



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. 25 of 10 March 2023 on the Candidacy of Ion GUZUN,  
Candidate for the Superior Council of Magistracy*

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 2 March 2023 and 10 March 2023. The members participating were:

1. Herman von HEBEL
2. Victoria HENLEY
3. Vitalie MIRON
4. Nona TSOTSORIA

Nadejda HRIPTIEVSCHI and Tatiana RĂDUCANU were recused from this matter and did not participate.

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

*I. The procedure*

Ion GUZUN, currently working as a lawyer and Director of the Secretariat of the Independent Anticorruption Advisory Committee (“the candidate”), was on the list of candidates submitted by the Parliament on 9 June 2022 for evaluation for the position of member of the Superior Council of Magistracy. The candidate has been a licensed lawyer and member of the Moldovan Lawyer’s Union since 2013. The candidate has over fourteen years’ experience working in various international and national organizations and serving as a consultant and legal expert, including legal advisor for “Legal Resources Center from Moldova” (2010-2021) and consultant and legal expert in various projects for UNDP, World Bank and Council of Europe (2008-2022). The candidate is also a member of the SCM Board for selection and career of judges (2021-present).

On 21 June 2022 the Commission sent an ethics questionnaire to the candidate to be filled in voluntarily and returned to the Commission by 5 July 2022. The candidate submitted the completed questionnaire to the Commission on 4 July 2022.

On 27 December 2022 the Commission sent a request to the candidate for completing and submitting by 3 January 2023 the Declaration of assets and personal interests for the past 5 years 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 submitted a completed declaration to the Commission on 3 January 2023.

The Commission obtained information from numerous sources in order to assess the candidate’s financial and ethical integrity. The sources from which information was obtained concerning evaluated candidates generally included the National Integrity Authority, State Fiscal Service,

General Inspectorate of Border Police, financial institutions, public institutions, open sources such as social media and investigative journalism reports and reports from members of civil society. Not all sources produced information concerning each candidate and not all of the information produced by sources about a candidate was pertinent to the Commission's assessment. All information received was carefully screened for accuracy and relevance.

To the extent that issues were raised from the candidate's declaration and questionnaire and collected information, those issues were raised in written questions with the candidate and during the public hearing.

*Written communication with candidate:*

On 31 January 2023, the Commission sent to the candidate a request for clarifying information, containing 17 questions, including 50 sub-questions and 23 requests for further documentation. The Commission asked the candidate to reply to these questions by 4 February 2023. The candidate replied within the requested time period on 4 February 2023 to most questions and provided most of the requested documentation.

On 13 February 2023, the Commission sent to the candidate a second round of questions, containing three questions, including seven sub-questions and three requests for further documentation. The Commission asked the candidate to reply to these questions by 16 February 2023. On 16 February 2023 the candidate replied to the Commission's second round of questions within the requested time period and provided most of the documents requested by the Commission.

Following the candidate's request, on 27 February 2023 the candidate was granted access to the evaluation materials according to art. 12 para. (4) lit. c) of Law No. 26/2022.

On 2 March 2023, the candidate took part in a public hearing of the Commission. At the outset of the public hearing, the Chairman noted that, on 1 March 2023, the candidate had filed a notice of conflict of interest with respect to commission members Nadejda HRIPTIEVSCHI and Tatiana RĂDUCANU. The Chairman stated that commission member Nadejda HRIPTIEVSCHI had been recused from this matter as of 7 July 2022 and Tatiana RĂDUCANU was recused on 21 February 2023 and further stated that the Commission had not promptly provided the candidate notice of those decisions. The Chairperson stated that since the members were recused and the decisions had now been provided to the candidate, the Commission considered the matter moot. The candidate concurred.

*II. The law relating to the evaluation*

The Commission's evaluation of candidates' integrity consists of verifying their ethical integrity and financial integrity (art. 8 para. (1) of Law No. 26/2022).

Art. 8 para. (2) of Law No. 26/2022 provides that a candidate is deemed to meet the criterion of *ethical integrity* if:

- a) he/she has not seriously violated the rules of ethics and professional conduct of judges, prosecutors or, where applicable, other professions, and has not committed, in his/her activity, any wrongful actions or inactions, which would be inexplicable from the point of view of a legal professional and an impartial observer;
- b) there are no reasonable suspicions that the candidate has committed corruption acts, acts related to corruption or corruptible acts, within the meaning of the Law on Integrity No. 82/2017;
- c) has not violated the legal regime of declaring personal assets and interests, conflicts of interest, incompatibilities, restrictions and/or limitations.

