



**ADVISORY GROUP
OF EXPERTS**

APPROVED

**Minutes No. 7 of the session of the Advisory Group of Experts
as of May 2, 2024**

DECISION No. 1.7

*On compliance of the candidate
for the position of a judge of the Constitutional Court of Ukraine
Oleksandra Yanovska
with the criterion of the recognized level of competence in the field of law*

The Advisory Group of Experts (hereinafter referred to as the Advisory Group) in remote mode using electronic video-conference means, consisting of the Chair of the Advisory Group Aleš Zalar, Secretary of the Advisory Group Yaroslav Romaniuk, members of the Advisory Group: Nataliia Kuznietsova, Oksana Vasylchenko, Maureen O'Connor, Hanna Suchocka, in the presence of deputy members of the Advisory Group: Marek Zubik, Volodymyr Kuzmenko, Vasyl Shakun, Richard Barrett, having assessed the compliance of the candidate for the position of judge of the Constitutional Court of Ukraine Oleksandra Yanovska (hereinafter referred to as the Candidate) with the criterion of the recognized level of competence in the field of law, under the Law of Ukraine "On the Constitutional Court of Ukraine" (hereinafter referred to as the Law), the Regulations of the Advisory Group of Experts, approved by the decision of the Advisory Group of Experts on November 12, 2023, the Methodology for Assessing Moral

Qualities and the Level of Competence in the Field of Law of the Candidates for the Position of Judge of the Constitutional Court of Ukraine, approved by the decision of the Advisory Group of Experts on December 04, 2023 (hereinafter referred to as the Methodology),

established the following:

1. According to part twenty-five, Article 10² of the Law, the Advisory Group, among other things, assesses the level of competence in the field of law of candidates for the position of judge of the Constitutional Court of Ukraine.

2. According to part five, Article 10⁸ of the Law, candidates who have been assessed by the Advisory Group as compliant with the criterion of high moral qualities are evaluated in terms of their compliance with the criterion of the level of competence in the field of law.

3. According to paragraph 2, part three, Article 10⁸ of the Law, the candidate for the position of a judge of the Constitutional Court of Ukraine is considered as compliant with the criterion of the recognized level of competence in the field of law if the candidate has necessary knowledge to exercise the powers of a judge of the Constitutional Court of Ukraine. According to paragraph 4, part three, Article 10⁸ of the Law, the candidate does not comply with this criterion if non-compliance is proven or if there are reasonable doubts about compliance.

4. The Advisory Group determines whether the candidate for the position of a judge of the Constitutional Court of Ukraine has necessary knowledge to exercise the powers of a judge of the Constitutional Court of Ukraine by assessing the candidate's knowledge in the areas defined by Part Four of Article 2 of the Methodology.

5. Decision No. 1.24 of the Advisory Group, executed with Minutes No. 5 of the Advisory Group's session as of March 23, 2024, recognized Yanovska Oleksandra as compliant with the criterion of high moral qualities for purposes of competitive selection of candidates for the position of a judge of the Constitutional Court of Ukraine.

6. According to paragraph 2 and 3, part two, Article 10⁸ of the Law, Article 4 of the Methodology, the Advisory Group assesses the level of competence in the field of law of each candidate for the position of a judge of the Constitutional Court of Ukraine within fifteen days since adoption of the decision on assessment of all candidates' compliance with the criterion of high moral qualities, namely, by means of conducting the written assessment of candidates for the position of a judge of the Constitutional Court of Ukraine, as well as additional interviews (if necessary).

7. According to parts 2, 3, 5, and 6 of Article 10⁸ of the Law and based on paragraph d, part one, Article 4 of the Methodology, the Advisory Group adopted decisions No. 2- 5, executed with Minutes No. 5 of the session of the Advisory Group as of March 23, 2024, with which it adopted: terms and conditions for conduct of written assessment of the level of competence in the field of law of candidates for the position of a judge of the Constitutional Court of Ukraine; composition of the external group of international experts for preparation of written questions and questions for additional interviews aimed at determining the level of competence in the field of law of candidates for the position of a judge of the Constitutional Court of Ukraine; guidelines for preparation of written questions and questions for additional interviews for assessment of the level of competence in the field of law of candidates for the position of a judge of the Constitutional Court of Ukraine; and determined April 05, 2024, as the date for conduct of written assessment of candidates for the position of a judge of the Constitutional Court of Ukraine.

8. On April 05, 2024, the Candidate took part in written assessment by means of providing written response to the written assignment following the procedure set out by paragraph d, part two, Article 4 of the Methodology.

9. On April 20, 2024, in line with Article 4(4) of the Methodology, the Advisory Group adopted Decision No. 6, executed with Minutes No. 6 of the session of the Advisory Group of Experts as of April 20, 2024, on absence of the need to hold additional interviews.

10. Having studied information about the Candidate, having analyzed the Candidate's response during written assessment, the Advisory Group has decided that

the Candidate complies with the criterion of the recognized level of competence in the field of law based on the following.

11. At the stage of written assessment, the Candidate has demonstrated a sufficient level of knowledge and legal analysis.

12. Although the Candidate provided a somewhat cursory legal analysis of the situation presented in the assignment, without giving a direct answer about the list of limitations on the exercise of subjective rights and freedoms in Ukraine, as well as partial analysis of the competition between international law and constitutional law of Ukraine in terms of protection of rights and fundamental freedoms, the Candidate has successfully distinguished between the internal and external aspects of subjective human rights, and described the principle of proportionality to be applied when deciding whether limitations on human rights and freedoms are permissible.

13. The Candidate has provided structured and sufficiently reasoned written response. The Candidate has demonstrated the sufficient ability to analyze complex legal issues, formulate a sound decision, and draft them using intelligible and clear language.

14. Given the above, pursuant to the result of the assessment of the Candidate's level of competence in the field of law for purposes of selection of candidates for the position of a judge of the Constitutional Court of Ukraine, the Advisory Group has not revealed confirmation of non-compliance and does not have reasonable doubts about the Candidate's compliance with the criterion of the recognized level of competence in the field of law. Therefore, the Candidate has the necessary knowledge to exercise the powers of a judge of the Constitutional Court of Ukraine.

Thus, being governed by Articles 6, 7 of the Regulations of the Advisory Group of Experts, approved by the decision of the Advisory Group of Experts on November 12, 2023, the Methodology for Assessing Moral Qualities and the Level of Competence in the Field of Law of the Candidates for the Position of Judge of the Constitutional Court of Ukraine, approved by the decision of the Advisory Group of Experts on December 04, 2023, Articles 10², 10⁸ of the Law of Ukraine "On the Constitutional Court of Ukraine", the Advisory Group

has decided that:

for the purpose of the competitive selection of candidates for the position of a judge of the Constitutional Court of Ukraine, the candidate for the position of a judge of the Constitutional Court of Ukraine Oleksandra Yanovska complies with the criterion of the recognized level of competence in the field of law.

Signatures:

Алеш Залар
(Aleš Zalar)

Наталія Кузнєцова
(Nataliia Kuznietsova)

Ганна Сухоцька
(Hanna Suchocka)

Оксана Васильченко
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Ярослав Романюк
(Yaroslav Romaniuk)