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INITIATIVE

THE BUSINESS PROCESS OF VERIFYING E-ASSET DECLARATIONS AT THE NATIONAL AGENCY ON CORRUPTION PREVENTION

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Програма фінансується
Європейським Союзом

Програма співфінансується та виконується Міністерством закордонних справ Данії

MINISTRY OF FOREIGN AFFAIRS OF DENMARK

DANIDA | INTERNATIONAL
DEVELOPMENT COOPERATION

The views expressed in this document are solely those of the authors and do not necessarily reflect the views of the EU Anti-Corruption Initiative (EUACI) or the European Commission.



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1. SUMMARY

1.1. OVERALL CONCLUSION

Improving business procedures within the NACP will certainly increase efficiency of the verifications and make it a more realistic and satisfying task. However, the major leverage for making asset declarations work in Ukraine lies in remedying external limitations of the NACP (lack of cooperation by other state bodies, obstacles set by secondary legislation, lack of staffing etc.). As a consequence of these external limitations, one can roughly estimate that performance is limited as follows:

- The verification system can currently activate only less than 5% of the potential level of scrutiny of information that would and should be possible under the law.
- Similarly, less than 1% of all declarations that the law requires to undergo a full audit, actually undergo such a procedure; if they do, the level of scrutiny is by and large limited as indicated in the previous bullet point.

1.2. MAIN FINDINGS

The business process of verifying asset declarations in Ukraine is mostly determined by the Law on Prevention of Corruption (LPC) and Decision 56/2017¹ by the National Agency on Corruption Prevention (NACP). Following the good basis of the LPC for a sound asset declaration system, the business process of verification comprises several good practices:

- Verification foresees four steps (submission, formal, arithmetic/logic, audit) in line with international recommendations;
- For an audit, a comprehensive scope of information could theoretically be taken into account;
- Several tens of detected administrative violations serve as highly needed first steps towards proving the effectiveness of the electronic declarations.
- Decisions on detected violations are published including explanations on what the NACP has done in detail.
- The NACP can directly access foreign databases (if online) and has already done so in some instances; the LPC also authorises it to contact foreign bodies directly.
- The NACP's Public Council provides a strong mechanism of civil oversight; it can review all internal documents or question staff on cases of particular interest.

Several points that weaken the verification process rather strongly and do not follow explicit instructions of the LPC have been identified:

- The NACP is put under artificial pressure with fixed deadlines of 60 plus 30 optional days for full audits with very limited possibilities of suspension. Conducting an audit within these deadlines is unrealistic in an environment

¹ On the "Procedure for conducting control and detailed audit of declarations of persons authorized to discharge functions of the state or local self-government bodies" (hereafter: "Decision 56").

where data exchange is only partially done online and is mostly done through letter requests. The LPC does not foresee these deadlines; statutes of limitations in the Criminal Code or Code of Administrative Offences do not call for such tight deadlines. The State Fiscal Service conducts its audits without such a deadline.

- By running out of deadlines or even if the audit did not manage to get any sensible data to work with (for technical or legal reasons), the closure enters into legal force, i.e. the result of the audit is considered *res judicata*, even if it has not produced any results (e.g. none of the databases responded). The declaration can only be brought up to a new audit on separate, new grounds. Not even a criminal suspect enjoys anything close to such a level of protection in any of the European Union member states (investigations without result never become *res judicata*).
- The underlying assumption of Decision 56 seems to be that verification is the same or equal to a criminal investigation, while it is not. Thus, Decision 56 foresees several rights of the declarant that only criminal suspects should have (notification of the declarant at all stages of the procedure; possibility to appeal even the start of an audit; no retroactive application of some automated verification tools that will become available only in the future etc.).
- Simple decisions such as the opening of an audit require a decision by the entire Board of the NACP members in all cases. This “micromanagement” complicates procedures without any necessity.
- Inspectors are disciplinarily responsible for the result, while Board members are not; thus, inspectors need more independence in conducting the verification. Board members should only be able to take over cases, if they sign on as responsible “inspectors” in writing; similarly, instructions should only be valid if given in writing.
- Cases should be distributed to inspectors not by personal discretion of Board Members, but by random allocation (comparable to case allocation at courts).
- The NACP urgently needs an electronic case management system which allows inspectors to trace cases, coordinate, avoid duplication, etc. The current reliance on paper processes is seriously hampering the NACP’s efficiency.
- The arithmetic control and automated risk assessment of declarations, and the lifestyle monitoring of public officials are not in place yet despite being foreseen by the LPC. For this reason, and due to resources that are extremely small compared to the task, the NACP has not started yet the full audit of about 100,000 declarations that are subject to mandatory full verification.

1.3. EXTERNAL LIMITATIONS

The NACP is only one of many cogs in the wheel of the asset declaration system. Thus, “business procedures” of the NACP cannot be assessed without keeping the larger framework in mind. Five major points determine this larger framework in particular:

First: The following stakeholders substantially influence the performance of the NACP and share responsibility for the overall success or failure of the asset declaration system:

- The Ministry of Justice registers all regulations of the NACP and can influence their substance through a veto of registering; it has in particular substantially influenced the procedures of verifications, including on many points that are subject to criticism in this Assessment;

- The Parliament is responsible for amending the Law on Prevention of Corruption as necessary; it has not done so despite numerous recommendations by the Council of Europe and others being on the table since about a year;
- Ministries of several resorts responsible for state databases granting the NACP no or only limited access, or only pretending to cooperate with the NACP;
- Budgetary authorities in charge of salaries and staffing of the NACP (interviewees point out the lack of compliance of the budget with the LPC). Furthermore, the NACP does not have its own closed sphere of office space. The NACP has some floors and rooms in one building with the Ministry of Economy that cannot be fully sealed off with separate control of access; unregistered access of declarants trying to influence the NACP's inspectors is a problem according to interviews. The authors of this Assessment are not aware of any anti-corruption body that has such a low level of physical protection and access control as does the NACP;
- The State Service of Special Communications and Information Protection (DSSZZI; created in 2006)² through the state enterprise "Ukrainian Special Systems" has put some excessive restrictions on the secrecy of personal data within the NACP. The restrictions imposed by the DSSZZI concern also data that is open in registers outside the NACP but has to be treated rather like state secrets within the NACP;
- The e-declaration database, i.e. the heart of the NACP's operations, is under the control of a different entity (state enterprise "Ukrainian Special Systems" under control of the DSSZZI); the NACP does not possess the programming code of this database, cannot mine the data according to its own search criteria (e.g. looking for cross-connections between declarations), or introduce its own personal identifiers for each declarant without another agency supporting this.
- The judiciary has the last word in all legal disputes and is eventually solely responsible for bringing illicitly enriched officials to justice; interviewees from different origins have expressed their frustration as to weak court decisions rendering efforts of verification or investigations useless. One should keep in mind in this regard that above all efforts spent on making declarations work, the Damocles Sword of a pending Constitutional Court case is hanging (a complaint filed by 48 MPs).
- Political parties and other interest groups fighting for influence over the NACP inter alia through determining its quite fast fluctuating members and staff.

Second: One should keep in mind that there is a significant gap in sanctions for false declarations and inexplicable wealth, due to thresholds that are set too high in the Criminal Code and Code of Administrative Offences. In particular, the criminal offence of illicit enrichment is very lenient. Due to its threshold, it effectively legalises all illicit enrichment below approx. 25,000 €. It is unclear whether disciplinary liability covers any violations below the thresholds of the above mentioned offences.

Third: Administrative offences as well as disciplinary liability are subject to incredibly short statutes of limitations (administrative: two years maximum after commission of offence; disciplinary: maximum one year). Since asset declarations work mostly only ex post, such a sanctioning regime will be largely useless for violations aside from late or non-submission. In addition, protocols have to be served to declarants in person within the deadline. There is a rich trove of anecdotes how corrupt public officials go on sick leave or out of country just in order to avoid being served. All in all, this procedure requires a completely disproportionate effort, while deadlines are not suspended.

²http://www.dsszzi.gov.ua/dsszzi/control/en/publish/article?art_id=89926&cat_id=88059.

Fourth: The legislator apparently did not make a calculation of how many declarations the NACP would need to audit in detail each year, and how many staff this task realistically requires. The NACP number of staff is statutorily set at 55, while it currently is 35. Under the previous, much weaker system, a multitude number of tax officials were responsible for verifying tax declarations (4,000 according to one estimate – 2 per each local tax office). Leaving other tasks aside, the NACP is responsible each year for:

- Dealing with several 1,000s of late or non-submissions;
- Statutorily prescribed audits of roughly 100,000 annual declarations;
- Special checks of several 1,000s of candidates for civil service and judicial office;
- Several 1,000s of requests by other authorities or citizens for conducting audits due to a concrete suspicion.

If one assumes a total of 150,000 declarations³ divided by 220 working days per year and 28 working staff in the Department for Financial Control,⁴ this means that each staff member has to conduct 15 complete audits every day, one every half an hour. This rate is in and of itself simply unfeasible, let alone that many Ministries do not grant the NACP yet automated access to their databases. For comparison: the Romanian National Integrity Agency (ANI) is frequently cited as a good example in terms of verifying asset declarations.⁵ About 40 inspectors conduct about 4,000 inspections annually, i.e. 100 inspections per year and inspector. This equals about 1 inspection about every 2 days. The NACP staff have – theoretically – to process 50 times more declarations each day, than a Romanian inspector, while the access of the NACP to databases is just in its infancy.

Fifth: The previous declaration system (until 2014) allowed public officials to accumulate wealth without much accountability. The current asset declaration system cannot turn the clock backwards and fully undo the damage done by the previous system. For example, the previous system did not require the declaration of cash. Thus, it is very difficult to prove beyond a reasonable doubt that a public official who declares a lot of cash in 2015 does not have a plausible reason of having come into the possession of this cash somehow legally in any of the years before 2014. The same is true for the “placebo” version of the criminal offence of “illicit enrichment” in force from 2011-2014. The new offence of illicit enrichment in force since 2015 does not and cannot apply retroactively (because it requires that the “acquisition” of assets that in total pass the threshold of illicit enrichment takes place after the coming into force of the new offence).

Thus, it can be concluded that the major leverage for making asset declarations work in Ukraine lies in remedying external limitations of the NACP. While improving business procedures within the NACP will certainly increase efficiency of the verifications and make it a more realistic and satisfying task, it is not the main challenge the overall asset declaration system is facing in Ukraine.

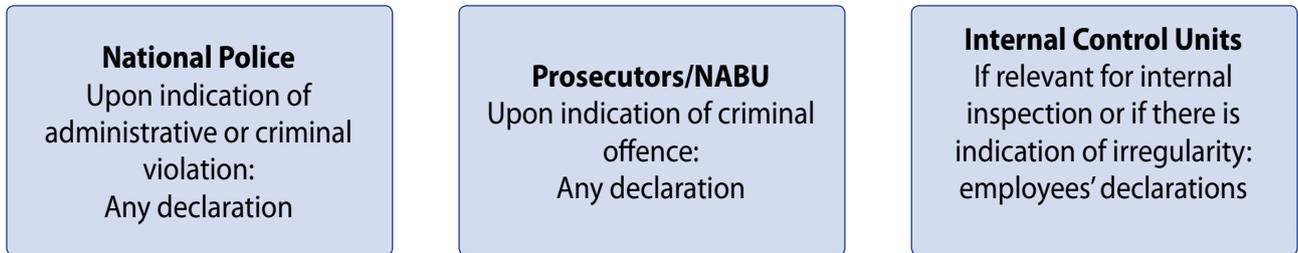
Detailed recommendations are contained in the following text in the respective sections. A list of all 85 recommendations is compiled at the end (section 10). The high number of recommendations and the length of this report should not mean that verification of asset declarations has to be a complicated task. The length of this report is rather a reflection of the large volume of regulations covering this process and the multitude of issues they entail.

³ Based on a substantiated estimate using data from the interviews. The Department of Settling and Preventing Conflict of Interest has additional staff.

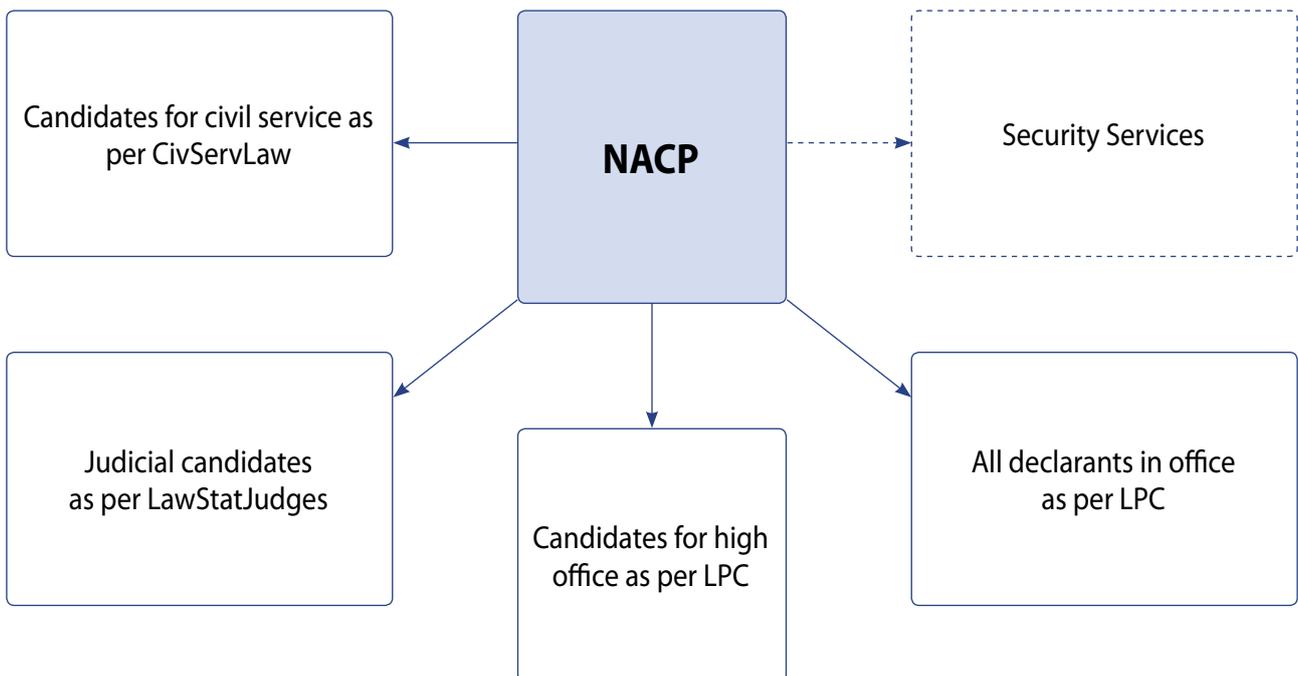
⁴ Deducting managerial staff and staff working in an assistant function (documentation etc.).

⁵ World Bank/Dmytro Kotlyar (16 November 2015), Asset disclosure and wealth assessment system in Romania: Lessons for Ukraine, page 1.

1.4. FLOW-CHARTS

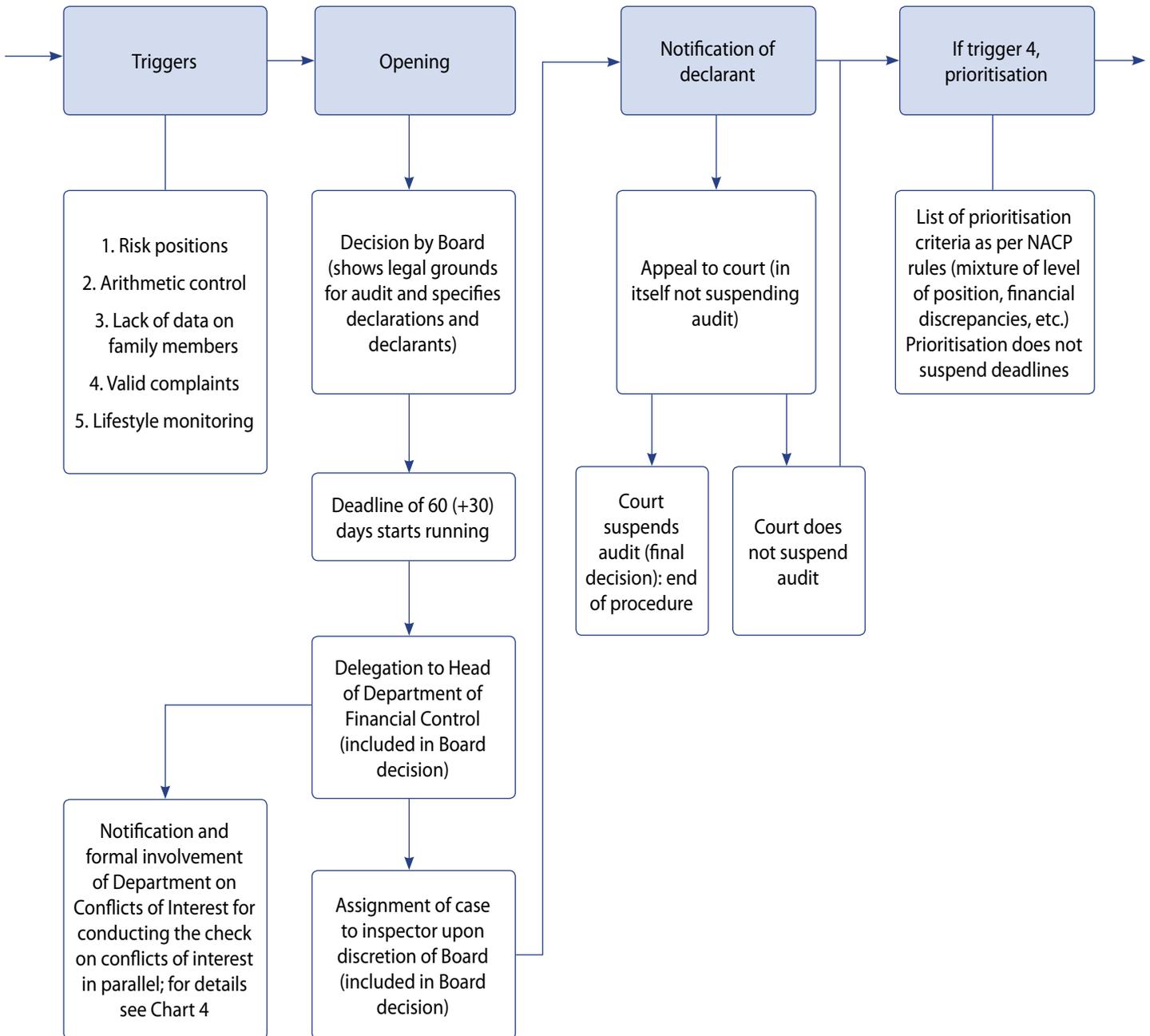


WHO VERIFIES DECLARATIONS?



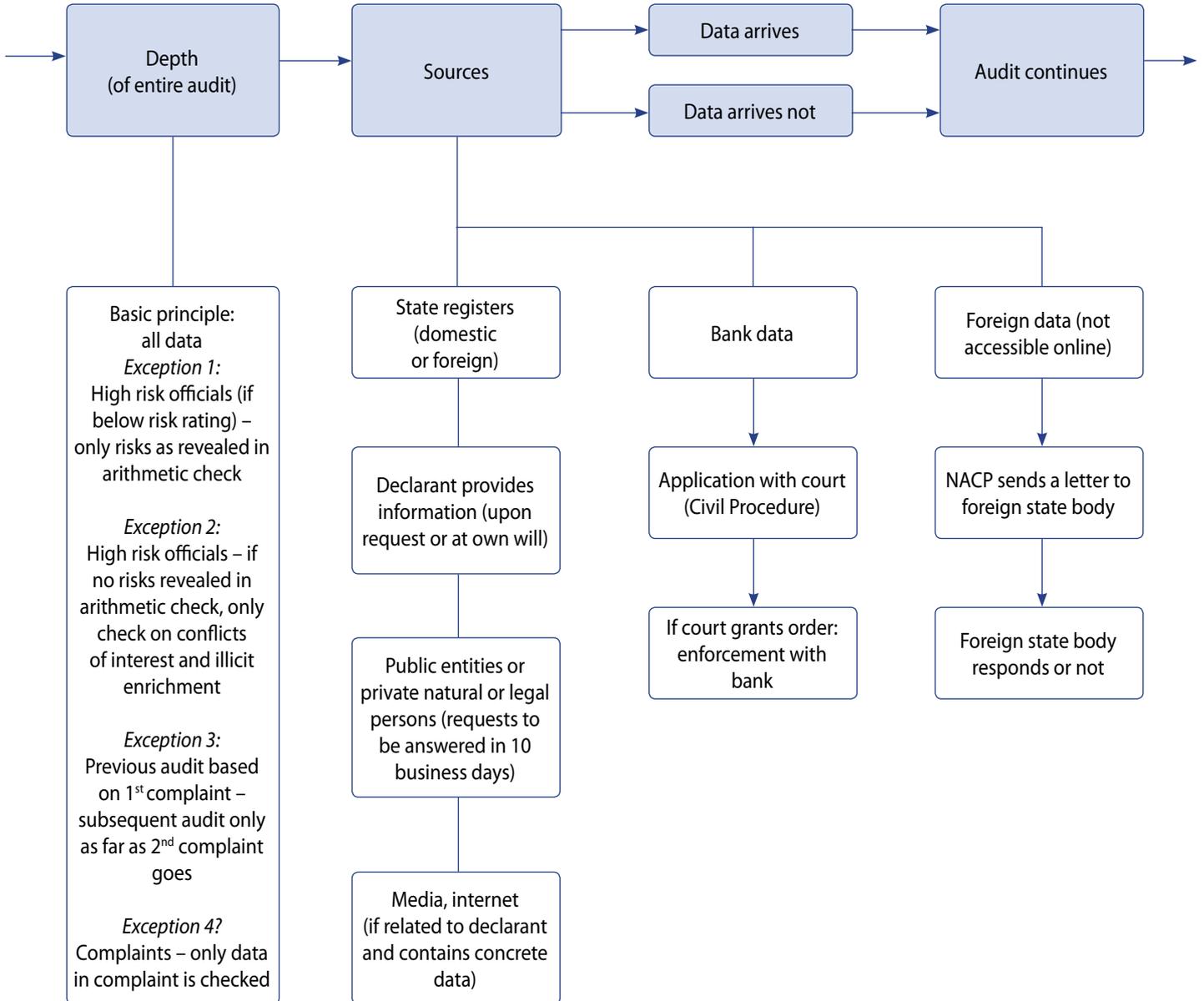
AUDIT: PART 1 – OPENING

CHART 2



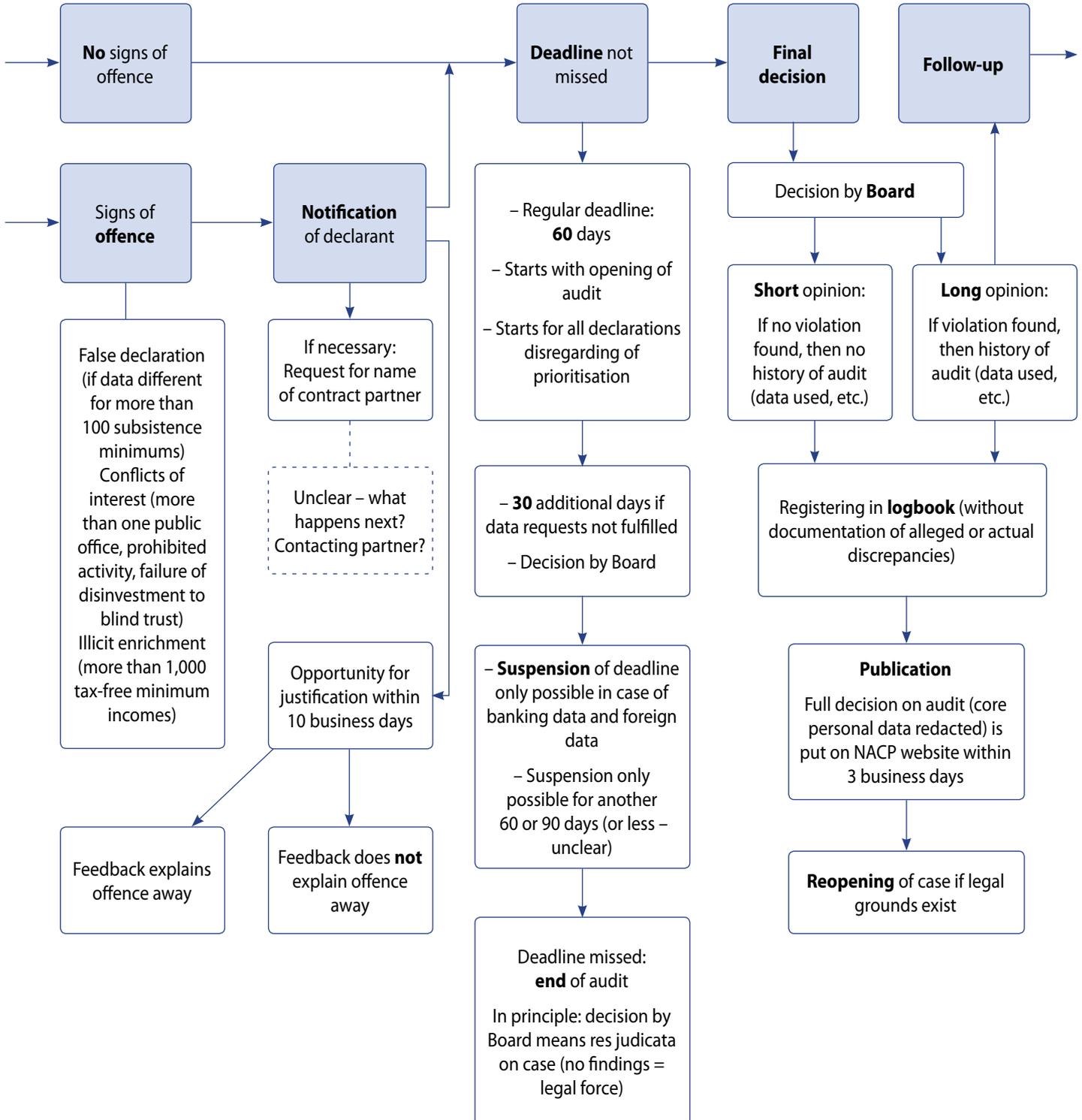
AUDIT: PART 2 – DATA CHECK

CHART 3



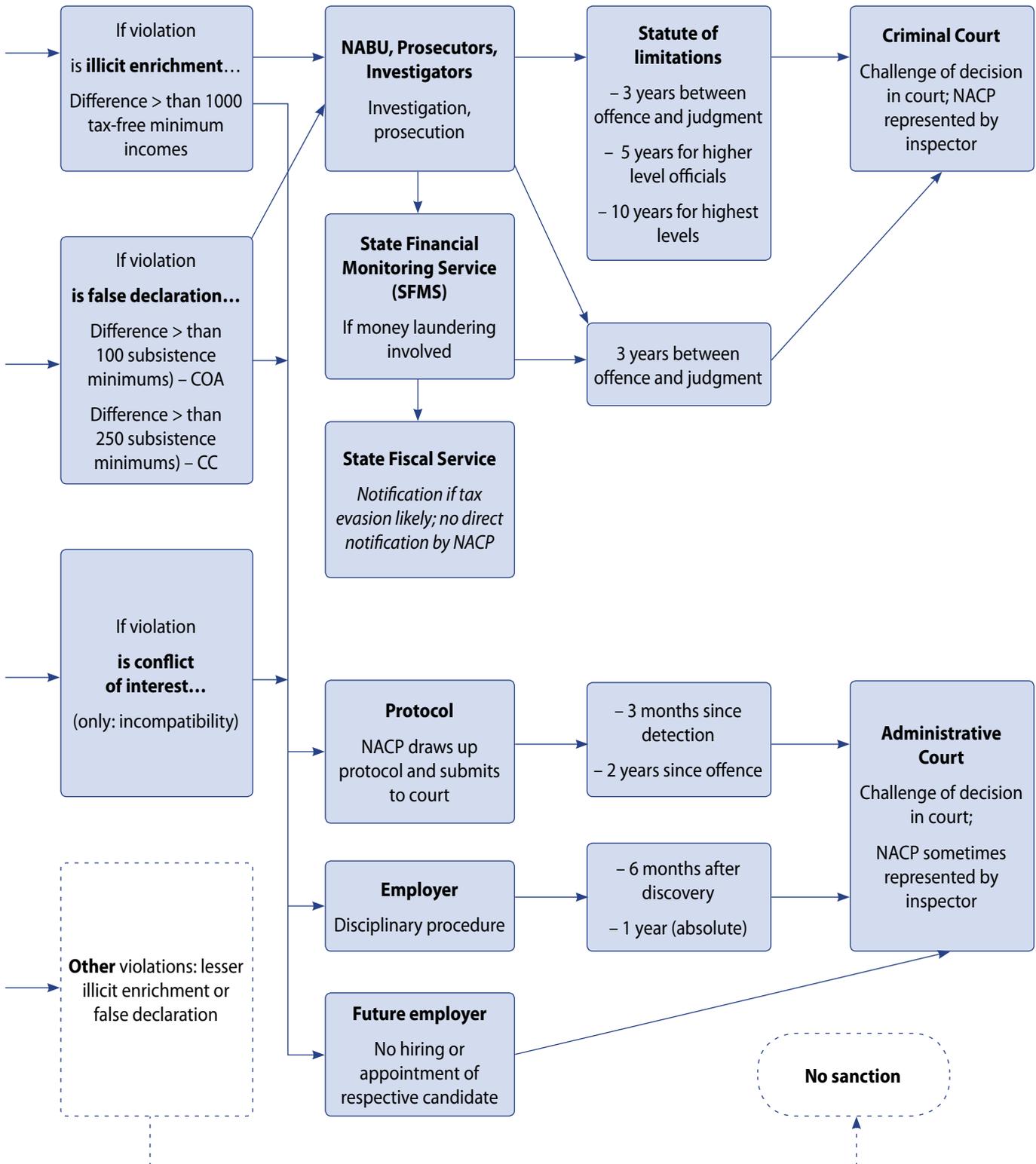
AUDIT: PART 4 – CLOSURE

CHART 5



FOLLOW-UP

CHART 6



1.5. STATISTICS

On 14 October 2014, Ukraine adopted the “Law on Prevention of Corruption”⁶. It came into force on 26 April 2015. In April 2016, the NACP formally started operations. On 1 September 2016, the e-declaration system became operational.⁷

Results of verifications by the NACP (1 September 2016 – 31 August 2017):

| DECLARATIONS | | TOTAL |
|--------------|---|--------------------------------|
| 1. | Submitted | ≈ 1,200,000 |
| 2. | Late filing (annual declaration) | |
| | 2.1. Verifications | 898 |
| | 2.2. Administrative protocols by the NACP | 29 |
| | 2.3. Referral to National Police for administrative protocols | 487 |
| 3. | Notification on significant changes | |
| | 3.1. Verifications started | 75 |
| | 3.2. Administrative protocols by the NACP | 5 |
| 4. | Audits opened | 313 |
| 5. | Audits finished | 39 |
| 6. | Finding: no violation | 31 |
| 7. | Finding: violation | |
| | 7.1. False declaration (no sanction) | 8 |
| | 7.2. False declaration (admin. sanction) | 0 |
| | 7.3. False declaration (criminal sanction) | 0 |
| | 7.4. Illicit enrichment | 0 |
| | 7.5. Illicit enrichment: court decision | 0 |
| 8. | Special verifications (candidates for positions) | |
| | 8.1. Verifications completed | 6,836 |
| | 8.2. Violations detected | no data available ⁸ |
| 9. | Audits closed due to passing of deadline without any data being collected | no data available ⁹ |
| 10. | Audits closed due to passing of deadline without all data being collected | no data available |

The National Anti-corruption Bureau (NABU)

As of 30 June 2017, NABU has verified a total of 61 e-declarations in the course of criminal investigations (false declaration and illicit enrichment). For further details see Annex.

National Police

In parallel to the NACP, the National Police is competent of investigating administrative violations of corruption and drawing up court protocols. About 10 staff are in charge centrally, plus about 50-60 in the Oblasts (2-3 per Oblast). Based on tentative figures mentioned in the interviews, the National Police processed about 3,300 administrative corruption cases and submitted about 1,300 protocols to the courts. About 900 administrative violations were confirmed by the courts.

⁶ Law No. 1700-VII, Bulletin of the Verkhovna Rada (BVR), 2014, № 49, p. 2056.

⁷ Press release, EEAS, 1 September 2017, Statement by the EU Delegation in Ukraine on the launch of the electronic asset declaration system, https://eeas.europa.eu/csdp-missions-operations/eunavfor-med/25863/statement-eu-delegation-ukraine-launch-electronic-asset-declaration-system_en.

⁸ Some interviewees would estimate the number of technical mistakes or discrepancies to be clearly less than 5%, while it is up to the potential future employers to decide what to do with these results.

⁹ No statistics are maintained on this issue; a future e-case-management system would probably allow statistical analysis of this kind.

2. SUBMISSION COMPLIANCE

2.1. LEGAL PROVISIONS

LPC, Article 49, Verification of timeliness of declaration filing

Part one was deleted by the Law of 15 March 2016.

2. State bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies, as well as legal entities of public law shall verify the fact of submission of according to this Law of declarations by the declarants who work (used to work or are members or were members of the selection commission established in the authority/body, members of the Civic Integrity Council, relevant civic councils, councils of civic control set up at the state authorities) in them and inform the National Agency about cases of non-submission or late submission of such declarations according to the procedure established by the Agency.

The National Agency shall verify the fact of submission of declarations according to the Law by persons ["civil society"] mentioned in paragraph 5 of Part one of Article 3 of this Law.

3. If as a result of control it is found that the declarant did not submit a declaration, the National Agency shall notify in writing such declarant of that fact, and the declarant shall submit declaration within ten days upon receipt of such notification in the manner specified in Part One of Article 45 of this Law.

At the same time the National Agency shall notify in writing about the fact of failure to file the declaration to the specially authorized subjects in the area of countering corruption, as well as to the head of the state authority, authority of the Autonomous Republic of Crimea, local self-government body, head of their staff, head of legal entity of public law, highest management body of the relevant civic association, other non-entrepreneurial partnership about the fact of non-submission of the declaration by the respective declarant.

Decision 56.II.3.¹⁰ *Upon receipt of information (notices) envisaged in paragraphs 1, 2 of clause 2 hereof, the National Agency shall verify the fact of failure to file of delay in filing of the declaration by the declaring entity by searching data in the Register.*

4. If the National Agency establishes the fact of failure to file the declaration by the declaring entity in accordance with the Law, it shall notify the declaring entity, head of public authority, authority of the Autonomous Republic of Crimea, local self-government body, their apparatus, legal entity of public law in which the declaring entity is employed, and specially authorized entities in the area of combating corruption in accordance with the procedure determined by the National Agency.

5. If based on the results of control it is established that the declaring entity delayed in filing the declaration, the National Agency shall send to such entity a letter asking for explanation of the reasons for delay in filing the declaration. If there are signs of an administrative offense, an authorized person of the National Agency shall draw

¹⁰ Regulations are quoted in a simplified manner with the sequence of numbers meaning the following (depending on the numbering logic of the respective law): Article.Part.Paragraph/sentence.Number. Thus, for example, Article 56.7.3.9) means Article 56 part 7 paragraph 3 number 9).

up a protocol of the administrative offense in accordance with legally prescribed procedure, which shall be referred to the court by the decision of the National Agency.

Decision 19/2016 “On Approval of the Procedure for Verifying the Fact of Submission of Declarations by Declarants” (see below Annex).

2.2. CURRENT PROCESS

The current process is by and large decentralised from the NACP. It consists of the following steps:

- All state bodies employing/including declarants have to check whether the declarants submitted a declaration.
- Within state bodies, “the responsible unit (person)), determined by the head of the authority” is responsible for conducting this check (Article 3, Decision 19/2016).
- The deadline for submission of regular annual declarations is before 1 April according to Paragraph 1 Article 45 of the LPC, and is further regulated in particular in Decision 2/2016.
- The responsible units have to conduct the check for annual declarations within 10 days after the deadline.
- In case they detect a case of non-compliance they have to notify the NACP within 3 days.
- The NACP (at the level of an inspector) verifies the notification.
- If the NACP does not confirm the finding, it closes the case (at the level of the Department, subject to approval by the Board).
- If it confirms the finding, it notifies:
 - The declarant, requesting an explanation for the delay and referring to the legal deadline for remedying the non-submission within 10 days.
 - The state body employing/including the declarant (addressed to the responsible unit); thus, the state body knows that the NACP formally concurs with the state body’s finding. Several interviewees expected public officials to be given only a disciplinary warning for the late submission (unless it constitutes an administrative offence). However, a general review of disciplinary practices was not the scope of this Assessment.
 - The NABU and other AC-bodies: This is in line with the LPC; however, all interviews confirmed that this notification is of no use for the law enforcement bodies.
- If the declarant complies with the notification (sufficient explanation and submission within additional deadline), the NACP closes the case (at the level of an inspector, with approval by the Board).
- If the declarant does not comply with the notification, the inspector draws up a protocol of an administrative offence and submits it to court. The decision on the submission to court is subject to approval by the Board of members of the NACP. However, inspectors send the protocol to court even if the Board does not take a decision

or does not do so in a timely manner. This is due to the fact that inspectors are (potentially) liable for failing to advance legally prescribed proceedings for administrative liability. Alternatively inspectors send a notification to the National Police, which then should prepare and send the protocol to court.

- There are court cases pending and decided on submissions (see above statistics). During the court procedure, the NACP is not always represented in court. According to the Legal Unit of the NACP, this is not necessary in all cases, as the facts are all established from the NACP's side and the court hears the declarant.

