

Ukrinform interview: Artem Sytnyk, Director of the National Anti Corruption Bureau of Ukraine

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[Original text](#)

The “K” Directorate [*anticorruption directorate – trans.*] of the Security Service of Ukraine sees all our requests for tapping and uses that to hinder our work.

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After the establishment of NABU, the country witnessed unprecedented arrests of top officials. Today some of them fled the country, and cases of others are stuck in the courts. Artem Sytnyk, Bureau’s Director, told Ukrinform in his interview why the judges are not ready to hear cases of high-ranking officials; why NABU is apprehensive about starting tapping the subjects of their cases; which point the investigation against the Prosecutor General and the First Deputy Chief of the Security Service of Ukraine (SSU) is at.

- Mr. Sytnyk, three years passed since NABU was created. What do you believe to be the biggest success in the corruption fight?

- The biggest achievement of not only NABU, but of the whole anticorruption reform is that there are no more “untouchables” in the country. Previously, there was quite a number of top officials among them. What one could imagine at most is the criminal investigation against former officials after other political force takes the Government office. NABU is the first body that started detecting crimes committed by the incumbent high-ranking officials. Their arrests have shown that once you are an associate in the corruption schemes, if there is enough evidence, you will be arrested, served a notice of suspicion and you will face a trial.

It is a tactical success though, not a strategic one. It can become a failure if the cases filed to the court are not carried to its logical conclusion.

- The 2017 NABU report states that the detectives are investigating 498 criminal cases, over 100 indictments are filed to the court. Nonetheless, there are only 2 real verdicts. Other court decisions in NABU cases are mostly guilty pleas of the second-rate participants of corruption schemes. In your opinion, what is the main reason for the lack of verdicts against top officials?

- Unfortunately, the judicial branch is simply not ready to hear those cases. The judges that pass decisions in our cases are being under huge pressure all the time. When they arrived to work in Solomianskyi District Court of Kyiv, it was their worst nightmare to work on NABU cases. Today, when some cases are being heard, when an official faces arrest, about twenty MPs come, three Ministers join in to exert pressure on

the court. The judge cannot stand this kind of pressure neither from the professional nor moral point of view.

Besides, there are some objective factors preventing fast hearing of the cases investigated by the NABU. A panel of three judges needs to be gathered, and not always they can work together every day.

I have been discussing the issue with detectives and prosecutors. It is paradoxical, but only the case against Nasirov, Head of the State Fiscal Service, advances well (considering the episode where the former Fiscal Service Chief is involved into the so-called “gas case” in which MP Oleksandr Onyshchenko is a key subject – *ed.*). This case has been heard in the court since October. The court sitting is scheduled once per month on average, and the indictment is still being read. However, even such slow tempo is progress compared to other cases not being scheduled for hearing for months.

It all means that a specialized Anticorruption court is needed where a panel of judges will have 4-6 cases, thus they can be heard not once per month, but daily. Then we are to have a faster result. Current pace of the case consideration suits neither NABU along with SAPO, nor the society.

- The law draft “On the High Anticorruption Court” was adopted in the first reading but since then it has been revised [in subject Committee of the Parliament](#), where there is no quorum all the time. The MPs cannot gather together to agree two thousand amendments and to prepare the law draft for the second reading...

- Unfortunately, when something is needed to be passed by the Parliament to destroy NABU, there is always a quorum both in the Committee and in the plenary. There is no quorum though, when a law draft to continue the anti-corruption reform needs to be adopted.

However, one should recognize that this convocation did a lot to implement the anti-corruption reforms. But as soon as the political elite felt their results, the reforms were hampered. Previously, nobody believed that the Head of the State Fiscal Service could be arrested; a note of suspicion could be served to the Head of the Central Elections Commission; top managers of big public companies could be called to the account.

Today it is difficult to make any forecast regarding adoption of the Anticorruption court law, but if the society and international partners do not weaken their attention to the process, I think, it is possible to adopt the law by the late spring – early summer.

- Let's come back to the topic of the Bureau's work results. The previous year report tells that your 212 detectives investigate 498 criminal cases. It means there are 2-3 cases per each detective. Don't you find the load quite light considering high Bureau salaries compared to other law enforcement agencies?

- Each case has its specifics, so you cannot consider just quantity. Easy cases are investigated in a month, while others can succeed through work of a detective team only. Mykola Martynenko's case is among such investigations (the case of seizure of the funds of the state enterprise Eastern Mining Processing Plant VostGOK and the National Power-Generating Company “Energoatom” is considered – *ed.*) In the course of investigation, we sent 53 requests for international legal assistance, and I cannot even recollect the number of detectives' business trips abroad. There seem to have been two or three errands to Switzerland, then we went to the Czech Republic...

