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ETHICS COUNCIL

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Kyiv

DECISION

No. 9

*On compliance of candidate
for the position of the member of the High Council of Justice
Hennadii Leonidovych Diakovskiy
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 Hennadii Leonidovych Diakovskiy 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:

The Ethics Council received copies of documents of Hennadii Leonidovych Diakovskiy for participation in the competition for the position of the member of the

High Council of Justice as nominated by the All-Ukrainian Conference of Prosecutors and admitted him to the interview with its Decision No. 46 of 16.11.2022.

Hennadii Leonidovych Diakovskiy has been a prosecutor of Western District Prosecutor's Office of Dnipro since March of 2021.

Having studied documents provided by Hennadii Leonidovych Diakovskiy 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. With respect to being brought to disciplinary responsibility

On 18.11.2016 and on 13.04.2017 the candidate as the head of Zhovti Vody local prosecutor's office was brought to disciplinary responsibility in the form of a reprimand for improper fulfillment of professional duties.

In response to the Ethics Council's questions the candidate stated that his bringing to disciplinary responsibility concerned both organization of work in the newly established Zhovti Vody local prosecutor's office and faults in the investigation of specific criminal proceedings by police investigators, as well as failure to ensure proper procedural management by prosecutors of Zhovti Vody local prosecutor's office in these proceedings. The candidate as the head of the prosecutor's office was the only person brought to responsibility for all violations identified by the prosecutor's office of Dnipropetrovsk region. The candidate explained that the identified violations were eliminated by means of taking organizational and practical measures.

In line with cl. 1.4 of the Methodology, while determining compliance with the criterion of professional ethics and integrity, the Ethics Council takes into consideration the gravity of any ethics and integrity violation.

The Ethics Council has studied the decision on bringing the candidate to disciplinary responsibility, has taken into consideration that the candidate managed the newly established prosecutor's office, activities of which covered five districts and that he was brought to disciplinary responsibility for errors committed by other people, while his mistakes were of organizational nature only and has reached a conclusion that in this case bringing of the candidate to disciplinary responsibility is not a significant violation of the professional ethics rules.

The Ethics Council is hereby pointing out that evaluation of facts of the candidate being brought to disciplinary responsibility is carried out exclusively from the perspective of their compliance with the Methodology and does not have any prejudicial meaning for resolution of other issues.

2. With respect to the purchase of the apartment with the area of 56.5 sq. m. in Dnipro

In his asset declarations for 2015–2021 the candidate specified that he had owned an apartment with the area of 56.5 sq. m. in Dnipro valued at UAH 6,500 since 15.11.2003.

In response to the Ethics Council's question the candidate stated that according to the excerpt on rights of ownership for the real estate issued by Utility Company "Dnipropetrovsk Intercity Technical Inventory Bureau" of 11.11.2003 the total value of this apartment amounted to UAH 6 458,00 while according to the sale and purchase agreement the apartment was valued at UAH 6 500,00. The candidate also stated that the source of origin of funds used to purchase this apartment was the sale of an apartment with the area of 45.2 sq. m. in Dnipro valued at UAH 11 000,00.

The Ethics Council has taken into consideration that the candidate has provided confirmation of legality of sources of origin of funds used to purchase the apartment and justified the estimated value of such apartment specified in the declarations. In connection with this, the Ethics Council has no reasonable doubts about the value and sources of origin of funds used to purchase the apartment with the area of 56.5 sq. m. in Dnipro.

3. With respect to the receipt of vehicle Kia Sportage 2017.

In his declarations for 2018–2021 the candidate specified his wife's right of ownership for vehicle Kia Sportage manufactured in 2017, yet he did not indicate the value of this vehicle.

