



## ЕТИЧНА РАДА

01601, м. Київ, вул. Липська, 18/5,  
тел.: (044) 277-76-29, (044) 277-76-32  
e-mail: ec@court.gov.ua

## ETHICS COUNCIL

01601, Kyiv, Lypska St., 18/5,  
tel.: (044) 277-76-29, (044) 277-76-32  
e-mail: ec@court.gov.ua

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Kyiv

### DECISION

#### No. 27

***On non-compliance of candidate  
for the position of the member of the High Council of Justice  
Mykola Ivanovych Siryi  
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 Mykola Ivanovych Siryi 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 Mykola Ivanovych Siryi 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.

Having studied documents provided by Mykola Ivanovych Siryi 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, the Ethics Council has reached the following conclusions.

1. Regarding the non-declaration of membership in the Ukrainian National Bar Association

According to the Unified Register of Attorneys of Ukraine, on 22.05.1996, Mykola Ivanovych Siryi received a certificate to practice law in accordance with decision No. 1039/3 of the Kyiv City QDCA.

Pursuant to Article 45 (6) of the Law of Ukraine "On the Bar and Legal Practice", all persons who hold a certificate of the right to practice law become members of the Ukrainian National Bar Association from the moment of its state registration.

According to para 12 of Article 46 (1) of the Law of Ukraine "On Prevention of Corruption" dated 14.10.2014, No. 1700-VII, the information to be indicated in the declaration includes - participation of the declarant in management, revisionary or supervisory bodies of public associations, charities, self-regulatory or self-governing professional associations, membership in such associations (organizations), specifying the name of the relevant associations (organizations) and their code from the Unified State Register of Legal Entities and Individual Entrepreneurs.

Pursuant to cl. 186 and 189 of the Clarifications of the NACP on the application of certain provisions of the Law of Ukraine "On Prevention of Corruption" regarding financial control measures (on filing a declaration, notification of significant changes in property status, notification of opening a currency account) No. 11 dated 29.12. 2021, the information that the declarant is a member of the Ukrainian National Bar Association (hereinafter – UNBA), shall be specified in the declaration even if the right to practice law is suspended.

Despite the fact that M. I. Siryi has had the right to practice law since 22.05.1996, and has become its member since the state registration of the Ukrainian National Bar Association, M. I. Siryi does not provide information about his membership in the Ukrainian National Bar Association (hereinafter - UNBA) in his declarations of a candidate for the position of a person authorized to perform the functions of the state or local self-government for 2015, 2017, 2019 and 2021, as provided for in para 12 of Article 46 (1) of the Law of Ukraine "On Prevention of Corruption".

In his written responses to the questions of the Ethics Council, the candidate questions the fact of his membership in the UNBA and the need to declare such

information. The candidate explains that he has participated in a significant number of competitions for the position of a person authorized to perform the functions of the state or local self-government, and therefore submitted declarations for 2015, 2017, 2019, and 2021 and had no comments on non-declaring his membership in the UNBA either from the NACP or from the selection commissions.

In accordance with cl. 1.5 of the Methodology, any opinion or assessment of a national or international body relating to the candidate's professional ethics and integrity is not surely definitive and mandatory for the Ethics Council.

It was during the interview with the Ethics Council that the candidate acknowledged the fact of his membership in the UNBA and the need to provide this information in his declarations for 2015, 2017, 2019, and 2021.

Therefore, the Ethics Council believes that the candidate was legally bound to declare his membership in the UNBA, but M. I. Siryi failed to do so having violated thereby the requirements of anti-corruption legislation.

In accordance with para 2 of Article 60 (1) of the Law of Ukraine "On Prevention of Corruption", the subjects of the declaration are forbidden from the non-timely, false, or not complete declaration of information which shall be provided according to the law.

According to cl. 1.3.7.6. of the Methodology, the candidate shall comply with applicable requirements of financial control, in particular with the provision of full and accurate information in assets declarations.

According to cl.1.3.4.1 of the Methodology, a candidate fails to comply with the indicator of diligence in case when there are reasonable doubts that such candidate in the present or any past professional capacity has acted in line with requirements of the legislation, professional ethical, other ethical norms regarding diligence.