If we consider “the gas case”, just now we are going to file an indictment against Onyshchenko to the court. An order for his trial in absentia has already been issued, and the Prosecutor General signed the final

suspicion.

A thousand of case volumes must be arranged regarding the last episodes of Onyshchenko and six other subjects of the case. It is immense work! To investigate “the gas case” we needed efforts of the whole department of seven people.

- When will NABU start the fourth wave of the detectives recruitment?

- In the nearest future. Let me seize the opportunity and call everybody to file the papers. There are 30 open vacancies in the detectives department. We are practically ready to start the competition, and we hope we will hire people eager to change Ukraine and possessing all the necessary professional qualities.

- During the previous competitions, how many people competed for an open vacancy?

- When we started recruitment for the first 100 vacancies, 4,000 people filed the papers. It means there were 40 candidates per a post.

- Can NABU boast of a wide network of non-staff agents or trustees? Like businessman Yevhen Shevchenko that played his role in Alperin's arrest...

- Talking about Yevhen Shevchenko, he is neither an agent, nor a trustee. In legal terms, he is an individual that agreed to the confidential cooperation. It is a rather widespread form of cooperation, not only in NABU, but all over the secret services. And I am sure not a single chief will boast of a wide network of such collaborators.

- But do you have enough of them?

- The law enforcement agency cannot function properly without information from the covert non-staff agents. It is our arsenal allowed by the Law. To build the network one needs significant efforts and time.

- How can one be recruited a non-staff NABU agent? What is needed then?

- A truly talented individual will find a way to establish the contact with NABU. On our part, we provide all the opportunities. I cannot add anything more to the subject.

- In December, the SSU revealed part of NABU's agent network. Has the Bureau recovered after this incident? Does NABU continue its covert operations engaging its agents?

- It was an unpleasant blow by the “K” Directorate [anticorruption] of the SSU. I would not be sincere if I told you it left no trace over the NABU. Speaking frankly, we are always waiting for a blow and we try to harden ourselves. During the last two years, there was a number of attacks against the NABU. And we realize that it is our reality in the near future. So we try to take a hit firmly and move on, because neither we, nor Ukraine have any other option.

The investigation of the corruption in the State Migration Service is ongoing. Unfortunately, we will not be able to reach that high point that we aimed at in this special operation. Still, we keep on moving in the investigation of the case. It is also quite nice that one of the case subjects (Dina Pimakhova, first deputy head of the State Migration Service, – *ed.*) was dismissed.

- Do you have fears that new undertakings of your agents can be reduced to zero by the SSU or the Ministry of Internal Affairs, that assist in tapping the case subjects?

- Of course, the risks are there. They could be avoided if the Parliament adopts the law granting the right for stand-alone wiretapping to the Bureau. The law draft was approved by the Parliamentary Committee on the Corruption Prevention and Counteraction – and it has been on the waiting list for a year and a half. The MPs are probably scared to pass it. If one can cautiously be an optimist regarding the Anticorruption court, the tapping issue seems to be unrealistic. So we have to proceed taking into account possible leak of information on our undercover investigative actions.

I will be frank, we are very careful about use of the SSU capabilities for tapping. We observe: no tapping – the operation has a chance, tapping is on – the chance flees. The “K” Directorate of the SSU reads all our requests for tapping, and they use the data to hinder our activity.

Today reforming of the Security Service is widely discussed, in particular the liquidation of the uncharacteristic directorates dealing with economic crimes (the Main Directorate of Counter-intelligence Protection of the State Interests in the Sphere of Economic Security of State Security Service of Ukraine and the Main Directorate on Corruption and Organized Crime Counteraction. – *ed.*). I think the secret service needs to be aligned with the international standards. Despite my words, I would like to assure you that I treat with all due respect the Chief of the Security Service and all those fellows who directly do what the secret service is supposed to do.

- In March SAPO made a record in the Unified Register of Pre-trial Investigations (URPI) following possible illicit enrichment of Pavlo Demchyna, First Deputy Chief of the SSU. How is the case investigation going on? Have the investigators found in Demchyna’s actions any signs of illicit enrichment?

- This proceeding is being investigated. Great amount of work has been put into it. We are moving towards final decision.

- Does it mean there are grounds for the note of suspicion?

- My professional activity has no room for assumptions or predictions. I do have my own opinion concerning these materials but I am not authorized to approve suspicion. I can only say that the detectives are investigating the case. The main body of work we planned to do concerning this proceeding is completed and we are moving towards the final decision.

- At the end of the previous year The Prosecutor General’s Office opened proceedings against three NABU’s agents, Kateryna Sikorska and Anton Boiarskyi among them. What was the outcome of these investigations?

- They were served notice of suspicion, but no preventive punishment was given. They continue working in

our team, certainly, taking into account the fact that their cover was blown. They are very talented professionals. We cannot influence the outcome of the case. In my opinion, our employees acted according to the law. That is why I am confident that each of them is ready for the court hearing. Will the Prosecutor General's Office take a risk and send the cases to the court? No idea. I would not do it if I were them. But it is their call. Our employees are prepared for any turn of events.

