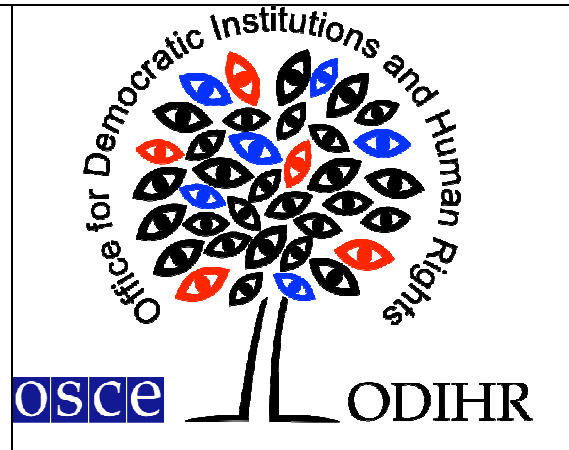


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**OPINION**  
**ON TWO DRAFT ANTI-CORRUPTION LAWS OF**  
**UKRAINE**

**based on unofficial English translations of the draft laws**

*This Opinion has benefited from contributions made by Dr. Slagjana Taseva (former Yugoslav Republic of Macedonia) and Mr. Goran Klemenčič (Slovenia), anti-corruption experts*

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## **I. INTRODUCTION**

1. *On 22 April 2014, the Head of the Committee on the Fight against Organized Crime and Corruption of the Verkhovna Rada (Parliament) of Ukraine sent a request to review two separate anti-corruption draft Laws to the Director of the OSCE/ODIHR.*
2. *By letter of 25 April 2014, the Director of the OSCE/ODIHR confirmed the OSCE/ODIHR's readiness to review these two draft Laws for compliance with OSCE commitments and international standards.*
3. *This Opinion has been prepared in response to the above-mentioned request.*

## **II. SCOPE OF REVIEW**

4. This Opinion analyzes the two draft Laws, the draft “Law of Ukraine on the National Bureau of Anti-Corruption Investigations” (hereinafter the ‘NBACI draft Law’) and the draft “Law of Ukraine on National Anticorruption Service” (hereinafter the ‘NACS draft Law’) against the background of their compatibility with relevant international standards and OSCE commitments.
5. This Opinion is based on an unofficial English translation of the draft Laws and errors may therefore result.
6. In view of the above, the OSCE/ODIHR would like to make mention that this Opinion is without prejudice to any written or oral recommendations and comments to the draft Laws or related legislation that the OSCE/ODIHR may make in the future.

## **III. EXECUTIVE SUMMARY**

7. At the outset, the OSCE/ODIHR welcomes the aim of both draft Laws to create an independent and effective anti-corruption agency in Ukraine. At the same time, both draft Laws could be improved in the area of operational independence and the appointment, suspension and dismissal procedures for the Director, as well as the protection of staff from civil, administrative and criminal proceedings that might, intentionally or unintentionally, unduly hinder the work of the anti-corruption agency.
8. In general, more attention should also be paid to strengthening the preventive mandate of anti-corruption bodies, either by creating a separate body dealing with prevention, or by expanding the preventive functions of the bodies proposed in the draft Laws. A greater focus on the relationship between the proposed anti-corruption bodies and other Ukrainian law enforcement and judicial bodies, including the prosecution service and the courts, would also be beneficial. In order to further improve the compliance of both draft Laws with international standards, it is recommended as follows:

### **1. Key Recommendations:**

- A. To strengthen the role and sustainability of the proposed anti-corruption

bodies by introducing a relevant provision into the Constitution, or adopt other measures to entrench such body or bodies more firmly in the legal order; [par 15]

- B. To enhance the independence of such bodies in both draft Laws by diminishing the influence of outside bodies, e.g. the National Security and Defense Council, or the Cabinet of Ministers, in particular in the appointment and dismissal/suspension processes, and increase transparency; [pars 19-26, and 32-39]
- C. To introduce, in both draft Laws, a ban on re-appointment of the Director of the anti-corruption body; [par 31]
- D. To include in both draft laws provisions on the functional immunity of the Director and staff of anti-corruption bodies [par 46];
- E. To expand the protection for whistleblowers in both draft laws [pars 65-66];
- F. To introduce clear safeguards in the draft laws allowing anti-corruption bodies to propose their own budgets [par 68];
- G. To elaborate, in both draft laws, on the prevention of corruption, or to consider setting up a specialized body dealing with the prevention of corruption [par 87];
- H. To consider expanding both draft Laws, so that they cover the establishment of a specialized law enforcement anti-corruption body which deals both with investigation and prosecution of cases [pars 88-89];

## **2. Additional Recommendations:**

- I. To enhance the modalities of exchanging information with other anti-corruption bodies outside of Ukraine under Article 5 of the NBACI draft Law and Article 8 of the NACS draft Law [par 83];
- J. To specify in Articles 5 and 10 of the NBACI draft Law that rights to equality and information shall apply to all individuals, including foreigners and stateless persons [par 61];
- K. To ensure that the NACS draft Law reflects the international principles of maximum disclosure of information and of limited exceptions to this rule [par 62];
- L. To clarify in Articles 7 and 12 of the NACS draft Law and Article 18 par 8 of the NBACI draft Law who may create and lead joint investigation teams, and which bodies may participate in them, and outline in Article 7 of the NACS draft Law when the NACS may give instructions to Ukrainian law enforcement bodies [pars 73-75];

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- M. To include prior management experience as part of the qualification requirements for the Director under Article 7 par 2 of the NBACI draft Law and Article 16 of the NACS draft Law [par 30];
- N. To amend Article 8 of the NBACI draft Law as follows:
  - 1) Specify who shall chair the Selection Commission [par 28]
  - 2) Introduce an appeals mechanism to the selection process for Director of the NBACI; [par 29]
- O. To clarify in Article 9 point 5 of the NBACI draft Law the position of the First Deputy Director [par 40];
- P. To delete Article 13 of the NACS draft Law setting out a maximum number of employees [par 70];
- Q. To include in Article 13 par 2 of the NBACI draft Law exceptions to the rule on open competition for employees working on special and covert operations [par 69];
- R. To explain the role of paramilitary units established under Article 21 of the NACS draft Law, and these units' relationship to other law enforcement and paramilitary forces in Ukraine [par 71];
- S. To outline in Article 23 of the NACS draft Law and Article 18 of the NBACI draft Law adherence to the basic principles of proportionality [pars 42-43];
- T. To ensure clear judicial oversight over investigations by anti-corruption bodies [pars 42-43];
- U. To add specific thresholds of reasonable suspicion prior to the initiation of investigations in both draft Laws, or include references to other relevant laws [par 43];
- V. To enhance both draft Laws by adding the requirement of internal and external independent auditing [par 47];
- W. To introduce to Article 23 of the NBACI draft Law and Article 24 of the NACS draft Law the requirement for employees to issue written reports in case orders they receive involve criminal offences [par 50];
- X. To specify in Article 25 par 3 of the NBACI draft Law what the NBACI may ask other government entities to do, while bearing in mind their roles and mandates [par 78];
- Y. To outline in greater detail the hierarchy of the appeals set out in Article 27 of the NACS draft Law [par 82];
- Z. To extend in both draft Laws the term during which candidates for the position of Director may not have been in the leadership or employment, or contractual relationship with political parties prior to applying for the

position [par 51];

AA. To ensure that both draft Laws describe the basic internal hierarchy of the bodies being created by them, and address the matter of internal control in provisions on the preparation of annual reports of the NBACI/NACS [pars 52-53]

BB. To enhance provisions outlining public control bodies in both draft Laws [pars 58-59];

CC. To introduce a discretionary provision to the proposed amendments to the Criminal Procedure Code under the NBACI draft Law, allowing the NBACI to, next to its core competences, take over other cases where this is in the public interest [par 76]; and

DD. To clarify the relationship between the NBACI/NACS and the Office of the Prosecutor-General, and ensure the independence of these anti-corruption bodies [pars 79-81].

#### **IV. ANALYSIS AND RECOMMENDATIONS**

##### **1. International Anti-Corruption Standards**

9. This Opinion analyses the two draft Laws from the viewpoint of their compatibility with international anti-corruption standards and OSCE commitments. Notably, the fight against corruption is an integral part of the commitments undertaken by OSCE participating States, as underlined most recently in the 2012 OSCE Ministerial Council's Declaration on Strengthening Good Governance and Combating Corruption, Money-Laundering and the Financing of Terrorism.<sup>1</sup>
10. International anti-corruption standards are found principally in the United Nations Convention against Corruption<sup>2</sup> as well as the Council of Europe's Criminal Convention on Corruption<sup>3</sup>, Civil Law Convention against Corruption<sup>4</sup> and Convention on Laundering, Search, Seizure and Confiscation of the

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<sup>1</sup> Available at <http://www.osce.org/cio/97968?download=true>

<sup>2</sup> United Nations Convention Against Corruption, adopted on 31 October 2003, ratified by Ukraine on 2 December 2009, available at [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

<sup>3</sup> Criminal Law Convention on Corruption, adopted on 27 January 1999, ratified by Ukraine on 27 November 2009, available at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=173&CM=8&DF=2/20/2008&CL=ENG>; see also the Additional Protocol to the Criminal Law Convention on Corruption, adopted on 15 May 2003, ratified by Ukraine on 27 November 2009, available at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=191&CM=8&DF=2/20/2008&CL=ENG>

<sup>4</sup> Civil Law Convention Against Corruption, adopted on 4 November 1999, ratified by Ukraine on 19 September 2005, available at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=174&CM=8&DF=2/20/2008&CL=ENG>

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Proceeds from Crime.<sup>5</sup> They are also contained in a number of soft-law standards, including the United Nations Declaration against Corruption and Bribery in International Commercial Transactions<sup>6</sup>, UN General Assembly Resolution 51/59 on Action against Corruption<sup>7</sup>, Council of Europe Committee of Ministers Recommendation (97) 24 on the Twenty Guiding Principles for the Fight Against Corruption<sup>8</sup> as well as Council of Europe Recommendation (2000)10E on Codes of Conduct for Public Officials.<sup>9</sup>

11. Standards specific to anti-corruption agencies or authorities can be found in the Jakarta Statement on Principles for Anti-Corruption Agencies<sup>10</sup> (hereinafter the 'Jakarta Principles') and the Anti-Corruption Authority Standards of the European Partners against Corruption (EPAC) (hereinafter the 'EPAC Principles'), an independent forum for practitioners aiming to prevent and combat corruption.<sup>11</sup>
12. The purpose of both draft Laws is to create a legal basis for a centralized body to tackle high-level corruption, money-laundering and complex economic crime. This is to be welcomed. The need for action against corruption in general, and for the creation of an anti-corruption body in particular, has been recommended in respect of Ukraine for a number of years by various international bodies and organizations.<sup>12</sup>
13. Overall, it has been noted that both draft Laws have attempted to take into account the standards laid down in global and regional legal instruments and international documents. However, a number of improvements would still be needed to bring the draft Laws fully into line with international standards.

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<sup>5</sup> Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, adopted on 8 November 1990, ratified by Ukraine on 26 January 1998, available at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=141&CM=8&DF=2/20/2008&CL=ENG>

<sup>6</sup> A/RES/51/191, 86th plenary meeting 16 December 1996, available at <http://www.un.org/documents/ga/res/51/a51r191.htm>

<sup>7</sup> A/RES/51/59, adopted on 12 December 1996, available at <http://www.un.org/documents/ga/res/51/a51r059.htm>

<sup>8</sup> Council of Europe Committee of Minister Resolution (97) 24 of 6 November 1997, available at <https://wcd.coe.int/ViewDoc.jsp?id=593789>

<sup>9</sup> Council of Europe Committee of Ministers Resolution (2000)10 E of 11 May 2000, available at <https://wcd.coe.int/ViewDoc.jsp?id=353945&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>; see also its Explanatory Memorandum, available at [https://wcd.coe.int/ViewDoc.jsp?Ref=ExpRec\(00\)10&Sector=CM&Lang=en](https://wcd.coe.int/ViewDoc.jsp?Ref=ExpRec(00)10&Sector=CM&Lang=en)

<sup>10</sup> Available at [https://www.iaca.int/images/sub/activities/EPAC/Jakarta\\_Statement.pdf](https://www.iaca.int/images/sub/activities/EPAC/Jakarta_Statement.pdf). These principles were developed at a conference organized in Jakarta, Indonesia on 26-27 November 2012 for this purpose, which was attended by current and former heads of anti-corruption agencies, anti-corruption practitioners and experts from around the world. The event was organized by the Corruption Eradication Commission of Indonesia, the United Nations Development Programme (UNDP) and the United Nations Office on Drugs and Crime (UNODC).

<sup>11</sup> Available at [http://www.epac.at/downloads/recommendations/doc\\_view/1-anti-corruption-authority-standards](http://www.epac.at/downloads/recommendations/doc_view/1-anti-corruption-authority-standards)

<sup>12</sup> See e.g. the the Council of Europe's Group of States Against Corruption (GRECO), Fourth Addendum to the Compliance Report on Ukraine, 31 March 2014 Greco RC-I/II (2009) 1E, available at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2\(2009\)1\\_FourthAdd\\_Ukraine\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2(2009)1_FourthAdd_Ukraine_EN.pdf) and Organisation for Economic Co-operation and Development (OECD), Ukraine, Progress Update, Istanbul Anti-Corruption Action Plan, recommendation 2.9, available at <http://www.oecd.org/corruption/acn/UkraineProgressUpdateApril2014ENG.pdf>

## **2. Legal Framework**

14. The legal framework for national anti-corruption bodies should be designed to ensure that their existence, powers and independent functioning have a clear basis in national law.<sup>13</sup> The Jakarta Principles specify that anti-corruption agencies “shall, in accordance with the basic legal principles of their countries, be established by a proper and stable legal framework, such as the Constitution or a special law to ensure continuity”.<sup>14</sup> Anti-corruption bodies should also have clear mandates to tackle corruption through prevention, education, awareness raising, investigation and prosecution, either through one agency or multiple coordinated agencies.<sup>15</sup>
15. It is noted that in Ukraine, the Constitution does not mention the creation of an anti-corruption body specifically, meaning that the establishment of any such body or bodies can be based solely on ordinary laws. Such laws will always be subject to changes to their legal mandate by the governing majority; indeed, such majority could also decide to abolish such a body altogether. This could lead to undue pressure and politicization of the decisions of the bodies created in this manner. It is therefore recommended to consider including in the Constitution a special provision on the establishment and mandate of an anti-corruption agency or agencies, or to take other measures to ensure that the legal status of such agency/agencies is more firmly entrenched in the legal order of Ukraine (e.g. by requiring a two-thirds, or three-fifths majority to amend such legislation).

## **3. Independence**

### ***3.1 International Standards on Independence of Anti-Corruption Bodies***

16. In accordance with Article 6 par 2 and Article 36 of the UN Convention against Corruption, which Ukraine ratified in 2009<sup>16</sup>, Ukraine is obliged to grant the body or bodies dealing with the prevention of corruption as well as the body or bodies specialized in combating corruption through law enforcement [...] “the necessary independence, in accordance with the fundamental principles of its legal system”, to enable the body or bodies “to carry out its or their functions effectively and free from any undue influence.”<sup>17</sup> This refers both to political independence –freedom from undue interference by political factions - as well as operational independence, which involves the ability to take decisions within one’s sphere of competence without undue interference from other actors.<sup>18</sup> Anti-corruption agencies should be free to take decisions without undue

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<sup>13</sup> EPAC Principles, Principle 1 (‘the Rule of Law’).

<sup>14</sup> Jakarta Principles, p. 2 (‘Permanence’).

<sup>15</sup> Jakarta Principles, p. 2 (‘Mandate’).

<sup>16</sup> See footnote 2.

<sup>17</sup> Cf. also Article 20 of the Council of Europe Criminal Law Convention on Corruption, and OSCE MC Decision 2/2012, Declaration on Strengthening Good Governance and Combating Corruption, Money-laundering and the Financing of Terrorism (hereinafter ‘OSCE MC Decision 2/2012’), par II: “those in charge of the prevention, identification, investigation, prosecution and adjudication of corruption offences should be free from improper influence”.

<sup>18</sup> EPAC Principles, Principle 2 (independence).



external influence or excessive reporting obligations<sup>19</sup> that would unduly limit their activities and independence.

17. Another important aspect of ensuring independence is the appointment, suspension and dismissal procedure for the leadership of anti-corruption agencies. The Jakarta Principles specify that the head of an anti-corruption agency “shall be appointed through a process that ensures his or her apolitical stance, impartiality, neutrality, integrity and competence”.<sup>20</sup> They also state that the heads of anti-corruption agencies “shall have security of tenure and shall be removed only through a legally established procedure equivalent to the procedure for the removal of a key independent authority specially protected by law (such as the Chief Justice)”.<sup>21</sup>

### *3.2 Operational Independence*

18. The NACS draft Law contains a number of provisions regarding the NACS’s independence. Article 2 of the NACS draft Law specifies that the NACS is an independent body, but also states that the Service is subordinated to the President of Ukraine and the National Security and Defense Council of Ukraine, a national security co-ordination body chaired by the President.<sup>22</sup> This latter body is responsible for the appointment and dismissal of the NACS Director and his/her deputies (Article 16). Also, while Article 6 laudably bans any influence and interference with the operations of the NACS, the regulations governing this body are “developed by the National Security and Defense Council and approved with Decree of the President of Ukraine”.
19. It is further noted that in the amendments to the Law on the National Security and Defense Council (Article 3) under Section 5 of the NACS draft Law on final and transitional provisions, the National Security and Defense Council Ukraine shall “coordinate and control” the activity of the NACS “at any time”. Given that this body is largely composed of representatives of the executive (even though Article 107 of the Constitution<sup>23</sup> allows the Chairman of the *Verkhovna Rada* to participate), it is questionable whether the NACS as proposed by the draft Law is thus fully independent. To ensure greater independence in the draft Law, it would be advisable to diminish the influence of the National Security and Defense Council in appointment and dismissal proceedings (see par 22 *infra*), delete the proposed amendment to Article 3 of the Law on the National Security and Defense Council and perhaps allow the NACS to have a greater influence on the preparation of its internal regulations.
20. Moreover, Article 4 par 4 of the NACS draft Law provides that the NACS is obligated (within the limits of its competence) to “carry out inspections initiated

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<sup>19</sup> *Ibid.*

<sup>20</sup> Jakarta Principles, p. 2, (‘Appointment’).

<sup>21</sup> Jakarta Principles, p. 2 (‘Removal’).

<sup>22</sup> By recent decree of the President of Ukraine of 16 June 2014, the National Security and Defence Council includes, next to the President as Chairman, the Prime Minister, First Deputy Prime Minister, SBU Chief, Head of the Foreign Intelligence Service, Interior Minister, Acting Foreign Minister, Acting Defense Minister, Finance Minister, Justice Minister and the Chief of Presidential Administration. In addition, the Verkhovna Rada Chairman, Acting Prosecutor and Governor of the National Bank are included in the Council by consent.

<sup>23</sup> Constitution of Ukraine, adopted on 28 June 1996, and amended in 2004.

by the President of Ukraine, the Prime Minister of Ukraine, Prosecutor General of Ukraine [and] the Secretary of the National Security and Defense Council of Ukraine.” It is unclear whether this provision merely means that the NACS is obliged to continue and assess inspections initiated by other bodies (and may then also discontinue them), if they fall within its mandate, or whether this actually requires the agency to take direct instructions from actors within the executive branch. Should the latter be the case, then this provision would also appear to sit uneasily with the principle of operational independence and would carry with it a very high risk of politicization of investigations. While it should be possible for anyone, including governmental bodies and (high) government officials, to report allegations of corruption, it should, as a matter of operational independence, ultimately be up to the NACS to decide whether to take up, and proceed with, particular cases. It is thus recommended to remove Article 4 par 4 of the NACS draft Law, or to amend it to clarify that the ultimate decision on whether to take up or proceed with any case is up to the NACS itself, in accordance with the relevant laws of Ukraine.

21. The NBACI draft Law also contains a number of provisions aimed at securing the NBACI’s operational independence. Although Article 1 par 4 of the NBACI draft Law, which deals with the powers of the Cabinet of Ministers over the NBACI, states that the Cabinet “[d]irects and coordinates” the work of the NBACI, the draft Law adds that the Cabinet and its members “may not give the National Bureau and its staff instructions [or] adopt decisions on [...] pre-trial investigation[s] in specific criminal proceedings”. It then enumerates a number of ways in which the Cabinet directs and co-ordinates the NBACI’s work, for example by ensuring the formulation of state policy in the area of preventing and countering corruption and adopting its regulations. Also here, it would be preferable if the NBACI would have some influence on its own internal regulations. Additionally, the draft Law does not specifically limit the powers of the Cabinet over the NBACI to those enumerated in Article 1 par 4, which could negatively affect the NBACI’s independence from the Cabinet. It is recommended to state clearly that the specific powers of the Cabinet of Ministers over the NBACI mentioned in Article 1 par 4 of the NBACI draft Law are limited to those enumerated in that Article.

### ***3.3 Appointment of the Director***

22. The NACS draft Law places the decision on the appointment of the Director of the NACS in the hands of the National Security and Defense Council of Ukraine (Article 16). While the Chairman of the *Verkhovna Rada* sits on the Council, and may participate in its sessions, the appointment procedure under Article 16 does not include the *Verkhovna Rada per se* in the selection and/or appointment of the Director, nor are civil society organizations part of these procedures.
23. As noted above in par 17 *supra*, the appointment process is a vital component to ensuring the necessary independence to anti-corruption agencies “to carry out [...] their functions effectively and free from any undue influence.”<sup>24</sup> The

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<sup>24</sup> Cf. also Article 20 of the Council of Europe Criminal Law Convention on Corruption, and OSCE MC Decision 2/2012, Declaration on Strengthening Good Governance and Combating Corruption,

appointment procedure proposed in the NACS draft Law is not transparent or inclusive of numerous relevant actors, and would thus significantly reduce both the independence and the democratic legitimacy of the Director. It thus constitutes the most important weak point of the NACS draft Law. To remedy this, it would be advisable to place the responsibility of selecting and appointing the Director of the NACS on several shoulders, by involving also other actors, such as independent civil society representatives and the *Verkhovna Rada*, which could then also confirm the appointment of the Director, or appoint him/her directly via an affirmative vote, possibly by qualified majority. Overall, the selection and appointment process should also be made more transparent. This would reduce the risk of appointing a person completely beholden to the executive branch and would increase the democratic legitimacy of the Director.

24. The NBACI draft Law foresees a selection procedure for the NBACI Director via a Selection Commission involving members of the executive and members of the *Verkhovna Rada*, as well as the ombudsperson and civil society (Article 8). The inclusive, transparent and competitive selection procedure it proposes is to be welcomed.
25. Article 8 of the NBACI draft Law outlines the composition of the Selection Commission, which shall consist of nominees determined by the President of Ukraine, the *Verkhovna Rada* Anti-Corruption Committee, the Minister of Justice, the Prosecutor-General, the Ombudsperson and civil society. All members of the Selection Commission shall be “approved” by the Cabinet of Ministers (Article 8 par 2). It is not fully apparent how this “approval” process would work in practice, in particular what would happen if the Cabinet would refuse to approve individual members of the Selection Commission.
26. Moreover, Article 8 par 3 (6) states that civil society organizations that have experience in the area of prevention of corruption shall propose four civil society representatives to the Selection Commission. Also here, it is not clear how this would work in practice, and in particular how the four civil society members would be selected. It is recommended to increase safeguards for the independence of civil society members participating in the selection process foreseen in Article 8 of the NBACI draft Law, for example by requiring that they may not be affiliated with any political party, and to clarify the procedure for their selection and appointment.
27. Furthermore, in order to ensure the integrity of all Selection Commission members and avoid conflicts of interest, it is recommended to require that these members must not be under investigation for or convicted of corruption or other serious crimes.
28. It is also noted here that Article 8 par 4 of the NBACI draft Law does not mention who chairs the Selection Commission. This should be specified, either directly in the draft Law, or by introducing a provision stating that members shall elect a Chair during their first meeting.
29. Under Article 8 par 5, the responsible Selection Commission reviews the documents, and prepares a short-list of three candidates, who shall be

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Money-laundering and the Financing of Terrorism (hereinafter ‘OSCE MC Decision 2/2012’), par II: “those in charge of the prevention, identification, investigation, prosecution and adjudication of corruption offences should be free from improper influence”.

interviewed. From this final list, the Commission selects, through open voting, a final candidate, who is then appointed by the Cabinet. This procedure is particularly welcome due to the transparent procedure before the Selection Commission, and since the actual decision on the Director is taken by a pluralist commission and not by only one body (as the draft Law does not appear to give the Cabinet any powers to contest the decision of the Selection Commission). At the same time, as a safety measure, it may be helpful to include appeals procedures, which would also specify the competent appeals body by which candidates who were not selected may contest the decision of the Selection Commission.

30. Article 7 par 2 of the NBACI draft Law and Article 16 of the NACS draft Law deal with the qualifications to be fulfilled by the Director. Neither of these lists of required qualifications make any reference to the need for the Director to have proven management skills. Such management skills are especially important for individuals running large, independent institutions engaged in challenging activities such as the ones proposed in the draft Laws on the NBACI and NACS. It is recommended to consider adding proven management experience to the qualifications for the Director listed in Article 7 par 2 of the NBACI draft Law and Article 16 of the NACS draft Law.
31. An additional problem with the NACS draft Law is that it appears, in Article 16, not to preclude the re-appointment of the Director after his or her first term of appointment (the NBACI draft Law also does not mention this issue). Generally, it is not compatible with the independence of the Director to allow him or her to be re-appointed.<sup>25</sup> The possibility of re-appointment could induce the Director to treat those in a position to reappoint him or her, or to influence that decision, differently. Even if it does not in fact do so, this could be seen to be the case by the public, which would undermine public confidence in the NACS. It is recommended to specifically preclude the possibility to re-appoint the Director after his or her first term in the both draft Laws.

### ***3.4 Removal and/or Suspension of the Director***

32. The NACS draft Law requires (next to other grounds such as poor health or voluntary resignation) “a no-confidence decision of the National Security and Defense Council of Ukraine” for the removal of the Director of the NACS (Article 16). Two safeguards against abuse of this provision are provided in Article 16: first, it prohibits the Director’s dismissal as a result of a no-confidence decision of the National Security and Defense Council of Ukraine “if such dismissal is actually connected with the investigation of the National Anticorruption Service into the cases connected with the President of Ukraine, members of the National Security and Defense Council of Ukraine, their family members, or the individuals or legal entities close to them.” Second, it provides that “the decision to dismiss from [...] office based on such reasons may be disputed by the Director of the National Anticorruption Service in the Higher

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<sup>25</sup> See “EPAC/EACN 10 Guiding Principles and Parameters on the Notion of Independence of Anti-Corruption Bodies”, par 4, available at [http://www.epac.at/downloads/recommendations/doc\\_view/1-anti-corruption-authority-standards](http://www.epac.at/downloads/recommendations/doc_view/1-anti-corruption-authority-standards) (see p. 11).

Administrative Court of Ukraine.”

33. While these two safeguards are useful, there are a number of problems with the procedure as a whole. First, nothing appears to preclude the Council from giving other reasons for its decision to dismiss the Director, for example reasons linked to his or her performance, even if it is in reality dismissing the Director for other reasons, including as a result of investigations against its members or those affiliated with them. If such other reasons are given, the Director would be required to prove in the Higher Administrative Court that there was a link between the decision to investigate particular individuals linked to the President or the National Security and Defense Council and his or her dismissal as Director. This seems to be an unreasonable burden to place on the Director.
34. Second, while an appeal to the Higher Administrative Court of Ukraine may result in the Court finding a violation of the law as to the dismissal, the draft Law does not specify the outcome of such cases. It is not clear whether the Director would then be re-instated or even re-appointed after this outcome, and whether the Court could legally oblige the Council to do so.
35. Third, it appears that the Director would be removed immediately, prior to any possible judicial review, which would potentially leave the NACS without leadership for a longer period of time. This could significantly affect the NACS’ ability to function, since the draft Law does not specify the precise modalities of the exercise of the Director’s powers by, for example, one of his Deputies.
36. Finally, as with the appointment, the *Verkhovna Rada* as a body is not involved in the decision to dismiss the Director, which, to a certain degree, may deprive this decision of political and democratic legitimacy. To ensure the Director’s independence, and to reduce the risk of political interference, it is therefore recommended to make it significantly more difficult to dismiss the Director of the NACS. Should the *Verkhovna Rada* be more involved in appointing the Director, then this could be done via a removal procedure which requires an affirmative vote, possibly by qualified majority, of the *Verkhovna Rada* confirming the dismissal decision.
37. As to the removal of the Director specified in the NBACI draft Law, it is noted here that the list of grounds specified in Article 7 par 4 does not include any substantive grounds for dismissal related to the manner in which the Director carries out his or her duties, such as, for example, gross incompetence or serious violations of the mandate of the NBACI. Beyond grounds such as death and poor health, it mentions only grounds which depend on the will of the Director, such as his or her voluntary resignation, as grounds for dismissal. Although this certainly serves to strengthen the Director’s independence, it also renders the Director (and, by extension, the NBACI itself) less accountable, including, for example, for gross incompetence or serious violations of the mandate of the NBACI. It is recommended to expand the list of grounds for the removal of the Director included in Article 7 accordingly.
38. The procedural safeguards with respect to the dismissal of the Director, on the other hand, appear to be very limited, requiring only dismissal (on one of the specified grounds) by the Cabinet of Ministers of Ukraine, without the involvement of any other actors, such as the *Verkhovna Rada*. Given the open and pluralist manner in which the Director is selected and appointed, it would

be advisable to follow similar procedures by, e.g. establishing a similar *ad hoc* commission responsible for reviewing and confirming proposals for dismissal of the Director. The Director should also be given the right to be heard in any procedures leading to his/her dismissal. Another possibility would be to require an affirmative vote, possibly by qualified majority, of the *Verkhovna Rada* to confirm the decision of the Cabinet of Ministers of Ukraine to dismiss the Director.

39. The NBACI draft Law foresees not just a dismissal, but also a suspension procedure for the NBACI Director. In accordance with the proposed amendment to Article 154 par 3 of the Criminal Procedure Code on “General Provisions Related to Suspension from Office”, suspension of the Director of the NBACI shall be carried out “by the Cabinet of Ministers of Ukraine upon motivated motion of the Prosecutor General of Ukraine in accordance with the procedure set forth by law.” This provides much less protection than the suspension of, for example, judges of Ukraine, which must be decided by the Higher Qualification Commission of Judges of Ukraine, and does not provide much in the way of procedural safeguards. It is recommended to include additional procedural safeguards for the suspension of the Director, such as a swift vote by an *ad hoc* commission, or of the *Verkhovna Rada*, possibly by qualified majority affirming or rejecting the Director’s suspension within a certain number of days following the suspension decision.
40. It is noted here that provision has been made for the appointment of a First Deputy Director and two Deputy Directors of the NBACI in Article 9 par 1 under point 5. This is a welcome provision, which, however, does not specify who shall be in charge of the NBACI in case of suspension or dismissal of the Director, until a new appointment has been made, or indeed in case of a possible lengthy absence of the Director for medical or other reasons. The position of the First Deputy Director should thus be clarified, to include provisions aimed at ensuring the continuity of the NBACI’s operations by, for example, specifying that the First Deputy Director shall be the Acting Head of the NBACI until such time as a new Director is appointed or in case the Director is absent for a longer period of time or not able to fulfil his or her functions for medical or other reasons. Should these changes be accepted, then they should also be reflected in the relevant provisions of the Criminal Code.

