

NABU external audit

Background

There is an annual and independent assessment (an external audit) of the efficiency of NABU activities, its operational and institutional independence, this assessment also includes partial audit of criminal investigations that NABU has completed. The audit is conducted by a three-member commission. The President, the Parliament and the Cabinet of Ministers each nominate a member among a pool of experts with experience in investigative authorities, prosecution, foreign courts, or international organisations. Candidates are required to have both sufficient expertise and the skills to conduct the audit, and should also have an unblemished reputation. Commission members act independently, and should not perform orders or act on advice given by others. Negative findings of NABU audit form legal grounds to dismiss NABU director prior to the ending of director's seven-year tenure.

The current procedure is not working and prone to political interference. It requires further legislative changes.

Timeline

Sytnyk's "well-advertised report" at the Rada anticorruption committee

05.10.2018

On Monday October 1 morning numerous advertisements appeared all over Kyiv metro, announcing NABU's chief Artem Sytnyk's participation in the Rada anticorruption committee hearing on October 3 in order "to reveal top corrupt officials". NABU dissociated themselves from this campaign and commented it was a provocation. When Sytnyk arrived to the Parliament, a rally led [...]

The Supreme Court closed the case regarding illegal appointment of Zhebrivskyi as NABU auditor

07.09.2018

On September 6, the Supreme Court has decided to close the proceeding regarding recognition of the President's decree concerning appointment of Pavlo Zhebrivskyi as NABU auditor as illegal and ineffective. The court satisfied the appeal of the President's representative regarding closure of proceeding, as the case allegedly cannot be considered in administrative court. Earlier, the [...]

Auditing commission hasn't started to audit NABU

31.08.2018

On August 28 NABU auditor under Parliament's quota Volodymyr Vasylenko informed that the audit, envisaged by the Law of Ukraine "On the National Anticorruption Bureau", has not yet started. Auditing commission members expressed their desire to amend the law on NABU. According to them current version does not fully cover their rights and responsibilities, neither [...]

Anticorruption CSOs appeal against President's decision on appointment of Zhebrivskyi as NABU auditor

29.06.2018

Anticorruption Action Centre, Transparency International Ukraine and AutoMaidan filed a lawsuit against President of Ukraine Petro Poroshenko regarding appointment of Pavlo Zhebrivskyi as an auditor of National Anticorruption Bureau of Ukraine upon President's quota in violation of law. Activists call on for depriving Zhebrivskyi of this position by cancelation of the President's Decree. According to [...]

NABU held a press-conference to report about its activity

12.06.2018

On June 11, 2018, there was held a press conference on the results of the performance of the National Anti-Corruption Bureau of Ukraine over the last three years and perspectives for its further development till 2020. NABU director Artem Sytnyk was joined during the event by the international experts Robert Storch, Inspector General of US National [...]

MPs of the Anticorruption committee plan to announce a new competition for NABU auditor

18.01.2018

On January 18 the Parliamentary committee on anticorruption did not manage to consider the issue of NABU auditor due to absence of quorum. Next meeting of the Committee will be held on February 7. Members of the committee plan to announce another competition for NABU auditor; interested candidates will be given two weeks to apply. [...]

Parliament dismisses Anticorruption Committee Chairman Yegor Soboliev

08.12.2017

On its sitting on December 6 coalition of 12 Poroshenko's, Narodnyi Front's and Oppoblock's MPs pulled through the Anticorruption Committee the decision on initiating dismissal of Soboliev from the position of the Committee's Chairman allegedly because he failed to organise the work of the committee. In fact, they sought for a pretext to pass a no-confidence motion against Soboliev - MPs [...]

Attacks on NABU: chronology

26.11.2017

We are covering 3 fronts of attacks on NABU, which have significantly intensified within the last time: legislative threats; criminal and administrative cases against NABU; auditor selection with no competition. Attacks Startpoint In October NABU announced suspicions in corruption crimes to the son of Arsen Avakov, the Minister of Interior, as well as to [...]

Parliament's Candidate for NABU Auditor Yanovska Wins Competition for New Supreme Court

02.08.2017

Oleksandra Yanovska, a leading Parliament's candidate for the position of NABU auditor, is recommended for appointment as the Supreme Court judge. Yanovska is on the list of 120 finalists, which was announced by the High Qualification Commission of Judges on July 28 and then forwarded to the High Council of Justice. On July 13 the Parliament [...]

First NABU auditor appointed

26.05.2017

The Cabinet of Ministers appointed Mykhailo Buromenskiy as NABU auditor

Government interviews candidates for NABU auditor

24.05.2017

The Cabinet of Ministers held the interviews with candidates for the position of NABU auditor. Number of international candidates took part in the interview as well.

