2023 or 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 the panels under Law No. 252/2023 and election of the Chair of the third panel;
 - e. approval of the evaluation reports as per Article 16 para. (2) of Law No. 65/2023 and Article 17 para. (2) of Law No. 252/2023 or adoption of the evaluation of the evaluation decisions as per Article 13 para. (3) 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. 65/2023, Article 9 para. (2) of Law No. 26/2022 and Article 12 para. (5) of Law No. 252/2023;
 - g. removal of a member as per Article 7 para. (3) point 2) and para. (4) of Law No. 65/2023 and 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) of Law No. 65/2023 and Law No. 252/2023 or Article 7 of Law No. 26/2022, members shall not participate in activities that involve or could give rise to a conflict of interest, are incompatible with membership on 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) as concerns themselves, other members, or Secretariat staff the member shall promptly provide a written description to the other members. With respect to members, the Commission will determine at the earliest possible time if recusal or self-recusal is appropriate. The Commission may accept a self-recusal without issuing a reasoned decision. With respect to Secretariat staff, unless the Commission directs otherwise, the provisions of para. (9) of this Article shall apply.
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, but not later than three days before the date of the hearing. Later requests will be denied unless the subject shows reasonable justification for the request not being made earlier.
4. The Commission will deny requests that do not meet the procedural requirements of these Rules or that seek the simultaneous recusal of all members.
5. The member whose recusal is examined 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.
6. If a member is recused or if the recusal is pending, the respective member shall, regarding 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.
7. The recusal shall apply throughout all subsequent stages of the procedure, even if not declared again explicitly.
8. Secretariat staff must comply with the obligations identified in Article 10 para. (1) lit. b) – e) of Law No. 65/2023 and Law No. 252/2023. If a staff member learns of activities described in para. (1) of this Article as concerns themselves, other Secretariat staff, or a Commission member, the staff member shall promptly provide a written description to the Head of the Secretariat. 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. If the written description relates to a Commission member, the Head should convey this to the Chairperson, who will then act in accordance with para. 2 and 3 of this Article.

Article 11. Voting

1. Decisions are adopted by a simple majority of the votes cast, unless otherwise provided by Law No. 26/2022, Law No. 65/2023 or Law No. 252/2023.
2. Votes are cast as “for” or “against”. Members shall not abstain. If a member abstains, the vote will be deemed to be “against”. Members who are recused pursuant to Article 10 of these Rules do not participate in the vote.
3. In case of a tie vote, the decision supported by at least three of the international members shall be adopted.
4. The Chairperson shall declare the outcome of the vote.

Article 12. Minutes

1. Summary minutes for meetings on matters listed in Article 9 para. (1) lit. a-d, f and g of these Rules shall be drafted and 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 3 days at the latest. The minutes are approved via email, when, there is no objection within 3 days, or if all members approve. The minutes can also be approved by majority decision as per Article 11 of

these Rules, reflecting all statements declared by members objecting. The Chairperson shall sign the minutes within one day after approval.

3. Once approved and signed, the minutes will be made available to all members via email or other electronic means without delay.

Article 13. Transparency

1. The Secretariat shall publish these Rules, announce information about public meetings, identify the composition of the panels and provide regular updates about the Commission's work on the Commission's website.
2. Public hearings of the panels or Commission shall be conducted according to Article 15 para. (3) of Law No. 65/2023, Article 16 para. (3) of Law No. 252/2023 or Article 12 para. (2) of Law No. 26/2022 and these Rules.

Article 14. Email Coordination

1. The Commission may coordinate its work by email. Decisions taken pursuant to Article 8 and 9 of these Rules may only be adopted at meetings. If the Commission operates through panels under Law No. 252/2023, the panels may coordinate their work by email as provided in this Article.
2. For matters requiring a vote, the Chairperson may set a deadline. By the deadline, members shall send an email, with copies to other members, submitting their vote.
3. A decision shall be considered adopted by email coordination when the deadline has passed and the minimum number of votes as per Article 14 para. (2) of Law No. 65/2023 or Article 13 para. (2) of Law No. 252/2023 have been cast to pass or not the decision.
4. The Chairperson announces decisions adopted via email to all panel or Commission members as soon as possible.

Article 15. 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 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 Commission shall communicate with subjects via email.

SECTION III. FILING, ARCHIVING AND DESTRUCTION

Article 16. Filing

1. The Commission maintains evaluation files for each subject. The reports and decisions may only use data contained in the evaluation file or data generally known to the public.
2. Temporary personal or internal notes of members and Secretariat, which only analyzes data contained in one of the evaluation 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.
3. All data shall be stored in electronic format. All data received in paper format will be promptly digitized, even if the source also submits the data in electronic format.
4. For cybersecurity purposes, the cloud-based digital storage system used by the Commission duplicates all electronic files through an automated back-up system.

Article 17. Archiving

1. The information gathered by the Commission during the process of evaluating the integrity of the subjects shall be stored by the Commission for the entire period of application of Law No. 26/2022, Law No. 65/2023, and Law No. 252/2023.
2. During the evaluation process, and until the expiration of the period indicated in para. 1, the Commission may use the information regarding the evaluated subjects that was gathered under Law No. 26/2022, Law No. 65/2023, and Law No. 252/2023.