For lawyers, the *Code of Ethics of Lawyers from the Republic of Moldova*, adopted by Congress of Lawyers on 20 December 2002, with amendments adopted by Congress of Lawyers of 23 March 2007 and 1 July 2016, was applied over the period of time covered by the evaluation.

Art. 8 para. (4) of Law No. 26/2022 provides that a candidate shall be deemed to meet the criterion of *financial integrity* if:

- a) the candidate's assets have been declared in the manner established by law;
- b) the Evaluation Commission finds that his/her wealth acquired in the last 15 years corresponds to the declared revenues.

Art. 2 para. (2) of Law No. 26/2022 provides that the evaluation of candidates includes a verification of the assets of persons close to candidates, as defined in Law No. 133/2016 on declaration of assets and personal interests, as well as of the persons referred to in art. 33 para. (4) and (5) of Law No. 132/2016 on the National Integrity Authority.

Art. 8 para. (5) of Law No. 26/2022 provides that in order to assess the applicant's financial integrity, the Commission is required to verify the following:

- a) compliance by the candidate with the tax regime in the part related to the payment of taxes when using the means and income derived from the property held, as well as taxable income and the payment of import duty and export duty;
- b) compliance by the candidate with the regime of declaring assets and personal interests;
- c) the method of acquiring the property owned or possessed by the candidate or persons referred to in art. 2 para. (2), as well as the expenses associated with the maintenance of such assets;
- d) the sources of income of the candidate and, where appropriate, of the persons referred to in art. 2 para. (2);
- e) existence or not of loan, credit, leasing, insurance or other contracts capable of providing financial benefits, in which the candidate, the person defined in art. 2 para. (2) thereof, or the legal entity in which they are beneficial owners, is a contracting party;
- f) whether or not donations exist, in which the candidate or the person established in art. 2 para. (2) has the status of donor or recipient of donation;
- g) other relevant aspects to clarify the origin and justification of the candidate's wealth.

In assessing and deciding upon the criteria related to financial and ethical integrity, the Commission is not to depend on the findings of other bodies competent in the field concerned. (art. 8 para. (6) of Law No. 26/2022). The Commission is required to assess the information gathered about candidates using its own judgment, formed as a result of multi-faceted, comprehensive and objective review of the information. None of the submitted materials has a predetermined probative value without being assessed by the Commission. (art. 10 para. (9) of Law No. 26/2022).

A candidate shall be deemed not to meet the integrity criteria if serious doubts have been found as to the candidate's compliance with the above-listed requirements which have not been mitigated by the evaluated person (art. 13 para. (5) of Law No. 26/2022). As noted in the recent Venice Report on vetting in Kosovo, "In a system of prior integrity checks, the decision not to recruit a candidate can be justified in case of mere doubt, on the basis of a risk assessment. However, the decision to negatively assess a current post holder should be linked to an indication of impropriety, for instance inexplicable wealth, even if it cannot be proven beyond doubt that this wealth does come from illegal sources." Also, "[I]n other investigations like wider integrity checking the burden of proof will be discharged on the balance of probability." Venice Commission, CDL-AD(2022)011-e, Kosovo - Opinion on the Concept Paper on the Vetting of Judges and Prosecutors and draft amendments to the Constitution, adopted by the Venice Commission at its 131st Plenary Session (Venice, 17-18 June 2022), §§10,9.

Shifting the burden of proof to the candidate, once the evaluating body has identified integrity issues, has been found permissible by the European Court of Human Rights, even in the vetting of sitting judges who may lose their positions or otherwise be sanctioned as a consequence of the evaluation. In *Xhoxhaj v. Albania*, no. 15227/19, §352, 31 May 2021 the Court stated that "it is not per se arbitrary, for the purposes of the "civil" limb of Article 6 § 1 of the Convention, that the burden of proof shifted onto the applicant in the vetting proceedings after the IQC [Independent Qualification Commission] had made available the preliminary findings resulting from the conclusion of the investigation and had given access to the evidence in the case file."

