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ETHICS COUNCIL

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23 June 2022**Kyiv****DECISION****No. 18**

***On non-compliance of candidate
for the position of the member of
the High Council of Justice A.O. Shulga
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 Andriy Oleksiyovych Shulga 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 Decision No. 4 as of 9 December 2021 as amended pursuant to Decisions of the Ethics Council No. 1 as of 1 December 2021 and No. 4 of 26 April 2022, Methodology for assessing compliance of the candidate to 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 Decision of the Ethics Council No. 5 as of 9 December 2021 (hereinafter referred to as the Methodology),

has established:

Pursuant to Article 9¹, Part 14 of the Law of Ukraine "On the High Council of Justice", the Ethics Council shall carry out selection of candidates for the position of the member of the High Council of Justice in two stages:

1) selection of candidates pursuant to the results of consideration of documents submitted by candidates, the results of a 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 the bodies that elect (appoint) members of the High Council of Justice.

The Ethics Council received copies of documents submitted by A. O. Shulga for participation in the competition for the position of the member of the High Council of Justice by the Verkhovna Rada of Ukraine.

Candidate A. O. Shulga 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 the documents provided by A. O. Shulga upon the Ethics Council's request, his written explanations, information obtained from open sources and from public organizations, information obtained from the National Agency for Corruption Prevention (hereinafter – NACP) and the National Anti – Corruption Bureau of Ukraine (hereinafter-NABU), having interviewed him, the Ethics Council has established the following.

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

Pursuant to the clause 1.3 of the Methodology, indicators for the criterion of professional ethics and integrity are independence, honesty, impartiality, incorruptibility, diligence, compliance with ethics norms and impeccable behavior in professional activities and personal life, as well as absence of doubts regarding legality of the sources of origin of property, conformity of the candidate's level of life or that of his family members with declared incomes, conformity of the candidate's lifestyle to his status.

According to p. 1.3.2. of the Methodology, honesty is the presence of high moral qualities, truthfulness in professional activities and everyday life; clause 1.3.4. diligence - is industrious, thorough, and responsible fulfillment of one's duties, which is a sign of the person's professional integrity.

Thus, the attorney A. O. Shulga is a managing partner of Alfa Information and Legal Service LLC. According to the Register of the state tax service of Ukraine, Alfa Information and Legal Service LLC has a tax debt in the amount of UAH 89,100. Upon the written request of the Ethics Council, A. O. Shulga explained that the tax debt arose in 2020 due to a decrease in the volume of legal services provided during the period of quarantine restrictions imposed on the territory of Ukraine. However, from the materials available to the Ethics Council, it can be seen that the tax debt of Alfa Information and Legal Service LLC has existed since 2018, and not since 2020, as the candidate claims. During the interview, A. O. Shulga admitted that the tax debt really exists since 2018, in addition, Alfa Information and Legal Service LLC is appealing the order to collect this debt in the court.

According to the Ethics Council, such actions of candidate A. O. Shulga cast doubt on his compliance with such an indicator of the criterion of professional ethics and integrity as honesty and diligence (paragraphs 1.3.2, 1.3.4 of the Methodology).

In addition, the Ethics Council had reasonable doubts about the legality of the sources of origin of the candidate's property and the compatibility of his standard of living and family members with the declared and legal income.

Thus, in particular, according to Clause 1.3.7 of the Methodology, the sources of origin of the candidate's property are legal, the standard of living of the

candidate or his family members corresponds to their declared and legal income, and the candidate's lifestyle corresponds to his status in the case there are no reasonable doubts to the contrary.

As can be seen from the declaration for 2020, A. O. Shulga noted that he had cash in the amount of 40,000 US dollars. Also, in the declaration for 2020, the candidate indicates that on July 07, 2020, he acquired ownership of a house with an area of 280.2 sq. m in the village of Khotiv, Kyiv-Svyatoshynsky District of the Kyiv region. According to the Register of insured persons of the State Register of mandatory state social insurance, the official income of A. O. Shulga for 22 years from 1998 to 2020 amounted to UAH 583,361, the income of his wife for 22 years from 1998 to 2020 amounted to UAH 367,391.

