



## ЕТИЧНА РАДА

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## ETHICS COUNCIL

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Kyiv

### DECISION

#### No. 11

*On non-compliance of candidate  
for the position of the member of the High Council of Justice  
Roman Volodymyrovych Oliinyk  
with the professional ethics and integrity criteria  
for filling in the position of the member of the High Council of Justice*

The Ethics Council consisting of Chair of the Ethics Council Lev Kyshakevych, Deputy Chair of the Ethics Council Sir Anthony Hooper, members of the Ethics Council: Robert Cordy, Volodymyr Siverin, Lavly Perling, Yurii Triasun, remotely by videoconference, having conducted evaluation of compliance of candidate for the position of the member of the High Council of Justice Roman Volodymyrovych Oliinyk with the criteria of professional ethics and integrity, according to the Law of Ukraine “On the High Council of Justice”, the Rules of Procedure of the Ethics Council adopted by the Ethics Council’s Decisions No. 1 of 01.12.2021 and No. 4 of 09.12.2021, as amended by the Ethics Council’s Decision No. 4 of 26.04.2022, Methodology for assessing compliance of the candidate for the position of a member of the High Council of Justice and sitting members of the High Council of Justice with the criterion of professional ethics and integrity adopted by the Ethics Council’s Decision No. 5 of 09.12.2021 (“the Methodology”),

**has established:**

According to part 14 Article 9<sup>1</sup> of the Law of Ukraine “On the High Council of Justice” the Ethics Council selects candidates for the positions of the member of the High Council of Justice in two stages:

- 1) selection of candidates pursuant to results of consideration of documents submitted by candidates, results of the special check and respective information from open sources, and formation of the list of candidates admitted to the interview;
- 2) conduct of interviews with selected candidates and determination of the list of candidates recommended to bodies which elect (appoint) members of the High Council of Justice.

The Ethics Council received copies of documents submitted by Roman Volodymyrovych Oliinyk for participation in the competition for the position of the member of the High Council of Justice to be elected by the All-Ukrainian Conference of Prosecutors and admitted him to the interview with Decision of the Ethics Council No. 46 of 16.11.2022.

Roman Volodymyrovych Oliinyk has been holding the position of the Head of the Shepetivka District Prosecutor's Office since March 2021.

Having studied the documents of Roman Volodymyrovych Oliinyk for participating in the competition, his written explanations and documents provided at the Ethics Council's request, information obtained from open sources and from civil society organizations, information received from the National Agency for Corruption Prevention (“the NACP”) and the National Anti-Corruption Bureau of Ukraine (“the NABU”), having conducted the interview with him, the Ethics Council the Ethics Council has reached the following conclusions.

1. Regarding the violation of the professional ethics rules during the privatization of the residential house in the town of Yarmolyntsi.

In May of 2010, the candidate was transferred to the position of the prosecutor of the prosecutor's office of the Yarmolyntsi district of Khmelnytskyi region. At the time of his transfer, he lived in the town of Horodok, located 23 km from the town of Yarmolyntsi. The mentioned apartment he received as a prosecutor who needed the improvement of the living conditions, and in 2007 he privatized this apartment on the name of his 3 years old son.

At the request of the Ethics Council, the candidate explained that at that time there was an unspoken rule that the district prosecutor should reside in the district in which his place of work was located. In this regard, on 29.09.2010, the Yarmolyntsi town council registered the candidate in the housing register as a prosecutor in need of housing. Subsequently, the council purchased a residential house in Yarmolyntsi totaling 69.5 sq. m. at Komsomolska street at the expense of its budget and on

05.07.2011 issued a warrant for the candidate to occupy it. On 12.07.2011 the candidate registered his residence in this house.

According to the candidate, he lived there from approximately the end of 2011 or the beginning of 2012 until mid-December of 2015. His wife and son lived in Horodok in an apartment owned by their son.