Under art. 5 para. (1) of the Evaluation Rules of the Independent Evaluation Commission for assessing the integrity of candidates for the position of member in the self-administrative bodies of judges and prosecutors, pursuant to Law No.26/2022, of 2 May 2022 (hereinafter "Evaluation Rules"), only if a candidate fully meets all of the indicators set for the in art. 8 para. (2)-(4) of Law No.26/2022 does the candidate satisfy the criterion of "ethical and financial integrity."

### *III. Evaluation of the candidate*

The candidate was asked at the hearing about the following financial and ethical issues.

- 1) Non-disclosure of income from three sources in the 2019 declaration submitted to the Commission*

a. *The facts*

According to the candidate's FVID (2019) Tax Form<sup>1</sup>, he received total gross taxable income of 547,214 MDL in 2019, including:

- 2,750 MDL from "Platform for active citizenship and partnership for human rights";
- 90,531 MDL as dividends from "LLC ASAP Media";
- 43,169 MDL from "The Academy of Economic Studies of Moldova";
- 2,125 MDL from "A.O. Independent Press Association";
- 431,321 MDL from "Legal Resources Center from Moldova";
- 2,735 MDL from "Representation of the Konrad Adenauer Foundation in the Republic of Moldova";
- 1,583 MDL from "A.O. National Center for the Environment".

In the candidate's 2019 declaration submitted to the Commission during the evaluation process, he did not declare income of 2,735 MDL and 1,583 MDL received as salary from "*Representation of the Konrad Adenauer Foundation in the Republic of Moldova*" and from "*A.O. National Center for the Environment*" respectively. He also did not disclose 90,531 MDL received as dividends from "*LLC ASAP Media.*" The amount of income not declared in the candidate's 2019 Declaration totaled 94,849 MDL.

In response to questions from the Commission and at the public hearing, the candidate acknowledged the accuracy of the figures indicated above. According to the candidate, he failed to declare the income of 2,735 MDL from "*Representation of the Konrad Adenauer Foundation in the Republic of Moldova*" and 1,583 MDL received from "*A.O. National Center for the Environment*" by omission. He explained that in his CET2019 Tax Form he listed the amount of 483,684 MDL as total income received from "salary," which included the income received from "*Representation of the Konrad Adenauer Foundation in the Republic of Moldova*" and from "*A.O. National Center for the Environment.*" Therefore, this income was declared to the Tax Office and the candidate paid tax on this income. The candidate also informed the Commission that the omission to declare these sums to the Commission occurred because when he completed his declaration to the Commission, he used the information he received from the organizations that had paid him income in the form of salary. He stated that he noticed that he had not received such information from the "*Konrad Adenauer Foundation in the Republic of Moldova*" and from the "*A.O. National Center for the Environment.*" Accordingly, he stated that this information was missing from the calculations he prepared in his annual declarations submitted to the Commission. At the hearing, the candidate noted that because of the nature of his work, he receives income from multiple sources and does his best to keep track of all of the necessary information.

Regarding the sum of 90,531 MDL received as dividends in 2019 from "*LLC ASAP-Media,*" the candidate's business, in response to questions from the Commission, the candidate stated that he was not aware of this sum until he received the Commission's questions. He recognized that this

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<sup>1</sup> Represents an internal document of the Tax Office which provides the information regarding the income tax withheld at the source of payment from the income received during the period under verification.

amount appears in his Citizen's Government Portal and he did not contest the correctness of this information. The candidate submitted to the Commission a corrected version of his 2019 Declaration in which he included the additional income of 94,849 MDL that he had failed to declare in his earlier declaration.

The candidate's 2019 sources of income and what was recorded with State Fiscal Services is set forth in the following table.

