

Roman Maselko about ridiculous court decision that ruled Sytnyk's appointment illegal

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[Roman Maselko writes:](#)

Recently, there was the news that the court found Sytnyk's appointment illegal.

In fact, it was only about the appeal against actions of the State Fiscal Service during the special examination of Sytnyk's declaration.

Finally, the [full text of the court](#) decision has appeared. And now you can understand what violations were found by the court and what had it decided.

The case was considered by the District Administrative Court of Kyiv (judge Karakashyan S.K.). And his decision was very interesting.

So, the court did not find any violations in actions or declarations of Sytnyk himself. Moreover, the court stated that discovered tax insignificant differences were fully explained and corrected by Sytnyk in his clarifying declaration.

Where was the violation then? The court found that requests regarding special examination should be filed in a special order via the National Agency on Civil Service. But in this case, the Presidential Administration directly filed the request. Moreover, the Tax Administration had to reply in a special form. Instead, it replied with the ordinary letter.

That's all. That means that the court found formal violation regarding the procedure of sending and providing the conclusion on results of special examination. There are basically no claims regarding the declaration.

But the main point of the decision is that the court... gives recommendations how to cancel Sytnyk's election to the position of NABU director.

"At the same time, the court believes that found during the consideration of this case circumstances regarding the violation of procedure for conducting the special examination of PERSON_4 within the framework of the competition for the position of the director of the National Anti-Corruption Bureau of Ukraine, with the goal of legal settlement of the question of legality of such competition and further consolidation of its results, may be grounds either for recognition by the President of Ukraine of his decree dated April 16, 2015, No.218/2015 to be invalid, or the subject, whose rights and/or legal interests were violated by such decision, can appeal against the Presidential Decree in court".

Thus, the court says that since it has recognized the violation of procedure, now the President can either declare his decree invalid, or any of candidates can appeal and cancel the decree. Welcome. We are waiting for the appeal.

How do you like that? This is not a court decision. This is free of charge legal advice ☐

By the way, the justification for violation of claimant's rights, who appealed against Sytnyk's special examination, is also unique. This is the law company Studio of Law LLC, in which NABU had conducted the search in one of the cases.

This is how the court justifies why the claimant's right has been violated:

"Since the director of the National Bureau is responsible for activities of this bureau, and therefore, his powers extend to the territory of the whole Ukraine and, accordingly to the legal space within which the claimant is located, law company Studio of Law LLC has a legitimate interest in formation of state bodies by officials on legal grounds and in compliance with the procedure provided by the law. The violation of such interests of the claimant by violating procedure of appointment of respective official, provides to the company Studio of Law LLC the right to appeal to the court in order to protect it in a manner determined by the Code of Administrative Court of Ukraine."

That's cool, right. I recall how members of the Public Integrity Council appealed against the Presidential decree on the appointment of judges to the Supreme Court, or how Automaidan appealed against the formation of Commission for the selection of the head of the State Bureau of Investigations, or how a number of NGOs appealed against the appointment of the auditor of the NABU. There were violations everywhere. But the court was inexorable. Your rights are not violated, therefore you have no right even to file the lawsuit. And here is "legal interest in complying with the procedure provided by the law"... What a progressive judge he is.

Now, the question is whether the President will use friendly advice of the judge how to get rid of the hateful Sytnyk.

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