

Map of ANTICORRUPTION CONDITIONALITIES

Dependable KDAC: how PO wants to use Vovk's services in order to have "their" person on the position of the head of the SAPO

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Last week, the [competition for the position of the head](#) of the Specialized Anti-Corruption Prosecutor's Office, which is closely monitored by international partners of Ukraine, suddenly slowed down. Interviews with candidates were stopped due to the postponement of meetings of the competition commission. There are no explanations for the pause in official reports. However, real reasons are to try to change the already existing results of the competition.

As soon as main candidate from Bankova, Member of Parliament and head of Committee of the Rada on Legal Policy Andriy Kostin [didn't pass interview](#) on integrity, the commission stopped to meet. Besides Kostin, another protege from the government Anton Voytenko, current head of the Prosecutor's Office in Lviv region, did not pass the stage of integrity.

It looks like Bankova expected to see "their people" in the final until the last minute, in order to eventually get controlled head of the Anti-Corruption Prosecutor's Office.

In order to create visibility of "transparency and objectivity" of the process, the PO was even ready to appoint someone among truly independent candidates to the position of deputy head of the SAPO. Spoiler: according to the law, the deputy does not have key important powers in cases, so the government was ready to give this position to anyone.

The plan of the PO to get their person in position of the head of the SAPO failed miserably. The fact is that there is procedure for obligatory taking into account in the process of votes of at least two members of the commission from the quota of the Council of Prosecutors. Most of these members are recognized international experts.

What happened? How integrity interviews were conducted? And how will they try to change the competition in the Presidential Office? We explain as observers of this process from the very beginning.

Interviews that do not follow Tatarov's plan

37 candidates out of more than one hundred reached the stage of interviews for integrity in the competition. The rating of candidates is formed according to the number of points obtained during testing. According to rules, it is the leader of rating who must become the head of the SAPO.

However, to get to the next stages of selection, all candidates must pass the integrity filter. The thing is that the commission should study detailed information about property status of candidates, political neutrality, ethics, other possible violations or issues.

On the basis of these data there is interview where a candidate gives answers to all questions.

The commission makes decision based on the principle of reasonable doubts: if doubts about the candidate's compliance with the criteria remain, a member of the commission does not vote. To admit the candidate to the next stage, the commission should vote by at least 2 representatives of the Council of Prosecutors and 5 representatives from the Verkhovna Rada of Ukraine must vote for him.

However, interviews for integrity turned into manipulations. As the result, only one out of 20 candidates managed to pass to the next stage during one week of interviews. During the first 3 days of interviews, no one advanced in the competition at all.

Whereas international experts did not pass candidates in whom they saw real doubts, some representatives of the parliamentary quota of the commission tried to 'pull' pro-governmental candidates. Representatives from all factions, even delegated by the pro-Russian Opposition Platform For Life Andriy Gudzhali, fought the most for candidates from the PO.

The first of pro-governmental candidates Anton Voytenko, current head of the Prosecutor's Office in Lviv region, who had previously headed Zhytomyr Garrison Military Prosecutor's Office, withdrew from the competition on the second day of interviews. He as military prosecutor did not achieve any results in the high-profile case on theft of army ration, although he called it "matter of honour". He was supported by all present members from the Parliament, but no one from the Council of Prosecutors voted for him.

The time for interview with Kostin was approaching, and members of the commission close to the PO understood that the head of the Committee on Legal Policy was far from ideal image of the candidate. There were many more questions and claims to him, not to mention outright political involvement, even in comparison with other already rejected candidates. [Andriy Kostin](#) is the head of the Committee on Legal Policy and Member of Parliament of the Servants of the People, where he was brought by the head of the Presidential Office [Andriy Yermak](#).

Kostin is boycotting urgent presidential draft law on liquidation of KDAC and cannot pass draft laws on real judicial reform through the committee. In particular, the process of restarting the High Qualification Commission of Judges has stopped, and that's why Ukraine already lacks about 2,000 judges. Instead of restarting the High Council of Justice, its strengthening has began. And the Parliament [continues](#) to appoint judges of the Constitutional Court without introduction of transparent competition.

On June 4, on the eve of Kostin's interview, the commission unexpectedly voted for current detective of the NABU to pass to the next stages of the competition. For the one who lead investigation [in the case of fraud](#) with apartments for the National Guard with probable participation of deputy head of the Presidential Office Oleg Tatarov.

By this voting members of the commission tried to make gesture that tried to achieve several goals at once. The first is to distance from Tatarov and demonstrate "independence." After all, according to the AntAC and investigating journalists of the [program Schemes](#), the majority of the parliamentary quota has connections with Tatarov, who coordinated and agreed on the composition of the commission from the Rada. The NABU's candidate was not seen as particularly dangerous, hoping to lower him in rankings in next stages due to lower scores.

The second goal is to create the field "pushing" Kostin.

We assume that both the commission and the PO perceive the competition as political process, so trying to push "their" candidate, they believed that the position of deputy can be given to independent candidate and this can satisfy international partners in the commission. They hoped that successful interview of the detective in Tatarov's case would appease international partners and they would support Kostin. This operation did not work, because international experts are guided by their own assessment of objective

criteria, rather than political motives. There were [many questions](#) to Kostin about integrity, including nepotism, political neutrality, declaring, and visiting the occupied Crimea.

In 2019-2020, Kostin did not disclose in the declaration any place of residence in Kyiv, although he received budget compensation for rent in the amount of about 20,000 UAH per month. The place of residence of the candidate's daughter, who has been working in Kyiv since 2019 as assistant consultant to another Member of Parliament, colleague in the faction Servant of the People Andriy Zadorozhnyi, has also not been disclosed in the declaration. In 2019, Kostin sold two apartments in Odesa, but did not submit notifications of significant changes in property status to the NACP, namely income from the sale of apartments in the amount of 1.2 million UAH.