2.3. CHALLENGES

The decentralised process raises the following questions:

- There are thousands of “responsible units” (=anti-corruption focal points) in the various state bodies in Ukraine. This raises questions as to whether anybody can have a representative picture of what these responsible units are doing in practice and to what extent they fulfil their obligations. The NACP tried to set up meetings with several responsible units for this assessment. However, the respective state bodies did not respond to this request. This in and of itself is probably not a good sign. The following essential questions remain unanswered in this context:
 - Do these units have access to a roster of declarants, i.e. a list of everyone who has a duty to declare?¹¹
 - What is the quality of this roster?
 - If there is no roster: What is the basis for their checks? How do responsible persons deal with legal uncertainties on who is a declarant and who is not?
- It should be noted that there is no instruction from the NACP's side to the responsible units on how they shall conduct the verification. Decision 19/2016 describes the procedures, while not touching on the substantive issues.
- Who monitors the quality of verification of the decentralised units? The NACP simply cannot do this given the sheer number of focal points and all other tasks of the NACP. Furthermore, the LPC and the NACP regulations do not foresee this function. However, the NACP has in some instances checked the overall plausibility of the number of submissions versus the number of employees. In addition, the transparency of the register of declarations exposes any non-compliant public official to a high risk of detection (by the public at large). As a mid- or long-term perspective, the NACP could at least conduct random spot checks in order to incentivise effective work by the responsible units.
- Overall, the decentralised process relies too much on the “blind” assumption that the responsible units manage well in performing their verifications. However, for the moment, this aspect appears to be of lower priority given other more pressing issues.

¹¹ Council of Europe (Tilman Hoppe/Valts Kalniņš), Practitioner manual on processing and analysing income and asset declarations of public officials, 2014, page 8.

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| Recommendation 1 | <i>In mid-term perspective, the NACP should provide instructions on how to conduct the submission verifications. These instructions need to contain inter alia guidance on establishing a roster of declarants.</i> |
| Recommendation 2 | <i>In mid-term perspective, the NACP should monitor the quality of verifications conducted by responsible units and should conduct at least active checks on a sample of units.</i> |
| Recommendation 3 | <i>In mid-term perspective, it should be ensured that the law clearly/explicitly authorises the NACP to carry out a general check on compliance with the declaration filling obligation in a particular institution, for example, when frequent signs of irregularities are observed.</i> |

Decision 56/2017 does not contain any explanation on when a delay of submission is reasonably justified. This could be done by referencing similar constellations in administrative or civil procedure code.

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| Recommendation 4 | <i>In mid-term perspective, the NACP should provide instructions on how to conduct the submission verifications. These instructions need to contain inter alia guidance on establishing a roster of declarants.</i> |
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2.4. OWN CHECKS BY THE NACP

The NACP basically simply reviews the register of declarations and officially confirms back to the responsible unit that there was a late/non-submission. In addition, the NACP has to verify, whether the delay was justified. The sheer number of notifications binds a large amount of the NACP's understaffed capacities. The NACP Annual Report 2016 states on the issue of submission (automatic English translation):¹²

"Information was received from the state agencies, authorities of the Autonomous Republic of Crimea, local self-government bodies, as well as legal entities of public law about the cases of non-submission or late submission of declarations by the entities of the declaration in which they worked (work) about 1,700 people."

There is no recommendation to be made regarding the business procedures in this regard.

¹² ftp://91.142.175.4/nazk_files/zvity/NAPK_annual-report_2016.pdf.

3. FORMAL CHECK

Decision 56.II.6: *Control over accuracy and completeness of filling in declarations shall be automatically conducted using the software of the Registry when filing the declaration according to the form of the declaration approved by the decision of the National Agency dated 10 June 2016 No. 3, registered with the Ministry of Justice of Ukraine on 15 July 2016 under No. 960/29090 (hereinafter – the declaration form), and Technical Requirements to fields of the declaration form of persons authorized to discharge functions of the state or local self-government bodies, and the Form of a notice of significant changes in the property status of the declaring entity, approved by the decision of the National Agency dated 10 June 2016 No. 4 (hereinafter – Technical Requirements to fields of the declaration form).*

This check is conducted automatically by the e-declaration system. The software is programmed to provide the following automated feedback to the declarants: According to the “Technical Requirements to fields of the declaration form” (Decision 4/2016), fields of the form have characteristics “blocking” or “mandatory”. If a declarant has not filled in accordance with the technical requirements a blocking field, the declaration cannot be filed. If a declarant has not filled in accordance with the technical requirements a mandatory field, such a declaration may be filed but it is marked as a document that may require further analysis by the NACP. There is also a set of logical rules, which shall be observed. A violation of a part of these rules also has a blocking effect and/ or prompts an error notice. In addition, the filling out of the declaration is supported by pull-down menus which prevent the entry of ambiguous data.

This ensures also that the data is fully machine readable. For example, for “gifts”, the pull-down menu makes a difference between “gifts – money” and “gifts – in kind”. To both positions differing rules of automated risk identification can apply (section 4).

4. ARITHMETIC

The NACP has not yet conducted this step on any of the declarations. The drafting of rules for this step was still ongoing at the time of the in-country mission for this Assessment. The full legal term for this check is “logical and arithmetic control” (Art. 48 LPC). This Assessment will use “arithmetic” in short for both aspects if not indicated otherwise.

There are two components. Component 1 is an internal check, while for Component 2, declared data is compared with external databases:

Decision 56.II.7: *The logical and arithmetic control over declarations which is conducted automatically using the software of the Register shall include the following components:*

1) *control over conformity of the declared data (hereinafter – Component-1) – a comparison of components of the information specified in the declaration to determine whether they comply with and/or contradict each other which is conducted upon filing the declaration;*

2) *control over conformity of the declared data to databases (hereinafter – Component-2) – a comparison of data specified in the declaration which undergoes the detailed audit with data specified in other declarations of this declaring entity, data kept in the registers, databases and other information and telecommunication systems of public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies which may contain information about certain declaring entities (hereinafter – relevant databases) which is conducted upon filing the declaration.*

The main implied purpose of this step is to bring down the enormous overall number of declarations that shall be fully verified to a level that the NACP can realistically deal with. It is thus a tool of prioritisation. Even though the LPC envisages that discrepancies found in the course of the arithmetic control represent an additional trigger for the full verification of a declaration, the procedure under the Decision 56 also foresees the arithmetic control as a tool to reduce the scope of the legally mandatory verifications of a part of the declarations. It should be noted, though, that this procedure is not in line with the LPC.

4.1. RETROACTIVITY

The current lack of arithmetic control makes it all the more important to conduct this check on all declarations – including on those submitted already before the rules for arithmetic control were developed. However, the contrary applies according to a decision by the NACP:

Decision 56, Art. II 7: *Declarations filed prior to the approval by the National Agency of the rules of logical and arithmetic control of the declarations shall be deemed to have undergone logical and arithmetic control in terms of Component-1.*

This decision contradicts the LPC. In Art. 48, the LPC calls for a “logical and arithmetic control” of all declarations. While the audit is conducted only selectively (Art. 50 LPC), the submission control, formal control, and arithmetic control have to be conducted on all declarations.

Apparently, the authors of Decision 56 assume that there is some kind of ban on retroactivity – “Nullum verificationem sine lege”. However, such ban does not exist in any democratic state of rule of law. While criminal or administrative offences may not be introduced retroactively (“Nullum crimen sine lege”), new administrative and criminal audit or investigation tools come up constantly. As one simple example: Newly available DNA analysis has helped to solve murder cases all around the world that had already been closed due to lack of evidence for many years. There is no ban on applying these tools to any open case or case that could be reopened. It is simply absurd to apply a stricter standard to the review asset declarations.

From a practical point of view, the ban on retroactivity makes sense, as applying the filter to past declarations produces about double the results. However, in many if not most cases, the declarants whose declarations are flagged in year 1 should overlap with the declarants whose declarations are flagged in year 2. If not, the question remains whether at least particularly outstanding cases of discrepancies from year 1 should really be dropped.

Recommendation 5

The arithmetic check – component 1 – should apply to all declarations disregarding their time of submission; at least if a declarant’s declarations were flagged only in the past, but not the current year’s declaration, the old ones should be reviewed again (or run through a heightened filter) as to whether any important case was missed.

Regarding component 2, there is no explicit ban on retroactivity. However, de facto, this component will also be applied only starting from the time of rules being adopted. The interviews confirmed that this will be the practice of the NACP:

Decision 56, Art. II 7: *“The logical and arithmetic control in terms of Component-2 shall not be conducted prior to the approval by the National Agency of the rules of automated audit and providing technical feasibility of their application. The National Agency shall separately notify of the approval of the rules and providing technical feasibility of their application on its official website.”*

This provision allows postponing the component 2 indefinitely. It is unclear, whether the control will be introduced in increments, or only once all databases are linked to the NACP in a fully functioning way. The draft rules and formula of arithmetic control that were available during this assessment rested on the presumption of access to all of the specified databases.

Recommendation 6

It should be legally clarified that the arithmetic check – component 2 – applies also partially according to technical progress of linking to databases.

This paragraph also espouses the assumption that declarants need to be notified of internal NACP procedures. However, there is no need to notify declarants of any audit tool newly available on a technical basis. For example in Germany, tax authorities are far from any legal obligation to notify citizens if they manage to technically link to a specific database (as long as the legal basis is provided for this technical solution).

Recommendation 7

It should be clarified that the public notification is not a precondition for a valid implementation of the arithmetic check – component 2.

4.2. COMPONENT 1: INTERNAL CHECK

4.2.1. Definition and status quo

Decision 56 defines component 1 as follows:

II.7.1) control over conformity of the declared data (hereinafter – Component-1) – a comparison of components of the information specified in the declaration to determine whether they comply with and/or contradict each other which is conducted upon filing the declaration;

As stated earlier, the rules for this component are still in the drafting process. The NACP did not apply this component yet on a random sample of declarations that are not subject to an audit.

4.2.2. Opening

This step does not depend on a “decision by the NACP”, but will be conducted on all declarations.

4.2.3. Criteria

The “Logical and Arithmetical Control Rules” are only in the stage of an internal draft; furthermore, they could be available for this assessment in English translation only shortly before the in-country mission. Thus, the following are only exemplary observations of the draft criteria.

The draft foresees 67 criteria which are by and large valid points. The thresholds apply uniformly to all categories of public officials. It should be reviewed, whether there is a possibility to differentiate the thresholds in at least two or three steps according to the level of income of public official: For a minister, a 33,000 € vehicle might be financially a feasible investment, while for a policeman such an expenditure should raise a red flag (line 22). The value of expenditure generally would represent a higher risk when it is larger in comparison with the person’s income (as in line 57) rather than when it is on a certain level per se (line 56).

In any case, some of the thresholds seem to be overly high: a vehicle of 33,000 € is simply not affordable for most public officials in Ukraine. Similar is true for cash: line 33 foresees a threshold of 5 million UAH which equals about 150,000 €. Should any cash below this threshold not raise a red flag, including for low and midlevel officials?

The criteria cover many warning signs, which manifest as declared valuable assets. However, undeclared items may also reflect risks and, for certain categories of officials, especially those who have higher declared income, the absence or very low value of assets could be one of the risk criteria, too.

Recommendation 8

All criteria under Component 1 should be reviewed in view of scaling and lowering the thresholds; this might be done in the context of test-running the arithmetic control. Later, when more data on violations is accumulated, the criteria should be adjusted based on the empirical analysis of correlations between certain characteristics of declarations and identified violations.

4.2.4. Accumulation

One should keep in mind that none of these criteria in and of itself leads to an audit of all data reflected in the declaration, but is only one of about 20 other criteria needed cumulatively. Under the formula, one has to add up all numbers in the last column wherever a criterion is ticked as “yes”. The challenge will be to set the threshold sufficiently low, to catch suspicious declarations, while still filtering out enough declarations to not flood the NACP with full-scope audits. For example, cash above 1,5 million € “earns” the public official 80 points. Such a cash reserve raises questions in and of itself and causes a prima facie concern about the whole asset situation of the official; thus, should there really be more points to be earned to trigger a full-scope audit?

Similar is true for several other criteria (line 40, declarant claims to have “no income”; line 44 “foreign income”) – simply confirming in some database regarding the particular “revealed risk” that there is “no income” or that there is “foreign income” will not be enough.

This aside, the following declaration for 2016 by a public official would not trigger a full-scope audit under the draft rules unless the risk index is set not higher than about 200 points (the envisaged threshold in the draft that was available for this Assessment was 3,100 points):

- A policeman with an annual income of about 5,000 €;
- Spent 4,800 € on a luxury vacation;
- Bought his/her 5th car worth 20,000 €;
- Has income from foreign sources of 5,000 €;
- Owns real estate in Spain (bought in 2014);
- Keeps “savings” in cash at home worth 800,000 €.

Not fully auditing such a textbook example of a suspicious public official seems simply inappropriate. It remains to be seen how the testing of the rules in the database with different risk indexes will play out.

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| Recommendation 9 | <i>Each criterion under Component 1 should be reviewed as to whether it deserves in and of itself to be a (stand-alone) trigger for a full-scope audit.</i> |
| Recommendation 10 | <i>The Draft Rules should be test run on the system before the decision is adopted; this allows to see whether any declaration reaches the threshold and if so, how many; thus, the risk index can be adapted to a reasonable level of declarations the NACP can deal with.</i> |

4.2.5. Financial balance

The draft rules do not contain a formula that calculates to what extent the income matches the expenditures, also taking previous declarations into account. It is the essence of the NACP’s mission to identify illicit enrichment (including in amounts below the currently high threshold of criminal liability). How can inspectors, their superiors, the Board, prosecutors, and judges have a conform perspective on what illicit enrichment is, if there is no defined formula? The lack of this formula in the more than a hundred pages of regulations on the NACP is striking.

As the first international organisation, the Council of Europe has developed a formula for checking the internal financial coherence of declarations in 2014. The formula and explanations are available in English and Russian versions. Ukrainian stakeholders took part in a regional training on this formula in 2014. No alternative formula has ever been suggested before or after by any other international body as far as can be seen. A group of anti-corruption agencies/commissions has adopted it as international recommendation.¹³ It is thus probably fair to say that the formula is internationally undisputed.

The Council of Europe reiterated the necessity of this formula and customised it to the Ukrainian framework in an Opinion of October 2016 that is available in Ukrainian translation.¹⁴ The formula is simplified as follows (“clause” refers to Article 46 part 1 of the LPC):¹⁵

| INCOMING CASH FLOW DURING PERIOD | OUTGOING CASH FLOW DURING PERIOD |
|--|--|
| Cash (incl. savings, deposits) at the start of the period (clause 8) | Cash (incl. savings, deposits) at the end of period (clause 8) |
| Salary and any other income including gifts (clause 7) | + New real estate (clause 2) |
| + Assets transformed (sold) during period (clause 10) | + New movables (clause 3) |
| | + New securities and other rights (clauses 4, 5) |
| | + Other high expenses (luxury vacation, etc.) (clause 10) |
| + Loans (received/paid back to official) (clause 9) | + Loans (given/paid back by official) (clause 9) |
| = Subtotal incoming | = Subtotal outgoing |

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| Recommendation 11 | <i>The NACP needs to define a formula for checking the internal coherence of a declaration (financial plausibility formula). Important/urgent</i> |
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The formula is equally relevant for the audit stage: Does the wealth of the public official as established during the audit constitute illicit enrichment? (For the respective recommendation, see below under “Audit”).

Line 57 of the criteria (component 1) only compares income and expenditures. While a misbalance in this regard certainly raises a red flag, it is only an overly simplified formula detecting only the most egregious misbalances (missing out on all expenditures for assets not included in the “expenditures” section, such as real estate or vehicles).

4.3. COMPONENT 2: EXTERNAL CHECK

4.3.1. Definition and status quo

As stated earlier, the rules for this component are still in the drafting process. Decision 56 defines this component as follows:

II.7.2) control over conformity of the declared data to databases (hereinafter – Component-2) – a comparison of data specified in the declaration which undergoes the detailed audit with data specified in other declarations of

¹³ Western Balkan Recommendation on Disclosure of Finances and Interests by Public Officials, E.9.

¹⁴ Council of Europe Opinion ECCU-PCF-UA –7/2016, October 2010 (Tilman Hoppe), page 12 (the Council of Europe did not publish this opinion, while the Ukrainian beneficiaries translated it at their own expense and published it on the parliament’s website, <http://crimecor.rada.gov.ua/komzloch/doccatalog/document?id=57702>).

¹⁵ Council of Europe Opinion ECCU-PCF-UA –7/2016, October 2010 (Tilman Hoppe), page 12 (the Council of Europe did not publish this opinion, while the Ukrainian beneficiaries translated it at their own expense and published it on the parliament’s website, <http://crimecor.rada.gov.ua/komzloch/doccatalog/document?id=57702>).

this declaring entity, data kept in the registers, databases and other information and telecommunication systems of public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies which may contain information about certain declaring entities (hereinafter – relevant databases) which is conducted upon filing the declaration.

Component 2 checks the conformity of declared data with a standardised list of state databases and a previous declaration. By comparison, the audit is a more in-depth use of the same databases complemented by other sources (such as internet, private databases, etc.).

4.3.2. Opening

This step does not depend on a “decision by the NACP”, but will be conducted on all declarations.

4.3.3. Criteria and accumulation

Similar observations as above under Component 1 apply for Component 2 as well. For example, line 5 sets the threshold very high (double income as compared to previous declaration); line 11 (undeclared family member) should trigger an audit and not only be a cumulative factor. In particular the weights for the lines 11 to 38 show clearly that numerous omissions are required for the declaration to reach the risk threshold.

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| Recommendation 12 | <i>All criteria under Component 2 should be reviewed in view of lowering the thresholds.</i> |
| Recommendation 13 | <i>Each criterion under Component 2 should be reviewed as to whether it deserves in and of itself to be a (stand-alone) trigger for a full-scope audit.</i> |

4.3.4. Databases

a. Variety and access

The following databases are available online for the possible use of automated checks in the future (years refer to the oldest available dataset):

- Vehicle registry: 2013;
- Real estate: 2013;
- Maritime vessels;
- Cadastre: the database largely overlaps with the real estate register, but contains more complete/accurate data in particular on plots of land.
- Income/taxes: 2015;
- Copyright database;
- Airplane register;

Online access does not yet mean automated access. It only means, an inspector can manually log into the database and search for data. It will be a rather difficult and long way, until an automated system will be in place. This requires that the NACP has a software interface that connects with the format of the various databases. In addition, the agencies maintaining the respective databases as well as the State Service of Special Communications and Information Protection (DSSZZI) will have to be responsive and practical. Based on the interviews doubts remain, whether this will be the case as much as it should be.

b. Previous declarations

Internal contradictions concern not only one declaration in itself, but also contradictions among several declarations of the same declarant. The draft “Declaration automated verification rules” contains rules regarding comparison between the data in a declaration and those in a previous declaration of the declarant. “Previous declaration” is only the one submitted the year before the current one. This implies that only declarations submitted under the e-system will be used, but not declarations from before. This makes sense, as the data from previous declarations is not available in machine-readable/database format. For automated verifications, there is no single database with previous declarations (until 2014). They are stored in a decentralised manner at the thousands of human resource offices across the country. However, automated comparisons should not be done only to the one declaration immediately before the one submitted. For example, if a public official buys a new car every year, this might not trigger an audit if compared only to the year before; but it should trigger an audit if it is done three or more years in a row.

Recommendation 14

The rules should be reviewed as to reflect also declarations older than only one year.

c. Quality of data

Databases of other state bodies have differing levels of quality. Some data is missing completely, is not searchable by all criteria necessary, or is only available in paper format or as image file. It is probably fair to say that Ukraine is a long time away from having a system that allows for the automated check of the most important databases. It should be noted that in Armenia, the Commission on Ethics for High-Ranking Officials, already established a fully automated system in 2016 (with assistance by the World Bank). Commissioners can use special software for verifying asset declarations. When Commissioners open a specific declaration, it is shown on the top half of the screen. The software automatically logs in and searches for information in state databases (real estate, vehicles, civil and citizen registry, company registry). The data from this automated online search is shown in the bottom half of the screen. The Commissioner verifying a declaration can compare the data on the top and bottom half of the screen. Currently, the lack of quality in some data and the lack of standardisation of data in declarations and databases require Commissioners to perform this comparison “by hand”. However, the time necessary for verifications has been cut down by the software from days or weeks (for requesting and receiving the information) to minutes.

Recommendation 15

In a mid-term perspective, the NACP should systematically analyse and measure the quality of data in state databases, in order to be able to evaluate the level of reliability of a negative response. The results of this analysis and the level of cooperation by state bodies should be communicated strategically to the public.

4.4. AD HOC DECLARATIONS

There is no reference in the draft rules on how to take into account ad hoc declarations (on foreign bank accounts or significant increase in assets). The interviews confirm that ad hoc declarations are not subject to a separate verification procedure. This makes sense insofar as the ad hoc declaration does not provide information on other positions such as income, which allow for balancing income and expenditures. The ad hoc declarations only serve the purpose of tightening the declaration regime (it is more difficult for public officials to make up excuses for their wealth from hindsight, if they have to declare new assets on the spot as they are acquired).

5. AUDIT

5.1. OPENING

5.1.1. Current selection criteria

Decision 56, Art. III 6:

The decision on conducting the audit shall be adopted on the grounds envisaged by the Law if:

- 1) the declaration was filed by an officer holding a responsible and particularly responsible position, a declaring entity holding a position associated with high level of corruption risks, which list is approved by the decision of the National Agency dated 17 June 2016 No. 2, registered with the Ministry of Justice of Ukraine on 19 July 2016 under No. 987/2911;*
- 2) the declaration filed contains inconsistencies based on the results of logical and arithmetic controls;*
- 3) the declaration filed by the declaring entity contains field(s) in which the declaring entity chose box "Family member failed to provide information" (in the event envisaged in part seven of Article 46 of the Law);*
- 4) the National Agency received from individuals or legal entities, the media and other sources the information about possible false data reflected in the declaration. Such information should relate to a particular declaring entity and contain actual data that can be verified;*
- 5) the establishment by the National Agency of non-conformity of living standards of the declaring entity to the declared by him/her assets and income based on the results of lifestyle monitoring.*

Above excerpt of Decision 56 foresees the following five triggers:

- Risk positions;
- Arithmetic control;
- Lack of data on family members;
- Complaints;
- Lifestyle monitoring.

a. Risk positions

According to Paragraph 2 Article 50 of the LPC declarations of persons who hold responsible and especially responsible positions as well as positions associated with high level of corruption risks are subject to mandatory full verification. The responsible and especially responsible positions are listed in a note to the Article 50. The list of positions with high and heightened level of corruption risks was approved with the NACP Decision No. 2 of 17 June 2016. Apart from the title of the list, there is no distinction between high and heightened risk in the document. The list of risk positions complements (and possibly partially overlaps with) the list of officials who hold responsible and especially responsible positions. As of the time of the mission to Kyiv for this Assessment, full audits of declarations of officials in

these positions had not started. There is no mechanism to ensure that the list of risk positions is complemented and revised based on actual corruption risk assessments within institutions.

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| Recommendation 16 | <i>In a long-term perspective, consider a possibility to regularly review and, if necessary, complement the list of positions associated with a high level of corruption risks based on the findings of corruption risks assessments in activities of the government authorities.</i> |
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b. Arithmetic control – risk index

Decision 56, II.7:

If the risk rating of a particular declaration is equal to or exceeds the risk rating index, the National Agency when conducting the detailed audit of the declaration shall verify all data reflected in the declaration.

If the risk rating of a particular declaration is less than the risk rating index, the National Agency when conducting the detailed audit of the declaration shall verify data only in terms of the revealed risks.

If the declaration is assigned a zero risk index, the declaration shall be deemed to meet the requirements of the Law regarding the reliability of the declared data and the accuracy of estimates of the declared assets.

In principle, arithmetic controls triggering an audit are an appropriate and often necessary tool.¹⁶ As for the appropriate triggers, see above sections 4.2 and 4.3.

As the rules stand, any risk identified might not trigger a full audit, but one limited to the risk identified. This raises the question – how does one verify the stand-alone risk of having more than 1.5 million € in cash? This is only possible by scrutinising the entire picture of financial flows of a public official. The distinction between full audit and the one limited to single risks does seem to work only abstractly, but not in practice.

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| Recommendation 17 | <i>The feasibility of singling out risks and conducting audits on these “islands of risks” should be reviewed.</i> |
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c. Complaints

Decision 56, III.2. *The National Agency shall decide on refusal to conduct the detailed audit of the declaration under paragraph five of part one of Article 50 of the Law within 15 business days upon receipt of information from individuals and legal entities, the media and other sources about possible reflection of false information in the declaration if:*

- 1) on the basis of the information received it is impossible to identify the declaring entity or identify a particular declaration, or if relevant information does not contain actual data that can be verified;*
- 2) the information received contains allegations about the inaccuracy of data in the declaration without any explanations of non-conformity of such data to reality;*

¹⁶ Stolen Asset Recovery Initiative (StAR), Getting the Full Picture on Public Officials – A How-to Guide for Effective Financial Disclosure, 2017, p. 73.

3) conformity of data to reality concerning the inaccuracy of which the information was received is established earlier in accordance with legally prescribed procedure.

The decision on refusal to conduct the detailed audit of the declaration should contain justification of the ground for such refusal according to this clause.

In principle, the above complaints procedure is sound.¹⁷ It includes substantiated anonymous complaints in line with the LPC (Art. 53 part. 5). Interviews confirmed that the decision on accepting a complaint usually includes the opening of an audit and thus starts the running of deadlines. This poses an enormous problem: What if an NGO or a state body notifies the NACP of a bulk of 1,000 or 10,000 suspicions? The cases would have to be opened within 15 days, and audited within another 60 days. If the NACP does not manage, then the deadline will run out and the file will be closed. In addition, the closure counts as a conducted audit (even without a result on substance); in other words, the legal force of the closure comprises substantive *res judicata* due to the fact that the NACP is bound to a result even if it is based on zero feedback from databases and is not based on any sensible factual insights.

Recommendation 18

Consider possibilities to separate the decision to accept a complaint from opening the audit. Any extension of the time period since the complaint could be admitted based on grounded reasons, e.g. when a complaint concerns a large number of declarations.

d. Lack of data on family members

Difficulties to sanction family members for not declaring or not cooperating with the declarant are a common problem in many countries. They are not public officials. One possible solution is, to dovetail any refusal of declaration with a full audit.

e. Lifestyle monitoring

Decision 56, Art. III.3.5: *“the establishment by the National Agency of non-conformity of living standards of the declaring entity to the declared by him/her assets and income based on the results of lifestyle monitoring.”*

Art. 51 LPC obliges the NACP to conduct “selective monitoring of lifestyle of declarants in order to establish conformity between their level of life and assets and income received by them and their family members according to the declaration”. A UNDP brief on lifestyle monitoring in Ukraine (“Lifestyle monitoring – International Practice Review and Potential for Application in Ukraine”), drafted by one of the authors of this Assessment, has been published in November 2016.¹⁸ In essence, the Brief concludes that lifestyle monitoring is not something else or in addition to an audit, but part of it. In the Ukrainian context and in distinction from all other normal audit proceedings, it can only mean an on-site observation, such as taking an external look at an asset such as a house (e.g. following a complaint).¹⁹ The Brief provides comprehensive comparative research on the topic as well as a concrete recommendation on this term.

¹⁷ For the relevant international standards and practices: Stolen Asset Recover Initiative, *ibid.*, p. 74.

¹⁸ <http://dhrp.org.ua/en/news/1504-20161027-en>.

¹⁹ For further international practices see: Stolen Asset Recovery Initiative (StAR), *ibid.*, p. 75.

The Ministry of Justice refused to register a draft decision by the NACP on the procedure of lifestyle monitoring. The NACP is currently preparing to register an updated version.

Interviews reflected the following understanding of lifestyle monitoring among some inspectors:

- Lifestyle monitoring is triggered by complaints that relate to a specific asset spotted by a citizen prima facie not supported by the legal income of the public official.
- The NACP could verify this specific complaint outside an audit (initially outside the normal deadlines; however, it appears as if the Ministry of Justice introduced (requested to introduce) the deadline of 60 days in the current draft of regulation).
- The NACP could not exercise any powers it does not already have in the course of an audit, in particular the NACP would not be explicitly enabled to take an external look at an asset.

In essence, this means that current plans aim at nothing but a normal audit following a complaint without the limits of a deadline and a clearer focus on the balance between the official's income and expenses. The authors of this Assessment do not see any added value in such a procedure (as one should abolish the deadline and any audit should focus on the balance of income/ expenses anyways). Furthermore, there is no point in the LPC providing an extra article on lifestyle monitoring if in the end bylaws truncate it into a copy of a normal audit.

Recommendation 19

Clarify the meaning of lifestyle monitoring, ideally by simply allowing real life observations of assets as they are publicly visible ("taking a look at a house from outside").

f. Special professions/laws

Art. 60 par. 1 Law "On the Judiciary and the Status of Judges" (LSJ) mirrors Art. 50 para. 1 LPC. In addition, Art. 60 par. 2 LSJ calls for a "full verification of declarations" by judges "at least once every five years as well as upon a relevant request of the High Qualifications Commission of Judges of Ukraine or High Council of Justice". Art. 60 LSJ furthermore entrusts the NACP with this task.

5.1.2. Additional selection criteria

a. Random selection

The Council of Europe Opinion of October 2016 states in this regard:²⁰

In addition, random selection is also recommended inter alia by GRECO. For example, where GRECO found verification mechanisms to be missing, it recommended "coupling the disclosure system with an effective control mechanism (including random verifications)".²¹ It seems that the LPC allows for random selection in Article 50 part 1 paragraph 4, giving the National Agency apparently autonomy over full verification. However, in paragraph 5, verification is based on "information received from individuals and legal entities, from media and other sources about possible indication

²⁰ Council of Europe Opinion ECCU-PCF-UA –7/2016, October 2010 (Tilman Hoppe), page 15; Stolen Asset Recovery Initiative (StAR), Getting the Full Picture on Public Officials – A How-to Guide for Effective Financial Disclosure, 2017, p. 73.

²¹ See for example GRECO Evaluation Report Bosnia and Herzegovina (Eval IV Rep (2015) 2E), recommendation v http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/ReportsRound4_en.asp.

of false data in the declaration.” If paragraph 5 is only complementing paragraph 4, then the National Agency has the possibility to also select declarations for full audit on a different basis, such as random selection.

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| Recommendation 20 | <i>A random sample of declarations should be subject to full verification.</i> |
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b. Ex officio audits

Oversight bodies in other countries have the power to conduct an audit ex officio. This is an important “catch-up” power that allows conducting an audit, for example, if:

- the control of one declaration reveals red flags about another declaration;
- an inspector happens to come across a suspicion regarding a particular declaration;
- a public official is suspected of corruption, without any further indication that data in the declaration is wrong;
- an inspector actively reviews the internet for reports on suspicious declarations (e.g. NGO reports).

As of today, the NACP could not open an audit in above cases, as per its Decision 56.III.1.4 the “decision on conducting the audit should be duly justified by reference to legally prescribed grounds”. Decision 56, III.2 allows for an audit “upon receipt of information” – it seems as if this means that an external party has to direct the information at the NACP. Interviews confirmed this interpretation as practice at the NACP.

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| Recommendation 21 | <i>Introduce ex officio audits.</i> |
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c. Suspects of corruption offences

One would argue that a corruption offence should also be a reason for the NACP to verify an asset declaration. However, this is done by the law enforcement authorities. The NABU – inter alia – also has the competency of verifying an asset declaration in case it suspects a person of a corruption offence.

5.1.3. Prioritisation

Decision 56, III.7: *The detailed audit under paragraph 4 of clause 3 [“complaints”] hereof shall be conducted in the following priority:*

1) declarations of persons holding responsible and particularly responsible positions, except for those whose positions belong to “A” or “B” category civil service positions, and those whose positions under part one of Article 14 of the Law of Ukraine “On Service in Local Self-Government Bodies” fall to category 1-3, as well as except for judges, prosecutors and investigators, heads and deputy heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more regions, the Autonomous Republic of Crimea, cities of Kyiv and Sevastopol, heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more raions, city of republican in the Autonomous Republic of Crimea or regional significance, district in a city, city of raion subordination, military senior officers;

- 2) declarations of persons whose positions belong to “A” category civil service positions, and those whose positions under part one of Article 14 of the Law of Ukraine “On Service in Local Self-Government Bodies” fall to category 1-3;
- 3) declarations of judges, prosecutors, investigators, military senior officers;
- 4) declarations of persons whose positions belong to “B” category civil service positions, and those whose positions under part one of Article 14 of the Law of Ukraine “On Service in Local Self-Government Bodies” fall to category 3, as well as declarations of the heads and deputy heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more regions, the Autonomous Republic of Crimea, cities of Kyiv and Sevastopol, heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more raions, city of republican in the Autonomous Republic of Crimea or regional significance, district in a city, city of raion subordination;
- 5) declarations the risk rating of which is equal to or exceeds the risk rating index and the detailed audit of such declaration is conducted under paragraph two of part one of Article 50 of the Law;
- 6) declarations on which the National Agency received information from individuals or legal entities, the media and other sources about possible reflection of false data in the declaration, if such data deals with assets or other property items which have value and can vary from accurate data by the amount of 250 minimum subsistence incomes for capable persons [=13,500 €];
- 7) declarations regarding which the National Agency received information from individuals or legal entities, the media and other sources about possible reflection of false data in the declaration, if such data deals with assets or other property items which have value and can vary from accurate data by the amount of 100 minimum subsistence incomes for capable persons [=5,400 €];
- 8) declarations the ground for the audit whereof is the establishment of non-conformity of living standard of the declaring entity to the declared by him/her assets and income based on the results of lifestyle monitoring;
- 9) declarations of the declaring entities holding positions related to high level of corruption risks;
- 10) declarations containing field(s) in which the declaring entity chose box “Family member failed to provide information”;
- 11) other declarations.

The prioritisation is only done for audits based on complaints. This raises the question, how the audits following from the five different triggers are prioritised among each other. Moreover, considering that decisions on complaints and subsequent audits shall be taken within 15 business days since the receipt of the information, it remains unclear what room for prioritization there is at all.

Recommendation 22

In mid-term perspective, clarify the overall prioritisation of all audits triggered under different categories or subject the prioritisation of all audits to due discretion.

5.1.4. Start of procedure

a. Commissioners' involvement

Decision 56 III.1 A detailed audit of the declaration(s) shall be conducted by the decision of the National Agency, granting an authorization to its member to conduct the detailed audit of the declaration(s) (hereinafter – the decision on conducting the audit) through employees of a structural unit of its apparatus, whose activity is related to the discharge of such function of the National Agency.

Decision 56 III.2. The National Agency shall decide on refusal to conduct the detailed audit of the declaration under paragraph five of part one of Article 50 of the Law within 15 business days upon receipt of information from individuals and legal entities, the media and other sources about possible reflection of false information in the declaration if [...].

There is no reason for each audit to be subject to a decision of the full Board of the NACP. Auditing tax declarations is comparable to financial auditing asset declarations (similar data, similar objective, similar methods). As far as can be seen, no tax authority in any country subjects each audit to a bottle-neck decision by the head of agency. There should be a sequenced signature regulation, delegating the decision depending on its importance to lower or higher levels of staff/management. The involvement of the Board is particularly redundant taking into account the extensive (and even excessive) procedural guarantees for the declarants whose declarations shall be audited.

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| Recommendation 23 | <i>The decision on conducting the audit (or refusing it) should not depend on a decision of even one Commissioner. It is sufficient if one or all Commissioners approve the internal guidance and regularly review the roster of audits. Cases of outstanding importance could be subject to Commissioners' approval. A four-eye principle in the decision-making by staff can limit the risk of ungrounded discretionary decisions on conducting audit. Important/urgent</i> |
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b. Notification of declarant

Decision 56, III.2: The National Agency shall notify the declaring entity of the adopted decision on conducting the audit using the software of the Register at the latest on the date of the decision.

The notification at the beginning of the audit should be abolished. A Council of Europe Opinion of 2015 on a similar provision in a Moldovan Draft Law states:²²

The European Convention on Human Rights requires only for a criminal trial a right to defence (Article 6 para. 3), but not for the investigation itself.²³ There is no requirement in Moldova or elsewhere in Europe that the subject of a criminal investigation is to be informed immediately if an investigation has only just commenced. On the contrary, it would often endanger the success if the suspect knew of the investigation from its beginning. If there is no obligation to inform a suspect in a procedure as serious and far-reaching as a criminal investigation, there is even less reason to do so for audits of declarations.

²² Council of Europe Eastern Partnership Project (2015), Expert Opinion on Draft Laws of the Republic of Moldova on: "the declaration of wealth, personal interests, conflicts of interest and gifts", page 76.

²³ See for further details: www.echr.coe.int/Documents/Guide_Art_6_criminal_ENG.pdf.

Similarly, there is no obligation for the tax administration in the Republic of Moldova or elsewhere in Europe to inform the tax declarant when they check the data from a tax declaration. In fact, for example in Germany, the tax administration is only obliged to consult with the declarant right before it is about to issue a final finding:

“Before an administrative act affecting the rights of a participant may be issued, he should be given the opportunity to comment on the facts relevant to the decision. This shall apply particularly where there is to be a significant departure from the facts declared in the tax return to the detriment of the taxpayer.”²⁴

There is only an obligation to hear the concerned party once a criminal investigation is finished, a tax authority produces a finding, or, in the case of an asset declaration, the Centre has performed the audit and wants to finalise its findings.