Source of income	Declaration submitted to the Commission	FVID2019	CET2019
Declared income from salary	-	-	483,684 MDL total
A.O. Legal Resources Center from Moldova (CRJM) – <i>salary</i>	431,321 MDL	431,321 MDL	included in total
The Academy of Economic Studies of Moldova (ASEM) – <i>salary</i>	43,169 MDL	43,169 MDL	included in total
A.O. Platform for active citizenship and partnership for human rights – <i>salary</i>	2,750 MDL	2,750 MDL	included in total
A.O. Independent Press Association (API) – <i>salary</i>	2,125 MDL	2,125 MDL	included in total
Representation of the Konrad Adenauer Foundation in the Republic of Moldova – <i>salary</i>	<b>undeclared</b>	2,735 MDL	included in total
A.O. National Center for the Environment – <i>salary</i>	<b>undeclared</b>	1,583 MDL	included in total
LLC ASAP Media – <i>dividends</i>	<b>undeclared</b>	90,531 MDL	not included - exempt
<b>Total</b>	<b>479,365 MDL</b>	<b>574,214 MDL</b>	<b>483,684 MDL</b>

*b. The law*

In determining whether a candidate meets the criterion of financial integrity, the Commission must verify that the candidate has complied with the legal regime of declaring assets and personal interests as per art. 8 para. (4) lit. a) and para. (5) lit. b) of Law No. 26/2022.

A candidate does not meet the criterion of financial integrity under article 8 para. (4) lit. a) of Law No. 26/2022 when assets have not been declared in the manner required by law. A finding that the candidate has violated the legal regime of declaring personal assets and interests is a failure to meet the criterion of ethical integrity under art. 8 para. (2) lit. c).

Art. 8 para. (5) lit. d) of Law No. 26/2022 provides that in order to assess the candidate's financial integrity, the Commission is required to verify the sources of income of the candidate and, where appropriate, of the persons referred to in art. 2 para. (2).

According to art. 9 para. (2) of Law No. 26/2022, the Evaluation Commission shall request the candidate to submit to the Commission a declaration of assets and personal interests with the updated data for the past 5 years, including the expenses of that period.

The Evaluation Rules state that undeclared income or expenditures are relevant for financial integrity, including but not limited to insofar as they relate to prohibited secondary incomes, tax evasion, or violation of anti-money laundering provisions. (art. 6 para. (1)). The rules also provide that the Annex to the Evaluation Rules defines the method for calculating undeclared wealth. (art. 6 para. (2) )

According to art.80<sup>1</sup> and art.90<sup>1</sup> para. (3<sup>1</sup>) of the Fiscal Code, the taxes for income received from dividends, are retained at the source of payment.

### *c. Reasoning*

The Commission is required to verify that the candidate has complied with the legal regime of declaring assets and personal interests, as per art. 8 para. (2) lit. c), para. (4) lit. a) and para. (5) lit. b) of Law No. 26/2022.

According to the Law No.133/2016 on declaration of assets and personal interests, the candidate was required to declare income obtained by him and family members in the previous fiscal year. The candidate failed to declare income from three sources totaling 94,849 MDL.

With respect to the income of 2,735 MDL from “*Representation of the Konrad Adenauer Foundation in the Republic of Moldova*” and 1,583 MDL received from “*A.O. National Center for the Environment,*” the candidate explained that he had not received notification from the organizations about the salary paid to him in 2019 and thus he omitted them from the declaration to the Commission. Because of the nature of the candidate’s work, he receives income from multiple sources and relies upon the notifications. The income was fully declared to tax authorities and the candidate paid taxes on the income, which undercuts any notion that the candidate was trying to hide income to avoid taxes or for some other reason. There was no benefit or advantage to the candidate from the non-disclosure to the Commission.

Regarding the sum of 90,531 MDL received as dividends in 2019 from “*LLC ASAP-Media*” the candidate’s business, the candidate apparently forgot this income until he received the Commission’s questions. According to art.80<sup>1</sup> and art.90<sup>1</sup> para. (3<sup>1</sup>) of the Fiscal Code, the taxes for income received from dividends, are retained at the source of payment so there were no omitted or outstanding taxes for the sum of 90,531 MDL received as dividends in 2019 from “*LLC ASAP-Media.*” Again, there was no benefit or advantage to the candidate from the non-disclosure to the Commission.

The candidate submitted to the Commission with his responses to the Commission’s first set of questions a corrected version of his 2019 declaration in which he included the additional income of 94,849 MDL that he had failed to declare in his earlier declaration.