- In 2016, NABU signed the Memorandum of Cooperation with the US FBI. Do American experts, agents and analysts, continue instructing our detectives [after](#) the Prosecutor General expressed his outrage in December of the previous year?

- Certainly, emotional outbursts of some officials cannot be the reason for the NABU and the FBI to stop their legal cooperation. In 2016, we signed Memorandum of Understanding with the FBI for a year. In 2017 - for two years. Many did not take kindly to this cooperation because of its results. After certain special operations, "amber" MPs started filing lawsuits.

- By the way, how is MP Rozenblat's lawsuit progressing in court? The one where he is asking the District Administrative Court in Kyiv to declare NABU and FBI Memorandum invalid?

- I don't know. This lawsuit is purely populist. It has more emotions than legal reasoning.

- But Rozenblat has filed several lawsuits against you already. You will have to respond somehow...

- I sent my proposal to the court. I believe that these lawsuits aim at making mass media waves and distracting us from our job. He will not be able to reach these objectives and we will only respond according to the law.

- Recently the court declared Rozenblat a victim in the Prosecutor General's Office case about provoking him with a bribe. Will it have any consequences for the "amber" case?

- I don't think so. This investigation speaks for itself. Unfortunately, we often see people exposed of unlawful actions keep speaking live on television as experts in anticorruption activities. It is laughable, but this is our Ukrainian reality.

- In early March chief of the Specialized Anti-Corruption Prosecutor's Office (SAPO) [Kholodnytskyi reported](#) his dissatisfaction with the internal control department of NABU. For instance, he has issues with the results of checks concerning non-staff agent Yevhen Shevchenko, who revealed some details of the agent work in the Bureau in his interview. Kholodnytskyi in his interview said that his employees complain, as all data on possible violations on the part of the NABU detectives was sent to the Bureau's internal control department for internal investigations. SAPO chief says that this resulted in discovering zero violations and all those who quit working for NABU did it due to personal wishes. Can you comment on that?

- We did get a letter from SAPO concerning Yevhen Shevchenko, however we read the interview even before the letter and realize that our assessment is in order. There was internal investigation. No sensitive

information was revealed. Everything he talked about had been previously published in the media.

SAPO chief has his own reasons for such emotional statement on his part. When working with him, agent Shevchenko registered certain facts. A bit later, I think, it will become public knowledge.

Also I would like to say that NABU internal control department functions as a preventive body. Every Friday its head reports to me on the results of monitoring life of our agents. We know all of their purchases and opened bank accounts. If, God forbid, our employees drastically change their life style without good reasons, we will react accordingly. However, having tested our employees, we can say that they are prepared to take pressure connected with offering unlawful gain. Recently, two criminal cases have been opened for trying to bribe our employees. One of them is a bribe of 800 thousand USD for lifting arrest of the accounts in the case against Alperin (in the criminal proceeding concerning abuse of office by customs and court officials – *ed.*); another is that of 500 thousand USD in the scheme associated with the case against Trukhanov (about offering a bribe to NABU agent for lifting arrest of accounts of the LLC involved in the corruption scheme on appropriating the money from Odesa city budget – *ed.*).

If our employees commit offences incompatible with the public service, the disciplinary commission reacts accordingly. There was one situation when our employee got into a traffic accident and we fired him for oath breaking. In total, two detectives have been let go for oath breaking.

We simply cannot afford to respond to facts of corruption in the country but to turn a blind eye to corruption on the part of the detectives or SAPO prosecutors.

- After your [high-profile interview](#), in which you talked about cooperation between NABU and the Prosecutor General's Office in investigating the criminal case against Kholodnytskyi, on April 4 you reported to the Parliament together, and, as usual, demonstrated the unity between NABU and SAPO. Did you talk about the existing situation?

- Many did hope that we would be reduced to personal attacks. I think that the ability to be responsible for one's actions without getting emotional about it is worthy of respect. The situation we have is as follows, there are certain materials which are forwarded to the competent authorities and they are to make the further decisions. But to walk turning one's noses away from each other is wrong and unprofessional.

- Kholodnytskyi is confident that he will be able to maintain his stance in front of the Qualifications and Disciplinary Commission of Prosecutors. If that is the case, how will you be able to work together after this scandal?

- I can hardly imagine it. In my opinion, the facts we registered are incompatible with prosecutor's work. This is just my opinion, I am not authorized to make decisions. I think that in the civilized state one prosecutor may not say to another, that "you know, we can do it according to the law or we can absolve a person of responsibility". This is unacceptable. Not only for the Anti-Corruption Prosecutor's Office, but for any Prosecutor's Office.