Informing the declarant would endanger the success of the audit: a bad faith declarant could use the notification to influence third parties; e.g., if he/she declared a fake loan from a friend in order to pretend as it was legal income (and thus to cover up for the same amount earned through bribes), he/she could immediately call the friend to prepare him for the audit (so the friend knows what to say and what not when the Centre would verify the loan) and falsify a loan contract and other documents.

Even worse, a declarant involved in criminal activities would know that there is a risk of a criminal investigation as a result of his/her implausible declaration. The declarant could tamper with evidence or dispose of assets. Thus, Article 23 para. 3 does not only endanger an audit, but even criminal procedures. For that reason, a tax authority would never inform the tax owe when it comes to suspect that a criminal offence from a tax declaration or other tax documents had occurred, but would only inform the prosecution office.

Above points are probably the reasons why neither the OAS Model Law on Declarations nor the Western Balkan Recommendation provide an obligation to notify the declarant at the beginning of verification procedures. All in all, the current version of Article 23 para. 3 poses a serious threat to the effectiveness of the declaration and verification system in Moldova and should be fundamentally revised.

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| Recommendation 24 | <i>The notification of declarants should be abolished and replaced by a notification after the fact. Important/urgent</i> |
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c. Appeal to court

Decision 56 III.2: *The decision on conducting the audit may be appealed to court. Appeal against the decision on conducting the audit shall not suspend the detailed audit of the declaration.*

As for this provision, the same arguments apply as for the notification of the declaration. In addition, one should note: the only reason of submitting declarations is for them to be verified. The assumption, that verification as such puts a significant grievance on a declarant, seems rather far-fetched. The NACP would, for example, need to select the declarant based on his/her race or conduct the same verification over and over again. A declarant could always challenge such a procedure in court under general rules. There is no need to make an appeal to court a standard feature in asset declaration procedures. This aside, there is no clear criteria in the Decision 56 on the grounds for appeal. One should also note that the LPC does not foresee such an appeal.

²⁴Section 91 Fiscal Code of Germany, http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p0552 (English).

So far, none of the declarants appealed the opening of an audit. Some interviewees accrue this to the fact that the notification of declarants is carried out through the e-declaration system and has thus not yet received full attention of the declarants. This could change in the near future.

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| Recommendation 25 | <i>The decision on conducting the audit should not be subject to appeal. Important/urgent</i> |
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d. Assignment to inspectors

Cases are assigned to individual inspectors by decision of the Board. This seems a somewhat peculiar element of “micromanagement”. Several interviewees confirmed that they see a high risk of arbitrary interference by this mechanism in the regular proceedings of auditing.

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| Recommendation 26 | <i>Cases should be assigned to inspectors based on objective, strict criteria similar to discretion-free case allocation in court. Important/urgent</i> |
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Inspectors are disciplinarily responsible for the audit proceedings and result, while Board members are not; thus, inspectors need more independence in conducting the verification. Board members should only be able to take over cases, if they sign on as responsible “inspectors” in writing; similarly, instructions should only be valid if given in writing. According to several interviews, inspectors at the Chamber of Audit enjoy more independence in their work than inspectors at the NACP.

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| Recommendation 27 | <i>Inspectors should be able to carry out the verification of their cases with safeguards ensuring their independence. Important/urgent</i> |
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5.2. SCOPE OF AUDIT

In principle, all data is checked during an audit:

Decision 56, III.5.1 *When conducting the detailed audit of the declaration the National Agency shall verify all data reflected in the declaration under clause 1 hereof, unless otherwise envisaged in this Procedure.*

However, there are two exemptions for audits of “high level/risk officials”:

5.2.1. Limitation to identified risks

Decision 56, III.5.2: *If the risk rating of a particular declaration is less than the risk rating index and the detailed audit of the declaration is conducted under paragraph two of part one of Article 50 of the Law [“high level/risk officials”], the National Agency when conducting the detailed audit of the declaration shall verify data only in terms of the revealed risks.*

If a public official fails to declare certain assets, this is always reason for a full audit – it is not sound to limit the audit only to the asset that was not declared: The NACP knows already that this asset was not declared, so why double this by

conducting an audit? Non-declaration of an asset is usually a red flag.²⁵ Furthermore, provision III.5.2 is narrower than the requirement of the law, which requires “mandatory full verification”.

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| Recommendation 28 | <i>The calculation of the risk rating needs to be simplified and needs to trigger an audit in case a significant asset has not been declared.</i> |
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This aside, this provision runs counter to the purpose of an audit: Whether data is declared or not, is mainly the task of component 2 of the arithmetic check. An audit should look for any pattern of hiding illegal income.

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| Recommendation 29 | <i>The limitation to identified risks needs to be abolished.</i> |
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5.2.2. Limitation to illicit enrichment/conflicts of interest

Decision 56, III.5.3: *If the declaration based on the results of logical and arithmetic controls is assigned a zero risk index and the detailed audit of the declaration is conducted under paragraph two of part one of Article 50 of the Law [“high level/risk officials”], the National Agency when conducting the detailed audit of the declaration shall verify data only in terms of the existence of the conflict of interest and signs of illicit enrichment.*

This provision is unclear – how can one check illicit enrichment without checking all data? Illicit enrichment is an offence that can combine a variety of complex patterns of hidden financial flows. If one wants to check “just one data” properly, one has to conduct a full audit on all data. This limitation is simply not possible.

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| Recommendation 30 | <i>The limitation to illicit enrichment needs to be abolished.</i> |
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5.2.3. Limitation in the context of complaints

A similar problem arises in the context of complaints:

Decision 56, III.4.2.1: *the information received deals with a particular declaring entity and contains actual data that can be verified;*

This provision is somewhat unclear – is only the data specifically covered by the complaint checked or all data? The provision III.4.2.1) seems to suggest the latter. However, the following paragraph seems to suggest the contrary:

Decision 56, III.5.4: *In the event of adoption under paragraph 4 of clause 3 hereof of the decision on conducting the detailed audit of the declaration, if the detailed audit of relevant declaration has been previously conducted, the National Agency shall undertake measures to verify information about possible reflection of false data in the declaration only in terms of new information received which has not been verified during the detailed audit.*

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| Recommendation 31 | <i>The relation between Decision No. 56, III.4.2.1 and III.5.4 needs to be clarified.</i> |
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²⁵ Council of Europe (Tilman Hoppe/Valts Kalniņš), Practitioner manual on processing and analysing income and asset declarations of public officials, 2014, page 30.

5.2.4. “Point zero”: 2015

The NACP has issued the following press release (2 August 2017): “National Agency on Corruption Prevention monitors and verifies declarations only in respect of property, assets and corporate rights that have been accrued by the declaring subject after April 2015, as stipulated by the Law of Ukraine ‘On Corruption Prevention’ adopted by Verkhovna Rada of Ukraine on October 14, 2014.”

The press release is somewhat opaque and an example of public relations of the NACP in need of improvement. Behind this press release is the following legal point:

- Up to 2015, “illicit enrichment” was more of a placebo than a real criminal offence. It was defined as “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 of bribery”.²⁶ This offence is not suitable of bringing people for inexplicable wealth to justice.
- The new offence of illicit enrichment in force since 2015 does not and cannot apply retroactively (to this end, the “acquisition” of assets constitutes illicit enrichment).
- Illicit enrichment (in the sense of the new offence) might have been a disciplinary offence even under the previous law, but statutes of limitations have run out.
- In addition, false declaration was not a criminal offence before 2015.

However, even if illicit enrichment was not an offence before 2015, the following questions remain:

- Inexplicable wealth is usually paired with untaxed income – How is it ensured that the State Fiscal Service can review declarations for such inexplicable wealth in the period up to 2014? Given the excessive level of corruption during the time of the previous head of state, doubts remain whether reviews conducted in the years before 2014 were up to international standards. Thus, there might be a need to look into older cases as well.
- Inexplicable wealth is usually a sign of corruption and other offences – How is it ensured that law enforcement authorities can sufficiently review each case by using possible illicit enrichment as a red flag?

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| Recommendation 32 | <i>Policy makers should review options of reviewing past declarations as much as possible with the aim of bringing public officials with illicit income to justice.</i> |
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5.2.5. Use of past data

a. Past financial data

Interviews confirmed that the NACP can make use of data from before 2015 for verifying if a transaction in 2015 is plausible or not.

b. Past declarations

The NACP uses past declarations for audits. There is no single database with previous declarations (until 2014). They are stored in a decentralised manner at the thousands of human resource offices across the country. Thus, for the arithmetic control, only declarations submitted under the new e-system can be used. Ideally, declarations from previous years

²⁶ Art. 368-2 Criminal Code as amended by Law No. 3207-VI of 7 April 2011, <http://zakon2.rada.gov.ua/laws/show/2341-14/page11>.

would be centralised and digitalised for ease of further analysis – at least for higher charges of public officials. Georgia had lower GDP per capita than Ukraine nowadays when it set up an award winning system of public declarations in 2011, including digitalizing all previous declarations.²⁷ One should keep in mind though, that information in declarations until 2014 is often unreliable, not least because public officials could rather easily change or manipulate the content of declarations. However, as far as a signed declaration with useful information exists, it can still be powerful proof.

Recommendation 33

In mid-term perspective consider centralising and digitalising pre-2015 declarations submitted by public officials above a certain level.

Several interviewees pointed out that inspectors at the NACP cannot base their decisions on information from declarations of before 2015. This internal limitation is not in line with the LPC, which does not contain such a restriction.

Recommendation 34

The NACP should internally admit declarations from before 2015 as evidence.

5.3. DATA CHECK

5.3.1. Objective

Component 2 of the arithmetic check also checks conformity of declared data with state databases. The data check of the audit goes beyond that exercise:

- It uses more sources (e.g. internet, media, private databases).
- It reviews/should review not only the one-dimensional conformity of data with the respective database, but look proactively for patterns of hiding conflicts of interest and hidden wealth.

5.3.2. Cooperation with state bodies/databases

a. Access

As of 31 August 2017, the NACP has access to the following databases:

Signed memorandums of understanding/ratified agreements for access via VPN (10)

1. Personal income of individuals, State Register of Individual Taxpayers – Ministry of Finance, State Fiscal Service (hereafter – SFS) (several interviewees complained about the general lack of SFS’s responsiveness to individual requests by the NACP).
2. Rights to Real Estate (Ministry of Justice).
3. National Automated Information System (NAIS), Unified State Register (Ministry of Interior Affairs).
4. Civil Aircrafts, including identifying the owner (State Aviation Service).
5. Ships and information from the Ship Book, State Inspectorate for maritime and river transport safety and security (State Service of Ukraine for Transport Safety and Security).

²⁷ See also: World Bank, Fighting Corruption in Public Services: Chronicling Georgia’s Reforms, 2012, 108 pages, <http://elibrary.worldbank.org/doi/pdf/10.1596/978-0-8213-9475-5; http://declaration.gov.ge/eng/> – English version of the Georgian asset declaration website.

6. Land property rights granted before 1 January 2013 and the cost of land acquisition (State Service of Geodesy, Cartography and Cadastre).
7. Mandatory State Social Insurance of the accumulation, storage and use of information on collection and keeping records of the flat social security tax as well as on taxpayers and insured persons (Pension Fund). Technical regulations are developed and software is under development.
8. State Register of Encumbrance on Movable Property (Ministry of Justice).
9. Public Organizations (Ministry of Justice). Provided together with access to the United State Register of Legal Entities, Individual Entrepreneurs and Public Organizations.
10. Gart, integrated information and telecommunications system used to control persons, transport means and cargo that cross the state border (State Border Service). A resolution is being prepared for the Ministry of Justice for legal expert evaluation.

Public registers, open to the public (1)

11. Unified Register of Notaries (Ministry of Justice).

Access pending (4)

12. Individual Taxpayers who own substantial blocks of shares equal to or exceeding 10 percent of the registered capital) of securities issuers (National Commission on Securities and the Stock Market) – a memorandum signed but information available only upon request; process of establishing technical rules and regulations for accessing its information ongoing.
13. Wheeled vehicles and cost of their acquisition (State Automobile Inspectorate Department of the MoIA of Ukraine). Operations are suspended. MoIA is to integrate the database in NAIS.
14. Records of tractors, motor vehicle chassis, self-propelled agricultural, road construction and land reclamation machinery, farm machinery and other equipment (State Agricultural Inspection). To be transferred to MoIA, NAIS.
15. Information about persons who receive social payments. Draft memorandum forwarded to the Ministry of Social Policy.

Access denied (5)

16. Paid land payments and rentals (State Fiscal Service of Ukraine). Request to SFS asking for access to the Tax Module. A new request is being prepared by NACP.
17. Civil Register (Ministry of Justice)
18. Powers of Attorney (Ministry of Justice)
19. Deceased Estate Register (Ministry of Justice)
20. Register of enforcement proceedings (Ministry of Justice)

Some interviewees mentioned that the refusal of access is based on the allegation that the civil register is a “register” and not a “database”, among other arguments. The authors of this Assessment would find such an interpretation of the LPC by the Ministry of Justice quite questionable and rather nit-picking. Several interviewees with legal background share the same view and regard the interpretation by the Ministry of Justice as untenable. This aside, one has to wonder why the Ministry of Justice did not review and remedy this wording of the LPC while it was still in its draft stage? It should be noted that the authors of this Assessment are not aware of any country where the asset declaration oversight body has not access to the civil registry. The registry of powers of attorney is equally important as these powers are a vital instrument for controlling assets.

Access not granted – LPC allegedly not applicable to non-state bodies:

21. Centralized database of the Motor Transport Insurance Bureau (MTIBU), as it is not a state body.

In addition, the NACP needs access to the following (e.g. a dispute on a loan agreement can reveal that a public official involved did not declare a loan):

22. Database of court decisions and proceedings.

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| Recommendation 35 | <i>All above state bodies should grant access to their registries. Important/urgent</i> |
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CAO Article 188-46. *Failure to comply with the legal requirements (prescriptions) of the National Agency for the Prevention of Corruption*

Failure to comply with the legal requirements (prescriptions) of the National Agency for the Prevention of Corruption on the elimination of violations of legislation on the prevention and counteraction of corruption, failure to provide information, documents, as well as violations of the deadlines provided by the legislation, provision of knowingly false information or not in full – impose a fine of one hundred to fifty tax-free minimum incomes of citizens.

The same actions committed by a person who during the year was subject to administrative penalty for the same violation – impose a fine of two hundred to three hundred tax-free minimum incomes of citizens.

There were differing perceptions as to whether the NACP had ever made use of this offence; if so, it appears as if it has done so only once.

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| Recommendation 36 | <i>It should be part of standardised procedures that inspectors document each time they have not received all information, whether they chose to draw up a protocol under Article 188-46 CAO, and the grounds for their decision; this aside, the NACP should make more use of this provision in order to unfold its potential of incentivising compliance. Important/urgent</i> |
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b. Excessive secrecy

The State Service of Special Communications and Information Protection (DSSZZI; created in 2006)²⁸ through the state enterprise “Ukrainian Special Systems” has put some restrictions on the secrecy of personal data within the NACP that

²⁸ http://www.dsszzi.gov.ua/dsszzi/control/en/publish/article?art_id=89926&cat_id=88059.

are – in the words of many interviewees – “paradox” or “Kafkaesque”. The restrictions imposed by the DSSZZI concern data that is open or confidential in registers outside the NACP but has to be treated rather like state secret within the NACP. Inspectors have to go to a separate protected room, if they want to see the full version of the asset declaration. The data put under “secrecy” is the following:

- Address of the declarant;
- UID = tax number;
- Family member’s UID;
- Exact location of real estate;
- Registration code of a document for ownership;
- Numbers of land plots;
- Registration numbers of vehicles (and similar for other vehicles).

Many of these data are part of publicly accessible databases (except for registration numbers of vehicles). However, at agencies dealing with number plates, the data is not always put under secrecy levels comparable to that of the NACP. All these data are also contained in regular letters or emails when being sent to the NACP. It seems justified to raise the question, whether the NACP is put under stricter conditions than other bodies and whether this is because an effective fight against corruption is not wanted. For example, the unique personal identifier (UID) is a searchable element of publicly available registries (e.g. entrepreneur registry), while it is treated with the utmost secrecy by the DSSZZI when it comes to the NACP. For an inspector to access data as banal as the UID or address of a declarant, he/she has to do the following (in line with the DSSZZI requirements):

- Register for access to the “secrecy room”;
- Go to the “secrecy room”;
- The inspector is not allowed to take notes or print out the information, unless the notes or print out stay in the room (!);
- Try to memorize the data, for example, the UID when leaving the room;
- Go back to the “secrecy room” a second time when comparing the information obtained from registries;
- Go back to the “secrecy room” a third time when doing a final check on the data in the protocol of the information obtained from registries.

The authors of this Assessment find such a procedure indeed paradox and Kafkaesque. In Georgia, for example, a country with a data protection law modelled after European Union standards, the asset declaration oversight body has online access to all state registers while dealing with the data as any agency does – with care and in line with data protection laws, but without celebrating an excess of secrecy.

Recommendation 27

The NACP should have access to the full version of the declarations the same way the tax administration has access to personal data in everyday work-flows. Important/urgent

5.3.3. Powers

a. Banking information

Decision 56, III.10: “To receive information regarding availability and status of accounts, transactions on the accounts of a particular legal entity or an individual, a private entrepreneur which is required to conduct the detailed audit of the declaration, the National Agency shall apply to the court in the manner specified in Chapter 12 of Section IV of the Civil Procedure Code of Ukraine.”

The Council of Europe Opinion of October 2016 states: In principle, Article 12 part 1 clause 1 LPC could also be the general basis for requesting banking data, since they are “business entities”. Obviously, access to banking data is of great practical advantage for any oversight body trying to trace financial flows.²⁹ It should also be kept in mind that the tax authorities have direct access to banking data without judge’s approval. For example, banking data regarding entrepreneurs is apparently automatically transmitted to tax authorities to notify on respective income (as one interviewee has pointed out). It is thus unfortunate, that Decision 56 makes access to banking data dependant on a judge’s approval.

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| Recommendation 38 | <i>The NACP should have at least the same level of access to banking data as tax authorities (without having to go through a judge). Important/urgent</i> |
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As an interesting note, the NACP has not yet used banking data in one single case of verification. Furthermore, there is no internal instruction as to when inspectors should request it.

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| Recommendation 39 | <i>The NACP should make more use of banking data and collect experiences in how the access works in practice. Important/urgent</i> |
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b. Internet

Decision 56, III.8.4: “data from the media, the Internet which deals with a particular declaring entity and contains actual data which can be verified.”

The provision is worded in a strange way – data might not necessarily deal with a particular declaring entity but still the NACP should be able to search it. However, it can be ignored in practice while, of course, as evidence only concrete data is used.

c. Letterhead

Decision 56, III.8.4): *The request shall be executed on the official letterhead of the National Agency.*

²⁹Western Balkans Recommendation, ibid, E.7: “Banking secrecy should not be an obstacle to using banking data for verification purposes”.

None of the outgoing correspondences is done by email. All draft letters go through many stages of signatures (too many in some instances as it seems, without having this reviewed in detail). This reflects a still persisting tradition in Ukraine that only paper letters are requests that a state body would take seriously.

One should also note, that letters mirror the clumsy and rather soviet style of legal regulations. For example, the template letter on sending a case to the prosecutor starts with the following lengthy and legalistic statement (which states nothing else than “The NACP conducted an audit on the person XY.”), which is one sentence consisting of 224 words:

“The National Agency for Prevention of Corruption (hereinafter referred to as the National Agency) under paragraph five of part one of Article 50 of the Law of Ukraine “On Corruption Prevention” (hereinafter referred to as the Law), sub-clause 1 of clause 3 of Section III of the Procedure for Carrying out Control and Complete Verification of the Declaration of the Person Authorized to Perform Functions of the State or Local Self-Government, approved by the Decision of the National agency No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 of 13.02.2017 (hereinafter referred to as the Procedure) and clause 9 of the annex to the decision of the National Agency No. 99 of 21.03.2017 “On Carrying out Complete Verification of Declarations of Persons Authorized to Perform Functions of the State or Local Self-Government”; the decision of the National Agency No. 210 of 18.05.2017 “On the Extension of Full Examination of Declarations of the Person Authorized to Perform Functions of the State or Local Self-Government for 2015 and 2016”, conducted a complete verification of the declarations of the person authorized to perform functions of the state or local self-government (hereinafter referred to as the declaration), submitted by XXX for 2015 (a unique document ID – XXX) and 2016 (a unique document ID – XXX), (hereinafter – complete verification of the declaration).”

Recommendation 40

In mid-term perspective, communication by the NACP with other authorities should be streamlined into electronic communication as much as possible and its wording be simple and direct; any legalistic explanations should be annexed.

d. Scope of data

Decision 56, III.9: *“When conducting the detailed audit the National Agency has the right to request and receive only documents (copies of documents) and information regarding data reflected by the declaring entity in the relevant sections of the declaration in accordance with the Law and required for the detailed audit of the declaration.”*

As stated earlier, an audit is something different than a simple check whether the declared data matches data in databases. For detecting patterns of illicit enrichment one needs to go beyond one declared item and beyond what is declared and also take into account what is not declared (and might not even be part of declaration obligations).

If it is the purpose of this provision to prohibit abuse, then it should be worded much more specifically, for example, as a restriction against requesting data not serving the purpose of the audit.

Recommendation 41

Decision 56, III.9 needs to be worded more widely as permission to request and receive necessary data or more specifically as a restriction against requesting data not serving the purpose of the audit.

e. Visual inspections

Visual inspections are not listed among the sources of information (III.8). However, they might fit under lifestyle monitoring (see above 5.1.1.e).

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| Recommendation 42 | <i>Include visual inspections of assets into sources of information.</i> |
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f. Inspection of declared cash

Some public officials have declared vast amounts of cash.³⁰ This is problematic as the following experience from Latvia illustrates:

Latvia has had a continuous problem of public officials declaring major savings in cash. It was suspected but could not be proved that at least some of them declared non-existing amounts in order to be able to explain later enrichment.³¹ The ability to justify one's expenditure with unverifiable claims about cash savings was a problem also for the control of physical persons as taxpayers in general. In December 2011, Latvia adopted the Law on the Declaration of the Property Status and Undeclared Income of Physical Persons. The law introduced a one-time duty to submit a property status declaration for everyone who corresponded to a set of criteria and, among other things, obliged all residents-physical persons including public officials who had cash savings above set thresholds to have the excess amounts deposited in credit institutions in the period between 24:00 on 1 June 2012 and 0:05 on 2 June 2012.³² Thus the residents would no longer be able to explain future expenses with alleged cash savings above the limits unless they were deposited.

However, in the end of 2015, the Latvian State Audit Office (SAO) published a review of the system of declarations of public officials and found that the State Revenue Service (the institution that manages the system of declarations) had not provided control procedures over the existence of cash savings of public officials. The SAO did not find information about deposited cash savings of public officials in administrative cases concerning public officials.³³

To further reduce possibilities to use cash savings for the legalization of illicit income, on 28 April 2017, the government submitted to the parliament draft amendments of the Law on Prevention of Conflict of Interest in Activities of Public Officials, which envisage, among other things, a prohibition for public officials to accumulate cash savings in excess of 20 minimum wages. As of 31 December 2015, 2.4% of Latvian public officials had cash savings above this limit according to their declarations.³⁴ As of August 2017, the bill was pending in the parliament. Some of the frequently voiced arguments against such cash controls are as follows (with counter-arguments given below each point in italics):

- Corrupt public officials could easily circulate the same "stack of cash", which is deposited in banks for a short time and then withdrawn to be used by another public official;

Once the cash is deposited, it is part of the official's bank balance. If the balance does not reflect the deposit anymore by

³⁰ The Guardian (31 October 2016), Ukraine stunned as vast cash reserves of political elite are made public www.theguardian.com/world/2016/oct/31/ukraine-stunned-vast-cash-reserves-political-elite-made-public.

³¹ OECD (2011), Asset Declarations for Public Officials. A Tool to Prevent Corruption, pages 74-75, <http://www.oecd.org/corruption/anti-bribery/47489446.pdf>

³² Law on the Declaration of the Property Status and Undeclared Income of Physical Persons (Fizisko personu mantiskā stāvokļa un nedeklarēto ienākumu deklarēšanas likums), Section 8, <https://likumi.lv/doc.php?id=241275>

³³ Valsts kontrole (2015) Revīzijas ziņojums "Vai valsts amatpersonu deklarāciju iesniegšana, pārbaude un publiskošana ir efektīva?" (Audit report about the effectiveness of the submission, verification and disclosure of public officials' declarations), page 28, http://www.lrvk.gov.lv/uploads/reviziju-zinojumi/2015/2.4.1-21_2015/rev_zin_publiskosanai_gala_16_12_2015.pdf

³⁴ Grozījumi likumā "Par interešu konflikta novēršanu valsts amatpersonu darbībā" (draft amendments of the Law on Prevention of Conflict of Interest in Activities of Public Officials); Likumprojekta "Grozījumi likumā "Par interešu konflikta novēršanu valsts amatpersonu darbībā"" sākotnējās ietek-

end of year (and the next year(s)), this will trigger an audit. Moreover, for regular declarations, everyone should be asked to have the money deposited at the same time.

- Corrupt public officials could borrow the money for the sake of depositing it in the bank and then paying it back shortly after;

Same counter-argument as above bullet point.

- Above schemes might induce further corruption by the necessity of silencing bank employees and similar;

In principle, this risk exists with all assets – bribing bank officials is no additional risk than bribing employees at the real estate cadastre or company register. However, falsifying banking data is much more difficult than a simple register – banking data is connected to internal accounting, anti-money laundering documentation, and other links.

- Public officials cannot be obliged to deposit cash in banks, while a number of banks in Ukraine has gone bankrupt during last years.

It is debatable whether storing cash in any place in Ukraine outside a bank is safer than the banking system. This aside, the cash above a certain limit could be deposited with the National Bank (thus sharing the same fate as the currency as such) or with respected foreign banks.

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| Recommendation 43 | <i>The LPC and Decision 56 need to foresee the possibility of inspecting large amounts of cash or obliging public officials to deposit these on a bank account.</i> |
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g. Foreign data

Decision 56, III.11.1: *The National Agency has the right to send the requests for receiving from public authorities and other bodies of foreign states of the information required for the detailed audit of the declaration.*

Decision 56, III.11.2: *To verify information about the declaring entities referred to in the declaration, the National Agency has the right to receive information from public databases, registers of foreign states, including upon paying a fee for a particular information under the Law, if such fee is required to get an access to information.*

These provisions are based on an innovative provision in the LPC, which in turn is based on efforts by the Regional Anti-Corruption Initiative (RAI) to promote international exchange of data.³⁵ The NACP has requested data from some foreign authorities. The requests were channelled by the Ministry of Foreign Affairs (MoFA) without this role of the MoFA being foreseen in the LPC. This raises the question why an independent agency should have to go through the MoFA and what risks this might entail for the communication. The requests were sent to member States of the European Union as well as third countries. None has responded so far. It should be noted in this context, that while the European Union presses neighbouring countries for anti-corruption reforms, its member States are often slow or passive in contributing their share to these reforms through provision of data.

mes novērtējuma ziņojums (anotācija) (impact assessment of the draft law), <http://titania.saeima.lv/LIVS12/saeimalivs12.nsf/0/AA802ED7D772EC-4CC2258110002A1B55?OpenDocument>

³⁵ <http://rai-see.org/regional-data-exchange-on-asset-disclosure-and-conflict-of-interest/>.

LPC, Article 72. *International exchange of information in the field of preventing and combating corruption*

Competent authorities of Ukraine can provide the relevant foreign authorities with information and get information from them, including that with restricted access, concerning questions of prevention and combating corruption with compliance with the requirements of the legislation and international treaties of Ukraine, approved by the Verkhovna Rada of Ukraine.

Provision of information to foreign authorities on issues related to preventing and combating corruption, is only possible if these authorities and the competent authority of Ukraine can establish a regime of accessing the information, which makes disclosures for other purposes impossible or disclosing of it in any way impossible, including by unauthorized access.

Access of foreign databases is a merely technical problem. As a laudable feature, the NACP has accessed data directly in foreign databases (with English language interfaces). However, once databases are not online or not accessible for the NACP, foreign state bodies must be involved. For cooperation with them, Art. 72 LPC in itself will usually not suffice for international exchange of data. There is no cooperation between state bodies unless the following exist:

- The requesting state (Ukraine) has a legal basis for asking foreign state and empowers the public body to do so directly (Ukraine does through Art. 72 LPC);
- The state receiving the request has a legal basis for providing information to foreign bodies such as the NACP (highly unlikely that any of the 195 countries do have such a provision; some might provide information at goodwill);
- The legal basis of the state receiving the request allows for exchange of information without any formal agreement, such as an MoU or a treaty (highly unlikely);

Therefore, 11 countries have drafted an international agreement on data exchange for asset declarations. A recent European Union summit has adopted a resolution supporting this agreement.³⁶

Recommendation 44

Ukraine should become a member of the international agreement on data exchange.

h. Data mining

The NACP does not yet use advanced auditing tools, such as data mining of declarations of all public officials for cross-connections or clustering (frequency of certain companies being mentioned, etc.). The private sector has long been benefiting from such electronic search tools.³⁷ In particular the large auditing firms use special software to mine existing databases for any matches, for example, between employees and vendors.³⁸

³⁶ Italian Foreign Ministry website: The European Union Trieste Summit of 12 July 2017, in its final declaration, encouraged governments “to endorse and adopt Regional Anti-Corruption Initiative’s International Treaty on Data Exchange on Asset Disclosure and Conflict of Interest.”

³⁷ FSS (2017), Best Practices for Employers: Conflicts of Interest: “It’s often said that relationships are hard to discover, but in reality, conflicts almost always leave a footprint that can be detected with electronic data mining techniques. Rather than detecting, it’s more about identifying relationships”; Compliance Week (2014), Isn’t That a Conflict? The Internal Auditor’s Role in Scrutinizing Related Parties: “More frequently, I see the use of analytic technology emerging as a tool to detect potential conflicts of interests. A data match can be performed between employee and vendor data files to identify relationships that suggest possible conflicts and control weaknesses. The matching would look for employees and vendors with the same address, tax ID number, or bank account.”

³⁸ Jean Villedieu (28 April 2014), Fraud detection: identifying conflicts of interest with graphs, <https://linkurio.us/blog/fraud-detection-identifying-conflicts-of-interest-with-graphs/>.

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| Recommendation 45 | <i>Introduce electronic auditing tools for data-mining of e-declarations and other state databases.</i> |
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i. Family members

According to the interviews, the NACP inspectors can only verify persons that are included in the declarations. This poses quite a challenge regarding the transfer of assets to family members that are not included in the declaration. In this regard, the Ministry of Justice's refusal to grant the NACP access to the civil registry (see above 5.3.2) prevents the NACP largely from verifying who the family members of a public official are in practice. This contradicts the LPC, which does not limit the NACP's verification task to persons included in the declaration.

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| Recommendation 46 | <i>Decision 56 should be reviewed and amended by clear instructions for allowing to verify whether all family members are included in the declaration, and to what extent assets have been transferred to third persons in order to conceal ownership by the public official (false declaration and illicit enrichment).</i> |
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5.4. VERIFICATION OF ESTIMATES

Decision 56, III.13: *When establishing the accuracy of estimates of the assets declared by the declaring entity the National Agency shall compare data contained in the documents of title to the declared assets and substantiation of the declared estimates of assets provided, if necessary, by the declaring entity with data specified in the declaration.*

When establishing the accuracy of estimates of the declared assets the National Agency has no right to conduct estimates thereof on its own. If the declaring entity fails to provide explanations and/or supporting documents verifying the accuracy of estimates of the declared assets in the manner and on terms set forth in clause 12 hereof, the National Agency shall take measures to establish the circumstances through the arrangement of expert examination in accordance with legally prescribed procedure.

Interviews confirm that the procedure on verifying estimates is rather weak. The NACP has to rely on explanations by the declarant. So far it has not hired any expert for verification purposes. The limitation by Decision 56, not to allow the NACP to do an active search for plausibility of the estimates (marketplaces, internet data, etc.), is hampering the process. In addition, the deadline of 60 days for the completion of an audit makes it unrealistic to reach much of a result. There is no point in not allowing the NACP to use all kinds of data for the verification of estimates. A case can be convincingly built on circumstantial data, and it is up to law enforcement and/or courts anyways, whether they accept the NACP's findings. Prohibiting the free use of data from the outset is simply not helping.

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| Recommendation 47 | <i>Decision 56 should be revised and the NACP should be allowed to introduce its own research and should engage an expert as standard procedure if the difference between the prima facie value and the declared value is above a certain threshold (e.g. a percentage or a multiple of subsistence minimums).</i> |
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5.5. VERIFICATION OF CONFLICTS OF INTEREST

LPC, Article 50. Complete examination of declarations

1. The full verification of a declaration is meant to ascertain the accuracy of the declared data, accuracy of evaluation of the declared assets, examine for the presence of conflict of interests and signs of illicit enrichment [...].

Decision 56, III.16. Verification of the existence of the conflict of interest during the detailed audit of the declaration shall be made subject to the requirements of the Law in the manner and on terms determined in a regulatory act adopted by the National Agency and consists in the establishment on the basis of data specified in the declaration of the compliance by the declaring entity with the restrictions on holding more than one office and combining with other activities, as well as obligation to transfer owned by the declaring entity enterprises and/or corporate rights under Articles 25, 36 of the Law.

Art. 1 LPC defines the term conflicts of interest in a wide sense, covering any conflict of a private and public interest (e.g. awarding a procurement tender to a family member). The LPC calls on the NACP to look out for any such widely defined “conflict of interest” during verifications. Decision 56 narrows this approach down to compliance with rules on incompatibilities and blind trusts, which, if violated, are strictly speaking not even conflicts of interest, but only risks for future conflicts. This deviation from the LPC is problematic. One should also keep in mind that the Code of Administrative Offences (hereafter – CAO) sanctions not only violation of incompatibility (Art. 172-4) but also violations of conflicts of interest in a larger sense (Art. 172-7). The NACP could review among many other things, whether, for example, the names of family members mentioned in the declaration appear in databases on procurement awards. Other stakeholders, such as anti-corruption focal points do not have the same access to databases as the NACP does.

However, the Department for Monitoring Compliance with Conflict of Interest Legislation and other Restrictions for the Prevention of Corruption (hereafter “Department on Conflicts of Interest”) also monitors conflicts of interest in a broader sense outside proceedings related to e-declarations. This monitoring is done ex officio or upon complaints.

It is important that the NACP continues and further develops its efforts in pro-actively detecting conflicts of interest. However, this task goes beyond the procedures of verifying annual declarations that are subject to this Report. Therefore, no recommendation is made on this point.

5.6. VERIFICATION OF INEXPLICABLE WEALTH

Decision 56, III.17. Signs of possible illicit enrichment when conducting the detailed audit of the declaration shall be revealed pursuant to Article 3682 of the Criminal Code of Ukraine.

Signs of possible illicit enrichment include:

establishing when conducting the detailed audit of the declaration that the declaration reflects false data on the assets to an amount exceeding one thousand minimum incomes at the level of tax social benefit defined in paragraph 169.1.1 of clause 169.1 of Article 169 of Section IV of the Tax Code of Ukraine for relevant year, if as the result of using

the information sources specified in clauses 8-12 hereof no such grounds were established for arising rights to such assets or if circumstances of appearing such grounds have reasonable signs of offence;

establishing the fact of the transfer of such assets (making any transactions on which basis the ownership of or the right to use assets arises, and providing another person with money or other property to make such transactions).

The authors of this assessment conducted a two-day training on 13-14 July 2017 at the NACP. The training consisted of a series of exercises, test questions, and simulated audits. It was obvious that participants had no similar training before. The diversity of answers given to questions where only one answer is possible showed some lack of uniform understanding of what illicit enrichment is and how to verify it. Senior management/Board members did not take part in the training. The trainers could not verify whether this was due to the fact that the senior management is already in possession of a sound financial methodology. If it is, this would raise the question why there is no internal instruction passing on this knowledge.

In this regard, Decision 56 and other NACP regulations miss to provide advantage of the one important issue that would benefit from formal regulation: Defining a formula for calculating illicit enrichment. As such a formula is missing in a formally registered bylaw, there is a high risk that other state bodies such as investigators, prosecutors, and courts, will take a different approach in calculating. The painful experience in other countries shows that the lack of such a formula highly increases the risk that cases with inexplicable wealth as calculated by the experts of an anti-corruption body fail at the prosecution or adjudication stage for the following reason: The calculation is not as simple as numerous trainings conducted by the authors of this assessment have shown.

While experts from one state body already have difficulties to follow a common and coherent logic of inexplicable wealth, it is obvious that across various state-bodies this is an almost impossible task, if one does not have highly trained prosecutors and judges, or at least a regulated formula binding for all decision-makers along the investigative and judicial chain. The formula would be the same as shown above at section 4.2.5.

Some of the interviews confirmed the necessity of binding instructions in this regard. There was a variety of answers as to what constitutes illicit enrichment. One interviewee defined it: "If a person's expenditures exceed a person's income many times" – however, upon questions such as whether gifts would count as income or asset or both, no coherent answers were always provided.

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| Recommendation 48 | <i>Introduce a binding formula for calculating inexplicable wealth/illicit enrichment. Ideally, the formula should be binding guidance for all stakeholders auditing, investigating, prosecuting, and adjudicating illicit enrichment. Important/urgent</i> |
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There is no standard procedure/minimum number of steps defined as to what inspectors should check in order to look for inexplicable wealth.

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| Recommendation 49 | <i>The NACP should provide internal guidance on a standard procedure for checking the existence of inexplicable wealth.</i> |
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5.7. VERIFICATION: FALSE DECLARATIONS

There is no standard procedure/minimum number of steps defined as to what inspectors should check in order to look for false information.

