

SAPO establishment

Background

After successful selection of NABU director and staff, and its launch, it became obvious that NABU can't really be independent without independent prosecutors, who are overseeing all cases of NABU and prosecuting them in courts. Therefore, in 2015 the new requirement to Ukraine – to **establish the Specialized Anticorruption Prosecutor's Office (SAPO)** appeared in the IMF Memorandum and the EU VLAP report.

Formally such a prosecutor's office should be a part of the Prosecutor General's Office (PGO), however, it should have strong autonomy and guarantees of independency.

SAPO was established by [Law](#) dated 25 April 2015. The Law on Prosecutor's Office was [amended](#) in order to make the SAPO more independent from the Prosecutor General on 18 February 2016.

Selection commission to select SAPO management was formed in August-November 2015.

However, there was a lot of [public distrust](#) of the selection commission, which contained [notorious prosecutors](#) delegated by the PGO. Under pressure from the EU and the civil society commission's composition was partly changed in November 2015. The commission selected the head of SAPO on 30 November 2015 and since then NABU obtained legal right to start criminal investigations as there were appointed prosecutors assigned to oversee the work of detectives and prosecute cases in courts.

SAPO prosecutors enjoy maximum independence from the Prosecutor General and his deputies, who cannot interfere with their investigations or give orders in any ways. Administrative orders given by the Prosecutor General or his deputies are executed by SAPO prosecutors only after being approved by the head of SAPO.

SAPO prosecutors' salaries are set at no less than those of NABU department heads. SAPO should be headquartered separately from the PGO.

The head of SAPO alone may appoint or dismiss prosecutors. The appointment is done through an open and competitive selection process, held by the selection commission, which consists of the head of SAPO and individuals selected by both him and the Prosecutor General. The commission's composition and the rules of procedure of the selection process are laid down by the head of SAPO.

Timeline

Odesa Court Fully Acquitted Mayor Trukhanov in the Case of the Kraian Factory

12.07.2019

Malynovskyi District court of Odesa fully acquitted Gennadiy Trukhanov, City Mayor of Odesa, and his associates charged with seizure of 92 million UAH when the City Council purchased the buildings of the Kraian factory at an overstated price. Passing such a decision by the court, despite the Mayor's Office purchasing buildings at the price 43 [...]

The first failed case of SAPO: Zaporizhzhya court ruled the director of Firtash's plant non guilty

31.05.2019

Today, on May 29, Zavodskyi court in Zaporizhzhya announced the non-guilty verdict to the director of Zaporizhzhya Titanium and Magnesium Combine (ZTMC) Volodymyr Syvak. He was accused by NABU of embezzlement of around 500 million UAH (around 20 million USD) allocated for the modernization of the enterprise. Journalists of Nashi Groshi. Zaporizhzhya reported this from [...]

Drago Kos: the head of SAPO Kholodnytsky should resign

07.12.2018

Source: Novoe Vremya Drago Kos is the member of the Independent Defense Anti-Corruption Committee (NAKO), and former chair of the Council of Europe's anticorruption body GRECO Slovenian anti-corruption fighter, member of the Independent Defense Anti-Corruption Committee, Drago Kos on air of the Radio Novoe Vremya called on the head of the Specialized Anti-Corruption Prosecutor's Office Nazar [...]

The court will consider AntAC's lawsuit against judge who refused to consider appeal against closure of Avakov's backpacks case

07.09.2018

On Monday, September 10, at 12.30, the Kyiv Court of Appeal (2a Solomyanska street) will consider the lawsuit of the Anti-Corruption Action Center regarding refusal of the judge Vadym Senin to consider the activists' appeal in the case of Avakov's backpacks. On August 17, the AntAC filed the appeal to Solomyansky court against the decision [...]

Kholodnytskyi illegally stays under protection of the state security

17.08.2018

On November 19, 2016 President of Ukraine Petro Poroshenko signed an Order on Granting protection to Nazar Kholodnytskyi, Deputy Prosecutor General of Ukraine – Head of the Specialized Anticorruption Prosecutor's Office. Nevertheless, the decision was made illegally, since the President had no right to provide Deputy Prosecutor General with the protection by the State Guard [...]

