

NABU AND SAP ANTI-CORRUPTION BODIES

Corruption is one of the most threatening phenomenon for the process of the law-governed state creation. It projects direct danger to legal norms, democracy, human rights, objectivity and social justice, as well as impedes economic development and stability of democratic institutions. Under the conditions either ethical norms or internal stability are greatly undermined, that threatens the international security of the countries. This social phenomenon takes place in any society widespread all over the world: no country in the world today can declare itself free of corruption.

This research is aimed at the study of the preconditions for creation of anti-corruption bodies in Ukraine. Special attention is paid to the duties, obligations and the main tasks of these bodies.

Corruption destroys the basic principles on which every democratic state relies on: the principles of equality of citizens before law, justice, impartiality of justice, protection of rights by law enforcement agencies from various unlawful actions. In addition, it contributes to the deterioration of the progressive development of society, exacerbating the criminal situation, and directly affects the financial security of the state, as it leads to the expansion of the “shadow” economy.

Having an international character, corruption has been repeatedly subjected to consideration in such fundamental international legal acts as: the United Nations Convention against Corruption, adopted on October 31, 2003 at the 58th session of the UN General Assembly; Criminal Law Convention on Corruption, adopted by the Council of Europe on January 27, 1999; recommendations GRECO; Istanbul Action Plan to Combat Corruption, etc. They define international standards and recommendations for the creation and operation of an anti-corruption body.

Corruption has always been one of the most serious problems in Ukraine. In order to improve the mechanism of fighting corruption and bring it to international standards the Verkhovna Rada of Ukraine adopted the Law of Ukraine “About National Anti-Corruption Bureau of Ukraine”, on October 14, 2014. The main task of the National Bureau is to counteract the criminal corruption offenses committed by senior officials authorized to perform state or local government functions that endangers national security.

The creation of a special anti-corruption body is a novelty for the Ukrainian legislation. Since the time Ukraine has gained its independence, the functions of detecting, stopping and preventing corruption offenses, including those among the highest state officials, were assigned to specially authorized units of the bodies of internal affairs, the tax police, the Security Service of Ukraine and the Prosecutor’s offices. Due to the imperfection of the current legislation, responsibility for the results of the work performed to fight against corruption was divided between departments that had their own management vertical and ultimately de facto depended on political state leadership. Under these circumstances, the means of detecting corruption among state officials were inefficient, and the statistic figures of the law enforcement agencies’ activity in the area

of corruption prevention and counteraction did not always correspond to actual state of the matter in the defined area.

Obligations of the National Anti-Corruption Bureau of Ukraine are as follows:

1. To carry out operative and detecting activities aimed at preventing, detecting, terminating and revealing criminal offenses committed in the branches of law under its jurisdiction, as well as operating cases, supplied by other law-enforcement bodies;
2. To carry out pre-trial investigation of criminal offenses committed in the branches of law under its jurisdiction, as well as to conduct pre-trial investigation of other criminal offenses in cases specified by law;
3. To take measures for the investigation and seizure of funds or other property that may be subject to confiscation or special confiscation in criminal offenses assigned to the National Bureau of Investigation, to carry out activities for the storage of funds and other property that is being seized;
4. To interact with other state bodies, regional state administrations and other bodies and institutions for proper performance of its duties;
5. To carry out data processing and analytical work in order to identify and eliminate the causes and conditions that facilitate the commitment of criminal offenses;
6. To provide for individual safety of the National Bureau employees and other individuals specified by the law, to protect from unlawful encroachments on individuals involved in criminal proceedings, criminal cases and those under investigation;
7. Under the terms of confidentiality and voluntarism, to ensure cooperation with individuals who report corruption offenses;
8. To report on its activities in accordance with the procedure established by the Law and inform the public about the results of its work;
9. To carry out international cooperation within the limits of its competence in accordance with the legislation of Ukraine and international treaties of Ukraine.

The control over the activities of the National Bureau is carried out by the Verkhovna Rada Committee on Fighting Organized Crime and Corruption.

The Director of the National Bureau obligations are:

- informs the President of Ukraine, the Verkhovna Rada and the Cabinet of Ministers of Ukraine on the main issues of the activities of the National Bureau and its subdivisions, reports on the fulfillment of the Bureau's assigned tasks and results of the observation of the legislation, rights and freedoms of individuals;
- every year, not later than February 10 and August 10, The Director of the National Bureau submits a written report to the President of Ukraine, to the Verkhovna Rada and the Cabinet of Ministers of Ukraine on the activities of the National Bureau during the previous six months.

By order of the Prosecutor General of Ukraine Victor Shokin on September 22, 2015, the Specialized Anti-Corruption Prosecutor's (SAP) was formed in the structure of the General Prosecutor's Office of Ukraine. SAP is an independent structural unit of the General Prosecutor's Office of Ukraine.

The Specialized Anti-Corruption Prosecutor's office is an independent body of the Prosecutor's Office of Ukraine. Foundation of the Specialized Anti-Corruption Prosecutor's Office and determination of its structure are carried out by the Prosecutor General of Ukraine with the consent of the Director of the National Anti-Corruption

Bureau of Ukraine. The appointments to the administrative positions in the Specialized Anti-Corruption Prosecutor's Office are carried out by the Attorney General on the basis of the open competition. The appointments of the SAP junior prosecutors are under powers of the body's leader and take place on the basis of the open competition. The Specialized Anti-Corruption Prosecutor's office is located in the offices of the NABU or in the Prosecutor's office.

The SAP fulfils the following duties:

1. Supervision over observance of the laws by the National Anti-Corruption Bureau of Ukraine during conducting of operational and investigative activity on the level of pre-trial investigation;
2. Maintenance of the public prosecution in the relevant proceedings;
3. Representation of the interests of the citizens or state in court during the corruption related trials.

From the above said it can be concluded that the national model of special anti-corruption bodies in Ukraine is based on the world experience and typical models of the relevant anti-corruption institutions. The result of the legislative research for the optimal option was the creation of new autonomous body outside the system of existing anti-corruption bodies – the National Anti-Corruption Bureau of Ukraine. In addition, the Specialized Anti-Corruption Prosecutor's Office was formed in the structure of the Prosecutor's Office. The two were established in Ukraine to prevent, detect, terminate and disclose corruption crimes in Ukraine.

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