

New changes to the reform of the SBU: the Rada wants to strengthen Bakanov

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The Verkhovna Rada registered the [draft law](#) 4392 on amendments to the Criminal Code (CC) and the Criminal Procedure Code (CPC), which should be a continuation of the draft law on the reform of the Security Service of Ukraine (SBU). Contrary to previous promises, Members of Parliament do not define investigation as temporary function and want to allow the SBU to investigate corruption cases which are in the jurisdiction of the National Anti-Corruption Bureau of Ukraine.

Earlier, the Rada decided that the reform of the SBU should consist of several components:

- main draft law 3196-d which will be considered by the Security Committee;
- separate draft law on amendments to the Criminal Code, the Criminal Procedure Code and the Code of Ukraine on Administrative Offenses.

On October 20, after finalizing failed presidential version the Security Committee of the Rada approved and recommended new version of the main draft law to the first reading.

Last week, the text of the draft law on amendments to the CPC and the Criminal Code regarding the reform of the Security Service of Ukraine appeared on the website of the Verkhovna Rada. The SBU keeps functions of pre-trial investigation and, moreover, there are no restrictions on timing of the pre-trial investigation of the SBU, as provided in the main text.

“The lack of clear indication in the CPC that the function of investigation is limited in time means only one thing. They are trying to mislead us with promises to deprive the SBU of investigation. In fact, deprivation of investigation is fiction without excluding from the CPC mentions on pre-trial investigation of the SBU, without clear time limits for this in the CPC and clear schedule for transferring cases and delegating this function to other bodies”, stated the board member of the AntAC Olena Shcherban.

Moreover, according to the proposal of Members of Parliament, almost all crimes which are currently in the jurisdiction of the SBU remain under investigation of the SBU. In particular, Members of Parliament leave for the SBU investigation of drug smuggling and counterfeit of drugs (article 305 of the Criminal Code) and cultural property, poisonous, highly potent, explosives, radioactive materials, weapons or ammunition (article 201 of the Criminal Code).

Moreover, the draft law allows the Prosecutor General to refer to the SBU any crime if it, in the opinion of the Prosecutor General, will threaten the state security. The draft law, in fact, removes current legal ban on interfering in top-level corruption cases in the jurisdiction of the National Anti-Corruption Bureau (part 5, article 36 of the CPC). Authors of the draft law suggest that the NABU cases could also be transferred to the SBU, but including with the consent of the head of the SAPO.

“Such innovations actually legalize attempts of the SBU to take away high-profile cases on grounds of rescuing subjects of cases. This has already happened to the case of Oleg Bakhmatyuk. The head of the SBU Bakanov personally sent the appeal to the Prosecutor General Venediktova with request to transfer the case to him, materials of which he had not even studied. The only goal is to take the case and save

Bakhmatyuk. There were no arguments about threats to the state security. At that time, this was prevented only due to the fact that the NABU cases are legally protected from interference and illegal transfer. Now, they want to change that”, adds Olena Shcherban.

Earlier, civic activists published the [research](#), according to which most of cases investigated by the SBU do not concern the state security. Authors of the research analyzed cases which had been investigated by the SBU from 2013 to 2020 and found that cases had not been related to the state security. In total there are 54.7% of them, namely 14,558. At the same time, most part of such cases were opened in 2013 and 2018.

In order to reduce abuses the draft law proposes to prohibit the involvement of the SBU operational staff to accompany criminal proceedings investigated by other bodies of pre-trial investigation. However, such proposal will unlikely reduce abuses if the SBU actually is allowed to investigate other non-jurisdiction cases.