

January 2023, the Commission sent a notification to the candidates who had been submitted for evaluation by the Superior Council of Prosecutors, including the candidate, that the Commission would soon send the 5-year declaration. To give the candidates more time to prepare the information needed to complete the 5-year declaration and annual declarations and to assist them in doing so, the Commission resent the 5-year declaration form and models of the 5-year declaration and an annual declaration of assets and personal interests completed with fictitious data for illustration, similar to the message that was sent on 23 January 2023.

The Commission sent requests for the submission of asset declarations to 18 candidates for the Superior Council of Prosecutors on 23 January 2023. All others than the candidate complied satisfactorily with the 30 January 2023 deadline.

The law

Art. 9 para. (2) of Law No. 26/2022 provides that, when starting the evaluation procedure, the Commission shall request that the candidate submit a declaration of assets and personal interests and a declaration concerning the list of close persons in the judiciary, prosecution and public service. “The aforementioned declarations shall be submitted within 7 days of the request. Failure to submit this information on time constitutes ground for the Commission to find that the candidate failed the evaluation.”

Decision

Based on art. 9 para. (2) of Law No. 26/2022, the Commission concludes that the candidate failed the evaluation based on the candidate’s failure to submit the 5-year declaration.

Art. 9 para. (2) of Law No. 26/2022 does not identify any bases to excuse a late filing. In the view of the Commission, a showing of extraordinary cause would be necessary to excuse a late filing, specifically circumstances of such a nature that, if not taken into consideration, would amount to gross injustice to the candidate. In the message from the candidate on 1 February 2023, the candidate stated that he had been on medical leave, apparently as the reason for not complying with the deadline, and informing the Commission that his declaration would be sent that same day. That reason was not further elaborated or substantiated. In the view of the Commission, that reason without further elaboration or substantiation does not amount to extraordinary circumstances justifying a late filing of the required declaration. Moreover, all of the other 17 candidates for the Superior Council of Prosecutors that were sent the asset declaration form for completion by the 30 January 2023 deadline, complied satisfactorily with the deadline. Under these circumstances, the candidate’s failure to submit the 5-year declaration cannot be excused.

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 Prosecutors. 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 Prosecutors 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