

NACP attempts to misuse automatic verification of e-declarations through regulations - Declaration Under Control initiative

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Declarations Under Control Initiative

On December 21, 2018, the National Agency on Corruption Prevention (NACP) amended the document that determines the procedure for verification of electronic declarations. These changes were triggered by the introduction of an automated declaration verification system which aims to simplify and improve the effectiveness of verifications.

However, the analysis of the adopted changes suggests the opposite. The new procedure for verification of declarations can help corrupt officials to avoid responsibility for declaring false information and illicit enrichment, creates conditions for selective verification and complicates public control over the verifications of declarations.

Firstly, not all declarations will be cross-checked with the registers. The amendments divide the automatic verification process into two stages: revision of the data in the declaration and comparing with other registers. Only those declarations will be checked with the other registers that overcome a certain (rather high) threshold according to the results of the first step. The scores are accrued for compliance with the certain criteria.

The declaration of officials who at the same time occupy a particularly responsible position and whose position belongs to those with a high level of corruption risks, should, ideally, have this threshold overcome if they indicate this in their declaration. However, if declarations do not overcome this threshold, then they will not be verified with the registers.

The amendments also assume that the results of the automatic verification will not apply to declarations that have already been verified.

The amendments foresee that the system will revise the declarations on the basis of automatic verification – and this will essentially determine the order for the verifications. NACP has already published a list of everything that adds “scores” and should subsequently place the declaration higher in the list for verifications. Knowing that, some may provide deliberately inaccurate information in the declarations – in order to find themselves as low as possible on this list. Taking into account that at least 60 days are spent on verification of one declaration, and over 2017-2018, NACP has verified only 615 declarations out of several millions, the queue may simply never reach such declarations. Moreover, nobody except for NACP will be able to see the list or results of automatic verification, since the new regulations provide that the results of the automatic verification are **neither published nor even provided upon the request**.

Secondly, it is unclear how NACP will identify illicit enrichment in the declarations. The amendments to the document removed even the definition “signs of illicit enrichment”, which previously was there. Therefore not only clear criteria for illicit enrichment, but even the definition of what it is and what can be found during the full verification is missing in the document. Given the fact that NACP insists on their exclusive right to detect illicit enrichment in the declarations, and even issued (illegally) an explanation which requires law enforcement agencies, including NABU, to receive their permission on the opening of criminal proceedings on illicit enrichment, it is unclear what exactly NACP should be looking for now. Taking into account many instances when NABU was opening criminal proceeding on the basis of declarations where NACP found nothing, such amendments can be seen as a deliberate **action towards blocking the investigations on illicit enrichment**.

Thirdly, the changes substantially limit the ability of public to control the process and the results of verifications. In addition to keeping in secret the above-mentioned results of the automatic verification, the new requirements for the initiation of a full verification upon public’s request are introduced. From now on NACP requires that information is “confirmed by the information from the registers and databases of state bodies”. And only in this case, NACP may decide to conduct a verification without taking into account these automated checks. This in effect might mean that information from foreign registries, for instance, will not be the basis for verification. In addition, it is well-known that Ukrainian state registries are incomplete and often incorrect, and the information may not be available at all.

Thus, changes to the regulations for the full verification of declarations create opportunities to manipulate the process and the results of the full checking of declarations, complicate rather than assist in the process of prevention, detection and fight against corruption and complicates public control over the verification of declarations.

Given the systematic adoption of dubious, and sometimes illegal decisions, inefficiency and sometimes overt sabotage of work, **NACP should be fully rebooted**. This can be done by adopting the amendments to the law that will provide for a transparent and impartial process for the selection of new leadership and provide the authority for rapid human and organizational changes, preferably before the parliamentary elections that will take place in 2019. If not addressed properly, NACP might and most definitely will be ill-used during the parliamentary electoral campaign.