#### **4. Accountability and Immunity**

41. Both anti-corruption bodies and their staff should be accountable for their actions and decisions.<sup>26</sup> This means that appropriate mechanisms should be set up to monitor the proper governance of such bodies.<sup>27</sup> This includes mechanisms to deal with allegations of misconduct of staff swiftly and adequately-both to exonerate those not guilty of violations of the law or other misconduct, and to ensure that those guilty of such conduct are punished.<sup>28</sup> To ensure their ability to fulfil their tasks in what are often adverse political circumstances, the Jakarta Principles specify that the heads and employees of

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<sup>26</sup> EPAC Principles, Principle 3 (‘Accountability’).

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

anti-corruption agencies should be protected from malicious civil and criminal proceedings and should have immunity from civil and criminal proceedings for acts committed within the performance of their mandate.<sup>29</sup> Anti-corruption bodies should also report regularly on their activities, for example through annual reports to parliament or other governmental bodies.<sup>30</sup>

42. It is clear that in order to be effective, the NACS requires significant investigative powers, as also set out in Article 23 of the NACS draft Law. However, these powers must not be used in an excessive manner, and must be exercised under prior or post hoc independent supervision in order to ensure that the NACS does not use them arbitrarily and with unfettered discretion.<sup>31</sup> The draft Law, however, is silent on the issue of independent oversight, and particularly judicial control, over such matters. While employees of the NACS are allowed to use force, including the right to carry and use weapons (Article 23 par 11), the draft Law also does not mention the proportionality of the use of force. The NACS draft Law should thus be supplemented by adding requisite safeguards in the form of oversight mechanisms, and the requirement for court decisions in order to conduct invasive investigative activities such as search and seizure. Should such matters already be regulated by other laws, then the draft Law should include clear references to them. All activities should also follow basic principles of proportionality, particularly with regard to the use of force.
43. Similar considerations apply to Article 18 of the NBACI draft Law, which also allows, *inter alia*, for searches and seizure of objects. Even though here, consent of the competent prosecutor appears to be a requirement, there is no mention of judicial control of such measures. As for the principle of proportionality with regard to the use of force, and weapons, Articles 19 and 20 of this draft Law, which allow NBACI officers to, *inter alia*, use physical force and detain individuals should also stress that any force used should be strictly proportionate, and in line with general applicable legislation and standards.
44. In addition, Article 23 of the NACS draft Law does not appear to require reasonable suspicion as a basis for initiating an investigation, or for conducting surveillance or detention measures (such a threshold is currently only mentioned in par 13 of Article 23 for cases of interference/restrictions on bank transactions or accounts). This could lead to excessive and arbitrary investigations by the NACS, and should be changed, either directly in the draft Law, or by including references to other similar legislation. The NBACI draft Law likewise does not mention a specific threshold for initiating investigations under Article 18, but merely mentions that it shall be based on an order from the Director, and shall follow “the procedure established by law” (which presumably refers to the Criminal Procedure Code).
45. While it is necessary to hold employees of anti-corruption bodies accountable for their actions, certain safeguards should be in place to ensure that accountability mechanisms are not abused to unduly interfere with their work.

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<sup>29</sup> Jakarta Principles, p. 2 (‘Immunity’).

<sup>30</sup> *Ibid.*

<sup>31</sup> The Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms, entered into force on 3 September 1953. The Convention was ratified by Ukraine on 11 September 1997. For an overview of the minimum safeguards that should be set out in statute law in order to avoid abuses of power, see *Association for European Integration and Human Rights and Ekimdzhiev v. Bulgaria*, ECtHR judgment of 28 June 2007, appl. no. 62540/00, par 75-77.

Usually, such independent institutions and their employees would thus benefit from a certain level of immunity for actions undertaken as part of the exercise of their mandate. Both the NBACI and NACS draft laws do not contain provisions on functional immunity-i.e. immunity for staff, including the Director, from civil and criminal proceedings for acts performed in an official capacity.

46. Instead, Article 23 par 2 of the NBACI draft Law provides that NBACI employees are “liable to disciplinary, civil, administrative or criminal liability for their wrongful acts or inactivity”. Equally, Article 23 of the NACS draft Law provides that “the employees of the National Anticorruption Service may not exercise their rights for illegal purposes. In case of breach of the above requirement the employees are brought to responsibility under law.” While there are some limitations as to who may investigate employees and the Director of the NACS under Article 28 of the NACS draft Law (namely the Prosecutor General, and/or, in case of employees, his deputies), this does not amount to immunity from civil and criminal procedure. A functional immunity for staff, including the Director, from civil and criminal liability for acts performed in an official capacity, should therefore be added to relevant draft legislation on an anti-corruption body.
47. As an additional accountability tool, the NBACI draft Law contains a reference to an internal audit unit (Article 6 par 4), but no reference to outside auditing. Outside independent audits are a highly important tool for maintaining the integrity of anti-corruption agencies and their staff. There is likewise no reference to internal or external auditing in the NACS draft Law. It is recommended to include provisions on internal auditing in the draft NACS law, and to include in both the draft NBACI Law and the draft NACS Law explicit provisions on external financial accountability, including periodical accounting (e.g. every two years) by independent outside auditors.

## **5. Integrity and Impartiality**

48. As public servants, staff of anti-corruption agencies should discharge their duties in an honest and trustworthy manner.<sup>32</sup> They should act independently of any partisanship.<sup>33</sup> Decisions should be taken based on the merits and circumstances of the particular case without undue influence or prejudice.<sup>34</sup> Adequate systems should also be in place to ensure the integrity and impartiality of anti-corruption agencies and their staff.<sup>35</sup> This includes appropriate and effective disciplinary measures<sup>36</sup> and auditing procedures<sup>37</sup> as well as training on integrity issues. These principles may also be implemented by the elaboration of codes of conduct for staff and/or mission statements for the body in question.<sup>38</sup>

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<sup>32</sup> EPAC Principles, Principle 4 (‘Integrity and Impartiality’).

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Jakarta Principles, p. 3 (‘Internal Accountability’).

<sup>36</sup> Twenty Guiding Principles for the Fight Against Corruption, Principle 10.

<sup>37</sup> Ibid., Principle 11.

<sup>38</sup> Jakarta Principles, p. 2 (‘Ethical Conduct’); EPAC Principles, Principle 4 (‘Integrity and Impartiality’).



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49. Both draft Laws contain provisions that deal with staff integrity and impartiality. Article 22 of the NACS draft Law, for example, contains a welcome requirement that staff should swear a specific oath on integrity upon joining the proposed agency.
50. Moreover, both draft Laws contain provisions stating that staff shall refuse to execute orders, instructions or directives that contradict legislation (Article 23 of the NBACI draft Law and Article 24 par 6 of the NACS draft Law). To enhance these provisions, consideration may be given to including in them the duty to report instructions which constitute a criminal offence, which should include the requirement to issue a written report to the immediate supervisor if a written or verbal order constitutes a criminal offense. If the order constituting a criminal offence was issued by the immediate supervisor, such report should be made to another superior.
51. Commendably, Article 7 par 2 of the NBACI draft Law also provides that individuals may not be appointed as Director if, within one year prior to applying, and regardless of duration, they were part of the leadership of a political party or were in the employment or other contractual relationship with a political party. Article 16 of the NACS draft Law requires only that the Director should be “nonpartisan” or give “his/her consent to suspension of the membership in a political party for the period of office”. However, both provisions may not be sufficient to exclude conflicts of interest. It is recommended to consider introducing an extended term during which a person applying for the position of Director may not have been in the leadership or employment of, or other contractual relationship with, a political party in the above draft Laws.
52. To enhance accountability, both draft Laws oblige the institutions established by them to publish written reports on an annual basis outlining relevant anti-corruption activities undertaken by them. Article 31 par 3 on the written reports on the activities of the NBACI is quite detailed in that it lists a significant number of items to be covered in the NBACI’s reports. To increase accountability and integrity of, and confidence in, the NBACI, it is recommended that a provision on internal control (i.e. on disciplinary actions, integrity issues etc.) be included in the NBACI’s public reporting obligations. This should likewise be specified in the NACS draft Law.
53. It is important to note that a clear internal hierarchy, which provides for multiple-level review of decision-making (although vesting ultimate authority in a Director) may also have a positive impact on ensuring that staff is free from undue influence. The draft Law on the NBACI is relatively silent on the internal decision-making hierarchies within the NBACI, and leaves it up to the Director to decide on the internal structure of the organization (Article 9 par 3).
54. Similar remarks may be made with respect to the NACS. Article 13 of the NACS draft Law covers the NACS’s internal organization to some extent, but it deals mostly with territorial jurisdiction issues, and does not elaborate a great deal on the institutional set-up and internal hierarchical organization of the NACS. It is recommended to describe the basic internal hierarchy of the NBACI and NACS in both the NACS and NBACI draft Laws, whilst maintaining a degree of operational flexibility by referring most detailed rules on internal hierarchy to implementing regulations.

55. Internal whistleblowers can also play an important role in ensuring the integrity of anti-corruption authorities. It is to be welcomed, therefore, that Article 26 par 4 of the NBACI draft Law provides that NBACI employees who have “reported on the wrongful act or inactivity of other employee of the National Bureau, cannot be dismissed or forced to resign, brought to liability or prosecuted for such reporting, except for liability for filing a knowingly false report of a crime” and that in accordance with the same Article “[o]fficials of the National Bureau are forbidden to disclose information about the National Bureau's employees who have reported on the violations.”

## **6. Accessibility**

56. The principle of accessibility means that the public should be able to report instances of corruption easily and, if necessary, anonymously.<sup>39</sup> Anti-corruption agencies should also be open to engagement with victims, complainants and witnesses of corruption, as well as with civil society and academia.<sup>40</sup> States are required to take appropriate measures to ensure that their independent anti-corruption body or bodies are known to the public and to enable public access to them.<sup>41</sup>
57. Both draft Laws contain provisions on public engagement and co-operation with civil society. The draft Law on the NACS establishes a permanent “Public Council” for the purpose of interaction with “the public and public associations of Ukraine whose statutory activities include counteraction to corruption” in order to “exercise [...] public control over the activities of the National Anticorruption Service and assess its effectiveness” (Article 37). The Deputy Director of the National Anticorruption Service shall be a member of the Public Council and the Secretary of the National Security and Defense Council of Ukraine shall take part in the sessions of the Public Council. “Regulations of the Public Council of the National Anticorruption Service” shall be approved by the National Security and Defense Council of Ukraine (see par 18 *supra*).
58. Although the creation of oversight mechanisms such as the Public Council in the draft Law on the NACS is to be welcomed, and it is understandable that not all its operational modalities can be specified in the draft Law, it is not sufficiently clear what the composition, powers and appointment and dismissal procedures surrounding the Public Council are. Without a clear legal basis, it appears that its membership, including the appointment and dismissal procedures, would be a matter for the National Security and Defense Council, which, considering the fact that this is a political body that is part of the executive branch, does not provide a sufficient guarantee for the selection of independent individuals to serve on the Public Council, nor of their security of

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<sup>39</sup> EPAC Principles, Principle 5 (‘Accessibility’).

<sup>40</sup> *Ibid.*; Jakarta Principles, p. 3 (‘Public Communication and Engagement’). Cf. also OSCE MC Decision 2/2012, par III: “[w]e recognize that it is important to include the private sector in efforts to counter corruption and enhance good governance and to engage it in favour of a fair and transparent business environment.”

<sup>41</sup> United Nations Office on Drugs and Crime (UNODC), Legislative guide for the implementation of the United Nations Convention against Corruption (2nd revised edition 2012), available at [https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC\\_Legislative\\_Guide\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC_Legislative_Guide_E.pdf), par 64.

tenure. It is recommended to clarify in the draft Law on the NACS the precise composition, appointment and dismissal procedures for members of the Public Council, as well as its decision-making processes and powers (if any) over the NACS. It is also recommended to include a requirement of independence and impartiality for members of the Public Council.

59. The NBACI draft Law also establishes a ‘Council of Public Control at the National Bureau’ consisting of 15 persons based on an open and transparent competition (Article 37). It is not specified whether members of independent civil society organizations shall participate in the work of the NBACI. It is recommended to include a pertinent provision on the participation of civil society in the ‘Council of Public Control at the National Bureau’ in the NBACI draft Law.

## **7. Transparency and Confidentiality**

60. As the EPAC Principles specify, anti-corruption authorities “should operate transparently in order to ensure public confidence in [their] independence, fairness and effectiveness. Transparency should only be subject to limitations or restrictions which are necessary in a democratic society.”<sup>42</sup> However, a careful balancing act needs to be achieved by anti-corruption agencies to ensure, on the one hand, that they operate in a fully transparent manner, and on the other hand, that they protect the confidentiality of sources, tactics and methodology.<sup>43</sup> The UN Anti-Corruption Convention requires special measures for the protection of witnesses, experts and victims (Article 32) and the consideration of appropriate measures to protect persons reporting corruption cases (Article 33).<sup>44</sup>
61. Both draft Laws contain a number of provisions to ensure the transparency of the operations of the agencies that they propose to create. Article 10 of the NACS draft Law provides for a right of Ukrainian nationals to obtain information about the activities of the NACS (same as with Article 5 specifying the equality of Ukrainian nationals before the NACS, this provision should be amended to speak of all individuals residing in Ukraine, including foreign and stateless persons). Article 10 further includes a provision aimed at prohibiting restrictions on information about the NACS and its activities, including illegal acts committed by the NACS and its employees. On the other hand, the draft NACS Law recognizes that a number of categories of information should not be made public, including state secrets, banking secrets, military secrets, official secrets and commercial secrets and confidential information “where disclosure thereof may cause harm to Ukraine’s national security, honor and dignity of a person or violate such person’s legitimate rights” with the exception of “instances stipulated in Ukrainian laws and in the interests of justice.”
62. It is noted that the above categories of limited information are quite vague, and are not in line with international standards on freedom of access to information, which follow the principle of maximum disclosure. This implies that

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<sup>42</sup> EPAC Principles, Principle 6 (‘Transparency and Confidentiality’).

<sup>43</sup> Ibid.

<sup>44</sup> On the issue of whistleblower protection, see Transparency International, *Whistleblower Protection and the UN Convention Against Corruption*, available at [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/libe/dv/ti\\_report/\\_ti\\_report\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/ti_report/_ti_report_en.pdf)

information shall only be limited on a case by case basis, if the interest in maintaining information confidential outweighs the public interest in disclosure. As stated in previous opinions, vague formulations such as “state secrets” or “harm to national security, honor and dignity of a person” shall never serve to maintain confidentiality of certain categories of information.<sup>45</sup> The above provisions should thus be reconsidered, and significantly reworded to reflect the overarching principle that disclosure of information shall be the rule, and maintaining confidentiality the exception (either directly or by reference to other relevant legislation).

63. Moreover, it is not clear from these provisions who may decide when to publish such information. Is it the Director of the NACS, the National Security and Defense Council, or some other body? This point should be clarified in Article 10 of the NACS draft Law.
64. The NBACI draft Law covers the issue of transparency mainly in Article 36, which requires it to regularly inform the public about its activities and reports through the mass media, its official website and other forms, and refers to the Law “On Access to Public Information”. This same provision also notes that it is forbidden to restrict access to information concerning the overall budget of the National Bureau, its competence, main directions of its activity, and information on liability for offences committed by the National Bureau’s employees.
65. While these provisions are welcome, additional whistleblower protection for those reporting corruption despite being under a duty not to publish certain information should be considered, beyond the measures currently foreseen in Article 26, which only provides that “[p]eople who voluntarily, including on a contractual basis, provide assistance to the National Bureau in execution of its duties are under the protection of the state” and that “[u]nlawful disclosure of information about such persons or committing other offenses against these persons in connection with his/her relations with the National Bureau shall entail liability under law.” It is recommended to expand the protection of whistleblowers in the NBACI draft Law by specifically banning retaliatory action by employers in the public and private sector against whistleblowers reporting corruption to the NBACI.
66. Article 7 of the NACS draft Law also deals with a number of different issues related to assistance to the NACS by experts, undercover informants, whistleblowers and compensation for operational information. Although it is in principle welcome that the draft Law covers these important issues, each of them could also be covered in separate provisions in greater detail. Also here, it is recommended to elaborate significantly on the issue of whistleblower protection, including the ban on retaliatory action by employers in the public and private sector against whistleblowers who report corruption to the NACS.

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<sup>45</sup> See ODIHR’s Opinion on Draft Laws of the Republic of Kazakhstan on Access to Information, of 18 April 2012 (Opinion-Nr.: FOI – KAZ/204/2012), available at: <http://www.legislationline.org/topics/topic/3>.

## **8. Adequacy of Resources, Staffing and Training**

67. The UN Convention against Corruption provides that appropriate training should be provided to staff of both preventive and law enforcement bodies dealing with corruption.<sup>46</sup> Anti-corruption agencies should be able to attract and retain highly skilled and qualified staff of high integrity.<sup>47</sup> Recruitment should be based on objective criteria such as merit, equity and aptitude.<sup>48</sup> Credible specialist training incorporating strategic and academic analysis as well as practical skills and experience is crucial to provide and maintain the necessary level of qualification.<sup>49</sup> Mechanisms should be provided with regard to reasonable terms of office, protection against undue dismissal and undue displacement as well as subsequent career development.<sup>50</sup> The UN Convention against Corruption also provides that both preventive and law enforcement bodies dealing with corruption should be provided with adequate resources.<sup>51</sup> This includes financial, human, material and technical resources.<sup>52</sup> Also, their budgets should be provided to them in a timely and reliable manner.<sup>53</sup> Since they fulfill a public function, funding should come primarily from public sources.<sup>54</sup>
68. Both draft Laws clearly reflect the principle that funds should come from public sources. Article 15 of the draft Law on the NACS provides that state funds should be used, and provides for supplementary funding through the use of funds obtained as a result of NACS operations and from funds obtained through international aid. Article 29 of the NBACI draft Law mandates ‘full and timely financing’ of the NBACI, and prohibits funding from sources other than state funding, with the exception of funds received as a result of international treaties signed by Ukraine. Article 30 also prohibits funding for material and technical means from local budgets or other sources. However, it is not clear in either draft Law whether the NBACI and NACS have the power to propose their own budget directly to the *Verkhovna Rada*. It would greatly enhance their financial independence if they were able to do so without the involvement of the Ministry of Finance. It is recommended to include a provision allowing the NACS and NBACI to propose their own budgets to the *Verkhovna Rada*.
69. Both draft Laws also endeavor to provide the bodies they propose to set up with adequate staffing and training. Articles 27 and 28 of the NBACI draft Law are particularly specific on the social protection and remuneration of NBACI Staff, and together constitute a very welcome system to ensure staff retention. Regarding Article 13 par 2, which deals with the procedure for selection and appointment of employees of the NBACI, it is noted that for operational purposes, it may not be possible to have open competitions for all posts,

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<sup>46</sup> UN Convention Against Corruption, Article 6 par 2 and Article 36.

<sup>47</sup> EPAC Principles, Principle 8 (‘Recruitment, Career and Training’); Jakarta Principles, p. 2 (‘Remuneration’).

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> UN Convention Against Corruption, Article 6 par 2 and Article 36.

<sup>52</sup> EPAC Principles, Principle 7 (‘Resources’); Jakarta Principles, p. 3 (‘Adequate and Reliable Resources’).

<sup>53</sup> Ibid.; Jakarta Principles, p. 3 (‘Adequate and Reliable Resources’).

<sup>54</sup> EPAC Principles, Principle 7 (‘Resources’).

including for example officers working on special operations and/or using covert measures. It is recommended to include exceptions to the rule on open competition in Article 13 par 2 of the NBACI draft Law for those working on special and covert operations.

70. Article 13 of the NACS draft Law sets the maximum number of NACS employees at 1200. It is not clear why such a limitation should be specified by law; it would be better to determine the number of employees based on objective considerations of operational necessity. It is recommended to delete the provision setting a maximum number of NACS employees from the NACS draft Law.
71. It is also noted that under Article 21 of the NACS draft Law, the NACS shall have paramilitary subdivisions. The role and necessity of such subdivisions is not clear, especially since NACS employees are already permitted to wear and use weapons in the exercise of their duties. Should these subdivisions aim to protect the NACS and its employees from harm, then this should be specified, as should the adherence of such protection forces to relevant other legislation of Ukraine and how they relate to other law enforcement bodies and paramilitary forces in Ukraine.

## **9. National and International Co-operation**

72. Since the success of anti-corruption agencies largely depends on the degree and quality of their co-operation with other stakeholders, they should cooperate in a cross-sector, interagency, interdisciplinary and transnational manner.<sup>55</sup> Through such cooperation, anti-corruption agencies can obtain quality information and data; access operational support and joint investigative activities; and gather intelligence and evidence related to corruption offences including, where appropriate, the identification and recovery of the proceeds of corruption.<sup>56</sup> Co-operation should facilitate the exchange of best practice, standards, experiences and lessons learned.<sup>57</sup> It also represents a safety net and a mutual support network for the anti-corruption agency in the face of difficulties.<sup>58</sup> Both draft Laws contain a number of provisions on both national and international cooperation.
73. With regard to national co-operation, Article 7 of the NACS draft Law provides that officials of the NACS may “establish working groups with engagement in such groups of the officers of the law enforcement bodies and the prosecutors’ offices and also the specialists and experts from other institutions and organizations.” Similarly, Article 12, under point 4, mentions the possibility of the establishment of a joint operational group or investigation team in order to investigate cases or finally determine the investigative jurisdiction. While these provisions are welcome, as they recognize the importance of operational co-operation, a number of aspects of these provisions remain unclear. In particular, it is not specified who leads such joint operational groups or investigation teams. Is it a prosecutor, or an NACS official, or someone else? It is also not

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<sup>55</sup> EPAC Principles, Principle 9 (‘Cooperation’).

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

clear who can initiate their creation, or who can cooperate with the NACS in such bodies. Without clarification of these points, there is a risk of jurisdictional conflicts between law enforcement bodies. It is recommended to clarify in Article 7 and 12 of the NACS draft Law who can create joint investigation teams, who leads them (or how this is decided), and which bodies can participate in them.

74. Similar considerations apply to the NBACI draft Law, which also contemplates the creation of joint investigation teams in Article 18 par 8 without specifying who can create such teams, who leads them (or how this is decided), and which bodies can participate in them.
75. Article 7 of the NACS draft Law provides that “relevant officials of the National Anticorruption Service have the right to give binding instructions to Ukrainian law enforcement bodies”. This provision, although potentially useful, does not specify which NACS officials may give binding instructions to which types of law enforcement bodies, and in which circumstances. It is recommended to clarify this point in Article 7 of the NACS draft Law.
76. Regarding the mandate and jurisdiction of the NBACI in relation to other law enforcement bodies described in the amendments to the Criminal Procedure Code (see in particular the amendment to Article 216 on investigative jurisdiction), this requires more attention. The NBACI draft Law states in the amended version of Article 216 that the Bureau has jurisdiction if the crime was committed by one of the listed individuals (the draft lists a range of government officials), if there is a certain minimum level of damage, if certain offenses were committed against public officials defined in the Law, or if the crime has had “grave consequences.”<sup>59</sup> Without going into the details of these provisions, it is noted that more flexibility, rather than jurisdictional modalities set by law, may be useful here. Although certain core offenses, defined both by reference to the crime in question and the individual alleged to have committed it, should always be under the NBACI’s jurisdiction, it should also have a degree of discretion to take over investigations into other alleged crimes under certain circumstances defined in the Law. This could, for example, include cases involving complex investigations or where there is otherwise a high public interest in a case involving corruption. It is recommended to introduce, next to certain core offenses that shall always be under the NBACI’s jurisdiction, a discretionary provision allowing the NBACI to take over cases where this is in the public interest.
77. Article 25 par 1 of the NBACI draft Law provides that it may conclude agreements (“memorandums”) on cooperation and exchange of information with certain government agencies. There are other forms of co-operation which may be useful to engage in as well, e.g. joint training exercises, use of resources of other (e.g. law enforcement) bodies (for example in the areas of forensics, accounting, computer forensics, etc.) and other relevant matters. Consideration may be given to expanding both draft Laws accordingly.
78. Article 25 par 3 provides that certain public bodies such as the National Bank of

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<sup>59</sup> The amendment to Article 216 describes this as “a threat of harm or injury to the vital interests of society and the state, including state sovereignty and territorial integrity of Ukraine, implementation of constitutional rights, freedoms and responsibilities of three or more people”.

Ukraine, the Antimonopoly Committee, the State Property Fund, and the agency of government financial control in Ukraine “with the purpose to prevent and counteract criminal offenses referred to the investigative jurisdiction of the National Bureau shall: [...] at the request of the National Bureau [...] conduct within its competence audit, inspection and other measures of control over observance of legislation of Ukraine by individuals and legal entities.” This is a very widely formulated power of the NBACI and requires further elaboration and specification. It might violate the necessary checks and balances in the Ukrainian legal system and create jurisdictional struggles. For example, it gives the NBACI the powers to direct independent entities such as the National Bank of Ukraine to do or not do certain things in a very widely formulated way, especially through the power to conduct (within its competence) ‘other measures of control over observance of legislation of Ukraine’ which is not sufficiently limited in its wording and could be interpreted very widely. It is recommended to further specify the powers of the NBACI in Article 25 par 3 by specifically stating what the NBACI may ask other specifically enumerated governmental entities to do in certain circumstances, while bearing in mind the roles and mandates of these entities.

79. A vital aspect of the successful enforcement of criminal laws in the area of corruption is co-operation between investigators and prosecutors. The NBACI draft Law regulates this issue in Article 16, which does not provide a great deal of specificity on the exact role of prosecutors within the hierarchy of the NBACI, and essentially leaves the matter to the Cabinet of Ministers. There does, however, appear to be a potential hierarchical conflict between the NBACI and the Office of the Prosecutor-General. While Article 1 par 1 refers to the proposed NBACI as “the central body of executive power with a special status, which is authorized to prevent, detect, suppress and investigate criminal offenses under its investigative jurisdiction”, Article 5 par 5 of the Law of Ukraine “On Principles of Preventing and Counteracting Corruption” states that “the Prosecutor General of Ukraine and prosecutors subordinated to him shall carry out within their powers determined by law the coordination of activity of law enforcement agencies on the issues of countering corruption”. Assuming that the NBACI is considered to be a ‘law enforcement agency’, this appears to be in contradiction with the draft NBACI law: either the NBACI is an independent body, or its work is co-ordinated by the office of the Prosecutor-General and his or her subordinates. It is recommended to clarify the relationship between the office of the Prosecutor-General of Ukraine and the proposed NBACI in terms of hierarchy and co-ordinating roles, and to ensure the independence of the NBACI from the office of Prosecutor-General in any such provision (while stating that prosecutors working for the NBACI shall adhere to relevant legislation on prosecution of cases).
80. The NACS draft Law provides in Article 26 that the supervision over compliance with the law during operative investigative activities and pre-trial investigations conducted by the NACS is carried out by prosecutors who are seconded to the NACS by the General Prosecutor of Ukraine for a non-extendable period of 5 years. For this period, these prosecutors are not subordinated to higher-ranking prosecutors, and may not disclose the data that became known to them during their official duties. The NACS Director has some power over the prosecutors working for the NACS, as he may, without



giving any reasons, refuse to accept any prosecutor on secondment or stop his/her activities. At the same time, the draft Law notes that “[t]he provisions of the Ukrainian laws governing the operations of Ukrainian prosecutor offices apply to the prosecutors on secondment, except for those provisions contrary to this Law and the Regulations of the National Anticorruption Service” and that “[t]he decisions made by the prosecutors seconded to the National Anticorruption Service may be revoked by the General Prosecutor of Ukraine.”

81. This ultimately means that the prosecutors are part of the NACS, which is led by the NACS Director, on the one hand, and on the other hand subordinate to the Prosecutor-General of Ukraine. This creates an unclear hierarchical situation, which could lead to conflicts between the Prosecutor-General and NACS and could threaten the NACS’ independence. It is thus recommended to reconsider the respective provision in Article 26 of the NACS draft Law and define the role of the seconded prosecutors more clearly, to ensure that the NACS is sufficiently independent from the Prosecutor General’s Office in its daily work.
82. Under Article 27, complaints against actions or omissions of employees of the NACS shall be dealt with by the seconded prosecutors, the Prosecutor General and appellate or higher specialized courts; complaints against actions/omissions of seconded prosecutors shall be considered by the Prosecutor General, appellate courts or higher specialized courts (Article 27 par 2). These provisions do not spell out the hierarchy of appeals, namely which body deals with appeals first, and which other bodies then deal with second instance cases. This should be outlined with greater clarity in Article 27.
83. With regard to international co-operation, Article 5 of the NBACI draft Law provides for international co-operation with the relevant authorities of other states, international organizations and non-governmental organizations (par 1). It also creates the possibility of co-operation agreements with foreign and international law enforcement agencies and organizations (par 2). In this context, it is noted here that in accordance with Article 49 of the UN Convention against Corruption, financial sector authorities should be able to exchange information both spontaneously and upon request. It is recommended to specify in the NBACI draft Law that the NBACI should have the power to exchange information, in accordance with Ukraine’s international obligations and applicable laws, in the above manner.<sup>60</sup> In the NACS draft Law, this issue may already be implicitly covered by Article 8, but also here, it is recommended to specify that the NACS is allowed, in accordance with Ukraine’s international obligations and applicable laws, to exchange information both spontaneously and upon request.

## **10. A Holistic Approach to the Fight against Corruption**

84. Corruption has been described as “a cross-cutting issue involving numerous and multi-faceted aspects and phenomena of social interaction”.<sup>61</sup> It therefore needs to be addressed and tackled holistically. Regardless of their mandate, the strategies which anti-corruption agencies prepare, promote or implement and

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<sup>60</sup> Ibid.

