

Whom and for what the High Anti-Corruption Court sentenced in two years of work?

08.09.2021

[by Vadym Valko, originally published on ZN.UA](#)

Two years ago, on September 5, 2019, the High Anti-Corruption Court (HACC) began its work. During this time, the enemies of the HACC tried to liquidate it using the odious Constitutional Court and smeared it by naming it “the NABU’s punitive machine”, and its judges were persecuted by the mafia of the High Council of Justice.

However, summing up these two years of court’s work, we can confidently say that the launch of the Anti-corruption Court has been quite successful. During this time, judges passed 45 sentences – 39 convictions and 6 acquittals. As of the end of August 2021, 11 decisions were transferred for execution, according to which 14 people were sentenced to imprisonment.

If during the first year judges made only 16 decisions, then during the second year judges made 29 decisions, 11 of which were made only during the last three months.

The process of establishing of the HACC confirmed the importance of the participation of international experts in the selection of judges. The same model is proposed in the judicial reform adopted by Parliament in July this year. Judges of the High Anti-Court, unlike the old judicial mafia, are not afraid to prosecute other judges. Prior to the establishment of the HACC, there were no convictions in dozens of NABU cases against judges. In just two years, the HACC has already handed down eight verdicts against corrupt judges.

Practice shows that most judges of the HACC are not ready to continue old rules of “[Pechersk’s](#)” or “[Vovk’s](#)” justice. In this text, we would like to summarize all the results of the HACC, including its verdicts and attacks on the institution itself.

Decisions with actual imprisonment that have entered into force

As for “putting into prison” that is so often demanded by society, there are 21 sentences in total with actual imprisonment of 26 people. 11 of these decisions against 14 have already entered into force and some of the convicted persons are already serving prison sentences. They include judges, prosecutors, lawyers, heads of state enterprises, and members of local councils.

- The former head of the Board of Kherson Thermal Power Plant **Bogdan Pedchenko** [received 5 years of imprisonment](#). He was found guilty of abuse of office, as a result of which the Thermal Power Plant illegally transferred **8.785 million UAH** to a private company in the form of an interest-free loan, which no one later repaid.
- Former judge of Malynovskyi District Court of Odessa **Anatoliy Tselukh**, who promised to make necessary court decisions in the dispute regarding the apartment for the bribe in the amount of 2.500 USD, was [sentenced](#) to **5 years of imprisonment with confiscation of property**. They found devices for generating noise and detecting wire-tapping devices during the search in the judge’s office.
- Lawyer **Oleksiy Bozhenko** was sentenced to **3 years of imprisonment** and **Oleksandr Pavlenko**, the

former investigator of the Prosecutor's Office in the Kyiv region, was sentenced to **2 years of imprisonment**. They were [found guilty](#) of receiving the **bribe in the amount of 50,000 USD** for influencing another prosecutor in order to change the charge and enter into a plea bargain.

