

NABU wiretapping powers

Background

At present, NABU can intercept communications only through engagement with the Security Service of Ukraine or the National Police in the course of its investigations. In October 2019, NABU has received legal power to have the right to intercept communications and perform undercover operations without having to interact with other law enforcement agencies. However, the law has not yet been implemented.

Timeline

SBU and PGO have disrupted NABU undercover operation

02.12.2017

In April 2017 NABU started an undercover operation to embed the special agent to an organized criminal group consisting of current and former officials of the State Migration Service of Ukraine (SMSU). According to the operational data, upon prior conspiracy, the officials of the SMSU demanded and received funds for providing to foreigners the citizenship of [...]

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 [...]

Activists demand the wiretapping for NABU

11.11.2016

The activists performed direct street action demanding MPs to vote for the Draft Law enabling NABU capacities to independently wiretap.

Draft law on NABU wiretapping rights submitted to Parliament

13.06.2016

The draft law to enable NABU to intercept the communications independently and sanction some other undercover techniques was registered in the Parliament

Documents

IMF

We will issue all necessary implementing regulations by end-July 2020 and provide adequate resources and equipment to enable NABU to effectively and independently implement interception of communications for landlines by end-September 2020.

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

IMF

By end-June 2019, parliament will adopt legislation to strengthen the powers of NABU to ensure that the NABU has the use of a wide range of investigative techniques, including undercover operations, intercepting communications, accessing computer systems and controlled delivery, without having to rely on other agencies' infrastructure

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

IMF

"Parliamentary approval of legislation ensuring that the NABU has: (i) the use of a wide range of investigative techniques, including undercover operations, intercepting communications, accessing computer systems and controlled delivery, without having to rely on other agencies' infrastructure; and that (ii) the registration of pre-court cases and of investigative judges' rulings pertaining to NABU should be protected from leakage of information related to ongoing investigations, by restricting access to the information to NABU and SAPO officers until the investigation of the case is completed, or the case is closed" Table2

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

IMF

"We will submit legislation to parliament, for adoption by end-November 2016 (a new structural benchmark) to ensure that (i) the NABU has the use of a wide range of investigative techniques, including undercover operations, intercepting communications, accessing computer systems and controlled delivery, without having to rely on other agencies' infrastructure" para 36

Full doc: <https://www.imf.org/external/np/loi/2016/ukr/090116.pdf>

Documents

Visa Suspension Mechanism

NABU's effectiveness would be further improved with independent access to wire-tapping, which would reduce the bureau's dependency on the Security Service of Ukraine (the SSU has disrupted NABU operations in the past and its leadership is under investigation by NABU)

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

Provide NABU with capacity (legally and technically) to conduct wire-tapping autonomously (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>