<sup>61</sup> EPAC Principles, Principle 10 (‘Holistic Approach to Preventing and Fighting Corruption’).

the activities that they undertake, should consider corruption in its entire context.<sup>62</sup> Moreover, the domestic law enforcement functions of anti-corruption bodies must be seen in conjunction with overall anti-corruption efforts, such as prevention and collaboration at the domestic and international levels.<sup>63</sup>

85. Regarding the scope of the powers given to both proposed bodies, it is noted here that in the NBACI draft Law, its preventive powers involve carrying out “operative-detective measures for the prevention, detection, suppression and investigation of criminal offenses referred by law to its investigative jurisdiction” (Article 17 par 1). However, although its role in investigating corruption cases is elaborated to a significant extent in the draft Law, the NBACI’s role in the prevention of corruption is not described in any great detail.
86. It is in principle open to Ukraine to create a separate body dealing with prevention and another to deal with law enforcement issues, or to create a single, multi-purpose agency.<sup>64</sup> However, it should be clear which body deals with the issue of prevention, and that body should have a clear and sufficient mandate to do so.
87. Similar considerations apply to the NACS draft Law. Although it is given a general preventive function in Article 3 par 2 and has the duty to prevent corrupt practices covered by the draft Law in Article 4 par 1, the NCAS draft Law contains very little guidance as to its precise powers and responsibilities in the area of prevention. It is therefore recommended to either create a body that is separate from the NACS or NBACI, that would deal with the prevention of corruption, or to significantly elaborate on the provisions in the area of prevention in both the NBACI and NACS draft Laws.
88. One vital component of a successful anti-corruption policy is a system in which specialized investigators work closely with specialized prosecutors who operate within the regular legal system, but have special training on anti-corruption issues. Both the NBACI and NACS draft laws, however, focus on the investigation of anti-corruption issues, and not very much on the prosecution of cases (though prosecutors are part of investigations). However, the creation of a highly specialized anti-corruption body will not be very effective if cases are not dealt with properly by prosecutors. As the UNODC Legislative Guide on the UN Anti-Corruption Convention puts it, “[i]mplementers are reminded that the creation of new bodies with hyper-specialization may be counterproductive, if it leads to overlapping of competences, a need for additional coordination, etc., that would be hard to resolve.”<sup>65</sup> A number of policy options are open to

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<sup>62</sup> Ibid.

<sup>63</sup> United Nations Office on Drugs and Crime (UNODC), *Legislative guide for the implementation of the United Nations Convention against Corruption* (2nd revised edition 2012), available at [https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC\\_Legislative\\_Guide\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC_Legislative_Guide_E.pdf), par 465.

<sup>64</sup> United Nations Office on Drugs and Crime (UNODC), *Legislative guide for the implementation of the United Nations Convention against Corruption* (2<sup>nd</sup> revised edition 2012), available at [https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC\\_Legislative\\_Guide\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC_Legislative_Guide_E.pdf), par 55.

<sup>65</sup> United Nations Office on Drugs and Crime (UNODC), *Legislative guide for the implementation of the United Nations Convention against Corruption* (2nd revised edition 2012), available at [https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC\\_Legislative\\_Guide\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC_Legislative_Guide_E.pdf), par 463.

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Ukraine in this area. One possibility would be to adopt an organizational structure similar to that of the Norwegian National Authority for the Investigation and Prosecution of Economic and Environmental Crime. This body is headed by a specialized senior prosecutor and counts both prosecutors and investigators amongst its ranks, which would help resolve some of the potential conflicts between the proposed investigative bodies and the prosecution service of Ukraine described in previous paragraphs.<sup>66</sup>

89. It is therefore recommended that consideration be given to the creation of an anti-corruption body dealing with both the investigation and prosecution of cases and to ensure that such a body is fully independent from other actors, including in particular the Prosecutor General and the Ministries.

*[END OF TEXT]*

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<sup>66</sup> For more information, see <http://www.okokrim.no/in-english>

**ANNEX 1 - Draft “Law of Ukraine on the National Bureau of Anti-Corruption Investigations” and related amendments**

*Draft Law No.  
4573 of 26.03.2014*

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*Prepared by civil society experts  
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**LAW OF UKRAINE**

**On The National Bureau of Anti-Corruption Investigations**

This Law defines legal framework for the organization and operation of the National Bureau of Anti-Corruption Investigations (hereinafter - the National Bureau), the goal of which is to counter corruption criminal offenses committed by senior officials authorized to perform functions of the state or local self-government, or those that are especially dangerous to the society.

**CHAPTER I.  
GENERAL PROVISIONS**

**Article 1. Status of the National Bureau**

1. The National Bureau is the central body of executive power with a special status, which is authorized to prevent, detect, suppress and investigate criminal offenses under its investigative jurisdiction.

2. The National Bureau, within the limits set by this and other laws, is reporting to the Parliament of Ukraine, is controlled by and accountable to the President of Ukraine and the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine takes measures to ensure the functioning of the National Bureau.

3. The National Bureau is formed by the Cabinet of Ministers of Ukraine in accordance with the Constitution and other laws of Ukraine.

The issues of activities of the National Bureau in the Cabinet of Ministers of Ukraine are presented by the Director of the National Bureau.

4. The Cabinet of Ministers of Ukraine directs and coordinates the work of the National Office by:

1) ensuring of formulation of the state policy in the area of preventing and countering corruption;

2) the appointment of the Director of the National Bureau according to the results of the competitive selection;

- 3) approval of the Regulations on the National Bureau;
- 4) establishment of local branches of the National Bureau;
- 5) hearing the report of the National Bureau;
- 6) exercising other powers according to this Law.

The Cabinet of Ministers of Ukraine and its members may not give the National Bureau and its staff instructions, adopt decisions on the pre-trial investigation in specific criminal proceedings.

#### **Article 2. The legal basis of the National Bureau**

1. Legal framework for activity of the National Bureau includes the Constitution, international treaties of Ukraine, this and other laws of Ukraine, and other legislation adopted in accordance with them.

2. Law of Ukraine "On the central executive authorities" and other legal acts that regulate the activities of the executive branch, apply to the National Bureau to the extent that is not inconsistent with the provisions of this Law.

#### **Article 3. The principles of organization and operation of the National Bureau**

1. National Bureau is organized and functions on the basis of the following principles:

- 1) the priority of respect for the rights and freedoms of persons and legal entities;
- 2) legality;
- 3) impartiality and fairness ;
- 4) independence of the National Bureau and its employees;
- 5) subjection to control and accountability to the public and public authorities designated by law;
- 6) openness and transparency;
- 7) political neutrality;
- 8) unity of command;
- 9) cooperation with other state agencies, local self-government, non-governmental organizations.

2. Activities of the National Bureau may not be used for illegal limitation of rights and freedoms of persons, or for the forcible change of the constitutional order or obstruction of the activities of state bodies, local self-government.

#### **Article 4. Guarantees of independence of the National Bureau**

1. Independence of the National Bureau from unlawful interference in its work shall be guaranteed by:

- 1) National Bureau's special status;
- 2) special procedure of selection, appointment and termination of Director of the National Bureau;
- 3) competitive selection of the National Bureau's employees , their special legal and social protection, defined by this law;
- 4) special procedure for financing and providing material supplies to the

National Bureau, established by law;

5) proper conditions of remuneration of employees of the National Bureau defined by this Law and other laws;

6) defined by law protection of the personal safety of employees of the National Bureau, their close relatives and property;

7) other means specified by this Law.

2. Using of the National Bureau for party, group or personal interests is prohibited. Activities of political parties within the National Bureau is prohibited.

3. Unlawful interference by public bodies, local authorities and their officials and employees, political parties, public associations and other entities in the activities of the National Bureau is prohibited.

Any written or oral instructions, requirements, orders, etc., sent to the National Bureau and its employees concerning matters of pre-trial investigation in specific criminal proceedings and not provided for in the Criminal Procedure Code of Ukraine are illegal and should not be executed.

#### **Article 5. International cooperation**

1. The National Bureau pursuant to international treaties and laws of Ukraine cooperates in the fight against corruption with the relevant authorities of other states, international organizations, non-governmental organizations.

2. The National Bureau may conclude cooperation agreements on the issues within its functions with foreign and international law enforcement agencies and organizations.

### **SECTION II.**

#### **GENERAL STRUCTURE, MANAGEMENT AND STAFF OF THE NATIONAL BUREAU**

#### **Article 6. The overall structure and number of staff of the National Bureau**

1. National Bureau consists of a central office and territorial offices.

The Central Office of the National Bureau is directly executing tasks assigned to the National Bureau, coordinates and supervises the activities of territorial offices.

2. The National Bureau exercises its authority through the central office and the following territorial offices:

1) territorial office located in Lviv and covering Volyn, Ivano- Frankivsk, Lviv, Ternopil regions;

2) territorial office located in the city of Khmelnytsky and covering Vinnytsia, Zhytomyr , Rivne, Khmelnytsky and Chernivtsi regions;

3) territorial office located in the city of Nikolaev and covering Kirovohrad , Mykolaiv and Odesa regions;

4) territorial office located in Melitopol and covering the Autonomous Republic of Crimea, Zaporozhye, Kherson regions and Sevastopol city;

5) territorial office located in Poltava and covering Dnipropetrovsk, Poltava and

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Sumy regions;

6) territorial office located in Donetsk and covering Donetsk and Lugansk regions ;

7) territorial office located in Kyiv and covering the city of Kyiv, Kyiv, Cherkasy and Chernihiv regions.

By the decision of the Cabinet of Ministers of Ukraine on the proposal of the Director of the National Bureau the local offices of the National Bureau may be created, the area of which may not coincide with the administrative and territorial division.

3. Organization of the National Bureau is based on the principles of accountability and reporting of the lower units to the higher ones and to the Director of the National Bureau.

4. The structure of the central office and territorial offices of the National Bureau includes operative, investigative and operational-technical units, informational and analytical units, units or tracing, seizing and disposing of seized assets, prompt response units, protection of participants in the criminal proceedings and security of staff, internal control, international cooperation and representation of interests in foreign institutions, public relations, training and staff development, access to public information and information about the activities of the National Bureau, unit of internal audit, specialized expertise, human resources and other units.

5. The maximum number of employees of the central and territorial offices of the National Bureau is 1,300 people, including not more than 100 ranked personnel and officers.

### **Article 7. Director of the National Bureau**

1. Management of the National Bureau is conducted by its Director, who is appointed and dismissed by the Cabinet of Ministers of Ukraine in the manner prescribed by this Law.

2. The Director of the National Bureau shall be a citizen of Ukraine, not younger than 35 years, who has a law degree, knows national language and is capable by his/her professional and moral characteristics, educational and professional level, health status to perform his/her duties.

Person who within one year prior to applying for the competition to fill that position, regardless of duration, was part of the leadership of a political party or was in the employment or other contractual relationship with a political party may not be appointed as Director of the National Bureau.

Person who does not comply with the limitations specified in paragraph one of Article 13 of this Law may not be appointed as the Director of the National Bureau.

3. The Director of the National Bureau is appointed for a term of four years. The same person may not hold this office for two consecutive terms.

4. The Cabinet of Ministers of Ukraine may terminate powers of the Director of the National Bureau before expiration of his term only in the following cases:

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- 1) the appointment or election to another office with his consent;
- 2) reaching the age of 65 years;
- 3) inability to perform his duties due to health reasons in accordance with the opinion of the medical commission, created by the decision of the authorized central executive body that implements the state policy in the field of health care;
- 4) the court's decision on his recognition as incapacitated or limiting his civil capacity, recognition as a missing person or declaring him dead ;
- 5) the entry into force of conviction against him;
- 3) termination of the citizenship of Ukraine or departure for permanent residence outside of Ukraine;
- 4) application for voluntary dismissal, resignation;
- 5) refusal to take an oath of the civil servant;
- 6) violation of restrictions on out-of-office employment stipulated by the Law of Ukraine "On Principles of Prevention and Combating Corruption ";
- 7) death.

### **Article 8. The procedure of competitive selection and appointment of the Director of the National Bureau**

1. The Director of the National Bureau shall be appointed in accordance with the results of an open competitive selection procedure to fill in this position (hereinafter - the competition). The competition is open to any person meeting the requirements set out in paragraph 2 of Article 7 of this Law.

2. Organisation and holding of the competition is carried out by the Selection Commission for filling the position of Director of the National Bureau (hereinafter - the Selection Commission), consisting of persons approved by the Cabinet of Ministers of Ukraine.

The Prime Minister of Ukraine submits to the Cabinet of Ministers of Ukraine for appointment to position of the Director of the National Bureau the candidate who was selected by the Selection Commission.

3. The Selection Commission consists of:
- 1) one person determined by the President of Ukraine;
  - 2) three persons, determined by the Anti-Corruption Committee of the Verkhovna Rada of Ukraine;
  - 3) the Minister of Justice of Ukraine;
  - 4) the Prosecutor General of Ukraine or his deputy;
  - 5) the Commissioner of the Verkhovna Rada of Ukraine on Human Rights (Ombudsperson);
  - 6) four persons proposed by civil society organizations that have experience in the area of prevention of corruption.

4. The decision of the Selection Commission shall be considered to be adopted if at the session of the Selection Commission at least seven members of the Selection Commission voted for it.

Regulations on the Competition and the Order of Work of the Selection Commission shall be approved by the Cabinet of Ministers of Ukraine. The work of the Selection Commission is to be supported by the Secretariat of the Cabinet of Ministers of Ukraine.



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Sessions of the Commission are open to the media and journalists. Secretariat of the Cabinet of Ministers of Ukraine shall provide video and audio recording and broadcast in real time the sessions of the Selection Commission on the official website of the Cabinet of Ministers of Ukraine.

Information regarding the time and place of the session of the Selection Commission shall be published on the official website of the Cabinet of Ministers of Ukraine not later than 24 hours before it starts.

### 5. The Selection Commission:

1) reviews the documents submitted by the candidates for the post of the Director of the National Bureau, selects from all candidates three persons who, according to a justified decision of the Selection Commission, have the best professional experience, knowledge and qualities to perform duties of the Director of the National Bureau, conducts interviews with the three selected candidates at its session;

2) selects through the open voting among the candidates who passed the interview one candidate that meets the requirements that apply to the Director of the National Office, and, according to a justified decision of the Selection Commission, has the best expertise, knowledge and quality of service required to perform duties of the Director of the National Bureau;

3) discloses information about the candidates who applied for the competition, as well as information about the three candidates selected for the interview with the Selection Commission and about the candidate selected by the Selection Commission for the appointment as the Director of the National Bureau.

6. Not later than two months before the end of the term of office of the Director of the National Bureau or within fourteen days from the date of early termination of his/her powers the Cabinet of Ministers of Ukraine shall place announcement on the terms and conditions of the competition in the national print media and on the official website of the Cabinet of Ministers of Ukraine.

7. The candidates for participation in the competition shall submit the following documents in term, specified in the announcement:

1) an application for participation in the competition with the permission to conduct a background special check in accordance with the Law of Ukraine "On Principles of Prevention and Combating Corruption" and the processing of personal data in accordance with the Law of Ukraine "On Personal Data Protection";

2) curriculum vitae on paper and in electronic form, which should include: the name, the first and patronymic name (if applicable), date, month, year and place of birth, citizenship, educational background, work, position (occupation), place of work, community work (including elected officials), membership in political parties, including those in the past, work or any other contractual relationship with a political party during the year preceding the submission of the application (regardless of duration), contact telephone number and email address, criminal record or its absence;

3) The declaration of assets, incomes, expenses and financial obligations for the year preceding the year in which the announcement about the competition was made public in the form prescribed by the Law of Ukraine "On Principles of Prevention and Combating Corruption";

4) other documents prescribed by the laws of Ukraine "On Civil Service", "On the Prevention and Combating of Corruption".

The information presented in accordance with this paragraph must be published within three working days after the deadline for submission of applications for the competition on the official website of the Cabinet of Ministers of Ukraine, except information, which according to the Law of Ukraine "On Principles of Prevention and Combating Corruption" is defined as information with restricted access and information regarding contact phone number and email address of the candidate.

#### **Article 9. Powers of the Director of the National Bureau**

1. Director of the National Bureau:

1) is responsible for the activities of the National Bureau, including the legality of search operations, pre-trial investigations, respecting the rights and freedoms of individuals, carried out by the National Bureau;

2) organizes the work of the National Bureau, coordinates and supervises the activities of its central office and territorial offices;

3) approves the structure and staff list of the central office and territorial offices of the National Bureau;

4) issues within its competence orders and instructions, which are mandatory for employees of the Bureau;

5) appoints and dismisses the First Deputy Director of the National Bureau and two Deputy Directors of the National Bureau, heads of departments of the central office of the National Bureau, Directors and Deputy Directors of territorial offices of the National Bureau, determines in accordance with the laws the procedure of appointment and dismissal of other employees of the National Bureau, determines the procedure of competition to fill the positions defined by this Law;

6) makes decisions on distribution of budget funds, which are managed by the National Bureau and approves a report on the implementation of those decisions;

7) approves prospective, current and operational plans for the work of the National Bureau;

8) establishes the procedure for registering, processing, storage and disposal in accordance with the laws of information, received by the National Bureau, takes measures to prevent unauthorized access to classified information, and ensures compliance with legislation on access to information held by the National Bureau;

9) determines the procedure to encourage persons who assist in the prevention, detection, suppression and investigation of criminal offenses referred to the jurisdiction of the National Bureau;

10) takes decisions on the promotion and disciplinary action against employees of the National Bureau according to the decision of the Disciplinary Board of the National Bureau;

11) assigns within his/her powers in accordance with law, the civil service ranks for the employees of the National Bureau ;

12) submits, according to the established procedure, proposals to improve legislation on matters within the competence of the National Bureau;

13) represents the National Bureau in relations with public authorities, local self-government bodies, non-governmental organizations and law enforcement agencies and other organizations of foreign states, international organizations, etc.;

14) has the right to attend sessions of the Verkhovna Rada of Ukraine, its committees, temporary and special temporary investigatory commissions, as well as participate in an advisory capacity in meetings of the Cabinet of Ministers of Ukraine in the consideration of matters related to the prevention of and the fight against

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corruption and the financing of the National Bureau;

15) ensures openness and transparency of the National Bureau pursuant to this Law, reports on the activities of the National Bureau in the manner prescribed by this Law;

16) authorizes the use of funds of the special fund of operational and investigative actions of the National Bureau;

17) conducts other duties according to this and other laws.

### **Article 10. Directors of territorial offices of the National Bureau**

1. Directors of territorial offices of the National Bureau shall be appointed and dismissed by the Director of the National Bureau.

2. Director of the territorial office of the National Bureau:

1) organizes the work of the relevant territorial office for the implementation of the functions of the National Bureau, execution of orders and directives of the National Bureau;

2) appoints and dismisses employees of the relevant territorial office other than those appointed by the Director of the National Bureau;

3) submits proposals to the director of the National Bureau regarding awarding ranks of civil servants according to legislation to the employees of the relevant territorial office;

4) submits to the Director of the National Bureau proposals on the structure and staffing of the relevant territorial office;

5) issues within his/her authority orders and instructions;

6) performs other powers provided by law.

### **Article 11. Employees of the National Bureau**

1. Employees of the National Bureau are civil servants, ranked officials and officers and other employees who perform auxiliary functions.

Ranked officials and officers are employees of the units for prompt response, protection of the criminal proceeding participants and ensuring security of staff of the National Bureau. These persons serve under contract and are covered by the regulation on service of ranked officials and officers of the Ministry of Internal Affairs of Ukraine, as well as Disciplinary Statute of the Ministry of Internal Affairs of Ukraine.

2. Time of serving at the National Bureau is considered to be a credible service time, specialty credible service and civil service time.

3. The National Bureau's employee regularly, but not less than once every two years, shall take a mandatory training.

### **Article 12. Special ranks of ranked personnel and officers of the National Bureau**

1. Ranked persons and officers of the National Bureau have the following special ranks:

Private of the National Bureau of Anti-Corruption Investigations;

Sergeant of the National Bureau of Anti-Corruption Investigations;

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Warrant Officer of the National Anti-Corruption Bureau of Investigation;  
Chief Warrant Officer of the National Bureau of Anti-Corruption Investigations;

Junior Lieutenant of the National Bureau of Anti-Corruption Investigations;  
Lieutenant of the National Bureau of Anti-Corruption Investigations ;  
Senior Lieutenant of the National Bureau of Anti-Corruption Investigations;  
Captain of the National Bureau of Anti-Corruption Investigations;  
Major of the National Bureau of Anti-Corruption Investigations;  
Lieutenant Colonel of the National Bureau of Anti-Corruption Investigations;  
Colonel of the National Bureau of Anti-Corruption Investigations;  
Major-General of the National Bureau of Anti-Corruption Investigations;  
Lieutenant-General of the National Bureau of Anti-Corruption Investigations.

### **Article 13. The procedure for selection and appointment of employees of the National Bureau**

1. For the service in the National Bureau may be recruited citizens of Ukraine who have higher education and are capable in their professional and moral characteristics, educational and professional level, health status to comply with the relevant duties.

2. Appointment of investigators and operative officers of the National Bureau, heads of operational and investigative units of the National Bureau, directors and deputy directors of the territorial offices of the National Bureau is conducted solely on the basis of an open competition conducted by the National Bureau according to the procedure defined by the Director of the National Bureau.

### **Article 14. Restrictions for employees of the National Bureau**

1. The following persons cannot be appointed as employees of the National Bureau:

1) who has been declared disabled or whose capacity has been limited by court;  
2) who has been convicted of committing a crime, if such record is not canceled or withdrawn in accordance with the law (except for rehabilitated persons), or on whom there has been administrative penalties for corruption offenses within the last year imposed;

3) who, according to the court decision, was deprived of the right to engage in activities related to performance of state functions or hold relevant positions;

4) convicted by the court for crimes stipulated in Articles of the Criminal Code of Ukraine, which are referred to the investigative jurisdiction of the National Bureau;

5) who have the citizenship of another country;

6) who, in case of his/her appointment, would be directly subordinated to the person who is his/her close person under the Law of Ukraine "On Principles of Prevention and Combating Corruption";

7) who did not pass through a special background check;

8) who has not filed declaration of assets, income, expenses and financial obligations in the past year in accordance with the Law of Ukraine "On Principles of Prevention and Combating Corruption.

2. Employees of the National Bureau do not have the right:

1) to be members or participate in the creation or operation of political parties,

to organize or participate in strikes;

2) to be agents for the third parties for the National Bureau matters;

3) use the National Bureau, its employees and assets in the party, group or personal interests.

Employees of the National Bureau are subject to other restrictions and requirements set by the Law of Ukraine "On Principles of Prevention and Combating Corruption".

When joining the National Bureau the person shall be notified of the possibility of checks regarding his/her integrity and monitoring of his/her lifestyle.

3. If an employee of the National Bureau has a conflict of interest while performing official duties, he/she must immediately notify his/her supervisor. This supervisor is obliged to take all necessary measures to prevent or eliminate the conflict of interest by assigning the task to another employee of the National Bureau, personal execution of this task or as otherwise provided by law.

Note. The term "conflict of interest" in this article is used within the meaning it has in the Law of Ukraine "On Principles of Prevention and Combating Corruption".

#### **Article 15. Internship of staff of the National Bureau**

1. Individuals who have no prior experience in government on positions related to operational activities, pre-trial investigations, after passing the competition to fill the position of the investigator or operative officer are required to take internship at the National Bureau for a period of six months to one year.

2. The procedure of internship at the National Bureau is established by the regulations, approved by the Director of the National Bureau.

3. National Bureau employee may be dismissed based on the results of the internship, if he/she does not meet the requirements that apply to employees of the Bureau.

#### **Article 16. Secondment of prosecutors and other persons to the National Bureau**

1. Prosecutors shall be seconded to the National Bureau for exercising functions of the prosecutor during the pre-trial investigation of criminal offenses referred to the investigative jurisdiction of the National Bureau.

Procedure for secondment of prosecutors to the National Bureau is determined by the Law of Ukraine "On Prosecutor's Office" and this Law.

2. Civil servants of other public authorities may be seconded to the National Bureau, with leaving them at the service of the relevant authorities or by transferring them to the staff of the National Bureau, in order to perform duties that require special knowledge and skills.

Procedure for secondment of employees of executive authorities to the National Bureau is determined by the Cabinet of Ministers of Ukraine.

**Chapter III.  
POWERS OF THE NATIONAL BUREAU**

**Article 17. Duties of the National Bureau**

1. The National Bureau:

1) carries out operative-detective measures for the prevention, detection, suppression and investigation of criminal offenses referred by law to its investigative jurisdiction;

2) conducts pre-trial investigation of criminal offenses referred by law to its investigative jurisdiction;

3) conducts in accordance with the law integrity checks of persons authorized to perform functions of the state or local self-government;

4) takes measures to trace funds and other assets that may be subject to confiscation or special confiscation in criminal offenses referred to the investigative jurisdiction of the National Bureau, conducts activities on disposing of assets and other property that was arrested;

5) cooperates with other state agencies, local self-government bodies and others in order to perform its duties;

6) carries out informational and analytical work with a purpose of identifying and eliminating the causes and conditions that contribute to the commission of the criminal offenses referred to the investigative jurisdiction of the National Bureau;

7) ensures personal safety of its employees and other persons specified by law, protection against unlawful acts against persons involved in criminal proceedings, in criminal offenses related to its investigative jurisdiction;

8) participates in a special background checks according to legislation of people who apply for the positions associated with the performance of the functions of the state or local government;

9) ensures according to legislation compliance with the regime of secrets protected by law and other classified information, and the procedure of disclosure and access to public information determined by law;

10) reports on its activities in accordance with the procedure established by this Law and informs the public about the results of its work;

11) carries out international cooperation and interaction in the field of its competence in accordance with the law and international treaties of Ukraine.

**Article 18. Rights of the National Bureau**

National Bureau and its employees for performing their duties have the following rights:

1) to start the operative-search cases based on order, approved by the appropriate department head of the National Bureau, and carry out - on the grounds and according to the procedure established by law, overt and covert operative-search actions in order to detect criminal offenses referred to the investigative jurisdiction of the National Bureau;

2) to obtain in the prescribed manner through the prosecutor from the law enforcement agencies operative materials and materials of criminal proceedings concerning criminal offenses referred by law to the investigative jurisdiction of the National Bureau;

3) to obtain in the prescribed manner by the decision of the Director of the

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National Bureau from law enforcement and other state agencies, local self-government, the information necessary to perform the duties of the National Bureau, including information on assets, incomes, expenses, financial obligations of officials that they declared in accordance with the law and also to receive free of charge information on matters within the competence of the National Bureau from automated information and records systems, registers and data banks, held (administrated) by state agencies or local governments. The use of this information by the National Bureau is conducted in compliance with the legislation on protection of personal data. Agencies to which the said demand is addressed, must, within three days, and if impossible - not later than within the 10-day period, provide relevant information or report on reasons that impede its provision;

4) to acquaint themselves in public bodies, local authorities with documents and other materials necessary for the prevention, detection, suppression and investigation of criminal offenses referred by law to the investigative jurisdiction of the National Bureau, including those that contain classified information;

5) at the written request of the Director of the National Bureau or his/her deputy, with the consent of the prosecutor to receive from banks, financial and other institutions, enterprises and organizations regardless of ownership information and documents on the operations, accounts, deposits, agreements of individuals and legal entities. Receiving of information containing bank secrecy from the banks shall be conducted in the order and to the extent determined by law. Receiving of information from the Central Securities Depository, the National Bank of Ukraine and depository institutions, contained in the depository account of the securities system, is made in the manner and to the extent prescribed by the Law of Ukraine "On the Depository System of Ukraine". Documents and information shall be provided immediately, and if this is not possible - no later than within 10 days;

6) upon written demand of the Director of the National Bureau approved by the prosecutor and in urgent cases - with informing the prosecutor after the fact within 24 hours, in case of a threat of destruction, concealment or loss of items or documents that may be used in the detection and pre-trial investigation of criminal offenses, for the period up to 10 days to seal records, offices, premises (except residential) or other repositories, take under protection, and also seize objects and documents in the manner prescribed by the Criminal Procedural Code of Ukraine;

7) to engage on a voluntary basis, including on a contract basis, qualified professionals and experts from any institution, organization, control and financial authorities to ensure execution of the National Service's duties;

8) under the written demand of the Director of the National Bureau approved by the prosecutor, to set up joint investigation teams that include operational and investigative personnel;

9) under the written demand of the Director of the National Bureau to enter freely - after presenting credentials - to the state agencies, local self-government bodies, military units and checkpoints across the state border of Ukraine and customs control zone;

10) to use with subsequent compensation vehicles that belong to natural and legal persons (except the vehicles of diplomatic, consular and other representatives of foreign states and organizations, special purpose vehicles) to travel to the scene of crime, to terminate the criminal offense, to follow and detain persons suspected of committing these criminal offenses, bringing to medical institutions of persons that require emergency medical care;

11) to send to the state bodies, local self-government authorities proposals and

recommendations that are mandatory for consideration which address the causes and conditions that contribute to the commission of the criminal offenses referred to the investigative jurisdiction of the National Bureau, and receive from these authorities information about the outcome of such consideration;

12) to cooperate with individuals, including on contractual basis, on of voluntary and confidential basis, to encourage financially and morally persons who assist in the prevention, detection, suppression and investigation of criminal offenses referred to the investigative jurisdiction of the National Bureau;

13) on the grounds provided by law, to submit to the court requests for the invalidation of agreements in accordance with the laws of Ukraine;

14) for the purposes of operational and investigative activity to create information systems and maintain operational records to the extent and in the manner provided by law;

15) to keep, carry and use firearms and special equipment and apply physical force in cases and in the manner provided by this Law, and subject to the conditions and limits set by the Law of Ukraine "On Militia";

16) to issue weapons, special personal protective equipment and warning devices to the persons taken under protection when there is a danger to their life and health in accordance to the legislation;

17) to conduct legal cooperation with the competent authorities of foreign states and international organizations on the operational-search activity, pre-trial investigation on the basis of laws and international treaties of Ukraine;

18) to act as a representative of the state during consideration in the foreign jurisdictional bodies of requests for tracing, seizing, confiscating and recovery of assets, protection of rights and interests of the state in matters relating to the duties of the National Bureau, and hire legal counsels with this purpose, including foreign.

#### **Article 19. The use of physical force**

1. Employees of the National Bureau have the right to use physical force while on duty for:

1) the termination of the criminal offenses referred by law to the investigative jurisdiction of the National Bureau, detention of persons who have committed them, overcoming resistance to lawful orders or requirements of the National Bureau's employees;

2) termination of other misconduct that interfere with performance of duties imposed by law on the National Bureau's employees, if non-forceful means of cannot enforce these obligations.

#### **Article 20. The use of special tools**

1. Employees of the National Bureau are eligible to apply handcuffs, rubber truncheons, tear gas, equipment for opening doors, equipment for forced stopping of vehicles and other special tools while performing official duties for the following purposes:

1) to repel the attack on the National Bureau's employees or on other persons;

2) to repel the attack on houses, buildings, facilities and vehicles owned or used by the National Bureau, and also to release these facilities in case of capture;

3) to detain offenders, to bring them to the office of the National Bureau and to the temporary detention facility if these persons are resisting or may cause harm to



others or to themselves;

- 4) to stop unlawful physical resistance to the employees of the Bureau;
- 5) to enter into the room, where there might be objects of offenses referred by law to the jurisdiction of the National Bureau.

2. It is forbidden to use special means on women with obvious signs of pregnancy, those with obvious signs of disability and minors, unless they commit an armed resistance, group assault, endangering the life and health of people.

3. A complete list of special tools used by employees of the National Bureau, categories of employees who are authorized to use special tools and the order of their application is set by the Cabinet of Ministers of Ukraine.

#### **Article 21. Storing, carrying and use of firearms by employees of the National Bureau**

1. While on duty certain categories of employees of the National Bureau are entitled to keep and carry firearms.

2. Categories of employees of the National Bureau who have such a right, the list of types of firearms and ammunition that may be used by them, and also the order of use of firearms by employees of the National Bureau is determined by the Cabinet of Ministers of Ukraine.

