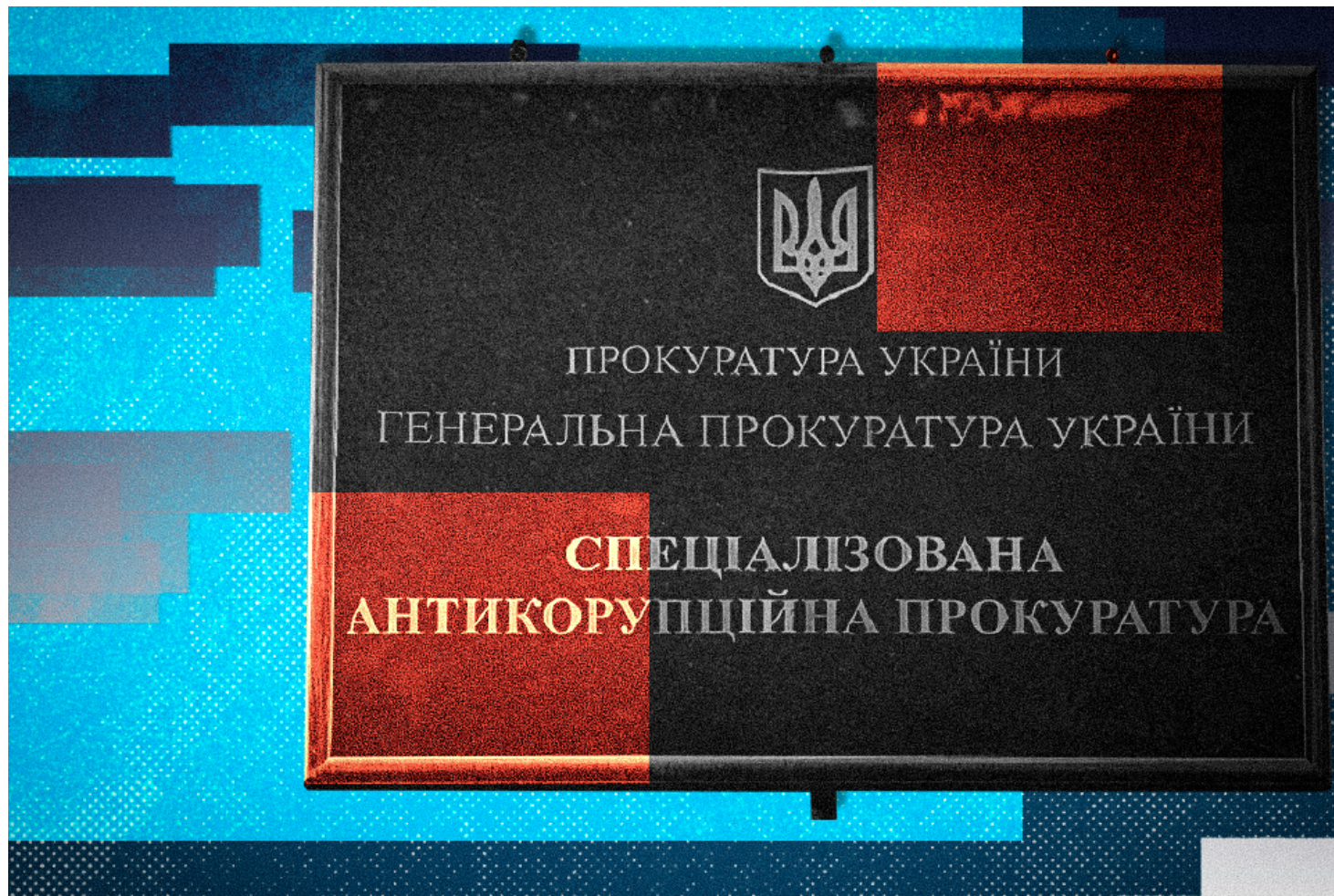


## How the head of the SAPO will be selected. Analysis of the Anti-Corruption Action Center

30.01.2021



[by Olena Shcherban, originally published on Zn.ua](#) On January 25, the process of selecting a chief anti-corruption prosecutor began. The Anti-Corruption Action Center has carefully analyzed approved rules of the competition, transparency and quality of which will determine fate of top-level investigations in next 5 years and support of the international community.

Whether the Prosecutor General will have opportunity to [interfere](#) in investigation depends on this competition, as well as whether new head of the SAPO will work toward the result and will not follow the example of his predecessor. The AntAC has the [list of cases](#), where some prosecutors of the SAPO as well as their previous head Nazar Kholodnytskyi have personally dumped promising investigations.

Despite all shortcomings and questions for the [parliamentary quota](#) in the Selection Commission, the key point in this process is participation of international experts, who were [selected](#) by the Council of Prosecutors. **No decision will be made by the Commission without vote of at least two international experts.**

This approach brings level of the Selection as close as possible to the principle on which judges of the High

Anti-Corruption Court (perhaps the most successful judicial competition in the history of the country) were selected. The selection of judges of the HACC became exemplary because of the role of international experts, who also became the key to success of the Selection to the National Agency on Corruption Prevention.

The principle of mandatory consideration of votes of international experts was a key obstacle in determining rules of the Competition. The parliamentary quota initially disagreed for a long time with approval of this principle, and later tried to change it several times.

Why? Because every potentially dishonest or “disgraced” candidate simply has no chance to win. Unexplained assets, illegal or questionable decisions or indecent behavior in past are all clear non-compliance with the criteria of integrity and professional competence. Candidates with such “stains” will fall under thorough X-ray without any chance of success. Chances of professional and experienced candidates increase significantly against this background.

At the same time, due to obvious control of some members of the Commission [from the authorities](#) and even pro-Russian forces, the procedure of the Selection could not be perfect. It is obvious that these “holes” will be used during the Selection to try to manipulate.

