



ЕТИЧНА РАДА

01601, м. Київ, вул. Липська, 18/5,
тел.: (044) 277-76-29, (044) 277-76-32
e-mail: ec@court.gov.ua

ETHICS COUNCIL

01601, Kyiv, Lypska St., 18/5,
tel.: (044) 277-76-29, (044) 277-76-32
e-mail: ec@court.gov.ua

1 November 2022

Kyiv

DECISION

No. 67

***On non-compliance of candidate
for the position of the member of the High Council of Justice
Olesia Vasylivna Batryn
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 Batryn Olesia Vasylivna 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 documents submitted by Batryn Olesia Vasylivna 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 her to the interview with Decision No. 33 of 21.07.2022.

O. V. Batryn was transferred to the position of judge of the Pechersk District Court of Kyiv by the Decree of the President of Ukraine No. 60/2010 dated January 22, 2010, which she holds until now.

With Decree No. 60/2010 of the President of Ukraine of 22.01.2010 Olesia Vasylivna Batryn was transferred to the position of the judge of Pecherskyi District Court of Kyiv which she has held till now.

Having studied documents provided by Batryn O. V. for participating in the competition, her 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 her, the Ethics Council has reached the following conclusions.

1. Regarding the legality of the sources of origin of the apartment used by the candidate

According to O. V. Batryn's property declarations for 2014-2017, from 2010 to 2017, she had the right to use an apartment with a total area of 33.7 square meters. m. in Kyiv, where she has lived permanently since 2010.

In her written responses to the Ethics Council requests and during the interview, Batryn O. V. explained that this apartment was owned by her mother, Batryn L. Yu. owned by the mother, the candidate is unaware of this, since the mother did not have a copy of the sales contract - since the sale of the apartment, it has been kept in the notarial file. Given her mother's advanced age and martial law in effect, it seems problematic for the candidate to obtain relevant documents in state and notarial archives.

As for the source of the funds for the purchase of this apartment, O. V. Batryn explained that her parents purchased the specified apartment with their savings and funds obtained from the sale of her grandmother's inherited house in the village of Snitkiv, Vinnytsia region.

At the interview, the candidate mentioned another source of funds for the purchase of an apartment — funds that her parents received from selling a three-room apartment in the district centre. O. V. Batryn did not specify the cost and location of such an apartment.

In addition, the candidate's mother also owned an apartment in the city of Kharkiv with a total area of 41 square meters from 03.12.2012 to 12.03.2021. m., the cost on the purchase date was UAH 314,000.00. The candidate's sister used to live there. According to the written explanations of O. V. Batryn, her mother purchased this apartment with the funds she received on 03.12.2012 from PJSC AB "UkrGasbank" in the form of a loan of UAH 174,000.00, funds from the sale of the apartment mentioned above in the village of Yaryshivka Vinnytsia region, own savings and savings of the husband (candidate's father), as well as funds from the sale of real estate of the candidate's paternal grandparents. In particular, the

candidate mentions the sale of his grandparent's house in the village of Kushnytsia, Zakarpattia region. Still, in his explanations, he does not indicate the area of the house, its value, and the year of its sale.

The candidate did not provide any documents related to the acquisition and alienation of real estate by members of her family since, according to her, they have not been preserved, and their restoration seems problematic to her since the specified transactions were committed before 2012, the candidate's father died, and Ukraine is under martial law.

At the same time, according to the information of the State Register of Taxpayers, the income of the candidate's mother, Batryn L. Yu., in the period from 1998 to 2012, amounted to UAH 214,621.00.

According to cl. 1.3 of the Methodology, one of the indicators of the criterion of professional ethics and integrity is the absence of doubts about the legality of the sources of origin of the candidate's property. The sources of origin of the candidate's property are legal, in particular, if there are no reasonable doubts to the contrary (cl. 1.3.7 of the Methodology). In addition, by cl. 1.3.7.4 According to the Methodology, if the candidate acquired the property for use free of charge, the previous owner (in the case of transfer of property for possession or use - the current owner), who provided such property, must do so from legitimate income.

Having analyzed the documents provided by the candidate and her explanation, the Ethics Council has reasonable doubts about the legality of the sources of funds for the purchase of an apartment in the city of Kyiv by the candidate's mother, where O. V. Batryn used to live.