#### **Article 22. Statements and reports of criminal offenses**

1. For receiving reports of criminal offenses a special telephone line shall be created in the National Bureau, and the possibility of submitting such reports via the official web site of the National Bureau in the internet and by electronic means shall be provided.

#### **Article 23. Responsibility of employees of the National Bureau**

1. The National Bureau employees independently make decisions within their authority. They must refuse to execute any orders, instructions or directives that contradict the legislation and take other measures as required by law.

2. The National Bureau employees are liable to disciplinary, civil, administrative or criminal liability for their wrongful acts or inactivity.

3. In case of violation of rights or freedoms of persons by the employees of the National Bureau while performing of official duties, the National Bureau takes within its competence measures for renovation of these rights and freedoms, redress for material and moral damages, bringing guilty persons to legal liability.

### **CHAPTER IV. COOPERATION OF THE NATIONAL BUREAU AND OTHER GOVERNMENT AGENCIES**

**Article 24. Cooperation of the National Bureau with the Prosecutor's Office, Ministry of Interior, Security Service of Ukraine, the State Tax and Customs Services and the central executive body that implements the state**

**policy in the area of prevention and counteraction to legalization (laundering) of proceeds from criminal activities and terrorist financing**

1. In order to ensure cooperation of the National Bureau with the Prosecutor's Office, Ministry of Interior, the State Security Service of Ukraine, the State Tax and Customs Services, the central executive body that implements the state policy in the area of prevention and counteraction to legalization (laundering) of proceeds from criminal activities and financing terrorism (hereinafter - the authorized body of financial monitoring) the staff of the central offices of these bodies shall have the positions of persons whose responsibilities shall include implementation of cooperation with the National Bureau.

2. Exchange of operative information between the National Bureau and the Ministry of Interior, the State Security Service of Ukraine, the State Tax and Customs Services regarding joint activities shall be carried out according to the written order of the heads of the appropriate units.

3. Conditions and procedures for the exchange of information between the National Bureau and the Ministry of Interior, the State Security Service of Ukraine, the State Tax and Customs Services and the authorized body of financial monitoring shall be regulated by joint regulatory acts of the National Bureau, the Ministry of Interior, the State Security Service of Ukraine and the specially authorized bodies of executive branch in appropriate areas.

4. The transfer of operational information of the National Bureau to the territorial and other bodies of the Ministry of Interior, State Security Service of Ukraine, government tax and customs services, the authorized body of financial monitoring is allowed only under the written order of the chief of the appropriate unit of the National Bureau.

**Article 25. Interaction between the National Bureau and other state agencies**

1. The National Bureau cooperates with the National Bank of Ukraine, State Property Fund of Ukraine, Antimonopoly Committee of Ukraine, State Border Guard Service and other state agencies.

The National Bureau may conclude agreements (memorandums) on cooperation and exchange of information with certain government agencies.

2. The National Bank of Ukraine, the Antimonopoly Committee, the State Property Fund, agency of government financial control in Ukraine, as well as other public bodies exercising state control over the observance legislation of Ukraine by natural and legal persons, with the purpose to prevent and counteract criminal offenses referred to the investigative jurisdiction of the National Bureau shall:

1) while implementing control functions within their competence detect the actions of individuals and entities that may be indicative of the criminal offenses or create conditions for their commission;

2) refer to the National Bureau information obtained while carrying out the control functions and analyzing of incoming information, that may indicate the criminal offense or is used for the prevention, detection, suppression and

investigation of criminal offenses referred to the jurisdiction of the National Bureau by law;

3) at the request of the National Bureau to conduct within its competence audit, inspection and other measures of control over observance of legislation of Ukraine by individuals and legal entities.

**CHAPTER V.  
LEGAL AND SOCIAL PROTECTION OF EMPLOYEES OF THE  
NATIONAL BUREAU AND OTHER PERSONS**

**Article 26. Legal protection of the employees of the National Bureau and other persons**

1. The employees of the National Bureau during performance of their duties represent the state, act on behalf of the state and are under its protection. No one, except for authorized public officials in certain cases, has a right to interfere in their legitimate activities.

2. In case of detention of the employee of the National Bureau or choosing of custody as a preventive measure, he/she shall be kept separately from the other detained persons.

3. People who voluntarily, including on a contractual basis, provide assistance to the National Bureau in execution of its duties are under the protection of the state. Unlawful disclosure of information about such persons or committing other offenses against these persons in connection with his/her relations with the National Bureau shall entail liability under law.

4. Employee of the National Bureau who according to this Law has reported on the wrongful act or inactivity of other employee of the National Bureau, cannot be dismissed or forced to resign, brought to liability or prosecuted for such reporting, except for liability for filing a knowingly false report of a crime. Officials of the National Bureau are forbidden to disclose information about the National Bureau's employees who have reported on the violations.

**Article 27. Social protection of employees of the National Bureau**

1. The State shall ensure the social protection of employees of the National Bureau under the Constitution of Ukraine, this Law and other legislative acts.

2. The employees of the National Bureau have a 41-hour working week. If necessary, the staff of the National Bureau shall work overtime on working days and on weekends and holidays with providing of another day of rest in accordance with the labor legislation.

3. The employees of the National Bureau have regular paid annual leave. The duration of such leave for employees who have worked up to 10 years is 30 days, from 10 to 20 years - 35 days, from 20 to 25 years - 40 days, 25 or more calendar years - 45 days. Participants of military actions and persons of equal status are granted annual leave regardless of length of service for a period of 45 days at a

convenient time for them.

4. The National Bureau employees receive financial allowance for health rehabilitation in the amount determined by the legislation of Ukraine.

5. The employees of the National Bureau upon dismissal from service due to age, after the expiration of the agreement (contract), for health reasons, due to redundancy or organizational measures in the event of inability to be employed receive monetary benefits paid at 50 percent of monthly size pay (remuneration) for each full calendar year of service. The National Bureau employees dismissed from service through family reasons or for other valid reasons as listed by the Cabinet of Ministers of Ukraine shall be paid financial assistance in the amount of 25% of the monthly wage (remuneration) for each full calendar year of service. Financial assistance is not paid to the National Bureau employees dismissed from work for incompetency, in connection with court conviction that came into effect.

6. In case of loss of life (death) of the National Bureau employees while on duty the family of the deceased (perished) and, in case of non-availability, their parents and dependents are paid a lump sum monetary allowance at the rate of ten-year wage (remuneration) of the deceased (perished) at the last occupied position in the manner and on the terms established by the Cabinet of Ministers of Ukraine. The family of the deceased (perished) retains the right to receive residential premises.

7. In case of injury (shell-shock, trauma or severe injury) caused to the National Bureau employee while performing official duties, as well as disabilities inflicted during military service or no later than in three months after separation from service or after expiration of this period, but because of illness or an accident that occurred while working at the National Bureau relating to performance of official duties, depending on degree of disability, the employee is paid a lump sum financial support of up to a five-year wage (remuneration) at the last position in the manner and on the terms established by the Cabinet of Ministers of Ukraine. Degree of disability of the National Bureau employee during his/her work at the National Bureau is determined on an individual basis for each case of damage inflicted on their health in accordance with the law.

8. If the National Bureau employee or his/her family members simultaneously are eligible for a one-time financial assistance on the grounds provided for in this article, and one-time financial assistance or compensation payments established by other laws, payment of the respective sums of money is carried out based on one of the reasons at discretion of the person entitled to receive such payments.

9. The damage caused to the property of the National Bureau's employee or property of his/her family members in connection with performance of his/her duties shall be reimbursed in full amount from the State budget of Ukraine with the following compensation sought from the guilty persons according to the procedure established by law.

10. Other aspects of social protection of civil servants and other employees of the National Bureau are ruled by labor and public service legislation.

#### **Article 28. Remuneration of the National Bureau's employees**

1. Remuneration of the National Bureau's employees shall ensure sufficient

material conditions for proper performance of their duties taking into account the nature, intensity and danger of work, ensure recruitment and work of qualified staff in the National Bureau, encourage achievement of high performance results, compensate for the physical and mental efforts of the employees.

2. Remuneration of the National Bureau's employees consists of the basic salary, an additional payment for work experience, additional payment for civil servant rank.

3. The following rates of the basic salary of the National Bureau's employees are set in accordance with the amount of the minimal salary rate established by law on the State Budget for the relevant year:

1) employees of the National Bureau who conduct operative and detective activity, pre-trial investigation – 15 minimal salary rates;

other civil servants of the National Bureau – a sum equal to 3 rates of the basic salary, established by the Cabinet of Ministers of Ukraine for employees, that hold appropriate positions in the central agencies of executive branch;

Official salaries of the employees of the central office of the National Bureau and those of the National Bureau territorial departments located in Kyiv are set with a coefficient of 1.2;

2) heads of divisions of the National Bureau which conduct operative and detective activity, pre-trial investigation, heads of the units for operative-technical units, prompt response units, units of protection of criminal trial participants and internal security of the employees – 20 minimal salary rates;

heads of other divisions of the National Bureau – 18 minimal salary rates.

Official salaries of the appropriate employees of the central office of the National Bureau and territorial department of the National Bureau located in Kyiv are set with a coefficient of 1.2;

3) directors of territorial offices of the National Bureau, heads of the units for internal control of the territorial offices of the National Bureau – 25 minimal salary rates;

4) head of the Central Office of the National Bureau, head of the Unit for Internal control of the Central Office of the National Bureau – 30 minimal salary rates;

5) First Deputy Director, Deputy Director of the National Bureau – 40 minimal salary rates;

6) Director of the National Bureau – 50 minimal salary rates.

4. Additional payments for the work experience and for civil servant rank should be paid to the National Bureau's employees according to the Law of Ukraine "On the Civil Service".

## **CHAPTER VI. FINANCIAL, MATERIAL AND TECHNICAL PROVISION OF THE NATIONAL BUREAU**

### **Article 29. Financing of the National Bureau**

1. The National Bureau is financed from the State Budget of Ukraine. Financing

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of the National Bureau from any other sources is forbidden, except of the cases, stipulated by the international treaties of Ukraine.

2. Expenses for financing of the National Bureau are included in the State Budget of Ukraine as a separate line at the level necessary to ensure proper execution of the National Bureau's duties.

The full and timely financing of the National Bureau is guaranteed.

3. The National Bureau is the main administrator of the State budget funds that are allocated to its financing.

Budget of the National Bureau shall provide for creation of a fund for special operative-detective (covert investigative) measures.

### **Article 30. Material and technical support of the National Bureau**

1. The National Bureau shall be provided by the necessary material means, technical devices, equipment, and other property to enable it to perform its functions.

2. It is forbidden to carry out material and technical provision of the National Bureau from the funds of local budgets or any other sources, except for the State budget funds and assistance provided within international technical assistance projects.

## **CHAPTER VII. CONTROL AND OVERSIGHT OVER ACTIVITY OF THE NATIONAL BUREAU**

### **Article 31. Control over activity of the National Bureau**

1. Control over activity of the National Bureau is conducted in accordance with the Constitution of Ukraine, laws of Ukraine "On the Democratic Civil Control over Military Organisation and Law Enforcement Bodies of the State", this and other laws of Ukraine.

2. The National Bureau's Director:

1) informs the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine about the main issues related to activity of the National Bureau and its units, on execution of the National Bureau's tasks, compliance with legislation, respect for rights and freedoms of persons;

2) annually, not later than by 10 February and by 10 August, submits to the Verkhovna Rada of Ukraine and the President of Ukraine a written report on activity of the National Bureau during previous six months.

3. Written report on activity of the National Bureau shall contain information about:

1) statistical data on the results of activities, with obligatory indication of the following data:

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- number of applications and reports on criminal offences regarding crimes, that are within investigative jurisdiction of the National Bureau;
  - number of operative-search cases, opened by the National Bureau and their results;
  - number of persons indicted in crimes, that are within investigative jurisdiction of the National Bureau;
  - number of persons for whom a court conviction regarding their criminal offense within investigative jurisdiction of the National Bureau came into force;
  - number of persons acquitted in cases regarding committing of criminal offences that are within investigative jurisdiction of the National Bureau;
  - information by categories of persons referred to in section I of the Article 4 of the Law of Ukraine "On Principles of Prevention and Combating Corruption;
  - information on the amount of loss and damage caused by criminal offenses within the investigative jurisdiction of the National Bureau; current situation and amount of reimbursement;
  - information on the funds and other property obtained as a result of committing criminal offenses within investigative jurisdiction of the National Bureau, confiscated by the court's decision, as well as funds in the amount of illicit services or benefits collected and payable to the state and their administration;
  - information on the funds and other property obtained as a result of the criminal offenses within the National Bureau's investigative jurisdiction that were returned to Ukraine from abroad and their disposal;
  - information about seizure of property, confiscation of items and the proceeds of crimes within the investigative jurisdiction of the National Bureau, and their disposal;
  - the number of submissions on elimination of causes and conditions that contributed to commission of the criminal corruption offenses;
- 2) Information on cooperation with other government agencies, local self-government authorities, enterprises, institutions and organizations;
  - 3) Information on cooperation with relevant authorities of other states, international organizations and foreign non-governmental organizations and cooperation and representation abroad agreements concluded with them;
  - 4) Cooperation with non-governmental organizations and the media;
  - 5) The National Bureau's staff, qualification and experience of its employees, their skills improvement;
  - 6) Activities of internal control of the National Bureau; the number of reports of offenses perpetrated by National Bureau employees; outcomes of their investigation, bringing the National Bureau staff members to justice;
  - 7) The National Bureau budget and its implementation;
  - 8) Other information concerning results of the National Bureau operation and performance of the duties ascribed to it.

4. The report of the National Bureau shall be provided for consideration to the Council of Public Control at the National Bureau, which considers it within two weeks from the date of submission. The report of the National Bureau shall be submitted to the appropriate state authorities and made public together with the Council of Public Control's opinion in case of its approval, in the prescribed term.

5. The Verkhovna Rada's committee dealing with anti-corruption issues at least once a year conducts open-for-the-public hearings on the topic of activity of the National Bureau, execution of its tasks, compliance with legislation, respect for rights and freedoms of persons.

**Article 32. Internal control units of the National Bureau**

1. With a view of preventing and detecting offences of the National Bureau's employees units of internal control shall be established within the National Bureau and subordinated directly to the National Bureau's Director. Internal control units function within the Central Office and territorial offices of the National Bureau.

Head and employees of the Internal Control Unit of the Central Office and territorial offices of the National Bureau are appointed and dismissed by the National Bureau's Director.

2. The internal control unit of the National Bureau have the following duties:

1) prevent commission of offences by the National Bureau's employees according to the laws of Ukraine "On the Prevention and Counteraction to Corruption" and "On the Civil Service";

2) control compliance by the National Bureau's employees with the rules of integrity, conflict of interest, declaring of assets, incomes and expenditures;

3) conducting of integrity checks of the National Bureau's employees and monitoring of their style of life;

4) verifying information contained in complaints of natural and legal persons, mass media reports, other sources, in particular information received through a special telephone line, internet webpage, electronic communication means of the National Bureau, regarding involvement of the National Bureau's employees in committing of offences;

5) conducting internal investigations regarding the National Bureau's employees;

6) conducting special background vetting checks with regards to the candidates for positions in the National Bureau;

7) take measures on protection of the employees of the National Bureau who inform of offences or inactivity of other employees of the National Bureau;

8) advise employees of the National Bureau regarding the rules of ethical behaviour, conflict of interest, declaring of property, incomes, expenditures and financial obligations.

3. The National Bureau's employee who found out about illegal actions or inaction of another employee of the National Bureau is obliged to immediately notify of it the National Bureau's Director and the National Bureau's internal control unit.

4. The Internal Control Unit of the National Bureau's Central Office publishes on the official web-site of the National Bureau the declarations of assets, incomes, expenditures and financial liabilities which were submitted in accordance with the law by National Bureau's Director and Deputy Directors, directors and deputy



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directors of the territorial offices, Head of the Central Office, heads of departments of the Central Office and territorial offices of the National Bureau.

5. If information is discovered about alleged crime committed by the National Bureau's employee the Internal Control Unit of the National Bureau shall immediately notify the Prosecutor General of Ukraine or his/her Deputy.

6. Procedure of activities and powers of the Internal Control Units of the National Bureau are defined by the Regulations adopted by the National Bureau's Director.

### **Article 33. Disciplinary Board of the National Bureau**

1. A Disciplinary Board consisting of five persons is formed to consider the issue of applying disciplinary measures against the National Bureau's employees. The Disciplinary Board includes two persons specified by the Council of Public Control at the National Bureau.

Composition and regulations on the Disciplinary Board of the National Bureau are approved by the Director of the National Bureau.

2. Based on official investigation conducted by the Internal Control Unit the Disciplinary Commission draws a conclusion as to whether a disciplinary misconduct was revealed or whether there are grounds for bringing an employee to disciplinary liability with identification of the type of recommended disciplinary penalty.

3. Decision on applying a disciplinary sanction based on the conclusion of the National Bureau's Disciplinary Board is taken by the Director of the National Bureau. This decision may be appealed in court.

### **Article 34. Monitoring of lifestyle of the National Bureau's employees**

1. The Internal Control units conduct monitoring of the lifestyle of the employees of the National Bureau with the purpose of establishing the consistency of the level of life of the employee with the assets and income of the employee and his/her family members according to the declaration on assets, incomes, expenditures and financial obligations, submitted by him according to the law.

2. The procedure for monitoring of the lifestyle of the National Bureau's employees is defined by the Director of the National Bureau.

Lifestyle monitoring is conducted in accordance with the legislation on protection of personal data and should not include excessive interference with the right to respect for private and family life of a person.

3. Establishing a mismatch of the level of the life of the employee of the National Bureau to the assets and incomes of the employee and his/her family members is a ground for disciplinary action.

### **Article 35. Oversight over legality in activities of the National Bureau**

Oversight over legality in the activities of the National Bureau is carried out by the Prosecutor General of Ukraine and prosecutors authorised by him.

### **Article 36. Ensuring transparency in the activities of the National Bureau**

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1. The National Bureau shall regularly inform the public about its activities through the mass media, its official website and other forms. The National Bureau publishes and provides information in response to requests according to the procedure determined by the Law of Ukraine “On Access to Public Information”.

2. The National Bureau prepares and publishes, not later than by 10 February and 10 August, in national printed media and at on its own official website a report on its activity during previous six months, which was submitted to the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine.

3. It is forbidden to restrict access to information concerning the overall budget of the National Bureau, its competence, main directions of its activity, and information concerning bringing to liability for committing of offences by the National Bureau’s employees.

### **Article 37. Council of Public Control at the National Bureau**

1. In order to ensure transparency and public control over the activities of the National Bureau the Cabinet of Ministers of Ukraine establishes the Council of Public Control at the National Bureau consisting of 15 persons based on an open and transparent competition.

The Council of Public Control with the National Bureau may not include:

- 1) Persons authorized to perform state or local self-government functions;
- 2) Persons, who regardless of the length of service, were employed by the National Bureau over the last two years;
- 3) Persons whose close persons, regardless of the length of service, served as the National Bureau employees over the past two years.

2. Regulations on the Council of Public Control and on its formation procedure are approved by the Cabinet of Ministers of Ukraine.

3. The Council of Public Control at the National Bureau:

- 1) Considers information on activities, implementation of plans and objectives of the National Bureau;
- 2) Considers reports of the National Bureau and adopts its opinion on them;
- 3) Elects two representatives out of its members to be included in the Disciplinary Board of the National Bureau;
- 4) Has other rights under the Council of Public Control regulations.

## **CHAPTER VII. FINAL AND TRANSITORY PROVISION**

1. This Law comes into force on the day of its publication and is effected in 3 months from the day of its coming into force, except for provisions on integrity checks which shall be effected simultaneously with the law on procedure for conducting such checks.

2. To amend the following legislative acts of Ukraine:

*See Comparative Table in a separate file*

3. The Cabinet of Ministers of Ukraine shall:

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1) within 1 month after coming into force of this Law adopt Regulations on the Open Competition for Selection of the National Bureau's Director, publish an announcement on the conditions and timeline of the competition in the national print media and on the official website of the Cabinet of Ministers of Ukraine, approve composition and rules of order of the Commission;

2) within 2 months after coming into force of this Law submit to the Verkhovna Rada of Ukraine proposals on amendments in the State Budget of Ukraine for the current year in order to include therein expenditures necessary for setting up and activity of the National Bureau, in particular expenditure for providing the Bureau and its territorial units with administrative buildings, vehicles, communications and material supplies, special equipment for operative and technical, operative documenting units, arms, special protection means, other property and information databases;

3) take into account in the draft State Budget of Ukraine for the next year expenditures for the National Bureau's activity;

4) within 3 months after coming into force of this Law:

make decisions related to setting up of the National Bureau and its territorial offices;

adopt legal acts stemming from this Law;

align its legal acts with this Law;

ensure that ministries and other central executive authorities align their legal acts with this Law;

submit to the Verkhovna Rada of Ukraine proposals on aligning legislative acts of Ukraine with this Law.

4. Ministry of Internal Affairs, Security Service and the prosecution bodies shall, within 3 months after effecting of this Law, transfer to the National Bureau and its territorial offices information databases necessary for creating and functioning of the National Bureau.

5. The open competitive selection of the Director of the National Bureau shall be held in accordance with Article 8 of this Law before this Law becomes effective.

Open competition in accordance with Article 12 of this Law for filling positions of employees of the central office of the National Bureau shall be conducted within 2 months, and open competition for filling positions of employees of territorial offices of the National Bureau –within 5 months after this Law becomes effective.

6. The issues of further pre-trial investigations, which were started before coming into force of this Law, in criminal proceedings that according to law are referred to the competence of the National Bureau shall be decided upon by the prosecutor.

7. Until alignment with this Law the laws of Ukraine and other legal acts shall be effective in the part compliant with this Law.

*Draft Law No. 4573 of 26.03.2014  
Submitted by MPs: V.Chumak, V.Kovalchuk,  
S.Sobolev, L.Orobets, V.Holovko,  
A.Mishchenko, O.Doniy*

*Prepared by civil society experts  
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**COMPARATIVE TABLE OF AMENDMENTS  
for Section VIII of the Draft Law on “The National Bureau for Anti-Corruption Investigations”  
Final and Transitional Provisions**

Current Version of Legislation	Draft Law of Ukraine
<b>Criminal Code of Ukraine</b>	
<p><b>Article 112. Trespass against life of a statesman or a public figure</b> Trespass against life of the President of Ukraine, the Chairman of the Verkhovna Rada (Parliament) of Ukraine, a National Deputy (Member of Parliament) of Ukraine, the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, the Chairman or a judge of the Constitutional Court of Ukraine or the Supreme Court of Ukraine or High Specialized Courts of Ukraine, the Procurator General of Ukraine, the Human Rights Commissioner of the Verkhovna Rada of Ukraine, the Head of the Accounting Chamber, the Chairman of the National Bank of Ukraine, or a leader of a political party, committed in relation to their government or public duties, - shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.</p>	<p><b>Article 112. Trespass against life of a statesman or a public figure</b> Trespass against life of the President of Ukraine, the Chairman of the Verkhovna Rada (Parliament) of Ukraine, a National Deputy (Member of Parliament) of Ukraine, the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, the Chairman or a judge of the Constitutional Court of Ukraine or the Supreme Court of Ukraine or High Specialized Courts of Ukraine, the Prosecutor General of Ukraine, <b>the Director of the National Bureau for Anti-Corruption Investigations</b>, the Human Rights Commissioner of the Verkhovna Rada of Ukraine, the Head of the Accounting Chamber, the Chairman of the National Bank of Ukraine, or a leader of a political party, committed in relation to their government or public duties, - shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.</p>
<p><b>Article 344. Interference with activity of a statesman</b> 1. Any unlawful influence on the President of Ukraine, the Chairman of the</p>	<p><b>Article 344. Interference with activity of a statesman</b> 1. Any unlawful influence on the President of Ukraine, the Chairman of the</p>

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<p>Verkhovna Rada (Parliament) of Ukraine, a National Deputy (Member of Parliament) of Ukraine, the Prime Minister of Ukraine, a member of Cabinet of Ministers of Ukraine, the Human Rights Commissioner of the Verkhovna Rada of Ukraine or his/her representative, the Head or a member of the Accounting Chamber, the Head or a member of the Central Election Committee, the Chairman of the National Bank of Ukraine, a member of the National Broadcast Council of Ukraine, the Head of the Antimonopoly Committee of Ukraine, the Head of the State Property Fund of Ukraine, the Head of the State Broadcast Committee of Ukraine for the purpose of preventing them from performance of their official duty or obtaining any unlawful decisions, - shall be punishable by a fine from 200 to 300 tax-free minimum personal incomes, or by arrest for the period from 3 to 6 months, or by restriction of liberty for the period up to two years, or imprisonment for the same term.</p> <p>...</p>	<p>Verkhovna Rada (Parliament) of Ukraine, a National Deputy (Member of Parliament) of Ukraine, the Prime Minister of Ukraine, a member of Cabinet of Ministers of Ukraine, the Human Rights Commissioner of the Verkhovna Rada of Ukraine or his/her representative, <b>the Director of the National Bureau for Anti-Corruption Investigations</b>, the Head or a member of the Accounting Chamber, the Head or a member of the Central Election Committee, the Chairman of the National Bank of Ukraine, a member of the National Broadcast Council of Ukraine, the Head of the Antimonopoly Committee of Ukraine, the Head of the State Property Fund of Ukraine, the Head of the State Broadcast Committee of Ukraine for the purpose of preventing them from performance of their official duty or obtaining any unlawful decisions, - shall be punishable by a fine from 200 to 300 tax-free minimum personal incomes, or by arrest for the period from 3 to 6 months, or by restriction of liberty for the period up to two years, or imprisonment for the same term.</p> <p>...</p>
<p><b>Article 346. Threats or violence against a statesman or a public figure</b></p> <p>1. Threats of murder, impairment of health, destruction or impairment of property, kidnapping or confinement made in respect of the President of Ukraine, the Chairman of the Verkhovna Rada (Parliament) of Ukraine, a National Deputy (Member of Parliament) of Ukraine, the Prime Minister of Ukraine, a member of Cabinet of Ministers of Ukraine, the Chairman or a judge of the Constitutional Court of Ukraine or the Supreme Court of Ukraine or High Specialized Courts of Ukraine, the Procurator General of Ukraine, the Human Rights Commissioner of the Verkhovna Rada of Ukraine, the Head of the Accounting Chamber, the Chairman of the National Bank of Ukraine, or a leader of a political party, committed in relation to their government or public activity, - shall be punishable by restraint of liberty for a term up to five years or imprisonment of the same term.</p> <p>...</p>	<p><b>Article 346. Threats or violence against a statesman or a public figure</b></p> <p>1. Threats of murder, impairment of health, destruction or impairment of property, kidnapping or confinement made in respect of the President of Ukraine, the Chairman of the Verkhovna Rada (Parliament) of Ukraine, a National Deputy (Member of Parliament) of Ukraine, the Prime Minister of Ukraine, a member of Cabinet of Ministers of Ukraine, the Chairman or a judge of the Constitutional Court of Ukraine or the Supreme Court of Ukraine or High Specialized Courts of Ukraine, the Procurator General of Ukraine, <b>the Director of the National Bureau for Anti-Corruption Investigations</b>, the Human Rights Commissioner of the Verkhovna Rada of Ukraine, the Head of the Accounting Chamber, the Chairman of the National Bank of Ukraine, or a leader of a political party, committed in relation to their government or public activity, - shall be punishable by restraint of liberty for a term up to five years or imprisonment of the same term.</p> <p>...</p>
<p><b>Article 368. Acceptance of an offer, promise or receipt of illegal benefit by an officer</b></p>	<p><b>Article 368. Acceptance of an offer, promise or receipt of illegal benefit by an officer</b></p>

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<p>... Notes. ...</p> <p>2. Officers who hold a responsible position in Articles 368 and 383 of this Code are persons stipulated by Clause 1 of the Note to Article 364, <b>whose positions according to Article 6 of the Law of Ukraine "On Civil Service" were rated among the sub-groups 1 through 4, II-2, II-3, II-4, III-1, III-2, III-3, III-4, IV-1, IV-2, IV-3</b>, judges, public prosecutors and investigation officers, as well as other, except for those stipulated in Clause 2-1 of the Note to this Article, heads and deputy heads of the local self-government bodies and of structural subdivisions and units thereof.</p> <p>2-1. Persons who hold an especially responsible position in Articles 368 and 382 of this Code are:</p> <p>1) <b>Persons stipulated in Clauses 1, 2 and 3 of Part 2 Article 2 of Law of Ukraine "On Civil Service", Speaker of Verkhovna Rada of Ukraine, First Deputy and Deputy of Speaker of Verkhovna Rada of Ukraine, Prime Minister of Ukraine, Prosecutor General of Ukraine and his/her First Deputy and Deputies, President of Constitutional Court of Ukraine, his/her Deputies and Justices of Constitutional Court of Ukraine, President of Supreme Court of Ukraine, his/her First Deputy, Deputies and Judges of Supreme Court of Ukraine, Presidents of High Specialized Courts, their Deputies and Judges f High Specialized Courts, Head of National Bank of Ukraine, his/her First Deputy and Deputies, members of National Security and Defense Council of Ukraine;</b></p> <p>2) <b>Persons whose positions, according to Article 6 of Law of Ukraine "On Civil Service" are rated among civil service positions of sub-groups I-1, I-2, I-3 and II-1;</b></p> <p>3) Persons whose positions, according to Article 14 of Law of Ukraine "On Service with Local Self-Government Bodies" are rated among the first and second categories of positions at local self-government authorities.</p>	<p>... Notes. ...</p> <p>2. Officers who hold a responsible position <b>in Articles 368, 368-2 and 382</b> of this Code are persons stipulated by Clause 1 of the Note to Article 364, <b>whose positions according to Article 25 of the Law of Ukraine "On Civil Service" are referred to the third, fourth, fifth and sixth categories</b>, judges, public prosecutors and investigation officers, as well as other, except for those stipulated in Clause 2-1 of the Note to this Article, heads and deputy heads of the local self-government bodies and of structural subdivisions and units thereof.</p> <p>2-1. Persons who hold an especially responsible position in <b>Articles 368, 368-2 and 382</b> of this Code are:</p> <p>1) <b>President of Ukraine, Members of the Cabinet of Ministers of Ukraine, first deputy ministers and deputy ministers, People's Deputies of Ukraine, Human Rights Commissioner of the Verkhovna Rada of Ukraine, Prosecutor General of Ukraine and his/her First Deputy and Deputies, President of Constitutional Court of Ukraine, his/her Deputies and Justices of Constitutional Court of Ukraine, President of Supreme Court of Ukraine, his/her First Deputy, Deputies and Judges of Supreme Court of Ukraine, Presidents of High Specialized Courts, their Deputies and Judges f High Specialized Courts, Head of National Bank of Ukraine, his/her First Deputy and Deputies, members of National Security and Defense Council of Ukraine;</b></p> <p>2) <b>Persons whose positions, according to Article 25 of Law of Ukraine "On Civil Service" are referred to the first and the second categories;</b></p> <p>3) Persons whose positions, according to Article 14 of Law of Ukraine "On Service with Local Self-Government Bodies" are rated among the first and second categories of positions at local self-government authorities.</p>
<p><b>Article 368<sup>2</sup>. Illicit Enrichment</b></p> <p>1. Obtainment by an officer of illegal benefit in substantial amount or transfer by the officer of such benefit to close relatives, in the absence of signs stipulated in Art. 368 of this Code (unlawful enrichment) –</p>	<p><b>Article 368<sup>2</sup>. Illicit Enrichment</b></p> <p><b>1. Acquisition by a person authorized to perform functions of the state or local self-government, in the ownership (use) of property of value significantly exceeding his/her income receipt of which is confirmed through</b></p>