Article 18. Destruction

The deletion and destruction of the information gathered, including the evaluation information and information on organization and functioning, shall be carried out in accordance with the procedure established in Section IX of the Rules.

SECTION IV. SECRETARIAT

Article 19. General Provisions

1. The Secretariat supports and assists the work of the Commission 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 Article 10 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 and interpreters shall have access to the extent it is necessary for translations and 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 or decisions.
7. The Head of Secretariat is mandated to execute all decisions of the Commission and to manage all necessary steps for communication of the Secretariat with third parties.
8. The recruitment and contracting of staff is carried out by the development partners. The number of staff is determined by the development partners in close coordination with the Commission.

Article 20. Duties and Conduct

1. The Secretariat staff shall assist the Commission in facilitating its work as defined by these Rules, Law No. 65/2023, Law No. 26/2022 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 Commission and others; calendars and records actions by the Commission; and facilitates access by members and staff to facilitate the Commission's work.
3. Secretariat staff shall adhere appropriately to the Rules of Conduct for members identified in Article 7 of these Rules.

SECTION V. EVALUATION OF SUBJECTS UNDER LAW NO. 65/2023

Article 21. Evaluation Criteria

1. The Commission will determine if the subject meets the criteria for ethical integrity and financial integrity identified in Article 11 paras. (2) and (3) of Law No. 65/2023. A subject will not meet the criteria if the Commission has serious doubts whether any of circumstances identified in Article 11 paras. (2) lit. a), (2) lit. b), (3) lit. a), and (3) lit. b) exist.
2. The 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 Supreme Court justice, complied with tax laws, or complied with the legal regime for declaring wealth and personal interests.
3. 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. 65/2023, the 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 the year in which the subject's evaluation began.
4. 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. 65/2023, the 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 5 average salaries per economy in the amount determined by the Government for the year in which the subject's evaluation began.
5. Information that constitutes a state secret and has not been declassified will not be used in the evaluation process. The Commission will use information from anonymous sources only if it is confirmed by other official sources.
6. The 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 22. Initiation of Evaluation

1. The Commission will use e-mail to communicate with the subject. For subjects who are judges, the court'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.

2. The evaluation is initiated when the Commission notifies the subject by e-mail and asks the subject to submit the declaration of wealth and personal interests, the declaration on the list of close persons, and the ethics questionnaire referenced in Article 12 para. (3) of Law No. 65/2023.
3. The Commission will set a deadline for the submission of the declarations and questionnaire of 20 days after its email for current judges of the Supreme Court of Justice and of not less than 10 days after its email for candidates for the position of judge.
4. The subject must complete the declarations and questionnaire, sign them by electronic signature, and submit them by e-mail within the deadline. The 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 Commission.
5. The 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 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 Commission for a response.
7. A subject is precluded from requesting recusal if the request is not submitted at the earliest opportunity in conformity with these Rules and no later than 3 days preceding the hearing date. The Commission may allow exceptions to these requirements if the subject shows reasonable justification.

Article 23. Information Collection

1. One member of the Commission will serve as the rapporteur and lead the work in collecting and reviewing the information on the subject. The rapporteur can also grant reasonable requests on the extension of deadline referenced in Article 22 para. (5) of these Rules. The decisions on denial shall be referred to the Commission.

2. The rapporteur will be designated by randomly assigning evaluation files to members on a rotating basis. Reassignments required by recusal will also be made randomly excluding the rapporteur who was assigned previously.
3. The Commission may request additional information or documents from the subject and may collect or receive information relevant to the evaluation from any party. The 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.
4. The Commission may at any time determine to receive information, in a hearing or in written form, from another person. The subject asking the Commission to receive information shall explain the relevance of the requested information and shall provide the full name, identification number, telephone, and email address for the person.
5. The rapporteur, with assistance from the Secretariat, will prepare a draft evaluation report and present it to other members of the Commission.
6. The Commission, without participation by any recused members, will consider the draft evaluation report and the results of the work in collecting and reviewing the information, and then identify any areas of doubt that should be addressed in a public hearing.

Article 24. Public Hearing

1. The Commission will provide notice on its website in advance of public hearings, identifying the subjects whose evaluations will be considered.
2. If the Commission has doubts based on the information collected and reviewed 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, at least 10 days after the notice, to discuss them. If the subject refuses to attend, the Commission will complete its assessment based on the information it has gathered and without conducting the hearing.
3. If the Commission based on the information collected and reviewed does not have doubts about the subject's compliance with the integrity criteria, it shall send the subject a written notice and set a hearing, at least 10 days after the notice, where it will ask the subject to confirm the accuracy of the information provided by the subject and announce that, absent its receipt of new information, the Commission will adopt an evaluation report containing the proposal for promotion.

