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ETHICS COUNCIL

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Kyiv

DECISION

No. 22

***On non-compliance of candidate
for the position of the member of
the High Council of Justice Tykhovlis V.R.
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 Tykhovlis Viacheslav Romanovych 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(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 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 Tykhovlis Viacheslav Romanovych for participation in the competition for the position of a member of the High Council of Justice from the Verkhovna Rada of Ukraine.

Candidate Tykhovlis V. R. 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 examined the documents provided by Tykhovlis V. R. upon the Ethics Council’s request, his written explanations, information obtained from open sources and civil society organizations, information received from the National Agency on Corruption Prevention (hereinafter referred to as the NACP), National Anti-Corruption Bureau of Ukraine (hereinafter referred to as the NABU), having interviewed him, the Ethics Council has established the following.

When evaluating 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.

In accordance with Paragraph 1.3. of the Methodology indicators of the criteria 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.

The official annual income of Tykhovlis V. R. for 2019, 2020 and 2021 was 168 962 UAH, 79 107 UAH, and 61 032 UAH, respectively. The total family income in 2020 amounted to 411 220 UAH. At the same time, in the declaration for 2020, he or his family members did not own any monetary assets, the amount of which would be subject to indication in the declaration.

Since 2018, Tykhovlis V. R. founded his own Law Office of Viacheslav Tykhovlis, where he was the head. He explains his relatively small official income, as for an experienced lawyer and head of a law office, by the constant costs of developing a law office, paying salaries to employees of the bureau, and spending on office supplies.

At the same time, in 2020, Tykhovlis V. R. purchased an apartment in city of Kyiv with an area of 34,3 sq.m, the cost of which as of the date of acquisition of ownership (21.08.2020) was 1 381 742 UAH.

To the question of the Ethics Council regarding the source of origin of funds for which the candidate purchased an apartment in city of Kyiv, he explained that the apartment was purchased at the expense of family income and at the expense of funds received from his parents – Tykhovlis R. S. and Tykhovlis N. V.

When asked by the Ethics Council about the amount of funds that was received as a gift from Tykhovlis R. S. and Tykhovlis N. V. to purchase an apartment in city of Kyiv, Tykhovlis V. R. provided a different answer, indicating that in fact the apartment was purchased entirely for the parents' money, that is, the amount of funds received as a gift was 1 400 000 UAH. Later, Tykhovlis V. R. could not

explain why he initially provided a false answer to the members of the Ethics Council.

Explaining to the Ethics Council the origin of the funds that were accumulated by his parents, the candidate notes that in 1995 Tykhovlis R. S. and Tykhovlis N. V. joined the Garden Association and received for use two land plots with a total area of 0,12 hectares for gardening. Since then, parents have been engaged in gardening for their own needs, and the surplus grown seasonal products (fruit and berry crops) were sold at markets in town of Kamianske. The funds received from the sale of these products were used by parents to buy foreign currency (US dollars). The approximate amount that could be purchased based on the results of sales of products in the markets ranged from 500 to 2000 US dollars per month during the product trading period (from March to October of each year). The candidate notes that thus, the amount of funds received for the year from the sale of agricultural products amounted to approximately 8-15 thousand US dollars per year.

During the interview, the candidate indicated that selling surplus grown products Tykhovlis R. S. and Tykhovlis N. V. were able to accumulate 110 000 USD, some of which, namely 55 000 USD and was, the candidate notes, transferred in 2019 as a monetary gift to Tykhovlis R. V. for the purchase of an apartment in city of Kyiv, and, for the remaining savings in 2021, the candidate's father Tykhovlis R. S. purchased an apartment with a total area of 34,1 sq.m. and a cost of 1 593 000 UAH in city of Kyiv.

In addition, candidate's father Tykhovlis N. V. is the owner of two apartments with a total area of 82,1 sq.m. and 63,4 sq.m. in town of Kamianske, and the candidate Tykhovlis R. S. purchased an apartment with a total area of 41,1 sq.m.

At the same time, as the candidate noted in his previous response to the Ethics Council's request, the retired father has been seriously ill since 2019 and cannot move independently.

Thus, the Ethics Council had reasonable doubts about the legality of the sources of origin of funds for these real estate objects.

The Ethics Council notes numerous facts of conflicting responses provided by the candidate. Explanations of Tykhovlis V. R. changed not only during the provision of written answers, but also during the interview process.

Thus, explaining the legality of the source of origin of funds for the purchase of real estate objects by him and his parents, Tykhovlis V. R. provided answers that did not agree with each other. Also, explaining the motives of Tykhovlis R. S. buying an apartment in city of Kyiv in 2021, the candidate indicated that the apartment was purchased for further actual residence of his grandmother Tykhovliz M. S. However, in the previously provided answers, he claimed that back in 2017 Tykhovliz M. S. due to her advanced age and need for care was forced to move from Ternopil to town of Kamianske and live together with Tykhovlis R. S. and Tykhovlis N. V.