<p>shall be punishable by fine in the amount of five hundred to one thousand tax-exempt minimum incomes of citizens, or by restriction of freedom for a term of up to two years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with special confiscation and confiscation of property.</p> <p>2. Unlawful enrichment where the object of it was illegal benefit in large amount, –</p> <p>shall be punishable by restriction of freedom for a term of two to five years, or by imprisonment for a term of three to five years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with special confiscation and confiscation of property.</p> <p>3. Unlawful enrichment where the object of it was illegal benefit in especially large amount, –</p> <p>shall be punishable by imprisonment for a term of five to ten years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with special confiscation and confiscation of property.</p> <p>Note. Deemed “illegal benefit in substantial amount” shall be pecuniary funds or other assets, advantages, perks, services, and non-material assets that are without lawful grounds promised, offered, provided, or received without payment or at a price below the minimum market price, in the amount that exceeds one hundred tax-exempt minimum incomes of citizens, in large amount, in the amount that exceeds two hundred tax-exempt minimum incomes of citizens, and in especially large amount, in the amount that exceeds five hundred tax-exempt minimum incomes of citizens.</p>	<p><b>legitimate sources, or transfer of such property to his/her close relatives - shall be punishable by imprisonment for up to two years with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with special confiscation and confiscation of property.</b></p> <p><b>2. Acts specified in paragraph 1 of this Article, committed by a person who holds a responsible position - shall be punishable by imprisonment for a term of two to five years with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with special confiscation and confiscation of property.</b></p> <p><b>3. Acts specified in paragraph 1 of this Article, committed by a person who holds an especially responsible position - shall be punishable by imprisonment for a term of five to ten years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with special confiscation and confiscation of property.</b></p> <p><b>Note. 1. “Significantly exceeding” shall mean the difference between the value of the property and legitimate sources of income of the person in the amount equal to or greater than the official annual income of this person from primary employment.</b></p> <p><b>2. Persons authorized to perform functions of the state or local self-government are the persons referred to in paragraph 1 of Article 4 of the Law of Ukraine "On Principles of Prevention and Countering Corruption".</b></p>
<p><b>Article 370. Provocation of Bribery</b></p> <p>1. Provocation of bribery, that is, deliberate creation by an officer of circumstances and conditions that call forth the offering, promise or provision of illegal benefit or acceptance of the offer, promise or receipt of such benefit with the goal to subsequently expose the person who offered, promised, provided the illegal benefit or accepted the offer, promise or received such benefit, – shall be punishable by restriction of freedom for a term of up to five years, or by</p>	<p><b>Article 370. Provocation of Bribery</b></p> <p>1. Provocation of bribery, that is, deliberate creation by an officer of circumstances and conditions that call forth the offering, promise or provision of illegal benefit or acceptance of the offer, promise or receipt of such benefit with the goal to subsequently expose the person who offered, promised, provided the illegal benefit or accepted the offer, promise or received such benefit, – shall be punishable by restriction of freedom for a term of up to five years, or by</p>

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<p>imprisonment for a term of two to five years, concurrently with fine in the amount of two hundred and fifty to five hundred tax-exempt minimum incomes of citizens.</p> <p>2. Same action, committed by an officer of law-enforcement bodies, – shall be punishable by imprisonment for a term of three to seven years, concurrently with fine in the amount of five hundred to seven hundred and fifty tax-exempt minimum incomes of citizens.</p>	<p>imprisonment for a term of two to five years, concurrently with fine in the amount of two hundred and fifty to five hundred tax-exempt minimum incomes of citizens.</p> <p>2. Same action, committed by an officer of law-enforcement bodies, – shall be punishable by imprisonment for a term of three to seven years, concurrently with fine in the amount of five hundred to seven hundred and fifty tax-exempt minimum incomes of citizens.</p> <p><b>Note. Integrity checks of persons authorized to perform functions of the state or local self-government conducted in accordance with law shall not be deemed provocation of bribery.</b></p>
<b>Criminal Procedure Code of Ukraine</b>	



<p>Article 31. Composition of court</p> <p>...</p> <p>9. Criminal proceedings involving <b>persons stipulated in Clauses 1, 2 and 3 of Part 2 Article 2 of Law of Ukraine “On Civil Service”, Speaker of Verkhovna Rada of Ukraine, First Deputy and Deputy of Speaker of Verkhovna Rada of Ukraine, Prime Minister of Ukraine, Prosecutor General of Ukraine and his/her First Deputy and Deputies, President of Constitutional Court of Ukraine, his/her Deputies and Justices of Constitutional Court of Ukraine, President of Supreme Court of Ukraine, his/her First Deputy, Deputies and Judges of Supreme Court of Ukraine, Presidents of High Specialized Courts, their Deputies and Judges of High Specialized Courts, Head of National Bank of Ukraine, his/her First Deputy and Deputies, members of National Security and Defense Council of Ukraine. As well as persons whose positions according to Article 6 of the Law of Ukraine "On Civil Service" were rated among the sub-groups 1 through 4, II-2, II-3, II-4, III-1, III-2, III-3, III-4, IV-1, IV-2, IV-3</b> are carried out:</p> <p>1) by court of first instance: by a panel of three professional judges having a judicial background of at least five years, and where the offenses punishable by life imprisonment are prosecuted the accused may claim a jury trial consisting of two professional judges having a judicial background of at least five years and three jurors;</p> <p>2) in appeals procedure: by a panel of five professional judges having a judicial background of at least seven years;</p> <p>3) in cassation procedure: by a panel of seven professional judges having a judicial background of at least ten years.</p> <p>Where the panel of judges as set forth in this paragraph to carry out the criminal proceedings according to the rules of jurisdiction cannot possibly be formed, the criminal proceeding shall be carried out by the court located in the nearest proximity where such composition of the court can possibly be formed.</p> <p>10. Criminal procedure concerning the indictment of a juvenile, motions to drop criminal prosecution, compulsory medical or educational measures, their extension, adjustment or termination, and also appellate or cassation procedures</p>	<p>Article 31. Composition of court</p> <p>...</p> <p>9. <b>Criminal proceedings involving the President of Ukraine, members of the Cabinet of Ministers of Ukraine, first deputy ministers and deputy ministers, People’s Deputies of Ukraine, Human Rights Commissioner of the Verkhovna Rada of Ukraine, Prosecutor General of Ukraine and his/her First Deputy and Deputy, President of Constitutional Court of Ukraine, his/her Deputy and Justices of Constitutional Court of Ukraine, President of Supreme Court of Ukraine, his/her First Deputy, Deputy and Judges of Supreme Court of Ukraine, Presidents of High Specialized Courts, their Deputies and Judges of High Specialized Courts, Head of National Bank of Ukraine, his/her First Deputy or Deputy, member of National Security and Defense Council of Ukraine, persons whose positions belong to the first category of civil servants, as well as persons accused of a criminal offense referred to jurisdiction of the National Bureau for Anti-Corruption Investigations are carried out:</b></p> <p>1) by court of first instance: by a panel of three professional judges having a judicial background of at least five years, and where the offenses punishable by life imprisonment are prosecuted the accused may claim a jury trial consisting of two professional judges having a judicial background of at least five years and three jurors;</p> <p>2) in appeals procedure: by a panel of five professional judges having a judicial background of at least seven years;</p> <p>3) in cassation procedure: by a panel of seven professional judges having a judicial background of at least ten years.</p> <p>Where the panel of judges as set forth in this paragraph to carry out the criminal proceedings according to the rules of jurisdiction cannot possibly be formed, the criminal proceeding shall be carried out by the court located in the nearest proximity where such composition of the court can possibly be formed.</p> <p>10. Criminal procedure concerning the indictment of a juvenile, motions to drop criminal prosecution, compulsory medical or educational measures, their extension, adjustment or termination, and also appellate or cassation procedures</p>
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<p>to review prior decisions taken on the above mentioned issues shall be solely held by the judge authorized to hold criminal proceedings involving juveniles pursuant to the Law of Ukraine “On judiciary and the status of judges”.</p> <p>Where such criminal proceeding is to be held by a panel of judges, only a judge authorized in accordance with the Law of Ukraine “On judiciary and the status of judges” may preside at the trial involving juveniles.</p>	<p>to review prior decisions taken on the above mentioned issues shall be solely held by the judge authorized to hold criminal proceedings involving juveniles pursuant to the Law of Ukraine “On judiciary and the status of judges”.</p> <p>Where such criminal proceeding is to be held by a panel of judges, only a judge authorized in accordance with the Law of Ukraine “On judiciary and the status of judges” may preside at the trial involving juveniles.</p>
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<p><b>Article 32. Territorial jurisdiction</b></p> <p>1. Criminal proceedings shall be conducted by the court within whose territorial jurisdiction the criminal offense has been committed. Where several criminal offenses have been committed, criminal proceedings shall be conducted by the court within whose territorial jurisdiction the more grave offense has been committed, and where the offenses were of equal gravity, by the court within whose territorial jurisdiction the most recent criminal offense has been committed. Where the place of commission of a criminal offense is not possible to establish, the criminal proceedings shall be conducted by the court within whose territorial jurisdiction pre-trial investigation has been completed.</p> <p>2. Criminal proceedings on criminal charges against a judge may not be conducted by the court where the accused is holding or held the office of a judge. Where the rule of the first paragraph above required that criminal proceedings against a judge should be conducted by the court where the accused is holding or held the office of a judge, such criminal proceedings shall be conducted by the court of another political unit (Autonomous Republic of Crimea, oblast, the city of Kyiv or Sevastopol) which is territorially the closest to the court where the accused is holding or held the office of a judge.</p>	<p><b>Article 32. Territorial jurisdiction</b></p> <p>1. Criminal proceedings shall be conducted by the court within whose territorial jurisdiction the criminal offense has been committed. Where several criminal offenses have been committed, criminal proceedings shall be conducted by the court within whose territorial jurisdiction the more grave offense has been committed, and where the offenses were of equal gravity, by the court within whose territorial jurisdiction the most recent criminal offense has been committed. Where the place of commission of a criminal offense is not possible to establish, the criminal proceedings shall be conducted by the court within whose territorial jurisdiction pre-trial investigation has been completed.</p> <p>2. Criminal proceedings on criminal charges against a judge may not be conducted by the court where the accused is holding or held the office of a judge. Where the rule of the first paragraph above required that criminal proceedings against a judge should be conducted by the court where the accused is holding or held the office of a judge, such criminal proceedings shall be conducted by the court of another political unit (Autonomous Republic of Crimea, oblast, the city of Kyiv or Sevastopol) which is territorially the closest to the court where the accused is holding or held the office of a judge.</p> <p><b>3. In case criminal offense which was investigated by the territorial office of the National Bureau for Anti-Corruption Investigations was committed within territorial jurisdiction of a local court where the territorial office of the National Bureau for Anti-Corruption Investigations is situated, then criminal proceedings shall be conducted by the court which is territorially the closest to the court where the territorial office of the National Bureau for Anti-Corruption Investigations is situated or by the court of another administrative unit (Autonomous Republic of Crimea, oblast, the city of Kyiv or Sevastopol).</b></p>
<p><b>Article 36. Public prosecutor</b></p> <p>5. In case of ineffective pre-trial investigation, the Prosecutor-General of Ukraine, his deputies, public prosecutors of the Autonomous Republic of Crimea, oblasts, the cities of Kyiv and Sevastopol, and public prosecutors given the same status, shall have the right, by their own motivated rulings, to assign the conduct</p>	<p><b>Article 36. Public prosecutor</b></p> <p>5. In case of ineffective pre-trial investigation, the Prosecutor-General of Ukraine, his deputies, public prosecutors of the Autonomous Republic of Crimea, oblasts, the cities of Kyiv and Sevastopol, and public prosecutors given the same status, shall have the right, by their own motivated rulings, to assign the conduct</p>

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<p>of pre-trial investigation of any criminal offense to another agency of pre-trial investigation including a higher-level investigation division within the same authority.</p> <p>6. Prosecutor General of Ukraine, First Deputy, Prosecutor-General of Ukraine’s deputies, prosecutors of the Autonomous Republic of Crimea, oblasts, the cities of Kyiv and Sevastopol, city and district prosecutors, prosecutors in boroughs of towns, inter-district and specialized prosecutors, their first deputies and deputies, when monitoring the compliance of pre-trial investigation may refute illegitimate and unjustified orders issued by investigation officers and subordinated prosecutors within the time limits of pre-trial investigation as specified in article 219 of this Code. The prosecutor overseeing compliance of pre-trial investigation shall be notified of such revocation.</p>	<p>of pre-trial investigation of any criminal offense to another agency of pre-trial investigation including a higher-level investigation division within the same authority. <b>It is prohibited to assign the conduct of pre-trial investigation of an offense under the jurisdiction of the National Bureau for Anti-Corruption Investigations to another pre-trial authority.</b></p> <p>6. Prosecutor General of Ukraine, First Deputy, Prosecutor-General of Ukraine’s deputies, prosecutors of the Autonomous Republic of Crimea, oblasts, the cities of Kyiv and Sevastopol, city and district prosecutors, prosecutors in boroughs of towns, inter-district and specialized prosecutors, their first deputies and deputies, when monitoring the compliance of pre-trial investigation may revoke illegitimate and unjustified orders issued by investigation officers and subordinated prosecutors within the time limits of pre-trial investigation as specified in article 219 of this Code. The prosecutor overseeing compliance of pre-trial investigation shall be notified of such revocation. <b>Revocation of such orders by investigation officers and prosecutors of the National Bureau for Anti-Corruption Investigations shall be performed exclusively by the Prosecutor General of Ukraine.</b></p>
<p><b>Article 41. Operational units</b></p> <p>1. Operational units of the bodies of internal affairs, security agencies, agencies supervising compliance with the tax legislation, and those of the State Penitentiary Service of Ukraine, State Border Guard Service of Ukraine and State Customs service of Ukraine shall conduct investigative (search) actions and covert investigative (search) actions in criminal proceedings upon written assignment of the investigator, public prosecutor.</p> <p>...</p>	<p><b>Article 41. Operational units</b></p> <p>1. Operational units of the bodies of internal affairs, security agencies, <b>the National Bureau for Anti-Corruption Investigations</b>, agencies supervising compliance with the tax legislation, and those of the State Penitentiary Service of Ukraine, State Border Guard Service of Ukraine and State Customs service of Ukraine shall conduct investigative (search) actions and covert investigative (search) actions in criminal proceedings upon written assignment of the investigator, public prosecutor....</p>
<p><b>Article 154. General Provisions Related to Suspension from Office</b></p> <p>1. Suspension from office may be applied to a person who is suspected of or charged with committing a medium-gravity, grave or especially grave crime or, irrespective of the gravity, to a person who is an officer of a law enforcement body.</p> <p>2. Suspension from office shall be effected on the grounds of the decision passed by the investigating judge in the course of pre-trial investigation or by the</p>	<p><b>Article 154. General Provisions Related to Suspension from Office</b></p> <p>1. Suspension from office may be applied to a person who is suspected of or charged with committing a medium-gravity, grave or especially grave crime or, irrespective of the gravity, to a person who is an officer of a law enforcement body.</p> <p>2. Suspension from office shall be effected on the grounds of the decision passed by the investigating judge in the course of pre-trial investigation or by the</p>

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court in the course of judicial proceedings for a term not exceeding two months. The term of suspension from office may be extended in accordance with the requirements stipulated in Article 158 of this Code.

3. The matter of suspension from office of the persons appointed by the President of Ukraine shall be decided by the President of Ukraine on the grounds of the public prosecutor's motion in accordance with the procedure set forth by law. Suspension of a judge from his office shall be carried out by the Higher Qualification Commission of Judges of Ukraine on the grounds of a reasoned motion of the Prosecutor General of Ukraine in accordance with the procedure set forth by law.

court in the course of judicial proceedings for a term not exceeding two months. The term of suspension from office may be extended in accordance with the requirements stipulated in Article 158 of this Code.

3. The matter of suspension from office of the persons appointed by the President of Ukraine shall be decided by the President of Ukraine on the grounds of the public prosecutor's motion in accordance with the procedure set forth by law. Suspension of a judge from his office shall be carried out by the Higher Qualification Commission of Judges of Ukraine on the grounds of a reasoned motion of the Prosecutor General of Ukraine in accordance with the procedure set forth by law. **Suspension from office of the Director of the National Bureau for Anti-Corruption Investigations shall be carried out by the Cabinet of Ministers of Ukraine upon motivated motion of the Prosecutor General of Ukraine in accordance with the procedure set forth by law.**

<p><b>Article 170. Grounds for attachment of property</b></p> <p>...</p> <p>2. Investigating judge or court during trial shall order the attachment of property of the suspect, accused in the form of objects if there are sufficient grounds for the belief that such objects meet the criteria specified in paragraph two of Article 167 of this Code. Furthermore, where a civil action is granted, the court on a motion of the public prosecutor or civil plaintiff may decide on attachment of property for the purpose of securing the civil claim pending validity date of the decision, unless such measures have not been taken before.</p> <p>...</p>	<p><b>Article 170. Grounds for attachment of property</b></p> <p>...</p> <p>2. Investigating judge or court during trial shall order the attachment of property of the suspect, accused in the form of objects if there are sufficient grounds for the belief that such objects meet the criteria specified in paragraph two of Article 167 of this Code. Furthermore, where a civil action is granted, the court on a motion of the public prosecutor or civil plaintiff may decide on attachment of property for the purpose of securing the civil claim pending validity date of the decision, unless such measures have not been taken before.</p> <p><b>In urgent cases, in order to preserve physical evidence or possible subsequent confiscation or special confiscation of funds and other property in criminal proceedings concerning criminal offenses under the jurisdiction of the National Bureau for Anti-Corruption Investigations, attachment of property or the accounts of individuals and legal entities in financial institutions can be imposed upon the written decision of the Director of the National Bureau for Anti-Corruption Investigations and approved by the prosecutor. Such measures shall be applied for a term of up to 72 hours. The Director of the National Bureau for Anti-Corruption Investigations within 24 hours after taking such decision files a motion to the investigating judge, court to attach a property.</b></p> <p>...</p>
<p><b>Article 214. Initiating pre-trial investigation</b></p> <p>...</p> <p>2. Pre-trial investigation shall start from the moment the information concerned has been entered in the Integrated Register of Pre-Trial Investigations. Regulations of the Integrated Register of Pre-Trial Investigations, the procedure of its creation and maintaining shall be subject to approval of the Prosecutor General’s Office of Ukraine with consent of the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, and the authority supervising compliance with the tax legislation.</p> <p>...</p>	<p><b>Article 214. Initiating pre-trial investigation</b></p> <p>...</p> <p>2. Pre-trial investigation shall start from the moment the information concerned has been entered in the Integrated Register of Pre-Trial Investigations. Regulations of the Integrated Register of Pre-Trial Investigations, the procedure of its creation and maintaining shall be subject to approval of the Prosecutor General’s Office of Ukraine with consent of the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, <b>the National Bureau for Anti-Corruption Investigations</b> and the authority supervising compliance with the tax legislation.</p> <p>...</p>

**Article 216. Investigative jurisdiction (competence)**

1. Investigators of bodies of internal affairs shall conduct pre-trial investigation of criminal offenses as established in Ukraine's law on criminal liability, except those which are in competence of other pre-trial investigation agencies.

2. Investigators of bodies of security shall conduct pre-trial investigation of crimes specified in Articles 109, 110, 111, 112, 113, 114, 201, 258, 258-1, 258-2, 258-3, 258-4, 258-5, 261, 265-1, 305, 328, 329, 330, 332, 333, 334, 359, 422, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code of Ukraine;

If in the course of investigation of crimes specified in Articles 328, 329, 422 of the Criminal Code of Ukraine, crimes are established specified in Articles 364, 365, 366, 367, 425, 426 of the Criminal Code of Ukraine, committed by a person in respect of whom pre-trial investigation is conducted, or by other person, if they are related to crimes committed by a person in respect of whom pre-trial investigation is conducted, such crimes shall be investigated by investigators of bodies of security, including those crimes that were committed by officers of the Security Service of Ukraine.

3. Investigators of bodies supervising compliance with the tax legislation, shall conduct pre-trial investigation of crimes specified in Articles 204, 209, 212, 212-1, 216, 219 of the Criminal Code of Ukraine.

If in the course of investigation of above-indicated crimes, crimes are established specified in Articles 192, 200, 205, 222, 222-1, 358 of the Criminal Code of Ukraine, committed by a person in respect of whom pre-trial investigation is conducted, or by other person, if they are related to crimes committed by a person in respect of whom pre-trial investigation is conducted, such crimes shall be investigated by investigators of bodies supervising compliance with the tax legislation.

4. Investigators from units of the State Bureau of Investigations of Ukraine shall engage in pre-trial investigation of the crimes committed by:

1) persons stipulated in Clauses 1, 2 and 3 of Part 2 Article 2 of Law of Ukraine "On Civil Service", the Head of the National Bank of Ukraine, his first

**Article 216. Investigative jurisdiction (competence)**

1. Investigators of bodies of internal affairs shall conduct pre-trial investigation of criminal offenses as established in Ukraine's law on criminal liability, except those which are in competence of other pre-trial investigation agencies.

2. Investigators of bodies of security shall conduct pre-trial investigation of crimes specified in Articles 109, 110, 111, 112, 113, 114, 201, 258, 258-1, 258-2, 258-3, 258-4, 258-5, 261, 265-1, 305, 328, 329, 330, 332, 333, 334, 359, 422, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code of Ukraine;

If in the course of investigation of crimes specified in Articles 328, 329, 422 of the Criminal Code of Ukraine, crimes are established specified in Articles 364, 365, 366, 367, 425, 426 of the Criminal Code of Ukraine, committed by a person in respect of whom pre-trial investigation is conducted, or by other person, if they are related to crimes committed by a person in respect of whom pre-trial investigation is conducted, such crimes shall be investigated by investigators of bodies of security, including those crimes that were committed by officers of the Security Service of Ukraine, **except for cases when such offenses are referred to jurisdiction of investigators of the National Bureau for Anti-Corruption Investigations as stipulated by paragraph 4 of this Article.**

**Investigators of security bodies shall investigate criminal offenses stipulated by subparagraph 1 of paragraph 4 of this Article if they were committed by the officers of the National Bureau for Anti-Corruption Investigations.**

3. Investigators of bodies supervising compliance with the tax legislation, shall conduct pre-trial investigation of crimes specified in Articles 204, 209, 212, 212-1, 216, 219 of the Criminal Code of Ukraine.

If in the course of investigation of above-indicated crimes, crimes are established specified in Articles 192, 200, 205, 222, 222-1, 358 of the Criminal Code of Ukraine, committed by a person in respect of whom pre-trial investigation is conducted, or by other person, if they are related to crimes

deputy or deputy, member of the National Security and Defense Council of Ukraine;

2) judge or law enforcement officer;

3) persons **whose positions according to Article 6 of the Law of Ukraine "On Civil Service" refer to the sub-groups I-1, I-2, I-3, I-4, II-1, II-2, III-1, IV-1;**

4) persons whose positions according to Article 14 of the Law of Ukraine **"On Service at Local Self-Government Bodies" refer to the first and second categories of positions at local self-government bodies.**

5. In criminal proceedings in respect of crimes specified in Articles 209-1, 384, 385, 386, 387, 388, 396 of the Criminal Code of Ukraine, pre-trial investigation shall be conducted by an investigator of the body with investigative jurisdiction as respects the offence in connection with which the pre-trial investigation has been initiated.

If in the course of pre-trial investigation other crimes are established committed by a person in respect of whom pre-trial investigation is conducted, or by other person, if they are related to crimes committed by a person in respect of whom pre-trial investigation is conducted, and which do not fall within the investigative jurisdiction of the agency which conducts pre-trial investigation in the criminal proceedings, then should it be found impossible to disjoin such materials in a separate proceedings, the public prosecutor who supervises the pre-trial investigation, by his ruling shall determine the investigative jurisdiction of all these crimes

committed by a person in respect of whom pre-trial investigation is conducted, such crimes shall be investigated by investigators of bodies supervising compliance with the tax legislation.

**4. Investigators of the National Bureau for Anti-Corruption Investigations shall perform pre-trial investigation of crimes stipulated by Articles 191, 209, 354, 364, 364-1, 365, 365-2, 366, 368, 368-2, 368-3, 368-4, 369, 369-2, 372, 375, 376, 410 of the Criminal Code of Ukraine if at least one of the following conditions is met:**

**1) A crime was committed by:**

**a People's Deputy of Ukraine, the President of Ukraine, a member of the Cabinet of Ministers of Ukraine;**

**a civil servant whose position belongs to 1-2 categories of civil service positions, by a person whose position equals to 1-2 categories of civil service positions;**

**a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, a deputy of regional council, city councils of Kyiv and Sevastopol, an officer of the local self-government whose position belongs to 1-2 categories of positions;**

**a judge of the Constitutional Court of Ukraine, judge of the general jurisdiction court, a people's assessor or juror (while they exercise these functions), the Head, members, disciplinary inspectors of the High Qualifications Commission of Judges of Ukraine, the Head, the Deputy Head, the Secretary of the High Council of Justice, another member of the High Council of Justice;**

**the Prosecutor General of Ukraine, his/her Deputy, a prosecutor, his/her assistant;**

**a senior ranking officer of interior authorities, customs officer with the special rank of State Adviser of Customs Service of rank 3 and above, the State Tax Service officer with the special rank of State Adviser of the State Tax Service of rank 3 and above;**

**a military officer of the Armed Forces of Ukraine, the Security Service of Ukraine, the State Borderguard Service of Ukraine, the State Special**



**Transport Service, of the Internal Troops of the Ministry of Internal Affairs of Ukraine and other military formations created in accordance with the laws of Ukraine;**

**2) the amount of the offense's object or damage it caused is equal to or exceeds 500 times the minimum wage set for the current year;**

**3) an offense under Article 369, paragraph 1 of Article 369-2 of the Criminal Code of Ukraine was committed against a public official stipulated in paragraph 4 of Article 18 of the Criminal Code of Ukraine or by official mentioned in subparagraph 1) of this paragraph.**

**The prosecutor supervising the pre-trial investigation which is conducted by investigators of the National Bureau for Anti-Corruption Investigations, may transfer by his order criminal proceedings in offenses stipulated by the first paragraph of this part to the investigative jurisdiction of the National Bureau for Anti-Corruption Investigations if the offense led to or could have led to grave consequences for rights protected by law, freedoms and interests of a person or legal entity and for the state or public interests. "Grave consequences" shall be understood as a threat of harm or injury to the vital interests of society and the state, including state sovereignty and territorial integrity of Ukraine, implementation of constitutional rights, freedoms and responsibilities of three or more people.**

5. In criminal proceedings in respect of crimes specified in Articles 209-1, 384, 385, 386, 387, 388, 396 of the Criminal Code of Ukraine, pre-trial investigation shall be conducted by an investigator of the body with investigative jurisdiction as respects the offence in connection with which the pre-trial investigation has been initiated.