As with annual declarations filed with the National Integrity Authority, the declarations filed with

the Commission as part of the evaluation of candidates for leadership positions in the judiciary serve a critical role in the assessment of the financial and ethical integrity of candidates. The Evaluation Rules state that undeclared income or expenditures are relevant for financial integrity, insofar items have not been declared truthfully, and for ethical integrity, including but not limited to insofar they relate to prohibited secondary incomes, tax evasion, or violation of anti-money laundering provisions. (art. 6 para. (1)). A failure to declare income necessarily raises concerns about financial and ethical integrity. As noted in other decisions, the Commission must consider factors including the amount of income not declared, the type or source of the income, whether there is corroboration for the source and amount of the income and the reliability of that corroboration. In this instance, the amount of the income was relatively modest, and the sources were legitimate and documented. All income required to be reported to tax authorities was reported and all required taxes were paid. Thus, the candidate's omission appeared to be an unintentional oversight. Nonetheless, it was not consistent with the requirements of the legal regime for declaring assets and personal interests. In assessing the impact of this on the Commission's concerns, the Commission noted that the candidate responded forthrightly and completely when asked about the omissions and, on his own initiative, filed an amended declaration together with his answers to the Commission's questions. In so doing, the candidate mitigated the Commission concerns.

In light of the above circumstances, the Commission determined that its concerns regarding the candidate's non-declaration of income from three sources in his 2019 declaration to the Commission were mitigated by the candidate and the Commission did not have serious doubts (art. 13 para. (5) of Law No. 26/2022) as to the candidate's compliance with the criteria of financial and ethical integrity as per art. 8 para. (2) lit. c), (4) lit. a) and (5) lit. b) of Law No. 26/2022 with respect to the issue of non-declaration of the income from three sources in his 2019 declaration to the Commission.

## *2. Failure to disclosure bank accounts in 2021 NIA declaration in the manner prescribed by law*

### *a. The facts*

According to information from tax authorities, in 2021 the candidate and his wife had 8 bank accounts opened in their names, as follows:

- Bank Account No. 1 – a checking account in RON currency opened in a Romanian bank account in the candidate's wife's name; balance of 6,161 RON (est. 26,184 MDL) in the account when the candidate's 2021 declaration was submitted.
- Bank Account No. 2 – a checking account in EUR currency opened in the candidate's name in 2020. This account was used to receive various forms of remuneration from Business and Strategies Europe. In 2021 the account had incoming cash-flow of 18,600 EUR (est. 379,685 MDL) and outgoing cash-flow of 236,481 MDL, with a year-end balance of est. 143,204 MDL. According to the candidate's 2021 NIA Declaration, on 31 March 2022 when he submitted this declaration, this bank account had a balance of 9,154 EUR (est. 191,501 MDL).
- Bank Account No. 3 – a checking account in MDL currency opened in the candidate's name in 2010. This bank account was a salary account in which in 2021 there was



incoming cash-flow of 509,419 MDL and outgoing cash-flow of 521,340 MDL, with a year-end balance of est. -5,501 MDL.

- Bank Account No. 4 – a checking account in EUR currency opened in the candidate's name in 2013. In 2021 this bank account had transfers from another of the candidate's bank accounts in the sum of 54,543 MDL and had out-going cash-flow of 54,584 MDL, with a year-end balance of est. -3,745 MDL.
- Bank Account No. 5 – a checking account in MDL currency opened in the candidate's name in 2020. This bank account was used to receive child allowance/allocations. In 2021 this bank account had incoming cash-flow of 192,923 MDL and outgoing cash-flow of 197,213 MDL, with a year-end balance of est. 3,030 MDL.
- Bank Account No. 6 – a checking account in USD currency opened in the candidate's name in 2020. In 2021 this bank account had transfers from another of the candidate's bank accounts in the sum of 8,955 MDL and had outgoing cash-flow of 9,127 MDL, with a year-end balance of est. 2,265 MDL.
- Bank Account No. 7 – a checking account in USD currency opened in the candidate's name in 2020. This bank account was used to receive a stipend (scholarship) from the Institute of International Education. In 2021 the account received a transfer of 7,467 USD (est. 129,801 MDL). According to the provisions of art. 20 lit. e) of the Tax Code this sum was non-taxable.
- Bank Account No. 8 – a checking account in MDL currency opened in the candidate's name in 2021. In 2021 this bank account had bank transfers from another of the candidate's bank accounts in the sum of 49,368 MDL and had outgoing cash-flow of 4,200 MDL, with a year-end balance of est. 45,168 MDL.