The Ethics Council had reasonable doubts about the legality of the sources of origin of the accumulated funds and property of the candidate, and therefore a corresponding request was sent to him.

Upon the request of the Ethics Council about how Shulga A. O. was able to accumulate 40 thousand dollars with such a relatively small income of the whole family for many years, while spending money on the support of two minor children born in 2014 and 2012, paying the loan received from the bank and spending money on the construction and maintenance of a house in the village of Khotiv (Kyiv-Svyatoshynsky District of Kyiv region), the candidate explained that he saved these funds from the sale of his apartment in 1996, a car in 2019 and from the sale of his wife's apartment in 2018. However, the candidate did not provide any supporting documents for the sale of the car in 2019. Regarding the sale of the apartment in 1996, the candidate provided a copy of the purchase and sale agreement, from the content of which it can be seen that the co-owners Shulga A. Ya., Shulga G. M., Shulga A. O., Shulga L. A. and Shulga Yu. I. sold the apartment in the city of Kyiv for 350 million karbovantsiv. However, A.O. Shulga could not explain at the interview how much this amount was in dollar or hryvnia equivalent, what kind of income the candidate personally received from the sale of this apartment, what funds he managed to save.

Also, the candidate provided an explanation that the house in the village of Khotiv has been built by his family with their own hands for many years, and his father's funds, his own savings, his wife's funds and income received from the sale of family's own agricultural products were spent on the construction and maintenance of the house.

However, after evaluating the explanations of A.O. Shulga, studying and analyzing documents, information from open sources, etc., the Ethics Council believes that the standard of living of the candidate A.O. Shulga and his family members does not correspond to the declared and legal income. In addition, the Ethics Council had grounded about the candidate's integrity (paragraphs 1.3.2, 1.3.7 of the Methodology).

According to Clause 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.

In accordance with clause 1.3.4. of the Methodology Diligence shall mean industrious, thorough and responsible fulfilment of one's duties, which is a sign of the person's professional integrity.

According to Article 46, Part 1, paragraph 9 of the law of Ukraine "On prevention of corruption", financial obligations of the subject of declaration or members of his family are subject to indication in the declaration, including loans received, borrowings, obligations under leasing agreements, the amount of funds paid against the principal amount of the loan (borrowing) and interest on the loan (borrowing), the balance of the loan (borrowing) as of the end of the reporting period, obligations under insurance contracts and non-state pension provision. Information about financial obligations includes data on the type of obligation, its size, currency of the obligation, information about the person in respect of whom

such obligations arose, in accordance with paragraph 1 part one of this article, or the name of the relevant legal entity, indicating the code of the Unified State Register of legal entities and individual entrepreneurs, and the date of occurrence of the obligation. Such information is indicated only if the amount of the obligation exceeds 50 subsistence minimums established for able-bodied persons as of January 1 of the reporting year.

So, in the declaration for 2020 A. O. Shulga indicated that he had a financial liability in the amount of UAH 163,957 as of December 31, 2020.

At the same time, contrary to the above requirements of the law, as the person in whose favour such an obligation arose, A. O. Shulga indicated himself, which violated the requirements of the anti-corruption legislation.

During the Interview, A. O. Shulga explained that he made a mistake when filling out the declaration, considering himself the person in whose favour such an obligation arose.

Thus, the Ethics Council considers that A. O. Shulga does not comply with paragraphs 1.3.7.6, 1.3.4 of the Methodology.

According to the data contained in the Unified State Register of legal entities, individual entrepreneurs and public formations Shulga A. O. from October 26, 2007 to November 01, 2021 owned the corporate rights of LLC “Kyiv Center for education and arts”, however, he did not declare information about this in the declaration of a person authorized to perform the functions of the state or local self-government for 2020, which does not comply with clause 1.3.7.6 of the Methodology, according to which the candidate must meet the requirements of financial control and provide complete and accurate information in property declarations.