4. The Commission will allow the subject access to all materials in its evaluation file.
 - a. The subject shall request access by e-mail to the Secretariat at least 7 days preceding the hearing date.
 - b. Within 3 days after the request, the Secretariat will collect all materials related to the doubts identified in the Commission's notice and provide copies to the subject. The subject may review all other materials in the evaluation file in a read-only digital format and request copies.
 - 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 Article 5 para. (2) of these Rules regarding the obligation to respect the confidentiality of personal data. The subject shall also sign a document confirming the receipt of evaluation materials, which includes his/her name, surname, IDNP, signature and the date the materials were received.
 - e. Subjects can request access to evaluation materials for use in proceedings before the Superior Council of Magistracy or appeals to the Supreme Court of Justice even if the subject did not request access before the Commission's hearing.
5. The hearing will be public unless the Commission orders that all or part of the hearing will be closed because it is 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 decision may be challenged, within 3 days, before the Superior Council of Magistracy.
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

Commission's website within 3 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 15 para. (5) of Law No. 65/2023. A subject also will have the right not to incriminate themselves of committing a crime or misdemeanor.
10. A subject may not provide information, documents or other materials during the hearing if the Commission had requested these earlier and the subject did not provide them within the time specified. The Commission may allow exceptions when justified. The Commission may direct a subject to present originals of documents earlier provided as copies.
11. The hearing will begin with an opening by the 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 Chairperson may exclude the person from the hearing. A warning or exclusion under this rule does not shift burdens of proof or affect a subject's right to defense.
13. All members participating in the subject's evaluation shall attend the hearing, either in person or by video conference. The Commission will deliberate on the results of the hearings in a closed meeting without the presence of the subject.

Article 25. Evaluation Report

1. The 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, within no more than 30 working days from the hearing. In complex cases, this period may be extended by no more than 15 working days. The Commission shall inform the subject in writing of the extension and the reasons for it. The evaluation report shall be approved by a majority vote of all non-recused members, who may not abstain from voting.
2. If a member dissents from the Commission's report, the dissenting member shall provide a written statement of reasons to all other members within 3 days after the Commission votes. If, based on the dissent 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 days after the dissent is submitted. The dissenting

opinion, unless withdrawn, shall be appended to the report of the Commission.

3. The evaluation report will be deemed to be approved when the process described in para. (2) above is completed. Upon approval, the evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy, and on the same day the Commission will publish on its official website the evaluation report's conclusion whether the subject meets the criteria for ethical and financial integrity.
4. No later than 3 days after approval, an printed paper copy of the report, electronically signed by the Chairperson, will be submitted to the Superior Council of Magistracy, along with the original electronic copy of the evaluation file containing all of the evaluation materials gathered by the Commission.
5. As provided in Article 16 para. (8) of Law No. 65/2023, 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, no later than 3 days from the date of expiry of the period for appealing the decision of the Superior Council of Magistracy referred to in Article 17 para. (2) lit. a) and c) or the date of issuance of the decision of the Superior Court of Justice referred to in Article 18 para (2¹) point 1) and point 2) lit. c). After publication, the report may be reviewed only to correct technical, grammatical, or spelling mistakes.
6. If the Commission concludes that the subject or any other natural or legal person has provided information that is fraudulent or might describe violations of law, the Commission will refer the matter to a competent authority for further investigation and, where appropriate, enforcement action.

Article 26. Further Proceedings

1. If the Commission is ordered to resume proceedings by the Superior Council of Magistracy pursuant to Article 17 para. (2) lit. b) of Law No. 65/2023 or by the Supreme Court of Justice pursuant to Article 18 para. (2) of Law No. 65/2023, the Commission will resume the evaluation procedure consistent with Article 19 of Law No. 65/2023 and these Rules.
2. The Commission will create a reevaluation file for the respective subject and confine any resumed proceeding to examining the matters referred by the Superior Council of Magistracy or the Supreme Court of Justice.
3. The Commission shall examine any petitions and documents received after the resumption of the evaluation only if they relate to the issues raised by the

Superior Council of Magistracy or the Supreme Court of Justice and, for objective reasons, they could not have been presented earlier.

4. The subject shall be sent a notification offering the opportunity to participate in a public hearing during which the issues examined after the resumption of the evaluation will be discussed, and shall be granted access to the reevaluation file and the initial evaluation file. The hearing shall be conducted in accordance with Article 24 of these Rules.
5. If the subject refuses to participate in the hearing, the Commission shall reevaluate them based on the information it has gathered and without conducting the hearing.
6. After the resumption of the evaluation, 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 16 of Law No. 65/2023 and Article 25 of these Rules.
7. The evaluation file will be assigned to a new rapporteur using the method defined in Article 23 para. (2) of these Rules by analogy.

SECTION VI. EVALUATION OF SUBJECTS UNDER LAW NO. 26/2022

Article 27. Evaluation Criteria

1. The Commission will determine if the subject meets the criteria for ethical integrity and financial integrity identified in Article 8 of Law No. 26/2022.
2. A subject will not meet the integrity criteria if the Commission finds there are serious doubts about the subject's compliance with the requirements stated in Article 8 of Law No. 26/2022, which have not been mitigated by the subject. A subject must satisfy all the criteria identified in Article 8 paras. (2) – (4) of Law No. 26/2022 to pass the evaluation.
3. The 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, has not admitted, in his/her activity, any reprobable (wrongful) actions or inactions, which would be inexplicable from the point of view of a legal professional and an impartial observer, complied with tax laws, or complied with the legal regime for declaring wealth and personal interests, conflicts of interest, incompatibilities, restrictions and/or limitations; and in determining if there is a reasonable suspicion that the subject has committed corruption acts, acts related to corruption or corruptible acts, within the meaning of Law No. 82/2017.
4. In assessing compliance with the ethical integrity criterion, the Commission may consider the gravity, the surrounding context, and the willfulness of any

ethical integrity incident, and as to minor incidents, whether there has been a sufficient passage of time without further reoccurrences. While determining the gravity, the Commission will consider all circumstances, including but not limited to, whether the incident:

- a. was a singular event;
 - b. caused no or insignificant damage to private or public interests (including public trust) – such as the occasion of an ordinary traffic violation; and,
 - c. would be perceived by an objective observer as reflecting disrespect for the social order based on disregard for rules and regulations.
5. In assessing if the subject's wealth acquired in the last 15 years corresponds to declared revenues, as provided in Law No. 26/2022 Article 8 para. (4), lit. b), the Commission will use the method for calculating unjustified wealth defined in the Annex to these Rules.
 6. Information that constitutes a state secret and has not been declassified will not be used in the evaluation process.
 7. The 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 28. Initiation of Evaluation

1. The Commission will initiate the evaluation based on its receipt of the information identified in Article 9 para. (1) of Law No. 26/2022, including the e-mail address for each subject.
2. The Commission will use e-mail to communicate with the subject. For subjects who are judges, the court'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. The evaluation is initiated when the Commission notifies the subject by e-mail and asks the subject to submit the declaration of wealth and personal interests, the declaration on the list of close persons referenced in Article 9 para. (2) of Law No. 26/2022, and a voluntary ethics questionnaire.
4. The subject must complete the declarations, sign them by electronic signature, and submit them by e-mail within 7 days after the Commission requests their completion. The Commission may find that the subject has failed the

evaluation if the subject, without reasonable justification, does not provide the declarations on time.

5. The Commission will grant a reasonable extension of deadline for the subject to submit the voluntary questionnaire, or to respond to other 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. The 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 Commission for a response.
7. A subject may request the recusal of a Commission member as provided in Article 10 para. (3) of the Commission Rules. A subject is precluded from requesting recusal if the request is not submitted at the earliest opportunity in conformity with the Commission Rules and no later than 3 days preceding the hearing date. The Commission may allow exceptions to these requirements if the subject shows reasonable justification.

Article 29. Information Collection

1. One member of the Commission will serve as the rapporteur and lead the work in collecting and reviewing the information on the subject. The rapporteur can also grant reasonable requests on the extension of deadline referenced in Article 28 para. (5) of these Rules. The decisions on denial shall be referred to the Commission.
2. The rapporteur will be designated by randomly assigning evaluation files to members on a rotating basis. Reassignments required by recusal will also be made randomly excluding the rapporteur who was assigned previously.
3. The Commission may request additional information or documents from the subject and may collect or receive information relevant to the evaluation from any party. The 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.
4. The Commission may at any time determine to receive information, in a hearing or in written form, from another person. The subject asking the Commission to receive information shall explain the relevance of the requested information and shall provide the full name, identification number, telephone, and email address for the person.

5. The Commission will use its own judgment, formed as a result of a multi-faceted and comprehensive and objective review, to assess the materials collected and to determine their probative value.
6. The rapporteur, with assistance from the Secretariat, will prepare a draft notice of hearing that identifies any areas of doubt concerning the subject's compliance with the ethical and financial criteria.
7. The Commission, without participation by any recused members, will consider the draft hearing notice and the results of the work in collecting and reviewing the information, and then identify any areas of doubt that should be addressed in a public hearing.

Article 30. Public Hearing

1. The Commission will provide notice on its website in advance of public hearings, identifying the subjects whose evaluations will be considered.
2. If the Commission has doubts based on the information collected and reviewed about the subject's compliance with the integrity criteria, it shall send the subject a written notice identifying all its doubts and setting a hearing, at least 10 days after the notice, to discuss them. If the subject refuses to attend, the Commission will complete its assessment based on the information it has gathered and without conducting the hearing.
3. If the Commission based on the information collected and reviewed does not have doubts about the subject's compliance with the integrity criteria, it shall send the subject a written notice and set a hearing, at least 10 days after the notice, where it will ask the subject to confirm the accuracy of the information provided by the subject and announce that, absent its receipt of new information, the Commission will adopt a decision on passing the evaluation.
4. The Commission will allow the subject access to all materials in its evaluation file.
 - a. The subject shall request access by e-mail to the Secretariat at least 7 days preceding the hearing date.
 - b. Within 3 days after the request, the Secretariat will collect all materials related to the doubts identified in the Commission's notice and provide copies to the subject. The subject may review all other materials in the evaluation file in a read-only digital format and request copies.
 - 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 Article 5 para. (2) of the Commission Rules regarding the obligation to respect the confidentiality of personal data. The subject shall also sign a document confirming the receipt of evaluation materials, which includes his/her name, surname, IDNP, signature and the date the materials were received.
 - e. Subjects can request access to evaluation materials for use in appeals to the Supreme Court of Justice even if the subject did not request access before the Commission's hearing.
- 5. The hearing will be public unless the Commission orders that all or part of the hearing will be closed to protect public order, privacy, or morality. In conducting public hearings, the Commission will disclose only the necessary minimum of personal data and may order that all or part of the hearing be conducted in closed session. 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 immediately notify the Commission of the subject's withdrawal from the competition.
 - 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 Commission's website within 3 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 12 para. (4) of Law 26/2022.
 - 10. A subject may not provide information, documents or other materials during the hearing if the Commission had requested them earlier and the subject did not provide them within the time specified. The Commission may allow exceptions when justified. The Commission may direct a subject to present originals of documents earlier provided as copies.