- Do you mean that Kholodnytskyi is about to face a dismissal?

- I do not want to make any predictions. I did what falls within my competence. It would be more terrible if it became the Anti-Corruption Prosecutor's Office trend. But we can see the normal team there, and we are ready to cooperate with them. As of today, SAPO prosecutors and NABU detectives work in normal mode. The latest example is arrest of Vinnytsia Oblast deputy prosecutor. Frankly speaking, we realized that some

speculations would take place, but nothing more. Most importantly, those records have shown that there are people in SAPO that really work, and we pay all our respect to them.

- Kholodnytskyi was indignant at his case being investigated by the investigators of the Department of Investigation of Particularly Important Cases in the Field of Economy of the Prosecutor General's Office headed by Volodymyr Hutsuliak, because the conflict of interests is present. NABU has a criminal proceeding against Hutsuliak following his report after the "Schemes" programme revealed his alleged illicit enrichment. How is the investigation of this case progressing? Is this the only criminal proceeding against Hutsuliak? The SAPO Chief once said there were 3 cases...

- A fancy trend appeared nowadays - to initiate proceedings against each other and then tell that everybody is acting within the conflict of interests. It is a regular manipulation though. Indeed, the proceeding against Hutsuliak is registered. I cannot tell you now whether we have other criminal cases against him. If there are any grounds, we will make a corresponding decision.

- It is known that following Rinat Kuzmin's complaint, Solomianskyi District Court of Kyiv obliged NABU to register criminal proceeding of possible illicit enrichment of Yuriy Lutsenko, Prosecutor General. The media reported that later the case was merged with that on false statements in e-declarations of the Prosecutor General. Are there any investigative actions held within this case?

- The investigation is being held in normal mode. Indeed, the proceeding was registered after the corresponding court decision. Unfortunately, very often the right to appeal to the court is used as a kind of media activity aimed at a certain individual. So I would like to abstain from disclosing how the case is investigated. If the violations happen, the reaction will follow.

- We know that you are not the exception, and the Prosecutor General's Office brought an action against you in November, after MP Masorina's inquiry. It took place following your probable disclosure of the investigation data in prosecutor Kulyk's case when you talked to the journalists off-record? Were you summoned for investigative actions? Was your voice sample taken?

- A single investigative action was held - an interrogation. No voice samples were taken. I do not know how the case investigation proceeds and what stage it is at.

Yes, I had a closed meeting with journalists, but I regard such meetings as open. I had no meeting where I would have said anything that I would not be ready to repeat in public.

- Recently Solomianskyi District Court of Kyiv cancelled the resolution of SAPO Chief on suspension of investigation against Mykhailo Okhondovskiy, Head of the Central Election Commission. It was reported that the investigation against Okhondovskiy was suspended in order to submit inquiries for international legal assistance. In your opinion, what consequences for the investigation can it have?

- Let me remind you that Okhondovskiy's case was picked out from the materials of the so-called "black accountancy" of the Party of Regions. The detective team believe they have found enough proofs to serve Okhondovskiy a notice of suspicion and to file the indictment to the court. There is a suspicion signed by SAPO Chief, and a decision on the investigation suspension. It was a decision by the Anti-Corruption Prosecutor's Office. We have declared more than once that the case is ready to be filed to the court. Enough

evidence was found, but we cannot do that without the prosecutor's decision. So, the current stage is the area of responsibility of the Anti-Corruption Prosecutor's Office. It is difficult for me to make any predictions.

- The media revealed that the NABU started revision of reports on 2010 Yulia Tymoshenko election campaign being financed by Libyan leader Muammar Gaddafi. Were there any inquiries sent to the Libyan law enforcement agencies to obtain any information from the living Gaddafi family members regarding his possible financing of Tymoshenko?

- The NABU initiated an analytical examination of possible receiving in 2010 by an ex-Prime Minister of 4 mln EUR from the former Libyan dictator, and further use of the money to finance presidential election campaign. It is too early to say anything. The examination is ongoing.

- Recently the Bureau has transferred 184 mln UAH arrested by the court under the Kraian Plant case, as well as the assets of Odesa Port Plant, under control of the Asset Recovery and Management Agency (ARMA). There are many other arrested assets in NABU cases. When will you be transferring the rest?

- The decision on the assets transfer to ARMA is taken by the judge based on SAPO prosecutors motion. I can tell you that there is already a court decision on transfer to ARMA management of about 450 mln UAH. This money was arrested under the joint investigation with the State Fiscal Service against companies of Odesa businessman Vadym Alperin.

- Investigation against the ICU company...

- No comments. These are widely discussed cases, and any statements can be used for political speculations. Everybody knows about these investigations. They are subject of big interest, and later we will have to answer many questions. As of now, the investigation is going on, and we are not to make any statements.

Alla Shershen, Ukrinform

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