



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. 39 of 9 June 2023 on the Candidacy of Iuri LEALIN,
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 28 April 2021 and 9 June 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:

I. The procedure

Iuri LEALIN, prosecutor in the representation section in non-criminal proceedings and ECHR implementation within the Prosecutor General’s Office (“the candidate”), was on the list of candidates submitted by the Superior Council of Prosecutors to the Commission on 7 April 2022, as updated 13 January 2023, for evaluation for the position of member of the Superior Council of Prosecutors.

The candidate was appointed a Senior Specialist at the Prosecutor General’s Office in 2009 and served as a prosecutor at the Prosecutor’s Office in Chisinau, Ciocana Office from 2012 to 2016. In 2016, the candidate was appointed in his present position.

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 1 July 2022.

On 23 January 2023, the Commission sent a request to the candidate for completing and submitting by 30 January 2023 the Declaration of assets and personal interests for the past five 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 30 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 17 March 2023, the Commission sent to the candidate a request for clarifying information, containing nine questions, including 30 sub-questions and 14 requests for further documentation. The candidate replied within the requested time period on 21 March 2023 to all questions and provided most of the requested documents.

On 24 March 2023, the Commission sent a second round of four questions, including 11 sub-questions and three requests for further documentation, to clarify some issues that came out during the evaluation. The candidate replied within the requested time period on 27 March 2023 to all questions and provided one document.

On 29 March 2023, the Commission sent a third round of five questions, including 17 sub-questions and eight requests for further documentation, to clarify some issues that came out during the evaluation. The candidate replied within the requested time period on 1 April 2023 to all questions and provided most of the requested documents.

The candidate did not request access to the evaluation materials according to art. 12 para. (4) lit. c) of Law No. 26/2022 and therefore did not receive the materials.

On 28 April 2023, the candidate took part in a public hearing of the Commission.

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.

A number of versions of ethical codes applied to prosecutors over the period of time covered by the evaluation. The codes were *Prosecutor's Code of Ethics*, approved by the Prosecutor General order No. 303/35 of 27 December 2007, *Prosecutor's Code of Ethics*, approved by the Superior Council of Prosecutors' decision No. 12-3d-228/11 of 4 October 2011, *Prosecutor's Code of Ethics and Conduct*, approved by Superior Council of Prosecutors' decision No. 12-173/15 of 30 July 2015 and *Prosecutor's Code of Ethics*, approved by the General Assembly of Prosecutors' decision No. 4 of 27 May 2016, amended by General Assembly of Prosecutors' decision No. 1 of 22 February 2019.

Opinion No. 13 (2018) of the Consultative Council of European Prosecutors (CCPE) on the "Independence, accountability and ethics of prosecutors", adopted on 23 November 2018 ("CCPE (2018) Op. No. 13") provides further guidance.

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 of 2 May 2022, pursuant to Law No. 26/2022, (hereinafter “Evaluation Rules”), only if a candidate fully meets all of the indicators set for the in art. 8 para. (2) - (5) 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 ethic 1 issues:

1. Purchase of an apartment in 2014 and sale of the apartment in 2017; purchase of a house in 2017 and sources of funds

a. The facts

On 20 June 2014, the candidate purchased an apartment of 31.1 sq.m. in Chisinau municipality. The stated contractual price was 165,488 MDL (est. 8 883 EUR), which was the same as the cadastral value of the apartment. The candidate informed the Commission that when he purchased this apartment, the seller – as was, according to the candidate, the custom at the time – wanted to include the cadastral value, not the actual price paid, in the contract, as was also the custom at the time, according to the candidate. The candidate included the cadastral value/contractual price in his declaration on income and property 2014 (hereinafter “annual declaration”). The candidate informed the Commission that the actual price paid for the apartment was 27,000 EUR (est. 503,010 MDL). Although the candidate was not able to provide a copy of the 2014 sale-purchase contract, he was able to provide a copy of a document signed by the seller of the apartment stating that the seller had received the total amount of 27,000 EUR from the candidate.

