

The fight the SAPO Head: how tainted Parliament's Commission will push its sham candidates

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The [competition](#) for the most important position of the country's chief anti-corruption prosecutor is ongoing.

The candidates have already passed a number of important stages, including tests of knowledge of the law and general abilities. According to the tests' results, there are 37 candidates left in the competition.

The following stage to filter the candidates out of the competition is the integrity interview. Information about candidates, their assets, lifestyle, professional ethics and political neutrality will be rigorously and carefully examined. Only candidates with no questions to their integrity will pass to the following stage, which is tasks and interviews about professional competence.

However, some members of the Commission are themselves far from integrity and professional competence.

How dishonest and unprofessional members will assess integrity

A number of questions to assets and connections of members of Commission under the quota of the Verkhovna Rada arose already at the stage of their [appointment](#).

For example, questions about the inconsistency of the declared assets with the lifestyle arose to the representative of the political party "Opposition platform – for life", [Andrii Gudzhai](#). In his declaration we clearly see underestimated cost of real estate in Kyiv and vehicle, as well as cash of unknown origin. He also refused to undergo attestation at the prosecution's office.

Moreover, questions about sources of origin of assets arose to the Chairwoman of the Commission, Kateryna Koval, who mysteriously managed to purchase a vehicle worth of 14 her yearly incomes.

There are even more questions to connections of the Commission members. The already mentioned Kateryna Koval as well as Roman Kuibida previously were involved in the judicial reform under the leadership of Andrii Portnov and Olena Lukash, as well as had other connections with the "regionals".

Other members of the Commission, as, for example, Bohdan Romaniuk and Oleksii Drozd, came from the Ministry of Interior system.

Some members of the Commission have already shown their inconsistency to the status during the selection process. Part of the Commission deliberately [blocked and protracted the process](#).

Earlier, we [described](#) in detail how, on the initiative of Andrii Gudzhai, the Commission had to discuss the exclusion of integrity as a principle and stage of the competition.

As the Commission began its work, it became evident that some of the members had no idea about the

existence of the standard of proof “reasonable doubts”. The standard means that in order to admit some circumstances proven, you do not need 100% confidence in a certain fact, a reasonable doubt is enough. For example, a reasonable doubt in the fact that a candidate could have earned funds for a huge house and a luxury vehicle [while picking strawberries for sale](#). The above described standard is the basis for assessing the candidate’s compliance with the criteria of integrity and is already widespread not only in the world practice, but also repeatedly used in Ukraine during the selection of judges of the High Anti-Corruption Court and the Head of the National Agency for Corruption Prevention.

However, the Commission member Bohdan Romaniuk refused to support the above-described principle during the meeting of the Commission, justifying his position by a manipulative excuse: “I will support everything but doubts”, or spoke about the “practice of the European Court of Human Rights”, but without naming specific cases.

At the same time, the ECHR, on the contrary, in one of the recent judgments of [Xhoxhaj](#) against Albania, did not find violations of the rights of a dismissed judge of the Constitutional Court of Albania due to reasonable doubts as to the origin of her assets. In the case of the SAPO Head, it is a matter of competitive selection and appointment to the position of the most worthy candidate, therefore reasonable doubts about political neutrality or the origin of assets are even more relevant.

How members of the Commission have already shown their bias

During the competition process a number of candidates have been disqualified due to different reasons: the majority, for example, due to failure to submit certain documents; or due to work in anti-corruption departments of different law enforcement bodies prior to 2014. The latter are prohibited from participation by the law. Notwithstanding, candidates who disagreed with the Commission’s refusal appealed such decisions to the Commission itself. During the consideration of these complaints, it became clear that some members of the Commission tried to support their “sham” candidates.

For example, Maksym Pochtovyi, the head of the scientific laboratory of the Dnipropetrovsk University of Internal Affairs, applied for the competition. His candidacy was refused due to the lack of one of the obligatory documents, a statement about the absence of child-support debts. The candidate appealed such a decision. During consideration of the appeal, member of the Commission from the Servant of People political party, Yevhen Sobol, [started](#) to openly support Mr. Pochtovyi, and even provided explanations on the candidate’s behalf. In particular, Mr. Sobol explained that the candidate simply has no children. The Commission rejected the complaint, as there were not enough votes. However, a diligent member of the Commission in such a case should at least declare a conflict of interest instead of giving an explanation for the candidate, as he knows such details as the presence or absence of children of Mr. Pochtovyi.

