



## ЕТИЧНА РАДА

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## ETHICS COUNCIL

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**30 June 2022**

**Kyiv**

### DECISION

**No. 24**

***On non-compliance of the candidate  
for the position of the member of  
the High Council of Justice Yarotskyi V. L.  
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 (remotely by videoconference), Deputy Chair of the Ethics Council Sir Anthony Hooper (remotely by videoconference), members of the Ethics Council: Yurii Triasun (remotely by videoconference), Volodymyr Siverin (remotely by videoconference), Robert Cordy (remotely by videoconference), Lavly Perling (remotely by videoconference), having conducted evaluation of compliance of candidate for the position of the member of the High Council of Justice Yarotskyi Vitalii Leonidovych 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 Decision No. 1 of the Ethics Council as of December 1, 2021 and Decision No. 4 as of December 9, 2021, as amended pursuant to Decision No.4 of the Ethics Council as of April 26, 2022, Methodology for assessing compliance of the candidate to the position of the 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 Decision No.5 of the Ethics Council as of December 9 (hereinafter referred to as 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 a member of the High Council of Justice in two stages:

1) conducting the selection of candidates based on the results of consideration of documents submitted by candidates, the results of a special audit and relevant information from open sources, and forming a 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 Yarotskyi Vitalii Leonidovych for participation in the competition for the position of a member of the High Council of Justice for election by the Congress of Representatives of Law Universities and Research Institutions.

Candidate Yarotskyi V.L. was admitted to the interview for the position of the member of the High Council of Justice pursuant to the decision of the Ethics Council as of 21 December 2021.

Having studied documents provided by Yarotskyi V. L. upon the Ethics Council's request, his written explanations, information obtained from open sources and from public organizations, information received from the National Agency for Corruption Prevention and the National Anti – Corruption Bureau of Ukraine, as well as the results of the interview with Yarotsky V.L., the Ethics Council established the following.

Since 1992 Yarotskyi V. L., has been employed as an assistant at the Civil Law Department of the Ukrainian Law Academy named after Dzerzhynskyi. Since 1999 to the present works as the head of the Department of Civil Law at the Yaroslav Mudryi National Law Academy.

When assessing a candidate, the Ethics Council established a number of circumstances that raise reasonable doubts about the candidate's compliance with the criteria of professional ethics and integrity.

According to the Paragraph 1.3.4.1. of the Methodology, candidate fails to comply with the indicators of independence, honesty, impartiality, diligence, in particular, in case 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 rules (academic integrity requirements), other ethical norms regarding independence, honesty, impartiality, diligence.

The Ethics Council during the inspection of the candidate found that Yarotskyi V. L. since December 6, 1999 uses a land plot of 847 sq.m, where a residential building is located, with a total area of 276.3 sq.m. in the city of Kharkiv, part of which belongs to him by right of ownership. The candidate in the declaration for 2020 indicated information that he leases this land plot from the Kharkiv City Council. However, in the declaration submitted in compliance with the requirements of the anti-corruption legislation for 2015, the candidate did not declare the right to use the land plot.

During the interview, Yarotskyi V. L. explained that in the declaration for 2015 he did not report on the lease of the land plot, since the lease agreement was not concluded. At the same time, the candidate explained that in the declaration for 2020, he mistakenly entered data on the land plot as an object of lease relations, since in fact it is in his free use, as indicated in the contract of sale of a residential building dated December 6, 1999.

At the same time, in his written explanations, Yarotskyi V. L. justified the lack of information about the lease of a land plot in the declaration for 2015 by the

imperfection of the NACP website, in particular, the corresponding section of declaration, as well as the lack of experience in using this software product.

Comparison of written explanations of Yarotskyi V. L. with his explanations during the interview gives the Ethics Council grounds to consider them contradictory in terms of declaration of the rights to use a land plot with an area of 847 sq.m, where a residential building is located in the city of Kharkiv.