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| Recommendation 50 | <i>The NACP should provide internal guidance on a standard procedure for checking the submission of false information.</i> |
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5.8. VERIFICATION: AD-HOC DECLARATIONS

As stated above, ad hoc declarations are not a stand-alone subject to verification. This makes sense insofar as the ad hoc declaration does not provide information on other positions such as income, which allows for balancing income and expenditures. The ad hoc declarations only serve the purpose of tightening the declaration regime (it is more difficult for public officials to make up excuses for their wealth from hindsight, if they have to declare new assets on the spot).

5.9. CLOSURE

5.9.1. Results

Decision 56, IV.2.: *If as the result of the detailed audit of the declaration(s) no false data, inaccurate estimates of the declared assets, existence of the conflict of interest or signs of illicit enrichment are established to have been reflected in the declaration(s), the decision on the results of conducted detailed audit of the declaration (detailed audits of declarations) shall be adopted in a short form [...].*

a. False declaration

The administrative and criminal offences of providing false information each contain a minimum threshold. Article 172-6 CAO applies if the difference between the declared and the real value is between 100-250 subsistence minimums³⁹ (≈ € 5,400-13,500), while Article 366-1 Criminal Code applies if the difference is higher than 250 subsistence minimums (≈ € 13,500).

If the difference is below 100 subsistence minimums, disciplinary sanctions could remain a possibility regarding the officials to whom disciplinary liability is applicable. The interviewees argued that the provisions of the Civil Service Law shall be construed so as to enable disciplinary liability for any violation of a law by a civil servant. The relevant authorities will learn about the violation through a notification by the NACP.

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| Recommendation 51 | <i>Revise Art. 172-6 CAO and the Criminal Code (hereafter – CC) in line with the Council of Europe recommendations (inter alia: lower thresholds). Important/urgent</i> |
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One should keep in mind that political appointees are not subject to disciplinary liability. Thus, in their case, any corruption case not covered under administrative or criminal liability falls into a gap of accountability.

³⁹ <https://www.ukrinform.ua/rubric-society/2217947-z-travna-v-ukraini-zrostaet-prozitivnij-minimum.html>.

It should also be noted that there are three terms, which each have a different meaning: tax free minimum income, subsistence minimums, and minimum wages. The CAO and the CC use the first two terms for defining the offences relevant for asset declarations. This inconsistent use of language is a source of confusion and of possible misinterpretation of the law. The English translation of the LPC reflects this confusion, as it wrongly uses the term “minimum wages”, while the Ukrainian original reads “subsistence minimum”.

b. Illicit enrichment

The Council of Europe Opinion of October 2016 has criticised the threshold for illicit enrichment already as “far too high. The threshold is the equivalent of about 10 annual incomes of a public official. It seems simply to send the wrong policy signal that a public official who manages to accumulate illegally even only one annual income would go unpunished. This is a significant amount of money for public officials, and even more for ordinary citizens in Ukraine.”⁴⁰ One tax-free minimum income is currently 800 UAH ≈ 25 € as of 1 September 2017.⁴¹ 1,000 tax-free minimum income equal about 25,000 €. The provision is thus very lenient. It legalises all illicit enrichments below 25,000 €: There is no provision in criminal, administrative, or disciplinary law that foresees a sanction for any illicit enrichment or other inexplicable wealth below 25,000 €. One should keep in mind that this equals 10 annual salaries of average income.⁴²

Recommendation 52

*Revise Art. 368-2 CC in line with the Council of Europe recommendations.
Important/urgent*

The revision should also take the following into account: 368-2 CC seems to be ambiguous. The wording “the lawful grounds of acquiring of which was not confirmed by evidence” could be “lawful income” or a “lawful transaction”. In other words, if, for example, the “Ferrari” was legally purchased (with illegal money) a lawyer could argue that the Ferrari was still acquired on “lawful grounds”.

c. Conflicts of interest

CAO, Article 172-4. Violation of restrictions on combination and combination with other activities

Violation by a person of restrictions established by law for engaging in other paid activities (except teaching, scientific and creative activity, medical and judicial practice, instructor practice in sports) or entrepreneurial activity [...]

Violation by a person of statutory restrictions on joining a board, other executive or supervisory bodies, or a supervisory board of an enterprise or organization with a view to obtaining profit [...] [is punishable].

Article 172-7. Violation of requirements to prevent and resolve conflicts of interest

Failure to notify the person in cases established by law and the procedure for the existence of a real conflict of interests [...]

Acting or making decisions in a real conflict of interest [...] [is punishable],

⁴⁰ Council of Europe Opinion ECCU-PCF-UA –7/2016, October 2016 (Tilman Hoppe), page 17.

⁴¹ 800 UAH according to the Tax Code, <http://profop.com.ua/informacia/neo podatkovani-j-minimum-dohodiv-gromadan-2017>.

⁴² Monthly 7,339 UAH ≈ 227 €, as of July 2017, <https://tradingeconomics.com/ukraine/wages>.

On the face of it, the relevant provisions of the CAO appear sound (their thorough analysis is outside of the scope of this Assessment). However, as mentioned above, the focus of the audit of e-declarations on incompatibilities and transfer of assets is a limitation.

5.9.2. Deadlines

Decision 56, III.14. *The detailed audit of the declaration according to this Procedure shall be conducted within 60 calendar days upon adoption of the decision on conducting the audit.*

If necessary, the deadlines for conducting the detailed audit of the declaration may be extended, however not more than by a cumulative period of 30 calendar days. The decision on the extension of the detailed audit of the declaration shall be adopted by the National Agency in the event of failure to receive answers and/or information essentially needed to conduct the detailed audit of the declaration in response to requests (letters) of the National Agency to:

- 1) public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, business entities irrespective of ownership and their officials, citizens and associations thereof;*
- 2) the declaring entity with the request to provide explanations regarding data specified in the declaration.*

a. Necessity?

The deadlines put a mandatory end to the audit if they are missed. There is no necessity for this and it seriously damages the effectiveness of audits. It may be – if at all – that in several years the NACP is able to conduct most audits within 60 or 90 days. Currently, this is utopia. There are statutes of limitations in the law for all respective offences. These statutes of limitations protect declarants already (more than) sufficiently (see below at 5.10). While it makes sense to require inspectors to continue with certain steps in the procedure within certain deadlines (e.g. start requesting data after XY days; remind the counterpart after XY weeks, keep in mind statutes of limitations for offences), there is no necessity for absolute limits. Furthermore, several interviews confirm that the deadline puts unnecessary pressure on inspectors as they might face disciplinary consequences for missing the deadlines.

According to several interviews, the introduction of this deadline by the Ministry of Justice raises suspicions as to whether it is only designed to hamper the NACP’s work. A decision of 2015 on the audit procedures of tax authorities does not contain any such deadline, even though tax audits are by and large the same as verifications of asset declarations (and are for this reason conducted by the tax authorities in several countries, including Latvia).

At first look, the beginning of the audit period seems to be defined precisely: “upon adoption of the decision on conducting the audit”. However, it is up to the staff and members of the NACP to set the deadline in motion. Theoretically, in many cases they can decide on the opening of the audit more or less whenever they want to. This raises the question, what the point of this deadline is, except for putting pressure on staff – while at the same time unnecessarily benefiting declarants.

Instead of deadlines, the Board should supervise ongoing audits and their progress in regular meetings using a list of open audit procedures. This is a usual management procedure.

Recommendation 53

*Abolish the absolute deadlines and introduce instead a performance and monitoring system that aims at speedy audits within statute of limitations of offences. **Important/urgent***

b. Extension

Decision 56, III.14: *“If necessary, the deadlines for conducting the detailed audit of the declaration may be extended, however not more than by a cumulative period of 30 calendar days. The decision on the extension of the detailed audit of the declaration shall be adopted by the National Agency in the event of failure to receive answers and/or information essentially needed to conduct the detailed audit of the declaration in response to requests (letters) of the National Agency to: [...]”*

The extension should not be subject to a decision of the Commissioners; such a lack of delegation is out of proportion in terms of modern management.

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| Recommendation 54 | <i>Abolish the absolute deadlines; until then, delegate extension to the head of department or to inspectors.</i> |
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c. Suspension

Decision 56, III.15: *The term of the detailed audit of the declaration shall be suspended in the following events:*

- 1) *applying to court for information regarding availability and status of accounts, transactions on the accounts of a particular legal entity or an individual, private entrepreneur;*
- 2) *sending a request for information from public authorities and other bodies of foreign countries which is required to conduct the detailed audit of the declaration.*

In the above events the term of the detailed audit of the declaration shall be suspended upon opening by the court of the proceedings (sending a relevant request) until the effective date of the court judgment (receiving a response to the above request).

Suspension of the term of the detailed audit of the declaration is possible within the time limits determined in paragraphs one and two of clause 14 hereof.

The grounds for suspension are far too narrow. Domestic databases can also be slow in response (or sometimes slower than foreign ones). This aside, it is unclear what the point of suspension is, if it has to be “within the time limits” 60 plus 30 days? Does this mean that the suspension can only be 60 days plus an extension of the suspension for 30 days? Or does the suspension take place within the same 90 days of the initial deadline?

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| Recommendation 55 | <i>Notwithstanding the necessary abolishment of deadlines, revise the provision on suspension.</i> |
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d. Unclear end

It is not clear what has to happen within the deadline – only the verification or also the reaction by the declarant? This would mean that an audit would run out of deadline, even if checking state databases takes only 55 days, and then declarant waits with his/her response for another 6 days (well within his/her rights of 10 days). This is simply not feasible.

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| Recommendation 56 | <i>Notwithstanding the necessary abolishment of deadlines, clarify the exact ending of the deadline.</i> |
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e. Effect of missed deadline

It can be that an audit misses the deadline, is closed for this reason at an uncomplete stage, and some time later a complaint points to a specific inconsistency in the declaration. Does this mean the audit is only opened regarding this inconsistency, or could the missed part of the initial audit be conducted now? Both alternatives are somewhat absurd and illustrate the lack of logic behind this deadline.

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| Recommendation 57 | <i>Notwithstanding the necessary abolishment of deadlines, the elapsing of a deadline should not make the result of a substance-lacking audit res judicata (prohibiting future audits).</i> |
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As is shown below under “Statistics”, there are no numbers published on the following questions:

- How many cases were closed simply because of passing the deadline?
- How many complaints did the NACP receive, how many were accepted, and how many verifications thereof did simply expire because of the deadline being missed?

5.9.3. Res judicata

Decision 56, III.5.4: *In the event of adoption under paragraph 4 of clause 3 hereof of the decision on conducting the detailed audit of the declaration, if the detailed audit of relevant declaration has been previously conducted, the National Agency shall undertake measures to verify information about possible reflection of false data in the declaration only in terms of new information received which has not been verified during the detailed audit. Such audit shall be conducted within the period specified in clause 14 hereof.*

By running out of deadlines or even if the audit did not manage to get any sensible data to work with (for technical or legal reasons), the closure enters into legal force, i.e. the result of the audit is considered res iudicata, even if it has not produced any results (e.g. none of the databases responded). The declaration can only be brought up to a new audit on separate, new grounds. Not even a criminal suspect enjoys anything close to such a level of protection in any of the European Union member states (investigations without result never become res iudicata).

Furthermore, there is a high risk that public officials will use negative findings by the NACP (lack of finding any indication of a violation) as proof for the legality of their wealth. There is anecdotal evidence where a candidate for a judge’s position filed a form with the High Qualification Commission stamped by the tax office stating that his inexplicable wealth was matched by his legal income (without any explanation and without the tax office explaining how it (could even) reach this conclusion).

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| Recommendation 58 | <i>It needs to be clarified that the closure of an audit does not have any res judicata effect on future audits. This should be the case at least where the NACP does not yet have access to all databases it should have access to or when it did not receive all the information considered necessary (from witnesses, foreign entities, etc.). Important/urgent</i> |
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| Recommendation 59 | <i>It needs to be clarified that the closure of an audit does not have any res judicata effect on whether there is in fact a violation of laws, or not, or whether the candidate has inexplicable wealth or not (unless a court has rendered a final decision). Important/urgent</i> |
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5.9.4. Notification of declarant

Decision 56, III.12: 12. If when conducting the detailed audit of the declaration the National Agency reveals signs of inaccuracy of the declared data, inaccurate estimates of the declared assets, conflict of interest, illicit enrichment, the National Agency shall send to relevant declaring entity an appropriate letter with the proposals as to providing written explanations and/or copies of supporting documents.

This letter shall contain references to specific information in the declaration, for which it is proposed to provide written explanations and/or copies of supporting documents, as well as information about the grounds for conducting the audit of the declaration and such specific information. The letter may contain specific questions of the National Agency regarding data set forth in the declaration.

The above mentioned arguments (5.1.4) apply mutatis mutandis for criminal cases. The Council of Europe Practitioner Manual argues against notifying declarants in case of violations. It is fully enough if Prosecutors hear the defendant at the stage appropriate in terms of criminal procedure. The tax authorities also do not “warn” citizens when they notify the tax police of a suspicion of tax evasion. The tax police will know whether it is more opportune to surprise the suspect with a house search or whether to question him/her.

Recommendation 60

At least in potential criminal cases, the notification of declarants should not be mandatory but subject to decision by law enforcement authorities.

5.9.5. Internal decision

a. Commissioners

Decision 56, IV.1. Based on the results of conducted detailed audit of the declaration the National Agency shall adopt the decision on the results of conducted detailed audit of the declaration (hereinafter – the decision on the results of conducted detailed audit of the declaration).

The same points apply, as above under 5.1.4:

There is no reason for each audit to be subject to a decision of the full Board of the NACP. Auditing tax declarations is comparable to financial auditing asset declarations (similar data, similar objective, similar methods). As far as can be seen, no tax authority in any country subjects each audit to a bottle-neck decision by the head of agency. There should be a sequenced signature regulation, delegating the decision depending on its importance to lower or higher levels of staff/management. The NACP could have an internal control procedure whereby a certain selection of audits is internally reviewed before the results are approved.

The same is true for letters sent to other authorities. As the templates in the annex show, currently these are often signed by all Commissioners.

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| Recommendation 61 | <i>The decision on the results of an audit should not depend on even one Commissioner. It is sufficient if one or all Commissioners approve the internal guidance and regularly review the roster of audits. Cases of outstanding importance could be subject to Commissioners' approval. Inspectors need to have independence in their work from the politically appointed Board. Important/urgent</i> |
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b. Reasoning

Decision 56, IV.2: *If as the result of the detailed audit of the declaration(s) no false data, inaccurate estimates of the declared assets, existence of the conflict of interest or signs of illicit enrichment are established to have been reflected in the declaration(s), the decision on the results of conducted detailed audit of the declaration (detailed audits of declarations) shall be adopted in a short form and should include:*

1) an allegation that based on the results of the detailed audit of the declaration (detailed audits of declarations) the reliability of the declared data, the accuracy of estimates of the declared assets, absence of the conflict of interest and signs of illicit enrichment have been established;

2) a reference to the declaration(s) which was (were) a target of the detailed audit.

The decision on the results of conducted detailed audit of the declaration (detailed audits of declarations) in a short form can be adopted regarding several declarations on the list.

The short form of the decision is problematic in case “nothing” was found. It is exactly in these cases that one needs to see an explanation: Why is there no discrepancy or illicit wealth? How was this calculated? Which databases were consulted with which result? It is important for internal and external users to see, for example, if the quality of one database was bad – this might reflect on the validity of the negative result. However, despite the somewhat ambiguous wording and as a good practice, the NACP apparently publishes full explanations also in cases where no findings are made (at least on the higher level public officials, on whom it conducted audits). Doubts remain whether the NACP always fully lists sources it could not access, for example, because the owner of the database refused to cooperate. However, it should be noted that a full review of the NACP decisions was beyond the scope of this mission and was not part of the material translated into English.

c. Documentation

The logbook (appendix to verification rules, see below Annex 6) does not contain any information on the actual or alleged discrepancy of values. However, this is one of the most important features of any procedure. It is also important for statistical extrapolations from the logbook.

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| Recommendation 62 | <i>Include data on alleged discrepancies into the logbook. It should also be considered to include some standardised information on what actions were taken during the audit.</i> |
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5.9.6. Transparency

a. Statistics

Statistics are provided through the annual report of the NACP and through ad hoc press releases (see Annex). There are not yet standardised regular updates (e.g. quarterly) on new, pending and solved cases. Missing is in particular the following information:

- How many cases were closed simply because of passing the deadline?
- How many of the special checks of candidates lead to the detection of any violation?
- How many complaints did the NACP receive, how many were accepted, and how many did simply expire because of the deadline being missed?

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| Recommendation 63 | <i>Provide regular standardised updates on case statistics.</i> |
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b. Justification of decisions

One should also keep in mind that audits will often “skip” certain sources where data is impossible to be obtained:

Decision 56, III.8.5: *“In the event of failure to receive data required to conduct the detailed audit of the declaration, within the deadlines of conducting such audit, including in the event of excessive duration of examination by the court or competent authority of a foreign state of the matter of providing to the National Agency of appropriate information, failure of the National Agency to pay a fee for obtaining relevant information under the law, if such fee is required to get an access to information, etc., the National Agency shall conduct the detailed audit of the declaration based on the available data, as outlined in the decision on the results of conducting the detailed audit of the declaration.”*

According to several interviews, as a good practice, the NACP decisions at least on higher level public officials mention the sources that the audit has skipped (had to skip). However, Decision 56 clearly states, that only a “short form” of the decision is necessary in case the audit did not identify any violations:

Decision 56. IV.2. *If as the result of the detailed audit of the declaration(s) no false data, inaccurate estimates of the declared assets, existence of the conflict of interest or signs of illicit enrichment are established to have been reflected in the declaration(s), the decision on the results of conducted detailed audit of the declaration (detailed audits of declarations) shall be adopted in a short form and should include:*

1) an allegation that based on the results of the detailed audit of the declaration (detailed audits of declarations) the reliability of the declared data, the accuracy of estimates of the declared assets, absence of the conflict of interest and signs of illicit enrichment have been established;

2) a reference to the declaration(s) which was (were) a target of the detailed audit.

Publishing a reasoning of decisions on the internet allows for public scrutiny and for developing public trust in the NACP’s methods.

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| Recommendation 64 | <i>Clarify in Decision 56.IV.2 that decisions should always show the sources used and to what extent information was available from databases.</i> |
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Furthermore, the NACP does not provide the explanation, which the declarant gave in response to the alleged discrepancy of data or violation of provisions.

Ideally it should be stipulated in the relevant regulations that all decisions shall contain, among other things, the description of the trigger of the audit (including what the suspicion was in case of a complaint), list major steps carried out during the audit (notably requests for information and their outcome), explanation by the declarant, and reasoning why the conclusion is positive or negative for the declarant.

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| Recommendation 65 | <i>Justifications should include the full explanation given by the declarant regarding any irregularity.</i> |
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The mandatory publication of a decision might be a problem in case law enforcement authorities would want to conduct measures without the declarant knowing that there is a substantiated suspicion by the NACP.

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| Recommendation 66 | <i>In case of potential criminal violations by the declarant, the decision should only be published in coordination with law enforcement authorities (see above 5.9.4).</i> |
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5.10. EXTERNAL FOLLOW-UP

5.10.1. Declarant

a. Request for explanations

Decision 56, IV.2.7: *The National Agency shall notify the declaring entity of the completion of the detailed audit of the declaration in writing and send the decision on the results of conducted detailed audit of the declaration for review. These actions may be taken using the software of the Register or postal services by registered mail with return receipt requested. If as the result of the detailed audit of the declaration it is established that the declaration reflects false information or inaccurate estimates of the declared assets, or existence of the conflict of interest or signs of illicit enrichment, the decision on the results of conducted detailed audit of the declaration shall be sent to the declaring entity using postal services by registered mail with return receipt requested and the software of the Register.*

The above mentioned arguments (5.1.4 and 5.9.4) apply mutatis mutandis for potential criminal cases. Law enforcement authorities will know better whether it is more opportune to conduct a clandestine investigation or to question the declarant.

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| Recommendation 67 | <i>At least in potential criminal cases, the notification of declarants should not be mandatory but subject to decision by law enforcement authorities.</i> |
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A viable alternative would be to suspend the audit once a criminal offence is suspected. The NACP would send the case to the law enforcement. The results of the audit would be formally approved only once the criminal case is resolved. In such case, there would be no formal audit results before the criminal case being closed and nothing to notify the declarant about. Obviously, the audit deadline would be suspended during this time.

b. Self correction

45.4 LPC: *In case of bringing the declarant to liability for failure to submit, late submission of the declaration, or detection in the declaration of false information the declarant is obliged to submit relevant declaration with true information.*

Based on feedback from the interviews it appears as if declarants by and large comply with this provision.

5.10.2. Illicit enrichment, false declaration (crime)

a. Statute of limitations

Illicit enrichment: The statutes of limitations run out after 3, 5, or 10 years depending on the level of public official involved (Art. 12, 49, 368-2 CC).

Criminal offence of false declaration: The statutes of limitations run out after 3 years (Art. 12, 49, 366-1 CC).

b. Prosecution

The National Anti-Corruption Bureau of Ukraine, the State Bureau of Investigations, the Specialised Anti-Corruption Prosecutor's Office, and other law enforcement and prosecution bodies are in charge of investigating and prosecuting illicit enrichment, depending on the gravity of the crime and/or the level of public official involved.

5.10.3. False declaration, conflict of interest (CAO)

a. Statute of limitations

The statute of limitations for the administrative offence of false declaration or violating declaration obligation of conflicts of interest runs out 3 months after detection of the offence and 2 years since its commission at the latest (Art. 38 part 3 CAO). The annex includes court decisions affected by this provision. The case #753/11752/17 concluded without a fine being administered because of statute of limitations.

According to interviews, courts interpret the start of the statutes of limitations differently – some count the first notification of the offence as the time of detection, some count the time of compilation of sufficient evidence or the approval of the protocol of the administrative offence.

Recommendation 68

Statutes of limitations for administrative offences need to be substantially extended, at least in corruption cases and particularly regarding the period since detection. Important/urgent

b. Protocol for court

An inspector at the NACP draws up the protocol on the administrative offence and submits it to court. The letter of submission is signed by the inspector. The decision on the submission to court is subject to approval by the Board of members of NACP. However, inspectors send the protocol to court even if the Board does not decide or does not do so

in a timely manner. This is due to the fact that inspectors are (potentially) liable for failing to advance legally prescribed proceedings for administrative liability. Alternatively inspectors send a notification to the National Police, which then should prepare and send the protocol to court.

c. Serving the protocol

Under the CAO, protocols have to be served to declarants in person within the statutes of limitations. There is a rich trove of anecdotes how corrupt public officials go on sick leave or out of country just in order to avoid being served.⁴³ If the declarant refuses to acknowledge receipt of the protocol, the protocol has to be read to the declarant in the presence of a witness. A video available on the media showing policemen trying to read the protocol while running after a fleeing public official is tragic-comical evidence of these unsuitable procedures. All in all, this procedure requires a completely disproportionate effort, while deadlines are not suspended. The NACP is currently represented only in Kyiv and has to rely largely on the National Police in serving protocols across the country.

It should be noted that, for example, in Germany, even orders on criminal fines and confiscation can be served by depositing the order in the mailbox of the defendant (not only to public officials, but any ordinary citizen). The order enters into legal force after one month should the defendant not have reacted. This aside, it is simply a case of “public official’s heaven” if – as in the case of Ukraine – statutes of limitations continue to run even if the public official is on vacation or on sick leave and the protocol is still in the process of being served.

Recommendation 69

*The CAO needs to be changed to allow for easier serving of protocols at least in cases where the defendant is a public official. Statutes of limitations should be suspended in case the public official is not receiving mail at work. Refusing to sign receipt of a protocol should be a disciplinary offence. In principle, the NACP should have the obligation to ensure an adequate opportunity for the defendant to acquaint him/herself with the protocol rather than ensure that this opportunity is actually used. **Important/urgent***

d. Appeal by the State

One should note that according to the interviews courts interpret the law in a way that prosecutors/the state does not have the right to appeal a decision, but only the declarant. This apparently causes difficulties for developing uniform court practice regarding, for example, the modalities of applying statutes of limitations.

Recommendation 70

Review the CAO to ensure the option of the State to appeal court decisions finding no violation or releasing the defendant from liability.

5.10.4. Disciplinary liability: civil servants

a. Liability for administrative/criminal offences

Civil Service Law, Article 84. Civil Service Termination in Case of Losing the Right by Civil Servant to Civil Service or Its Limitation

⁴³ https://m.antikor.com.ua/articles/186674-v_poltavi_pidozrjuvanij_v_korruptsii_chinovnik_tikav_vid_politsiji_po_teritoriji_torgovogo_tsentru.

1. Grounds for termination of civil service due to the loss of the right for civil service or its restriction shall include:
- 1) termination of Ukrainian citizenship or departure abroad for permanent residence;
 - 2) obtaining of citizenship of another country;
 - 3) coming into legal force of the court decision regarding bringing of civil servant to administrative liability for corruption or corruption-related offence;
 - 4) coming into legal force of court conviction of civil servant for committing an intentional crime and/or prohibition to conduct activities related to performance of the state functions;
 - 5) existence of direct subordination relations with close persons in case stipulated by Article 32 of this Law.
2. In the cases specified in paragraphs 1-4 in part one of this Article appointing entity shall be obligated to dismiss the civil servant within three days term from the date of occurrence or establishing the fact, stipulated by this Article, unless otherwise established by law, and in cases specified by paragraph 5 in part one of this Article – according to the procedure defined by Article 32 of this Law.

The mandatory dismissal of civil servants even for “only” an administrative corruption offence is a strict feature of the Civil Service Law. However, the statutes of limitations render this provision largely useless. Interviews for this Assessment provided anecdotal evidence of courts allegedly delaying cases deliberately in order to save civil servants from dismissal or issuing only warnings, which do not carry the consequence of dismissal.

There is no internal or external guidance at the NACP as to what amounts to a disciplinary offence. Despite the opinion of some interviewees that the provisions of the Civil Service Law shall be construed so as to enable disciplinary liability for any violation of a law by a civil servant, it seems not sufficiently clear whether, in particular,:

- the truthful declaration of inexplicable wealth below the threshold of illicit enrichment is a disciplinary offence,
- a false declaration below the thresholds of the CAO is a disciplinary offence.

Interviewees were not aware of any disciplinary proceedings in this regard but all expected not more than a warning in such cases should they occur in practice.

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| Recommendation 71 | <i>In a mid-term perspective, provide internal and external guidance on how false declarations or inexplicable wealth can entail disciplinary liability.</i> |
| Recommendation 72 | <i>Clarify that false declaration below the threshold of the CAO is a disciplinary offence.</i> |
| Recommendation 73 | <i>Clarify that inexplicable wealth below the threshold of illicit enrichment is a disciplinary offence or introduce this offence.</i> |

b. Statute of limitations: during office

Civil Service Law, Art. 65.3. *A civil servant cannot be brought to disciplinary liability upon expiry of six months period after the head of civil service became knowledgeable or should have become knowledgeable about commitment of the disciplinary wrongdoing, not including the time of temporary disability of the civil servant or his/her vacation, or upon expiry of one year period after committing the offence.*

It should be noted that statutes of limitations are much longer in some Western European countries that follow the rule of law strictly. For example, in Germany, the minimum duration is two years and the maximum is seven years since committing the violation. All these time limits start anew (!) once formal procedures have started.⁴⁴

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| Recommendation 74 | <i>Statutes of limitations for disciplinary offences, and their suspension need to be substantially expanded. Important/urgent</i> |
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c. Statute of limitations: entering office

Art. 65.2.10) Civil Service Law: *Disciplinary wrongdoings include: [...] presentation of untruthful information upon entrance to the civil service regarding circumstances preventing implementation of the right to civil service, as well as failure to present necessary information on such circumstances in case they arise during the service;*

The narrow statutes of limitation make the above offence almost irrelevant. If false information in the entry declaration is discovered only 12 months after appointment, the newly appointed civil servant cannot be dismissed anymore based on disciplinary sanction.

It should be noted that other countries with rather strict approach of the rule of law still allow for an unlimited dismissal of civil servants who entered the service based on wrongfully declared information:

German Civil Service Law [Bundesbeamtengesetz; automated translation]

§ 14 Withdrawal of the appointment

(1) The appointment shall also be withdrawn with effect for the past if [...] it was induced by coercion, malicious deception or bribery, [...].

3. The supreme administrative authority shall withdraw the appointment within six months of having obtained knowledge of it and the reason for its withdrawal. The return notice shall be given to the official.

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| Recommendation 75 | <i>Allow for dismissal of public official without time limit in case he/she submitted false information in the declaration that could have been only inserted intentionally. Important/urgent</i> |
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d. Coordination with employers

Decision 56, IV.5: *If the declaring entity committed acts which do not entail a different kind of responsibility, the National Agency shall issue an order to the head of relevant body, enterprise, institution or organization in accordance with the procedure established by the National Agency.*

Due to the lack of a case management system (and the inherent statistical possibilities), there is no data as to how many employers were notified and how many provided which feedback.

⁴⁴ § 15 Federal Disciplinary Law [Bundesdisziplinargesetz] (German).

5.10.5. Disciplinary liability: special offices

The focus of this Assessment is on business procedures of the NACP. Disciplinary procedures for officials such as judges are thus not presented in this Assessment. However, one should keep in mind that political appointees are not subject to disciplinary liability. Thus, any corruption case not covered under administrative or criminal liability falls into a gap of accountability.

5.10.6. Tax evasion

The NACP does not contact the State Fiscal Service (SFS) tax authorities directly. Prosecutors do so within their own discretion. Both, the SFS and the Prosecutor General's Office (GPO) have general competence in investigating and prosecuting tax evasion. One should note that the SFS has informed the NACP in some single cases on irregularities and asked it to follow-up.

Recommendation 76

The NACP should inform the SFS on any suspicion of tax evasion, including on cases from before 2015 and including on cases where there is inexplicable wealth, but below the threshold of the Art. 368-2 CC.

5.10.7. SFMS (FIU)

The NACP does not contact the State Financial Monitoring Service directly. Prosecutors/investigators do so within their own discretion.

6. SPECIAL PROCEDURES

6.1. INTELLIGENCE BODIES, ETC.

Article 52-1 LPC. *Special provisions on financial control with regard to certain categories of persons*

1. *With regard to persons mentioned in clause 1, subclause "a" of clause 2 of Part one of Article 3 of this Law who belong to the staff of intelligence agencies of Ukraine and/or hold positions that are classified, in particular, in military formations and state authorities conducting operative and detective activity, counter-intelligence, intelligence activity, as well as persons who are candidates for such positions, measures as provided for in Section VII of this Law shall be organized and carried out in a way that makes it impossible to disclose the fact that such persons belong to such agencies (formations) – according to the procedure to be determined by the National Agency upon approval of the said agencies (formations).*

The Council of Europe Opinion of October 2016 states in this regard:⁴⁵

There is a special provision for public officials working undercover and/or in intelligence services (Article 52-1). Declaring and verifying “shall be organised and carried out in a way that makes it impossible to disclose the fact that such persons belong to such agencies (formations)”. This goes without saying. Among the challenges in this context are the following: Shall intelligence officers submit their declaration under their real or their fake identity or both? Are declaration items registered in state databases under the intelligence officers’ real or fake identity or both (e.g. property register)? What security clearance is needed for handling the declarations? Can declarations by intelligence officers be published under their fake identity and does this provide any added value? The necessary “procedure [is] to be determined by the National Agency upon approval of the said agencies (formations).” This may be problematic. The provision gives the intelligence agencies a right to veto. The refusal by one of these agencies to approve the procedure could endanger the financial control for all agencies. At the same time, press reports indicate that corruption risks could be a relevant occurrence in Ukrainian intelligence services.⁴⁶ The National Agency is bound by state secrecy laws, and disclosing classified information will subject its members to the risk of criminal prosecution. Thus, it appears sufficient that the National Agency has to submit the draft procedure for comments by the intelligence agencies prior to adoption.

The Opinion concludes with the following recommendation (page 24): “The regulation of procedure for declarations by public officials working undercover and/or in intelligence services should not depend on approval of intelligence agencies, as is the stipulated now, but should only be coordinated with them.”

Recommendation 77

Adopt a procedure for public officials working in the intelligence services.

⁴⁵ Council of Europe Opinion ECCU-PCF-UA –7/2016, October 2010 (Tilman Hoppe), page 16.

⁴⁶ Преступности. HET (18 September 2015), “The SBU found in the ranks of the bribe taker in shoulder straps of the colonel is already 17-й the employee of department who committed a crime” [for more up to date reports see: 18.03.2017: <https://antac.org.ua/en/analytics/close-relatives-of-the-mr-hrytsak-bought-4-apartments-soon-after-his-appointment-as-the-head-of-the-security-service-of-ukraine/>; 18.08.2017: <https://antac.org.ua/en/investigations/in-security-service-of-ukraine-puts-pressure-on-business-for-its-own-benefit-novoe-vremya/>].

6.2. THE NACP MEMBERS AND STAFF

So far there is no procedure how to deal with declarations of the NACP members and staff. This concerns in particular the apparent conflict of interest when deciding over the opening, proceedings, and results of audits. In particular where declarations of members are concerned, one can hardly expect staff to “go tough” on their employers. Possible solutions are:

- Subjecting audits of members and staff to external oversight, for example, by the Public Council or the Accounting Chamber;
- Fully outsourcing verification of these declarations to an external body, such as the NABU;
- Providing full public transparency on the (non-)selection, proceedings, and results of audits of declarations of the NACP members and staff.

Recommendation 78

Adopt a special procedure for verifying the declarations of members and staff of the NACP.

6.3. CANDIDATES FOR OFFICE

6.3.1. Civil servants

Civil Service Law, Article 19. *Right to the Civil Service [...]*

2. The following persons cannot enter into civil service: [...]

7) have not passed special check and have not given consent to such check;

Art. 25 Civil Service Law, Documents Required For Participation in the Competition

1. A person applying for the competition shall submit the following documents to the competition commission in the prescribed manner: [...] 8) declaration of a person authorized to perform functions of the state or local self-government for the previous year.

5. [...] Prior to the appointment to the civil service position, the winning candidate shall submit declaration of a person authorized to perform functions of the state or local self-government for the previous year.

Article 26. Procedure for Defining the Compliance of the Candidates with the Conditions of the Competition

1. The HRM function of the government agency conducting the competition shall perform inspection of the documents submitted by the candidates on compliance with the requirements established by the law and inform the candidate about the results of this inspection. [...]

Article 31.4. The decision about appointment or rejection of appointment to a civil service position shall be adopted on the basis of the results of a special inspection conducted in accordance with the Law of Ukraine “On Anti-Corruption”, and check conducted in accordance with the Law of Ukraine “On Cleansing of Power”.

Art. 65.2.10): Disciplinary wrongdoings include: [...] presentation of untruthful information upon entrance to the civil service regarding circumstances preventing implementation of the right to civil service, as well as failure to present necessary information on such circumstances in case they arise during the service;

Civil Service Law, Article 31. Procedure for Appointment to the Civil Service Position

4. The decision about appointment or rejection of appointment to a civil service position shall be adopted on the basis of the results of a special inspection conducted in accordance with the Law of Ukraine "On Anti-Corruption", and check conducted in accordance with the Law of Ukraine "On Cleansing of Power".

LPC, Article 56 part 1, part 3 clause 3, Article 57 part 3 clause 3: verifications for "candidates for responsible and especially responsible positions and positions with high corruption risk"

Cabinet Decree 171/2015 determines the procedure of the special checks. Article 11 of this Decree sets a time limit of seven calendar days between the receipt of a request in the NACP to verify the declaration and provision of the answer. Within this period the NACP shall request data from other institutions and come to a conclusion about the reliability of what was declared. Subject of the check related to e-declarations is "the reliability of the information" declared (Art. 5.3 of the Decree). Given the above described lack of resources of staff and lack of automated access to databases, this time limit simply means that the special checks are performed precursory at best. In other words: How could the NACP carry out close to 7,000 of such checks within less than a year in addition to all its other tasks?

It is remarkable that Decision 56 of the NACP does not refer to the special checks at all (depth of checks, form of decision, etc.). All in all, above recommendations on the dismissal for false declaration in the entrance form, on the staffing of the NACP, on statutes of limitations, etc. are even more important in light of the rather superficial special checks.

6.3.2. Special officials: judges and others

For judges, Art. 56 para. 2 indent 2 LPC refers to the Law "On the Judiciary and the Status of Judges" (LSJ) for the procedure ("Peculiarities of conducting a special inspection regarding candidates for positions of judges are stipulated by the Law of Ukraine 'On the Judicial System and Status of Judges'"). As a strange reversal back, Art. 75 LSJ foresees that the "full verification of declarations" by "judicial candidates" is done by the central executive body with a special status, i.e. the National Agency.

There are other offices aside from judges such as prosecutors or ministers who may have special vetting procedures. Most likely, asset declarations also play a role for evaluating candidates. However, reviewing all these laws goes beyond the scope of this assessment, which focuses only on business procedures of the NACP. Thus, this Assessment takes judges as an example for illustrating this aspect of special offices.

7. CASE MANAGEMENT SYSTEM

There is currently no e-system that supports the case management of the NACP. None of the inspectors can thus answer the following questions without “running around” the NACP in search for the respective paper or person:

- At what stage are all opened cases?
- Is there a risk of duplicating efforts?
- What are other departments doing on one particular case?
- Has a state body already provided information to a request? (There is a risk that information reaches the NACP but is withheld from the responsible inspectors; anecdotal evidence from some of the external interviews seems to support the relevance of this risk.)