Similarly, the candidacy of Yuri Dmytriev, [assistant](#) of the current Servant of People’s MP Serhi Ionushas, was rejected. The reason was prior experience of the candidate in anti-corruption departments in prosecution. Despite the fact that members of the Commission rejected at least a dozen other candidates on the same grounds in similar circumstances, in the case of the MP’s assistant many changed their minds. Head of the Commission, Kateryna Koval, [proposed](#) to satisfy his complaint and all members of the Commission appointed under the parliament’s quota present at the meeting (Koval, Busol, Gudzhai, Navrotsky, Romaniuk) supported this decision. Dmytriev’s candidacy has been rejected only because the international experts voted against it.

However, other apparently pro-government candidates remained in the competition process after testing. For example, the chairman of the Verkhovna Rada Committee on Legal Policy, Andrii Kostin. In order to support him and others sham candidates, the members of the Commission will obviously resort to manipulation.

Space for manipulation for falsifying the competition

According to the rules of the competition, the filter of integrity will be passed by those who will be supported by 5 people from the parliament and by 2 people from the prosecutor's office (international experts). The members of the Commission will check the integrity and afterwards assess practical tasks and interviews' results. The candidate with maximum score will win.

So, is there a space for manipulation? Let's see the example of the MP Kostin. As of now, he has 207 points based on the results of tests, and falls behind the leader of the rating by 25 points. Another 23 candidates have higher scores.

Hence, the following task of the biased members of the Commission is to filter out candidates with high scores simply by not voting for them during the integrity check stage. In such a way, Kostin will be able to move up in the rating list and even establish a lead over other candidates. Even if Kostin won't become a leader of the rating after the stage of integrity checks, the biased members of the Commission from the parliament will definitely try to improve his score during the assessment of professional competence. That's it, the winner is ready.

However, in order to openly support the sham candidate, one needs grounds to filter out the competitors. The priority tasks of the members of the Commission will be to filter out the strong competitors even if the grounds are doubtful.

How do they achieve such a goal? As simple as ABC, for example, through commissioned materials in the media, which are easily found about candidates who have investigated high-profile cases. Despite even completely false information, for those who want to manipulate the commission, this will be a game changer.

The most unashamed members of the Commission will without any doubts filter out strong candidates at the integrity checks stage. For example, negative feedback of lawyers of the suspects of case investigated by a candidate or any other evidence-free and flimsy arguments.

Polygraph exam can also be used manipulatively. This stage is passed by all candidates and under the terms of the competition it does not provide for the elimination of candidates, but may be taken into account when assessing integrity. Since the results of such a study are not public, this will allow Commission members to use them selectively. Moreover, the manipulative use of these studies is already becoming a practice in Ukrainian realities.

For example, pro-Kremlin agent and ex-prosecutor [Kostiantyn Kulyk](#) used a polygraph to justify himself of the NABU's accusations in illicit enrichment. The Prosecutor General's Office, based on a polygraph exam result, [closed the case](#) against Yanukovich's ally and former Minister of Finances, Kolobov.

These day, those ones allegedly involved in the murder of Kateryna Gandziuk are [trying to clear themselves](#) with a polygraph exam results.

All the above-mentioned becomes even more relevant given that the person involved in the NABU case, Oleg Tatarov, remains in Zelensky's Office.

According to the AntAC, it was him who coordinated and actually selected the members of the Commission from the parliament on behalf of the Office. It seems that Tatarov continues to influence the competition, especially considering his position.

Most importantly, all such manipulations of Tatarov and the members of the Commission controlled by him will be obvious and easily refuted. At least because the competition is public and international experts are involved in the process.

All attempts to falsify the contest will destroy the reputation of both the country and the president

personally.

Let's not forget, that the G7 ambassadors have publicly stated that they [expect](#) a transparent selection of a new head of the SAPO on the basis of professional qualities and stressed the importance of the independence of anti-corruption institutions.

In turn, President Zelensky [stated](#): *"Competitions for the positions of heads of anti-corruption bodies, in particular such as the SAPO and NABU, will be held transparently and under public control."*

A sad scenario can and must be avoided, especially against the background of much-needed support from the West over events at the fighting line.

Already in May, when the first interviews begin, it will become clear which scenario has been chosen by the President.