On 31 March 2022, the candidate submitted to NIA his 2021 annual declaration, in which he declared only two of the total eight bank accounts opened in his and his wife's names:

- Bank Account No. 1 opened in a Romanian bank in the candidate's wife's name; and
- Bank Account No. 2 opened in the candidate's name.

In response to questions from the Commission, the candidate agreed that in 2021 he and his wife maintained the eight accounts that the Commission asked about. He also stated that initially, he understood the law on declaration of wealth and personal interests to require that only bank accounts whose cumulative value exceeds 15 average monthly salaries were to be declared. He stated that he calculated the amount of money in the bank accounts which at the time of submission of the declaration had higher value, but he did not take into account or declare all the accounts which had low funds registered in them. He claimed that the confusion was caused at least by the combination of the following circumstances:

- The legislation and practice of the National Integrity Commission, the National Integrity Authority, and the courts was non-uniform in the part related to the indication of bank accounts in respect to the amount of money deposited on them.
- Up to now, Law No.133/2016, has been amended by five laws.

The candidate indicated that after reading the question submitted by the Commission, consulting the legal provisions and the instructions published on the National Integrity Authority website,

he realized this omission.

With his answers to the Commission, he submitted an amended 2019 declaration to the Commission, in which he declared all of his and his wife's bank accounts that they maintained as of 2019. This included Bank Account Nos. 1 through 8 listed above that had been the subject of the questions from the Commission. The candidate also declared six additional accounts that the Commission had not asked about. Five of those accounts (listed as account numbers 10 through 14 in Section V. A. of the candidate's amended 2019 declaration to the Commission) were closed before 2021 and were not required to be declared in the candidate's 2021 annual declaration.

One account, listed as number 9 on the candidate's amended 2019 declaration, is a Romanian bank account maintained by the candidate's wife. At the hearing, the candidate stated that the account was open in 2021 and in 2022 when he filed his 2021 declaration and that the account should have been declared.

In the candidate's answers to the Commission's questions, the candidate stated that he would amend his 2021 annual declaration to rectify the omissions from that declaration. At the hearing, the candidate stated that he had already posted an amended 2021 declaration on the NIA portal.

*b. The law*

In determining whether a candidate meets the criterion of financial integrity, the Commission must verify that the candidate has complied with the legal regime of declaring assets and personal interests, as per art. 8 para. (4) lit. a) and para. (5) lit. b) of Law No. 26/2022.

Pursuant to art. 8 para. (2) lit. c), para. (4) lit. a) and para. (5) lit. b) of Law No. 26/2022 a candidate's failure to declare personal assets and interests in the manner established by law is a failure to meet both the financial integrity criterion and the ethical integrity criterion.

Law No. 133/2016 (effective 1 August 2016) regulates the mode of submitting the asset declaration. According to art. 4 para. (1) lit. d) of Law No. 133/2016, the subject of declaration is obliged "to declare the financial assets of the subject of the declaration, namely the monetary amount in the national currency or a foreign currency which exceeds the value of 15 average national salaries and which does not represent the object of a deposit in a financial institution. Bank accounts, creation units in investment funds, equivalent forms of investments and savings, investments, bonds, checks, bills of exchange, loan certificates, other documents that include personal patrimonial rights of the subject of the declaration, of his/her family members or of his/her cohabitant, direct investments in the national currency or in a foreign currency, made by him/her or by his/her family members or his/her cohabitant, as well as other financial assets, if their combined value exceeds 15 average national salaries".

According to point 14 of the Instruction on how to complete the declaration of wealth and personal interests, approved by Order No. 2 of 13 January 2017 of the Chairman of the National Integrity Authority, in Chapter V Section A of the NIA Declaration, the subject of the declaration must declare financial assets whose total value exceeds the value of 15 average salaries per

economy. If this threshold is exceeded, the subject of the declaration shall separately indicate each account, deposit or form of savings/investments regardless of their individual value

Art. 5 para. (4) of Law No. 133/2016 on declaration of assets and personal interests provides that the responsibility for the timely submission of the declaration, as well as for the truthfulness and completeness of the information lies with the person submitting it.

Art. 6 para. (1) of Law No. 133/2016 on declaration of assets and personal interests provides that the declaration is to be submitted annually, until March 31, indicating the income obtained by the subject of the declaration together with the family members, his/her cohabitant in the previous fiscal year, also the assets held and the personal interests provided in art. 4 para. (1) lit. b) – m) on the date of submission of the declaration.

