



## ЕТИЧНА РАДА

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## ETHICS COUNCIL

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Kyiv

### DECISION

#### No. 26

***On non-compliance of candidate  
for the position of the member of the High Council of Justice  
Oleksandr Yuriiovych Serohin  
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 Oleksandr Yuriiovych Serohin 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 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 Oleksandr Yuriiovych Serohin for participation in the competition for the position of the member of the High Council of Justice nominated by the President of Ukraine and admitted him to the interview with Decision No. 3 of 20.01.2023.

Oleksandr Yuriiovych Serohin was appointed to the position of the deputy head of the secretariat – head of the unit on prevention of corruption and identification of corruption of the secretariat of the High Council of Justice with decision of the High Council of Justice No. 2222/0/15-21 as of 16.11.2021.

Having studied documents provided by Oleksandr Yuriiovych Serohin for participating in the competition, his written explanations and documents provided upon 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/her, the Ethics Council has reached the following conclusions.

1. With respect to the candidate's failure to declare monetary assets in his declaration for 2016

In his declaration of the person authorized to fulfill functions of the state or local self-governance ("declaration") for 2017 the candidate specified that he received the total income in the amount of UAH 600 268 and declared monetary assets in the total amount of UAH 560 546. At the same time, in his declaration for 2016, the candidate declared monetary assets in the amount of UAH 81 920.

In response to the Ethics Council's request, the candidate stated that in 2017 he paid taxes in the amount of UAH 70 493,95 and spent about UAH 100 000 for a vacation with his family in Italy. He also stated that his family's average monthly expenses amounted to at least UAH 7 600 in 2017 (expenses for living, utilities, and fuel).

During the interview, the candidate stated that according to his calculations, the difference between his family's declared income and earned savings and expenses amounted approximately to UAH 139 200.

The candidate explained the existence of funds sufficient to make such expenses in 2017 with the fact that at the beginning of 2017, he returned money in the amount of UAH 264 318,60 that he borrowed to a third person on 24.10.2016. The candidate informed the Ethics Council for the first time about the existence of such an agreement during the interview as, according to him, he was not sure that he would find this agreement, which is why he did not want to mention it in his answers to the Ethics Council's written questions.

In response to the Ethics Council's question about why the candidate did not declare the lent money as his monetary assets in the declaration for 2016, the candidate stated that the declaration for 2016 was the declaration of a candidate for the position, which is why pursuant to requirements of the section 14 "Expenses and Transactions of the Person Filling in the Declaration" of the Law of Ukraine "On Preventing Corruption" of such declaration shall not be filled in.

Therefore, the candidate did not have an opportunity to declare the loan agreement.

The Ethics Council critically perceives such explanation of the candidate as according to the cl. 8 of Article 46(1) of the Law of Ukraine “On Preventing Corruption” in the version as of 01.01.2016, existing monetary assets, including funds borrowed to third persons, had to be declared. According to the cl. 53 of the NACP’s Explanations No. 3 of 11.08.2016 “On Application of Separate Provisions of the Law of Ukraine “On Preventing Corruption” Concerning Financial Control Measures”, funds which the person submitting the declaration borrowed to a third person (i.e. funds with respect to which the person submitting the declaration is the loaner) shall not be reflected in section “Financial Liabilities”, but shall be instead specified in the section “Monetary Assets”.

In view of the above, the candidate was obliged to declare these funds he gave as a loan in section 12 “Monetary Assets”.

The Ethics Council is hereby drawing attention to the fact that Oleksandr Yuriiovych Serohin submitted the declaration for 2016 as the candidate for the position of the NACP – public authority that developed respective Explanations. Hence, the candidate should have been aware of the declaring rules.

According to para. 2 of Article 60(1) of the Law of Ukraine “On Preventing Corruption”, it is prohibited for persons submitting the declaration to provide untimely, inaccurate, or incomplete information that shall be provided according to the law.

According to cl. 1.3.4.1 of the Methodology, the candidate does not comply with the indicator of diligence, in particular, if there are reasonable doubts that such candidate in his current or past position acted in line with requirements of the legislation, professional ethics rules, and other ethical norms concerning diligence.

According to cl. 1.3.7.6 of the Methodology, the candidate shall comply with the financial control requirements, in particular, provide complete and accurate information in asset declarations.

Hence, the Ethics Council has reasonable doubts about the candidate's compliance with such indicators of the professional ethics and integrity criteria as diligence and compliance with the financial control requirements.

## 2. With respect to sources of origin of funds used to construct a house

In his declaration for 2018, the candidate specified that his wife had the right of ownership for an unfinished construction object (residential house) in Kyiv with the area of 348 sq. m. There is no information about this unfinished construction object in his declaration for 2019, at the same time the candidate specified that his wife had the right of ownership for a residential house in Kyiv with the area of 398,6 sq. m. since 16.04.2019. In response to the Ethics Council's question the candidate specified that this house had a usable roof floor and a cellar. The house has four bedrooms, office, living room, kitchen, one room in the cellar, and one room on the roof floor. Adjacent unfinished structures with the total area of over 100 sq. m. are located near the house.