- **Kostyantyn Starovoyt**, former head of the subsidiary Centrgaz (part of Kirovogradgaz OJSC), was [sentenced](#) to **8 years with confiscation of the car**. He was found guilty of **embezzling 8.6 million UAH** in favour of a private company. The court also ordered the company to return illegally obtained funds.
- **6 years with confiscation** for the so-called acting director of Rzhyschiv Military Forestry **Oleksandr Levkivskyi** and **5 years with confiscation** for his assistant **Yuriy Marysyk**. They were [found guilty](#) of receiving **10,000 USD** for the illegal lease of 74 hectares of state-owned land for 49 years.
- The former prosecutor of the PGO **Oleksandr Matyushko** was [sentenced](#) to **2 years of imprisonment**, who was found guilty for offering the **bribe in the amount of 5,000 USD to 10,000 USD** to the member of the competition commission of the NABU Oleksiy Hrytsenko for selecting him the candidate to the position to the NABU. This sentence was the first to be upheld in both the appellate and cassation instances.
- Former judge of the Commercial Court of Odessa region **Pavlo Medentsev** was [sentenced](#) to **9 years of imprisonment with confiscation of property**. He was found guilty of receiving the **bribe in the amount of 570,000 UAH** for making the necessary court decision. The sentence was made in absentia, as Medentsev fled Ukraine and is wanted. In addition, the court used special confiscation up to 250,000 UAH, which were found during the search.
- **Vitaliy Kuts**, the head of Trebukhiv village council in the Kyiv region, was [sentenced](#) to **3 years of imprisonment**. He was found guilty of wanting to make land plots worth **more than 8 million UAH** private with the help of fake decisions, and then forged signatures on behalf of the former village head and land surveyor to conceal his actions.
- Member of Poltava Regional Council **Valeriy Pryadko** and official of Municipal Enterprise Poltavapharm **Ruslan Gnezdov** were [sentenced](#) to **4.5 years of imprisonment**. They were found guilty of giving the bribe in the amount of 35,000 UAH to police officers for speeding up examinations and obtaining special permits for the use of 34 pharmacies. The court also applied special confiscation to the bribe.
- **Volodymyr Ponomarenko**, former judge of the Court of Appeal in Cherkasy region, was [sentenced](#) to **2 years of imprisonment** for promising to influence on judges of the local court for **30,000 UAH**. In order, the latter would not bring to responsibility drunk driver. Ponomarenko also threatened the driver that if he did not give money, he would be deprived of his driving license and receive a fine for the large sum.
- Former judge of Zhovtnevyi Court of the city of Dnipro **Vadym Galichyi** was [sentenced](#) to **2.5 years of imprisonment** for promising to help for **10.000 USD** his acquaintance solve issues in criminal cases regarding fictitious business, burglary with breaking into a house and car theft.

In most of these cases, in addition to the main punishment in the form of imprisonment, the court also applied additional punishments in the form of confiscation of property, fine or deprivation of the right to hold certain positions for the term up to three years.

Convictions that are considered by the Appellate Chamber

Ten more criminal proceedings which resulted in convictions in the first instance are pending for consideration by the Appellate Chamber of the High Anti-Corruption Court, and the number of people imprisoned for corruption may increase in near future.

- Judges of Rakhiv District Court of Zakarpattia region **Ivan Tulyk** was [sentenced](#) to **6 years of imprisonment with confiscation**. He is accused of abusing office and receiving a bribe. In the first case, he allegedly agreed with the head of the court and helped the driver to avoid punishment for drunk driving, and in the second case, he promised the driver to make a necessary decision in the case regarding recovery of 130.000 UAH for the **bribe in the amount of 15-20% of the debt**.
- **Anton Gaydur**, head of Mizhgyrya District Court of Zakarpattia region, was [sentenced](#) to **5 years of**

imprisonment with confiscation. He is accused of receiving **15,000 UAH** for satisfying the appeal regarding debt collection in the amount of 150,000 UAH. It is interesting that money was found in the left pocket of the judge's jacket in a carton box of children's plasticine.