New selection of NABU auditor from Parliament announced

22.03.2017

The Parliamentary anticorruption committee announced new round of selection of NABU auditor.

Civil activists suggest candidates for NABU auditor

21.03.2017

Civil activists suggest foreign prosecutors with undisputable reputation as candidates for the position of NABU auditor for the consideration of the Cabinet of Ministers.

Sabotage of approval of independently pre-selected NABU auditor

23.02.2017

In the day of Parliamentary confirmation of Robert Storch as NABU auditor, some MPs suggested unknown UK citizen Nigel Brown as an alternative candidate. Nigel Brown strangely appeared in the parliament at the day of the hearing in parliament. During the month MPs tried to overcome public pressure and appoint Nigel Brown as an auditor.

Pre-selection of NABU auditor

21.12.2016

Upon the results of transparent and independent selection the Parliamentary anticorruption committee recommended Robert Storch as NABU auditor.

Documents

IMF

We will ensure the conduct of an external audit of the NABU in accordance with the requirements set out in the NABU Law, particularly that the audit will be conducted by a three-member panel of reputable and respected experts with considerable international experience in anti-corruption law enforcement and will be adequately resourced to efficiently, independently and timely complete the audit of NABU.

Full doc: <https://www.imf.org/~media/Files/Publications/CR/2020/English/1UKREA2020001.ashx>

IMF

An external audit of the NABU will be conducted by a panel of respected experts with international experience selected in accordance with the requirements set out in the NABU Law (#1698-VII). The terms of reference for the external audit of NABU will be developed in consultation with IMF staff and we will ensure that auditors have adequate resources to efficiently and independently complete the audit of NABU in time. Based on the analysis conducted by the auditors, the audit report will include clear and prioritized recommendations on the effectiveness of NABU and its operational and institutional independence, in line with international best practices. In case the auditors unanimously conclude that the criteria on dismissal of the NABU director referred to in Article 6.4.11 of the NABU Law are met, they will include the evidentiary basis, a detailed rationale, and recommendation in their report. In line with this framework, an audit report will be finalized by end-July 2019 and appended to the subsequent NABU report

Full doc: https://bank.gov.ua/en/file/download?file=ENG_SBA%2005122018%20LOI_MEFP_TMU.pdf

IMF

"By end-April 2017, the President, Parliament, and the Cabinet of Ministers will each nominate one expert

for the commission of external control, in line with Article 26.6 of the NABU Law. The commission will approve the terms of reference for the annual external audit of NABU by end-June 2017, in agreement with IMF staff. Based on the analysis conducted by the auditors, the audit report will include clear and prioritized recommendations for improvements of the bureau's operations, in line with international best practices. In case auditors unanimously conclude that the criteria referred to in Article 6.4.11 of the NABU Law are met, they will include a detailed rationale and recommendation in their report. The audit report will be finalized by end-October 2017 and appended to the subsequent NABU bi-annual report." para 26.b.

Full doc: <https://www.imf.org/~media/Files/Publications/CR/2017/cr1783.ashx>

IMF

"External Oversight. Provision for an independent external oversight process that will entail an annual published report on the NAB's operational performance, independence and institutional conditions. The report will focus on general issues and will not comment on specific, ongoing cases. The oversight will be conducted by a panel of respected experts with international experience in the work of specialized anti-corruption investigative agencies. The Law will ensure that panelists: (1) have recognized ethical standards and experience in anti-corruption investigations in other countries that can bring to bear their international experience; (2) act independently and are not subject to instructions from any source; and (3) have the ability to obtain from the NAB any information on investigations, if relevant for the performance of its functions and without interfering in the conduct of investigations in progress (prior action)" para 32

Full doc: <https://www.imf.org/external/np/loi/2015/ukr/022715.pdf>

Documents

Visa Suspension Mechanism

The pending audit of NABU raises concerns due to the politically driven appointment of auditors, which threatens to undermine NABU's leadership.

Full doc: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-ag-nda-migration/20181219_com-2018--56-report_en.pdf?utm_source=International+partners&utm_campaign=a379fd4597-EMAIL_CAMPAIGN_29_12_2017_COPY_01&utm_medium=email&utm_term=0_2e2aa5132c-a379fd4597-82028643

OECD

Ensure that independence of the National Anti-Corruption Bureau is maintained without undue interference into its activities, including by providing for independent and un-biased audit of its activities and safeguard against abuse of criminal process (Recommendation 25, 4th round of monitoring of the Istanbul Anti-Corruption Action Plan)

Full doc: <https://www.oecd.org/corruption/acn/ACN-Ukraine-Round-4-Monitoring-Report-ENG.pdf>