11. The hearing will begin with an opening by the 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 Chairperson may exclude the person from the hearing. A warning or exclusion under this rule does not shift burdens of proof or affect a subject's right to defense
13. All members participating in the subject's evaluation shall attend the hearing, either in person or by video conference. The Commission will deliberate on the results of the hearings in a closed meeting without the presence of the subject.

Article 31. Evaluation Decision

1. If necessary, after a hearing, the Commission may delay the adoption of the decision until it receives additional information or clarification.
2. Once the evaluation process is completed, the Commission will prepare a reasoned decision containing the relevant facts, reasons, and the conclusion for passing or failing the evaluation. The evaluation decision shall be adopted by a majority vote of all non-recused members, who may not abstain from voting. If there is a tie vote, the Commission will again review the information about the subject and vote again the next day. If there is again a tie vote, the evaluated subject shall be deemed not to have passed the evaluation.
3. If a member dissents from the Commission's decision, the dissenting member shall provide a written statement of reasons to all other members within 2 days after the Commission votes. If, based on the dissent member's statement, the members voting in favor of adopting the decision believe that it should be corrected or comments added to respond to address issues raised in the dissent, the majority may do so within 2 days after the dissent is submitted. The dissenting opinion, unless withdrawn, shall be appended to the decision of the Commission. The evaluation decision will be deemed to be adopted when the process described in this paragraph is completed.
4. After adoption, the evaluation decision, translated in Romanian, will be sent by email to the subject and to the Superior Council of Magistracy or the other institutions responsible for the organization of the elections, and on the same day the Commission will announce on its official website whether the subject passed or failed the evaluation.
5. Within 48 hours after the sending of a decision, a subject may notify the Commission pursuant to Article 13 para. (7) of Law No. 26/2022 that the

subject refuses to publish the decision. Absent such notification, the Commission will publish the decision on its official website, taking appropriate precautions to protect the privacy of the subject and other persons. After publication, the decision may be reviewed only to correct technical, grammatical, or spelling mistakes.

6. If the Commission concludes that the subject or any other natural or legal person has provided information that is fraudulent or might describe violations of law, the Commission will refer the matter to a competent authority for further investigation and, where appropriate, enforcement action.

Article 32. Appeals and Further Proceedings

1. As provided in Article 14 of Law No. 26/2022, a subject may appeal the Commission's decision within 5 days after receiving it.
2. If the Supreme Court of Justice accepts the appeal and orders the Commission to resume the evaluation of the subject as provided in Law No. 26/2022, Article 14 para. (8) lit. b), the Commission will resume the evaluation procedure consistent with Article 14 para. (10) of Law No. 26/2022 and these Rules.
3. The Commission will create a reevaluation file for the respective subject and confine any resumed proceeding to examining the matters referred by the Supreme Court of Justice. The subject may present new evidence regarding only those matters and only if the subject shows, as provided in Article 12 para. (4) lit. d) of Law No. 26/2022, that it was impossible for the subject to present the evidence previously.
4. The Commission shall examine any petitions and documents received after the resumption of the evaluation only if they relate to the issues raised by the Supreme Court of Justice and, for objective reasons, they could not have been presented earlier.
5. The subject shall be sent a notification offering the opportunity to participate in a public hearing during which the issues examined after the resumption of the evaluation will be discussed and shall be granted access to the reevaluation file and the initial evaluation file. The hearing shall be conducted in accordance with Article 30 of these Rules. If the subject refuses to participate in the hearing, the Commission shall reevaluate them based on the information it has gathered and without conducting the hearing.
6. After the resumption of the evaluation, and an opportunity for a public hearing, the Commission will adopt a decision in accordance with the procedures described in Article 13 of Law No. 26/2022 and Article 31 of these Rules.

7. The evaluation file will be assigned to a new rapporteur using the method defined in Article 29 para. (2) of these Rules by analogy.

SECTION VII. EVALUATION OF SUBJECTS UNDER LAW NO. 252/2022

Article 33. Evaluation Panels, Quorum, Majority, and Chairs

1. As provided in Article 15 of Law No. 252/2023, the Commission will use panels of three members, with each panel including both international and national members, for the evaluation of subjects.
2. A panel will be chaired by the Chairperson, another panel by the Vice-Chairperson and the third panel by the Chair elected by the members of the Commission. Chairing the panel means coordinating and presiding at its meetings and hearings as well as signing the reports and other documents. The Commission will identify the other members of each panel and may reconstitute panels in light of workloads or to promote consistent practices.
3. A panel has a quorum and is operational if all three panel members are present. Voting takes place as per Article 11 of these Rules.
4. Decisions are adopted if all three panel members decide unanimously. If a panel cannot reach a unanimous decision, the Commission will decide as provided in Article 17 para. (3) of Law No. 252/2023.
5. If a panel member cannot attend a hearing, the Commission may substitute a member from another panel to replace the unavailable member for the evaluation for that subject, including in the approval of the report. If replacing the member is not possible, the hearing shall be rescheduled. Only the chair of a panel can replace the chair of another panel.
6. The Chairperson and Vice-Chairperson of the Commission shall serve on different panels and shall chair their respective panel. The Chair of the third panel shall be elected by a vote of a majority of the Commission's members. The panel chair shall exercise all functions of the Chairperson foreseen in Law No. 252/2023 and in these Rules insofar as required by the panel's tasks in the evaluation.
7. If a Chairperson or Vice-Chairperson no longer holds that position, but remains a member of the Commission, they shall continue to serve as Chair of any panel they were chairing until:
 - a. all pending evaluations are finalized by the panel;
 - b. another Chair is elected for the panel; or
 - c. that member otherwise ceases to be a member of the panel.