The documentation and management currently focuses heavily on paper. According to the interviews, the following roughly estimated amount of papers is turned over by the Department on Financial Control in external correspondence per year:

- 20,000 outgoing documents;
- 10,000 documents coming in.

The lack of an e-system further weakens the efficiency of the NACP. The NACP has already requested the European Union Project (EUACI) for assistance in this regard. The EUACI demands that the NACP provides an IT-strategy first before proceeding further with supporting the e-system.

Recommendation 79

The NACP should introduce an electronic case management system. Important/urgent

8. OWNERSHIP OF E-DATABASE

The e-declaration database, i.e. the heart of the NACP's operations, is under the control of a different entity (state enterprise "Ukrainian Special Systems" under control of the DSSZZI); the NACP does not even possess the programming code of this database, cannot mine the data according to its own search criteria (e.g. looking for cross-connections between declarations), or introduce its own personal identifiers for each declarant without another agency supporting this. Such a degree of "withholding" an asset declaration database from a body verifying asset declarations seems to be quite problematic.

It goes beyond the scope of this Assessment to review, whether all public databases are maintained by "Ukrainian Special Systems" or whether such a limitation is put on the NACP, because it is a state body which could pose a risk to corrupt stakeholders in power.

Recommendation 80

*The legislator and/or government should transfer the management of the e-declaration database to the NACP. **Important/urgent***

9. REGULATION OF BUSINESS PROCESSES

9.1. RELATION OF DECISION 56 TO THE LPC

The Council of Europe Opinion of October 2016 by and large praises the LPC as a strong legal framework:

The LPC foresees by and large strong legal provisions for the financial disclosure of public officials. In many points, it follows a highly advanced standard, by covering a wide range of public officials, by requiring declaration of detailed data, and by foreseeing online publication of the declarations in machine-readable format.

The effectiveness of the LPC will largely depend on how it will be implemented. However, there are a few regulatory points where the LPC would benefit from further improvements [...].

In several points, the NACP regulations weaken or contradict the LPC as shown above (for example sections 5.2.4 "Amnesty 2015", 5.9.2 "Deadlines"). This violates the hierarchy of norms.

9.2. REGISTERING BYLAWS

Furthermore, the necessity of registering bylaws with the MoJ, as provided for in Article 12 LPC, infringes on the NACP's autonomy. A Council of Europe Opinion of June 2017 states in this context:⁴⁷

However, for "technical guidelines and methodologies" and similar documents, a de facto vetoing power by the Ministry of Justice seems an unjustified encroachment into the NACP's independence and gives the Ministry the position of de facto leadership on these technical though highly relevant issues. Furthermore, it seems sufficient that any internal document by NACP could be challenged in court, should it happen to infringe the rights of any external party.

There is also a risk that the registering delays the adoption of the regulation. Equally, every change, as tiny as it might be, would need re-registering with the Ministry of Justice. Experts working at the Ministry of Justice usually have never conducted a verification of an asset declaration. This raises the question if their involvement benefits the substance of bylaws. Furthermore, elevating the internal guidelines into formal law risks that declarants will argue that any violation of these guidelines violates their rights (for example, the missing of an internal deadline).

Recommendation 81

Internal decisions by the NACP on the procedure and method of verifying asset declarations should not be subject to registration by the Ministry of Justice. Important/urgent

9.3. DIDACTICS

Decision 56 is also anything but a didactical, instructive document:

- There is no table of content;
- The document lacks any meaningful sub-headlines and structure aside from the four main chapters;

⁴⁷ Council of Europe Opinion ECCD-PGG-UA-4/2017, June 2010 (Tilman Hoppe), page 22.

- There is no numbering of paragraphs – this makes it very user-unfriendly. For example Section II.7 has 13 paragraphs, which are not numbered.
- There are many definitions in the beginning without each of them having a clear function; this makes the document heavy from the beginning.
- At the same time, useful definitions are missing. For example, Decision 56 is simply copying the ridiculously clumsy term of the LPC for a declarant (“persons authorized to discharge functions of the state or local self-government bodies”).
- Overall, the wording could be simplified a lot (for example in Section II.2).
- The entire format of the regulation is not instructive – practitioners need simple language, short sentences, pictures, graphs, flow charts, examples, thumb rules; by comparison, Decision 56 reads as complicated as a bylaw on corporate taxation.
- Internal references are very legalistic. One example: Section III.1 states “The decision on conducting the detailed audit on the basis of paragraph five of part one of Article 50 of the Law should also contain justification provided for in clause 3 hereof.” Each reference should be followed by a key word in brackets which reminds the reader of what the reference is about. Section III.1 would read as follows: “The decision on conducting the detailed audit on the basis of paragraph five of part one of Article 50 of the Law [complaints] should also contain justification provided for in clause 3 hereof [legal grounds for audits].”

Thus, the methodological questions that require guidance, and the legal questions that inevitably need formal regulation, should be in separate documents.

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| Recommendation 82 | <i>Internal guidance needs to be user friendly documents, with easy real-life examples, pictures, boxes, graphs, etc.</i> |
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9.4. TRANSPARENCY

The current model makes all procedures fully transparent. However, that makes it easier for declarants to cheat the system, since they know which checks to expect. In other countries, some of the procedures are confidential, and for a good reason. For example, at the Latvian State Revenue Service, the red flags and the calculation formula for risk are confidential. Thus, the rules and formula for the calculation of the risk rating of declarations (see II.7 of Decision 56) should also be confidential.

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| Recommendation 83 | <i>The rules and formula for the calculation of the risk rating, and any other aspect of what is considered a red flag by the NACP should be confidential.</i> |
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Several regulations are published as image files of paper scans. This does not comply with international standards on open governance.

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| Recommendation 84 | <i>Publish regulations in downloadable, searchable, and machine readable format.</i> |
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9.5. MULTITUDE AND LENGTH

The desk review conducted for this Assessment reviewed about 90 pages of regulations adopted by the NACP, which only represent a selection of all regulations and decisions adopted. The sheer volume of these raises questions. It should be noted that Georgia verifies asset declarations since 1 January 2017. The UN recognised its e-declaration system through an award in 2013. The total of regulations is 33 pages, and even these could be simplified:

- Rules for Submitting Asset Declarations by Public Servants, 7 pages;
- Instruction for Monitoring Asset Declarations of Public Servants, 13 pages;
- Organization and Operations Manual for Asset Declarations Examiners, 13 pages (largely overlapping with the Instruction).

Recommendation 85

In mid-term perspective, consolidate and simplify regulations once the first full package of regulations is available.

10. RECOMMENDATIONS

10.1. FULL LIST

SUBMISSION COMPLIANCE

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| Recommendation 1 | <i>In mid-term perspective, the NACP should provide instructions on how to conduct the submission verifications. These instructions need to contain inter alia guidance on establishing a roster of declarants.</i> |
| Recommendation 2 | <i>In mid-term perspective, the NACP should monitor the quality of verifications conducted by responsible units and should conduct at least active checks on a sample of units.</i> |
| Recommendation 3 | <i>In mid-term perspective, it should be ensured that the law clearly/explicitly authorises the NACP to carry out a general check on compliance with the declaration filling obligation in a particular institution, for example, when frequent signs of irregularities are observed.</i> |
| Recommendation 4 | <i>The NACP regulations should provide definitions on when a delay is justified, possibly by referencing suitable existing provisions.</i> |

ARITHMETIC CHECK

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| Recommendation 5 | <i>The arithmetic check – Component 1 – should apply to all declarations disregarding their time of submission; at least if a declarant's declarations were flagged only in the past, but not the current year's declaration, the old ones should be reviewed again (or run through a heightened filter) as to whether any important case was missed.</i> |
| Recommendation 6 | <i>It should be legally clarified that the arithmetic check – component 2 – applies also partially according to technical progress of linking to databases.</i> |
| Recommendation 7 | <i>It should be clarified that the public notification is not a precondition for a valid implementation of the arithmetic check – Component 2.</i> |
| Recommendation 8 | <i>All criteria under Component 1 should be reviewed in view of scaling and lowering the thresholds; this might be done in the context of test-running the arithmetic control. Later, when more data on violations is accumulated, the criteria should be adjusted based on the empirical analysis of correlations between certain characteristics of declarations and identified violations.</i> |
| Recommendation 9 | <i>Each criterion under Component 1 should be reviewed as to whether it deserves in and of itself to be a (stand-alone) trigger for a full-scope audit.</i> |
| Recommendation 10 | <i>The Draft Rules should be test run on the system before the decision is adopted; this allows to see whether any declaration reaches the threshold and if so, how many; thus, the risk index can be adapted to a reasonable level of declarations the NACP can deal with.</i> |
| Recommendation 11 | <i>The NACP needs to define a formula for checking the internal coherence of a declaration (financial plausibility formula). Important/urgent</i> |

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| Recommendation 12 | <i>All criteria under Component 2 should be reviewed in view of lowering the thresholds.</i> |
| Recommendation 13 | <i>Each criterion under Component 2 should be reviewed as to whether it deserves in and of itself to be a (stand-alone) trigger for a full-scope audit.</i> |
| Recommendation 14 | <i>The rules should be reviewed as to reflect also declarations older than only one year.</i> |
| Recommendation 15 | <i>In a mid-term perspective, the NACP should systematically analyse and measure the quality of data in state databases, in order to be able to evaluate the level of reliability of a negative response. The results of this analysis and the level of cooperation by state bodies should be communicated strategically to the public.</i> |

AUDIT

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| Recommendation 16 | <i>In a long-term perspective, consider a possibility to regularly review and, if necessary, complement the list of positions associated with a high level of corruption risks based on the findings of corruption risks assessments in activities of the government authorities.</i> |
| Recommendation 17 | <i>The feasibility of singling out risks and conducting audits on these “islands of risks” should be reviewed.</i> |
| Recommendation 18 | <i>Consider possibilities to separate the decision to accept a complaint from opening the audit. Any extension of the time period could be admitted based on grounded reasons, e.g. when a complaint concerns a large number of declarations.</i> |
| Recommendation 19 | <i>Clarify the meaning of lifestyle monitoring, ideally by simply allowing real life observations of assets as they are publicly visible (“taking a look at a house from outside”).</i> |
| Recommendation 20 | <i>A random sample of declarations should be subject to full verification.</i> |
| Recommendation 21 | <i>Introduce ex officio audits.</i> |
| Recommendation 22 | <i>In mid-term perspective, clarify the overall prioritisation of all audits triggered under different categories or subject the prioritisation of all audits to due discretion.</i> |
| Recommendation 23 | <i>The decision on conducting the audit (or refusing it) should not depend on a decision of even one Commissioner. It is sufficient if one or all Commissioners approve the internal guidance and regularly review the roster of audits. Cases of outstanding importance could be subject to Commissioners’ approval. A four-eye principle in the decision-making by staff can limit the risk of ungrounded discretionary decisions on conducting audit. Important/urgent</i> |
| Recommendation 24 | <i>The notification of declarants should be abolished and replaced by a notification after the fact. Important/urgent</i> |
| Recommendation 25 | <i>The decision on conducting the audit should not be subject to appeal. Important/urgent</i> |
| Recommendation 26 | <i>Cases should be assigned to inspectors based on objective, strict criteria similar to discretion-free case allocation in court. Important/urgent</i> |
| Recommendation 27 | <i>Inspectors should be able to carry out the verification of their cases with safeguards ensuring their independence. Important/urgent</i> |



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| Recommendation 28 | <i>The calculation of the risk rating needs to be simplified and needs to trigger an audit in case a significant asset has not been declared.</i> |
| Recommendation 29 | <i>The limitation to identified risks needs to be abolished.</i> |
| Recommendation 30 | <i>The limitation to illicit enrichment needs to be abolished.</i> |
| Recommendation 31 | <i>The relation between Decision No. 56, III.4.2.1 and III.5.4 needs to be clarified.</i> |
| Recommendation 32 | <i>Policy makers should review options of reviewing past declarations as much as possible with the aim of bringing public officials with illicit income to justice.</i> |
| Recommendation 33 | <i>In mid-term perspective consider centralising and digitalising pre-2015 declarations submitted by public officials above a certain level.</i> |
| Recommendation 34 | <i>The NACP should internally admit declarations from before 2015 as evidence.</i> |
| Recommendation 35 | <i>All above state bodies should grant access to their registries. Important/urgent</i> |
| Recommendation 36 | <i>It should be part of standardised procedures that inspectors document each time they have not received all information, whether they chose to draw up a protocol under Article 188-46 of the Code of Administrative Offences (CAO), and the grounds for their decision; this aside, the NACP should make more use of this provision in order to unfold its potential of incentivising compliance. Important/urgent</i> |
| Recommendation 37 | <i>The NACP should have access to the full version of the declarations the same way the tax administration has access to personal data in everyday work-flows. Important/urgent</i> |
| Recommendation 38 | <i>The NACP should have at least the same level of access to banking data as tax authorities (without having to go through a judge). Important/urgent</i> |
| Recommendation 39 | <i>The NACP should make more use of banking data and collect experiences in how the access works in practice. Important/urgent</i> |
| Recommendation 40 | <i>In mid-term perspective, communication by the NACP with other authorities should be streamlined into electronic communication as much as possible and its wording be simple and direct; any legalistic explanations should be annexed.</i> |
| Recommendation 41 | <i>Decision 56, III.9 needs to be worded more widely as permission to request and receive necessary data or more specifically as a restriction against requesting data not serving the purpose of the audit.</i> |
| Recommendation 42 | <i>Include visual inspections of assets into sources of information.</i> |
| Recommendation 43 | <i>The LPC and Decision 56 need to foresee the possibility of inspecting large amounts of cash or obliging public officials to deposit these on a bank account.</i> |
| Recommendation 44 | <i>Ukraine should become a member of the international agreement on data exchange.</i> |
| Recommendation 45 | <i>Introduce electronic auditing tools for data-mining of e-declarations and other state databases.</i> |

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| Recommendation 46 | <i>Decision 56 should be reviewed and amended by clear instructions for allowing to verify whether all family members are included in the declaration, and to what extent assets have been transferred to third persons in order to conceal ownership by the public official (false declaration and illicit enrichment).</i> |
| Recommendation 47 | <i>The Decision 56 should be revised and the NACP should be allowed to introduce its own research.</i> |
| Recommendation 48 | <i>Introduce a binding formula for calculating inexplicable wealth/illicit enrichment. Ideally, the formula should be binding guidance for all stakeholders auditing, investigating, prosecuting, and adjudicating illicit enrichment. Important/urgent</i> |
| Recommendation 49 | <i>The NACP should provide internal guidance on a standard procedure for checking the existence of inexplicable wealth.</i> |
| Recommendation 50 | <i>The NACP should provide internal guidance on a standard procedure for checking the submission of false information.</i> |
| Recommendation 51 | <i>Revise Art. 172-6 CAO and the Criminal Code (CC) in line with the Council of Europe recommendations (inter alia: lower thresholds). Important/urgent</i> |
| Recommendation 52 | <i>Revise Art. 368-2 CC in line with the Council of Europe recommendations. Important/urgent</i> |
| Recommendation 53 | <i>Abolish the absolute deadlines and introduce instead a performance and monitoring system that aims at speedy audits within statute of limitations of offences. Important/urgent</i> |
| Recommendation 54 | <i>Abolish the absolute deadlines; until then, delegate extension to the head of department or to inspectors.</i> |
| Recommendation 55 | <i>Notwithstanding the necessary abolishment of deadlines, revise the provision on suspension.</i> |
| Recommendation 56 | <i>Notwithstanding the necessary abolishment of deadlines, clarify the exact ending of the deadline.</i> |
| Recommendation 57 | <i>Notwithstanding the necessary abolishment of deadlines, the elapsing of a deadline should not make the result of a substance-lacking audit res judicata (prohibiting future audits).</i> |
| Recommendation 58 | <i>It needs to be clarified that the closure of an audit does not have any res judicata effect on future audits. This should be the case at least where the NACP does not yet have access to all databases it should have access to or when it did not receive all the information considered necessary (from witnesses, foreign entities, etc.). Important/urgent</i> |
| Recommendation 59 | <i>It needs to be clarified that the closure of an audit does not have any res judicata effect on whether there is in fact a violation of laws, or not, or whether the candidate has inexplicable wealth or not (unless a court has rendered a final decision). Important/urgent</i> |
| Recommendation 60 | <i>At least in potential criminal cases, the notification of declarants should not be mandatory but subject to decision by law enforcement authorities.</i> |

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| Recommendation 61 | <i>The decision on the results of an audit should not depend on even one Commissioner. It is sufficient if one or all Commissioners approve the internal guidance and regularly review the roster of audits. Cases of outstanding importance could be subject to Commissioners' approval. Inspectors need to have independence in their work from the politically appointed Board. Important/urgent</i> |
| Recommendation 62 | <i>Include data on alleged discrepancies into the logbook. It should also be considered to include some standardised information on what actions were taken during the audit.</i> |
| Recommendation 63 | <i>Provide regular standardised updates on case statistics.</i> |
| Recommendation 64 | <i>Clarify in Decision 56 IV.2 that decisions should always show the sources used and to what extent information was available from databases.</i> |
| Recommendation 65 | <i>Justifications should include the full explanation given by the declarant regarding any irregularity.</i> |
| Recommendation 66 | <i>In case of potential criminal violations by the declarant, the decision should only be published in coordination with law enforcement authorities.</i> |

AUDIT: EXTERNAL FOLLOW-UP

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| Recommendation 67 | <i>At least in potential criminal cases, the notification of declarants should not be mandatory but subject to decision by law enforcement authorities.</i> |
| Recommendation 68 | <i>Statutes of limitations for administrative offences need to be substantially extended, at least in corruption cases and particularly regarding the period since detection. Important/urgent</i> |
| Recommendation 69 | <i>The CAO needs to be changed to allow for easier serving of protocols at least in cases where the defendant is a public official. Statutes of limitations should be suspended in case the public official is not receiving mail at work. Refusing to sign receipt of a protocol should be a disciplinary offence. In principle, the NACP should have the obligation to ensure an adequate opportunity for the defendant to acquaint him/herself with the protocol rather than ensure that this opportunity is actually used. Important/urgent</i> |
| Recommendation 70 | <i>Review the CAO to ensure the option of the State to appeal court decisions finding no violation or releasing the defendant from liability.</i> |
| Recommendation 71 | <i>In a mid-term perspective, provide internal and external guidance on how false declarations or inexplicable wealth can entail disciplinary liability.</i> |
| Recommendation 72 | <i>Clarify that false declaration below the threshold of the CAO is a disciplinary offence.</i> |
| Recommendation 73 | <i>Clarify that inexplicable wealth below the threshold of illicit enrichment is a disciplinary offence or introduce this offence.</i> |
| Recommendation 74 | <i>Statutes of limitations for disciplinary offences and their suspension need to be substantially expanded. Important/urgent</i> |
| Recommendation 75 | <i>Allow for dismissal of public official without time limit in case he/she submitted false information in the declaration that could have been only inserted intentionally. Important/urgent</i> |

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| Recommendation 76 | <i>The NACP should inform the State Fiscal Service on any suspicion of tax evasion, including on cases from before 2015 and including on cases where there is inexplicable wealth, but below the threshold of the Art. 368-2 CC. Special procedures</i> |
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SPECIAL PROCEDURES

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| Recommendation 77 | <i>Adopt a procedure for public officials working in the intelligence services.</i> |
| Recommendation 78 | <i>Adopt a special procedure for verifying the declarations of members and staff of the NACP.</i> |

CASE MANAGEMENT SYSTEM

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| Recommendation 79 | <i>The NACP should introduce an electronic case management system. Important/urgent</i> |
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OWNERSHIP OF E-DATABASE

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| Recommendation 80 | <i>The legislator and/or government should transfer the management of the e- declaration database to the NACP. Important/urgent</i> |
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REGULATION OF BUSINESS PROCESSES

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|--------------------------|---|
| Recommendation 81 | <i>Internal decisions by the NACP on the procedure and method of verifying asset declarations should not be subject to registration by the Ministry of Justice. Important/urgent</i> |
| Recommendation 82 | <i>Internal guidance needs to be user friendly documents, with easy real-life examples, pictures, boxes, graphs, etc.</i> |
| Recommendation 83 | <i>The rules and formula for the calculation of the risk rating, and any other aspect of what is considered a red flag by the NACP should be confidential.</i> |
| Recommendation 84 | <i>Publish regulations in downloadable, searchable, and machine readable format.</i> |
| Recommendation 85 | <i>In mid-term perspective, consolidate and simplify regulations once the first full package of regulations is available.</i> |

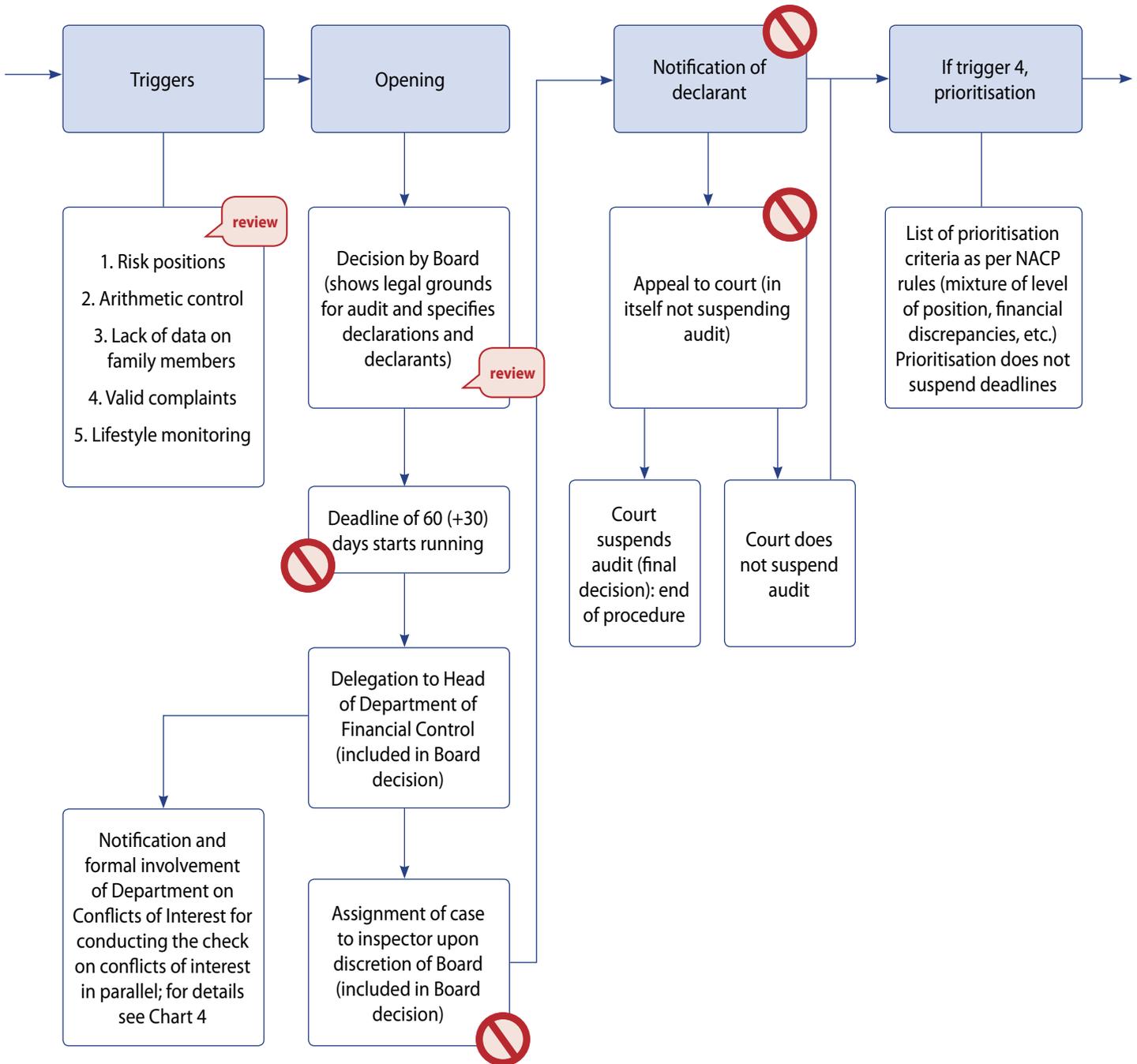
10.2. FLOW CHART INDICATING MAIN RECOMMENDATIONS

The following shows the same flow chart as included in the summary. The flow chart is amended with signs in red colour, in order to highlight the main critical points. There are speech bubbles with short explanations. The following sign indicates that the respective point/aspect should be abolished:



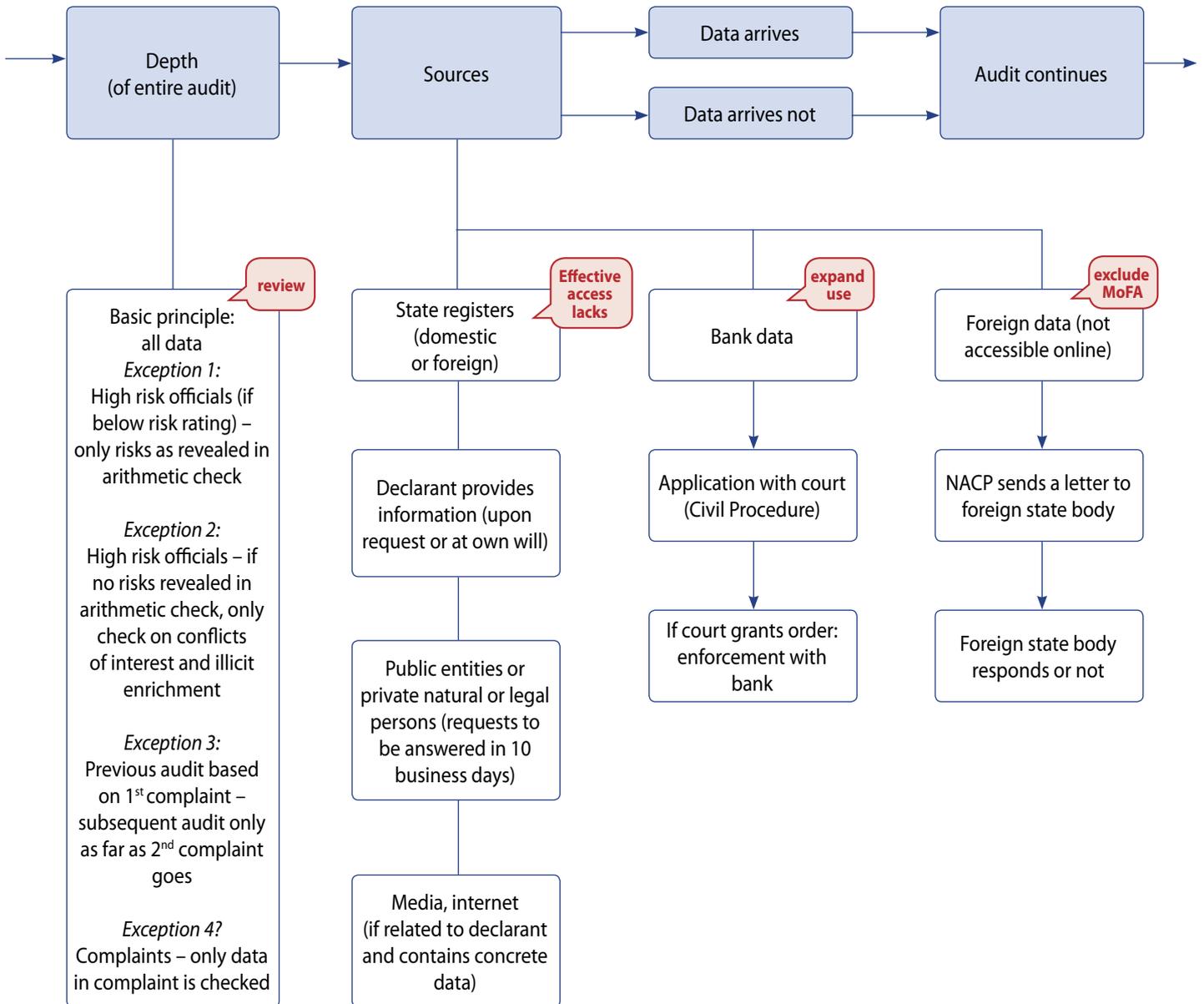
AUDIT: PART 1 – OPENING

CHART 2



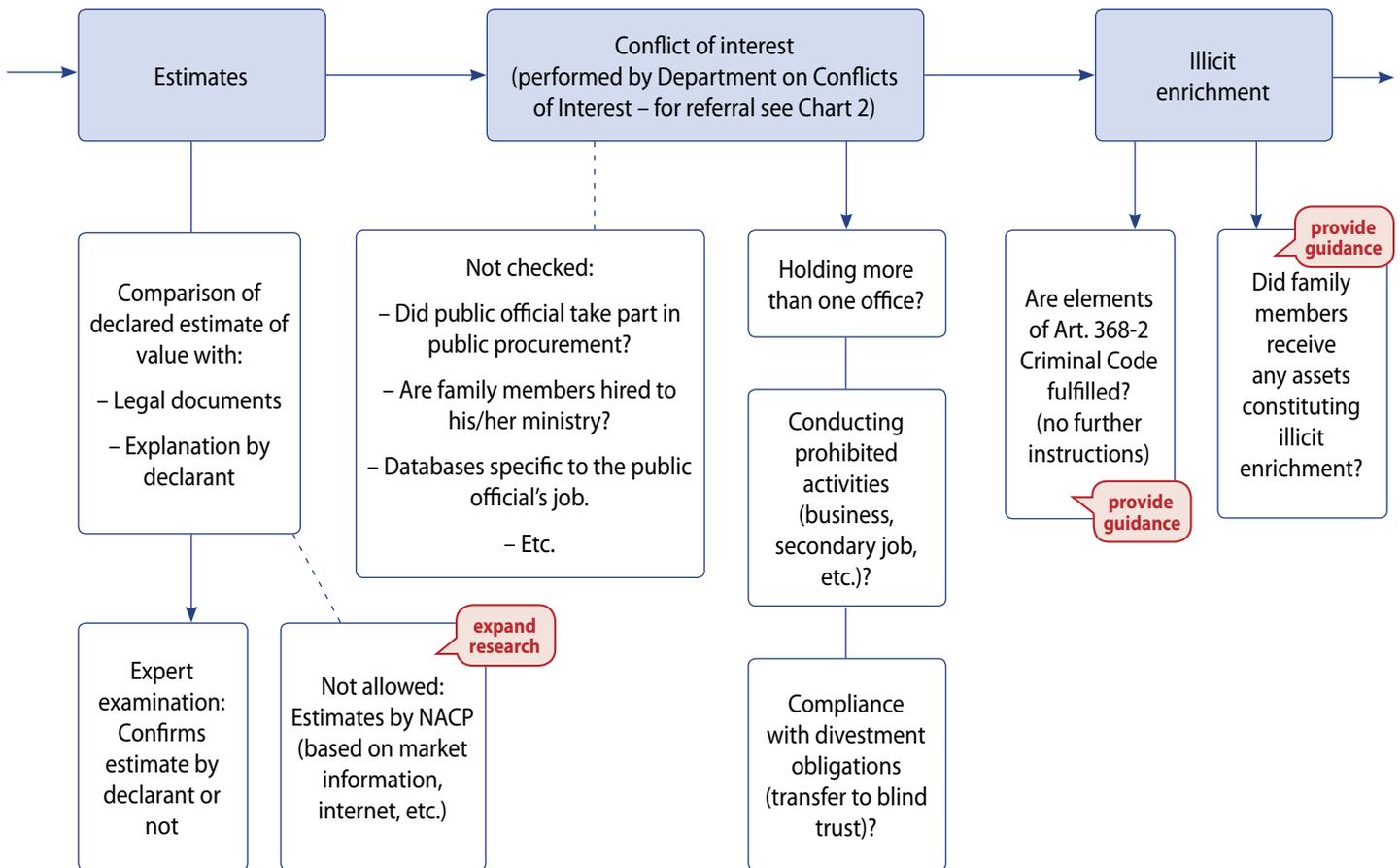
AUDIT: PART 2 – DATA CHECK

CHART 3



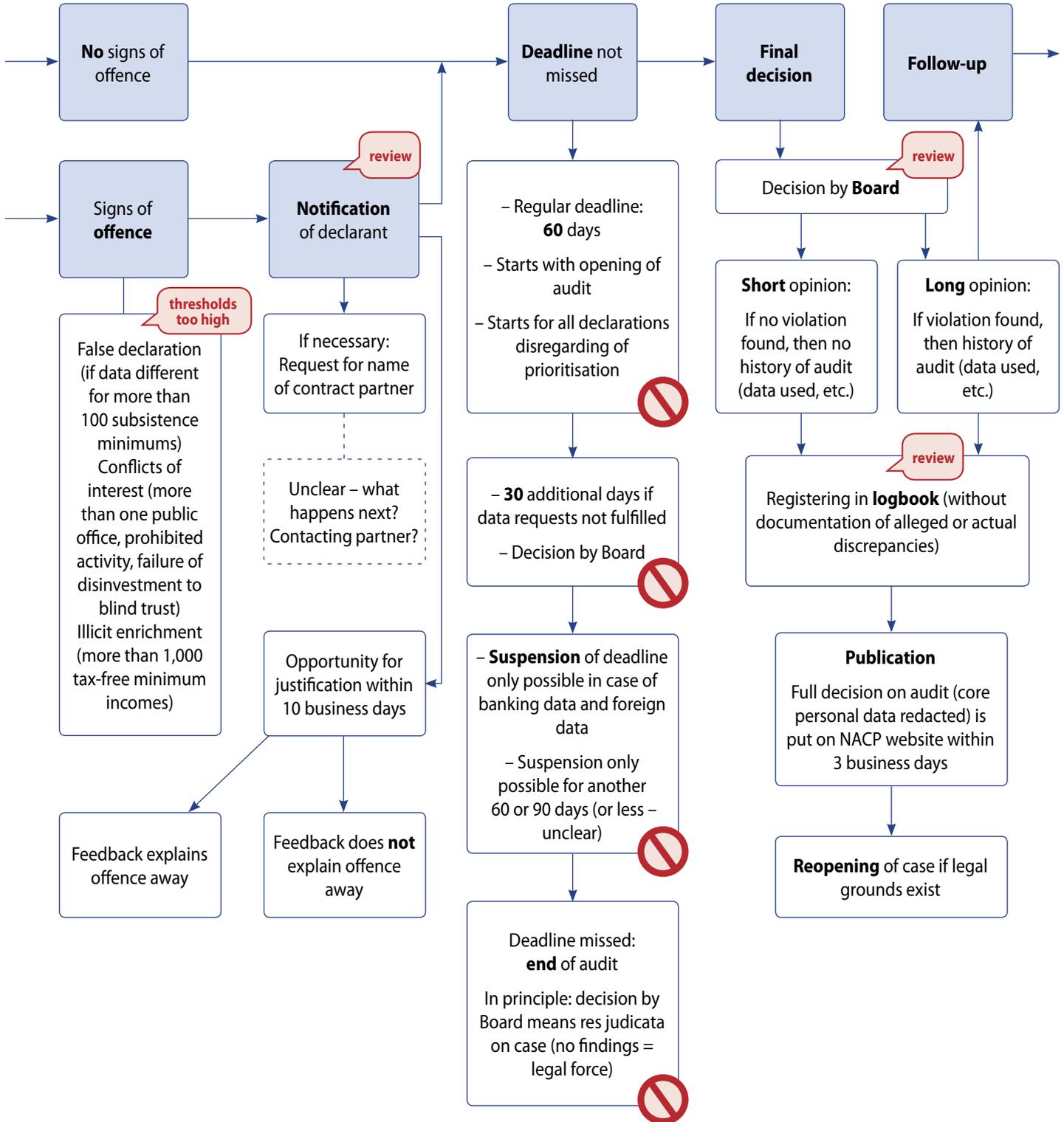
AUDIT: PART 3 – ESTIMATES, CONFLICT OF INTEREST, ENRICHMENT

CHART 4



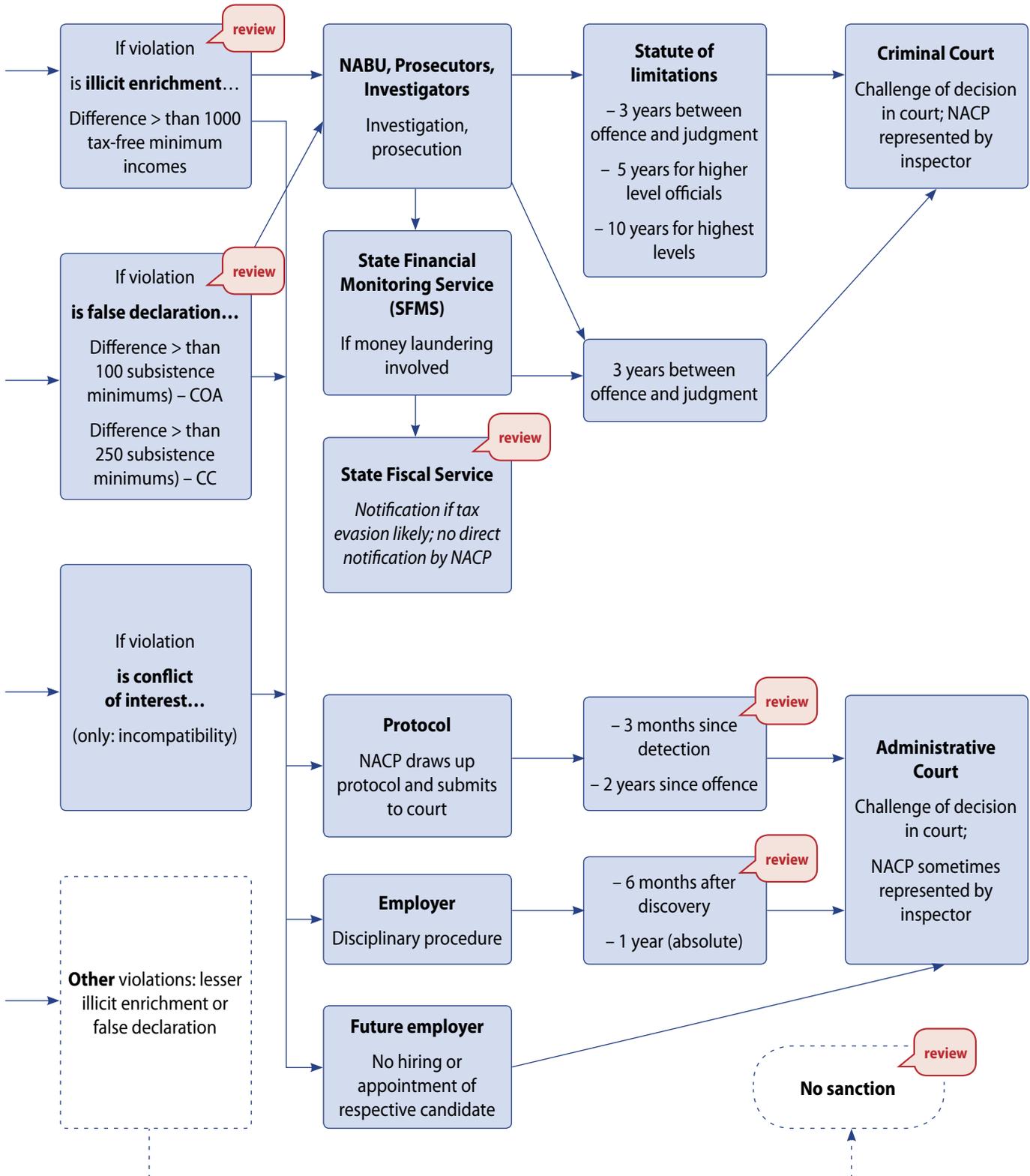
AUDIT: PART 4 – CLOSURE

CHART 5



FOLLOW-UP

CHART 6



11. ANNEX

11.1. TERMS OF REFERENCE

This assessment took place from 27 July until 15 September. The assessment aims to describe the entire business processes of NACP related to the verification of asset declarations. It aims to identify points where the verification system could be improved. The assessment is the result of:

- a desk review of documents;
- a one week in-country mission of interviews with stakeholders in- and outside the NACP (28 July to 1 September 2017).