During the interview the candidate specified that his family's expenses on the house construction during the period from 2012 to 2019 amounted up to UAH 5 000 000. At the same time, according to information from the Certificate on the Estimate Value of the Real Estate Object from the Unified Database of Reports on Evaluation, Formation of Electronic Certificates about the Estimate Value of the Real Estate Object, and Registration of Reports on Evaluation of Property that is administered by the State Property Fund of Ukraine, the estimate value of the house belonging to the candidate's wife amounts to UAH 12 248 905,54.

In response to the Ethics Council's request to confirm expenses on the construction of the house, the candidate stated that he could not provide documents that would confirm the price of purchased materials, provided services, and performed works as he did not preserve them. The candidate also said that most construction materials were bought during the period from 2012 to 2014, but he did not preserve corresponding documents as then these materials were given to the candidate's father-in-law to be used for other construction objects. According to the candidate, at the beginning of construction works carried out in 2018 and 2019, his father-in-law returned construction materials similar to the ones he had used before. Moreover, the candidate pointed out that construction was conducted using their own resources, his father-in-law who is professionally engaged in construction was overseeing the construction, while the candidate and his wife were actually only paying for the works. As the candidate and his wife were satisfied with the process of construction and quality, they did not demand supporting documents and his father-in-law did not preserve them.

In response to the Ethics Council's question, the candidate stated that the source of origin of funds used to construct the house included their own savings, funds gifted by their parents, and grandparents, funds gifted to his wife by her parents, as well as funds received from the sale of the apartment on 09.03.2018 for UAH 454 211, from the sale of the apartment on 19.10.2019 for UAH 1 021 400, from the sale of the apartment on 17.07.2020 for UAH 2 068 000, from the sale of a garage on 17.07.2020 for UAH 116 635.

During the interview, the candidate said that he received funds for the construction of the house from the sale of vehicle Toyota RAV4 for about USD 15 000, the sale of a share in LLC "Logotsentr Brovary" for about UAH 1 500 000, funds gifted to his wife by her parents in the total amount of USD 66 000, salary of the candidate and his wife, as well as his own savings accumulated by the candidate since 2000.

The Ethics Council is hereby drawing attention to the fact that during the period since 2012 the candidate and his wife acquired the following real estate objects into ownership:

- 2007 vehicle Volkswagen Touareg valued at UAH 134 000 on 01.06.2013;
- a land plot with the area of 841 sq.m. in Kyiv valued at UAH 1 162 620 on 30.08.2014;
- non-residential premises with the area of 14.5 sq.m. in Kyiv valued at UAH 90 000 on 30.08.2014;
- an apartment with the area of 95.1 sq.m. in Truskavets valued at UAH 487 906 on 06.10.2016;
- an apartment with the area of 47.6 sq.m. in Truskavets valued at UAH 247 960 on 06.10.2016;
- an apartment with the area of 125.5 sq.m. in Truskavets valued at UAH 1 016 515 on 05.02.2018.

During the interview the candidate also confirmed that funds specified by him as the source of funds used to pay for the construction of the house were used to buy this property.

In response to the Ethics Council's question about the amount of his own savings accumulated since 2000, the candidate stated that he did not know about the amount of such savings and that he could not provide a confirmation. At the same time, he declared monetary assets in the amount of UAH 81 920 only in his declaration for 2016 (the first declaration submitted by the candidate).

The Ethics Council is also pointing out that the residential house with an area of 398,6 sq. m. was commissioned on 16.04.2019, while some real estate objects, from the sale of which the candidate received revenues that, according to him, were used to construct the house, were sold after commissioning of the house (the apartment which was sold on 19.10.2019 for UAH 1 021 400; the apartment which was sold on 17.07.2020 for UAH 2 068 000; the garage which was sold on 17.07.2020 for UAH 116 635).

While evaluating the candidate's answers the Ethics Council assumes that the main expenses on the construction of the house were made in 2018 when the house was declared as an unfinished construction object and in 2019 before its commissioning. According to the declaration for 2017, the candidate's savings amounted to UAH 560 548 in total. In his declaration for 2018, the candidate specified that he and his wife received total income in the amount of UAH 1 604 578 and monetary assets in the amount of UAH 47 224. The same year the candidate's wife acquired ownership of the apartment in Truskavets with an area of 125.5 sq. m. valued at UAH 1 016 515. In his declaration for 2019, the candidate specified that he and his wife received total income in the amount of UAH 2 374 715 and monetary assets in the amount of UAH 452 669, USD 1, and EUR 4. At the same time, the candidate received UAH 1 021 400 from the sale of the apartment (on 19.10.2019) after the commissioning of the residential house.

