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ETHICS COUNCIL

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1 November 2022

Kyiv

DECISION

No. 60

***On non-compliance of the candidate
for the position of the member of the High Council of Justice
Eduard Mykolayovych Bondarev
with the professional ethics and integrity criteria
for 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 Eduard Mykolayovych Bondarev, 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 9¹ 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 the documents of E. M. Bondarev for participation in the competition for the position of the member of the High Council of Justice by the Congress of Judges of Ukraine and admitted him to the interview with Decision No. 33 of 21.07.2022.

Eduard Mykolaiovych Bondariev was appointed to the position of the judge of the Commercial Court of Dnipropetrovsk region for the term of five years with Decree No. 458/2009 of the President of Ukraine of 18.06.2009 and was appointed to the position of the judge of the Commercial Court of Dnipropetrovsk region indefinitely with Resolution No. 479VIII of the Verkhovna Rada of Ukraine of 21.05.2015.

Having studied documents provided by Eduard Mykolaiovych Bondariev 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 non-consistency of lifestyle to the declared income

As can be seen from the information specified in the candidate's annual Declarations, on June 4, 2007, E.M. Bondarev acquired ownership of an apartment with a total area of 31.50 square meters in the city of Dnipro, worth of UAH 358 835. However, according to the State Register of Individual Taxpayers, the official income of E. M. Bondarev from 1998 to 2007 was UAH 123 690.

In his explanations at the request of the Ethics Council, as well as during the interview, E. M. Bondarev mentioned that the sources of funds for the purchase of the apartment were his own savings, help from his parents, and salary received for the entire period of work from 1992 to 2007. However, he was unable to specify the exact amount of savings as of 2007 and the amount of assistance provided by his parents, explaining that it was impossible to foresee that in future there will be a requirement to report on this matter.

The Ethical Council, during the examination of the candidate, established that on February 16, 2009, E.M. Bondarev had acquired the ownership of a 20,10 sq. m. garage for UAH 41 000 in Dnipro. In July of the same year, the candidate purchased a 2008 Lexus RX 350 vehicle, the declared value of which was UAH 195 420.

In his written explanations, the candidate stated that the source of funds for the purchase of a garage and a car were also his own savings, help from his parents, and wages received for the entire period of work from 1992 to 2009.

At the same time, according to the information specified in the State Register of Individual Taxpayers, the candidate's income for the period from 1998 to 2008 was UAH 144 377. Thus, the candidate's expenses for year 2009 alone significantly exceed his legal income for the previous 10 years. Considering the fact that the candidate purchased a 31,50 sq. m. apartment in 2007 in Dnipro, and also taking into account the lack of any documented confirmation of the sources of funds for the purchase of the mentioned property, the Ethics Council considers his explanations in this part unconvincing.

During the evaluation of the candidate, it was also established that on October 17, 2012, E. M. Bondarev had purchased in Dnipro, a 19.70 sq. m. garage for UAH 49 960, and in December of the same year, a 55,50 sq. m. apartment in Dnipro for

UAH 34 743, in the same building where he already had bought an apartment in 2007 for UAH 123 690. The Ethics Council draws attention to the fact that the price of the apartment purchased in 2012, which is larger in area, compared to the candidate's other apartment, which was purchased in 2007, is several times less than the latter. In addition, according to the open sources, the cost of one square meter of housing in Dnipro (at that time - Dnipropetrovsk) averaged to UAH 8 070.¹ The fact that the apartment's declared value is lower than the value of the garage also raises doubts.

In his written explanations and during the interview, E. M. Bondarev again mentioned that the sources of income for making these expenses were his salary, his own savings for previous years and financial assistance from his mother.

According to the State Register of Individual Taxpayers, the income of the candidate's mother, L. M. Bondareva for the period from 1998 to 2012 amounted to UAH 84 553. The total amount of the candidate's income from 1998 to 2012 was UAH 544 569. The candidate did not provide to the Ethics Council information on other incomes.

Thus, during the evaluation of the candidate, the Ethics Council established circumstances that raise reasonable doubts about the legality of the sources of the candidate's property. Calculation of the amount of expenses incurred by the candidate for the acquisition of immovable and movable property and comparison of his income vs. expenses give the Ethics Council grounds for reasonable doubt regarding his compliance with such indicators of the criterion of professional ethics and integrity as honesty (cl. 1.3.2. of the Methodology) and the legality of the sources of origin of the property (cl. 1.3.7. of the Methodology).

2. Regarding the legality of the candidate's family members sources of income

¹ https://24tv.ua/economy/tsini_na_zhitlo_v_osnovnih_mistah_kv_m_n194518,
<https://www.epravda.com.ua/publications/2012/02/8/315441/>

During the evaluation of the candidate, the Ethics Council established circumstances that raise reasonable doubts about the legality of the sources of origin of the candidate's family members property.

E.M. Bondarev in his annual 2020 and 2021 Declarations declared cash in the amount of UAH 1 750 000, which are owned by his wife. However, the candidate was unable to provide documents that would confirm the legality of the sources of origin of these funds, referring to the fact that his wife had accumulated these funds during her previous marriage.

On August 6, 2020, the candidate's wife had acquired ownership of several non-residential premises, with a total value of UAH 585 000, in the village of Dyakivka, Sumy oblast. In his explanations, the candidate indicated that she purchased the specified non-residential premises for the purpose of creating an agricultural enterprise to conduct entrepreneurial activities and to provide employment opportunities for the residents of the village. With regards to the sources of the wife's funds, the candidate stated that he cannot provide documents that confirm the source of her funds for the purchase of mentioned non-residential premises, since these were his wife's own savings, acquired before they registered marriage and started living together.

At the same time, according to the information available in the State Register of Individual Taxpayers, the total income of the candidate's wife from 1998 to 2021 was UAH 193 246. The candidate did not provide other documents that would confirm the legality of the sources of his wife's income.

And according to Article 18 of the Code of Judicial Ethics, a judge shall be aware of his financial interests and take reasonable steps to be aware of the financial interests of his family members. Same provisions are contained in Article 4.7 of the Bangalore Principles of Judicial Conduct.

In view of the above, the Ethics Council believes that there are reasonable doubts of non-consistency of the candidate's family members lifestyle to their declared and legal income (cl. 1.3.7. 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 Eduard Mykolayovych Bondarev 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