Interviews were conducted in full confidentiality. None of the interviewees is quoted in the assessment unless he/she consented. Information that is based on interviews is marked as such. If the information is not confirmed by more than one source, than it is marked as such.

The following caveats apply:

- The report focuses on internal business procedures of the NACP; however, one cannot separate these from factors outside the NACP. Thus, this Assessment also makes selected observations on the larger framework of asset declarations without the ambition of covering all points. A number of other international reports the larger framework, including the Opinion by the Council of Europe of 2016 that is referenced in this Assessment in some instances.
- The assignment was conducted within limited time and deadlines set by the EUACI-Project; both, desk review and in-country mission were conducted during August, usually a time where many employees are on summer break.
- For a full in-depth review, a two-week in-country mission would have been necessary as well as longer time for preparation of the mission and the drafting of the Assessment.
- Some legal details of the regulations or interview might have gone "lost in translation";
- This Assessment provides a large number of recommendations; however, within the limited amount of time, it could not conduct a full legal analysis of all regulations, but only of the main points identified;
- It was agreed among the authors of this Assessment and the Project that all documents would be available by 15 August in order to allow for an in-depth preparation of the in-country mission. However, many documents arrived only after this date, some only during or after the mission, or not at all.

Despite above caveats, the authors of this Assessment are confident that it gives a fair and by and large full picture of the situation on the ground.

11.2. LIST OF DOCUMENTS REVIEWED

This Assessment is based on a desk review of in particular the following documents as translated by the Project:

11.2.1. Laws and decisions

| AUTHOR | TITLE | PAGES |
|---|--|-------|
| Parliament | Law on Prevention of Corruption (excerpts) | 16 |
| Parliament | Amendments to the LPC (2017) | 13 |
| Parliament | Criminal Code (excerpts) | 2 |
| Parliament | Code of Administrative Offences (excerpts) | 1 |
| Parliament | Civil Service Code (sections on entry into service and disciplinary liability) | 18 |
| Civil Service Agency | Ethical rules for civil service | 3 |
| NACP Decision No. 1/2016 of 18.08.2016 MoJ 1153/29283 | On introducing amendments to certain decisions of the National Agency on Corruption Prevention on the operation of the Unified State Register of persons authorized to perform the functions of state or local self-government | 2 |
| NACP Decision No. 2/2016 of 10.06.2016 MoJ No. 958/29088 | On initiation of the Submission and Publication System for Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government | 3 |
| NACP Decision No. 3/2016 of 10.06.2016 MoJ No. 961/29091 | Form of the notice of significant changes in the property condition of the subject of declaring | 12 |
| NACP Decision No. 3/2016, of 18.08.2016 | Order of organization, maintenance and publication (provision) of information from the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government | 6 |
| NACP Decision No. 4/2016 | Technical Requirements to fields of the declaration form the Form of a notice of significant changes in the property status of the declaring entity | ? |
| NACP Decision No. 9/2016 (doc 1102-01) | Decision "On approval of the Regulation on the Department of Financial Control and Monitoring the Lifestyle of the Apparatus of the National Agency for Prevention of Corruption" | 8 |
| NACP Decision No. 19/2016 | On Approval of the Procedure for Verifying the Fact of Submission of Declarations by Declarants | 4 |
| NACP Decision No. 56/2017 of 10.02.2017 MoJ No. 201/30069 | Procedure for conducting control and detailed audit of declarations of persons authorized to discharge functions of the state or local self-government bodies (including appendix: logbook for audits) | 16 |
| NACP Decision (doc 1102-02) | Regulation on the First Division (Kyiv) of the Department of Financial Control and Lifestyle Monitoring of the Apparatus of the National Agency for Prevention of Corruption | 6 |
| NACP | Draft Rules and Procedures of Arithmetic and Logical Control | 29 |
| Dnipro Rayon Court, Kyiv | #755/10343/17 (late submission) | 3 |
| Pechersk Rayon Court, Kyiv | #757/14908/17 (late submission) | 3 |
| Darnytsya Rayon Court, Kyiv | #753/11752/17 (late submission) | 3 |
| Pecherskyi District Court of Kyiv City | #757/11255/17 (undeclared change of assets) | 4 |
| Pecherskyi District Court of Kyiv City | #757/26815/17 (undeclared change of assets) | 3 |

11.2.2. Decisions not yet adopted

| AUTHOR | TITLE |
|--------|--|
| NACP | Decision on detecting conflicts of interest (pending) |
| NACP | Decision on lifestyle monitoring (pending; draft of 2016) |
| NACP | Rules and Procedures of Arithmetic and Logical Control (draft) |

11.2.3. Templates

| AUTHOR | TITLE | PAGES |
|--------------------|---|-------|
| NACP | Form of Declaration of a person authorized to perform functions of the State or local self-government | 47 |
| NACP | Notification by the declarant about significant changes in his assets | 6 |
| NACP (doc 1102-03) | Decision on carrying out a complete verification of the declaration(s) of the person authorized to perform functions of the state or local self-government for (2015 and) 2016 | 3 |
| NACP (doc 1102-04) | Decision On extension of the period of a complete verification of declarations(s) of the person authorized to perform functions of the state or local self-government for 2015 and 2016 | 3 |
| NACP (doc 1102-06) | Submission letter to Special Prosecutor for Decision on approving the Argumented Opinion on a Corruption or Corruption-Related Offense | 3 |
| NACP (doc 1102-07) | Decision on approving the Argumented Opinion on a Corruption or Corruption-Related Offense | 3 |
| NACP (doc 1102-05) | Template on the Denial to conduct a full verification: Decision On consideration of the information indicated in the notice of the subject of appeal regarding the availability of grounds for a complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016 | 3 |
| NACP (doc 1102-08) | Argumented Opinion on a Corruption or Corruption-Related Offense | 2 |
| NACP (doc 1102-09) | Supporting letter to the court: On committing administrative offense | 1 |

11.2.4. Press releases/public info

| AUTHOR | TITLE | PAGES |
|--------|---|-------|
| NACP | Press release, 27 July 2017: NACP provides explanation regarding the obligation to declare on members of the anticorruption non-governmental organizations. | 6 |
| NACP | Press release, 28 July 2017: NACP approved the results of inspections of the declarations of the Prime Minister, members of the Government and other high-level officials. | 2 |
| NACP | Press release, 2 August 2017: NACP checks details in declarations in respect of property, assets and corporate rights that have been accrued by the declaring subject after April 2015. | 1 |
| NACP | Press release, 4 August 2017: Key indicators of the NACP activity in monitoring compliance with the laws on conflict of interest in 2017 | 2 |
| CZO | Compatibility status of EDS tools | 1 |
| CZO | Free IT access | 1 |
| NACP | Organisational charts | 1 |

11.2.5. Other documents (related to asset declarations)

| AUTHOR | TITLE | PAGES |
|---------------|--|--------------|
| NACP | Draft Strategy and implementation plans, 2017-2020, Chapters on verification of declarations and of monitoring conflicts of interest | 3 |
| UNDP | Proposal for the Development of Software of Electronic Asset Declaration System of Ukraine | 37 |

11.2.6. Other documents (general)

| AUTHOR | TITLE | PAGES |
|----------------------------|--|--------------|
| NACP, Decision 126/2016 | On adoption of Methodology for corruption risk assessment in government work | 7 |
| NACP, Decision No. 31/2017 | Guidelines for making anti-corruption programs for Government Bodies | 17 |

11.3. LIST OF INTERVIEWS

The following interviews took place (some interview partners were met twice on different days for follow-up reviews):

- EU-ACI Project staff;
- Anti-Corruption Group of Reanimation Reform Package (Civil society);
- Deputy Head of Financial Control and Lifestyle Monitoring Department, NACP;
- NACP public council lawyers;
- Deputy Head of First Unit (Kyiv City), Financial Control and Lifestyle Monitoring Department, NACP;
- Dmytro Kotliar (UNDP expert), Ivan Presniakov (Head of UNDP Project);
- Head of Second Unit (Eastern Region), Financial Control and Lifestyle Monitoring Department, NACP;
- Head of Third Unit (Central Region), Financial Control and Lifestyle Monitoring Department, NACP;
- Head of Fourth Unit (Southern Region), Financial Control and Lifestyle Monitoring Department, NACP;
- Head of Fifth Unit (Western Region), Financial Control and Lifestyle Monitoring Department, NACP;
- Head of Department of Conflict of Interest Regulation, NACP;
- Head of Administrative Department, NACP;
- Analytical Department of National Anti-Corruption Bureau of Ukraine (NABU);
- National Police – Deputy Head of Economic Crime Department;
- Legal Unit, NACP.

For the following, the NACP tried to set up meetings; however, the state bodies did not respond/confirm:

- Anti-corruption focal points/units at selected state bodies;
- State Fiscal Service.

11.4. LAWS AND DECISIONS (ENGLISH)

11.4.1. Law on Prevention of Corruption (excerpts)

LAW OF UKRAINE “ON PREVENTION OF CORRUPTION” (EXCERPTS)

Adopted on 14 October 2014 and enacted on 26 April 2015. Text up-to-date as of 1 September 2016.

Last amendments by the Law of 15 March 2016 (No. 1022-VIII).

ARTICLE 1. DEFINITIONS OF TERMS

1. The terms listed below shall have the following meaning in this Law:

. . .

corruption offence – an act that has signs of corruption that was committed by a person referred to in Part One of Article 3 of this Law and for which criminal, disciplinary and/or civil liability is stipulated;

corruption – the use by a person referred to in Part One of Article 3 of this Law of granted to him/her official authorities or associated with them opportunities in order to obtain unlawful benefit or receiving of such benefit or acceptance of a promise / offer of such benefit for himself/herself or others, or respectively promise / offer or giving of an unlawful benefit to the person referred to in Part One of Article 3 of this Law or upon his/her demand to other natural or legal persons with a view to persuade the person to unlawfully use granted to him/her official authorities or associated with them opportunities;

unlawful benefit – monetary funds or other property, advantages, privileges, services, intangible assets, any other intangible or non-monetary benefits which are promised, offered, given or received without legal grounds therefor;

potential conflict of interest – presence of a person’s private interest in the area in which he/she exercises his/her official or representative powers that could affect the objectivity or impartiality of his/her decisions or affect the commission or non-commission of actions in the exercise of the mentioned powers;

gift – monetary funds or other property, advantages, privileges, services, intangible assets that are given/received free of charge or at a price below the minimum market price;

an offence that is related to corruption – an act that does not have signs of corruption but violates established by this Law requirements, prohibitions and restrictions, committed by a person referred to in the Part One of Article 3 of this Law, for which the law establishes criminal, administrative, disciplinary and / or civil liability;

. . .

real conflict of interest – contradiction between a private interest of a person and his/her official or representative activities which affects the objectivity or impartiality of his/her decisions or commission or non-commission of actions in the exercise of the mentioned powers;

specially authorised subjects in the area of counteraction to corruption – authorities of the prosecution service, the National Police, the National Anti-Corruption Bureau of Ukraine, the National Agency for Corruption Prevention;

declarants – persons referred to in clause 1, subclause "a" of clause 2 of Part One of Article 3 of this Law, other persons who are obliged to file declaration under this Law;

family members – persons who are married, as well as their children, including adult ones, parents, persons under guardianship and trusteeship, other persons who live together, are bound by common household, have mutual rights and obligations (other than persons whose mutual rights and obligations are not of a family nature), including persons who live together but are not married;

. . .

ARTICLE 3. PERSONS COVERED BY THIS LAW

1. The persons covered by this Law are:

1) persons authorized to perform functions of the State or local self-government:

- a) President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, its First Deputy and Deputy, Prime Minister of Ukraine, First Deputy Prime Minister of Ukraine, Vice Prime Ministers of Ukraine, ministers, other heads of central authorities of executive power who are not members of the Cabinet of Ministers of Ukraine and their deputies, the Head of the Security Service of Ukraine, the Prosecutor General of Ukraine, the Head of the National Bank of Ukraine, the Head of the Accounting Chamber of Ukraine, Verkhovna Rada's Commissioner for Human Rights, Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea, the President of the Council of Ministers ARC;
- b) people's deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils, village, locality and city chairmen;
- c) civil servants, officials of local self-government bodies;
- d) military officials of the Armed Forces of Ukraine, the State Service for Special Communication and Information Protection of Ukraine and of other military formations established under the law, except for military conscripts;
- e) judges of the Constitutional Court of Ukraine, other professional judges, members, disciplinary inspectors of the High Qualifications Commission of Judges of Ukraine, officials of the Secretariat of this Commission, the Head, Deputy Head, secretaries of sections of the High Council of Justice and other members of the High Council of Justice, people's assessors and jurors (in the course of performing these functions by them);
- f) persons of ranking and senior staff of the State Penitentiary Service, the tax police, persons of senior staff of authorities and regional offices of the civil defence, State Bureau of Investigations, National Anti-Corruption Bureau of Ukraine;
- g) position-holding and official persons of the public prosecution authorities, Security Service of Ukraine, State Bureau of Investigations, National Anti-Corruption Bureau of Ukraine, diplomatic service, state forestry protection agency,

nature reserve fund protection agency, the central executive body ensuring formation and implementation of the state taxation policy and the state policy with customs affairs;

h) members of the National Agency for Corruption Prevention;

i) members of the Central Election Commission;

j) policemen;

k) position-holding and official persons of other state authorities, authorities of the Autonomous Republic of Crimea;

2) persons who are equalled for the purposes of this Law to the persons authorized to perform functions of the State or local self-government:

a) position-holding persons of public law legal entities who are not mentioned in paragraph 1 of Part One of this Article;

b) persons who are not civil servants or officials of local self-government but who provide public services (auditors, notaries, appraisers and experts, official receivers, independent brokers, members of labour arbitration, arbitrators in the course of performing these functions by them, other persons stipulated by law);

c) representatives of civic associations, academic institutions, educational institutions, experts of the relevant qualification who are members of the selection panels set up according to the Law of Ukraine "On Civil Service";

3) the persons who permanently or temporarily hold positions related to the exercise of organizational-administrative or administrative-economic duties or who are specifically authorized to perform such duties in the private law entities regardless of their organizational and legal form, and also other employees who are not official persons and who perform work or provide services according to a contract with an enterprise, establishment or organization – in cases specified in this Law.

. . .

ARTICLE 11. POWERS OF THE NATIONAL AGENCY [FOR CORRUPTION PREVENTION]

1. The National Agency has the following powers:

. . .

6) monitoring and control over implementation of legislation on ethical behaviour, the prevention and resolution of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government and persons equated to them;

. . .

8) implementation in the manner stipulated by this Law of control and verification of declarations of persons authorized to perform the functions of the state or local self-government, storage and publication of such declarations, conducting lifestyle monitoring of persons authorized to perform the functions of the state or local self-government;

9) ensuring maintenance of the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-government and the Unified State Register of Persons who Committed Corruption or Related to Corruption Offences;

. . .

15) providing clarifications, methodical guidance and consultations on issues of application of legislation on ethical conduct, prevention and resolution of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government and persons equated to them;

. . .

20) other powers stipulated by a law.

ARTICLE 12. RIGHTS OF THE NATIONAL AGENCY

1. The National Agency for the purpose of carrying out its powers has the following rights:

1) to obtain in accordance with a procedure stipulated by law upon written requests information necessary to fulfil its tasks from state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, economic entities regardless of ownership form and from their officials, citizens and their associations;

2) to have direct access to the databases of state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, to use state, including government communications systems and special communications networks, as well as other technical means;

. . .

5) to adopt binding normative legal acts on issues within its competence;

6) to receive statements from natural and legal persons regarding violation of this Law, conduct upon its own initiative verification of possible facts of violations of this Law;

. . .

8) to issue orders on violations of legislation on ethical behaviour, the prevention and resolution of conflicts of interest, other requirements and restrictions stipulated by this Law;

9) to obtain from persons authorized to perform the functions of the state or local self-government written explanations about circumstances that may indicate a breach of ethical conduct, prevention and resolution of conflicts of interest, other requirements and restrictions stipulated by this Law, about the authenticity of information specified in the declarations of persons authorized to perform state functions or local self-government;

. . .

12) to initiate an internal investigation, taking of measures to hold liable persons guilty of corruption or related to corruption offences, to send to specially authorized subjects in the area of countering corruption materials that show evidence of such offences;

12-1) draw up protocols on administrative violations which are referred by the law to the National Agency's competence, to apply measures of securing proceedings in administrative violations cases as provided in the law;

13) other rights stipulated by law.

2. In case of identifying violation of this Law regarding ethical behaviour, prevention and resolution of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government and persons equated to them, or any other violation of this Law, the National Agency shall issue to the head of the body, enterprise, institution an order instructing to eliminate violations of the law, to conduct an internal investigation, to bring the guilty perpetrator to the liability provided by the law.

The order of the National Agency is mandatory for execution. Official to whom the order of the National Agency was addressed shall inform the Agency on the results of its fulfilment within 10 business days after receipt of the order.

3. In case of detecting signs of an administrative offence related to corruption, the authorised persons of the National Agency shall draw up a protocol on such violation and refer it to the court according to the decision of the National Agency. If signs of another corruption or related to corruption offence are detected the National Agency shall adopt a justified conclusion and send it to other specially authorised subjects in the area of counteraction to corruption. The conclusion of the National Agency is mandatory for consideration, upon results of which the Agency should be notified not later than five days after the receipt of the notification of the violation.

4. State authorities, the authorities of the Autonomous Republic of Crimea, local self-government bodies, natural and legal persons are obliged to provide the documents or information requested by the National Agency within 10 business days upon receipt of the request.

...

SECTION VII. FINANCIAL CONTROL

ARTICLE 45. SUBMISSION OF DECLARATIONS OF PERSONS AUTHORIZED TO PERFORM THE FUNCTIONS OF THE STATE OR LOCAL SELF-GOVERNMENT

1. Persons referred to in clause 1, subclause "a" of clause 2 of Part one of Article 3 of this Law are required to file annually before 1 April through the official website of the National Agency the declaration of a person authorized to perform the functions of the state or local self-government (hereinafter – the Declaration) for the past year in the form, which is determined by the National Agency.

2. Persons referred to in clause 1, subclause "a" of clause 2 of Part one of Article 3 of this Law who terminate activity related to the performance of functions of the state or local self-government shall submit a declaration of the person authorized to perform the functions of the state or local self-government for the period not covered by the previously submitted declarations.

Persons who terminated activity related to the performance of functions of the state or local self-government are required the next year after the termination of the activity to file in accordance with the procedure stipulated in Part One of this Article a declaration of the person authorized to perform the functions of the state or local self-government for the past year.

3. A person who is a candidate for position specified in clause 1, subclause "a" of clause 2 of Part one of Article 3 of this Law, prior to appointment or election to the respective position, shall file in the manner prescribed by this Law a declaration of a person authorized to perform functions of the state or local self-government for the past year.

4. Within 7 days after submission of the declaration declarant may submit a corrected declaration.

If declarant is held liable for non-submission, untimely submission of the declaration or when false information is detected in the declaration, the declarant is obliged to submit the declaration with correct data.

ARTICLE 46. INFORMATION TO BE INCLUDED IN THE DECLARATION

1. The declaration shall contain information on:

1) last name, first name and patronymic, registration number of the taxpayer registration card (series and number of the passport of a citizen of Ukraine, if person due to his religious beliefs refuse to accept the registration number of the taxpayer registration card and notify the respective central executive authority responsible for tax policy about it, and have a stamp in the passport of the citizen of Ukraine about it) of the declarant and his family members, the registered place of residence, as well as the place of actual residence or the postal address to which the National Agency can send correspondence for the declarant, place of work (service), or place of future work (service), current position, or aspired position, and category of the position (if applicable) of the declarant;

2) real estate belonging to the declarant and his family members on the right of private ownership, including joint ownership, or rented by them or used by them based on other right of use, irrespective of the form of the transaction, by which such a right was acquired. The information shall include data on:

- a) the type, property characteristics, location, date of obtaining the property into ownership, rent or other right of use, value of the property on the date when it came into ownership, possession or use;
- b) if the real estate property is in joint ownership, the information specified in clause 1 of part one of this Article shall be provided for all the co-owners of such property, or name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs. If the real estate property is rented or the other right of use is applicable, the information specified in clause 1 of part one of this Article shall be provided about the owner of such property or name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs;

2-1) unfinished construction objects, objects not put into operation or ownership for which has not been registered in accordance with the law, which:

- a) belong as ownership to the declarant or his family members under the Civil Code of Ukraine;
- b) are located on land plots belonging to the declarant or his family members on the right of private property, including joint property, or are at their lease or on other right to use, irrespective of legal grounds for obtaining such right;
- c) were completely or partly constructed with materials or at the expense of the declarant or his family members.

Such data shall include:

- a) data on location of the object;
- b) data on owner or user of the land on which construction of the property is carried out;
- c) in case the object is in joint property, data about all co-owners as specified in the clause 1 of part one of this article or the name of the relevant legal entity with the code of the Uniform State Register of Legal Entities and Individuals – Entrepreneurs shall be specified.

3) valuable movable property the value of which exceeds 100 minimum wages established as of 1 January of the reporting year and which belongs to the declarant or members of its family on the right of private ownership, including joint ownership, or is in its possession or use regardless of the form of the transaction by which such right was acquired.

Such data includes:

- a) information on the type of property, characteristics of the property, the date of obtaining the property into the ownership, possession or use, value of the property on the date when it came into ownership, possession or use;
- b) information on the vehicles and other self-propelled machines and mechanisms, as well as data on their make and model, year of manufacture, the identification number (if any). Information on vehicles and other self-propelled machines and mechanisms should be reported regardless of their value;
- c) if movable property is in the joint ownership the information required in clause 1 of part 1 of this Article shall be provided for all the co-owners of such property or name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs. If movable property is in the possession or use, the information required in clause 1 of part 1 of this Article shall be provided for the owners of such property or name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs.

Note: *The declaring of valuable movable property specified in this paragraph (except for vehicles and other self-propelled machines and mechanisms), the rights to which had been acquired before the submission by the declarant of the first declaration in accordance with the requirements of this Law, shall be carried out with the mandatory indication whether such property was acquired before the period of performance of functions of the state or local self-government or during such period. At the same time, indication of data on the value of such property and the date of its acquisition in ownership, possession or use shall not be mandatory;*

4) securities, including stocks, bonds, checks, certificates, promissory notes belonging to the declarant or his family members, including information about the securities type, their issuer, the date of obtaining ownership of securities, quantity and par value of the securities. If the securities are transferred to another person's management, the information required in clause 1 of part 1 of this Article shall be provided on that person as well or the name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs;

5) other equity rights that belong to the declarant or his family members, with indication of the name of each business entity, its organizational and legal form, code of the Unified State Register of Legal Persons and Organizations of Ukraine, the share in the authorized (share) capital of the company, enterprise, organization, in monetary and percentage terms;

5-1) legal persons of which the declarant or his family members are ultimate beneficial owners (controllers). The term "ultimate beneficial owner (controller)" is used as defined in the Law of Ukraine on Prevention of and Counteraction to the Legalisation (Laundering) of the Proceeds from Crime, to Terrorist Financing and Financing of Weapons of Mass Destruction;

6) intangible assets owned by the declarant or his family members, including intellectual property objects that can have value in monetary terms. Information on intangible assets include data on the type and characteristics of such assets, the value of assets at the time of obtaining them into ownership, and the date when the right to them appeared;

7) received (accrued) income, including income in the form of salaries (monetary allowance) obtained at the main place of work, and concurrently for other work, honoraria, dividends, interest, royalties, insurance payments, charitable aid, pension, income from sale of securities and equity rights, gifts and other income.

Such information includes data on the type of income, source of income and its size. Information on gifts is included only if its value exceeds 5 minimum wages established as of 1 January of the reporting year, and for gifts in the form of money – if amount of such gifts received from one person (group of persons) during a year exceeds 5 minimum wages established as of 1 January of the reporting year;

8) available monetary assets, including cash, funds in bank accounts, contributions to credit unions and other non-banking financial institutions, funds lent to third parties, as well as assets in the form of precious (bank) metals. Information on monetary assets includes information on the type, size and currency of the asset, as well as the name and code of the Unified State Register of Enterprises and Organizations of Ukraine of the institution where respective accounts were opened or to which respective contributions were made. Available monetary assets (including cash, funds in bank accounts, contributions to credit unions and other non-bank financial institutions, funds lent to third parties) and assets in the form of precious (bank) metals, the cumulative value of which does not exceed 50 minimum wages set as of 1 January of the reporting year, are not subject to declaring;

9) financial obligations, including credits, loans received, leasing obligations, the size of funds paid towards the principal amount of the loan (credit) sum and interest on the loan (credit), obligations under insurance contracts and non-state pension provision contracts, money lent to other persons. Information on financial obligations include data on the type of obligation, its size, currency of obligation, details about the person in whose favour such obligations arose in accordance with clause 1 of part one of this Article or name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs, and the date when the obligation appeared. Such information is provided only if the obligation's value exceeds 50 minimum wages set as of 1 January of the reporting year. If the value of the obligation does not exceed 50 minimum wages set as of 1 January of the reporting year, only the overall value of such financial obligation is indicated.

If real estate or movable property constitute the collateral of the transaction to ensure the performance of the obligation, the declaration shall indicate the type of property, its location, price and information about the owner of the property, in accordance with clause 1 of part 1 of this Article or name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs. If guarantee is the means of ensuring the received obligation, the declaration must indicate information about the guarantor that is specified in clause 1 of part 1 of this Article or name of the respective legal person with its code in the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs;

10) expenditures and all transactions made within the reporting period, based on which the declarant obtains or terminates the right of ownership, possession or use, including joint ownership, of real estate or movable property, intangible and other assets, as well as of financial obligations referred to in clauses 2-9 of part 1 of this Article.

Such information shall be specified if the amount of the corresponding expenditure exceeds 50 minimum wages established as of 1 January of the reporting year; such information includes data on the type of transaction, its subject matter. Upon written request of the National Agency the declarant shall provide information about the name of the counterparty;

11) position or job, that is being or was performed concurrently: data on position or job (paid or not) that is performed under the agreement (contract), name of the legal entity or individual for whom the person is or was employed concurrently with indication of the code of the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs, or last name, first name and patronymic of an individual with indication of his registration number of the taxpayer registration card;

12) participation of the declarant as a member in managing, auditing or supervisory bodies of civic associations, charities, self-regulatory or self-governing professional associations, membership in such associations (organizations) with indication of the names of the respective associations (organizations) and their code of the Unified State Register of Legal Persons and Natural Persons – Entrepreneurs.

2. The information referred to in Part one of this Article shall be provided regardless of whether the object of declaring is in Ukraine or abroad.

3. The declaration should also include information about objects of declaring that are mentioned in clauses 2 – 8 of part 1 of this Article and belong on the right of ownership to third persons, if the declarant or his family member receives or has the right to receive income from such object or can directly or indirectly (through other natural or legal persons) take with regard to such object actions that are identical to the right of disposal of the object.

Information provided for in this part shall not be included in the declaration if mentioned objects are in the ownership of the legal person mentioned in clause 51 of part 1 of this Article and their main purpose is to be used in the economic activity of such legal person (industrial equipment, special machinery, etc.).

Provisions of this part shall apply to officials who hold responsible and especially responsible positions, and to declarants who hold positions associated with high level of corruption risks, in accordance with Article 50 of this Law.

4. Information referred to in clause 10 of Part one of this Article shall not be included in declarations of persons who are candidates for positions specified in clause 1, subclause "a" of clause 2 of Part one of Article 3 of this Law.

5. Income and expenditures of the declarant shall be stated in the currency of Ukraine.

The value of property, property rights, assets, other objects of declaring, provided for in Part one of this Article, shall be indicated in the currency of Ukraine at the moment of their acquiring in the ownership or at their last monetary valuation.

The value of property, property rights, assets, other objects of declaring that are in possession or use of the declarant shall be indicated in case it is known to the declarant or should have been known as a result of entering into relevant transaction.

6. Income/expenditures received/made in foreign currency for the purposes of indication in the declaration shall be calculated in the national currency of Ukraine based on currency (exchange) rate of the National Bank of Ukraine effective on the date of receipt of income/making expenditures. As regards income/expenditures received/made abroad, the declarant shall indicate the country where they were received/made.

7. If a family member of the declarant refuses to provide all or part of the information for filling in the declaration, the declarant shall state this in the declaration, while reflecting all information he/she knows about such family member as required by clauses 1-12 of Part one of this Article.

ARTICLE 47. REGISTRATION AND PUBLICATION OF DECLARATIONS

1. Submitted declarations shall be included in the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-government that is formed and maintained by the National Agency.

The National Agency shall ensure an open 24-hour access to the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-government at the official web-site of the National Agency.

Access to the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government at the official web-site of the National Agency shall be provided by making possible viewing, copying and printing of the information, as well as in the form of a dataset (electronic document), organized in a format that allows its automatic processing by electronic means (machine-reading) for reuse.

Information in the declaration about the registration number of the taxpayer's registration card or series and number of the citizen of Ukraine passport, residence address, date of birth of natural persons regarding whom information is contained in the declaration, location of objects that are listed in the declaration (except for the region, district, city where the object is located), shall constitute information with restricted access and shall not be available in the open access.

2. Information about the person in the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-government shall be stored during all the time when the person performs functions of the state or local self-government and for five years after the termination of performance of such functions by the person, except for the last declaration filed by the person which shall be stored indefinitely.

ARTICLE 48. CONTROL AND VERIFICATION OF DECLARATIONS

1. The National Agency shall conduct the following types of control with regard to declarations filed by the declarants:

- 1) control with respect to timeliness of filing;
- 2) control with respect to the accuracy and completeness;
- 3) logical and arithmetic control.

2. The National Agency shall carry out a full verification of declarations in accordance with this Law.

3. Procedure for conducting types of controls provided for by this Article, as well as of the full verification of declaration shall be determined by the National Agency.

ARTICLE 49. VERIFICATION OF TIMELINESS OF DECLARATION FILING

Part one was deleted by the Law of 15 March 2016.

2. State bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies, as well as legal entities of public law are obliged to verify the fact of submission by the declarants working in them (who used to work in them) of declarations according to this Law and notify the National Agency of the cases of non-submission or untimely submission of such declarations following the procedure to be defined by the National Agency.

3. If as a result of control it is found that the declarant did not submit a declaration, the National Agency shall notify in writing such declarant of that fact, and the declarant shall submit declaration within ten days upon receipt of such notification in the manner specified in Part One of Article 45 of this Law.

At the same time, the National Agency shall notify in writing about the fact of failure to file the declaration to the head of the state authority, authority of the Autonomous Republic of Crimea, local self-government body, head of their staff, head of legal entity of public law, where the relevant declarant is employed, and to the specially authorized subjects in the area of countering corruption.

ARTICLE 50. FULL VERIFICATION OF DECLARATIONS

1. The full verification of a declaration is meant to ascertain the accuracy of the declared data, accuracy of evaluation of the declared assets, examine for the presence of conflict of interests and signs of illicit enrichment and can be conducted during the period when the declarant carries out activity related to performance of functions of the state or local self-government and during three-year period after termination of such activity.

Declarations of officials that hold responsible and especially responsible positions, of declarants who hold positions associated with high level of corruption risks, the list of which is approved by the National Agency, are subject to mandatory full verification.

Declarations filed by other declarants in case of discrepancies discovered as a result of logical and arithmetical control shall also be subject to full verification.

The National Agency shall conduct full verification of the declaration, as well as shall independently conduct full verification of information to be indicated in the declaration with regard to family members of the declarant in cases stipulated by Part seven of Article 46 of this Law.

The National agency shall verify declarations on the basis of information received from individuals and legal entities, from media and other sources about possible indication of false data in the declaration.

2. When results of the full verification of the declaration indicate that false information was included in the declaration, the National Agency shall notify in writing the head of the relevant state authority, the authority of the Autonomous Republic of Crimea, local self-government body, head of their staff, head of the public legal entity, where the respective declarant works, and specially authorized entities in the area of countering corruption.

Note. *Official persons who hold responsible and especially responsible positions in this Article shall mean the President of Ukraine, Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, First Deputy and Deputy Ministers, member of the National Council on TV and Radio Broadcasting, National Commission on Regulation of Financial Markets, Anti-monopoly Committee, Head of the State Committee on TV and Radio, Head of the State Property Fund, his first deputy and deputy, member of the Central Election Commission, member of parliament, Ombudsman, Director of the National Anti-Corruption Bureau of Ukraine, Prosecutor General of Ukraine, his first deputy and deputy, Head of the National Bank of Ukraine, his first deputy and deputy, member of the National Bank's Council, Secretary of the National Security and Defence Council, his first deputy and deputy, Permanent Representative of the President of Ukraine the Autonomous Republic of Crimea, his first deputy and deputy, adviser or assistant to the President of Ukraine, Speaker of the Parliament, Prime Minister of Ukraine, persons whose positions belong to civil service positions of categories "A" and "B", and persons whose positions are assigned in accordance with Article 14 of the Law of Ukraine "On Service in the Local Self-Government Bodies" to 1-3 categories, as well as judges, prosecutors and investigators, heads, deputy heads of state authorities which jurisdiction covers the whole territory of Ukraine, heads of their staff and heads of their independent structural subdivisions, heads and deputy heads of state authorities, authorities of the Autonomous Republic of Crimea which jurisdiction covers the territory of one or more regions, the Autonomous Republic of Crimea, Kyiv and Sevastopol, heads of state authorities, authorities of the Autonomous Republic of Crimea which jurisdiction covers the territory of one or more districts, of the city of republican significance in the Autonomous Republic of Crimea or regional significance, the district in the city, cities of district significance, military officials of senior officer ranks.*

ARTICLE 51. LIFESTYLE MONITORING OF DECLARANTS

1. The National Agency conducts selective monitoring of lifestyle of declarants in order to establish conformity between their level of life and assets and income received by them and their family members according to the declaration of a person authorized to perform functions of the state or local self-government that is submitted in accordance with this Law.
2. Lifestyle monitoring of the declarants is carried out by the National Agency on the basis of information received from natural and legal persons, as well as from the media and other open sources of information, which contains information about the discrepancy between the level of life of the declarants and their declared assets and income.
3. Procedure for lifestyle monitoring of the declarants shall be determined by the National Agency. Lifestyle monitoring shall be carried out in compliance with the legislation on personal data protection and should not involve excessive interference with the right to privacy and family life of person.
4. Establishing an inconsistency between the level of life and assets and income declared by the declarant shall be a ground for conducting full verification of his/her declaration. If the National Agency finds a discrepancy in the level of life, it shall give opportunity to the declarant within 10 business days to provide a written explanation about this fact. If the lifestyle monitoring reveals signs of the corruption or related to corruption offence, the National Agency shall inform thereof the specially authorized subjects in the area of countering corruption.

ARTICLE 52. ADDITIONAL MEASURES OF FINANCIAL CONTROL

1. If a declarant or his/her family member opens a foreign currency account in a non-resident bank the respective declarant is obliged to notify in writing within 10 days the National Agency according to the procedure it established, indicating the account number and location of the non-resident bank.
2. In case of a significant change in the declarant's assets situation, namely – receipt of income, purchase of property for the sum exceeding the 50 minimum wages established as of January 1 of the respective year, the mentioned declarant within 10 days from the receipt of income or purchasing the property is obliged to notify about it in writing the National Agency. This information shall be included in the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government and shall be published on the official website of the National Agency.
3. Procedure for informing the National Agency on opening of a foreign currency account in a non-resident bank, as well as on significant changes in the property situation shall be determined by the National Agency.