The competition will not be simple and fast. The analysis of stages and procedures confirms that the process will last at least 3-4 months. The duration may depend on number of candidates, as well as on possible epidemic restrictions.

# STAGES OF THE COMPETITION TO THE POSITION OF THE HEAD OF THE SPECIALIZED ANTI-CORRUPTION PROSECUTOR'S OFFICE



1

anonymous testing of knowledge of the law;

2

anonymous testing of general skills;

3

interview which includes:

- polygraph;
- interview on integrity;
- written practical task;
- interview on professional competence.



## Who are they looking for?

- head of the SAPO;
- deputy head of the SAPO;
- head of the 5th Department of the SAPO.



## **Procedure of the Competition**

The competition for position of the head of SAPO starts from the moment of its announcement. It takes 21 days to accept documents from candidates. The list of documents has already been [published](#) on the website of the Prosecutor General's Office.



# THE PROCEDURE OF THE COMPETITION FOR THE POSITION OF THE HEAD OF THE SAPO

1

Announcement and 21 days to receive documents from candidates;



2

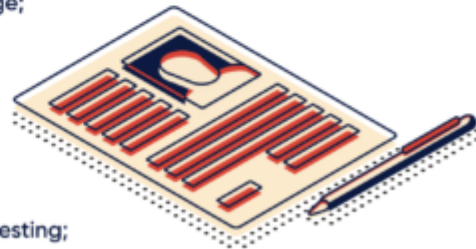
Analysis of proposed candidates for compliance with requirements. The list of admitted candidates is published on the website of the Prosecutor General's Office within 3 days

3

Testing for knowledge of the law. The result is published immediately on the website of the Prosecutor General's Office. First 150 candidates who have passed the threshold and scored the most amount of points go to next stage;

4

Testing of general skills;



5

Special vetting of candidates who have passed testing;

6

Polygraph. Results of this stage are held confidential;

The most difficult and the longest stages will be two interviews on assessment of integrity and professional competence.

7

Interview on integrity assessment. The candidate must receive at least 7 votes to pass to next stage;

8

Execution of practical task. Electronic copies of answers to practical tasks are published on the day of their execution on the website of the Prosecutor General's Office;

9

Interview on assessment of professional competence. After interview, members of the Commission discuss its results online, as well as give points to candidates



Determining the winner and referring him to the Prosecutor General for appointment.

The overall result is determined by the formula:

- + points for anonymous testing of knowledge of the law
- + points for anonymous testing of general skills
- + points based on results of the practical task
- + points based on results of the interview in order to examine professional competence.

The first candidate in ranking is considered selected for the position of the head of the SAPO, and the second candidate is considered selected for the position of their deputy..

ЦЕНТР  
ПРОТИДІЇ  
КОРУПЦІЇ

For more information on procedure, testing, scoring [read analysis of the AntAC here](#).

## **Risks during the Selection for position of the head of the SAPO**

The main problem remains members of the Commission [under quota](#) of the Verkhovna Rada, who will obviously continue to try to delay the process or manipulate. The most problematic is system defined by the Commission for scoring candidates at each stage of interviews and tasks.

The procedure foresees that after all stages of the Selection the winner will be candidate, who will score the most amount of points at all stages of the Selection. Points will be scored by members of the Commission. And there are more members from the quota of the Parliament, namely 6 against 4. It is obvious that some members of the Commission under the quota of the Parliament will try to artificially overestimate points of certain candidates and underestimate others.

However, if representatives of the Opposition Platform For Life or the group “For the Future” in the Commission dare to manipulate, it will not go unnoticed and will certainly cause scandal. After all, all points will be made public, and meetings themselves are completely public and broadcasted. That means that simultaneous overestimation of points from representatives of the Parliament to some candidates and underestimation of others will be obvious in the first place and will force international experts in the Commission to react. Secondly, the number of such points according to results of subjective assessment will be significant. **Any manipulation of points may cost Western support to Ukraine.**

Also, the parliamentary quota may continue to try to block important decisions. For instance, simply do not get the required number of votes to make certain decision at each stage, if this decision does not suit curators of its quota (5 votes are required). This will delay the process, but such attempts will also be public and obvious.

According to the Anti-Corruption Action Center, the parliamentary quota was agreed with deputy head of the Office of the President Oleg Tatarov, who is [currently the suspect in case of the NABU](#). However, Tatarov remains in his office on Bankova with all possibilities to influence on the Commission and with obvious conflict of interests. That is why if the Office of the President really does not want to have problems with support in the West, then Tatarov should be officially removed from office. Although we are sure that the fact that Tatarov has not been dismissed yet is nonsense for civilized Western countries.

In addition to manipulations during the competition, the [scandalous District Administrative Court](#) remains obvious tool of illegal influence on the Selection. According to the law, appeals about the competition and decisions of the Commission should be sent there. Since some judges, as well as odious head Pavlo Vovk, are also interested in disrupting the competition or influencing on its results, they will definitely try to interfere in the process using their usual scheme. For instance, close to them candidates will be sent to the competition. In future, they will try to either cancel results, or suspend the competition or prohibit the Commission to make certain decisions. The only precaution in this process will be quick appeal of such decisions to higher authorities.

\*\*\*

*On January 22, the G7 countries announced that they [expected](#) from Ukraine transparent selection of the head of the SAPO. Earlier, the US and EU Embassies publicly [reminded](#) that: “The Commission must start transparent process based on integrity and merits of the candidates. Our further support will depend on this”.*

*Western partners of Ukraine will closely monitor the Selection and determine the winner for the position of a new head of the SAPO. Today, there are good chances to choose a worthy candidate, but only if he or she shows courage and applies for the position.*