In response to the Ethics Council's question the candidate stated that 2017 vehicle Kia Sportage was bought by his father-in-law on 28.12.2017, and on 10.07.2018 his father-in-law gifted this vehicle to the candidate's wife. The value of the vehicle was not given in the declarations since he did not know it because the document of the gift did not specify it. Once the candidate received the Ethics Council's request with questions, he found out that the price of the vehicle amounted to UAH 665,760. The candidate also stated that this vehicle had been bought using funds received by his father-in-law and his wife from the sale of two apartments in Dnipro.

The Ethics Council has studied documents provided by the candidate, has taken into consideration his explanations and reached a conclusion that there are no reasonable doubts about the legality of acquisition of the right of ownership for 2017 vehicle Kia Sportage by the candidate's wife.

4. With respect to the receipt of an apartment in Dnipro as a gift by the candidate's wife

On 26.12.2018 the candidate's wife acquired the right of ownership for an apartment with the area of 49 sq. m. in Dnipro valued at UAH 100,000.

In response to the Ethics Council's question the candidate stated that his wife received this apartment as a gift from her mother. The mother of the candidate's wife bought this apartment on 23.11.1995, which is confirmed with the apartment sale and purchase agreement and technical passport.

In response to the Ethics Council's question about the value of the apartment, the candidate stated that this price was specified pursuant to the parties' agreement. He also reported that the legislation did not require indication of the apartment price in the deed of gift, while the expert estimation of the apartment was not carried out.

The Ethics Council takes into consideration that pursuant to Article 174.6 of the Tax Code of Ukraine objects gifted to family members with the relations in the first degree shall be taxed under the zero rate.

In connection with this, the Ethics Council has no reasonable doubts about the legality of acquisition of the right of ownership for the apartment with the area of 49 sq. m. in Dnipro by the candidate's wife.

5. With respect to the use of a service house in Piatykhatky

In his declarations for 2017–2021 the candidate specified the use of a service house with the area of 91.9 sq. m. in Piatykhatky since 20.07.2017.

In response to the Ethics Council's request the candidate stated that since December of 2015 he held the position of the head of Zhovti Vody local prosecutor's office, while this house was provided to him as service accommodation pursuant to Article 85 of the Law of Ukraine "On the Prosecution Service".

On 03.11.2017 the candidate moved to Dnipro where he was appointed to the position of the prosecutor of Dnipro local prosecutor's office No. 3.

In response to the Ethics Council's question why after his move to Dnipro the candidate continued declaring use of the service house in Piatykhatky, the candidate stated the right to use this service accommodation remains pursuant to Article 124 of the Residential Code of Ukraine, and thus he is obliged to declare it. The candidate also stated that he actually resided in Dnipro, did not use the house in Piatykhatky, did not store any personal belongings there or his family's personal belongings, and was in the process of de-registering from his house.

The Ethics Council has studied all documents provided by the candidate, taken into account his explanations, and reached a conclusion that there are no reasonable

doubts about compliance of the candidate with the professional ethics rules in connection with the existence of his right to use the residential house in Piatykhvatky.

6. With respect to the loan in the amount of UAH 200 000

In his declaration for 2015 the candidate specified the financial obligations in the amount of UAH 200 000.

In response to the Ethics Council's question the candidate noted, that he received the loan from his brother to repay his credit obligations which he had due to the purchase of 2013 vehicle "Volkswagen PoloSedan". Also, he stated that the source of the brother's finances is his entrepreneurial activity.

The Ethics Council has studied all documents provided by the candidate, taken into account his explanations, and reached a conclusion that there are no reasonable doubts about compliance of the candidate with the professional ethics rules in connection with the finances which candidate received as a loan from his brother.

In view of the above, the Ethics Council has no reasonable doubts about compliance of candidate for the position of the member of the High Council of Justice Hennadii Leonidovych Diakovskiy with the criteria of professional ethics and integrity.

Being governed by Rules 2.3, 3.1, 3.2, and 3.16.2 of the Ethics Council's Rules of Procedure, 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, 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 Hennadii Leonidovych Diakovskiy as 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