- **Sergiy Nerukh**, Moldovan citizen, was [sentenced](#) to **5 years of imprisonment**. He is accused of giving **the bribe** to the military prosecutor in the amount of **75,000 USD** for assistance in lifting arrests from ships and cargo which had been arrested for violating Ukrainian customs regulations and illegal visits to the temporarily occupied Crimea. The court also applied special confiscation to the bribe.
- The judge of Brovary City District Court of Kyiv region **Hanna Bilyk** was [sentenced](#) to **6 years of imprisonment with confiscation of car and land plot**. She is accused of extorting **1,000 EUR** for clarifying the court decision in the case regarding the seizure of 13.5 tons of fuel by employees of the SFS. Despite the decision of the first instance, judge Bilyk has not been suspended and continues to consider cases.
- **Oleksandr Skoryk**, former head of one of the railway transport companies, was [sentenced](#) to **4 years of imprisonment**. He is accused of abuse of office, which consisted of the illegal conclusion of insurance contracts that were obviously unfavourable for the company, which eventually led to **losses in the amount of 8.8 million UAH**.
- Former field investigator of the SBU **Rostyslav Kharchenko** was [sentenced](#) to **4 years of imprisonment**. For the **bribe in the amount of 50,000 USD**, he allegedly promised to the head of the company assistance in returning equipment for processing amber (machines, presses, etc.) and 55 kg of amber raw materials seized during the search.
- **Appolinariy Nagalevskiy**, a former official of the Prosecutor General's Office of Ukraine, was [sentenced](#) to **2 years of imprisonment**. He is accused of giving **5,000 USD** to the mediator for further transfer to one of the heads of the State Audit Office for influencing the course and results of an unscheduled audit of financial and economic activities of the PGO.
- **Orest Furdychko**, former director of the Institute of Agroecology and Nature Management of the National Academy of Agrarian Sciences of Ukraine, was [sentenced](#) to **8 years of imprisonment with confiscation of property**. He is accused of extorting and receiving **500,000 USD** from the head of a private company for not terminating joint activity agreement, according to which the Institute transferred its own land plot for the construction of a residential complex in exchange for apartments.
- **5 years** of imprisonment were sentenced to a former official of Kharkivoblenergo **Vitaliy Telegin** and **4 years** - for a former official of Kharkivvodokanal **Roman Bilyk**. They are [accused](#) of the illegal conclusion of the agreement on the transfer of debt for electricity from Kharkivvodokanal to a private company. In the end, no debt was paid, and the company transferred received funds to the bank accounts of other companies. The examination established that as result Kharkivoblenerho received **losses in the amount of more than 19.6 million UAH**.
- **Oleg Vasylyuk**, former judge of Kovel City District Court of Volyn region, [received](#) a **fine in the amount of 25,500 UAH**. He is accused of receiving **3,800 UAH** for influencing another judge from his court in order the latter imposed a minimum fine in the case of administrative offence.

Convictions following plea bargains

It is worth mentioning the practice of approving plea bargains between prosecutors and defendants. Such plea bargains significantly reduced the time of trial, defendants voluntarily reimbursed caused losses or assisted in the investigation of crimes and exposure of other subjects or organizers of criminal schemes. At the same time, sometimes there were [cases](#) when judges denied prosecutors to approve plea bargains due to their inconsistency with provisions of the law and interests of society.

In the same cases where judges approved agreements, convicts received criminal records as well as punishment in the form of imprisonment with probation or fine.

- **Anatoliy Panchenko**, deputy director of Pharmaplant Ukraine LLC, was [sentenced](#) to **4 years of imprisonment with probation (probationary period of 2 years)**. He admitted that he had **helped to legalize more than 6 million USD** received in the criminal scheme of Ukrkosmos.

- Former Member of Parliament **Oleksandr Chernenko** was [sentenced](#) to **3 years of imprisonment with probation (probation period of 3 years)** for illegal receipt of compensation for housing. In addition to pleading guilty, Chernenko voluntarily reimbursed **losses in the amount of more than 580,000 UAH**.
- Lawyer **Yaroslav Morochenets** [received](#) a **fine in the amount of 25.500 UAH** for assistance in transferring **10,000 UAH** to the head of Volodymyrets District Court of Rivne region, who had to influence another judge in order to lift arrest from timber seized in the case of illegal logging.
- **Sergiy Shcherbak** was [sentenced](#) to **5 years of imprisonment with probation (probation period of 3 years)**. He admitted that with the participation of two other people he offered the head of the State Property Fund **5 million USD** in exchange for the appointment of the right person to the position of director of Odesa Port Plant PJSC.
- **Valentyn Shevchenko** was [sentenced](#) to **5 years of imprisonment with probation (probation period of 3 years)**. He together with another person tried to sell the closure of the case to the State Bureau of Investigation for **150.000 USD**. At the same time, they did not intend to transfer money to the leadership of the SBI from the beginning.
- Lawyer **Kostyantyn Lukyanenko** was [sentenced](#) to **5 years of imprisonment with probation (probation period for 3 years)**, who offered the prosecutor of the PGO Kostyantyn Kulyk **40,000 USD** to cancel the arrest of gas and close the criminal case against officials of a private company.
- **Sergiy Kuzmenko**, former head of one of Druzhkivka municipal enterprises, [received](#) a **fine in the amount of 5.100 UAH** and was found guilty of misuse of **1.1 million UAH**.
- **Oleksandr Dzhebri**, the engineer of the Berdyansk branch of the Ukrainian Sea Ports Authority, was [sentenced](#) to **3 years of imprisonment with probation (probationary period of 2 years)**. He was found guilty of abuse of office and official forgery during the implementation of the criminal scheme, within which the State Enterprise transferred **2.49 million UAH** to a commercial company for not established truck crane.
- **Anton Shvetsov**, General Director of the State Organization the Plant Zirka, was [sentenced](#) to **5 years of imprisonment with probation (probationary period of 2 years)**. He admitted that he had provided **20,000 USD** to the mediator for further transfer to the head of the State Reserve. Funds were transferred to keep him in office and not to create obstacles in further work.
- **Olena Mazurova**, former head of the Department of the SFS, was [sentenced](#) to **5 years of imprisonment with probation (probationary period of 2 years)**. She admitted that in collusion with others she assisted the Minister of Ecology Mykola Zlochevskyi in transferring **5 million USD** to heads of the NABU and the SAPO for closing the criminal proceeding.
- Former Member of Parliament **Oleksandr Presman** was [sentenced](#) to **3 years of imprisonment with probation (probation period of 3 years)**. He pleaded guilty to receiving illegal compensation for using the room at the Hotel National near the Verkhovna Rada while he had his own housing in the center of Kyiv. Pressman also voluntarily returned more than **928.000 UAH**.