If in the course of pre-trial investigation other crimes are established committed by a person in respect of whom pre-trial investigation is conducted, or by other person, if they are related to crimes committed by a person in respect of whom pre-trial investigation is conducted, and which do not fall within the investigative jurisdiction of the agency which conducts pre-trial investigation in the criminal proceedings, then should it be found impossible to disjoin such materials in a separate proceedings, the public prosecutor who supervises the pre-

trial investigation, by his ruling shall determine the investigative jurisdiction of all these crimes

**The dispute over investigative jurisdiction in the criminal proceedings which may belong to the jurisdiction of the National Bureau for Anti-Corruption Investigations shall be solved by the Prosecutor General of Ukraine or his deputy.**

<p><b>Article 246. Grounds for covert investigative (detective) actions</b></p> <p>...</p> <p>5. Decision to conduct a covert investigative (detective) action shall state the time limit for its conduct. Time limit for the conducting of a covert investigative (detective) active may be extended:</p> <ul style="list-style-type: none"><li>by public prosecutor, if the covert investigative (detective) action is conducted by his decision, up to eighteen months;</li><li>by head of pre-trial investigative agency, if the covert investigative (detective) action is conducted by his or investigator's decision, up to six months;</li><li>by the head of a stand-alone Directorate of the Ministry of Internal Affairs of Ukraine; by head of the Security Service of Ukraine's chief, separate office; by head of the Ministry of Internal Affairs of Ukraine's chief office, office and of the agency carrying out supervision over the compliance with tax legislation, an agency under the State Bureau of Investigations in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol; by head of the Security Service of Ukraine's regional body within their competence, if the covert investigative (detective) action is conducted by investigator's decision, up to twelve months;</li><li>by the Minister of Internal Affairs of Ukraine, the Head of the Security Service of Ukraine, the head of the agency carrying out supervision over the compliance with tax legislation and chief of the State Bureau of Investigations, if the covert investigative (detective) action is conducted by investigator's decision, up to eighteen months;</li><li>by investigating judge, if the covert investigative (detective) action is conducted by his decision, as prescribed by Article 249 of the present Code.</li></ul> <p>6. The right to conduct covert investigative (detective) actions is vested by investigator who conducts pre-trial investigation of a crime, or on his assignment, by competent operative units of bodies of internal affairs, bodies of security, bodies supervising compliance with the tax legislation, bodies of the State Penitentiary Service of Ukraine, bodies of the State Border Guard Service of Ukraine and bodies of the State Customs of Ukraine. Upon investigator's or public prosecutor's decision, also other persons may be engaged in the conducting of covert investigative (detective) actions.</p>	<p><b>Article 246. Grounds for covert investigative (detective) actions</b></p> <p>...</p> <p>5. Decision to conduct a covert investigative (detective) action shall state the time limit for its conduct. Time limit for the conducting of a covert investigative (detective) active may be extended:</p> <ul style="list-style-type: none"><li>by public prosecutor, if the covert investigative (detective) action is conducted by his decision, up to eighteen months;</li><li>by head of pre-trial investigative agency, if the covert investigative (detective) action is conducted by his or investigator's decision, up to six months;</li><li>by the head of a stand-alone Directorate of the Ministry of Internal Affairs of Ukraine; by head of the Security Service of Ukraine's chief, separate office; <b>by the head of a respective unit of the National Bureau for Anti-Corruption Investigations;</b> by head of the Ministry of Internal Affairs of Ukraine's chief office, office and of the agency carrying out supervision over the compliance with tax legislation, an agency under the State Bureau of Investigations in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol; by head of the Security Service of Ukraine's regional body within their competence, if the covert investigative (detective) action is conducted by investigator's decision, up to twelve months;</li><li>by the Minister of Internal Affairs of Ukraine, the Head of the Security Service of Ukraine, <b>the Director of the National Bureau for Anti-Corruption Investigations,</b> the head of the agency carrying out supervision over the compliance with tax legislation and chief of the State Bureau of Investigations, if the covert investigative (detective) action is conducted by investigator's decision, up to eighteen months;</li><li>by investigating judge, if the covert investigative (detective) action is conducted by his decision, as prescribed by Article 249 of the present Code.</li></ul> <p>6. The right to conduct covert investigative (detective) actions is vested by investigator who conducts pre-trial investigation of a crime, or on his assignment, by competent operative units of bodies of internal affairs, bodies of security, <b>bodies of the National Bureau for Anti-Corruption Investigations,</b> of bodies supervising compliance with the tax legislation, bodies of the State Penitentiary</p>
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	<p>Service of Ukraine, bodies of the State Border Guard Service of Ukraine and bodies of the State Customs of Ukraine. Upon investigator’s or public prosecutor’s decision, also other persons may be engaged in the conducting of covert investigative (detective) actions.</p>
<p><b>Article 247. Investigating judge who considers requests to conduct covert investigative (detective) actions</b>  1. Consideration of requests relegated in accordance with the provisions of this Chapter, to the authority of investigating judge, shall be carried out <b>by the Chairperson or, upon the Chairperson’s determination, by another judge</b> of the Appeals Court of the Autonomous Republic of Crimea, appeals court of oblasts, cities of Kyiv and Sevastopol, within the territorial jurisdiction of which the pre-trial investigative agency concerned is located.</p>	<p><b>Article 247. Investigating judge who considers requests to conduct covert investigative (detective) actions</b>  1. Consideration of requests relegated in accordance with the provisions of this Chapter, to the authority of investigating judge, shall be carried out by the <b>investigative judge</b> of the Appeals Court of the Autonomous Republic of Crimea, appeals court of oblasts, cities of Kyiv and Sevastopol, within the territorial jurisdiction of which the pre-trial investigative agency concerned is located.</p>
<p><b>Article 480. Individuals subject to special procedure of criminal proceedings</b>  1. A special procedure for criminal proceedings shall apply with regard to:  1) people’s deputy of Ukraine;  2) judge of the Constitutional Court of Ukraine, professional judge, as well as juror, and people’s assessor at the time when they administer justice;  3) candidate for the office of the President of Ukraine;  4) Commissioner of the Verkhovna Rada of Ukraine for human rights;  5) Head of the Chamber of Accounts, his first deputy, deputy, Chief Comptroller and secretary of the Chamber of Accounts;  6) deputy of local council;  7) defense attorney;  8) Prosecutor-General of Ukraine, his deputy.</p>	<p><b>Article 480. Individuals subject to special procedure of criminal proceedings</b>  1. A special procedure for criminal proceedings shall apply with regard to:  1) people’s deputy of Ukraine;  2) judge of the Constitutional Court of Ukraine, professional judge, as well as juror, and people’s assessor at the time when they administer justice;  3) candidate for the office of the President of Ukraine;  4) Commissioner of the Verkhovna Rada of Ukraine for human rights;  5) Head of the Chamber of Accounts, his first deputy, deputy, Chief Comptroller and secretary of the Chamber of Accounts;  6) deputy of local council;  7) defense attorney;  8) Prosecutor-General of Ukraine, his deputy;  9) <b>the Director and civil servants of the National Bureau for Anti-Corruption Investigations</b></p>
<p><b>Article 481. Notification of suspicion</b>  1. A written notice of suspicion shall be sent:</p>	<p><b>Article 481. Notification of suspicion</b>  1. A written notice of suspicion shall be sent:</p>

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<p>1) to defense counsels, members of local councils, members of the Verkhovna Rada of the Autonomous Republic of Crimea, heads of villages or townships, or town mayors by the Prosecutor General of Ukraine, the Deputy Prosecutor General, public prosecutors of the Autonomous Republic of Crimea, oblasts, the cities of Kyiv or Sevastopol, within their competence;</p> <p>2) to members of parliament of Ukraine, presidential candidates, the Human Rights Commissioner of the Verkhovna Rada, the Chairman of the Accounting Chamber of Ukraine, the First Deputy Chairman, the Deputy Chairman, an inspector general, the Secretary of the Accounting Chamber, or deputies of the Prosecutor General of Ukraine by the Prosecutor General of Ukraine;</p> <p>3) to judges of the Constitutional Court of Ukraine, professional judges, and jurors and people’s assessors during court proceedings by the Prosecutor General of Ukraine or the Deputy Prosecutor General;</p> <p>4) to the Prosecutor General of Ukraine by the Deputy Prosecutor General.</p>	<p>1) to defense counsels, members of local councils, members of the Verkhovna Rada of the Autonomous Republic of Crimea, heads of villages or townships, or town mayors by the Prosecutor General of Ukraine, the Deputy Prosecutor General, public prosecutors of the Autonomous Republic of Crimea, oblasts, the cities of Kyiv or Sevastopol, within their competence;</p> <p>2) to members of parliament of Ukraine, presidential candidates, the Human Rights Commissioner of the Verkhovna Rada, the Chairman of the Accounting Chamber of Ukraine, <b>the Director of the National Bureau for Anti-Corruption Investigations</b>, the First Deputy Chairman, the Deputy Chairman, an inspector general, the Secretary of the Accounting Chamber, or deputies of the Prosecutor General of Ukraine by the Prosecutor General of Ukraine;</p> <p>3) to judges of the Constitutional Court of Ukraine, professional judges, and jurors and people’s assessors during court proceedings, <b>civil servants of the National Bureau for Anti-Corruption Investigations</b>, by the Prosecutor General of Ukraine or the Deputy Prosecutor General;</p> <p>4) to the Prosecutor General of Ukraine by the Deputy Prosecutor General.</p>
<p><b>Article 545. Central authority of Ukraine</b></p> <p>1. The Prosecutor-General’s Office of Ukraine shall make requests for international legal assistance in criminal proceedings during a pre-trial investigation and consider similar requests from foreign competent authorities.</p> <p>2. The Ministry of Justice of Ukraine shall refer requests from courts for international legal assistance in criminal proceedings during a court trial and consider similar requests from courts in foreign states.</p> <p>3. Where this Code or an effective international treaty of Ukraine prescribes a different procedure for relations, powers specified in paragraphs one and two of this Article shall extend to the body specified in those legislative acts.</p>	<p><b>Article 545. Central authority of Ukraine</b></p> <p>1. The Prosecutor-General’s Office of Ukraine shall make requests for international legal assistance in criminal proceedings during a pre-trial investigation and consider similar requests from foreign competent authorities, <b>except for pre-trial investigation of criminal offenses referred to the investigative jurisdiction of the National Bureau for Anti-Corruption Investigations which performs functions of the central authority in such cases.</b></p> <p>2. The Ministry of Justice of Ukraine shall refer requests from courts for international legal assistance in criminal proceedings during a court trial and consider similar requests from courts in foreign states.</p> <p>3. Where this Code or an effective international treaty of Ukraine prescribes a different procedure for relations, powers specified in paragraphs one and two of this Article shall extend to the body specified in those legislative acts.</p>
<p><b>Section X. Final Provisions</b></p>	<p><b>Section X. Final Provisions</b></p>

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<p>1. This Code shall enter into force after six months from the date of its promulgation except for:          provisions that refer to criminal proceedings concerning criminal offences, which shall enter into force simultaneously with the entry into force of the Law of Ukraine on criminal misdemeanors;          Part 1 (as far as provisions regarding powers for pre-trial investigation of crimes contemplated by Articles 402 - 421 and 423 – 435 of the Criminal Code of Ukraine are concerned) and Part Four Article 216 of this Code, which shall enter into force from the day the State Bureau of Investigations of Ukraine begins its operations, but not later than within five years after this Code has entered into force;          ...</p>	<p>1. This Code shall enter into force after six months from the date of its promulgation except for:          provisions that refer to criminal proceedings concerning criminal offences, which shall enter into force simultaneously with the entry into force of the Law of Ukraine on criminal misdemeanors;  <b>Paragraph 4 of Article 216 of this Code, which shall enter into force from the day the National Bureau for Anti-Corruption Investigations begins its operations, but not later than within three years after this Code has entered into force;</b>          ...</p>
<p style="text-align: center;"><b>Section XI. Transitional Provisions</b></p> <p>1. Before the day of entry into force of provisions of Part 1 (as far as powers of pre-trial investigation of the crimes contemplated by articles 402 - 421, 423 – 435 of the Criminal Code of Ukraine are concerned) and Part Four of Article 216 of this Code, powers of pre-trial investigation of the criminal offences specified in such provisions shall be exercised by investigators of prosecutor’s offices, which enjoy the powers of the investigators as established by this Code.          After the day of entry into force of provisions of Part One (as far as provisions regarding powers of pre-trial investigation of crimes contemplated by Articles 402 - 421, 423 – 435 of the Criminal Code of Ukraine) and Part Four of Article 216 of this Code, materials of criminal proceedings, the pre-trial investigation of which is conducted by public prosecutors’ offices, shall be transferred by investigators of public prosecutors’ offices to appropriate pre-trial investigation bodies with consideration of the investigative jurisdiction determined by this Code. ...</p>	<p style="text-align: center;"><b>Section XI. Transitional Provisions</b></p> <p><b>1. Before the day of entry into force of Paragraph 4 of Article 216 of this Code, powers of pre-trial investigation of the criminal offences specified in its respective provisions shall be exercised by investigators of prosecutor’s offices, which enjoy the powers of the investigators as established by this Code.</b>  <b>After the day of entry into force of provisions of Paragraph 4 of Article 216 of this Code, materials of criminal proceedings, the pre-trial investigation of which is conducted by public prosecutors’ offices, shall be transferred by investigators of public prosecutors’ offices to the National Bureau for Anti-Corruption Investigations.</b></p>
<p><b>Law of Ukraine “On Public Prosecution”</b></p>	

<p><i>Absent</i></p>	<p><b>Article 17-1. Prosecutors of the National Bureau for Anti-Corruption Investigations</b>                  Upon decision of the Prosecutor General of Ukraine prosecutors are seconded to the National Bureau for Anti-Corruption Investigations to perform supervision of laws during pre-trial investigation carried out by investigators of the National Bureau for Anti-Corruption Investigations.                  Prosecutors who are seconded to the National Bureau for Anti-Corruption Investigations remain employed by the prosecution bodies.                  The number of prosecutors seconded to the National Bureau for Anti-Corruption Investigations is determined by the Prosecutor General of Ukraine upon approval by the Director of the National Bureau for Anti-Corruption Investigations.                  Prosecutors seconded to the National Bureau for Anti-Corruption Investigations are subordinated directly to the Prosecutor General of Ukraine.</p>
<p><b>Law of Ukraine “On Operative-Detective Activity”</b></p>	
<p><b>Part one of the Article 5</b>                  The operative-detective activity is carried out by operative units of:                  ...</p>	<p><b>Part one of the Article 5</b>                  The operative-detective activity is carried out by operative units of:                  ...  <b>the National Bureau for Anti-Corruption Investigations – by operative, operative and technical, internal control units</b></p>
<p><b>Article 9. Guarantees of legality during the operative-detective activity</b>                  In each case of availability of grounds for conducting operative-detective activity an operative-detective case [file] shall be opened. The decision about opening such a case is subject to approval by head of the internal affairs body, Security Service, State Border Protection Service of Ukraine, Guard Service for the high ranked officials, Service of foreign intelligence of Ukraine, of operative units of tax militia, sentence execution authorities, intelligence agency of the Ministry of Defence of Ukraine, of intelligence agency of the specially authorized central organ of executive authority on state border protection or his authorized deputy.</p>	<p><b>Article 9. Guarantees of legality during the operative-detective activity</b>                  In each case of availability of grounds for conducting operative-detective activity an operative-detective case [file] shall be opened. The decision about opening such a case is subject to approval by head of the internal affairs body, Security Service, State Border Protection Service of Ukraine, Guard Service for the high ranked officials, Service of foreign intelligence of Ukraine, of operative units of tax militia, sentence execution authorities, intelligence agency of the Ministry of Defence of Ukraine, of intelligence agency of the specially authorized central organ of executive authority on state border protection, <b>of a unit of the National Bureau for Anti-Corruption Investigations</b> or his</p>

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<p>The control over operative-detective activity is carried out by the Ministry of Internal Affairs of Ukraine, Security Service of Ukraine, Service of foreign intelligence of Ukraine, by the specially authorized central organ of executive authority on state border protection, by State guard service of Ukraine, by the State tax administration of Ukraine, by the State department of Ukraine on execution of sentences, by the intelligence agency of the Ministry of Defence of Ukraine.</p> <p>...</p> <p>In cases of violation of human rights and freedoms or rights and freedoms of legal entities in the process of the operative-detective activity as well as in case when involvement of a person being subject of the operative-detective measures, was not confirmed, Security Service of Ukraine, Ministry of Internal Affairs of Ukraine, specially authorized central organ of executive authority on state border protection, of State guard service of Ukraine, State tax administration of Ukraine, State department of Ukraine on execution of sentences or intelligence agency of the Ministry of Defence of Ukraine, intelligence agency of the specially authorized central organ of executive authority on state border protection, Service of foreign intelligence of Ukraine are obliged forthwith to restore the violated rights and reimburse caused material and moral losses in full.</p> <p>...</p>	<p>authorized deputy.</p> <p>The control over operative-detective activity is carried out by the Ministry of Internal Affairs of Ukraine, Security Service of Ukraine, Service of foreign intelligence of Ukraine, by the specially authorized central organ of executive authority on state border protection, by State guard service of Ukraine, by the State tax administration of Ukraine, by the State department of Ukraine on execution of sentences, by the intelligence agency of the Ministry of Defence of Ukraine, <b>by the National Bureau for Anti-Corruption Investigations</b>.</p> <p>...</p> <p>In cases of violation of human rights and freedoms or rights and freedoms of legal entities in the process of the operative-detective activity as well as in case when involvement of a person being subject of the operative-detective measures, was not confirmed, Security Service of Ukraine, Ministry of Internal Affairs of Ukraine, specially authorized central organ of executive authority on state border protection, of State guard service of Ukraine, State tax administration of Ukraine, State department of Ukraine on execution of sentences or intelligence agency of the Ministry of Defence of Ukraine, intelligence agency of the specially authorized central organ of executive authority on state border protection, Service of foreign intelligence of Ukraine, <b>the National Bureau for Anti-Corruption Investigations</b> are obliged forthwith to restore the violated rights and reimburse caused material and moral losses in full.</p>
<p><b>Article 9-1. Terms for proceedings based on operative-detective cases</b></p> <p>...</p> <p>If there is information obtained during operative-detective activity about participation of a person in preparation or commission of a serious crime or an especially serious crime the term for keeping the operative-detective case open can be extended up to 12 months by the heads of main, independent departments of the Ministry of Internal Affairs of Ukraine, Central department of the Security Service of Ukraine, main departments, departments of the Ministry of Internal Affairs of Ukraine and tax militia of the State tax administration of Ukraine in the</p>	<p><b>Article 9-1. Terms for proceedings based on operative-detective cases</b></p> <p>...</p> <p>If there is information obtained during operative-detective activity about participation of a person in preparation or commission of a serious crime or an especially serious crime the term for keeping the operative-detective case open can be extended up to 12 months by the heads of main, independent departments of the Ministry of Internal Affairs of Ukraine, Central department of the Security Service of Ukraine, main departments, departments of the Ministry of Internal Affairs of Ukraine and tax militia of the State tax administration of Ukraine in the</p>



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Autonomous Republic Crimea, regions, cities of Kyiv and Sevastopol, regional organs and organs of military counter-intelligence of the Security Service of Ukraine, of intelligence agency of the specially authorized central bodies of executive authority on state border protection, of territorial bodies of the specially authorized central body of executive authority on state border protection, by Head of the State Border Protection Service of Ukraine, by Head of the Service of foreign intelligence of Ukraine, chief of the intelligence agency of the Ministry of Defence of Ukraine or their deputies upon approval by the Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, regions', cities of Kyiv and Sevastopol and equivalent prosecutors and their deputies. An operative-detective case (file), in framework of which operative measures stipulated by the Part Four of Article 8 of this Law and paragraph 6 of Part Two of Article 7 of the Law of Ukraine "On the counter-intelligence activity" are carried out, shall be prolonged without approval of the prosecutor.

Further extension of the operative-detective case, but not more than for 18 months, can be effected by the Minister for Internal Affairs of Ukraine, Head of the Security Service of Ukraine, Head of central executive authority responsible for shaping and implementing the national tax and customs policy, Head of the State Border Protection Service of Ukraine, Head of the Service of foreign intelligence of Ukraine, chief of intelligence agency of the Ministry of Defence of Ukraine and chief of the State Guard Service of Ukraine upon approval by the Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, regions', cities of Kyiv and Sevastopol and equivalent prosecutors and their deputies. An operative-detective case (file), in framework of which operative measures stipulated by the Part Four of Article 8 of this Law and paragraph 6 of Part Two of Article 7 of the Law of Ukraine "On the counter-intelligence activity" are carried out, shall be prolonged without approval of the prosecutor.

...

Autonomous Republic Crimea, regions, cities of Kyiv and Sevastopol, regional organs and organs of military counter-intelligence of the Security Service of Ukraine, of intelligence agency of the specially authorized central bodies of executive authority on state border protection, of territorial bodies of the specially authorized central body of executive authority on state border protection, by Head of the State Border Protection Service of Ukraine, by Head of the Service of foreign intelligence of Ukraine, **by Director of the National Bureau for Anti-Corruption Investigations**, chief of the intelligence agency of the Ministry of Defence of Ukraine or their deputies upon approval by the Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, regions', cities of Kyiv and Sevastopol and equivalent prosecutors and their deputies. An operative-detective case (file), in framework of which operative measures stipulated by the Part Four of Article 8 of this Law and paragraph 6 of Part Two of Article 7 of the Law of Ukraine "On the counter-intelligence activity" are carried out, shall be prolonged without approval of the prosecutor.

Further extension of the operative-detective case, but not more than for 18 months, can be effected by the Minister for Internal Affairs of Ukraine, Head of the Security Service of Ukraine, Head of central executive authority responsible for shaping and implementing the national tax and customs policy, Head of the State Border Protection Service of Ukraine, Head of the Service of foreign intelligence of Ukraine, **Director of the National Bureau for Anti-Corruption Investigations**, chief of intelligence agency of the Ministry of Defence of Ukraine and chief of the State Guard Service of Ukraine upon approval by the Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, regions', cities of Kyiv and Sevastopol and equivalent prosecutors and their deputies. An operative-detective case (file), in framework of which operative measures stipulated by the Part Four of Article 8 of this Law and paragraph 6 of Part Two of Article 7 of the Law of Ukraine "On the counter-intelligence activity" are carried out, shall be prolonged without approval of the prosecutor.

...

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<b>Law of Ukraine “On Preliminary Detention”</b>	
<p><b><u>Article 8, Part Two</u></b></p> <p>Detained persons are placed in cells in compliance with the following isolation requirements:</p> <p>...</p> <p>detained members of the staff of the intelligence bodies of Ukraine – separately from other persons in detention;</p> <p>...</p> <p>persons who previously worked in the bodies of interior, Military Service of Order in the Armed Forces of Ukraine, Security Service, prosecution, justice authorities, the State Penitentiary Service of Ukraine and courts – separately from other persons in detention;</p> <p>...</p>	<p><b><u>Article 8, Part Two</u></b></p> <p>Detained persons are placed in cells in compliance with the following isolation requirements:</p> <p>...</p> <p>detained members of the staff of the intelligence bodies of Ukraine <b>and employees of the National Bureau for Anti-Corruption Investigations</b> – separately from other persons in detention;</p> <p>...</p> <p>persons who previously worked in the bodies of interior, Military Service of Order in the Armed Forces of Ukraine, Security Service, prosecution, justice authorities, <b>the National Bureau for Anti-Corruption Investigations</b>, the State Penitentiary Service of Ukraine and courts – separately from other persons in detention;</p> <p>...</p>
<b>Law of Ukraine “On Civil Service”</b>	
<p><b><u>Article 9, Part Two</u></b></p> <p>Regulation of the legal status of civil servants who work in the prosecution bodies, courts, diplomatic service, customs bodies, security service, interior bodies and others shall be carried out according to this Law, unless otherwise provided for in laws of Ukraine.</p>	<p><b><u>Article 9, Part Two</u></b></p> <p>Regulation of the legal status of civil servants who work in the prosecution bodies, courts, diplomatic service, customs bodies, security service, interior bodies, <b>the National Bureau for Anti-Corruption Investigations</b> and others shall be carried out according to this Law, unless otherwise provided for in laws of Ukraine.</p>
<b>Law of Ukraine “On the Protection of Participants of Criminal Trial”</b>	
<p><b><u>Article 3, Part Three</u></b></p> <p>3. Protection measures are carried out, according to the investigative jurisdiction, by the bodies of the security service or of the interior, in whose structure special units shall be established for this purpose. Protection of persons related to criminal cases that are being dealt with by the prosecutor’s office or court shall be carried out, according to the decision of the latter, by the bodies of the security service, of interior or authorities and bodies for execution of sentences and remand prisons.</p>	<p><b><u>Article 3, Part Three</u></b></p> <p>3. Protection measures are carried out, according to the investigative jurisdiction, by the bodies of the security service, of the interior <b>or of the National Bureau for Anti-Corruption Investigations</b>, in whose structure special units shall be established for this purpose. Protection of persons related to criminal cases that are being dealt with by the prosecutor’s office or court shall be carried out, according to the decision of the latter, by the bodies of the security service, of interior, <b>of the National Bureau for Anti-Corruption Investigations</b></p>

...	or authorities and bodies for execution of sentences and remand prisons. ...
<b>Law of Ukraine “On the State Protection of the Staff of Courts and Law Enforcement Agencies”</b>	
<p><b>Article 2. Main Terms.</b> <b>Subparagraph 1 of Paragraph 1 of the Part One</b></p> <p>1. Law enforcement agencies – bodies of the prosecution, interior, security service, Military Service of Order in the Armed Forces of Ukraine, customs bodies, bodies of protection of the state border, revenue and duties bodies, bodies and institutions of the execution of punishments, remand prisons, bodies of the state financial control, bodies for protection of fish resources, protection of woods, and other bodies that carry out law enforcement or law protection functions.</p>	<p><b>Article 2. Main Terms.</b> <b>Subparagraph 1 of Paragraph 1 of the Part One</b></p> <p>1. Law enforcement agencies – bodies of the prosecution, interior, security service, Military Service of Order in the Armed Forces of Ukraine, <b>the National Bureau for Anti-Corruption Investigations</b>, customs bodies, bodies of protection of the state border, revenue and duties bodies, bodies and institutions of the execution of punishments, remand prisons, bodies of the state financial control, bodies for protection of fish resources, protection of woods, and other bodies that carry out law enforcement or law protection functions.</p>
<p><b>Article 14. Bodies that decide on taking special measures for ensuring security</b></p> <p>Decision to take special measure for ensuring security shall be made by ...</p>	<p><b>Article 14. Bodies that decide on taking special measures for ensuring security</b></p> <p>Decision to take special measure for ensuring security shall be made by <b>h) the Director of the National Bureau for Anti-Corruption Investigations, heads of its territorial branches – on protection of subordinate employees of the National Bureau for Anti-Corruption Investigations, as well as their close relatives.</b> ...</p>
<p><b>Article 15. Bodies that carry out protection measures</b> <b>Part One.</b></p> <p>1. Special protection measures to ensure security of the staff of courts and law enforcement bodies and their close relatives shall be carried out by: ... For this purpose the mentioned bodies shall establish special units in their structure.</p>	<p><b>Article 15. Bodies that carry out protection measures</b> <b>Part One.</b></p> <p>1. Special protection measures to ensure security of the staff of courts and law enforcement bodies and their close relatives shall be carried out by: ... <b>f) concerning employees of the National Bureau for Anti-Corruption Investigations and their close relatives – by relevant units of the National Bureau for Anti-Corruption Investigations.</b> For this purpose the mentioned bodies shall establish special units in their structure.</p>

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<b>Law of Ukraine “On the Procedure for Compensation of Damage Caused to Citizen by Illegal Actions of Pre-trial Investigation Bodies, Bodies of Prosecution and Courts”</b>	
<p><b>Article 15</b></p> <p>Restoration of service, pension, residential, and other personal and property rights and compensation of other damages caused to military servicemen of the Armed Forces of Ukraine, State Border Protection Service of Ukraine, other military formations created according to the legislation of Ukraine, State Transport Special Service, as well as to persons of commandment and soldier level of the bodies of interior of Ukraine and State Penitentiary Service of Ukraine shall be carried out according to rules established by this Law.</p>	<p><b>Article 15</b></p> <p>Restoration of service, pension, residential, and other personal and property rights and compensation of other damages caused to military servicemen of the Armed Forces of Ukraine, State Border Protection Service of Ukraine, other military formations created according to the legislation of Ukraine, State Transport Special Service, as well as to persons of commandment and soldier level of the bodies of interior of Ukraine and State Penitentiary Service of Ukraine, <b>employees of the National Bureau for Anti-Corruption Investigations</b> shall be carried out according to rules established by this Law.</p>
<b>Law of Ukraine “On Banks and Banking Activity”</b>	
<p><b>Article 62. Procedure for accessing bank secrets</b></p> <p>Access to information concerning natural and legal persons that contains bank secret shall be provided by banks:</p> <ol style="list-style-type: none"> <li>1) upon written request or written authorisation of the owner of such information;</li> <li>2) upon written order of court or according to the court decision;’</li> <li>3) to the bodies of prosecution, Security Service of Ukraine, Ministry of Interior of Ukraine, Antimonopoly Committee of Ukraine – upon their written order concerning operations on the accounts of a specific legal person or a private entrepreneur for specific period of time;</li> </ol> <p>...</p>	<p><b>Article 62. Procedure for accessing bank secrets</b></p> <p>Access to information concerning natural and legal persons that contains bank secret shall be provided by banks:</p> <ol style="list-style-type: none"> <li>1) upon written request or written authorisation of the owner of such information;</li> <li>2) upon written order of court or according to the court decision;’</li> <li>3) to the bodies of prosecution, Security Service of Ukraine, Ministry of Interior of Ukraine, <b>National Bureau for Anti-Corruption Investigations</b>, Antimonopoly Committee of Ukraine – upon their written order concerning operations on the accounts of a specific legal person or a private entrepreneur for specific period of time;</li> </ol> <p>...</p>
<b>Law of Ukraine “On the Central Bodies of the Executive Power”</b>	
<p><b>Article 24.</b></p> <p>...</p> <p>4. Provisions of this Law cover Antimonopoly Committee, State Property Fund, State Committee on TV and Radio, other central bodies of the executive</p>	<p><b>Article 24.</b></p> <p>...</p> <p>4. Provisions of this Law cover Antimonopoly Committee, State Property Fund, State Committee on TV and Radio, <b>the National Bureau for Anti-</b></p>

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<p>power with a special status set up by the Cabinet of Ministers of Ukraine, except when the Constitution or laws of Ukraine determine other peculiarities of their organisation and functioning.</p>	<p><b>Corruption Investigations</b>, other central bodies of the executive power with a special status set up by the Cabinet of Ministers of Ukraine, except when the Constitution or laws of Ukraine determine other peculiarities of their organisation and functioning.</p>
<p><b>Law of Ukraine “On Principles of Preventing and Counteracting Corruption”</b></p>	
<p><b>Article 5, Part Five</b>                      5. Specially authorized subjects within their competence directly carry out measures to detect, suppress or investigate corruption offenses (hereinafter – specially authorized subjects in the area of countering corruption).                      Specially authorized subjects in the area of countering corruption are <b>prosecution bodies</b>, special units on the fight against organized crime of the Ministry of Interior of Ukraine, units on the fight against corruption and organised crime of the Security Service of Ukraine, if not provided otherwise by law.                      Prosecutor General of Ukraine and prosecutors subordinated to him shall carry out within their powers determined by law the coordination of activity of law enforcement agencies on the issues of countering corruption.</p>	<p><b>Article 5, Part Five</b>                      5. Specially authorized subjects within their competence directly carry out measures to detect, suppress or investigate corruption offenses (hereinafter – specially authorized subjects in the area of countering corruption).                      Specially authorized subjects in the area of countering corruption are: <b>the National Bureau for Anti-Corruption Investigations</b>, special units on the fight against organized crime of the Ministry of Interior of Ukraine, units on the fight against corruption and organised crime of the Security Service of Ukraine, if not provided otherwise by law.                      Prosecutor General of Ukraine and prosecutors subordinated to him shall carry out within their powers determined by law the coordination of activity of law enforcement agencies on the issues of countering corruption.</p>

**People’s Deputies of Ukraine**

V.V. Chumak

V.A. Kovalchuk

S.V. Sobolev

L.Y. Orobets

M.Y. Holovko

A.M. Mischenko

O.S. Doniy

# **ANNEX 2: Draft “Law of Ukraine on National Anticorruption Service” and related amendments**

**DRAFT**

**Introduced by the People’s Deputy of Ukraine**

**(Identification Card no. )**

## **LAW OF UKRAINE**

### **On National Anticorruption Service**

This Law sets forth the status, legal and organizational principles of operation of the National Anticorruption Service, functions, rights and duties of its divisions and employees.

#### **SECTION 1. GENERAL PROVISIONS**

##### **Article 1. National Anticorruption Service**

The National Anticorruption Service is a body the operation of which is aimed at combatting corruption, corrupt practices and criminal acts committed by the persons authorized to perform the functions of the State or local self-government and posing special social danger and threat to the national security of Ukraine or violating the constitutional rights and legal interests of the Ukrainian nationals.

##### **Article 2. Major Principles of Operation of the National Anticorruption Service**

The operation of the National Anticorruption Service is based on the principles of legality, respect to the rights and dignity of a person, nonpartisan position, independence and responsibility before the Ukrainian people.

The National Anticorruption Service is established and operates as an independent body to perform preliminary investigation and investigation into the cases falling within its investigative jurisdiction. The National Anticorruption Service is subordinated to the President of Ukraine and reports to National Security and Defense Council of Ukraine.

No government authority, local self-government body or official may influence operations of the National Anticorruption Service.

Any interference into operations of the National Anticorruption Service, in particular in the form of directions, instructions, inspections, obtaining on demand documents etc. is an offence entailing the responsibility as prescribed by the applicable Ukrainian laws.