According to the Public Register of Politically Exposed Persons of Ukraine, Kostin's wife works as assistant consultant to his colleague in the party, the Parliament and committee Maksym Dyrdin, and Dyrdin's wife works as assistant consultant to Kostin. The similar "exchange" exists between the candidate and Member of Parliament Mykola Zadorozhnyi: Kostin's daughter works as assistant consultant of the latter, and Zadorozhnyi's son works as Kostin's assistant consultant.

All these circumstances, in fact, made it impossible for Kostin to successfully pass the stage of integrity. Nevertheless, members of the commission delegated by the Parliament openly justified these problems. Here are just few quotes from members of the commission who shamelessly pushed this candidate.

When there were claims about Kostin's visit to Crimea after the occupation, member of the commission delegated by the faction Opposition Platform For Life Gudzhali replied: *"Well, I don't see anything wrong with that"*.

Some members of the commission had questions about nepotism. The same Gudzhali did not hesitate to defend: *"And I still want to speak in support of the candidate. For instance, I see absolutely nothing in this It is clear that this candidate is experienced, professional. I see the scale and state thinking here, so I don't know... As for nepotism, for instance, let's look as lawyers at these accusations made by some ... Nepotism is not directly stipulated in our legislation"*.

After Kostin, part of the commission from the Rada controlled by Bankova [failed](#) also strong candidate, namely the head of the detective department of the NABU Olena Krolovetska. Everyone recognized her as worthy and professional candidate, but they did not let her go further.

Among accusations against the candidate, for instance, there were claims that one of her cases, namely well-known "amber" case of the NABU has been considered in court for a long time. This is bribery scheme exposed by detectives with the participation of Members of Parliament on trade decisions and draft laws. The absurdity of claim is that the detective can in no way affect the speed of consideration of the case in court.

Representative of the Opposition Platform For Life mentioned her friendship with the head of the Center for Countering Disinformation, appointed by the President [Polina Lysenko](#), who had been subject of scandalous "Derkach's tape-recordings". Also they did not like the fact that the candidate's father lives in Russia, although members of the commission announced themselves that they have relatives in the aggressor country.

As the result, the commission managed to interview 20 people out of 37 during first week, and only one candidate passed to the next stage. This is the NABU detective Oleksandr Klymenko. This was definitely not part of Bankova's plan and was one of reasons for stopping the competition.

KDAC will help

It is obvious that it is not enough to delay interviews endlessly, and the pause is needed only to prepare

more ambitious decisions for the “problem”. The scandalous [District Administrative Court of Kyiv](#) may be useful. That’s where you can file appeals about the competition according to the law.

The first appeal has already been sent to the court on June 9 by former detective of the NABU Oleksandr Kareyev, who was dismissed from the NABU according to results of official investigation and who was later reinstated by the same KDAC. It was in this case according to his appeal against the NABU, KDAC made the decision which obliged the Ministry of Justice to [remove](#) Artem Sytnyk from the register of legal entities as director of the NABU.

It is even more interesting that KDAC [is](#) under threat of liquidation. However, the Parliament is in no hurry to make that decision.

Instead, the main committee in the Parliament on liquidation of KDAC is the committee headed by the same Andriy Kostin. It is this committee that has been ignoring consideration of this urgent presidential draft law for at least three meetings.

The NABU and the SAPO have already completed investigation in the case of alleged [crimes of KDAC judges](#) and are continuing to investigate the scheme of selling court decisions involving brother of KDAC head Vovk, so it is obvious that odious court is also interested in influencing the competition.

The possible scenario for influencing the competition is the court. For instance, KDAC returns doubtful but pro-governmental candidates to the competition by its decision, despite the fact that they were rejected by the commission. Or it cancels the rule of competitive selection regarding obligatory taking into account votes of international partners in the process, which automatically returns competition to the initial stage and destroys all previous procedures.

The final option is to restart the competition. But this will also mean that competition has lost its chance for transparency and independence.

On June 11, 2017, visa-free travel regime with the EU came into force for Ukraine. One of requirements for obtaining it was the launch of the anti-corruption infrastructure and, in particular, transparent competition for the head of the SAPO.

One year ago, on June 4, 2020, the Council of Prosecutors authorized representatives to the competition commission for selection of the head of the SAPO. They were recognized experts Drago Kos, Thomas Firestone, Nona Tsotsoriya and Roman Kuybida. And there were hopes for real transparent competition for the position of chief anti-corruption prosecutor.

However, the Verkhovna Rada managed to determine its quota of 7 persons only at the third attempt. Most of them [raised](#) questions and doubts, while the President personally promised a transparent process.

But now the process is, in fact, blocked by some members of the commission appointed by the Parliament. While the President is [outraged](#) by the lack of actions of Western partners to support Ukraine, one of main requirements of visa-free travel is being destroyed in his office. Violation of this obligation may [start](#) the mechanism for suspending visa-free travel, or even its reconsideration.

The EU Ambassador to Ukraine has repeatedly stated that independence of anti-corruption institutions is the basis of cooperation between Ukraine and the EU in the field of visa-free regime and macro-financial assistance. The US President Joe Biden and Zelenskyi in recent conversation also discussed transparent [completion](#) of the competition for position of the head of the SAPO.

So, the President Zelenskyi still has the choice. Namely, to satisfy the wish of members of his office regarding controlled anti-corruption prosecutor, or to take the side of the civilized world.