On 8 June 2017, the candidate and his wife sold the apartment with the same contractual price/cadastral value of 165,488 MDL stated in the sale-purchase contract from 2014. This was the price that the candidate indicated in his 2017 annual declaration as income received from the sale of the apartment. The candidate informed the Commission that, again, the real price paid for the apartment was 27,000 EUR, that is, the same price that it was purchased for three years earlier. According to an evaluation in 2017 by an independent appraiser for the purpose of establishing the mortgage terms by the bank, the market value of the apartment was estimated to be 480,000 MDL (est. 23,044 EUR).

The candidate informed the Commission that he did not pay tax for any capital increase when selling the apartment in 2017. In response both to written questions and at the hearing, the candidate argued that there was no obligation to pay such tax as there was no difference between the real purchase price in 2014 and the real sales price in 2017. When asked at the hearing whether he might also not have been obliged to pay such tax because the apartment had been their main

dwelling where they had resided for a number of years, the candidate indicated that he had not considered this issue in great detail as, in his view, no tax was owed given that the prices had been the same in 2014 and 2017.

On 10 July 2017, the candidate and his wife bought a land plot of 0.0109 ha and a house of 83.8 sq.m. in Stauceni commune, Chisinau municipality. The house was listed on the market (www.999.md) for 55,000 EUR. After some negotiations, the price agreed upon was 980,000 MDL (est. 47,047 EUR). The candidate provided to the Commission a copy of the sale-purchase contract that indicated the price of 980,000 MDL. Although the price seemed to be in conformity with the market prices for comparable real estate in this area in 2017, the price was lower than the cadastral value of 37,448 MDL for the land plot and 1,521,070 MDL for the house. When asked about this issue by the Commission, the candidate explained that he had also raised this difference between market value and cadastral value with the notary in 2017, but the notary had indicated that this discrepancy was common for the real estate in Chisinau suburbs. The candidate also indicated that in his 2018 and subsequent annual declarations, he has included the actual price paid and not the cadastral value.

Asked at the hearing, why the candidate had indicated the cadastral value of the apartment sold in June 2017 in the sale contract but had indicated the real price of the house bought in July 2017 in the purchase contract, the candidate explained that, in the past, state authorities had evaluated properties in the country at very low prices and that these properties had not been re-evaluated for years. As a result, a widespread practice in the Republic of Moldova had emerged whereby contracts for the purchase and sale of real estate would reflect the cadastral value and parties would agree to have a separate document indicating the amount of money actually paid for the real estate. According to the candidate, if the parties included the real price in the contract, the seller ran the risk of having to pay tax on a capital increase, where there might not have been any capital increase. That is why during both the purchase and sale of the apartment, the notary had advised the candidate to indicate the cadastral value. The situation was different with respect to the purchase of the house in 2017, according to the candidate. At that time, the cadastral value was much higher than the market value of the property. Therefore, the parties agreed to indicate the real price paid in the contract rather than the cadastral value.

When asked about the source of funds for the purchase of the apartment in 2014, the candidate informed the Commission that he and his wife married in 2013 and that they received wedding donations in the amount of 360,000 MDL. As to the source of funds for the purchase of the house in 2017, the candidate identified three sources: the 2017 sale of the apartment purchased in 2014, donations of 420,000 MDL from a christening event in 2016 and savings accumulated by the candidate and his wife from salary and allowances in previous years.

At the hearing, the candidate provided further information about the financing for the purchase of the apartment in 2014. The candidate stated that the real price paid for the apartment was 27,000 EUR (est. 503,010 MDL). The candidate explained that in addition to the wedding

donations of 360,000 MDL, primarily from his mother and his parents-in-law, he had also been able to save some of the income he had received starting in 2010, when he began training as a prosecutor at the National Institute of Justice, and especially since 2012 and 2013, when he started working as a prosecutor and his wife also started receiving income from work. During that time, he lived at his mother's residence, which had allowed him to avoid major expenses and to accumulate savings. The total of wedding donations and savings since 2010 had been enough to purchase the apartment in 2014.