Acquittals

Quite often you can find statements that the High Anti-Corruption Court was created only to put officials into prison. However, statistics show the opposite: the percentage of acquittals in the HACC as the court of the first instance is 13.6%, while in similar cases in all courts of Ukraine in 2018 this indicator [was](#) 7.67%^[1]. Although we may question some of the HACC's acquittals, statements about the accusatory bias of the court seem unfounded.

- **the HACC ruled on the first acquittal** regarding former judge of the Court of Appeal of Dnipropetrovsk region, **Oleksandr Barannik**, who deliberately had failed to file electronic declarations, although he had sent scanned copies of handwritten paper declarations to the e-mail of the NACP. He could not submit declarations in electronic form, as he refused to receive an electronic digital signature. The Appeals Chamber of the HACC later changed this decision to [conviction](#), but the Supreme Court later [cancelled](#) it due to the absurd [decision](#) of the CCU.
- **Oleg Shchudlyuk**, head of the building management of №1 of Yavoriv apartment-operational part of the Armed Forces of Ukraine, [received the second acquittal](#). He was accused of composing and issuing acts

of delivery and acceptance of services for the lease of gas boilers from the private enterprise for 1.18 million UAH, when in fact boilers allegedly were not used during this period. The acquittal was [approved](#) by the Appeals Chamber of the HACC. Today, the case is being [considered](#) by the Supreme Court.

- former Member of Parliament **Andriy Levus**, who is accused of illegal receipt of compensation in the amount of almost 544,000 UAH for renting the room in the Hotel Kyiv, although his wife had two apartments in the capital, [received the third acquittal](#). Prosecutors are appealing this decision now.
- judge of the Commercial Court of Kharkiv region **Tetyana Denysyuk** [received the fourth acquittal](#). She is accused of abuse of office, due to which the state did not receive more than 200,000 UAH of court fees. The HACC decided that “the accusation is based solely on assumptions”, although the circumstances of the case raised many [questions](#) for the panel of judges. Prosecutors are also appealing this decision now.
- former Member of Parliament **Ruslan Solvar**, who is accused of unreasonable receipt of compensation in the amount of over 361,000 UAH for using the room at the Hotel Kyiv, as he had inherited an apartment in the capital at that time, [received the fifth acquittal](#). At the same time, former Member of Parliament did not inform the Apparatus of the Verkhovna Rada about the fact of receiving an inheritance and refused compensation only after the number of publications in the media. Prosecutors appealed the decision to the Appeals Chamber of the HACC.
- former investigator of the PGO Oleksiy Alfimov [received](#) the **sixth acquittal**. He was accused that he misappropriated 22 scratch cards for gas worth about 5,000 UAH during the search of one of the heads of the village council in Cherkasy region. However, the court did not [find](#) the corpus delicti and found Alfimov not guilty. Prosecutors appealed the decision.