According to Paragraph 1.3.7.6. of the Methodology, the candidate shall comply with applicable requirements of financial control that are stipulated by the anticorruption legislation, including with respect to timely submission of declarations, notifications about significant changes in the financial situation, notifications about opening of accounts with banking and financial institutions (including abroad) and provision of full and accurate information in assets declarations.

The Ethics Council considers that Yarotskyi V. L. in the declaration for 2015 provided incomplete information, and in the declaration for 2020 not accurate information about the land plot, the area of 847 sq.m., which indicates its non-compliance with the requirements of financial control, which are defined by the anti-corruption legislation (Paragraph 1.3.7.6 of the Methodology).

The Ethics Council during the inspection of the candidate also found that on June 3, 2020 Yarotskyi V. L. and his wife acquired ownership rights to two adjacent land plots in the village of Hryhorivka Derhachivskyi district Kharkiv region with Cadastral numbers: 6322080902:00:000:0013, 6322080902:00:000:0014, with an area of 1500 sq.m each, which they purchased from the same owner.

On September 25, 2020, the candidate also acquired ownership rights to one more land plot of the same area, Cadastral number 6322080902:00:000:0008, which borders on land plots acquired earlier. At the same time, the price for each of the plots differs significantly from each other and, accordingly, amounts to 504850 UAH, 62150 UAH, and 118440 UAH.

Justifying significant discrepancies in the value of land plots, Yarotskyi V. L. explained that on the land plot, Cadastral number 6322080902:00:000:0013, the

previous owner performed work on its planning, removal of trees and other plantings, garbage collection. A well with the entire infrastructure was also drilled to ensure the supply of drinking water.

However, during the interview, Yarotskyi V. L. explained that the previous owner uprooted only a few trees on this land plot. In addition, he left construction materials, and therefore the value of this land plot differs significantly from the value of the other two land plots.

The Ethics Council considers that written explanations of Yarotskyi V. L. do not agree with his own explanations during the interview. The candidate did not provide a convincing explanation of what work was done by the previous owner, which led to an increase in the value of the land plot.

The given explanations of Yarotskyi V. L. also do not agree with the image of this land plot posted on the website "Google maps", according to which, for the period from 2012 to 2020, it contains plantings and its appearance for the given period has not changed.

According to Paragraph 1.3.2 of the Methodology, honesty shall mean presence of high moral qualities, truthfulness in professional activities and in everyday life.

The Ethics Council considers that the established facts indicate that there are reasonable doubts about the candidate's honesty (Paragraph 1.3.4.1 of the Methodology).

In the declarations for 2015 and 2020, the candidate notes that since December 6, 1999, he owns a house in the city of Kharkiv, worth 29732 UAH.

During the interview Yarotskyi V.L. reported that the house was purchased with part of his own funds, namely 10000 UAH, the other part of the funds in the amount of 19732 UAH was provided to him by his parents.

The Ethics Council considers the explanation of Yarotskyi V. L. unconvincing, since, as the candidate noted, in 1997 he spent his own savings on the purchase of a 1995 Toyota Corolla car, for 5500 UAH.

According to the certificate from the State Register of individuals - tax payers, the salary of Yarotskyi V. L. was: in 1998 - 4156 UAH, and in 1999 - 4878 UAH, which casts doubt on the truthfulness of the candidate's explanation about spending from his own funds in the amount of 10000 UAH on the purchase of a house.

Thus, the Ethics Council considers that there are reasonable doubts about the legality of the sources of origin of the candidate's property (Paragraph 1.3.7. of the Methodology).

According to the declaration for 2020, Yarotskyi V. L. on November 23, 2006 purchased a 2006 Subaru Legacy Outbac car.

In his written explanations, Yarotskyi V. L. noted its estimated cost of 151500 UAH.

At the same time, according to the certificate of the State Register of individuals - taxpayers, the income of Yarotskyi V. L. from 1998 to 2006 was 179078 UAH.

