

The law on anticorruption court diverted appellate procedure

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The appeals in NABU cases, which are heard in the first instance courts, will be considered by the ordinary appellate courts instead of the anticorruption court.

Such a clause appeared in the [published](#) text of the law.

4) суди апеляційної інстанції (крім Апеляційної палати Вищого антикорупційного суду) продовжують приймати до розгляду апеляційні скарги на судові рішення, які ухвалені судами першої інстанції і не набрали законної сили у кримінальних провадженнях щодо злочинів, віднесених цим Кодексом до підсудності Вищого антикорупційного суду, розгляд яких розпочато у судах першої інстанції до дня початку роботи Вищого антикорупційного суду";

This amendment [neither was voiced](#) by the Head of the Committee on legal policy and justice Ruslan Kniazevych at the plenary before voting in the second reading, nor it was discussed during the Committee hearing.

This amendment was also missing in the proposed by the Committee version of the [comparative table](#) for the second reading, published on the web-site of the Verkhovna Rada.

The provision emerged in the text of the amendments, handed over to the Committee members one hour before the final voting, and today – in the published [law](#).

Thus, now the law envisages that NABU cases, consideration of which started in the ordinary first instance courts, shall be filed to the ordinary appellate courts, even after the anticorruption court is launched. Therefore, current NABU suspects will totally circumvent the anticorruption court. According to previous agreements with the international partners, the appellate procedure in cases currently considered by the ordinary courts, was supposed to be held in the Appeal Chamber of the Anticorruption Court (if the first instance verdict is issued after the anticorruption court becomes operational).

‘The adopted provision would mean the amnesty for all top corrupt officials, cases against whom were transferred to the courts. Such a step is a blatant change of previous agreements and the text itself right before the voting,’ – claims Vitaliy Shabunin, AntAC head of board. – ‘This clause was missing in the comparative table, published on the web-site of the Verkhovna Rada, meaning the appellate procedure was foreseen in the anticorruption court. Right now cases against Martynenko, Nasirov and other odious top officials will remain in the same non-reformed courts – as we understand, in order to be left fruitless.’

This clause also means that verdicts against top officials will be delivered not earlier than in 2-3 years. Establishment of the court will take at least half a year, while consideration of the cases in both instances of the anticorruption court in its turn will last for around 1,5-2 years.

‘This mistake should be urgently corrected by voting for the necessary amendments to the law. The provision postpones verdicts in NABU cases for few more years. That is why the President has to submit urgently amendments to the law to correct the mistake’ – says Yaroslav Yurchyshyn, head of Transparency International Ukraine.

For reference: on June 7 the Verkhovna Rada adopted the draft law No7440 on the High Anticorruption Court. It was supported by 315 MPs. On June 11 the President signed the law.

If the provision on the appeals is not changed, Ukraine will gift an undeserved amnesty to a huge amount of top-corrupters. For example, the case of ex-chief of the State Fiscal Service Roman Nasirov is still being heard in the first instance court. Nasirov is accused of abuse of office that caused 2 billion UAH losses for Ukraine’s state budget. Another case is against Mykola Martynenko, accused of creating an organized crime group for embezzlement of public funds amounting to 263 million UAH. Furthermore, the provision is a huge pardon for the former ATO prosecutor Kostyantyn Kulyk, who is charged with illicit enrichment, for LLC “Zaporizhzhia Titanium and Magnesium Integrated Plant” director Volodymyr Syvak, who is accused in misappropriation amounting to 500 million UAH. Former head of the state grain corporation Valerii Tomilenko is also accused of 50 million UAH embezzlement.