

he accepted to examine the complaints on illegal searches submitted almost two months after the searches, while the legal provisions clearly provided a timeframe of 10 days for challenges the searches (art 313 para. (3) of the Criminal Procedure Code, in force in 2008). The candidate provided further explanation in writing after the hearing. However, in his explanations the candidate contradicted what was stated in the decision. Namely, he told the Commission that the petitioners were not present during the searches whereas the 15 August 2008 decision clearly indicates at least regarding two petitioners that they were present. The lack of a clear explanation of the reasons why the candidate accepted the examination of the complaints beyond the framework provided by law and contradictory explanations provided by the candidate contribute to the serious doubts about the candidate's lack of impartiality in examining these complaints. At a minimum, the candidate upholding challenges to a search of his former lawyer's premises that might have been time-barred contributes to an appearance of bias and impropriety.

In light of above circumstances, the Commission has serious doubts (art. 12 para. (5) of Law No. 26/2022) about the compliance of the candidate with the criterion of ethical integrity as per art. 8 para. (2) lit. a) of Law No. 26/2022 with respect to the candidate's failure to recuse himself in a decision that was related to a criminal case against his former lawyer, which have not been mitigated by the candidate.

IV. Decision

Based on art. 8 para. (1) and (2) lit. a) and art. 13 para. (5) of Law No. 26/2022, the Commission decided that the candidate does not meet the integrity criteria as serious doubts have been found as to the candidate's compliance with the ethical integrity criterion and thus fails the evaluation.

V. Appeal and publication of the decision

Pursuant to art. 14 para. (1) of Law No. 26/2022, the candidate is entitled to appeal this decision within 5 days from receiving the decision.

Pursuant to art. 13 para. (7) of Law No. 26/2022, this decision is sent by email to the candidate and to the institution responsible for organizing the election or competition, which in the present case is the Superior Council of Magistracy. If within 48 hours of sending the decision, the candidate does not notify the Commission of his or her refusal to publish the decision, the decision shall be published on the website of the Superior Council of Magistracy in a depersonalized form, except for the surname and first name of the candidate that remain public. The Commission will also publish the decision on its website if the candidate does not object to publication.

This decision was adopted unanimously by all participating members of the Commission.

Done in English and translated into Romanian.

Signature:



Herman von HEBEL
Chairman, Commission