As explained by A.O. Shulga, these corporate rights belonged to him only until 30.10.2018, since a preliminary contract for the purchase and sale of a share in the authorized capital was concluded between him and his sister Shulga L. O. and from the moment of its signing, Shulga L. O. transferred the rights to use and dispose of the candidate's share in the authorized capital. However, such explanations

contradict the relevant legislation, since under the terms of the preliminary contract provided by the candidate, he transfers only the right of use and disposal, and not the right of ownership. The preliminary agreement does not replace the main agreement and is only an intention to transfer the relevant rights. In addition, changes to the information of the Unified State Register of legal entities related to changes in the composition of the founders and ultimate beneficial owners of LLC "Kyiv Center for Education and Arts" took place only on November 01, 2021.

Taking into account the above, the Ethics Board concluded that the candidate's failure to declare corporate rights to Kyiv Center for Education and Arts LLC indicates its inconsistency with paragraph 1.3.7.6. of the Methodology.

In the declaration of a candidate for the position of a member of the High Council of Justice, submitted for participation in the competition, A. O. Shulga indicated that in 2020 the total amount of his salary was UAH 86,400, and members of his family (wife) amounted to UAH 29,200. The Ethics Council had reasonable doubts that the amount of income received by the candidate does not correspond to the salaries of attorneys and heads of law associations in the city of Kyiv, which may indicate an underestimation of the amount of their income for the purpose of tax evasion, as well as the truthfulness of the information indicated in the declarations.

After the request of the Ethics Council, A. O. Shulga provided a certificate signed by him as the director of this company, from the content of which it can be seen that the income of Alfa Information and Legal Service LLC for the period from 01.01.2021 to 31.12.2021 amounted to UAH 276,880. However, the Ethics Council had reasonable doubts about the candidate's integrity, given that after sending relevant requests, the law firm's income tripled over the year.

According to the Ethics Council, such actions of candidate cast doubt on his compliance with such an indicator of the criterion of professional ethics and integrity as honesty (paragraphs 1.3.2. of the Methodology).

According to Clause 1.3.7 of the Methodology, the sources of origin of the candidate's property are legal, the candidate's level of life or that of his family members corresponds to their declared and legal incomes, and the candidate's

lifestyle corresponds to his status in case there are no reasonable doubts to the contrary.

According to the declaration for 2020, on May 04, 2017, A. O. Shulga became the owner of an apartment with an area of 57 sq.m in the city of Kyiv (cost as of the date of purchase – 799 220 UAH).

According to the information from the State Register of real rights to immovable property, the right of ownership was acquired on the basis of a donation agreement dated May 04, 2017. As established by the Ethics Council, there are legal disputes about this apartment (case № 758/7576/17, case № 758/14694/17). In particular, according to the position of one of the parties to the case, the donation agreement under which A. O. Shulga received the specified property is an imaginary legal act.

Taking into account the above, the Ethical Council had reasonable doubts about the legality of the sources of origin of the property of candidate A. O. Shulga.

At the request of the Ethical Council, Shulga A. O. explained that Gorval O.V. is an old friend of his, so, despite her relatives, she decided to give him an apartment in the city of Kyiv. However, the candidate could not explain why Gorval O. V. soon decided to appeal the donation agreement in court.

Taking into account the abovementioned, the Ethics Council concluded that the candidate had failed to provide convincing and well-founded explanations confirming the legality of the sources of origin of the flat in the city of Kyiv, which Gorval O. V. presented to him. In this regard, the Ethics Council considers that there is a grounded doubt about compliance of A.O. Shulga to the paragraph 1.3.7. of the Methodology. And also, according to the Ethics Council, such actions of candidate cast doubt on his compliance with such an indicator of the criterion of professional ethics and integrity as honesty (paragraphs 1.3.2. of the Methodology), calls into question the candidate's compliance with ethical standards and demonstration of impeccable behavior in professional activities and personal life (paragraph 1.3.6. of the Methodology).

Thus, being governed by Rules 2.3, 3.2, 3.3 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 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 member of the High Council of Justice Shulga Andriy Oleksiyovych 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