

The Anti-Corruption Committee of the Rada supported the draft law on changing the status of the NABU. We explain what this means

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The Verkhovna Rada Committee on Anti-Corruption Policy recommended adopting in the first reading draft law 5459-1, which should bring the Law on the NABU into line with the Constitution of Ukraine, eliminate gaps in the law and uncertainty regarding current director of the Bureau, which arose after last year's decisions of the Constitutional Court.

The draft law provides for the change in status of the NABU to executive body, establishes guarantees of independence of the Bureau from the Government, provides for new procedure for selecting and appointing director of the NABU, and changes the procedure for conducting independent audit of the Bureau.

It is also provided that current director of the NABU will continue to perform his powers until selection of head of the body under new procedure, which begins immediately with entry into force of the Law. Changing the status of the NABU will not block activities of the body and will allow the Bureau to function continuously further.

However, there are several provisions in the draft law that need to be finalized before the second reading.

In particular, the voting procedure of the Competition Commission allows persons appointed by the governmental quota to block the appointment of any worthy candidate who is not loyal to the Government. Under such conditions, the role of international experts will not be decisive, and compromise candidate but not the best one might be chosen for the position of director.

Recently, the EU Ambassador to Ukraine Matti Maasilta [stated](#) that the [conclusion](#) of the Venice Commission on the draft law of the HCJ, especially in terms of the role of international experts, sets the direction for discussions, in particular, around the draft law of the NABU. The Venice Commission proposed the following model: the decision is made by 4 votes, where at least 2 votes are made by international experts; if votes are evenly distributed, the voting must be repeated; but if within time limit prescribed by the law no decision is made, the voting of group of members of the Commission consisting of at least two international experts shall prevail.

This draft law also provides for early termination of powers of director of the Bureau, although in more veiled form. In fact, powers of director in the absence of grounds provided by current law will be terminated until the end of 7-year term of office, namely until April 2022, with the selection of new director. This undermines independence of the Bureau and is unacceptable, as it sets precedent when the Verkhovna Rada could terminate powers of head of the NABU by the Law in the absence of any predetermined, exhaustive grounds for doing so.

Only if these provisions are finalized, the draft law will not pose risk to independence of the NABU. This is the prerequisite for effectiveness of the anti-corruption body.