

Legislation that complicates investigations came in force

15.03.2018

On March 15 the amendment to the Criminal Procedure Code known as the so-called 'Lozovyi's clause' came into effect. Although the clause has been somewhat softened in course of adoption, it still introduces the following obstacles for all criminal investigations, including those of NABU:

1. Possibility to appeal the notice of suspicion during a month (two months for severe crimes) after its announcement. If the notice is successfully appealed, this does not automatically close the case, but enables unfreezing the assets and lifting all other preventive measures introduced after the notice was served.
2. Necessity to receive courts warrant for each and every expertise needed for investigation. From now on, the permissions to hold economic, ballistic, criminalistic and any other expertise may only be appointed if agreed by an investigative judge.
3. Investigative bodies shall address their requests for warrants only to an investigative judge in a court situated in the same administrative district where investigative body is registered. Namely, from now on NABU may only address Solomianskiy district court of Kyiv, without any alternative; previously NABU also addressed Lviv district court, where its regional unit is situated.
4. Decision on extending the term of criminal investigation over two month after suspicion is announced may only be adopted by an investigative judge, while previously this was up to the prosecutor. Almost all NABU cases need extension of investigation beyond two months, so judges receive extra powers to influence NABU investigations/close NABU cases. In addition, since investigative judges will also be overburdened with warrants requests, some cases may be closed before relevant judge finds time or opportunity to consider extension.