This provision shall not prevent the new Chairperson or Vice-Chairperson from chairing the panel if they were already a member of it.

Article 34. Assignments and Recusal

1. As provided in Law 252/2023, evaluation files will be randomly assigned to panels for evaluation. Files may be reassigned from a panel to another if required because of the recusal of a panel member. The Commission will identify to the subject the reassigned panel.
2. If reassignment to another panel is not possible due to further existing or potential recusals or if the evaluation has progressed so that assignment to the other panel would be inefficient, panel members may also be temporarily assigned to a panel in place of a recused member. The Commission will identify to the subject the replaced members of the panel.
3. After files are assigned to a panel, rapporteurs will be identified by rotating assignments on a consistent basis.

Article 35. Tasks of Panel and Commission

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:

- d. in case of Article 17 para. (3) of Law No. 252/2023;
- e. in case of resumed evaluations (Article 20 of Law No. 252/2023).

Article 36. 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 paras. (2) and (3) of Law No. 252/2023. A subject will not meet the criteria if the panels or Commission make the determinations identified in Article 11 paras. (2) lit. a), (2) lit. b), (3) lit. a), and (3) lit. b) exist.
2. 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 judge, complied with tax laws, or complied with the legal regime for declaring wealth and personal interests.
3. 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.

4. 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 5 average salaries per economy in the amount determined by the Government for 2023.
5. Information that constitutes a state secret and has not been declassified will not be used in the evaluation process. The Commission will use information from anonymous sources only if it is confirmed by other official sources.
6. 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 37. Initiation of Evaluation

1. The Commission will request from the Superior Council of Magistracy the lists of subjects to be evaluated in a manner suitable to its and Secretariat's current workforce size and based on projected workload.
2. The panels or Commission will use e-mail to exchange written communications with the subject. For subjects who are judges, the court'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. The notification on the initiation mentioned in para. (2) of this Article, can be sent through the official e-mail of the court where the subject works
3. The evaluation is initiated when the panel or 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. After subject's file is assigned to a panel, the Commission will identify to the subject the members of the panel.
4. The Commission will set a deadline for the submission of the declarations and questionnaire of 20 days after its email for sitting judges, including those suspended from office, and of not less than 10 days after its email for candidates for the positions referenced in Article 3 para. (1) lit. f), g) and h) of Law No. 252/2023.

5. 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.
6. The panels or Commission will grant a reasonable extension of deadlines for the subject to make the submissions of the declarations and questionnaire in para. (3) of this Article or to respond to other requests for information from the Commission, 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. A reasonable extension of deadlines for the other submissions may be granted once at the reasoned request of the subject. If it is impossible to submit the information because it is inaccessible, the subject of the evaluation shall inform the evaluation commission about this.
7. 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 38. Information Collection

1. One member of the panel or Commission will serve as the rapporteur and lead the work in collecting and reviewing information. The rapporteur can also grant reasonable requests on the extension of deadline referenced in Article 37 para. (6) of these Rules. The decisions on denial shall be referred to the Commission.
2. The rapporteur will be designated by randomly assigning evaluation files to members on a rotating basis. Reassignments required by recusal will also be made randomly excluding the rapporteur who was assigned previously.
3. The panel or Commission may request additional information or documents from the subject and may collect or receive information relevant to the evaluation from any party, setting a deadline for submission which may not be less than 5 working days. 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.

4. The subject may submit any evidence they deem relevant to address the doubts of the panel or Commission.
5. The Commission may at any time determine to receive information, in a hearing or in written form, from another person. The subject asking the Commission to receive information shall explain the relevance of the requested information and shall provide the full name, identification number, telephone, and email address for the person.
6. The rapporteur, with assistance from the Secretariat, will prepare a draft evaluation report and present it to other members of the panel or Commission.
7. The panel or Commission, without participation by any recused members, will consider the draft evaluation report and the results of the work in collecting and reviewing the information, and then identify any areas of doubt that should be addressed in a public hearing.
8. If a panel does not unanimously agree on the draft evaluation report, it may refer the evaluation to the Commission for its consideration without first holding a public hearing before the panel. The subject will be informed if the evaluation is referred to the Commission before a panel hearing.

Article 39. Public Hearing

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 has doubts based on the information collected and reviewed about the subject's compliance with the integrity criteria, it shall send the subject a written notice identifying all its doubts and setting a hearing, at least 10 days after the notice, to discuss them. If the subject refuses to attend, the Commission will complete its assessment based on the information it has gathered and without conducting the hearing.
3. If the panel or Commission based on the information collected and reviewed does not have doubts about the subject's compliance with the integrity criteria, it shall send the subject a written notice and set a hearing, at least 10 days after the notice, where it will ask the subject to confirm the accuracy of the information provided by the subject and announce that, absent its receipt of new information, the Commission will adopt an evaluation report containing the proposal for promotion.
4. The panel or Commission will provide the subject with access to all materials in its evaluation file.

