



Independent Evaluation Commission for assessing the integrity of candidates
for the position of member in the self-administration bodies of judges and prosecutors

Comisia independentă de evaluare a integrității candidaților la funcția
de membru în organele de autoadministrare ale judecătorilor și procurorilor

*Decision No. 1 of 7 February 2023 on the Candidacy of Vasile STOINOV,
Candidate for the Superior Council of Prosecutors*

The Independent Evaluation Commission for assessing the integrity of candidates for the position of member in the self-administration bodies of judges and prosecutors (“the Commission”) deliberated in private on 7 February 2023. The members participating were:

1. Herman von HEBEL
2. Victoria HENLEY
3. Nadejda HRIPTIEVSCHI
4. Vitalie MIRON
5. Tatiana RĂDUCANU
6. Nona TSOTSORIA

The Commission delivers the following decision which was adopted on that date:

The facts

Vasile STOINOV, prosecutor in Prosecutor’s Office for Combating Organized Crimes and Special Cases, South office (“the candidate”) is a candidate for the position of member of the Superior Council of Prosecutors.

On 23 January 2023 the Commission sent a request to the candidate for completing and submitting the Declaration of assets and personal interests for the past 5 years (hereinafter “5-year declaration”) as required by art. 9 para. (2) of Law No. 26/2022 on certain measures relating to the selection of candidates for position as a member of the self-administration bodies of the judges and prosecutors (hereinafter “Law No. 26/2022”). The declaration also includes the list of close persons in the judiciary, prosecution and public service, as required by the same article. The candidate’s declaration was to be returned to the Commission by 30 January 2023.

On 1 February 2023, staff at the Commission’s Secretariat tried twice to reach the candidate by telephone regarding the 5-year declaration. On 1 February 2023, the Commission received a telephone message from the candidate, to the effect that he would send the 5-year declaration that day. The candidate stated that he was on medical leave but gave no further details. No 5-year declaration was submitted by the candidate.

The Commission sent all candidates for the position of member in the self-administration bodies of judges and prosecutors, including the candidate, a draft 5-year declaration form on 2 June 2022 to allow them to start collecting data and to raise any issues or concerns. The draft and final versions of the 5-year declaration form were almost identical in terms of the data needed to be declared. The only addition was a few columns added to the section of the declaration form relating to candidates’ travel, in order to obtain greater detail about travel. Moreover, on 13

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