On 06.12.2011, this house was privatized by Volodymyr Pavlovych Pasternak. At the request of the Ethics Council, the candidate informed that Volodymyr Pavlovych Pasternak is his cousin who has been living in Poland for the last 7-8 years. In the assets declarations for 2015-2020 the candidate pointed out that he has a right of use free of charge for the real estate which belongs to Volodymyr Pavlovych Pasternak on the right of the ownership: in particular, it is the cellar 19.6 sq.m., garage 41,1 sq.m. and the land plot 1500 sq. m.

As the Ethics Council found out, three days after the privatization of this house, Volodymyr Pavlovych Pasternak issued a power of attorney to the candidate's wife, M.B. Vasik, authorizing her to take any actions necessary to privatize the land plot next to the house, as well as to sell the house and the land plot for a price and on terms of her discretion. The power of attorney was valid for 10 years. On 07.05.2021, the candidate's wife on behalf of Volodymyr Pavlovych Pasternak sold this house and the land plot for UAH 140 400 and UAH 10 000 in cash, respectively. As the candidate claims, one year later on, his mother visited Poland and transferred this money to Volodymyr Pavlovych Pasternak, and in confirmation of this provided with the copy of the receipt on the receiving of the money in the cash.

At the same time, the Ethics Council found out that on 13.05.2021, which is less than 1 week after the selling of the mentioned property, the candidate bought the apartment in Shepetivka, the price of which was 170 850 UAH.

The Ethics Council takes into the consideration the fact, that at the time of obtaining the right to use the house, the candidate and his family members had already exercised the right to free privatization of the housing, and Volodymyr Pavlovych Pasternak privatized the house six months after the candidate received the right to use it and after three days issued a power of attorney for the right to dispose of the house to the candidate's wife, who did not live there. Considering this, and due to the fact that it was less than one week between the selling of the house and the purchasing of the apartment in Shepetivka, the Ethics Council has a reasonable doubt about the ownership of the house and the land plot in town of Yarmolyntsi to Volodymyr Pavlovych Pasternak, and with regard to the transferring of the money to him for the selling of the property. The Ethics Council believes that Volodymyr Pavlovych Pasternak registered his place of residence in the house only for the purpose of obtaining the right to privatize this house in his name in order to transfer it to the actual disposal of the candidate or his family members.

According to cl. 1.3 of the Methodology, an indicator for the criterion of professional ethics and integrity is, among others, the compliance with ethics norms and impeccable behavior in professional activities and personal life (cl. 1.3.6 of the Methodology) persistent compliance of the person with professional ethical and generally acknowledged moral norms both in professional activities and beyond them, which forms trust of the society in such person. In the Ethics Council opinion, the privatisation of the residential house in which the candidate was living by the brother of the candidate, and considering that the candidate himself did not had a right to privatise the house, is not in compliance with the ethics norms and does not form the trust of the society in such person.

In view of the above, the Ethics Council has reasonable doubts about the candidate's compliance with such an indicator of the criterion of professional ethics and integrity as a demonstration of impeccable behavior in professional activities and personal life (cl. 1.3.6. of the Methodology).

2. Regarding the free acquisition of land plots by the candidate and his family members.

In the period from 2008 to 2021, the candidate and his close relatives received nine land plots free of charge in accordance with the procedure provided for by Article 121 (1) of the Land Code of Ukraine:

1) On 05.01.2008, the candidate's wife received a land plot of 0.04 ha for individual summer cottage construction in the village of Martynkivtsi, Khmelnytskyi region. According to the candidate, this land plot was sold on 23.12.2010;

2) On 01.08.2008, the candidate's wife received a land plot of 0.1 ha for the construction and maintenance of a residential building in the village of Krytskyiv, Khmelnytskyi region. The candidate reported that currently no structures have been built on it, and the land plot is not used;

3) On 31.12.2008, the candidate's wife received a land plot of 0.01 ha for the construction of a garage in Horodok, Khmelnytskyi region. According to the candidate, no structures have been built on it, and the land plot is not used;

4) On 27.04.2010, the candidate received a land plot of 0.1 ha for the construction and maintenance of a residential building in Horodok, Khmelnytskyi region. The candidate reported that he sold this land plot in 2022;

5) On 02.11.2016, the candidate's wife received a land plot of 2 ha for private farming on the territory of Sutkovets village council, Khmelnytskyi region. The candidate reported that this land plot was sold on 24.11.2016.