Taking into consideration information specified by the candidate in his declarations, at the beginning of 2018 he and his wife had UAH 560 528 that they could spend on construction of the house. Taking into consideration expenses on the purchase of the house in 2018 and declared savings, the candidate and his wife had UAH 540 839 (before taxation) to construct the house and live on. Taking into consideration the declared income and monetary assets in the declaration for 2019, before the date of the house commissioning the candidate had less than UAH 900 600 (without considering taxation) to construct the house and live on. Hence, in 2018-2019 the candidate could spend only less than UAH 2 000 000 (without taxation) to construct the house and for his family's living, which is twice lower than expenses that, according to the candidate, he and his wife had on construction of the house.

In accordance with the cl. 1.3.7 of the Methodology, the level of life of the candidate or his family members corresponds to the declared and legal income if there are no reasonable doubts to the contrary. In accordance with the cl. 1.3.7.2 of the Methodology, the notion of "level of life" covers all property owned,



possessed, or used by the candidate or his family members, as well as expenses and other cash flows.

In view of the above, in particular, the absence of confirmations of expenses on construction of the house; estimated value of the house in the amount of UAH 12 248 905,54; expenses of the candidate and his wife on the purchase of other objects during the period when the house was being constructed; candidate's acceptance that he could not confirm and justify expenses on construction of the house as he has no documentary confirmation of performed works and expenses on construction; absence of declared sufficient funds to construct the house during the years when such construction was taking place, the Ethics Council has reasonable doubts that the level of life of the candidate and his family members correspond to their declared and legal income.

3. With respect to failure to declare membership in civil society, self-governance, or self-regulatory associations (organizations) in his declaration for 2021

In his declarations for 2019 and 2020 the candidate declared membership in the self-regulating or self-governance professional association "National Bar Association of Ukraine" and civil society association "SPORTS AND SHOOTING CLUB REALIST". There is no information about these associations in the candidate's declaration for 2021.

In response to the Ethics Council's question the candidate stated that the title of section 16 of the declaration "Membership of the person submitting the declaration in managerial, revision, or supervisory bodies of associations, organizations, membership in such associations (organizations)" changed in 2022 and since there is no information concerning the candidate's membership in managerial, revision, or supervisory bodies of associations, organizations, membership in such associations (organizations), he did not gave to mention them

in his declaration for 2021. The candidate provided a copy of the attorney's certificate which confirms his status of the attorney and during the interview he confirmed that he was the founder of civil society association "SPORTS AND SHOOTING CLUB REALIST".

The Ethics Council critically perceives explanations of the candidate concerning his failure to declare membership in these associations as such explanations contradict requirements of the Law of Ukraine "On Preventing Corruption" and the NACP's Explanations No. 11 of 29.12.2021 concerning the application of separate provisions of the Law of Ukraine "On Preventing Corruption" with respect to financial control measures ("the NACP's Recommendations of 29.12.2021") that were in effect during the reporting period for which the candidate submitted the declaration and as of the moment of filling of the declaration by the candidate.

Hence, cl. 12 of Article 46(1) of the Law of Ukraine "On Preventing Corruption" stipulates directly that membership of the person submitting the declaration in civil society associations, self-regulating and self-governance associations shall be declared, along with indication of the name of respective associations and their code from the Unified State Register of Legal Entities and Individual Entrepreneurs.

Pursuant to cl. 186 of the NACP's Recommendations of 29.12.2021 it is necessary to specify in the declaration membership in the following associations:

- associations to which the Law of Ukraine "On Civil Society Associations" is applicable;
- self-governance professional organizations (associations), in particular, associations of individuals performing professional activities, including, the National Bar Association of Ukraine.

Cl. 189 of the NACP's Recommendations set out that the declaration should specify the information that the person submitting the declaration is a member of

the National Bar Association of Ukraine even if the attorney's license has been suspended.

Accordingly, regardless of the change in the title of section 16 in the declaration form submitted for 2021, the candidate was obliged to declare his membership in all civil society associations, self-regulating or self-governance professional associations, in particular, in self-regulating or self-governance professional association "National Bar Association of Ukraine" and civil society association "SPORTS AND SHOOTING CLUB REALIST".

According to cl. 2 of Article 60(1) of the Law of Ukraine "On Preventing Corruption", it is prohibited for persons submitting the declaration to provide untimely, inaccurate, or incomplete information that shall be provided pursuant to the law.

According to the cl. 1.3.7.6 of the Methodology, the candidate shall comply with the financial control requirements, in particular, provide complete and accurate information in asset declarations.

According to cl. 1.3.4.1 of the Methodology, the candidate does not comply with the indicator of diligence, in particular, if there are reasonable doubts that such candidate in his current or past position acted in line with requirements of the legislation, professional ethics rules, and other ethical norms concerning diligence.

Hence, the Ethics Council has reasonable doubts about the candidate's compliance with such indicators of the professional ethics and integrity criteria as diligence and compliance with the financial control requirements.

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 91 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 the candidate for the position of the member of the High Council of Justice Oleksandr Yuriiovych Serohin 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**