With respect to the donations received for the wedding in 2013 – 360,000 MDL – and the christening event in 2016 – 420,000 MDL – the candidate stated that these were largely contributed by his mother, in the amount of approximately 200,000 MDL, and his parents-in-law, in the amount of approximately 400,000 MDL. At the hearing, the candidate stated that these amounts were estimates and that his mother and his parents-in-law had agreed that his mother would contribute half of what his parents-in-law contributed because his mother was on her own. According to the candidate in both written information and at the hearing, his mother provided her donations from funds accumulated over a long period of time, including her salary and a pension that she has received since 2003. According to information available to the Commission, the mother's income and pension over the years 2007 - 2016 amounts to a total of 549,026 MDL. In addition, his father had worked for some time in the Russian Federation and his parents never had an expensive lifestyle. His parents-in-law live in the eastern (Transnistrian) region of the Republic of Moldova (also known as "Transnistria"), where the Moldovan government has not exercised effective control since September 1990. The candidate provided documentation demonstrating that his mother-in-law worked in Transnistria from 1986 to 2018 and his father-in-law worked officially in the Russian Federation beginning in 1996 and continues to do so. The candidate provided a number of documents including workbooks, employment records and copies of bank transfers made by his father-in-law from the Russian Federation to the Republic of Moldova, which demonstrate both of his parents-in-laws' employment records and parts of the amounts of money his father-in-law was able to bring back home. In particular, the candidate provided documentation that during the period 2008 - 2014 alone, his father-in-law transferred 382,557 MDL. At the hearing, the candidate confirmed that he had declared all donations in his annual declarations.

b. The law

Art. 8 para. (4) lit. a) and para. (5) lit. b) of Law No. 26/2022 provide that 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. A candidate does not meet the criterion of financial integrity under art. 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 also a failure to meet the criterion of ethical integrity under art. 8 para. (2) lit. c).

In addition, art. 8 para. (4) lit. b) and para. (5) lit. c), d) and f) of Law No. 26/2022 provides that the Commission is required to verify that a candidate's wealth acquired in the past 15 years corresponds to the declared revenues, to verify the method of acquiring assets owned or possessed by the candidate or persons referred to in art. 2 para. (2), to verify the sources of income of the candidate and, where appropriate, of the persons referred to in art. 2 para. (2) and to verify the existence of donations, where the candidate or the person referred to in art. 2 para. (2) has the status of donee or donor.

Art. 8 para. (2) lit. a) of Law No. 26/2022 requires the Commission to determine that a candidate 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.

According to Commission's Evaluation Rules, art. 5 para. (2), in assessing a candidate's ethical integrity, the Commission may take into account the gravity or severity, the surrounding context, and the willfulness, of any integrity incident, and as to minor incidents, whether there has been a sufficient passage of time without further reoccurrences. While determining the gravity, the Commission will take into account all circumstances, including but not limited to:

- a) whether the incident was a single event;
- b) causing no or insignificant damage to private or public interests (including public trust) – such as the occasion of an ordinary traffic violation;
- c) or not being perceived by an objective observer as an attitude of disrespect for the social order arising from disregard for its rules and regulations.

c. Reasoning

On 20 June 2014, the candidate and his wife bought an apartment of 31.1 sq.m. in Chisinau municipality. The price stated in the contract was 165,488 MDL (est. 8,883 EUR), which was the cadastral value. The apartment was sold on 8 June 2017 for the same price stated in the contract from 2014. In his 2014 and 2017 annual declarations, the candidate indicated 165,488 MDL for both the purchase and sales prices. The candidate informed the Commission, however, that the real price agreed upon for both the purchase in 2014 and the sale in 2017 was 27,000 EUR (est. 503,010 MDL). Because the price for the purchase and the sale of the apartment was the same, the candidate argued that he was not required to pay tax for any capital increase when the apartment was sold in 2017.

On 10 July 2017, the candidate and his wife purchased a land plot and house in Stauceni commune, Chisinau municipality for 980,000 MDL (est. 47,047 EUR). This price seems to be in conformity with the market values of comparable real estate in this area in 2017 but was lower than the cadastral value of the house. In his 2018 and subsequent annual declarations, the candidate consistently reflected the real paid price instead of the cadastral value.

The Commission was particularly concerned about the source of funds for the purchase of the apartment and house and the donations from his mother and parents-in-law and the variance in setting contractual prices between the use of the cadastral value for the sale of the apartment in June 2017 and the use of the market value for the purchase of the house in July 2017.