ARTICLE 52-1. SPECIAL PROVISIONS ON FINANCIAL CONTROL WITH REGARD TO CERTAIN CATEGORIES OF PERSONS

1. With regard to persons mentioned in clause 1, subclause "a" of clause 2 of Part one of Article 3 of this Law who belong to the staff of intelligence agencies of Ukraine and/or hold positions that are classified, in particular, in military formations and state authorities conducting operative and detective activity, counter-intelligence, intelligence activity, as well as persons who are candidates for such positions, measures as provided for in Section VII of this Law shall be organized and carried out in a way that makes it impossible to disclose the fact that such persons belong to such agencies (formations) – according to the procedure to be determined by the National Agency upon approval of the said agencies (formations).

[Article was added by the Law adopted on 14 July 2015]

. . .

SECTION IX. OTHER MECHANISMS FOR PREVENTING AND COUNTERING CORRUPTION

ARTICLE 56. SPECIAL VERIFICATION [VETTING]

1. A special verification, including with regard to information submitted personally, shall be conducted with regard to persons who are candidates for responsible and especially responsible positions and positions with high corruption risk, the list of which shall be approved by the National Agency.

Special verification shall not be conducted with regard to:

- 1) candidates for the position of the President, candidates for People's Deputies of Ukraine, candidates for deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils and for positions of village, settlement and city heads;
- 2) citizens who are drafted to the military service upon conscription of officers and upon conscription to military service during mobilization, during the special period, or involved in the execution of their duties in accordance with staffing tables of a wartime;
- 3) candidates who hold positions in state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and are appointed as a result of transfer or promotion to positions within the same authority or appointed as a result of transfer to positions in other state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies;
- 4) candidates who hold positions in state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies which are terminated and therefore such people are appointed as a result of transfer to other authorities which inherit powers and functions of authorities being terminated;
- 5) persons when considering their inclusion in the lists of people's assessors and jurors.

If the appointment, election or approval for positions is carried out by a local council, a special verification is conducted in the manner stipulated by this Law with regard to appointed, selected or approved for the relevant positions persons.

2. The head (deputy head) of the state authority, authority of the Autonomous Republic of Crimea, local self-government authority or their staff, where the person is a candidate for a position, is responsible for organizing special verification, except for instances determined by law.

. . .

Peculiarities of conducting special verification regarding candidates for positions of judges shall be stipulated in the Law of Ukraine "On the Judicial System and Status of Judges".

. . .

3. Information about a person who is a candidate for the position referred to in the Part one of this Article, shall be subject to special verification, in particular with regard to:

- 1) existence of the court decision which came into force and according to which such person was held criminally liable, including for a corruption offenses, as well as with regard to prior convictions, their lifting or expunging;
- 2) the fact that the person was sanctioned by administrative sanctions for related to corruption offenses;

- 3) the authenticity of information specified in the declaration of a person authorized to perform the functions of the state or local self-government;
- 4) person's possession of equity rights;
- 5) health condition (specifically regarding person's registration with psychiatric or drug rehabilitation institutions of health care), education, the presence of an academic degree or an academic rank.
- 6) person's relation to the military duty;
- 7) whether the person has access to state secrets, if such access is required under the qualification requirements for the position;
- 8) whether the person is covered by the ban to hold the relevant position envisioned by the Law of Ukraine "On Cleansing of Power (Lustration)".

. . .

ARTICLE 57. PROCEDURE FOR CARRYING SPECIAL VERIFICATION

1. Special verification shall be conducted upon the written consent of the person who is a candidate for the position within a period not exceeding twenty-five calendar days from the date when the consent for the special inspection was given.

If the person does not grant such consent the question of his/her appointment to the position shall not be considered.

Procedure of conducting the special verification and the form of consent for the special verification shall be approved by the Cabinet of Ministers of Ukraine.

2. For carrying out special verification the person who is a candidate for the position, shall submit to the respective authority:

- 1) a written consent to carrying out special verification;
- 2) an autobiography;
- 3) a copy of citizen of Ukraine passport;
- 4) copies of documents on education, academic ranks and academic degrees;
- 5) medical certificate on health condition according to the form approved by the Ministry of Healthcare of Ukraine regarding person's registration with psychiatric or drug rehabilitation institutions of health care;
- 6) a copy of a military service card (for military persons or persons liable for call-up);
- 7) a certificate of access to the state secret (if available).

A person who is a candidate for a position shall also submit to the National Agency, in the manner specified by part one of Article 45 of this Law, the declaration of a person authorized to perform the functions of the state or local self-government.

. . .

3. After obtaining the written consent of the candidate an authority where such person seeks the position not later than the next day shall send to the appropriate state authorities in charge of conducting special verification the information provided in the part three of Article 56 or to their territorial bodies (in case of any) the request for inspection of information about a person who is a candidate for the respective position in accordance with a form approved by the Cabinet of Ministers of Ukraine.

...

4. Special verification shall be carried out by:

- 1) the National Police and the State Judicial Administration of Ukraine – regarding the information about bringing a person to criminal liability, criminal record, its lifting, expunging;
- 2) Ministry of Justice of Ukraine and the National Agency on Securities and Stock Market – regarding the ownership of equity rights;
- 3) the National Agency [for Corruption Prevention] – regarding the presence in the Unified State Register of persons who have committed corruption or corruption related offenses of the information about the candidate; as well as about the authenticity of information indicated by the person in the declaration of the person authorized to perform the functions of the state or local self-government for the past year;

...

Other central executive authorities or specially authorized subjects in the area of countering corruption may be involved in conducting special verification in order to verify information about the person referred to in this Article or the authenticity of documents provided for in this Article.

ARTICLE 58. THE RESULTS OF A SPECIAL VERIFICATION

1. The results of the special verification signed by the head of the authority which carried out the inspection and in his absence – a person who performs his duties, or deputy head of the body according to the distribution of functional responsibilities, shall be submitted to the authority that sent the appropriate request within seven days upon the receipt of the request.

...

2. The decision on appointment (election) or on refusal of appointment (election) to the position connected with performing the functions of the state or local self-government shall be taken after the special verification has been carried out.

If the results of the special verification establish a fact of discrepancies present in the autobiography and/or declaration of a person authorized to perform the functions of the state or local self-government for the previous year the official (agency) that organizes special inspection shall provide the candidate for the position with the opportunity to provide a written explanation of such fact and/or to fix this discrepancy within five working days.

If the results of the special verification establish information about the applicant for the position that does not meet the requirements established by the legislation for the position, the official (agency) that is responsible for the appointment (election) to this position shall refuse the appointment (election) to the position.

If the results of the special verification and of review of the above mentioned explanations by the candidate for the position establish a fact of submission by him of forged documents or false information the official (agency) that is responsible for the appointment (election) to this position, shall report to the law enforcement agencies within three business days about this and shall refuse the appointment (election) to the position of the applicant.

The person regarding whom the results of the special verification found circumstances which constitute grounds for denial of his/her appointment (election) shall be deemed as the one who have not passed special inspection.

. . .

Decision refusing the appointment (election) to the position taken as a result of the special verification may be appealed in court.

. . .

SECTION XIII. FINAL PROVISIONS

1. This Law shall enter into force on the day following the day of its publication and shall be enacted in six months after the day it entered into force.

2. Until beginning of functioning of the system of submission and publication in accordance with this Law of declarations of persons authorized to perform functions of the state or local self-government, the declarants should submit declarations on assets, income, expenses and financial liabilities according to the procedure set in the Law of Ukraine on the Principles of Corruption Prevention and Counteraction. Such declarations should be published in accordance to the procedure set in the Law of Ukraine on the Principles of Corruption Prevention and Counteraction.

The National Agency for Corruption Prevention shall make a decision on the beginning of functioning of the system of submission and publication in accordance with this Law of declarations of persons authorized to perform functions of the state or local self-government.

In 2016, persons who at the time of launching of the mentioned system occupy according to Article 50 of this Law responsible or particularly responsible positions shall submit annual declarations for the previous year in the order specified by this Law, within 60 calendar days from the launch of the system.

. . .

4. The following laws shall be considered invalid:

- 1) The Law of Ukraine on the Principles of Corruption Prevention and Counteraction, except for provisions on financial control which become invalid with the beginning of functioning of the system of submission and publication in accordance with this Law of declarations of persons authorized to perform functions of the state or local self-government.

. . .

11.4.2. Amendments to Law on Prevention of Corruption

COMPARATIVE TABLE – DRAFT LAW NO. 6172

2nd reading, 23 March 2017

| LAW ON CORRUPTION PREVENTION (CURRENT VERSION) | AMENDMENTS BY DRAFT LAW NO. 6172 (INCLUDING ORAL AMENDMENTS AS STATED IN THE VERBATIM RECORD OF THE PLENARY MEETING) |
|---|---|
| <p>Article 1. Definitions of terms</p> <p>1. The terms listed below shall have the following meanings in this Law:</p> <p>...</p> <p>declarants – persons referred to in paragraph 1, subparagraph "a" of paragraph 2 of Part One of Article 3 of this Law, other persons who are obliged to file a declaration under this Law;</p> <p>...</p> | <p>Article 1. Definitions of terms</p> <p>1. The terms listed below shall have the following meanings in this Law:</p> <p>...</p> <p>declarants – persons referred to in paragraph 1, subparagraphs "a" and "c" of paragraph 2, paragraphs 4 and 5 of Part One of Article 3 of this Law, other persons who are obliged to file a declaration under this Law;</p> <p>...</p> <p>state authority – a body of state power, including a collective state body, other entity of public law, regardless of it having a legal entity's status, which according to the legislation is assigned with powers to perform on behalf of the state governing functions, the jurisdiction of which covers the whole territory of Ukraine or separate administrative and territorial unit.</p> |
| <p>Article 3. Subjects covered by this Law</p> <p>1. The subjects covered by this Law are:</p> <p>1) persons authorized to perform functions of the State or local self-government:</p> <p>a) President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, its First Deputy and Deputy, Prime Minister of Ukraine, First Deputy Prime Minister of Ukraine, Vice Prime Ministers of Ukraine, ministers, other heads of central authorities of executive power who are not members of the Cabinet of Ministers of Ukraine and their deputies, the Head of the Security Service of Ukraine, the Prosecutor General of Ukraine, the Head of the National Bank of Ukraine, the Head and members of the Accounting Chamber of Ukraine, Verkhovna Rada's Commissioner for Human Rights, Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea, the President of the Council of Ministers ARC;</p> <p>b) people's deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils, village, locality and city chairmen;</p> <p>c) civil servants, officials of local self-government bodies;</p> <p>d) military officials of the Armed Forces of Ukraine, the State Service for Special Communication and Information Protection of Ukraine and of other military units established under the laws, except for military conscripts;</p> | <p>Article 3. Subjects covered by this Law</p> <p>1. The subjects covered by this Law are:</p> <p>1) persons authorized to perform functions of the State or local self-government:</p> <p>a) President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, its First Deputy and Deputy, Prime Minister of Ukraine, First Deputy Prime Minister of Ukraine, Vice Prime Ministers of Ukraine, ministers, other heads of central authorities of executive power who are not members of the Cabinet of Ministers of Ukraine and their deputies, the Head of the Security Service of Ukraine, the Prosecutor General of Ukraine, the Head of the National Bank of Ukraine, the Head and members of the Accounting Chamber of Ukraine, Verkhovna Rada's Commissioner for Human Rights, Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea, the President of the Council of Ministers ARC;</p> <p>b) people's deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils, village, locality and city chairmen;</p> <p>c) civil servants, officials of local self-government bodies;</p> <p>d) military officials of the Armed Forces of Ukraine, the State Service for Special Communication and Information Protection of Ukraine and of other military units established under the laws, except for military conscripts, cadets of higher military education institutions, cadets of higher education institutions which have in their structure military institutes, cadets of departments, sub-departments and divisions of military training;</p> |

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| <p>e) judges, judges of the Constitutional Court of Ukraine, Head, Deputy Head, members, inspectors of the High Council of Justice, officials of the Secretariat of the High Council of Justice, the Head, Deputy Head, members, inspectors of the High Qualifications Commission of Judges of Ukraine, officials of the Secretariat of this Commission, officials of the State Court Administration, jurors (in the course of their performing duties in court);</p> <p>f) persons of ranking and senior staff of the State Penitentiary Service, the tax police, persons of senior staff of authorities and regional offices of the civil defense, State Bureau of Investigations, National Anti-Corruption Bureau of Ukraine;</p> <p>g) position-holding and official persons of the public prosecution authorities, Security Service of Ukraine, State Bureau of Investigations, National Anti-Corruption Bureau of Ukraine, diplomatic service, state forestry protection agency, nature reserve fund protection agency, the central executive body ensuring formation and implementation of the state taxation policy and the state policy with customs affairs;</p> <p>h) members of the National Agency for Corruption Prevention;</p> <p>i) members of the Central Election Commission;</p> <p>j) position-holding and official persons of other state authorities, authorities of the Autonomous Republic of Crimea;</p> <p>k) members of state collective bodies;</p> <p>2) persons who are equalled for the purposes of this Law to the persons authorized to perform functions of the State or local self-government:</p> <p>a) position-holding persons of public law entities who are not mentioned in paragraph 1 of Part One of this Article;</p> <p>b) persons who are not civil servants or officials of local self-government but who provide public services (auditors, notaries, appraisers and experts, official receivers, independent brokers, members of labor arbitration, arbitrators in the course of performing these functions by them, other persons stipulated by law);</p> <p>c) representatives of civic associations, academic institutions, educational establishments, experts of the relevant qualification, who are members of the selection commissions set up according to the Law on Civil Service;</p> <p>3) the persons who permanently or temporarily hold positions related to the exercise of organizational-administrative or administrative-economic duties or who are specifically authorized to</p> | <p>e) judges, judges of the Constitutional Court of Ukraine, Head, Deputy Head, members, inspectors of the High Council of Justice, officials of the Secretariat of the High Council of Justice, the Head, Deputy Head, members, inspectors of the High Qualifications Commission of Judges of Ukraine, officials of the Secretariat of this Commission, officials of the State Court Administration, jurors (in the course of their performing duties in court);</p> <p>f) persons of ranking and senior staff of the State Penitentiary Service, the tax police, persons of senior staff of authorities and regional offices of the civil defense, State Bureau of Investigations, National Anti-Corruption Bureau of Ukraine;</p> <p>g) position-holding and official persons of the public prosecution authorities, Security Service of Ukraine, State Bureau of Investigations, National Anti-Corruption Bureau of Ukraine, diplomatic service, state forestry protection agency, nature reserve fund protection agency, the central executive body ensuring formation and implementation of the state taxation policy and the state policy with customs affairs;</p> <p>h) members of the National Agency for Corruption Prevention;</p> <p>i) members of the Central Election Commission;</p> <p>j) position-holding and official persons of other state authorities, authorities of the Autonomous Republic of Crimea;</p> <p>k) members of state collective bodies;</p> <p>2) persons who are equalled for the purposes of this Law to the persons authorized to perform functions of the State or local self-government:</p> <p>a) position-holding persons of public law entities who are not mentioned in paragraph 1 of Part One of this Article, persons who are members of the supervisory board of a state bank, state enterprise or state for-profit organization;</p> <p>b) persons who are not civil servants or officials of local self-government but who provide public services (auditors, notaries, appraisers and experts, official receivers, independent brokers, members of labor arbitration, arbitrators in the course of performing these functions by them, other persons stipulated by law);</p> <p>c) representatives of civic associations, academic institutions, educational establishments, experts of the relevant qualification, other persons, who are members of the selection commissions set up according to the Law on Civil Service, Law on Service in Local Self-Government Bodies, Civic Integrity Council set up according to the Law on the Judiciary and Status of Judges, civic councils, councils of civic control that are created at the state authorities and take part in preparation of issues on appointments, preparation, monitoring, implementation evaluation of anti-corruption programmes and who are at the same time are not persons mentioned in paragraph 1, subparagraph "a" of paragraph 2 of Part One of this Article;</p> <p>3) the persons who permanently or temporarily hold positions related to the exercise of organizational-administrative or administrative-economic duties or who are specifically authorized to perform</p> |
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| <p>perform such duties in the private law entities regardless of their organizational and legal form, and also other employees who are not official persons and who perform work or provide services according to a contract with an enterprise, establishment or organization – in cases specified in this Law.</p> | <p>such duties in the private law entities regardless of their organizational and legal form, and also other employees who are not official persons and who perform work or provide services according to a contract with an enterprise, establishment or organization – in cases specified in this Law;</p> <p>4) candidates for members of parliament of Ukraine who are registered according to the procedure established by the Law on Elections of People's Deputies of Ukraine, candidates for the position of the President of Ukraine who are registered according to the procedure established by the Law on Elections of the President of Ukraine, candidates for deputies of the Supreme Council of the Autonomous Republic of Crimea, regional, district, city, districts in cities, village, town councils, candidates for positions of village, town, city mayors and village elders;</p> <p>5) natural persons who:</p> <ul style="list-style-type: none"> • receive funds, property in the framework of implementation in Ukraine of programmes (projects) of technical and other assistance, including non-repayable assistance, in the area of prevention, counteraction to corruption (directly or through third persons or in any other way as provided by the relevant programme (project)); • systematically, during the year, perform work, provide services with regard to implementation of standards in the area of anti-corruption policy, monitoring of anti-corruption policy in Ukraine, preparing proposals concerning designing, implementing such policy – if funding (payment) for such works, services is carried out directly or through third persons at the expense of technical or other assistance, including non-repayable assistance, in the area of prevention, counteraction to corruption; • are heads or members of the highest management body, other management bodies of civic associations, other non-entrepreneurial partnerships that carry out "activity" connected with prevention, counteraction to corruption, implementation of standards in the area of anti-corruption policy, monitoring of anti-corruption policy in Ukraine, preparing proposals concerning designing, implementing such policy and/or take part in events connected with prevention, counteraction to corruption. <p><i>Note. This Law does not cover military conscripts, cadets of higher military education institutions, cadets of higher education institutions which have in their structure military institutes, cadets of departments, sub-departments and divisions of military training.</i></p> |
| <p>Article 45. Submission of declarations of persons authorized to perform the functions of the state or local self-government</p> <p>1. Persons referred to in paragraph 1, subparagraph "a" of paragraph 2 of Part one of Article 3 of this Law are required to file annually before 1 April through the official website of the National Agency the declaration of a person authorized to perform the functions of the state or local self-government (hereinafter – the Declaration) for the past year in the form, which is determined by the National Agency.</p> <p>2. Persons referred to in paragraph 1, subparagraph "a" of paragraph 2 of Part one of Article 3 of this Law who terminate activity related to the performance of functions of the state or local self-government</p> | <p>Article 45. Submission of declarations of persons authorized to perform the functions of the state or local self-government</p> <p>1. Persons referred to in paragraph 1, subparagraphs "a" and "c" of paragraph 2, paragraph 5 of Part one of Article 3 of this Law are required to file annually before 1 April through the official website of the National Agency the declaration of a person authorized to perform the functions of the state or local self-government (hereinafter – the Declaration) for the past year in the form, which is determined by the National Agency.</p> <p>2. Persons referred to in paragraph 1, subparagraph "a" and "c" of paragraph 2, paragraph 5 of Part one of Article 3 of this Law who terminate activity related to the performance of functions of the state</p> |

shall submit a declaration of the person authorized to perform the functions of the state or local self-government for the period not covered by the previously submitted declarations.

Persons who terminated activity related to the performance of functions of the state or local self-government are required the next year after the termination of the activity to file in accordance with the procedure stipulated in Part One of this Article a declaration of the person authorized to perform the functions of the state or local self-government for the past year.

3. A person who is a candidate for position specified in paragraph 1, subparagraph "a" of paragraph 2 of Part one of Article 3 of this Law, prior to appointment or election to the respective position, shall file in the manner prescribed by this Law a declaration of a person authorized to perform functions of the state or local self-government for the past year.

4. Within seven days after submitting the declarations, the declarant has the right to submit a corrected declaration.

In case of bringing the declarant to liability for failure to submit, late submission of the declaration, or detection in the declaration of false information the declarant is obliged to submit relevant declaration with true information.

5. Chapter VII of this Law shall not extend to officials of establishments, institutions and organisations which carry out main activity in the area of social protection of population, social and professional rehabilitation of disabled and disabled children, social protection of war veterans and participants of the anti-terrorist

or local self-government shall submit a declaration of the person authorized to perform the functions of the state or local self-government for the period not covered by the previously submitted declarations.

Persons who terminated activity related to the performance of functions of the state or local self-government or other activity mentioned in subparagraphs "a" and "c", paragraph 5 of Part one of Article 3 are required the next year after the termination of the activity to file in accordance with the procedure stipulated in Part One of this Article a declaration of the person authorized to perform the functions of the state or local self-government for the past year.

3. A person who is a candidate for position specified in paragraph 1, subparagraph "a" of paragraph 2 of Part one of Article 3 of this Law as well as person mentioned in paragraph 4 of Part one of Article 3 of this Law, prior to appointment or election to the respective position, shall file in the manner prescribed by this Law a declaration of a person authorized to perform functions of the state or local self-government for the past year.

Persons mentioned subparagraph "c" of paragraph 2 of Part one of Article 3 of this Law shall file in the manner prescribed by this Law a declaration of a person authorized to perform functions of the state or local self-government for the past year in case of becoming a member of the selection commissions set up according to the Law on Civil Service, Law on Service in Local Self-Government Bodies, Civic Integrity Council set up according to the Law on the Judiciary and Status of Judges, relevant civic council, council of civic control that are created at the state authorities – during 10 calendar days after becoming a member (inclusion, involvement election, appointment) in the composition respectively the selection commission, Civic Integrity Council, civic council, council of civic control.

Persons mentioned paragraphs 4 and 5 of Part one of Article 3 of this Law shall file in the manner prescribed by this Law a declaration of a person authorized to perform functions of the state or local self-government for the past year in case of filling the position of the head or becoming a member (through election, appointment) of the highest management body, other management bodies of the respective civic association, other non-entrepreneurial partnership – during 10 calendar days after filling the position of the head or becoming a member (through election, appointment) of the highest management body, other management bodies of the civic association, other non-entrepreneurial partnership.

4. Within seven days after submitting the declarations, the declarant has the right to submit a corrected declaration.

In case of bringing the declarant to liability for failure to submit, late submission of the declaration, or detection in the declaration of false information the declarant is obliged to submit relevant declaration with true information.

5. Chapter VII of this Law shall not extend to officials of establishments, institutions and organisations which carry out main activity in the area of social protection of population, social and professional rehabilitation of disabled and disabled children, social protection of war veterans and participants of the anti-terrorist

operation, health care (except for heads of health care institutions of the central, regional, district, city (cities of oblast significance, cities of Kyiv and Sevastopol) level), education (except for heads of higher educational institutions and their deputies), science (except for presidents of the National Academy of Science and national sectoral academies of science, their vice-presidents and secretaries, heads of scientific research institutes and other scientific institutions), culture, arts, restoration and preservation of national memory, physical culture, sports, national patriotic education.

operation, health care (except for heads of health care institutions of the central, regional, district, city (cities of oblast significance, cities of Kyiv and Sevastopol) level), education (except for heads of higher educational institutions and their deputies), science (except for presidents of the National Academy of Science and national sectoral academies of science, their vice-presidents and secretaries, heads of scientific research institutes and other scientific institutions), culture, arts, restoration and preservation of national memory, physical culture, sports, national patriotic education, **military conscripts mobilized during mobilization for the special period, military service on draft of officers, as well as military officials from among contracted military servicemen of the low rank, sergeant and sergeant-major rank, junior officers ranks (except for servicemen holding permanent posts related to performance of administrative and economic duties and military servicemen who serve in drafting commissions.**

Declarants who had no possibility to submit before 1 April at the place of their military service of the declaration for the previous year due to performing duties in the interests of Ukraine's defence during the special period, direct engagement in war (battle) actions, including on the territory of anti-terrorist operation, being sent to other countries to participate in international peacekeeping operations shall submit such declaration for the reporting period within 90 calendar days starting from the day of arriving to the place of military service or the end day of military service defined by Article 24.2 of the Law on Military Duty and Military Service.

Article 46. Information to be included in the declaration

1. The declaration shall contain information on:

1) last name, first name and patronymic, registration number of the taxpayer registration card (series and number of the passport of a citizen of Ukraine, if person due to his religious beliefs refuse to accept the registration number of the taxpayer registration card and notify the respective central executive authority responsible for tax policy about it, and have a stamp in the passport of the citizen of Ukraine about it) of the declarant and its family members, address of registration and of actual residence or postal address where the National Agency may send mail to the declarant, place of work (service), or place of future work (service), current position, or aspired position, and category of the position (if applicable) of the declarant;

Article 46. Information to be included in the declaration

1. The declaration shall contain information on:

1) last name, first name and patronymic, registration number of the taxpayer registration card (series and number of the passport of a citizen of Ukraine, if person due to his religious beliefs refuse to accept the registration number of the taxpayer registration card and notify the respective central executive authority responsible for tax policy about it, and have a stamp in the passport of the citizen of Ukraine about it) of the declarant and its family members, address of registration and of actual residence or postal address where the National Agency may send mail to the declarant, place of work (service), or place of future work (service), current position, or aspired position, and category of the position (if applicable) of the declarant;

Persons mentioned in subparagraph "c" of paragraph 2 of Part one of Article 3 of this Law shall also state information about the title of the selection commission whose member they are (were) or that they are (were) members of the Civic Integrity Council, relevant civic council, council of civic control set up at the state authorities; persons mentioned in paragraph 5 of Part one of Article 3 of this Law – also information about the name of programme (project) of technical and other assistance in the area of prevention, counteraction to corruption, name of the civic association or other non-entrepreneurial partnership and its relevant management body.

Military servicemen of low rank, sergeant and sergeant-major rank, junior and senior officer rank shall not mention information about their place of work (service) or future work (service), position held;

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| <p>4. Information referred to in subparagraph 10 of Part one of this Article shall not be included in declarations of persons who are candidates for positions specified in paragraph 1, subparagraph "a" of paragraph 2 of Part one of Article 3 of this Law.</p> | <p>4. Information referred to in subparagraph 10 of Part one of this Article <i>[i.e. about expenditures and transactions]</i> shall not be included in declarations of persons who are candidates for positions specified in paragraph 1, subparagraph "a" of paragraph 2 of Part one of Article 3 of this Law, <i>as well as in declarations that are submitted according to subparagraphs 2 and 3 of Part three of Article 45 of this Law [i.e. persons mentioned subparagraph "c" of paragraph 2, paragraphs 4 and 5 of Part one of Article 3 of this Law].</i></p> |
| <p>Article 49. Verification of timeliness of declaration filing</p> <p>2. State authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, as well as legal entities of public law shall verify the fact of submission of according to this Law of declarations by the declarants who work (used to work) in them and inform the National Agency about cases of non-submission or late submission of such declarations according to the procedure established by the Agency.</p> <p>3. If as a result of control, it is found that the declarant did not submit a declaration, the National Agency shall notify in writing such declarant of that fact, and the declarant shall submit declaration within ten days upon receipt of such notification in the manner specified in Part One of Article 45 of this Law.</p> <p>At the same time the National Agency shall notify in writing about the fact of failure to file the declaration to the head of the state authority, authority of the Autonomous Republic of Crimea, local self-government body, head of their staff, head of legal entity of public law, where the relevant declarant is employed, and to the specially authorized subjects in the area of countering corruption.</p> | <p>Article 49. Verification of timeliness of declaration filing</p> <p>2. State authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, as well as legal entities of public law shall verify the fact of submission of according to this Law of declarations by the declarants who work (used to work <i>or are members or were members of the selection commission established in the authority/body, members of the Civic Integrity Council, relevant civic councils, councils of civic control set up at the state authorities</i>) in them and inform the National Agency about cases of non-submission or late submission of such declarations according to the procedure established by the Agency.</p> <p><i>The National Agency shall verify the fact of submission of declarations according to the Law by persons mentioned in paragraph 5 of Part one of Article 3 of this Law.</i></p> <p>3. If as a result of control, it is found that the declarant did not submit a declaration, the National Agency shall notify in writing such declarant of that fact, and the declarant shall submit declaration within ten days upon receipt of such notification in the manner specified in Part One of Article 45 of this Law.</p> <p>At the same time the National Agency shall notify in writing about the fact of failure to file the declaration to the <i>specially authorized subjects in the area of countering corruption, as well as to the head of the state authority, authority of the Autonomous Republic of Crimea, local self-government body, head of their staff, head of legal entity of public law, highest management body of the relevant civic association, other non-entrepreneurial partnership about the fact of non-submission of the declaration by the respective declarant.</i></p> |
| <p>Article 60. Requirements for transparency and access to information</p> <p>1. Persons specified in paragraphs 1, 2 of the part one of article 3 of this Law, as well as persons permanently or temporarily holding positions related to administrative and regulatory or administrative and economic duties or specifically authorized to perform such duties in legal entities of private law, regardless of the legal and organizational form, are prohibited:</p> <ol style="list-style-type: none"> 1) to refuse to provide information to individuals or legal entities in the information, who have the right to obtain such information according to the law; 2) to provide in an untimely manner, to provide misleading or incomplete information that shall be provided in accordance with the law. | <p>Article 60. Requirements for transparency and access to information</p> <p>1. Persons specified in paragraphs 1, 2, <i>4 and 5</i> of the part one of article 3 of this Law, as well as persons permanently or temporarily holding positions related to administrative and regulatory or administrative and economic duties or specifically authorized to perform such duties in legal entities of private law, regardless of the legal and organizational form, are prohibited:</p> <ol style="list-style-type: none"> 1) to refuse to provide information to individuals or legal entities in the information, who have the right to obtain such information according to the law; 2) to provide in an untimely manner, to provide misleading or incomplete information that shall be provided in accordance with the law. |

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| <p>2. Information that cannot be restricted in access:</p> <p>1) information about amount, types of charitable and other assistance provided to individuals and legal entities or obtained from them by the persons referred to in paragraph 1 of Part one of Article 3 of this Law, or state authorities, local self-government authorities;</p> <p>2) information about amount, types of remuneration, material aid and any other payments from the budget to the persons specified in paragraph 1 of Part one of Article 3 of this Law, as well as received by such persons in the course of transactions that are subject to compulsory state registration, as well as gifts stipulated by this Law .</p> <p>3) transfer to due persons of management of enterprises and corporate rights which shall be performed in the manner stipulated by this Law;</p> <p>4) conflict of interests of persons referred to in paragraphs 1 and 2 of Part One of Article 3 of this Law and measures to resolve it.</p> | <p>2. Information that cannot be restricted in access:</p> <p>1) information about amount, types of charitable and other assistance provided to individuals and legal entities or obtained from them by the persons referred to in paragraph 1, subparagraphs "a" and "c" of paragraph 2 and paragraphs 4 and 5 of Part one of Article 3 of this Law, or state authorities, local self-government authorities;</p> <p>2) information about amount, types of remuneration, material aid and any other payments from the budget or at the expense of technical or other assistance in the framework of implementation in Ukraine of programmes (projects) in the area of prevention, counteraction to corruption to the persons specified in paragraph 1, subparagraphs "a" and "c" of paragraph 2 and paragraphs 4 and 5 of Part one of Article 3 of this Law, as well as received by such persons in the course of transactions that are subject to compulsory state registration, as well as gifts stipulated by this Law.</p> <p>3) transfer to due persons of management of enterprises and corporate rights which shall be performed in the manner stipulated by this Law;</p> <p>4) conflict of interests of persons referred to in paragraphs 1 and 2 of Part One of Article 3 of this Law and measures to resolve it.</p> |
| <p>Chapter XIII</p> <p>FINAL PROVISIONS</p> <p>...</p> | <p>Chapter XIII</p> <p>FINAL PROVISIONS</p> <p>...</p> <p>5-1. To extend until 1 May 2017 the deadline for submission of annual declarations for the persons who according to this Law submit such declaration for the first time.</p> |
| | <p>Final provisions [of the draft law]</p> <p>1. The Law shall enter into force on the next day after the day of its publication.</p> <p>...</p> <p>3. Persons who were designated as declarants by this Law shall submit in accordance with the Law on Corruption Prevention their first declaration of the person authorized to perform functions of the state or local self-government in 2018 for the period starting from the date of enactment of this Law until 31 December 2017.</p> <p>...</p> <p>6. Persons who are released by this Law from the duty to submit relevant declaration of the person authorized to perform functions of the state or local self-government shall not submit a declaration covering period before enactment of this Law and shall not be held liable.</p> |

11.4.3. Criminal Code (excerpts)

Code as of October 2016

ARTICLE 12. CLASSIFICATION OF CRIMINAL OFFENCES

1. Depending on the gravity, criminal offences shall be classified as minor offences, medium grave offences, grave offences, or special grave offences.
2. A minor criminal offense shall mean an offense punishable by imprisonment for a term up to two years or another more lenient penalty except for the primary punishment in for of a fine in the amount of more than three thousand tax-exempt minimum incomes of citizens.
3. A medium grave offense shall mean an offense punishable by a fine in the amount of not more than ten thousand tax-exempt minimum incomes of citizens or imprisonment for a term up to five years as the primary punishment.
4. A grave criminal offense shall mean an offense punishable by a fine in the amount of not more than twenty five thousand tax-exempt minimum incomes of citizens or imprisonment for a term up to ten years as the primary punishment.

ARTICLE 45. DISCHARGE FROM CRIMINAL LIABILITY IN VIEW OF EFFECTIVE REGRET

A person who has committed a minor crime or an unintentional crime of moderate severity for the first time, except for corruption crimes, shall be discharged from criminal liability if, upon committing that offense, he/she sincerely repented, actively facilitated solving of the offence, and fully compensated the losses or repaired the damage inflicted.

Note. *Corruption crimes according to this Code should be considered crimes provided for in Articles 191, 262, 308, 312, 313, 320, 357, 410 – in case they were committed through abuse of one's official position, as well as crimes provided for in Articles 210, 354, 364, 364-1, 365-2, 368 – 369-2 of this Code.*

ARTICLE 49. DISCHARGE FROM CRIMINAL LIABILITY DUE TO LIMITATION PERIOD

1. A person shall be discharged from criminal liability if the following periods have elapsed from the date of the criminal offense to the effective date of the judgment:
 - 1) two years where a minor offense has been committed and the prescribed punishment is less severe than the restraint of liberty;
 - 2) three years where a minor offense has been committed and the prescribed punishment is the restraint of liberty or imprisonment;
 - 3) five years where an offense of medium gravity has been committed;
 - 4) ten years where a grave offense has been committed;
 - 5) fifteen years where a special grave offense has been committed.

ARTICLE 212. EVASION OF TAXES, FEES (COMPULSORY PAYMENTS)

1. Willful evasion of taxes, fees (compulsory payments) which are part of the taxation system established by law, by an official of an entity, institution or organization of any ownership status, or by any unincorporated entrepreneur, or by any other person liable to pay such taxes, fees (compulsory payments), where such actions resulted in actual non-receipt of significant amounts of funds by budgets or special state funds, – shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes, or deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years.

2. The same actions, if committed by a group of persons upon their prior conspiracy, or where they resulted in actual non-receipt of large amounts of funds by budgets or special state funds, – shall be punishable by a fine of 2,000 to 3,000 tax-free minimum incomes with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

3. Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by a person previously convicted of evasion of taxes, fees (compulsory payments), or where they resulted in actual non-receipt of especially large amounts of funds by budgets or special state funds, – shall be punishable by a fine in the amount from fifteen thousand to twenty five thousand tax-free minimum incomes with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and with the forfeiture of property.

4. A person who committed an act provided for by paragraph 1 and 2 or actions stipulated by paragraph 3 (if such actions have lead to actual failure to credit funds in especially large amounts to the budgets or State Targeted Funds) of this Article shall be discharged from criminal liability if he/she paid taxes, fees (compulsory payments) and indemnified the State for the damage caused by late payment (fiscal penalties, fines) prior to being prosecuted.

5. Actions provided for by the paragraphs 1-3 of this Article shall not be deemed as willful evasion of taxes, fees (compulsory payments), if a taxpayer has reached tax compromise under subparagraph 92 of the Chapter XX "Transitional Provisions" of the Tax Code of Ukraine.

Note. *A significant amount of funds means any amount of taxes, fees or other compulsory payments which equals or exceeds 1000 tax-free minimum incomes as established by law; a large amount of funds means any amount of taxes, fees or other compulsory payments which equals or exceeds 3,000 tax-free minimum incomes as established by law; an especially large amount means any amount of taxes, fees or other compulsory payments which equals or exceeds 5,000 tax-free minimum incomes as established by law.*

{The Article 212 as amended by the laws No. 270-VI as of 15.04.2008, No. 2756-VI as of 02.12.2010, No. 4025-VI as of 15.11.2011, No. 63-VIII as of 25.12.2014}

CHAPTER XVII. CRIMES IN THE AREA OF OFFICIAL ACTIVITY AND PROFESSIONAL ACTIVITY CONNECTED WITH PROVISIONS OF PUBLIC SERVICES

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ARTICLE 366-1. DECLARING OF FALSE INFORMATION

Submission by the declarant of knowingly false information in the declaration of a person authorised to perform functions of the state or local self-government, which is provided for in the Law of Ukraine "On Prevention of Corruption",

or wilful non-submission by the declarant of such declaration – shall be punishable by a fine from 2500 to 3000 untaxed incomes or by public works from 150 to 240 hours or imprisonment for up to two years with the prohibition to occupy certain positions or perform certain activities for up to three years.