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

2. Regarding the not precise information on the candidate's political activity, as laid down in the motivation letter for the position of the member of the HQCJ

In August 2022, M. I. Siryi submitted a motivation letter for participation in the competition for the position of a member of the High Qualification Commission of Judges of Ukraine (hereinafter referred to as the HQCJ). In para 6 of the motivation letter, the candidate was asked to describe in detail the cases of his participation in political activities in the past and explain why this activity does not deprive the candidate of the right to be appointed a member of the HQCJ.

M. I. Siryi stated in his motivation letter to the HQCJ that he had never been a member of any political party, was a member of the trade union of researchers of the National Academy of Sciences of Ukraine, and had significant experience in public activities in the field of legal protection; yet he neither mentioned any cases of participation in political activities nor explained why this activity did not deprive him of the right to be appointed a member of the HQCJ.

It is known from the documents and information from the open sources, that the candidate was actively involved in the activities of political parties for a long time and was a candidate for the Verkhovna Rada of Ukraine three times. In particular, M. I. Siryi was a candidate for the Verkhovna Rada of Ukraine in 1994, 1998, and 2019. In 2019, M.I. Siryi was an authorized representative of a candidate for the office of the President of Ukraine. In July 2019, the candidate attended a rally of a political party, whose participants had party symbols (flags) and audio equipment. During the rally, the candidate announced the statement of

the political party from which he had run for the Verkhovna Rada of Ukraine in the same year.

In his written answers to the questions of the Ethics Council and during the interview, the candidate reaffirmed the above-mentioned facts of his biography. M. I. Siryi noted that he had participated in the electoral process and acted in accordance with the requirements of the electoral legislation of Ukraine. Nevertheless, the candidate does not consider such actions to be evidence that he was involved in political activities and therefore did not consider it necessary to mention these facts in his motivation letter to the HQCJ.

It is the opinion of the Ethics Council, that participation in numerous election campaigns, acquiring the status and powers of an authorized representative of a candidate for the office of the President of Ukraine, announcing a statement at a public event arranged by a political party and using party symbols are unconditional manifestations of the candidate's political activity and participation in political processes.

The candidate's explanation that he was not involved in political activities looks unconvincing and raises doubts as to whether the candidate provided truthful information in his motivation letter for participation in the competition for the position of HQCJ member, as well as in response to the written questions of the Ethics Council.

Considering the fact that the candidate denies his participation in any political activity and does not indicate information about such activity in the motivation letter to the HQCJ, while actually performing such activity, raises reasonable doubts about the candidate's compliance with the indicators of diligence (cl. 1.3.4 of the Methodology) and honesty (cl. 1.3.2 of the Methodology).

### 3. Regarding the understatement of the value of the land plot

On 05.11.2013 M. I. Siryi acquired a land plot of 0.1496 ha in the village of Vita-Poshtova, Kyiv-Svyatoshynskyi district, Kyiv region. The value of the land plot, according to the land plot sale and purchase agreement dated 05.11.2013, amounted to UAH 149 570. The agreement states that this value is acceptable to both parties and corresponds to the report on the expert monetary assessment of the land plot.

Providing explanations to the written questions of the Ethics Council and during the interview, the candidate stated that he had paid a deposit of USD 10 000 before signing the land plot purchase and sale agreement (UAH 79 930 at the NBU exchange rate as of 05.11.2013). Subsequently, the amount of the deposit was not included in the land plot sale and purchase agreement.

Therefore, the actual price paid by the candidate for the land plot, which was not reflected in the real property purchase agreement, amounted to UAH 149 570 and USD 10 000.

According to the Decree of the Cabinet of Ministers of Ukraine "On State Duty" of January 21, 1993, the rate of state duty for notarization of agreements for the alienation of land plots owned by a person who carries out such alienation constitutes 1% of the amount of the agreement, but not less than one non-taxable minimum income.

By not reflecting the actual value paid and stating the value of the land plot without a deposit in the purchase and sale agreement, the candidate actually contributes to the evasion of the full amount of state duty for notarial transactions related to the certification of the land plot alienation agreement, which is in the ownership of the citizen who is performing such an alienation.

In view of the foregoing, the Ethics Council had reasonable doubts that the candidate meets the requirements of independence, honesty, impartiality, and

diligence and acted in accordance with the requirements of the law, the rules of professional conduct, and other ethical norms regarding independence, honesty, impartiality, diligence (cl. 1.3.4.1 of the Methodology).

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 candidate for the position of the member of the High Council of Justice Mykola Ivanovych Siryi 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**