As to the source of funds for the purchase of the apartment, the candidate and his wife were able to purchase the apartment in 2014 based on a wedding donation in 2013 and savings they had accumulated since 2010, when they started to be trained and later working as a prosecutor. The candidate also indicated that he was able to accumulate additional savings because he used to live with his mother prior to the purchase of the apartment. According to information available to the Commission, the candidate started earning salary as a prosecutor in late 2012 and his wife started earning salary in 2013 and increasingly so in 2014. The Commission is satisfied that the amounts earned in 2013 - 2014, in combination with the wedding donation in 2013, allowed the candidate and his wife to purchase the apartment in 2014.

The purchase of the house in July 2017, according to the candidate, was financed from the sale of the apartment in June 2017, a christening event donation in 2016 and savings accumulated by the candidate and his wife from salary and allowances of previous years.

As to the source of funds for his mother to contribute to the 2013 wedding donation and the 2016 christening event, the candidate explained that his mother had been able to accumulate resources over a long period of time, including her salary and a pension that she received since 2003. The information available to the Commission about the salary and pension payments his mother received from 2007 to 2016, the fact that his father worked for a number of years in the Russian Federation before his death in 2001, the information indicating that his mother has never had an expensive lifestyle and the fact that the candidate was the only child in the family provides a sufficient basis for the conclusion that his mother was able to contribute significantly to the wedding donation in 2013 and the christening donation in 2016.

As to the contributions of his parents-in-law, the candidate provided documentation demonstrating that both his parents-in-law have been working for a long time. His mother-in-law worked for over 40 years in Transnistria and his father-in-law has been working in the Russian Federation since 1996 and continues to do so. His father-in-law brought money from the Russian Federation to the Republic of Moldova whenever he returned home. He also regularly sent money through bank transfers. The candidate provided documentation that during the period 2008 - 2014 alone, his father-in-law transferred 382,557 MDL. Based on the documentation provided and the explanations by the candidate, the Commission was able to conclude that his parents-in-law had sufficient resources to contribute to the 2013 wedding donation and the 2016 christening donation.

As to the variance between the use of the cadastral value in the sale contract for the apartment in June 2017 and the use of the market value in the purchase contract for the house in July 2017, the

candidate provided explanations demonstrating different circumstances between the two properties. The cadastral value of the apartment was based on outdated cadastral evaluations, which led the parties to execute two documents: a sale-purchase contract reflecting the cadastral value and a contract indicating the real price paid by the buyer to the seller. According to the candidate, in this way, a seller of real estate could avoid having to pay tax on a capital increase when there might not have been any capital increase. At the advice of his notary, the candidate had followed this practice when selling the apartment in June 2017. The situation was different, however, when the house was purchased in July 2017 because the cadastral value of the house was higher than the market value. In these circumstances, the risk for a seller of having to pay tax on a capital increase when there was no gain would not arise and the parties could indicate the real market value of the property in the purchase sale contract.

The candidate provided detailed explanations for the use of the cadastral price in the contracts for the purchase and sale of the apartment in 2014 and 2017 in contrast to the use of the real price paid in the contract for the purchase of the house in 2017. The candidate supported his explanations with a copy of the document that he and the seller executed at the time of the purchase of the apartment in 2014 that reflected the real price paid for the apartment, which was prepared in addition to the official sale-purchase contract that reflected the cadastral value. He also provided a copy of the 2017 sale-purchase contract of the house that used the real price paid as the contractual price.

The Commission appreciates that throughout the evaluation the candidate has provided detailed information and been open. The Commission cannot ignore, however, that the candidate participated in executing the sale-purchase contract for an apartment that stated a price for the apartment that the candidate knew was not correct and was considerably lower than the price actually agreed upon between the parties. While the inclusion of the cadastral value might have been included at the instigation of the seller and not the candidate, by agreeing to this arrangement, the candidate may have assisted the seller of the apartment avoiding paying taxes on any capital increase on the sale of the apartment.

Although the Commission finds it unethical to agree to the inclusion of a price in the sale-purchase contract for an apartment that the candidate knows is not the correct price, the Commission concludes that in light of the specific circumstances in this instance, the incident does not rise to a level amounting to a failure of the ethical integrity criteria. In this context, the Commission has taken into consideration that the candidate's involvement in the purchase and sale transactions for this apartment constitutes an isolated event, occurring nine years ago and that the candidate has been transparent about this issue throughout the evaluation. The Commission also takes into consideration that his involvement in this transaction did not provide any financial benefit to the candidate.