Article 3. Objectives of the National Anticorruption Service

The objectives of the National Anticorruption Service include:

- 1) Manage and implement systematic counteraction to the corruption of officials and officers, when their corrupt practices pose special threat to public and national security of Ukraine;
- 2) Prevent, discover, discontinue and disclose corrupt practices of the officers appointed to positions of responsibility and special responsibility as pursuant to Article 11 of this Law;
- 3) Implement operative investigative measures, carry out preliminary investigation and pre-trial investigation into the cases dealing with the acts having the characteristics of criminal act, and falling under law into investigative jurisdiction of the National Anticorruption Service;
- 4) Carry out information and analytic work and monitoring to discover and remove the causes and conditions giving rise to the corruption; develop proposals and recommendations to increase the efficiency of the counteraction to the corruption;
- 5) Support within the framework of applicable laws to government control over the utilization of the funds obtained as international financial aid and funding;
- 6) Ensure protection against illegitimate intrusion of the participants to criminal and legal proceedings in respect of the criminal cases falling within its investigative authority;
- 7) Manage international cooperation and interaction in the area of counteraction to the corruption;
- 8) Ensure return to the State of the property and funds lost as a result of corruption and relevant criminal acts and efficient application of financial sanction on the persons guilty of the above criminal acts, in particular assist in the seizure and special-purpose seizure of the property under the procedure prescribed by Ukrainian laws;

Article 4. Duties of the National Anticorruption Service

The National Anticorruption Service is obligated to:

- 1) Counteract systematically to the corrupt practices posing special threat to public and committed by the persons listed in Article 11 of this Law, prevent such wrongful acts, discover and discontinue thereof in timely manner;
- 2) Exercise control over the compliance with the legal restraints established for the persons set forth in Article 11 of this Law;
- 3) Exercise control over the implementation of financial aid projects of international organizations and institutions of foreign states;
- 4) Within the limits of its competence, investigate into the complaints and applications lodged by individuals and legal entities, carry out inspections initiated by the President of Ukraine, the Prime Minister of Ukraine, Prosecutor General of Ukraine, the Secretary of the National Security and Defense Council of Ukraine;
- 5) Analyze and generalize the practices of the government institutions connected with counteraction to the corruption;
- 6) Analyze and generalize experience of other states connected with counteraction to the corruption;

7) Carry out public opinion research.

Article 5. Principles applied to organization and operation of the National Anticorruption Service

Principles applied to organization and operations of the National Anticorruption Service are as follows:

- Rule of law;
- Legality;
- Equality of the Ukrainian nationals before the law;
- Protection of rights and legal interests of the Ukrainian nationals, their honor and dignity;
- Combination of openness and secrecy of its operations;
- Unavoidability of punishment;
- Centralization and single authority (one-man-management);
- Limited submission to control and accountability;
- Nonpartisan nature;
- Independence;
- Adequacy of the measures taken to protect the interests of the State to actual and potential threats;
- Compliance with the requirements to protect confidentiality and state secrets under the procedure prescribed by law.

Article 6. Legal Basis for Operations of the National Anticorruption Service

The legal basis for operations of the National Anticorruption Service is as follows: the Constitution of Ukraine, this Law, the Law of Ukraine “On National Security and Defense Council of Ukraine”, the Criminal Code of Ukraine, the Criminal Procedural Code of Ukraine, the Laws of Ukraine “On fundamentals of national security of Ukraine”, “On operative investigation activities”, “On organizational and legal basis to combat organized crime”, “On basis for prevention and counteraction to the corruption”, “On civil service”, the Regulations for National Anticorruption Service and other legislative acts.

The Regulations for National Anticorruption Service is developed by the National Security and Defense Council and approved with Decree of the President of Ukraine.

Article 7. Interaction between the National Anticorruption Service and Government Authorities, Local Self-Government Bodies, Enterprises, Institutions and Organizations, Officials, Ukrainian Nationals and their Associations

In order to implement its mission and duties the National Anticorruption Service interacts with the Security Service of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Defense of Ukraine, Department of State Security of Ukraine, other government authorities and local self-government bodies, enterprises, institutions and organizations, officials, Ukrainian nationals and their associations under the procedure and on the basis as stipulated in this Law and other Ukrainian laws, decrees of the President of Ukraine and other Ukrainian regulatory acts.



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Relevant officials of the National Anticorruption Service have the right to give binding instructions to Ukrainian law enforcement bodies, establish working groups with engagement in such groups of the officers of the law enforcement bodies and the prosecutors' offices and also the specialists and experts from other institutions and organizations.

In order to implement its mission the National Anticorruption Service may engage for the cooperation on paid and free basis the Ukrainian nationals, foreigners and stateless persons subject to their agreement as under the procedure prescribed by the Ukrainian laws. The Regulations of the National Anticorruption Service may provide for other types of material compensation facilitating the disclosure of corrupt practices.

### Article 8. International Cooperation of the National Anticorruption Service and Activities outside Ukraine

In order to ensure the efficiency of its operations, unavailability of punishment and to return to the State the property and funds lost as a result of corrupt practices and apply the financial sanctions under law to the persons guilty of criminal acts falling within its investigative jurisdiction the National Anticorruption Service cooperates and interacts with relevant bodies of other states, international organizations, non-government organizations, associations and institutions.

On behalf of Ukraine the National Anticorruption Service may deliver international instructions to perform operative investigative and investigatory actions, enter into cooperation agreements within the limits of its authority with foreign and international law enforcement bodies and organizations, deliver requests on behalf of Ukraine to foreign government authorities under the procedure prescribed by Ukrainian laws and law of relevant states etc.

The National Anticorruption Service may establish and participate in international investigation groups under this Law and other international agreements Ukraine is the party to, engage for work foreign experts in combat with the corruption, have other powers relevant to its duties.

### Article 9. Nonpartisan Nature of the National Anticorruption Service

It is prohibited to use the National Anticorruption Service in the interests of a political party, group or person.

For the period in office or work under contract the membership of employees of the National Anticorruption Service in political parties shall be suspended.

### Article 10. Right of Ukrainian Nationals to Obtain Information about Activities of the National Anticorruption Service

Through mass media and in other forms under the procedure stipulated by law the Ukrainian nationals are apprised of operations of the National Anticorruption Service.

It is prohibited to impose restrictions on the information about the total budget of the National Anticorruption Service, its competence and principle lines of its activities, statistics on the criminal acts, where the investigation thereof has been finished, and the offenders brought to responsibility under the procedure prescribed by Ukrainian laws for criminal acts falling within the investigative jurisdiction of the

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National Anticorruption Service.

It is prohibited to conceal the information about the illegal actions of the bodies and employees of the National Anticorruption Service.

Not to be made public: the information having the characteristics of state secrets, banking secrets, military secrets, official secrets and commercial secrets and the confidential information, where disclosure thereof may cause harm to Ukraine's national security, honor and dignity of a person or violate such person's legitimate rights, save for the instances stipulated in the Ukrainian laws and in the interests of justice.

Article 11. Corrupt Practices Posing Special Threat to Public and Criminal Offences Corresponding to such Practices

The corrupt practices posing special threat to public are the socially dangerous acts, where the responsibility for such acts is established under Articles 157, 158, 159-1, 190, 191, 201, 209, 210, 211, 212, 212-2, 222, 222-1, 233, 255, 255-1, 256, 258-3, 258-5, 294, 305, 328, 330, 332, 343, 344, 354, 355, 357, 361, 364, 365, 368, 368-2, 369-2, 371, 372, 387, 388 of the Criminal Code of Ukraine, committed individually or together with other persons of following description:

1) The officials holding positions of responsibility when their positions under the Law of Ukraine "On civil service" fall within the positions of civil service of sub-groups I-4, II-2, II-3, II-4, III-1, III-2, III-3, III-4, judges, prosecutors and investigators, chief executives and deputy chief executives of local self-government bodies, structural subdivisions and units thereof, managers and deputy managers of the state owned enterprises, irrespective of the share the State holds in such enterprises.

2) The officials holding positions of special responsibility are the President of Ukraine, the members of the Cabinet of Ministers of Ukraine, the Prime Minister of Ukraine, the Vice Prime Minister of Ukraine, first deputies and deputies of ministers, Chairman of the Verkhovna Rada of Ukraine (*the Parliament*), his first deputy and deputy, the Prosecutor General of Ukraine, his first deputy and deputies, officers of prosecutor offices assigned with class rankings, the Chairman of the Constitutional Court of Ukraine, his deputies and judges of the Constitutional Court of Ukraine, the Chairman of the Supreme Court of Ukraine, his first deputy, deputies and judges of the Supreme Court of Ukraine, chairmen of higher specialized courts, their deputies and judges of the higher specialized courts, the Governor of the National Bank of Ukraine, his first deputy and deputies, the members of the National Security and Defense Council of Ukraine, people's deputies of Ukraine; the persons holding the positions that under the Law of Ukraine "On civil service" fall within the positions of civil service of sub-groups I-1, I-2, I-3 and II-1; the persons holding the positions that under Article 14 of the Law of Ukraine "On service in local self-government bodies" fall within the first and second categories of positions in local self-government bodies.

The corrupt practices posing special threat to public under this Law are the use by the officials listed in paragraphs 1 and 2 of this Article their official duties and related abilities to obtain illegitimate benefits, preferences, advantages and privileges for themselves or other individuals or legal entities, and also induce or force for such purposes other officials of government authorities and self-government bodies,

prosecutor offices and court to illegitimately use their official authorities and abilities connected therewith. The corrupt practices posing special threat to public are also socially dangerous acts resulting in damage for the state, in particular through the implementation of corrupt schemes and establishment of criminal corrupt organizations if such auctions involve the officials listed in paragraphs 1 and 2 of this Article.

The corrupt practices, posing special threat to public are dangerous to the national security and violate the constitutional rights and legitimate interests of the Ukrainian nationals.

#### Article 12. Investigative Jurisdiction of the National Anticorruption Service

The criminal acts set forth in Article 11 of this Law fall within the investigative jurisdiction of the National Anticorruption Service. Preliminary investigation and investigation into such criminal acts is effectuated on the conditions stipulated in this Article.

If during the preliminary investigation, pre-trial investigation or inspection, the official of any law enforcement body detects the characteristics of the criminal acts set forth in Article 11 of this Law, such official must immediately give notice thereof to the National Anticorruption Service.

Within 10 days following the delivery of the above notice, the National Anticorruption Service subject to the approval of the prosecutor on secondment is to make one of the decisions as follows:

- 1) Open the exclusive proceedings in respect of the operative investigative or criminal case;
- 2) Open the proceedings in respect of the operative investigative or criminal case with temporary engagement of the officials, who previously started the preliminary investigation, pre-trial investigation or inspection, for further participation in relevant actions;
- 3) Open separate proceedings in respect of the operative investigative or criminal case and accept it for its exclusive proceedings;
- 4) Establish a joint operational group or investigation team in order to investigate into such case or finally determine the investigative jurisdiction;
- 5) Remain the operative investigative or criminal case under the proceedings of the authority that carries out the preliminary investigation, pre-trial investigation or inspection due to lack of investigative authority for such case with the National Anticorruption Service.

In the instances stipulated in paragraphs 1-3 of this Article, the relevant case is to be delivered to the National Anticorruption Service within 3 days.

In the instance stipulated in paragraph 4 of this Article, if the decision is made to accept the case for the proceedings conducted by the National Anticorruption Service, the case is to be delivered within 3 days.

After the criminal case is opened that falls to its investigative jurisdiction, the National Anticorruption Service subject to the approval of the prosecutor on secondment may deliver the case for investigation and transfer to court to other

investigation authority. In doing so, the National Anticorruption Service retains the right of control over the investigation of such cases.

If the criminal acts not falling within the investigative authority of the National Anticorruption Service are those connected with the criminal acts listed in Article 11 of this Law, on condition a separate investigation may not be opened with respect to such cases, all criminal acts are deemed falling within the investigative authority of the National Anticorruption Service.

## **SECTION 2. COMPOSITION, ESTABLISHMENT PROCEDURE AND MANAGEMENT OF ACTIVITIES OF THE NATIONAL ANTICORRUPTION SERVICE**

Article 13. Structure and Number of Staff of the National Anticorruption Service

The National Anticorruption Service consists of the Central Office, the Central Department, the Board, structural subdivisions, paramilitary units, territorial departments and other subdivisions established under the Regulations of National Anticorruption Service.

The National Anticorruption Service exercises its powers through the Central Department in Kyiv covering with its operations Kyiv, Kyivska, Cherkaska and Chernihivska oblasts, and the territorial departments as follows:

- 1) The territorial department located in Lviv covering with its operations Lvivska, Volynska, Zakarpatska, Ivano-Frankivska and Ternopilska oblasts;
- 2) The territorial department located in Khmelnytskyi covering with its operations Khmelnytska, Vinnytska, Zhytomyrska, Rivnenska and Chernivetska oblasts;
- 3) The territorial department located in Mykolaiv covering with its operations Mykolaivska, Kirovohradska and Odeska oblasts;
- 4) The territorial department located in Kherson covering with its operations the Autonomous Republic of Crimea, Sevastopol, Zaporiska and Khersonska oblasts;
- 5) The territorial department located in Poltava and covering with its operations Poltavska, Dnipropetrovska, Sumska and Kharkivska oblasts;
- 6) The territorial department located in Donetsk and covering with its operations Donetska and Luhanska oblasts;

The National Anticorruption Service may establish other territorial departments, and their operations may not concur with the political subdivision in Ukraine.

The National Anticorruption Service consists of operative investigation subdivision, operative technical subdivision, investigative subdivision, analytical subdivision, international cooperation subdivision and other subdivisions.

The maximum number of employees of the National Anticorruption Service is 1200 persons.

The National Anticorruption Service and its departments have the status of legal entities, have their seals featuring the image of the Ukraine's Coat of Arms and

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its name, other seals and stamps, bank accounts in national and foreign currencies.

In order to temporarily keep in detention the persons detained and taken into custody the National Anticorruption Service uses temporary detention facilities on the terms set forth in Ukrainian laws and regulatory acts.

### Article 15. Funding and Logistical Support to Operations of the National Anticorruption Service

The National Anticorruption Service is funded using the funds of the State Budget in accordance with the procurement and inventory objectives stipulated in the Regulations of the National Anticorruption Service.

The Regulations of the National Anticorruption Service may provide for supplementary funding for the Service at the expense of the funds and property returned to the State as a result of operations of the National Anticorruption Service, and also from the funds obtained as an international financial aid.

### Article 16. Chief Executives of the National Anticorruption Service

The operations of the National Anticorruption Service shall be managed by the Director of the National Anticorruption Service.

The Director of the National Anticorruption Service is appointed by the National Security and Defense Council of Ukraine and bears personal responsibility for the fulfilment of the mission assigned under Ukrainian laws on the National Anticorruption Service.

The Director of the National Anticorruption Service is appointed for the period of 5 years.

The person may be appointed as the Director of the National Anticorruption Service if he/she meets the requirements as follows:

- Ukrainian national;
- Diploma of higher education;
- Speak the official language;
- Not having conviction history for the intentional criminal act;
- Not having record of administrative punishments for corruption-related offences;
- Being nonpartisan or giving his/her consent to suspension of the membership in a political party for the period of office of the Director of the National Anticorruption Service;
- Having no limitations for the office of the Director due to his/her state of health;
- His/her reputation and moral qualities meet the requirements for the office of the Director of the National Anticorruption Service and he/she enjoys public support as the person fighting the corruption in Ukraine.

Early termination of the powers of the Director of the National Anticorruption Service is effectuated by the National Security and Defense Council of Ukraine in the instances as follows:

- Termination of Ukrainian citizenship;
- Appointment or election to other positions subject to his/her agreement;

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- Dismissal at his/her own initiative;
- Inability to hold the office due to his/her state of health;
- Violation of the conditions in respect of non-holding of more than one office;
- Coming into legal force a court indictment in respect of the Director;
- Violation of the requirements in respect of the prohibition to be engaged in entrepreneurial activities directly or through agents or nominees;
- Dismissal from the office due to a no-confidence decision of the National Security and Defense Council of Ukraine.

It is prohibited to dismiss from the office the Director of the National Anticorruption Service as a result of the no-confidence decision of the National Security and Defense Council of Ukraine if such dismissal is actually connected with the investigation of the National Anticorruption Service into the cases connected with the President of Ukraine, members of the National Security and Defense Council of Ukraine, their family members, or the individuals or legal entities close to them. The decision to dismiss from the office based on such reasons may be disputed by the Director of the National Anticorruption Service in the Higher Administrative Court of Ukraine.

Deputies of the Director of the National Anticorruption Service are appointed and dismissed from their positions by the Director of the National Anticorruption Service upon approval of the National Security and Defense Council of Ukraine.

### Article 17. Powers of Director of the National Anticorruption Service

The Director of the National Anticorruption Service: National Anticorruption Service:

- 1) Manages operations of the National Anticorruption Service, coordinates and supervises the operations of its structural subdivisions and territorial departments;
- 2) Appoints to the positions and dismisses the heads of the structural subdivisions and territorial departments;
- 3) As pursuant to the Ukrainian laws, sets the procedure for appointment and dismissal of other employees of the National Anticorruption Service;
- 4) Issues within the limits of its authority the orders and instructions binding on the employees of the National Anticorruption Service;
- 5) Convenes and chairs meetings of the Board of the National Anticorruption Service;
- 6) Makes decisions as to the distribution of funds from the state budget and approves the report on the utilization of such funds;
- 7) Considers complaints lodged by individuals and legal entities against actions of the employees of the National Anticorruption Service;
- 8) Takes measures to ensure confidentiality of the information and prevent unauthorized access thereto; gives permission to disclose to employees of the National Anticorruption Service the information containing state secrets and necessary to carry out their preliminary investigations, investigations or inspections;
- 9) Sets the procedure for registration, processing, storage and destruction of the information obtained by the National Anticorruption Service;
- 10) Resolves the issues in respect of the existence of investigative authority in

respect of cases in respect of decision-making;

11) Resolves the issues related to incentives or disciplinary sanctions for the employees of the National Anticorruption Service;

12) Under the established procedure, makes proposals to the President of Ukraine to improve the legislation governing the issues falling within the competence of the National Anticorruption Service;

13) Represents the National Anticorruption Service in its relations with the government authorities, local self-government bodies, political parties and non-government associations, law enforcement bodies in Ukraine and relevant authorities, services, organizations in foreign states;

14) Awards within the limits of his authority and under the procedure prescribed by Ukrainian laws the ranks of civil servants to employees of the National Anticorruption Service;

The Director of the National Anticorruption Service exercises other powers set forth in the Ukrainian laws and Regulations of the National Anticorruption Service.

#### Article 18. Board of National Anticorruption Service

In order to coordinate the resolution of matters falling within the competence of the National Anticorruption Service, the Board is established consisting of the Director, his deputies, heads of the territorial departments and structural subdivisions of the National Anticorruption Service.

The Board has the objectives as follows:

1) Develop and approve the activity plans for the National Anticorruption Service;

2) Consider the issues of cooperation with the authorities, services and organizations of foreign states;

3) Resolve any other issues falling within the competence of the Director.

Decisions of the Board are made at its meetings and introduced under Order of the Director of the National Anticorruption Service.

The board members enter matters into the agenda under the procedure stipulated in the Regulations of the National Anticorruption Service.

#### Article 19. Employees of the National Anticorruption Service

Ukrainian nationals, who by their business and moral qualities, education and professional experience, state of health are capable to exercise relevant official duties, are employed for the service in the National Anticorruption Service based on the results of professional selection.

The employees of the National Anticorruption Service enter into contracts for the period of up to five years with the right to participate in further professional selections for their previous positions on the terms set forth in the Regulations of the National Anticorruption Service.

The persons for the first time employed for the services in the National Anticorruption Service pass the trial period of 6 months. The person who failed to pass the trial period may not have a contract awarded.

When employed the employees of the National Anticorruption Service are awarded with the civil servant rank within the limits of relevant group.

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The employees of the National Anticorruption Service have a service certificate in accordance with the type and form as approved by the National Security and Defense Council of Ukraine.

### Article 20. Restrictions for Employees of the National Anticorruption Service

The employees of the National Anticorruption Service may not: be on services with other law enforcement bodies; be members of political parties; participate in rallies or strikes, engage in entrepreneurial activities directly or through agents or nominees; act as attorneys for third persons in the matters dealt by the state authority the employees are employed with, and also carry out other work as dual jobholders.

The following persons may not be appointed to the position of an employee of the National Anticorruption Service:

- 1) Convicted for intentional criminal act;
- 2) Under court decision deprived of the right to carry out activities connected with the execution of government functions or hold relevant offices;
- 3) Undergone administrative sanction for the corruption-related offences or brought by court to responsibility for the criminal acts connected with official duties or professional duties connected with public services, criminal acts against justice;
- 4) Holding citizenship of other state;
- 5) If appointed will be directly subordinated to the person being close person under the Law of Ukraine "On basis for prevention and counteraction to the corruption";
- 6) Failing to give consent to the regular inspections towards himself/herself for fair practices and monitoring of his/her life style under the procedure stipulated in the Law of Ukraine "On fundamentals for prevention and combat corruption" and the Regulations of the National Anticorruption Service;
- 7) Refusing to terminate his/her membership in a political party;
- 8) Having counter indications based on the state of health against the work in the National Anticorruption Service.

If a conflict of interest arises for an employee of the National Anticorruption Service during his/her execution of the official duties, such employee must immediately notify thereof his/her immediate superior. The superior must take all necessary measures aimed to prevent or eliminate such conflict of interests by way of assignment of the relevant service task to other employee of the National Anticorruption Service, personal fulfilment of such task or otherwise as stipulated by law.

### Article 21. Paramilitary Subdivisions of the National Anticorruption Service

The procedure for conducting military service in the Armed Forces of Ukraine set forth in the Ukrainian laws applies to the employees of the paramilitary units of the National Anticorruption Service.

The employees of paramilitary units of the National Anticorruption Service have a service certificate, standard uniforms approved by the National Security and Defense Council of Ukraine.

### Article 22. Oath of Allegiance of Employees of the National Anticorruption



Service

The persons accepted for the service in the National Anticorruption Service takes the Oath of Allegiance as follows:

"Entering the service in the National Anticorruption Service I take the oath of allegiance to the People of Ukraine. I undertake to strictly comply with the Constitution and Ukrainian laws, combat the corruption in Ukraine as one of the most dangerous criminal acts ruining my State, protect the rights, freedoms and legitimate interests of the Ukrainian nationals irrespective of their ethnic nationality, origin, social status, political and religious beliefs, conscientiously fulfil my duties, be honest and incorruptible. If I breach this oath of allegiance I immediately terminate the service and become liable under the Ukrainian laws".

**SECTION 3 RIGHTS, DUTIES AND RESPONSIBILITY OF EMPLOYEES OF THE NATIONAL ANTICORRUPTION SERVICE**

Article 23. Rights of Employees of the National Anticorruption Service

In order to fulfil the mission assigned to the National Anticorruption Service the employees of the National Anticorruption Service have the right to:

1) Take operative investigation measures engaging operative and technical forces and facilities, interrogate persons subject to their consent, and use voluntary assistance of such persons;

2) Have overt and undercover full-time and part-time employees, use the documents concealing the identity or agency affiliation of the employees, premises and vehicles of the bodies and subdivisions of the National Anticorruption Service;

3) Obtain on demand, collect and investigate documents and data about any individuals and legal entities, institutions and organizations, officials of any government authorities, institutions and local self-government irrespective of their rank, any political parties and non-government associations, and also about the lifestyle of the persons listed in Article 11 of this Law, sources and amounts of their income in order to prevent and discontinue the corrupt practices posing special threat to public;

4) Discover, record and document overtly and covertly the corrupt practices pursued by the persons authorized to exercise functions of the state or local self-government set forth in Article 11 of this Law, keep operative records thereof, perform visual surveillance in public places using photo and video recording, optical and radio equipment and other technical facilities;

5) Carry out special operations and relevant operative and technical measures in order to prevent, timely discover and discontinue the corrupt practices posing special threat to public;

6) Exclusively in order to effectively carry out the proceedings falling within their investigative jurisdiction, participate in the intelligence operations in accordance with the Ukrainian laws;

7) Detain the officials authorized to exercise the functions of the State or local self-government, which have committed or are committing the corrupt practices posing special threat to public under Article 11 of this Law.

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8) At any time have unhampered access to the sites under special regime of security under the procedure prescribed by the Ukrainian laws, enter and stay in the area and premises of any government authorities and structural subdivisions thereof, local self-government bodies, enterprises, institutions and organizations irrespective of their form of ownership.

9) Bring to stop any vehicles irrespective of their status and positions of the persons therein and inspect such vehicles in order to exercise the duties of the State Anticorruption Service. Seize any things and documents in such vehicles on the terms stipulated in the Ukrainian laws.

10) In exercising their official duties freely use communication facilities owned by the enterprises, institutions and organizations, and as for the communication facilities owned by individuals - subject to their consent with further compensation of expenses on their demand;

11) Safe keep, carry and use weapons, special facilities, use physical force in accordance with the Ukrainian laws and other Ukrainian legislative acts, transport the weapons and special facilities in all types of transport vehicles;

12) Deliver to government authorities, local self-government bodies the proposals and recommendations that must be considered in order to eliminate the causes and conditions facilitating the corruption-related offences committed by the persons authorized to exercise functions of the State or of local self-government bodies;

13) In accordance with the procedure as stipulated in the Ukrainian laws discontinue transactions in the bank account, attach the property or funds in the accounts of individuals and legal entities, restrict rights of the persons authorized to exercise the functions of the State and local self-government to dispose the monetary funds kept on their accounts in case there is a well-reasoned suspicion that the said funds and property are used for the corrupt practice posing a special threat, or the income gained as a result of such practice;

14) Seal paper offices, cash-offices, premises (except for the residential premises) or other storage facilities, take thereof for secure keeping, withdraw items and documents, in particular those that may serve as material evidence;

15) Engage on contractual basis qualified specialists and experts to exercise the powers of the National Anticorruption Service;

16) Establish their own information, analytical and recordkeeping databases, have access to the databases kept by the government authorities and law enforcement bodies;

17) Assign their employees or have reserve force officers in the relevant positions in government authorities and executive authorities, law enforcement bodies, the State Security Service of Ukraine, the Ministry of Defense of Ukraine, the Foreign Intelligence Service of Ukraine, courts (except for the judges), the National Bank of Ukraine and local self-government bodies;

18) Through the prosecutors on secondment bring motions to relevant courts to invalidate the agreements executed in violation of the Ukrainian laws;

19) Initiate inspections of government procurement operations and expenses of the funds obtained by Ukraine within the framework of international financial aid and loans;

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20) Have in accordance with the Regulations of National Anticorruption Service other rights as stipulated in the Laws of Ukraine “On militia” and “On State Security Service of Ukraine”.

The employees of the National Anticorruption Service may not exercise their rights for illegal purposes. In case of breach of the above requirement the employees are brought to responsibility under law.

### Article 24. Duties of the National Anticorruption Service and its Employees

The employees of the National Anticorruption Service are obligated to:

1) Protect the rights and legitimate interests of participants to criminal proceedings in criminal cases investigated by the National Anticorruption Service, personal safety of their employees, witnesses and other persons assisting to counteraction the corruption;

2) Ensure compliance with the internal security regime and secrecy of work, confidentiality of information and sources thereof;

3) In accordance with the Law of Ukraine "On state secrets" and other legislative acts take measures to protect the state secrets and confidential information owned by the State;

4) Protect their databases and not to disclose the information obtained using the databases of government authorities, local self-government bodies, law enforcement and other bodies, institutions and organizations;

5) Not to disclose the information that became known during the operative investigative operations, investigation and inspections;

6) Refuse to obey any orders, instructions or directions that contravene to the Ukrainian laws;

7) Comply with the provisions of the Constitution of Ukraine, this Law and other the Ukrainian laws, ensure relevance of the decisions made under petitions and notices and also in criminal cases during the pre-trial investigation.

### Article 25. Responsibility of Employees of the National Anticorruption Service

The employees of the National Anticorruption Service have disciplinary, civil law, administrative or criminal responsibility in respect of their illegitimate actions or omissions in accordance with Ukrainian laws.

If the employees of the National Anticorruption Service has breached (during their official duties) the rights or freedoms of a person, the National Anticorruption Service takes measures within the limits of his authority to restore such rights and freedoms, compensate the material damage and moral harm incurred, bring the offenders to responsibility in accordance with Ukrainian laws.

Conduct of the employees of the National Anticorruption Service, the procedure for official investigation, imposition of the sanctions and provision of incentives are governed by the Regulations of the National Anticorruption Service.

### Article 26. Control and Supervision over Operations of the National Anticorruption Service

The Director of the National Anticorruption Service controls operations of the

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National Anticorruption Service under the procedure prescribed by this Law, the Law of Ukraine “On National Security and Defense Council” and the Regulations of the National Anticorruption Service.

Procurator's supervision over compliance with law during operative investigative activities and pre-trial investigations conducted by the National Anticorruption Service is carried out by the prosecutors on secondment assigned by the General Prosecutor of Ukraine, such prosecutors are assigned to the National Anticorruption Service for the period of 5 years and may not be assigned such secondment for a repeated term. The number of prosecutors on secondment is set forth in the Regulations of the National Anticorruption Service.

The Director of the National Anticorruption Service may without giving any reasons refuse to accept any prosecutor on secondment or stop his/her activities. In such case the said prosecutor is to be replaced within 10 business days. The prosecutors supervising the compliance with law during national anticorruption service's operative investigative activities and pre-trial investigation are not subordinated to the higher-ranking prosecutors under the procedure stipulated in other Ukrainian legislative acts and may not disclose the data that became known to them during their official duties.

The provisions of the Ukrainian laws governing the operations of Ukrainian prosecutor offices apply to the prosecutors on secondment, except for those provisions contrary to this Law and the Regulations of the National Anticorruption Service.

The decisions made by the prosecutors seconded to the National Anticorruption Service may be revoked by the General Prosecutor of Ukraine.

The cases under proceedings in the National Anticorruption Service may not be obtained on demand for inspection or transferred to other preliminary investigation and investigation body.

The General Prosecutor of Ukraine calls back and dismisses from the position of the prosecutors seconded to the National Anticorruption Service.

Article 27. Appealing against actions or omissions of the National Anticorruption Service and the prosecutors on secondment.

Complaints against actions or omissions of employees of the National Anticorruption Service shall be considered by the prosecutors seconded thereto, the Prosecutor General of Ukraine and appellate courts or higher specialized courts according to their jurisdiction.

Complaints against actions or omissions of the prosecutors on secondment shall be considered by the Prosecutor General of Ukraine, appellate courts or higher specialized courts according to their jurisdiction.

### **SECTION 4. GUARANTEES OF ACTIVITIES OF THE NATIONAL ANTICORRUPTION SERVICE AND CONTROL.**

Article 28. Guarantees of independency of the employees of the National Anticorruption Service

The State guarantees the protection of life, health, honor, dignity, dwelling and property of the employees of the National Anticorruption Service while performing

their official duties, provided they act within the scope of their powers.

Resistance, threat, violence and other acts preventing such employees from fulfillment of the tasks assigned to them shall entail the responsibility as prescribed by law.

Criminal proceedings against an employee of the National Anticorruption Service may be instituted only by the Prosecutor General of Ukraine or his deputies according to the procedure set by the law.

Criminal proceedings against the Director of the National Anticorruption Service may be instituted only by the Prosecutor General of Ukraine. The President of Ukraine and the Secretary of the National Security and Defense Council of Ukraine shall be forthwith notified of the criminal proceedings.