Pursuant to Government Decision No. 923/2020, in 2021 – 15 monthly average salaries were equivalent to 130,740 MDL.

The Evaluation Rules state that undeclared income or expenditures are relevant for financial integrity, including but not limited to insofar as they relate to prohibited secondary incomes, tax evasion, or violation of anti-money laundering provisions. (art. 6 para. (1)). The rules also provide that the Annex to the Evaluation Rules defines the method for calculating undeclared wealth. (art. 6 para. (2)).

### *c. Reasoning*

The Commission is required to verify that the candidate has complied with the legal regime of declaring assets and personal interests, as per art. 8 para. (2) lit. c), para. (4) lit. a) and para. (5) lit. b) of Law No. 26/2022.

According to the law on declaration of wealth and personal interests in effect when the candidate filed his 2021 annual declaration, he was required to declare all financial assets held by him and family members including bank accounts, if the overall amount exceeds the value of 15 average salaries per economy. If this threshold is exceeded, the candidate was required to indicate each account, regardless of its individual value. In 2021, 15 monthly average salaries were equivalent to 130,740 MDL.

The two bank accounts that were declared in the candidate's 2021 annual declaration, Bank Account Nos. 1 and 2, had a cumulative balance of 217,685 MDL, exceeded the 15 monthly average salaries threshold. However, the candidate failed to declare seven other bank accounts opened in his and his wife's names at the time of submission of his 2021 annual declaration.

When asked by the Commission about the non-disclosure of six of the bank accounts, the candidate consulted the applicable legal provisions and the instructions published on the National Integrity Authority website, realized his omission and promptly conceded his omission to the Commission. With his answers, he also submitted an amended 2019 declaration to the Commission that declared the six omitted accounts that he had been asked about. He also declared six other bank accounts that the Commission had not asked about. Five of the bank accounts

were not required to be disclosed in the candidate's 2021 annual declaration as they had been closed prior to 2021. One account, a RON account held in his wife's name, was required to be disclosed in the 2021 annual declaration. In addition to filing the amended 2019 declaration to the Commission, the candidate posted an amended 2021 annual declaration to the NIA portal.

As the Commission does in instances when candidates have not fully disclosed bank accounts in accordance with the law, the Commission reviewed information about the bank accounts that had not been declared in terms of the period of non-disclosure, level of activity, the type of account and the presence of any suspicious transactions. The income deposited to three of the accounts was comprised of salary, child allowances and an educational stipend. These deposits in 2021 totaled 827,143 MDL. The three remaining accounts received transfers from the candidate's other accounts totaling est. 17,856 MDL. Given the documented sources and amounts of these payments, the activity in the accounts raised no suspicions. The non-declarations occurred in a single year. Given the nature and amount of the activity of the candidate's bank accounts and the absence of suspicious or unexplained transactions, the Commission finds that there was no intention or reason to hide or not disclose these bank accounts in the candidate's declarations and his failure to do so was likely, again, at most, inadvertent. As noted earlier, a candidate's failure to adhere to the requirements of the legal regime for declaring assets and income necessarily raises concerns about a candidate's ethical and financial integrity. Here again, especially in assessing the candidate's ethical integrity, his forthright admission of the omissions including disclosing additional accounts that he had not declared, his immediate submission of an amended declaration to the Commission and filing an amended 2021 annual declaration further mitigated the Commission's concerns.

In light of the above circumstances, the Commission determined that its concerns regarding non-declaration of bank accounts in the candidate's 2021 annual declaration were mitigated by the candidate and that the Commission did not have serious doubts (art. 13 para. (5) of Law No. 26/2022) as to the candidate's compliance with the criteria of financial and ethical integrity as per art. 8 para. (2) lit. c), (4) lit. a) and (5) lit. b) of Law No. 26/2022 with respect to non-declaration of bank accounts in his 2021 annual declaration.

#### *IV. Decision*

Based on art. 8 para. (1), (2) and (4) and art. 13 para. (5) of Law No. 26/2022, the Commission decided that the candidate is compliant with the ethical and financial integrity criteria and thus passes 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 Parliament. 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 Parliament 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