The Commission did not have doubts about the declared market value of the apartment of 27,000 EUR when it was sold in 2017, because the Commission received a copy of the mortgage contract that contained a reference to the evaluation by an independent evaluation company for the purpose of setting mortgage terms, which indicated the estimated market value of the apartment at 480,000 MDL (est. 23,044 EUR). The candidate provided documentation according to which the real price paid for the purchase of the apartment in 2014 was the same as the real price received on the sale of the apartment in 2017. The Commission concluded that the candidate had no capital increase when the apartment was sold in 2017 and had no obligation to pay taxes for any capital increase.

In the view of the Commission, the purchase and sale of the apartment with different contractual prices from real paid prices was an isolated event and the candidate did not financially benefit from this arrangement. The Commission determined that this isolated incident did not create serious doubts concerning the candidate's ethical integrity.

In light of the above circumstances, the Commission did not find serious doubts (art. 13 para. (5) of Law No. 26/2022) as to the candidate's compliance with the criterion of ethical integrity as per art. 8 para. (2) lit. c) and financial integrity as per art. 8 para. (4) lit. a) and b) and para. (5) lit. a), b), c), d) and f) of Law No. 26/2022 with respect to the purchase and sale of an apartment in 2014 and 2017 and the purchase of a house in 2017 because of the detailed, accurate and consistent information and convincing explanations provided. The candidate thereby mitigated the Commission's concerns regarding this issue.

2. Sub-evaluated price for a car

a. The facts

On 1 November 2018 the candidate purchased a Lexus RX400H car (m./y. 2008). The contractual price for the car was 50,000 MDL (est. 2,520 EUR). In addition, the candidate had paid import taxes of 98,689 MDL separately. The car had been imported from Switzerland in March 2018, and the value determined by the custom service was 200,000 MDL, not including import taxes.

The candidate informed the Commission that a friend of his had imported the car in March 2018. Because the candidate did not have sufficient resources at that time, he purchased the car later that year, in November. The candidate provided a copy of the sale-purchase contract. According to the candidate, the price paid for the car was lower than the value set by the custom service because the car had some damage which required repair and repainting. This was confirmed by a number of photographs before and after the repair and repainting sent by the candidate to the Commission. The work was not done in a mechanic shop but by an acquaintance who had the equipment to do the repair and paint work. The candidate stated that the total costs for the repair and repainting were less than 1,000 EUR, but he was not able to provide any invoices for the repair work undertaken. The candidate also stated that the price indicated by the Customs Service

was too high and was based on the maximum valuation of such cars. In that context, the candidate referred to a specialized website for cars available for import from Switzerland that demonstrated lower prices than those estimated by the Customs Service.

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.).

Art. 8 para. (5) lit. c) of Law No. 26/2022 provides that in order to assess the candidate's financial integrity, the Commission is required to verify the method of acquiring property owned or possessed by the candidate or persons referred to in art. 2 para. (2).

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.

c. Reasoning

On 1 November 2018, the candidate purchased a Lexus RX400H car (m.y. 2008), which was imported in March 2018 from Switzerland. The candidate paid 50,000 MDL (est. 2,520 EUR) for the car and paid the import taxes of 98,689 MDL separately. The price indicated by the candidate was lower than the value of 200,000 MDL as determined by the custom services.

The candidate provided detailed information in response to written questions and during the hearing. He provided a copy of the sale-purchase contract, informed the Commission in detail about finding this car on a specialized website for cars to be imported from Switzerland and explained that the price was lower than the price set by the Customs Service due to damage to the car. The candidate provided photos of the car prior to and after repair to show that the repairs had been made. The candidate was not able to provide bills for the repair and repainting of the car, as this was done by an acquaintance who had the equipment to do the repair and paint work. The candidate informed the Commission that the total repair costs were less than 1,000 EUR.

In light of the above circumstances, the Commission did not find serious doubts (art. 13 para. (5) of Law No. 26/2022) as to the candidate's compliance with the criterion of ethical integrity as per art. 8 para. (2) lit. c) and financial integrity as per art. 8 para. (4) lit. a) and para. (5) lit. b) of Law No. 26/2022 with respect to the purchase of a car in 2018 because of the detailed and accurate information and convincing explanations provided. The candidate thereby mitigated the Commission's concerns regarding this issue.

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 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