Thus, the Ethics Council has reasonable doubts about the candidate's compliance with such an indicator of the criterion of professional ethics and integrity as the legality of the sources of origin of the candidate's property (cl. 1.3.7 of the Methodology).

2. Regarding the legality of the sources of funds for the purchase of the apartment and the parking space used by the candidate

According to O. V. Batryn's declaration for 2021, from 04/01/2018 until now, she has the right to use an apartment with a total area of 108.6 square meters. m. (valued at UAH 2,123,036.00) and a parking space (car space in the underground parking lot - from the declaration) with an area of 20.1 square meters. m. and (valued at UAH 382,075.00) in the city of Kyiv.

The owner of this real estate since October 17, 2017 and January 11, 2018, respectively, is S. O. Teremetska. She is the candidate's former mother-in-law.

According to Batryn O. V.'s written explanations, she divorced her ex-husband V. I. Teremetskyi on 07/25/2007. However, after the divorce, the ex-husband's mother offered the candidate to temporarily live in the apartment mentioned above and take care of her.

Thus, half a year after S.O. Teremetska purchased an apartment in Kyiv, the candidate began to live in it free of charge, paying only for utilities. According to the candidate, this apartment was unfurnished at the time of purchase, without repairs, communications, furniture, or appliances. Teremetska S.O., according to the candidate, additionally furnished and bought all this with her funds.

At the same time, the candidate confirmed that she was the first and only person who ever lived in this apartment. As for her ex-husband, V.I. Teremetskyi, his permanent place of residence has always been the city of Kharkiv, but in connection with the artillery shelling of the city by the armed forces of the Russian Federation, he has been temporarily living in the city of Kyiv in the apartment of an acquaintance since April 12, 2022.

At the request of the Ethics Council regarding the sources of her former mother-in-law's funds for the purchase of an apartment and a parking space (car space in the underground parking lot - from the candidate's declaration), O. V. Batryn stated that she was not sure of such information. She reported that S.O. Teremetska is an individual entrepreneur and receives income from renting out her real estate. In addition, in 2017, Teremetska S. O. inherited from the deceased Yu.

V. Zhukovsky, whom she cared for, an apartment and a plot of land in Kharkiv, a Geely car, USD 100,000.00 cash, and jewelry. According to the candidate, S.O. Teremetska sold the car mentioned above and used the proceeds from its sale and inherited cash to purchase an apartment and a parking space (car space) in Kyiv.

At the same time, according to the certificate from the State Register of Individuals - Taxpayers, the income of Teremetska S.O. in the period from 1998 to 2018 amounted to UAH 949,697.00. Thus, the total value of real estate purchased in 2018 by the candidate's former mother-in-law (UAH 2,505,111.00), excluding the costs of repairing and furnishing the apartment, is 2.5 times higher than her officially declared income.

In addition, O. V. Batryn did not provide any documentary evidence of the inheritance of cash funds by her former mother-in-law from Yu. V. Zhukovsky. The candidate explained this by the fact that the certificate of ownership of the inheritance of cash funds was not issued, as this was not provided for legislation. According to her, the documents from the sale of the car were also not preserved. Therefore, the candidate was unable to document the source of her ex-husband's mother's funds for the purchase of two real estate properties that the candidate uses.

According to cl. 1.3 of the Methodology, one of the indicators of the criterion of professional ethics and integrity is the absence of doubts about the legality of the sources of origin of the candidate's property. The sources of origin of the candidate's property are legal, mainly if there are no reasonable doubts to the contrary (cl. 1.3.7 of the Methodology). In addition, according to cl. 1.3.7.4 of the Methodology, if the candidate acquired the property for use free of charge, the previous owner (in the case of transfer of property for possession or use - the current owner), who provided such property, must do so from legitimate income.

The Ethics Council draws attention to the fact that by cl. 4.7 of the Bangalore principles, a judge, must be aware of his personal and material interests of a confidential nature and must take reasonable steps to obtain information about the material interests of his family members. Given that the candidate used her former mother-in-law's apartment free of charge for four years, she should have been aware

of the legality of the sources of funds for the purchase of the specified real estate and should have taken reasonable steps to establish the specified information at the request of the Ethics Council.

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 Olesia Vasylivna Batryn 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