Taking into account the above, the Ethics Council had reasonable doubts about the legality of the sources of origin of the candidate's property and the compliance of his standard of living and family members with the declared and legal income. The Ethics Council considers that the sources of origin of funds for which Tykhovlis V. R. in 2020 purchased an apartment in the city of Kyiv worth 1 381 742 UAH, and his father Tykhovlis R. S. in 2021 purchased an apartment in the city of Kyiv, the cost of 1 593 000 UAH are not set. Explanation of Tykhovlis V. R. that his parents, Tykhovlis R. S. and Tykhovlis N. V., were able to accumulate a significant amount of funds, namely 110 000 USD, selling on the markets in Kamianske the surplus of seasonal agricultural products that were grown by them on land plots with a total area of 0,12 hectares is not convincing.

According to Paragraph 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, if there are no reasonable doubts to the contrary.

Having evaluated the explanations of Tykhovlis V. R., studied and analyzed documents, information from open sources, etc., the Ethics Council considers that the standard of living of Tykhovlis V. R. candidate and his family members does not correspond to the honesty in regard to the declared and legal income. In addition,

the Ethics Council had doubts about the candidate's integrity (Paragraphs 1.3.2, 1.3.7 of the Methodology).

According to Paragraph 1.3.7.6 of the Methodology, the candidate must meet the requirements of financial control defined by the anti-corruption legislation, in particular, regarding the timely submission of declarations, notifications of significant changes in property status, notifications of open accounts in banking and financial institutions (including abroad) and providing complete and accurate information in property declarations.

According to Paragraph 2 of Part 1 of Article 46 of the Law of Ukraine "On prevention of corruption", information about real estate objects belonging to the subject of declaration and members of his family on the right of private property, including common property, or are leased or otherwise used by them, regardless of the form of conclusion of the transaction, as a result of which such a right was acquired, is subject to indication in the declaration. Such information includes data on the type, characteristics of property, location, date of acquisition of property in ownership, lease or other right of use, value of property as of the date of acquisition of its ownership, possession or use.

Tykhovlis V. R. filed declarations for 2016 and 2017, which contained information about the value of real estate objects belonging to his wife Ivashchenko T. V., namely apartments with an area of 37,5 sq.m. and 66,4 sq.m. in city of Dnipro worth 29 377 UAH and 197 963 UAH, respectively. In the declaration for 2020, Tykhovlis V. R. notes that he does not know the value of the mentioned real estate objects.

At the request of the Ethics Council regarding discrepancies in the information submitted in the declarations for different periods, the candidate noted that the lack of value of real estate objects in the declaration for 2020 is explained by a change in the declaration form and its insufficient level of attention to filling out the declaration.

Accordingly, it can be concluded that Tykhovlis V. R. did not conscientiously respond to filling out the declaration for 2020 and did not provide complete and accurate information in his property declaration (Paragraph 1.3.7.6 of the Methodology).

According to Paragraph 3 of Part 1 of Article 46 of the Law of Ukraine "On prevention of corruption", information about valuable movable property, the value of which exceeds 100 subsistence minimums established for able-bodied persons as of January 1 of the reporting year, belonging to the subject of declaration or members of his family on the right of private property, including common property, or is in its possession or use, regardless of the form of the transaction, as a result of which such a right was acquired, is subject to indication in the declaration. Such information includes: data on the type of property, characteristics of the property, the date of its acquisition into ownership, possession or use, the value of the property as of the date of its acquisition into ownership, possession or use.

In the declaration for 2020, Tykhovlis V. R. indicated that he owns a 2013 Toyota Camry car by right of ownership, in the column "Cost as of the date of acquisition, possession or use or according to the last monetary assessment" he marked "unknown". To the clarifying question of the Ethics Council, the candidate explained that after registering the vehicle in the center of the Ministry of Internal Affairs, he did not have copies of documents for the car that would establish its cost, so the cost of the car was not indicated in the declaration. At the same time, after receiving a request from the Ethics Council, Tykhovlis V. R. turned to the service center of the Ministry of Internal Affairs and received copies of documents that were submitted during the state registration of the car and confirmed its cost.

During an interview with the Ethics Council, Tykhovlis V. R. recognized that when filling out the declaration for 2020, he did not exhaust all the opportunities for obtaining information about the cost of a car.

Thus, the Ethics Council considers that Tykhovlis V. R. does not comply with Paragraph 1.3.7.6 of the Methodology.

The Rules of Procedure of the Ethics Council provide that a candidate shall be found noncompliant with the professional ethics and integrity criterion if noncompliance is proved or there are reasonable doubts about compliance. (Paragraph 3.3. of the Rules of Procedure of the Ethics Council). In their totality, all the above circumstances established by the results of the interview, as well as the study and analysis of documents, information and materials received by the Ethics Council, undoubtedly prove that Tykhovlis V. R. does not meet the criteria of professional ethics and integrity, in particular such indicators as honesty (Paragraph 1.3.2. of Methodology) and the legality of the sources of origin of property, compliance of the standard of living of the candidate or his family members with the declared income, compliance of the candidate's lifestyle with his status (Paragraph 1.3.7. of Methodology), financial control requirements, in particular, regarding the provision of complete and accurate information in their property declarations (Paragraph 1.3.7.6 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 the member of the High Council of Justice Tykhovlis Viacheslav Romanovych 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