6) On 24.07.2017, the candidate received a land plot of 2 ha for private farming in the village of Lisohirka, Khmelnytskyi region. The candidate reported that this land plot was sold on 01.09.2017;

7) On 24.07.2017, the candidate's son received a land plot of 2 has for private farming in the of Lisohirka, Khmelnytskyi region. The candidate reported that this land plot is currently leased;

8) On 19.03.2018, the candidate received a land plot of 0.0052 ha for the construction of a garage in Horodok, Khmelnytskyi region. According to the candidate, a garage was built on the land plot, but it has not been put into operation;

9) On 08.11.2021, the candidate's father received a land plot of 0.1 ha in the village of Sataniv, Khmelnytskyi region. The candidate did not report the intended use of this land plot and whether it is used for its intended purpose.

At the interview, the candidate confirmed that these land plots are located in the districts where he worked in the prosecutor's office either at the time of receiving the land plot for free or prior to that.

The Ethics Council notes that among the close persons who acquired ownership of the land plot for the purpose of personal farming is the candidate's son, who was 13 years old at the time of acquisition of the land plot. Since the candidate's son could not acquire ownership of the land plot on his own, his representatives were the candidate and his wife.

The Ethics Council believes that the acquisition of ownership of such a significant number of land plots by the candidate and his close relatives, in particular, the candidate's minor son, contains signs of abuse of the right to transfer land plots to citizens from state or municipal ownership free of charge. According to Article 121 of the Land Code of Ukraine, the free transfer of land plots is carried out for the intended purpose, and in the case of the candidate and his close relatives, most of the land plots were either subsequently sold or not used at all. In this regard, such land plots were not actually used for their intended purpose as defined by law.

According to Article 11 of the Code of Professional Ethics of the Prosecutor, approved by the All-Ukrainian Conference of Prosecutors on 27.07.2017, the prosecutor should contribute to the enhancement of the authority of the prosecutor's office and strengthening public confidence in it by his/her integrity, integrity, competence, impartiality and diligent performance of official duties.

According to cl. 1.3.6.1. of the Methodology, a candidate fails to comply with the indicator of compliance with ethical norms in case there are reasonable doubts that such candidate in the present or any past professional capacity has acted in line with the rules of professional ethics and other ethical norms.

Given the significant number of land plots acquired free of charge, the fact that most of these plots are not used for their intended purpose, the fact that the land

plots were received in the districts where the candidate worked as a prosecutor, and that one of the land plots was acquired by the candidate's minor son, the Ethics Council has reasonable doubts about the candidate's abuse of his rights and, accordingly, about the candidate's compliance with the requirements of ethical norms.

In view of the abovementioned reasonable doubts, considered both cumulatively and separately, being governed by Rules 2.3, 3.1, 3.2, 3.16.2 of the Ethics Council's Rules of Procedure, Methodology, Article 9<sup>1</sup> of the Law of Ukraine "On the High Council of Justice", Final and Transitional Provisions of the Law of Ukraine "On Introducing Amendments into Some Legislative Bills of Ukraine Regarding the Procedure of Election (Appointment) to Positions of Members of the High Council of Justice and Activities of Disciplinary Inspectors of the High Council of Justice", the Ethics Council

**has decided:**

to recognize candidate for the position of the member of the High Council of Justice Roman Volodymyrovych Oliynyk as non-compliant with the professional ethics and integrity criteria for filling in the position of the member of the High Council of Justice.

**Chair**

*(signed)*

**Lev Kyshakevych**