Cancelled decisions

- out of 44 already mentioned decisions, 5 were cancelled due to the [decision of the CCU](#) which had declared unconstitutional the responsibility for declaring false information in asset declarations. Among convicts were former Member of Parliament **Gennadiy Bobov**, former director of Lviv Armored Plant **Roman Tymkiv** and three judges (**Nadiya Posunsya**, **Zoya Ponomar** and **Oleksandr Barannik**).
- another conviction was [cancelled](#) by the Supreme Court. This is about the case of **Oleksandr Mefodiy**, Member of Parliament of Kyiv Regional Council, who was [sentenced](#) to 2.5 years of imprisonment with confiscation of the car. The Prosecutor’s Office accuses Member of Parliament of allegedly demanding the bribe from a private entrepreneur for influencing police officers in order to return the confiscated truck and further assistance in doing business. The reason for cancelling the decision was a [violation of jurisdiction](#). Today, the case has been returned for the new consideration to the Appellate Chamber of the HACC.
- the Appellate Chamber of the HACC also [cancelled](#) the decision that had been adopted on the basis of a plea bargain between lawyer **Sergiy Chernobay** and the SAPO prosecutor. The lawyer was accused of transferring 5,000 USD to the deputy prosecutor of the city of Severodonetsk in order to hand over part of the funds to the judge of the local court, who had to make decisions without actual imprisonment. The reason for cancelling decision was “non-compliance of requirements of the agreement with the law and interests of society”. The case was later [closed](#) due to the expiration of the statute of limitations.

Attacks on the HACC

The existence of the HACC creates enormous discomfort for current and potential subjects of corruption investigations. They are trying to destroy this court, which has become the last piece of the puzzle of the country’s so-called anti-corruption infrastructure. Now it can work more efficiently, delivering results. However, it is clear that some people are only frightened by such trends:

- In summer 2020, 49 Members of Parliament [sent](#) the petition to the Constitutional Court of Ukraine demanding to declare the HACC unconstitutional. The decision on results of consideration of the petition has not been made yet, but the fact that the absolute majority of signatories are Members of Parliament from the pro-Russian party Opposition Platform For Life is very eloquent. They are Medvedchuk, Boyko,

Lyovochkin, Rabinovych, Shufrych, Korolevska, Kyva. By the way, the Anti-Corruption Court recently [collected](#) 1.25 million UAH from the latter to the state as an unjustified asset from the alleged lease of a pulp pit.

- In fall 2020, the grenade [exploded](#) in the courtyard of the court, which damaged the facade of building of the HACC. As the result, three criminal proceedings have been registered, but neither perpetrators nor instigators have been found yet.
- In the winter of 2021, judges sent the [appeal](#) to the High Council of Justice to “refrain from actions that could undermine the independence of the court and cause damage to the authority of justice” and called on the President of Ukraine as guarantor of the Constitution to “take measures to ensure constitutional guarantees of independence of the HACC”. Judges were forced to take such unprecedented steps due to systematic pressure, intimidation by disciplinary cases and doubtful punishments by the old judicial mafia.

In two years HACC considered many cases, the first decision in the case on the so-called civil confiscation has already been made, and almost fifty verdicts have been made. Suspects in corruption crimes have finally been given alternative bails commensurate with their wealth, and more than 65 million UAH has been collected to the budget for the failure to fulfil their suspects’ obligations.

On the other hand, not everything in the garden is so rosy. As there are [some cases](#) in which judicial benches can not even hold the preparatory meeting for one year or more. In addition, on average 4 new criminal proceedings are [sent](#) to the Anti-Corruption Court every month, and in order to keep the number of cases in balance and at least not to increase it, the court must complete at least 4 cases per month.

However, it will be possible to truly evaluate results of the court’s work only when there are final decisions in cases of top officials, namely former head of the SFS Nasirov, former Member of Parliament Martynenko and Onyschenko, amber former Members of Parliament Rozenblat and Polyakov, and so on. After all, the independent High Anti-Corruption Court was established to consider such proceedings.