Kholodnytskyi lent more than 600,000 UAH to his deputy

09.08.2018

The Head of the Specialized Anti-Corruption Prosecutor's Office, Nazar Kholodnytskyi lent more than 600,000 UAH to his deputy Volodymyr Kryvenko. It is worth stressing that the loan is interest-free. It became known from the Register of Declarations that Volodymyr Kryvenko, Deputy Head of the SAPO, borrowed 614,000 UAH from his supervisor Nazar Kholodnytskyi. The [...]

QDCP failed to dismiss Kholodnytskyi, PGO stalled a criminal case against him

26.07.2018

Despite acknowledgement of grave violations committed by Nazar Kholodnytskyi, the head of the Specialised Anticorruption Prosecutor's Office, on July 26 the Qualification and Disciplinary Commission of Prosecutors decided that Kholodnytskyi should be brought only to disciplinary liability and reprimanded. This means he will stay in office and continue obstructing NABU investigations. Artem Sytnyk promised he will appeal the decision. [...]

SAPO closed a criminal case regarding false statements in the e-declaration submitted by an MP

25.07.2018

On July 24, 2018, SAPO prosecutor closed a criminal case regarding submitting false statements in the e-declaration by the Member of Parliament Dzendzerskyi. The MP failed to declare information about his financial obligations amounting to 4 billion UAH (around 153 million USD). NABU reports that the decision was made based on "scientific explanations" regarding interpretation [...]

Kholodnytskyi's aquarium case - will the prosecutors' commission haul in "the big fish"?

20.05.2018

Anticorruption Action Centre. Original text: <https://www.pravda.com.ua/articles/2018/05/18/7180607/> Friday, May 18, 2018, 7:00 am In early April, a scandal broke out around Nazar Kholodnytskyi, head of the Specialized Anti-Corruption Prosecutor's Office (SAPO). It was caused by the published recordings of conversations from his office which are proof of alleged abuse and violations on the part of the [...]

Qualification Disciplinary Commission of Prosecutors: brief analysis of decisions of the body that considers disciplinary case against SAPO Head Kholodnytskyi

05.05.2018

Following conversations, tapped in the office of the Head of the Specialized Anticorruption Prosecutor's Office Nazar Kholodnytskyi, both NABU director Artem Sytnyk and the Prosecutor General Yuriy Lutsenko submitted disciplinary complaints against Kholodnytskyi to the Qualification Disciplinary Commission of Prosecutors (QDCP). This body has the authority to impose disciplinary sanctions on the prosecutors for violation [...]

Investigation against the Head of Special Anticorruption Prosecutor's Office: impact on NABU investigations

06.04.2018

Background In late March heads of the Prosecutor General's Office and the NABU announced investigation against the SAPO head Nazar Kholodnytskyi. Investigation was opened and is conducted by the PGO with participation of the NABU detectives. After the fact of tapping Kholodnytskyi's office became public, both officials submitted complaints against him to the Qualifications Disciplinary [...]

"Bugging in Aquarium": 5 Conversations at Kholodnytskyi's Office, as Recorded by NABU Detectives

04.04.2018

April 3, 2018 23:02 Maksym Kameniev, Dmytro Replianchuk Hromadske.ua NABU detectives have tapped the office of chief anti-corruption prosecutor Nazar Kholodnytskyi for a month. They bugged the aquarium next to his desk. Hromadske television channel were able to find out what it was that detectives recorded on the "NABU tapes". The editors saw the [...]

Judge, caught red-handed offering a bribe to anticorruption prosecutor, is back to work

23.02.2018

The judge of Dnipro local court Hennadiy Pidberezniy, who was caught while offering a bribe to the head of the Specialized Anticorruption Prosecutor's Office, returned to hearing cases after four months suspension from office. The judge is back to his position despite being presented with an indictment. Reason for his returning is that the law [...]