- a. The subject shall request access by e-mail to the Secretariat at least 7 days preceding the hearing date.
 - b. Within 3 days after the request, the Secretariat will collect all materials related to the doubts identified in the Commission's notice and provide copies to the subject. The subject may review all other materials in the evaluation file in a read-only digital format and request copies.
 - 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 Article 5 para. (2) of these Rules regarding the obligation to respect the confidentiality of personal data. The subject shall also sign a document confirming the receipt of evaluation materials, which includes his/her name, surname, IDNP, signature and the date the materials were received.
 - e. Subjects can request access to evaluation materials for use in proceedings before the Superior Council of Magistracy 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 necessary to ensure public order, privacy, or morality. A hearing will not be closed merely because personal data might be discussed. The Commission will reject a request to hold the hearing or part of it in closed session only if there are reasonable grounds for doing so.
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 panel or Commission will decide upon such a request with a reasoned decision. If the panel or Commission rejects such a request, the decision may be challenged, within 3 days, before the Superior Council of Magistracy.
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 Commission's website within 3 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. 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. A warning or exclusion under this rule does not shift burdens of proof or affect a subject's right to defense.
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 40. 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, within no more than 30 working days from the hearing. In complex cases, this period may be extended by no more than 15 working days. The Commission shall inform the subject in writing of the extension and the reasons for it. The report shall substantiate any rejection of evidence presented by the subject. 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 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 days after the dissent is submitted. The dissenting opinion, unless withdrawn, shall be appended to the report of the panel or Commission.

3. If the panel does not or anticipates being unable to vote unanimously, the evaluation report will be examined by the Commission within 30 working days after it is referred to the Commission. The subject will be informed if a report is referred to the Commission, which may order on its own initiative or at the subject's request that another public hearing be held before the Commission.
4. An evaluation report by the Commission will be deemed to be approved when the process described in this para. (2) above is completed. Upon approval, the evaluation report will be sent by e-mail to the subject and the Superior Council of Magistracy, and on the same day the Commission will publish on its official website the evaluation report's conclusion whether the subject meets the criteria for ethical and financial integrity.
5. No later than 3 days after approval, a printed paper copy of the report, electronically signed by the Chair or Chairperson, will be submitted to the Superior Council of Magistracy, along with the original electronic copy of the evaluation file containing all the evaluation materials gathered by the panel or Commission.
6. As provided in Article 17 para. (8) 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, no later than 3 days from the date of expiry of the period for appealing the decision of the Superior Council of Magistracy referred to in Article 18 para. (3) lit. a) and c) or the date of issuance of the decision of the Superior Court of Justice referred to in Article 19 para (5) point 1) and point 2) lit. c). After publication, the report may be reviewed only to correct technical, grammatical, or spelling mistakes.
7. 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, the panel or Commission will refer the matter to a competent authority for further investigation and, where appropriate, enforcement action.

Article 41. Further Proceedings

1. If the panel that adopted the initial report or the Commission is ordered to resume proceedings by the Superior Council of Magistracy 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 respective panel or the Commission will resume the evaluation procedure consistent with Article 20 of Law No. 252/2023 and these Rules.

2. The Commission will create a reevaluation file for the respective subject and confine any resumed proceeding to examining the matters referred by the Superior Council of Magistracy or the Supreme Court of Justice.
3. The Commission shall examine any petitions and documents received after the resumption of the evaluation only if they relate to the issues raised by the Superior Council of Magistracy or the Supreme Court of Justice and, for objective reasons, they could not have been presented earlier.
4. The subject shall be sent a notification offering the opportunity to participate in a public hearing during which the issues examined after the resumption of the evaluation will be discussed and shall be granted access to the reevaluation file and the initial evaluation file. The hearing shall be conducted in accordance with Article 39 of these Rules.
5. If the subject refuses to participate in the hearing, the Commission shall reevaluate them based on the information it has gathered and without conducting the hearing.
6. After the resumption of the evaluation, 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 40 of these Rules.
7. The evaluation file will be assigned to a new rapporteur using the method defined in Article 38 para. (2) of these Rules by analogy.

SECTION VIII: CONDUCT OF CONCURRENT EVALUATIONS

Article 42. Prohibition of Concurrent Evaluations

1. If the same person is subject to evaluation under two or more evaluation procedures under Law No. 26/2022, Law No. 65/2023, or Law No. 252/2023, the Commission shall not conduct these procedures concurrently.
2. The Commission shall evaluate the subject under the priority determined in accordance with Article 43 of these Rules, informing the subject accordingly.

Article 43. Priority of Evaluation Procedures

1. Subjects who are to be evaluated under Law No. 26/2022 will be first evaluated under that law unless the Commission has already sent the subject a first request for additional information pursuant to an evaluation under Law No. 65/2023 or Law No. 252/2023, in which case that evaluation shall have priority.
2. Subjects who are to be evaluated under Law No. 65/2023 will be first evaluated under that law unless the Commission has already sent the subject a first

request for additional information pursuant to an evaluation under Law No. 252/2023, in which case that evaluation shall have priority.