During the interview, the candidate confirmed his written explanations and noted that he purchased the Subaru Legacy Outbac vehicle with his own funds, which were earned by him at the Yaroslav Mudryi National Law Academy.

He also confirmed that his wife, Yarotska S. L., had not worked or received any income since 1998. When asked by the Ethics Council, the candidate explained that from 1998 to 2006, the family's daily expenses for almost eight years amounted to 26000 UAH.

The Ethics Council considers such explanations of the candidate unconvincing. Given that Yarotskyi V. L. supported two minor children at that time – Yarotska M. V. and Yarotskyi A.V., as well as his wife - Yarotska S. L., who has not worked since 1998 and did not receive any income, there are reasonable doubts that expenses of Yarotskyi V. L. for family maintenance, utilities, car maintenance and other everyday expenses for actually eight years amounted to 26000 UAH.

With this in mind, the Ethics Council considers that there are reasonable doubts about the honesty of the candidate (Paragraph 1.3.4.1 of the Methodology) in terms of justifying the amount of daily expenses of the candidate and his family

from 1998 to 2006 and, as a result, legality of the sources of origin of the candidate's property (Paragraph 1.3.7. of the Methodology).

In the declarations for 2015 and 2020, Yarotskyi V. L. declared a 2008 Mercedes-Benz GL-500 car, which has been owned by him on the right of ownership since May 17, 2011, but did not indicate its value as of the date of acquisition of ownership or according to the last monetary estimate.

In written explanations, the candidate noted that the car was purchased by him for 438229 UAH, which at that time was approximately 55000 USD, however, he did not provide documents confirming its cost.

The Ethics Council, when checking the candidate, found that according to information from sites that post ads for the sale of cars, the average cost of such a vehicle, as of 2011, was 80,000 USD.

In his explanations, the candidate justified the cost of the car by saying that it had significant mileage and damage after a traffic accident. However, during the interview, he clarified that the car only had a damaged paint and varnish coating on the front, on which he spent 500 USD to restore.

The Ethics Council considers that the candidate's explanations regarding the discrepancy between the specified cost and the average market value of a car of this class are unconvincing, and therefore there are reasonable doubts about the candidate's honesty (Paragraph 1.3.4.1 of the Methodology).

In addition, the Ethics Council believes that Yarotskyi V. L. did not provide a convincing explanation regarding the sources of origin of the funds for which the Mercedes-Benz GL-500 car was purchased.

Explanation of Yarotskyi V. L. that the Mercedes - Benz GL-500 car was purchased by him in 2011 for his own monetary savings cannot be considered justified.

According to the certificate of the State Register of individuals -taxpayers, the candidate's salary from 2007 to 2010 amounted to 485921 UAH.

During this period of time Yarotskyi V. L. acquired in ownership, on May 27, 2009 water vehicle Honda T-381E1, worth 7320 UAH, engine to the boat Honda BF

20, worth 21000 UAH, on 02 June 2010 trailer B HOBBY 495, worth 23775 UAH, which together is 52095 UAH.

Taking into account the salary received, expenses related to the acquisition of the specified property, Yarotskyi V. L. did not have enough funds to purchase a car Mercedes-Benz GL-500, even for the specified price of 55000 USD.

The Ethics Council considers that there are reasonable doubts about the candidate's honesty (Paragraph 1.3.4.1 of the Methodology) and legality of the sources of origin of the candidate's property (Paragraph 1.3.7. of the Methodology).

Thus, being governed by Rules 2.3, 3.1, 3.15.1, 3.2 of the Ethics Council's Rules of Procedure, Methodology for assessing compliance of a candidate to the position of the member of the High Council of Justice and members of the High Council of Justice with the criterion of professional ethics and integrity, Article 9<sup>1</sup> of the Law of Ukraine "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 a member of the High Council of Justice Yarotskyi Vitalii Leonidovych 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**