Olena Halushka for EU Observer: Ukraine's fight against corruption has started to work

14.02.2018

BRUSSELS, 12. FEB, 17:32 Ukraine's anti-corruption reform seems to be a struggle of "two steps forward, one step back." Ukrainian society and the international community were outraged by the severe pressure exerted over Ukraine's newly established National Anti-corruption Bureau (NABU) in late autumn/early winter. Attacks intensified right after detectives from NABU served a few notices [...]

Kyivpost: Poll shows most Ukrainians consider fight against corruption unsuccessful

13.01.2018

The overwhelming majority of the population of Ukraine (80 percent) consider the fight against corruption in the country to be unsuccessful, while 46 percent regard it as a complete failure, according to a sociological survey conducted by the Ilko Kucheriv Democratic Initiatives Foundation along with the Razumkov Center's sociological service. According to the results of the [...]

SAPO prosecutors hired under new rules

22.08.2016

SAPO announced the new round of selection of prosecutors, allowing the candidates without prior experience in prosecution to participate. The process ended with selection of 15 prosecutors on 27 October 2016.

Legislative attempt to control SAPO

16.02.2016

MPs made an attempt to put SAPO under control of the Prosecutor General, including simplification of the procedure of dismissal of SAPO head. It was cancelled under the pressure of civil society and international partners

First SAPO prosecutors hired

05.02.2016

First twelve SAPO prosecutors were hired.

SAPO started hiring

16.12.2015

The selection of SAPO prosecutors was announced.

Creation of SAPO

22.09.2015

The SAPO was created as a part of the PGO by the Order of the Prosecutor General.

Creation of SAPO

12.02.2015

The Law on Prosecutor's Office was amended in order to create SAPO

Documents

VLAP

“The specialised anti-corruption prosecution office should become operational as a matter of top priority; it is an indispensable component of an effective and independent institutional framework for combating high-level corruption”

Full doc: <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF>

IMF

“ We will ensure the establishment of a specialized anti-corruption prosecution function in charge of overseeing NAB’s investigations, in accordance with the Law on the Prosecutor’s office and enable NAB to timely access relevant information from other public institutions by end-September 2015 (structural benchmark)” para 29

Full doc: <https://www.imf.org/external/np/loi/2015/ukr/072115.pdf>

VLAP

“Establish an operational and independent National Anti-Corruption Bureau, a specialised anti-corruption prosecution office and a National Agency for Prevention of Corruption, with clear guidelines for inter-agency cooperation. ”

Full doc:

MFA

“Establish a National Anti-Corruption Bureau, a Specialized Anti-corruption Prosecution Office and a National Agency for the Prevention of Corruption, ensuring that they are independent and operational, i.e. endowed with financial resources, staff and equipment required to perform their functions.”

Full doc:

http://ec.europa.eu/economy_finance/international/neighbourhood_policy/doc/mou_eu_ukraine_en.pdf

Documents

Visa Suspension Mechanism

Overall, the visa liberalisation benchmarks continue to be fulfilled. In the First Report under the Visa Suspension Mechanism, the Commission noted that in view of recent developments immediate actions needed to be taken in order to ensure full implementation and sustainability of past reforms in particular as regards the anti-corruption benchmark... The following areas need to be addressed: - Re-establish the independence and credibility of the Specialised Anti-Corruption Prosecution

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

Visa Suspension Mechanism

NABU's work is further complicated by deteriorating relations with the SAPO in the wake of accusations against the head of SAPO in April 2018. The Qualification and Disciplinary Commission of the Prosecutor General Office (QDCP), despite having received evidence that head of SAPO committed gross violation of prosecutorial ethics, issued only a reprimand instead of dismissal. As a result, the reputation of SAPO is severely damaged, and its ability to deliver independent work and to trustfully cooperate with NABU is heavily compromised.

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 operational and institutional autonomy of the Specialized Anti-Corruption Prosecutor's Office is maintained and further expanded by, among other things, granting it its own administrative support services and the "Reception office", as well as its own capacity for maintaining of classified information (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>