3. If the subject has challenged the Superior Council of Magistracy's decision issued under Article 17 of Law No. 65/2023 or Article 18 of Law No. 252/2023 and the case is still pending before the Supreme Court of Justice, the Commission shall not initiate or continue a new evaluation under another law until the initial evaluation is completed by an irrevocable decision of the Supreme Court of Justice or otherwise.

SECTION IX. TRANSMISSION OF INFORMATION AT THE END OF THE MANDATE

Article 44. Definitions

For the purposes of this Section:

- a. "Evaluation information" means the information contained in the subject's case file and gathered by the Commission in the evaluation process, including audio recordings of closed hearing sessions, as well as requests related to the evaluation process;
- b. "Organizational and functioning information" means these Rules, including all amendments, and all minutes of the Commission's meetings regarding the organization and functioning of the Commission.

Article 45. Actions at the End of the Mandate

1. The Commission shall transmit the evaluation information and the organizational and functioning information to the Superior Council of Magistracy immediately before or after the end of its mandate, in accordance with the procedure set out in Article 46 of the Rules.
2. The deletion and destruction of evaluation information and organizational and functioning information shall be carried out only after the transmission of this information to the Superior Council of Magistracy, in accordance with the procedures set out in Articles 47 and 48 of the Rules.
3. The Commission shall undertake all reasonable actions for the transmission of the official website and audio recordings of public hearings.

Article 46. Method of Transmission and Documentation

1. The Secretariat shall transmit the evaluation information in electronic format by placing it on one or more durable mediums (e.g., USB flash drive), encrypted and secured with a password. The durable medium shall contain one folder per subject, which will include the evaluation information related

to that subject and a list of the enclosed materials (indicating the title of each material and the number of pages).

2. The Secretariat shall transmit the organizational and functioning information to the Superior Council of Magistracy by placing it on a durable medium (e.g., USB flash drive), encrypted and secured with a password.
3. Upon transmitting the evaluation information and the organizational and functioning information, a handover report shall be prepared and signed. This report shall include, inter alia, the date of transmission; the names of the parties and the details of the signatory representatives (full name, position held); a description of the action performed and confirmation that the representatives of the Superior Council of Magistracy have been given the opportunity to verify and confirm that the durable medium contains the materials listed in the annex to the report. The annex shall list all included materials, indicating the file name and the number of documents and pages that have been transmitted.

Article 47. Special Committee and Organizational Matters

1. The deletion and destruction of the evaluation information, the organizational and functioning information and other information, shall be carried out by a special committee composed of two members of the Commission (one national member and one international member), the Head of the Secretariat, and an information technology specialist (IT). A representative of the Superior Council of Magistracy shall also be invited to be part of the special committee.
2. The deletion and destruction of evaluation information shall take place at the Commission's seat in the presence of the members of the special committee.

Article 48. Method of Deletion and Destruction of Information

1. The special committee shall destroy paper-format information by shredding the materials using a document shredder. Upon completion of the destruction, a record (minutes) shall be signed, containing the following information: date of destruction; first names, last names and positions of the special committee members; description of actions performed; and signatures of the special committee members. The record will include an annex listing all destroyed materials.
2. The special committee shall destroy electronic information stored on durable media (e.g., CDs, hard disks, computers) by physically breaking them into pieces or formatting/resetting, as applicable. The special committee shall oversee the formatting/resetting process of this information in electronic

format by the IT specialist. Upon completion of the destruction, a record (minutes) shall be signed containing the following: date of destruction or formatting/resetting, as applicable; first names, and positions of the special committee members; description of the actions performed; and signatures of the special committee members. The record will include an annex listing the number of destroyed or formatted/reset media and a generic listing of the materials contained on each medium.

3. The special committee shall destroy the electronic information stored on the Commission's cloud-based digital storage system, including any backups, by deleting it from that medium. The special committee shall oversee the deletion process of this information in electronic format by the IT specialist. Upon completion of the deletion, a record shall be signed, containing: date of deletion; a copy of the request submitted to the cloud service provider of the account used by the Commission; first names, last names and positions of the special committee members; description of the actions performed; and signatures of the special committee members. If the cloud service provider issues a confirmation of account deletion, this confirmation shall be submitted to the Superior Council of Magistracy. The record shall include confirmation that this type of information has been destroyed and deleted, as applicable. Where appropriate, a confirmation from the cloud service provider regarding the deletion of the account shall be attached to the record.
4. The above records shall be drawn up in one copy which will be retained by the Superior Council of Magistracy.

ANNEX: UNJUSTIFIED WEALTH

1. Background

In its judgement *Xhoxhaj v. Albania*, the European Court of Human Rights acknowledged that unjustified wealth may be calculated 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.”¹

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

¹ Application 15227/19, of 9 February 2021, para. 31, footnote 1.

- 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.
- 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 acknowledged 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. The **Consumption Expenditures for Population (CEP)** are determined and published on annual basis by the National Bureau of Statistics (NBS).² 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**).

² 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__NIV020/?rxid=8cbd14c1-7adf-494b-9840-9cb85498f247 (Ro) or http://statbank.statistica.md/PxWeb/pxweb/en/30%20Statistica%20sociala/30%20Statistica%20sociala__04%20NIV__NIV020/?rxid=8cbd14c1-7adf-494b-9840-9cb85498f247 (En)).

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 misbalance** regarding the declarant.
- 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. | |