Obtaining the necessary permits to tap into telephone conversations, disclose correspondence, including by means of electronic communications, detention, attachment, arrest and the related personal inspection, search and the inspection of things, transport vehicles used by the employees of the National Anticorruption Service, other investigative and search operations with respect to the employees of the National Anticorruption Service shall be conducted only by request of the Prosecutor General of Ukraine or his deputies based on the respective permission of the court of appeal at the location of the Central office, Central or territorial department whose personnel list includes such employee. Similar actions with respect to the Director of the National Anticorruption Service may be carried out solely by request of the Prosecutor General of Ukraine and the permission must be issued by the Kyiv court of appeal.

The above actions may be conducted without court permission only in the event that an employee or the Director of the National Anticorruption Service is detained when committing a criminal offence.

The Director of the National Anticorruption Service or his/her deputies shall be immediately notified of the detainment, attachment, arrest of an employee of the National Anticorruption Service.

#### Article 29. Social protection of employees of the National Anticorruption Service

The State shall provide the social protection for employees of the National Anticorruption Service pursuant to this Law and other legislative acts of Ukraine.

Pensions shall be provided to employees of the National Anticorruption Service pursuant to the Law of Ukraine "On Civil Service".

Life and health of employees of the National Anticorruption Service shall be subject to mandatory state personal insurance from the funds of the State Budget of Ukraine.

In the event of death of an employee of the National Anticorruption Service during the performance of his/her official duties, the family members of the deceased employee or his/her dependents shall be paid a one-time allowance equal to his/her three-year salary for the position then held and a survivor's pension equal to half of the deceased employee's salary shall be awarded.

In case of injury caused to an employee of the National Anticorruption Service during the performance of his/her official duties, as well as disability that occurred during the service or as a result of a disease or an accident that occurred during the service, he/she shall be paid a one-time allowance equal to his/her yearly salary and the disability pension shall be granted to him/her.

Damage caused to property of an employee of the National Anticorruption Service

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or his/her family members in connection with exercise of official duties shall be compensated, and in case of their death it shall be fully compensated to the family members at the expense of the State Budget of Ukraine.

### Article 30. Salary of employees of the National Anticorruption Service

Salaries of employees of the National Anticorruption Service shall ensure sufficient financial means for recruitment and remaining with the National Anticorruption Service of qualified cadre considering the nature, intensiveness and danger of work, promote achievement of high results in official activities, compensate for employees' physical and intellectual endeavors.

Forms, amount and terms of remuneration of employees of the National Anticorruption Service of Ukraine shall be determined by the Regulations of the National Anticorruption Service.

### Article 31. Advanced training of employees of the National Anticorruption Service

In order to advance professional skills of employees of the National Anticorruption Service, the National Anticorruption Service may send them to study at national and foreign educational institutions and training centers.

Employees of the National Anticorruption Service may take part in the respective joint trainings and international seminars.

### Article 32. Interaction between the National Anticorruption Service and the public

The National Anticorruption Service shall interact with the public and public associations of Ukraine whose statutory activities include counteraction to corruption.

For the purposes of such interaction and in order to exercise of public control over the activities of the National Anticorruption Service and assess its effectiveness the permanent Public Council shall be established. The Deputy [Director] of the National Anticorruption Service shall be a member of the Public Council.

The Secretary of the National Security and Defense Council of Ukraine shall take part in the sessions of the Public Council in order to evaluate the effectiveness of the National Anticorruption Service.

The Regulations of the Public Council of the National Anticorruption Service shall be approved by the National Security and Defense Council of Ukraine.

### Article 33. Informing the public about the results of activity of the National Anticorruption Service

The Director of the National Anticorruption Service shall annually inform the public about the results of activity of the National Anticorruption Service through mass media and in other forms.

The Director of the National Anticorruption Service shall be personally liable for timeliness, objectivity and completeness of the provided information.

## **SECTION 5. FINAL AND TRANSITIONAL PROVISIONS**

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1. This Law shall come into force from the date of its publication.
2. Until the Law of Ukraine “On Civil Service in Ukraine” enters into force, paragraphs 1 and 2 of Article 11 of this Law shall apply in the following wording:

“1) The officials holding positions of responsibility when their positions under the Law of Ukraine "On Civil Service" fall within the positions of civil service of the third category, judges, prosecutors and investigators, chief executives and deputy chief executives of local self-government bodies, structural subdivisions and units thereof, managers and deputy managers of the state owned enterprises, irrespective of the share the State holds in such enterprises.

2) The officials holding positions of special responsibility are the President of Ukraine, the members of the Cabinet of Ministers of Ukraine, the Prime Minister of Ukraine, the Vice Prime Minister of Ukraine, first deputies and deputies of ministers of Ukraine, Chairman of the Verkhovna Rada of Ukraine (*the Parliament*), his first deputy and deputy, the Prosecutor General of Ukraine, his first deputy and deputies, officers of prosecutor offices assigned with class rankings, the Chairman of the Constitutional Court of Ukraine, his deputies and judges of the Constitutional Court of Ukraine, the Chairman of the Supreme Court of Ukraine, his first deputy, deputies and judges of the Supreme Court of Ukraine, chairmen of higher specialized courts, their deputies and judges of the higher specialized courts, the Governor of the National Bank of Ukraine, his first deputy and deputies, the members of the National Security and Defense Council of Ukraine, people’s deputies of Ukraine; the persons holding the positions that under the Law of Ukraine "On civil service" fall within the positions of civil service of the first and second categories; the persons holding the positions that under Article 14 of the Law of Ukraine "On service in local self-government bodies" fall within the first and second categories of positions in local self-government bodies.”

3. Until the Law of Ukraine “On Civil Service in Ukraine” takes legal effect, in Article 19 the words “respective group” shall be replaced with the words “the respective categories of positions”.

4. Amend the Law of Ukraine “On National Security and Defense Council of Ukraine” as follows

- Article 3 shall be extended with paragraph 4 as follows:

“coordination and control over the activity of the National Anticorruption Service at any time”.

- Article 4 shall be extended with paragraphs 7, 8, 9, 10 as follows:

“7) elaborates and approves the Regulations of National Anticorruption Service of Ukraine and the Regulations of the Public Council of the National Anticorruption Service;

8) appoints and dismisses the Director of the National Anticorruption Service and approves the appointment of his/her deputies;

9) coordinates and monitors the activity of the National Anticorruption Service;

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10) approves the form and samples of seals and stamps of the National Anticorruption Service, performs other functions vested by the Law of Ukraine “On the National Anticorruption Service”.

- Article 7 shall be extended with a part as follows:

“The Secretary of the National Security and Defense Council takes part in sessions of the Public Council of the National Anticorruption Service”.

### 5. Amend the Criminal Code of Ukraine:

- Paragraph 7 of Article 51 shall be restated as follows:

“confiscation and special confiscation of property”.

- Article 96-1 shall be restated as follows:

Article 96-1. Special confiscation.

1. Special confiscation – an exclusive type of confiscation which implies compulsory unreimbursable seizure by the state of all or part of the property, the actual beneficiary of which is a convicted person, regardless of the owner of the property under the title documents.

2. Special confiscation may be applied as an additional type of punishment to the officials indicated in Notes 2, 2-1 to Article 368 of this Code in cases stipulated by this Code.

3. In case of confiscation of a portion of property, the court must specify what portion of property is being confiscated and enumerate the items being confiscated.

Note. Actual beneficiary is considered to be a person who, regardless of title or trust documents, if the matter concerns foreign property, actually owns, controls the funds, including the funds on the bank accounts, property or corporate rights, or receives profits from funds, including the funds on the bank accounts, property or corporate rights in a legal entity, that are transferred into trust to another legal or natural person (including lease, rent), or the use of which by third persons (for example, if a shareholder transfers shares to the broker for the use) makes profit to such person. The proofs in this case may be both evidence of actual administration and control over such funds, property and corporate rights and evidence of obtaining profit and benefits in other form whether individually or together with other persons.

- Part 1 of Article 96-2 shall be restated as follows:

“1. Special confiscation shall be applied, inter alia, if the money, valuables and other property”:

- add Article 212-2 as follows:



Article 212-2. Implementation of corruption schemes.

1. Intentional implementation of corruption schemes involving officials holding positions of responsibility which result in the evasion of taxes, duties (mandatory payments) included in the system of taxation and imposed in accordance with the law if these actions resulted in actual non-delivery of significant amounts of funds to the budgets or state special-purpose funds, or enrichment of said officials or other persons in whose interests they act - shall be punishable by fine in the amount from one thousand to two thousands of untaxed minimum incomes of individuals or deprivation of the right to occupy certain positions or engage in certain activities for up to three years.

2. The same acts committed by previous concert by a group of people, or if they resulted in actual non-delivery of large amounts of funds to the budgets or state special-purpose funds - shall be punishable by fine in the amount from two thousand to three thousands of untaxed minimum incomes of individuals with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, or imprisonment for up to three years with confiscation of property received as a result of implementation of a corruption scheme.

3. Acts envisaged by Parts One or Two of this Article committed by an official holding positions of special responsibility, or if they resulted in actual non-delivery of especially large amounts of funds to the budgets or state special-purpose funds - shall be punishable by fine in the amount from fifteen thousand to twenty five thousand of untaxed minimum incomes of individuals with deprivation of the right to hold certain positions or engage in certain activities for up to five years with confiscation of property and special confiscation of property.

4. A person who committed an act envisaged by Part One, Two, or acts envisaged by Part Three (if they resulted in actual non-delivery of especially large amounts of funds to the budgets or state special-purpose funds) of this Article shall be released from punishment in the form of imprisonment if before being held criminally liable such person has paid taxes and duties (mandatory payments) and compensated the damage caused to the state by late payment thereof (financial sanctions, penalty).

Note 1. A corruption scheme shall be understood as a developed and implemented plan of actions implying that officials use their official powers and related resources in order to obtain undue advantage, preferences, privileges and bonuses for themselves or other individuals or legal entities, or inciting or forcing other officials of government and local self-government authorities, prosecutor's office and courts to misuse their official powers and related resources, which resulted in actual non-delivery of funds to the budgets or state special-purpose funds or enrichment or obtaining benefits, preferences and advantages as compared with other persons, officials or individuals or legal entities in whose interests they acted.

Note 2. Officials holding positions of responsibility or special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Add Article 255-1 as follows:

Article 255-1. Creation of a criminal corrupt organization

1. Creation a criminal corrupt organization to commit corrupt practices, which pose a special danger to the society, and administering such organization or

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taking part therein, or participation in offenses committed by such organization, as well as organizing, managing or assisting in the coordination of members of criminal organizations or organized groups to develop plans and conditions for joint commission of offenses, providing logistic support to criminal activity or coordination of actions of criminal organizations or organized groups - shall be punishable by imprisonment for a term of five to ten years and the confiscation and special confiscation of property.

2. A person other than an organizer or leader of a criminal organization shall be released from criminal responsibility for the commission of the offence set forth in Part One of this Article, if he/she committed no other offence, voluntarily reported on the creation of a criminal organization or participation therein and actively contributed to its disclosure.

Note. Corrupt practices which pose a special danger to the society are acts set forth in Article 11 of the Law of Ukraine “On the State Anticorruption Service” committed by the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Paragraph 4 of Article 190 shall be restated as follows:

Fraud committed in especially large amounts or by an organized group, or by an official holding a position of responsibility or special responsibility - shall be punishable by imprisonment for a term of five to twelve years with confiscation and special confiscation of property.

- Extend Article 190 with a Note as follows:

Note. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Paragraph 5 of Article 191 shall be restated as follows:

5. Acts envisaged by Parts One, Two, Three or Four of this Article, if committed in especially large amounts or by an organized group, or by an official who holds a position of responsibility and special responsibility - shall be punishable by imprisonment for a term of seven to twelve years with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and with confiscation and special confiscation of property.

- Extend Article 191 with a Note as follows:

Note. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 201 with Part 3 as follows:

3. The same act committed by a person holding a position of responsibility or special responsibility - shall be punishable by imprisonment for a term of five to twelve years with confiscation of contraband and with confiscation and special confiscation of

property.

- Extend Article 201 with a Note as follows:

Note. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 209 with Part 4 as follows:

4. Acts envisaged by Parts One or Two or Three of this Article committed by a person holding a position of responsibility and special responsibility - shall be punishable by imprisonment for a term of eight to fifteen years with deprivation of the right to occupy certain positions or engage in certain activities for a term three years with confiscation of funds or other property obtained unlawfully, and with confiscation and special confiscation of property.

- Extend Article 209 with Note 4 as follows:

Note 4. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 210 with Part 3 as follows:

3. The same acts involving budget funds in especially large amounts committed by an official holding a position of responsibility or special responsibility – shall be punishable by restriction of liberty for a term of five to eight years, or imprisonment for a term of five to eight years, with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and with confiscation and special confiscation of property.

- Extend Article 210 with Note 4 as follows:

Note 4. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 212 with Part 3-1 as follows:

Acts envisaged by Parts One - Three of this Article committed by a person holding a position of responsibility and special responsibility - shall be punishable by with restriction of liberty for a term of five to eight years or imprisonment for a term of five to eight years, with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and with confiscation and special confiscation of property.

- Extend Article 212 with Note 2 as follows:

Note 2. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

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- Extend Article 222-1 with Part 3 as follows:

2. Acts envisaged by Parts One or Two of this Article committed by a person holding a position of responsibility and special responsibility - shall be punishable by fine in the amount from ten to fifteen thousand of untaxed minimum incomes of individuals with deprivation of the right to hold certain positions or engage in certain activities for up to five years or restriction of liberty for up to five years and/or with confiscation and special confiscation of property.

- Extend Article 222-1 with Note 4 as follows:

Note 4. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 233 with Part 3 as follows:

3. Acts envisaged by Parts One or Two of this Article, if committed by a person holding a position of responsibility and special responsibility - shall be punishable by fine in the amount from ten to fifteen thousand of untaxed minimum incomes of individuals with deprivation of the right to hold certain positions or engage in certain activities for up to five years or restriction of liberty for a term of three to six years and/or with confiscation and special confiscation of property.

- Extend Article 233 with Note 2 as follows:

Note 2. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 305 with Part 4 as follows:

4. Acts envisaged by Parts One – Three of this Article committed by a person holding a position of responsibility and special responsibility - shall be punishable by imprisonment for a term of ten to twelve years with confiscation of narcotics, psychotropic substances, their analogues or precursors or counterfeited medicinal products that were subject of contraband and confiscation and special confiscation of property.

- Extend Article 305 with Note 2 as follows:

Note 2. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 364 with Part 3 as follows:

3. The same act, if committed by a person holding a position of responsibility and special responsibility - shall be punishable by imprisonment for a term of five to seven years with deprivation of the right to occupy certain positions or engage in certain activities for a term up to five years with fine in the amount from one thousand to one and a half thousand of untaxed minimum incomes of individuals and

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with special confiscation.

- Extend Article 364 with Part 4 as follows:

4. The same act, if committed by a person holding a position of responsibility and special responsibility - shall be punishable by imprisonment for a term of seven to ten years, deprivation of the right to occupy certain positions or engage in certain activities for a term up to ten years with fine in the amount up to one and a half thousand of untaxed minimum incomes of individuals and with special confiscation.

- Note 1 to Article 364 shall be restated as follows:

Note. 1. The officials mentioned in Articles 364, 368, 368-2, 369 of this Code shall be persons who permanently, temporarily or by virtue of special authority perform the functions of the government or local self-governmental authorities, and permanently or temporarily hold positions related to the performance of organizational and administrative or administrative and economic functions with government authorities, local self-government agencies, state-owned and municipal enterprises or perform such functions by virtue of special powers granted to a person by a competent government authority, local self-government authority, central government authority with special status, by court or by law.

- Extend Article 364 with Note 5 as follows:

Note 5. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 365 with Part 4 as follows:

3. The same act, if committed by a person holding a position of responsibility - shall be punishable by imprisonment for a term of five to seven years, the deprivation of the right to occupy certain positions or engage in certain activities for a term up to five years with fine in the amount from one thousand to one and a half thousand of untaxed minimum incomes of individuals and with special confiscation.

- Extend Article 365 with Part 5 as follows:

4. The same act, if committed by a person holding a position of special responsibility - shall be punishable by imprisonment for a term of seven to ten years, the deprivation of the right to occupy certain positions or engage in certain activities for a term up to ten years with fine in the amount up to one and a half thousand of untaxed minimum incomes of individuals and with special confiscation.

- Extend Article 365 with a Note as follows:

Note. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

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- Extend Parts 4, 5 of Article 368 as follows:

«and special confiscation of property».

- Note 2 to Article 368 shall be restated as follows:

Note 2. The officials holding positions of responsibility when their positions under the Law of Ukraine "On civil service" fall within the positions of civil service of sub-groups I-4, II-2, II-3, II-4, III-1, III-2, III-3, III-4, judges, prosecutors and investigators, chief executives and deputy chief executives of local self-government bodies, structural subdivisions and units thereof, managers and deputy managers of the state owned and communally-owned enterprises, irrespective of the share the State holds in such enterprises.

- Note 2-1 to Article 368 shall be restated as follows:

Note 2-1. The officials holding positions of special responsibility are persons 1) mentioned in paragraphs 1, 2 and 3 of Part Two of Article 2 of the Law of Ukraine "On Civil Service", the Chairman of the Verkhovna Rada of Ukraine (*the Parliament*), his first deputy and deputy, the Prime Minister of Ukraine, the Prosecutor General of Ukraine, his first deputy and deputies, the Chairman of the Constitutional Court of Ukraine, his deputies and judges of the Constitutional Court of Ukraine, the Chairman of the Supreme Court of Ukraine, his first deputy, deputies and judges of the Supreme Court of Ukraine, chairmen of higher specialized courts, their deputies and judges of the higher specialized courts, the Governor of the National Bank of Ukraine, his first deputy and deputies, the members of the National Security and Defense Council of Ukraine, people's deputies of Ukraine; 2) the persons holding the positions that under Article 6 of the Law of Ukraine "On civil service" fall within the positions of civil service of sub-groups I-1, I-2, I-3 and II-1; 3) the persons holding the positions that under Article 14 of the Law of Ukraine "On service in local self-government bodies" fall within the first and second categories of positions in local self-government bodies.

- Extend Article 368-2- Part 4 as follows:

3. Acts envisaged by Parts One Three of this Article, if committed by a person holding a position of responsibility - shall be punishable by imprisonment for a term of five to seven years, the deprivation of the right to occupy certain positions or engage in certain activities for a term up to five years with fine in the amount from one thousand to one and a half thousand of untaxed minimum incomes of individuals and with special confiscation.

- Extend Article 368-2 Part 5 as follows:

4. Acts envisaged by Parts One Three of this Article, if committed by a person holding a position of special responsibility - shall be punishable by imprisonment for a term of seven to ten years, the deprivation of the right to occupy certain positions or engage in certain activities for a term up to ten years, with fine in the amount up to one and a half thousand of untaxed minimum incomes of individuals and with special confiscation.

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- Extend Article 368-2 with Note 2 as follows:

Note 2. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

- Extend Article 369-2 with Part 4 as follows:

3. Acts envisaged by Parts One Three of this Article, if committed by a person holding a position of responsibility - shall be punishable by imprisonment for a term of five to seven years, the deprivation of the right to occupy certain positions or engage in certain activities for a term up to five years with fine in the amount from one thousand to one and a half thousand of untaxed minimum incomes of individuals and with special confiscation.

- Extend Article 369-2 Part 5 as follows:

4. Acts envisaged by Parts One Three of this Article, if committed by a person holding a position of special responsibility - shall be punishable by imprisonment for a term of seven to ten years, the deprivation of the right to occupy certain positions or engage in certain activities for a term up to ten years, with fine in the amount up to one and a half thousand of untaxed minimum incomes of individuals and with special confiscation.

- Extend Article 369-2 Note 2 as follows:

Note 2. Officials holding positions of responsibility and special responsibility shall be considered the officials mentioned in Notes 2, 2-1 to Article 368 of this Code.

### 6. In the Code of Criminal Procedure of Ukraine:

- in paragraph one of Part Nine of Article 31 the words “and officials holding positions which under Article 6 of the Law of Ukraine “On civil service” fall within the positions of civil service of sub-groups I-1, I-2, I-3” shall be replaced with the words “persons accusing whom of committing criminal offences falls within the investigative jurisdiction of the National Anticorruption Service”;

- Article 32 shall be extended with new Part Three as follows:

“3. Criminal proceedings for criminal offences referred to the investigative jurisdiction of the National Anticorruption Service shall be conducted:

- as to criminal proceedings the pre-trial investigation in which was conducted by the Central Department of the National Anticorruption Service, by the Kyiv Court of Appeal;

- by local appellate courts at the location of the territorial departments of the National Anticorruption Service, if the pre-trial investigation was conducted by such territorial departments.

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- Part Six of Article 36 shall be extended with a new sentence as follows:

“Resolutions issued by investigators of the National Anticorruption Service shall be quashed according to the Law of Ukraine “On the National Anticorruption Service”;

- Part One of Article 41 after the words “security authorities” shall be extended with the words “the National Anticorruption Service”;

- Part Two of Article 170 shall be extended with a new paragraph as follows:

“In cases of emergency, in order to preserve physical evidence or ensure possible subsequent confiscation or special confiscation of funds and other property in criminal proceedings for criminal offences referred to the investigative jurisdiction of the National Anticorruption Service, property or funds on accounts of individuals and legal entities in the financial institutions may be seized by written resolution of the Director of the National Anticorruption Service approved by the relevant prosecutor. Such measures shall be applied for a period of time up to 72 hours. The National Anticorruption Service shall, within 72 hours after making such decision, file a motion for seizure of property with the investigating judge of the appropriate court.”;

- Part Two of Article 214 after the words “the Security Service of Ukraine” shall be extended with the words “the National Anticorruption Service”;

- in Article 216:

Paragraph two of Part Two shall be extended with the words “, except cases when these offences fall within the investigative jurisdiction of the National Anticorruption Service”;

Extend Part Two with a new paragraph as follows:

“Investigators of the security authorities also conduct pre-trial investigation of criminal offenses envisaged by paragraph first of Part Four of this Article, if such criminal offenses have been committed by the officials of the National Anticorruption Service in accordance with the peculiarities of the Law of Ukraine “On the National Anticorruption Service”;

Part Four shall be restated as follows:

“4. Investigators of the National Anticorruption Service shall conduct pre-trial investigation of offenses envisaged by Articles 157, 158, 159-1, 190, 191, 201, 209, 210, 211, 212, 212-2, 222, 222-1, 233, 255, 255-1, 256, 258-3, 258-5, 294, 305, 328, 330, 332, 343, 344, 354, 355, 357, 361, 364, 365, 368, 368-2, 369-2, 371, 372, 387, 388 of the Criminal Code of Ukraine, if such offenses are committed by the officials specified in Article 11 of the Law of Ukraine «On State Anticorruption Service».

Part Five shall be extended with a new paragraph as follows:

“The matter on investigative jurisdiction in the criminal proceedings which may fall within the investigative jurisdiction of the National Anticorruption Service, shall



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be settled by the prosecutor seconded to the National Anticorruption Service according to the rules of the Law of Ukraine “On the National Anticorruption Service”;

- in Article 246:

Paragraphs four and five of Part Five after the words “the Security Service of Ukraine” shall correspondingly be extended with the words “the chief executive of the respective department of the National Anticorruption Service and the Director of the National Anticorruption Service”;

Part Six after the words “security authorities” shall be extended with the words “the National Anticorruption Service”;

- paragraph three of Clause 1 of Section X “Final Provisions” shall be restated as follows:

“Part Four of Article 216 of this Code which enters into force from the day on which the National Anticorruption Service commences its activities”;

- Clause 1 of Section XI “Transitional Provisions” shall be restated as follows:

“1. Until the day on which Part Four of Article 216 of this Code takes legal force, powers concerning pre-trial investigation of criminal offences set forth therein shall be exercised by the investigators of the prosecutor’s office who have the powers of the investigators determined by this Code.

After Part Four of Article 216 of this Code has taken legal force, the materials of criminal proceedings the pre-trial investigation of which is carried out by the prosecutor’s office shall be transferred by the investigators of the prosecutor’s office to the National Anticorruption Service”;

7. The Law of Ukraine "On Prosecutor’s Office" (Vidomosti Verkhovnoi Rady Ukrainy, 1991, No.53, Art. 793) shall be extended with Article 17-1 as follows:

“Article 17-1. Prosecutors seconded to the National Anticorruption Service”.

By order of the Prosecutor General of Ukraine prosecutors shall be seconded to the National Anticorruption Service for a term of five years to supervise the observance of laws in the course of pre-trial investigation in the form of procedural governance of pre-trial investigation conducted by the investigators of the National Anticorruption Service.

The prosecutors seconded to the National Anticorruption Service retain their positions in the bodies of the prosecutor’s office.

The number of prosecutors being seconded and the procedure for their service in the National Anticorruption Service shall be determined by the Prosecutor General of Ukraine in consultation with the Director of the National Anticorruption Service.

The activity of the prosecutors seconded to the National Anticorruption Service shall be regulated by the Law of Ukraine “On the National Anticorruption Service” for a period of their secondment.

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8. In the Law of Ukraine "On Operational Search Activities" (Vidomosti Verkhovnoi Rady Ukrainy, 1992, No. 22, Art. 303):

- Part One of Article 5 shall be extended with a new paragraph as follows:

"The National Anticorruption Service – operational, operational and technical, internal control."

- in Article 9:

Part One after the words "the intelligence body of a specially authorized central executive authority for the protection of the state border" shall be extended with the words "the subdivision of the National Anticorruption Service";

Part Two after the words "by the intelligence body of the Ministry of Defense of Ukraine" shall be extended with the words "the National Anticorruption Service";

Part Eight after the words "the Foreign Intelligence Service of Ukraine" shall be extended with the words "the National Anticorruption Service";

- Parts Two and Third of Article 9-1 after the words "by the Head of the Foreign Intelligence Service of Ukraine" shall be extended with the words "the Director of the National Anticorruption Service.";

9. In Article 8 of the Law of Ukraine "On Pre-Trial Detention" (Vidomosti Verkhovnoi Rady Ukrainy, 1993, No. 35, Art. 360; 2001, No. 40, Art. 193; 2002, No. 33, Art. 236; 2003, No. 15, Art. 109, No. 29, Art. 233; 2005, No. 10, Art. 187):

- paragraph four of Part Two after the words "intelligence agencies of Ukraine" shall be extended with the words "and the employees of the National Anticorruption Service";

- paragraph ten of Part Two after the word "justice" shall be extended with the words "the National Anticorruption Service";

10. Part Two of Article 9 of the Law of Ukraine "On Civil Service" (Vidomosti Verkhovnoi Rady Ukrainy (VVR), 1993, No. 52, Art. 490; VVR, 2003, No. 30, Art. 247) after the words "internal affairs" shall be extended with the words "the National Anticorruption Service";

11. Paragraph one of Part Three of Article 3 of Law of Ukraine "On Ensuring the safety of persons involved in criminal proceedings" (Vidomosti Verkhovnoi Rady Ukrainy, 1994, No. 11, Art. 51; 2003, No. 16, Art. 124) shall be amended as follows:

"3. Implementation of the safety measures shall fall under the jurisdiction of the security authorities, law-enforcement authorities or the National Anticorruption Service, within which special subdivisions shall be formed for this purpose. Security of persons who are subject to protection if criminal proceedings are conducted by the

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prosecutor's office or by court is ensured in accordance with their decision by the bodies of the security service, the law-enforcement agencies and the National Anticorruption Service or penal institutions and detention facilities.”;

12. In the law of Ukraine “On State Protection of the Employees of Courts and Law-Enforcement Authorities” (Vidomosti Verkhovnoi Rady Ukrainy, 1994, No. 11, Art. 50; 1999, No.4, Art. 35; 2002, No.33, Art. 236; 2003, No.29, Art. 233; 2004 p., No.22, Art. 314; 2006, No.14, Art. 116):

- paragraph one of item 1 of Part One of Article 2 after the words “Military Service in the Armed Forces of Ukraine” shall be extended with the words “the National Anticorruption Service”;

- Article 14 shall be extended with paragraph “ж” as follows:

“ж) The Director of the National Anticorruption Service, heads of its territorial departments – concerning the protection of the subordinated employees of the National Anticorruption Service, as well as their close relatives.”;

- Part One of Article 15 shall be extended with paragraph "д" as follows:

“д) concerning the employees of the National Anticorruption Service and their close relatives – to the respective subdivisions of the National Anticorruption Service.”;

13. Article 15 of the Law of Ukraine "On the procedure for compensation of damage caused to an individual by unlawful actions of the agencies of inquiry, pre-trial investigation, the prosecutor's office and the court" (Vidomosti Verkhovnoi Rady Ukrainy, 1995, No. 1, Art. 1; 2001, No. 9, Art. 38; 2003, No. 27, Art. 209) after the words “the State Penitentiary Service of Ukraine” shall be extended with the words “the employees of the National Anticorruption Service,”;

14. paragraph 3 of Part One of Article 62 of the Law of Ukraine “ On Banks and Banking Activity” (Vidomosti Verkhovnoi Rady Ukrainy, 2001, No. 5-6, Art. 30; 2004, No. 13, Art.181) after the words "the Ministry of Internal Affairs of Ukraine" shall be extended with the words "the National Anticorruption Service";

15. Part Four of Article 24 of the Law of Ukraine “On Central Executive Bodies” (Vidomosti Verkhovnoi Rady Ukrainy, 2011, No. 38, Art.385) after the words “the State Committee for Television and Radio Broadcasting of Ukraine” shall be extended with the words “the National Anticorruption Service”;

16. Part Two of Article 18 of the Law of Ukraine “On the Judicial System and Status of Judges” (Vidomosti Verkhovnoi Rady Ukrainy, 2010, Nos. 41-45, Art. 529 as amended) shall be restated as follows:

“2. Specialization of judges may be introduced in courts of general jurisdiction or specialized courts for the consideration of certain categories of cases may be created.”

17. in paragraph two of Part Five of Article 5 of the Law of Ukraine “On fundamentals for prevention and combat corruption” (Vidomosti Verkhovnoi Rady

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Ukrainy (VVR), 2011, No. 40, Art.404 as amended) the words “bodies of the prosecutor’s office” shall be replaced with the words “bodies of the prosecutor’s office and the National Anticorruption Service in the scope of its investigative jurisdiction”.

18. The Cabinet of Ministers of Ukraine shall:

1) no later than one month from the date this Law enters into legal force, take measures to ensure funding of the National Anticorruption Service.

2) include the costs of operation of the National Anticorruption Service in the draft State Budget of Ukraine for the next year.

19. The Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine and authorities of the prosecutor’s office shall, within three months from the date this Law enters into legal force, ensure that the information base assigned to their respective subdivisions is transferred to the National Anticorruption Service and its territorial departments to the extent necessary to form and operate the National Anticorruption Service and its territorial departments.

20. Matters concerning further pre-trial criminal investigations initiated before this Law enters into force which are referred by law to the investigative jurisdiction of the National Anticorruption Service shall be settled by the prosecutors on secondment according to the laws of Ukraine.

21. Laws of Ukraine and other legal and regulatory acts apply to the extent not contrary to this Law until they are brought into conformity with this Law.

**Chairman of the Verkhovna Rada of Ukraine**