Note. *Declarants mean persons who according to paragraphs 1 and 2 of Article 45 of the Law of Ukraine “On Prevention of Corruption” are obliged to submit declaration of a person authorised to perform functions of the state or local self-government.*

Responsibility under this article for submission of knowingly false information in the declaration of person authorized to perform the functions of the State or local self-government regarding property or other objects to be declared that have value is imposed in case when such information differs from the true information by a sum of more than 250 subsistence minimums.

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ARTICLE 368-2. ILLICIT ENRICHMENT

[Last amended by the Law of 12 February 2015 (No. 198-VIII)]

1. Acquiring by a person authorised to perform functions of the state or local self-government in ownership of assets in significant amount, the lawful grounds of acquiring of which was not confirmed by evidence, as well as transfer by him/her of such assets to any other person – shall be punishable by deprivation of liberty for the term of up two years with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years and with special forfeiture and forfeiture of property.

2. The same acts when committed by a service person occupying a position of responsibility – shall be punishable by deprivation of liberty for the term of two to five years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years and with special forfeiture and forfeiture of property.

3. Acts provided for in paragraph 1 of this Article when committed by a service person occupying a position of particular responsibility – shall be punishable by deprivation of liberty for the term of five to ten years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years and with special forfeiture and forfeiture of property.

Note. *1. Persons authorised to perform functions of the state or local self-government shall mean persons specified in clause 1 of part one of Article 3 of the Law of Ukraine “On Prevention of Corruption”.*

2. Assets in the significant amount in this Article shall mean monetary funds or other property, as well as proceeds from them, if their amount (value) exceeds 1,000 untaxed minimum personal incomes.

3. The transfer of assets in this Article shall mean concluding any agreements based on which right of ownership or right of use of assets emerges, as well as providing other person with monetary funds or other property to enter into such agreements.

11.4.4. Code of Administrative Offences (excerpts)

Code as of October 2016 (partially translated electronically)

ARTICLE 38. DURATION OF IMPOSITION OF ADMINISTRATIVE PENALTY

An administrative penalty may be imposed no later than two months from the date of the commission of the offense and, if the offense continues, not later than two months from the date of its detection, except cases where cases of administrative violations in accordance with this Code are subordinate to the court (judge).

If the cases of administrative violations in accordance with this Code or other laws subordinate to the court (judge), the penalty may be imposed no later than three months from the date of the commission of the offense, and in case of a continuing offense, no later than three months from the date of its detection, except Cases on administrative violations, specified in part three of this article.

Administrative punishment for committing an offense related to corruption, as well as offenses provided for in Articles 164-14, 212-15, 212-21 of this Code, may be imposed within three months from the date of its detection, but not later than two years from the day His deed.

In the event of closure of criminal proceedings, but if there are signs of an administrative offense in the actions of the offender, administrative penalty may be imposed no later than one month from the date of the decision to close the criminal proceedings.

{Article 38 as amended by Laws No. 2342-III of April 5, 2001, No. 586-VI of September 24, 2008, No. 1508-VI of June 11, 2009, No. 2808-VI of December 21, 2010; In the wording of Law No. 3207-VI of April 7, 2011; As amended by the Laws No. 3681-VI of July 8, 2011, No. 4652-VI of April 13, 2012, No. 198-VIII of February 12, 2015, No. 731-VIII dated October 8, 2015)

CHAPTER 13-A. ADMINISTRATIVE OFFENCES RELATED TO CORRUPTION

ARTICLE 172-4. VIOLATION OF RESTRICTIONS ON COMBINATION AND COMBINATION WITH OTHER ACTIVITIES

Violation by a person of restrictions established by law for engaging in other paid activities (except teaching, scientific and creative activity, medical and judicial practice, instructor practice in sports) or entrepreneurial activity – entails the imposition of a fine of three hundred to five hundred non-taxable minimum incomes of citizens with the confiscation of income from entrepreneurial activity or remuneration from work part-time.

Violation by a person of statutory restrictions on joining a board, other executive or supervisory bodies, or a supervisory board of an enterprise or organization with a view to obtaining profit (except in cases where a person carries out functions of management of shares (shares, shares) owned by the state Or the territorial community, and represents the interests of the state or territorial community in the council (supervisory board), the audit commission of the economic organization), – entails the imposition of a fine of three hundred to five hundred tax-free minimum incomes of citizens with the confiscation of the proceeds from such activities.

Actions foreseen by part one or two committed by a person who during the year was subject to administrative punishment for the same violations, – entail the imposition of a fine of five hundred to eight hundred tax-free minimum incomes of citizens with the confiscation of income or remuneration and with the deprivation of the right to occupy certain positions or engage in certain activities for a period of one year.

Note. *The subject of offenses in this article is the persons specified in paragraph 1 of part one of Article 3 of the Law of Ukraine "On Prevention of Corruption", except for deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils (except those exercising their powers in the relevant council on On a permanent basis), jurors.*

{Article 172-4 in the wording of Law No. 1700-VII of 14.10.2014; As amended in accordance with the Law No. 1798-VIII of 21.12.2016}

ARTICLE 172-5. VIOLATION OF LEGAL RESTRICTIONS ON THE RECEIPT OF GIFTS

Violation of legal restrictions on the receipt of gifts – entails the imposition of a fine of one hundred to two hundred tax-free minimum incomes of citizens with the confiscation of such a gift.

The same act committed by a person who was subjected to administrative punishment for violation within the year provided for in part one of this article – entails the imposition of a fine from two hundred to four hundred tax-free minimum incomes of citizens with the confiscation of such a gift (donations) and with the deprivation of the right to occupy certain positions or engage in certain activities for a period of one year.

Note. The subject of offenses in this article are the persons referred to in paragraphs 1, 2 of part one of Article 3 of the Law of Ukraine "On Prevention of Corruption".

{Article 172-5 in the wording of Law No. 1700-VII of 14.10.2014}

ARTICLE 172-6. VIOLATION OF FINANCIAL CONTROL REQUIREMENTS

Untimely submission without reasonable excuse of the declaration of the person authorised to perform functions of the state or local self-government – shall lead to imposing of a fine in the amount of 50 to 100 untaxed minimum personal incomes.

Failure to notify or untimely notification about opening of a currency account in a non-resident bank or about significant changes in the assets, – shall lead to imposing of a fine in the amount of 100 to 200 untaxed minimum personal incomes.

Actions provided for in paragraphs 1 or 2 of this Article when committed by a person who has been punished with administrative sanction during a year for the same violations – shall lead to imposing of a fine in the amount of 100 to 300 untaxed minimum personal incomes with confiscation of income or remuneration and with the deprivation of the right to hold certain offices or to engage in certain activity for one year.

Submission of knowingly false information specified in the declaration of persons authorized to perform the functions of the State or local self-government – shall be punishable by a fine of one thousand to two thousand five hundred non-taxable minimum incomes of citizens.

Note. *Persons who are liable under this Article shall be persons who according to paragraphs 1 and 2 of Article 45 of the Law of Ukraine "On Prevention of Corruption" are obliged to submit declaration of the person authorised to perform functions or the state of local self-government.*

Responsibility under this article for submission of knowingly false information in the declaration of person authorized to perform the functions of the State or local self-government regarding property or other objects to be declared that have value is imposed in case when such information differs from the true information by a sum of 100 to 250 subsistence minimums.

ARTICLE 172-7. VIOLATION OF REQUIREMENTS TO PREVENT AND RESOLVE CONFLICTS OF INTEREST

Failure to notify the person in cases established by law and the procedure for the existence of a real conflict of interests – entails the imposition of a fine of one hundred to two hundred non-taxable minimum incomes of citizens.

Acting or making decisions in a real conflict of interest – entail the imposition of a fine of two hundred to four hundred tax-free minimum incomes of citizens.

Actions foreseen by part one or two committed by a person who during the year was subject to administrative punishment for the same violations, – shall entail the imposition of a fine of four hundred to eight hundred tax-free minimum incomes of citizens with the deprivation of the right to occupy certain positions or engage in certain activities for a period of one year.

Note. 1. *The subject of offenses in this article are the persons referred to in clauses 1, 2 of the first part of Article 3 of the Law of Ukraine "On Prevention of Corruption".*

2. *In this article, a real conflict of interest should be understood as the contradiction between the private interest of a person and his official or representative powers, which affects the objectivity or impartiality of decision-making, or the commission or non-execution of actions in the exercise of these powers.*

ARTICLE 188-46. FAILURE TO COMPLY WITH THE LEGAL REQUIREMENTS (PRESCRIPTIONS) OF THE NATIONAL AGENCY FOR THE PREVENTION OF CORRUPTION

Failure to comply with the legal requirements (prescriptions) of the National Agency for the Prevention of Corruption on the elimination of violations of legislation on the prevention and counteraction of corruption, failure to provide information, documents, as well as violations of the deadlines provided by the legislation, provision of knowingly false information or not in full – impose a fine of one hundred to fifty tax-free minimum incomes of citizens.

The same actions committed by a person who during the year was subject to administrative penalty for the same violation – impose a fine of two hundred to three hundred tax-free minimum incomes of citizens.

{The Code was supplemented by Article 188-46 in accordance with Law No. 1700-VII of 14.10.2014}

<http://zakon2.rada.gov.ua/laws/show/80731-10/page11>

11.4.5. Civil Service Law (excerpts)

LAW OF 10 DECEMBER 2015, NO 889-VIII

ARTICLE 65. GROUNDS FOR BRINGING TO DISCIPLINARY RESPONSIBILITY

1. The ground for bringing a civil servant to disciplinary responsibility shall be committing a disciplinary wrongdoing by him, i.e. an illegal action or omission, or decision-making, which implies civil servants' failure to perform or improper performance of professional duties and other requirements established by this Law and other legal acts, which may entail disciplinary action.

2. Disciplinary wrongdoings include:

- 1) breach of the Civil Servant's Oath;
- 2) breach of civil servants' rules of ethical conduct;
- 3) expression of disrespect to the state, state symbols of Ukraine, Ukrainian people;

- 4) actions affecting the authority of civil service;
- 5) failure to perform or improper performance of professional duties, acts of government agencies, orders (instructions) and assignments of supervisors made within the scope of their powers;
- 6) failure to comply with the internal service regulations;
- 7) exceeding the scope of service authorities, unless it contains the elements of a crime or an administrative offence;
- 8) failure to fulfil requirements in terms of political impartiality of a civil servant;
- 9) use of the powers for personal (private) interests or for illegal personal interests of other persons;
- 10) presentation of untruthful information upon entrance to the civil service regarding circumstances preventing implementation of the right to civil service, as well as failure to present necessary information on such circumstances in case they arise during the service;
- 11) failure to notify the head of the civil service of the occurrence of relations of direct subordination between a civil servant and closely related persons within 15 days after their occurrence;
- 12) absence by a civil servant (including absence at service without valid excuse for over three hours during the working day);
- 13) appearance of a civil servant at work in the state of alcoholic, drug or other intoxication;
- 14) making an ungrounded decision by a civil servant, which caused the breach of integrity of state property or communal property, their illegal use, or other harm to the state property or communal property, if it does not bear signs of crime or administrative offence;

3. A civil servant cannot be brought to disciplinary liability upon expiry of six months period after the head of civil service became knowledgeable or should have become knowledgeable about commitment of the disciplinary wrongdoing, not including the time of temporary disability of the civil servant or his/her vacation, or upon expiry of one year period after committing the offence.

English translation taken from: http://www.center.gov.ua/en/press-center/blog/item/download/545_0821b8518898627786a8e9e7f5036425.

11.4.6. Cabinet Decree 171/2015 – special checks

The following is an automatic translation from the Ukrainian original:

CABINET OF MINISTERS OF UKRAINE
DECREE

March 25, 2015, No. 171

Kyiv

On approval of the special examination for persons applying for the positions, which provide employment responsible or particularly responsible position, and positions with high risks of corruption, and amendments to certain resolutions of the Cabinet of Ministers of Ukraine

{As amended in accordance with the CM Regulations: No. 258 dated April 29, 2015, No. 465 dated 22.07.2016, No. 477 dated 27.07.2016, No. 615 dated 09/08/2016, No. 457 dated 04.07.2017}

In accordance with the first and third paragraphs of Articles 57 and 58 of the Law of Ukraine "On Prevention of Corruption", the Cabinet of Ministers of Ukraine resolves:

1. To approve the Procedure for conducting a special examination in respect of persons who are applying for positions, which involve the taking of a responsible or particularly responsible position, and positions with increased corruptional risk, attached.
2. To add amendments to the Cabinet of Ministers of Ukraine.
3. Ministry of Justice to proceed with the authority to ensure the Unified State Register of the perpetrators of corruption, and to provide information from it in accordance with the procedure approved by this resolution, prior to the conduct of the National Agency for the Prevention of Corruption Unified State Register of perpetrators Corrupt or corruption-related offenses.
4. This resolution enters into force simultaneously with the enactment of the Law of Ukraine "On Prevention of Corruption".

Prime Minister of Ukraine

A. Yatsenyuk

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APPROVED

the decision of the Cabinet of Ministers of Ukraine

March 25, 2015, No. 171

ORDER

Carrying out a special check on persons who are applying for positions, which involve taking a responsible or particularly responsible position, and positions with increased corruption risk

1. Special audit conducted for persons applying for the positions, which provide employment responsible or particularly responsible position, and positions with high corruption risk (hereinafter – the candidates) (except as required by law), including the information submitted in person.

Positions that involve taking a responsible or particularly responsible position are:

President of Ukraine, Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, first deputy or deputy minister, member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, National Securities Commission And the stock market, the Antimonopoly Committee of Ukraine, the Chairman of the State Committee for Television and Radio Broadcasting of Ukraine, the Chairman of the State Property Fund of Ukraine, his first deputy or deputy, a member of the Center efficient innovation infrastructure Election Commission deputy of Ukraine, the Verkhovna Rada of Ukraine on human rights, director of the National Anti-Corruption Bureau of Ukraine, the Prosecutor General of Ukraine, his first deputy and deputy chairman of the National Bank of Ukraine, his first deputy and deputy, member of the National Bank of Ukraine, Secretary For the sake of national security and defense of Ukraine, his first deputy and deputy, the Permanent Representative of the President of Ukraine to the Autonomous Republic of Crimea, his first deputy And Deputy, Advisor or Assistant to the President of Ukraine, Chairman of The Verkhovna Rada of Ukraine, Prime Minister of Ukraine;

{Paragraph three of clause 1 in the wording of the Resolution of the Cabinet of Ministers number 615 dated 09/08/2016}

Positions belonging to the civil service of the category "A" or "B";

{Paragraph four of clause 1 in the wording of the Resolution of the Cabinet of Ministers number 615 dated 09/08/2016}

positions which, in part one of Article 14 of the Law of Ukraine "On Service in Local Self-Government Bodies", are classified in the first-third categories;

{Paragraph paragraph 1 in the wording of the Resolution of the Cabinet of Ministers number 615 dated 09/08/2016}

Positions of judges, prosecutors and investigators;

Positions to be replaced by the higher officers of the military;

Positions of directors, deputy heads of state bodies, whose jurisdiction extends over the entire territory of Ukraine, their apparatus and independent structural units;

Positions of directors, deputy heads of the authorities of the Autonomous Republic of Crimea, state bodies whose jurisdiction extends to the territory of one or several regions, mm. Kyiv or Sevastopol;

heads of state bodies, bodies of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more districts, towns in the Autonomous Republic of Crimea or regional significance, in areas, the cities of regional importance.

The list of positions with increased corruption risk is approved by the National Agency for the Prevention of Corruption (hereinafter – the National Agency).

2. No special verification shall be conducted regarding:

- 1) candidates for the post of President of Ukraine, candidates for deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, local councils and for the positions of village, settlement and city mayors;
- 2) citizens who are recruited for military service by conscription officers and military service for a prize during mobilization, for a special period, or are engaged in the performance of duties under the positions provided by the states of wartime;
- 3) candidates who are in positions in state bodies, bodies of power of the Autonomous Republic of Crimea, local self-government bodies and appointed by way of transfer or promotion to positions within the same body or appointed by way of transfer to positions in other state bodies, bodies authorities of the Autonomous Republic of Crimea, local self-government bodies;
- 4) applicants who are in positions in the state bodies, bodies of power of the Autonomous Republic of Crimea, local self-government bodies, which are terminated and appointed by way of transfer to work to other bodies to which the powers and functions of suspended bodies pass;
- 5) persons when considering the inclusion of them in the list of people's assessors or jurors.

3. The organization of the special inspection shall be directed to the head (deputy head) of the state body, the authority of the Autonomous Republic of Crimea, the local self-government body or their staff, to occupy the position in which the person claims, except in cases stipulated by this Procedure.

In order to ensure the organization of the special inspection, the head of the relevant state body, the authority of the Autonomous Republic of Crimea, the body of local self-government or their apparatus may designate a responsible structural unit.

The organization of conducting a special check on candidates for office, the appointment (election) of which is carried out by the President of Ukraine, the Verkhovna Rada of Ukraine or the Cabinet of Ministers of Ukraine, is entrusted, respectively, to the Head of the Administration of the President of Ukraine, the Head of the Staff of the Verkhovna Rada of Ukraine, the Minister of the Cabinet of Ministers of Ukraine or their deputies.

The organization of carrying out a special inspection in newly formed state bodies until the formation in such bodies of the responsible structural subdivision is assigned to the National Civil Service.

4. Applicants for positions in respect of which a special examination has already been carried out, when appointing them to another state body, the authority of the Autonomous Republic of Crimea, the authority of the Autonomous Republic of Crimea, and local self-government bodies in writing, inform the relevant authority thereof, indicating the name of the body organizing the holding of such Checking

The head (deputy head) of the state body, the authority of the Autonomous Republic of Crimea, the local self-government body or their apparatus, to occupy the position in which the person claims, no later than the next working day after receipt of the notice from the applicant to the post, sends a request for a copy of the certificate on the results of the special checks to the body where such verification was carried out.

A copy of the said certificate is provided by the relevant state body, the authority of the Autonomous Republic of Crimea, a local government body within five working days from the date of receipt of the request.

The question of appointing a candidate for a position is considered after receiving a copy of such a certificate.

5. The following information is subject to special verification:

- 1) the presence of a court decision that has come into force, under which a person brought to justice, including corruption and the presence of a criminal record, its withdrawal maturity;
- 2) the fact that the person was subjected to a previous administrative punishment for corruption-related offenses;
- 3) the reliability of the information specified in the declaration of the person authorized to perform functions of the state or local government;
- 4) presence of a person in corporate rights;
- 5) the state of health (in the part of the person being registered in the psychoneurological or narcological establishments of health care), education, availability of scientific degree, academic rank;
- 6) the relation of a person to a military duty;

- 7) presence in the person of the admission to state secrets (if such admission is required in accordance with the qualification requirements for a certain position);
- 8) the extension to a person of a prohibition to hold an appropriate position in accordance with the Law of Ukraine "On Purge of Power".

6. Special examination shall be carried out with the written consent of the applicant to the post in accordance with the form in accordance with Appendix 1, which shall be submitted together with the application for appointment.

In the case of a competitive selection, the consent is submitted within three days from the date of receipt of the notice by the candidate about the results of the competition.

In the case of failure to give consent to the applicant, a special examination is not carried out and the issue of appointment to the corresponding position is not considered.

7. Special examination shall be carried out within a period not exceeding 25 calendar days from the date of consent for its execution.

8. For the purpose of carrying out a special examination, the applicant for a position shall submit to the relevant body:

- 1) written consent for conducting special examination;
- 2) autobiography;
- 3) a copy of the passport of a citizen of Ukraine;
- 4) copies of documents on education, academic rank and academic degrees;
- 5) a medical certificate on the state of health in the form approved by the Ministry of Health for registration with the psychoneurological or narcological establishments of health care;
- 6) a copy of the military ticket or identity card of the serviceman (for servicemen or persons liable for military service);
- 7) a certificate of admission to state secrets (if any);
- 8) a statement provided for in part one of Article 6 of the Law of Ukraine "On purification of power".

An applicant for a position in newly public body until the formation of such a body structural unit responsible for the special examination, submit to audit the documents referred to in paragraphs 1-8 of this paragraph to Natsderzhsluzhby.

The candidates must submit a declaration of the person authorized to perform state functions or local government, in the manner specified by the first paragraph of Article 45 of the Law of Ukraine "On prevention of corruption," the National Agency.

9. Verification of the information concerning the applicant for a position during the special check is carried out:

- 1) SJA – regarding the availability in the Unified State Register of judicial decisions of information on bringing a person to criminal liability;

{Sub-paragraph 1 of item 9 as amended by the Resolution of the Cabinet of Ministers No. 258 dated April 29, 2015}

2) the Ministry of Internal Affairs – regarding the existence of conviction, its withdrawal, repayment;

{Paragraph 2 of item 9 as amended by the CM Decree No. 258 dated April 29, 2015}

- 3) the Ministry of Justice and the NCSSMF – regarding the existence of a person's corporate rights;
- 4) the Ministry of Justice – regarding the presence in the Unified State Register of persons, which are subject to the provisions of the Law of Ukraine "On purification of power", information about the candidate for office;
- 5) National Agency – the availability of the Unified State Register of persons who committed corruption or corruption-related offenses, information on the candidates and on the reliability of information given by a person in a declaration of the person authorized to perform state functions or local government , last year;
- 6) Ministry of Health, the relevant executive body of the Autonomous Republic of Crimea, a structural subdivision of regional, Kyiv and Sevastopol city state administration – for information about the health of the candidates (in terms of residence registered in neuropsychiatric drug or health care);
- 7) Ministry of Education, the relevant executive body of the Autonomous Republic of Crimea, a structural subdivision of regional, Kyiv and Sevastopol city state administration, the central executive body, which is subordinate to the school, school leaders – on education, the presence of the candidates degree, academic rank;
- 8) SBU – regarding the presence in the person of the admission to state secrets, as well as the relation of the person to military duty (in terms of personal and qualitative record of the SBU in charge of military service);
- 9) Ministry of Defense, military commissariats of the Autonomous Republic of Crimea, oblasts, mm. Kyiv and Sevastopol – regarding the person's attitude to military duty (except for cases of personal and qualitative registration of the SBU in charge of military service).

In order to verify the information about the identity or the reliability of the submitted documents, other central executive bodies or specially authorized counter-corruption actors may be involved in the conduct of the special audit.

10. Not later than the day after receiving the written consent of the candidates to conduct a special audit authority, the position in which the person claiming sends the appropriate state bodies competent to issue special audit referred to in paragraph 9 of this Order, or Their territorial bodies (if any) request to verify the information on the applicant for a post in accordance with the form in accordance with Appendix 2.

The request is signed by the head of the body, in the position in which the person claims, and in the absence of him – the person performing the duties of the head or one of his deputies in accordance with the division of functional responsibilities.

The request for verification of information about the candidates (except the judge) appointment (election) by the President of Ukraine, Verkhovna Rada of Ukraine or the Cabinet of Ministers of Ukraine, sent to the relevant authorities (their territorial bodies) under the Presidential Administration of Ukraine, Chief of Staff The Verkhovna Rada of Ukraine, the Minister of the Cabinet of Ministers of Ukraine (or their deputies or another official appointed by them) through the National Security Service.

The request for verification of information about candidates for positions in newly formed state bodies is signed by the head of the National Security Service of Ukraine or one of his deputies according to the division of functional duties.

Copies are attached to the request:

Documents specified in clauses 1-3 of paragraph 8 of this Procedure – to all bodies (divisions), which will carry out verification of information about a person;

The documents specified in clauses 4-8 of clause 8 of this Procedure, – bodies (divisions), which will carry out verification of the information specified in paragraph 9 of this Procedure.

11. The information on the results of the audit, signed by the head of the body that carried out the verification, and in the absence thereof, by the person performing the duties of the head or his deputy in accordance with the division of functional duties, shall be submitted within seven days from the date of receipt of the request to The body that sent the request.

If the organization of special checks on applicants for positions under the third paragraph of paragraph 3 of this Order vested in the Head of the Presidential Administration of Ukraine, Head of the Verkhovna Rada of Ukraine, Minister of the Cabinet of Ministers of Ukraine about the audit in the same period served Natsderzhsluzhbi for its synthesis and presentation Within three days according to the Administration of the President of Ukraine, the Staff of the Verkhovna Rada of Ukraine, the Secretariat of the Cabinet of Ministers of Ukraine.

12. In case the results of a special audit discrepancies in the submitted candidate for the post of autobiography and / or return of the person authorized to perform state functions or local government, last year the candidates notified of that fact and he may, within five working Days to provide a written explanation and / or to correct the differences.

In case the results of special examination and consideration of this explanation of the candidates fact of submission of forged documents or false information officer (body) who (which) makes appointment (election) to the post, said within three working days of identified the law Authorities and refuses to apply for a post in appointment (election) to the post.

In the case of establishing on the basis of the results of a special check of the information about the applicant for a position that does not meet the requirements established by law for the position (including the fact of the person's belonging to the list of persons subject to the prohibitions provided by part three or four of Article 1 of the Law of Ukraine "On purification Authority "), an official (authority), which (who) carries out appointment (election) to such position, refuses the applicant to the post in appointment (election) to the position.

13. A candidate for a position, on which, according to the results of a special examination, the circumstances established as grounds for refusal of appointment (election) to office are established, is considered as not having undergone a special examination.

14. The authority in the position in which the person claims, or the National Security Service in accordance with paragraph four of paragraph 3 of this Procedure, based on the information received, shall prepare a certificate of results of the special verification in the form in accordance with Annex 3.

If the organization conducting a special examination of candidates for positions in accordance with paragraph three of clause 3 of this Procedure is assigned to the Head of the Presidential Administration, the Head of the Staff of the

Verkhovna Rada of Ukraine, the Minister of the Cabinet of Ministers of Ukraine, such a certificate on the basis of information received from the National Security Service, is prepared by the relevant structural unit of the Administration The President of Ukraine, the Staff of the Verkhovna Rada of Ukraine, the Secretariat of the Cabinet of Ministers of Ukraine.

15. Applicants for positions for which a special examination has been conducted have the right to familiarize themselves with the certificate on the results of such verification and, in the event of disagreement with its results, may submit their comments in writing to the relevant state authority, the authority of the Autonomous Republic of Crimea, the local self-government body .

Observations within seven days from the date of their receipt shall be considered by the head of the relevant body or his deputy in accordance with the distribution of functional responsibilities, the results of which give a written response to the person.

16. The decision on the appointment (election) or refusal to appoint (elect) to a position associated with the performance of functions of the state or local government, shall be adopted after a special examination, except in the case provided for in paragraph 21 of this Procedure.

A decision to refuse appointment (election) to a position on the results of a special examination may be appealed to the court.

17. Information on the results of the special inspection and documents for its conduct are confidential if they do not contain information constituting state secrets.

18. The certificate of the results of the special examination is attached to the documents submitted to the applicant for a post or personal affairs, if a decision is made on his appointment (election) to the post.

The reference on the results of the special examination of candidates for positions in the newly formed state bodies is transmitted by the National Security Service to the responsible structural subdivision of such bodies after its formation, and before the formation of the unit, its copy – the subject of appointment.

19. Documents submitted by the applicant for a position to conduct a special examination, in the case of appointment (election) of his / her position, shall be transferred for storage in a personal case, and in case of refusal to appoint (elect) to office, they shall be returned to the applicant for office under the receipt.

In the event of the establishment of a special verification of falsity submitted to the applicant for office documents and in other cases provided by law, such documents are not subject to return.

20. During the special examination between the bodies (subunits) that carry it out, the interaction and exchange of information concerning the applicant for a position may be carried out.

The exchange or transfer of information about the applicant to the post is carried out by the structural units responsible for conducting the special examination, at the written instruction of the heads (deputy heads) of the bodies (subdivisions) conducting such verification.

The peculiarities of the interaction of state bodies and bodies (divisions) that carry out a special examination during its conduct, including those applying for positions whose stay is a state secret, are determined by the common regulatory acts of the interested state bodies.

21. Special examination of candidates for positions in local self-government bodies, the appointment (election) or approval of which is carried out by the local council, shall be conducted in accordance with this Procedure after their appointment (election) or approval for corresponding positions.

For such a special check such persons within three working days from the date of appointment (election) or approval submit to the body of local self-government the documents specified in paragraph 8 of this Procedure.

In the event that such person does not provide for the specified period of time the consent for conducting a special inspection or establishment, on the basis of its results, of circumstances that are grounds for refusal of appointment (election) or approval of a position, its powers for the corresponding position are terminated without termination of powers of the deputy of the council. Such a person shall be dismissed without the decision of the relevant council.

22. The peculiarities of organizing a special examination of candidates for positions of judges are determined by the Law of Ukraine "On the Judiciary and Status of Judges".

Appendix 1. To the Order

CONSENT

for a special check

Annex 2. To the Order

REQUEST

on the verification of information about a person applying for a position, which involves taking a responsible or particularly responsible position, or positions with increased corruption risk

Annex 3. To the Order

CERTIFICATE

about the results of the special check

APPROVED

the decision of the Cabinet of Ministers of Ukraine

March 25, 2015, No. 171

CHANGES

which are included in the resolutions of the Cabinet of Ministers of Ukraine

1. The second paragraph of clause 3 of the Regulations on the service of the ordinary and commander of the bodies of internal affairs, approved

. . .

1. Paragraph two of clause 3 of the Regulations on the service of the rank and file of the bodies of internal affairs, approved by the Resolution of the Cabinet of Ministers of the RSFSR of July 29, 1991 No. 114 – as amended by the Decrees of the Cabinet of Ministers of Ukraine of June 8, 2005 No. 428 (Official Gazette of Ukraine, 2005, No. 23, item

1283), dated July 9, 2008, No. 624 (Official Bulletin of Ukraine, 2008, No. 51, item 1699), dated November 2, 2011, No. 1126 (Official Gazette of Ukraine, 2011, No. 85, item 3113), dated May 23, 2012, No. 412 (Official Gazette of Ukraine, 2012, No. 39, item 1471), dated December 5, 2012, No. 1137 (Official Gazette of Ukraine, 2012, No. 93, Article 3784), dated September 4, 2013, No. 706 (Official Gazette of Ukraine, 2013, No. 76, item 2826), dated June 18, 2014, No. 186 (Official bulletin of Ukraine, 2014, No. 51, article 1334) and dated July 23, 2014, No. 285 (Official Gazette of Ukraine, 2014, No. 61, article 1682), shall be worded as follows:

"In respect of persons who are recruited to the organs of internal affairs, a special examination is carried out in accordance with the Law of Ukraine" On Prevention of Corruption "in the event that the positions for which they claim involve a responsible or particularly responsible position or belong to posts with increased corruption. the list of which is approved by the National Agency for the Prevention of Corruption. "

{Paragraph 2 has expired on the basis of the Resolution of the Cabinet of Ministers No. 465 dated July 22, 2014}

{Paragraph 3 has expired on the basis of the Resolution of the Cabinet of Ministers No. 465 dated July 22, 2014}

4. In the Order of holding a competition for the filling of vacant positions of civil servants, approved by the Resolution of the Cabinet of Ministers of Ukraine dated February 15, 2002 No. 169 (Official Gazette of Ukraine, 2002, No. 8, Article 351, 2004, No. 46, p. 3044, 2005, No. 20, Article 1080, 2009, No. 39, Article 1318, 2010, No. 11, Article 522, 2011, No. 85, Article 3113, 2012, No. 39, Article 1471, No. 65, item 2670):

1) the second paragraph of paragraph 31 should be worded as follows:

"If the post replaced by a competition involves taking a responsible or particularly responsible position or belongs to positions with an increased corruption risk, the list of which is approved by the National Agency for the Prevention of Corruption, selected for appointment to such a post of candidate within three days from the date of receipt of the notice about the results of the competition gives written consent to conduct a special inspection in accordance with the Law of Ukraine "On Prevention of Corruption" and a medical certificate on the state of health Mandated in the form approved by the Ministry of Health, regarding the presence of the person registered in the psychoneurological or narcological establishments of health care. ";

2) the second paragraph of paragraph 32 should be worded as follows:

"If the position of a civil servant involves taking a responsible or particularly responsible position or belongs to positions with high corruption risk, the list of which is approved by the National Agency for the Prevention of Corruption, the decision to appoint such a post is taken on the results of a special examination conducted in accordance with the Law of Ukraine" On Preventing Corruption. "

{Paragraph 5 has expired on the basis of Resolution No. 457 of 04.07.2017}

{Paragraph 6 has expired on the basis of the Resolution of the Cabinet of Ministers No. 477 of 27.07.2016}

7. In paragraph 9 of the Procedure for consideration of issues related to the preparation and submission of applications concerning persons whose appointment and dismissal are carried out by the Verkhovna Rada of Ukraine, the President of Ukraine or the Cabinet of Ministers of Ukraine or agrees with the Cabinet of Ministers of Ukraine, approved by the decree of the Cabinet of Ministers Ukraine dated April 11, 2012, No. 298 (Official bulletin of Ukraine, 2012, No. 30, item 1107, No. 71, item 2870; 2014, No. 85, item 2403):

1) in clause 15 the words "information about the candidate for a position" shall be deleted;

2) in sub-paragraph 19:

in the first paragraph, the words "information on the applicant for a post related to the exercise of state functions" should be deleted;

In the second paragraph, the word "information about the person" is deleted.

8. In the Regulation on the procedure for passing civil protection service by persons of ordinary and superior staff, approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 11, 2013 No. 593 (Official Gazette of Ukraine, 2013, No. 67, item 2436):

1) paragraphs 35 and 43 shall be worded as follows:

"35. With regard to persons accepted for civil protection service, their written agreement is subject to a special examination in accordance with the Law of Ukraine "On Prevention of Corruption" in the event that the positions for which they claim to involve a responsible or particularly responsible position or belong to elevated posts corruption risk, the list of which is approved by the National Agency for the Prevention of Corruption. ";

"43. Based on materials about candidates for civil defense or training, the leader (chief) decides on the expediency of admission to service (referral to study). The conclusion about the acceptance into service shall be signed by the head (head) of the body or unit of civil protection in whose service the candidate is being drafted, the head of the unit dealing with the personnel (personnel) and the person who conducted the socio-legal selection of the candidate.

If the position claimed by the person entails taking a responsible or particularly responsible position or belongs to positions with a higher corruption risk, the list of which is approved by the National Agency for the Prevention of Corruption, the head (chief) decides on recruitment (referral to study) for The results of a special check. ";

2) in paragraph 193, the words "in accordance with the procedure established by the legislation" shall be replaced by the words "in accordance with the Law of Ukraine" On Prevention of Corruption "in the case when the positions occupied by such persons entail taking a responsible or particularly responsible position or belonging to positions with increased corruption Risk, the list of which is approved by the National Agency for the Prevention of Corruption";

3) the second paragraph of paragraph 197 should be worded as follows:

"Written consent to conduct a special examination in accordance with the established form, if necessary";

9. Subparagraph 13 of clause 4 of the Regulation on the National Agency of Ukraine for Civil Service, approved by the Resolution of the Cabinet of Ministers of Ukraine of October 1, 2014 No. 500 (Official Gazette of Ukraine, 2014, No. 81, item 2288), shall be replaced by subparagraphs 13 and 13-1 of the following content:

"13) arrange, in cases and in accordance with the procedure prescribed by law, a special inspection in the newly formed state bodies (until such time as the responsible structural unit has been formed in such bodies);

13-1) provides for the sending to the state bodies (their territorial bodies) of requests for verification of information about candidates for positions appointed (elected) by the President of Ukraine, the Verkhovna Rada of Ukraine or the Cabinet of Ministers of Ukraine, and summarizing the information received in accordance with the Law of Ukraine " On Preventing Corruption ";

11.4.7. Rules of Ethical Conduct for Public Servants

The following is an automatic translation from the Ukrainian original:

ORDER

08/05/08 | 158
For № 1203/29333

Registered in the Ministry Justice of Ukraine
August 31, 2016

On Approval of the General Rules of Ethical Behavior of Civil Servants and Local Self-Government Officials

In pursuance of the paragraph of the first part of Article 37 of the Law of Ukraine "On the Prevention of Corruption" I ORDER:

1. To approve the General Rules of Ethical Behavior of Civil Servants and Local Self-Government Officials, which are attached.
2. The Department of Regulatory Legal Work and Legal Support of the National Security Service in accordance with the established procedure shall ensure submission of this order for state registration to the Ministry of Justice of Ukraine.
3. To declare invalid the Order of the Main Department of the Civil Service of Ukraine of August 4, 2010 No. 214 "On Approval of General Rules of Behavior of a Civil Servant", registered with the Ministry of Justice of Ukraine on November 11, 2010, No. 1089/18384 (as amended).
4. This order shall come into force from the day of its official publication.

Head

K.O.Vaschenko

APPROVED
Order
National Agency of Ukraine
On civil service issues

08/05/08 | 158
For № 1203/29333

Registered in the Ministry Justice of Ukraine
August 31, 2016

GENERAL RULES

Ethical behavior of civil servants and officials of local self-government

I. General provisions

1. These General Rules are a generalization of the standards of ethical conduct of civil servants and local self-government officials, which they are obliged to follow in the performance of their official duties.

These General Rules are based on the provisions of the Constitution of Ukraine, legislation on civil service, service in local self-government bodies, in the field of prevention of corruption and aimed at strengthening the authority of

the civil service and service in local self-government bodies, the reputation of civil servants and officials of local self-government, as well as on Ensuring information to citizens about the norms of behavior of civil servants and officials of local self-government in relation to them.

When admitting to the civil service or to service in local self-government bodies, the person is familiar with these General rules. The mark of such acquaintance is attached to the personal file of a civil servant or an official of local self-government.

2. In these General Terms, the terms are used in the meanings defined by the Laws of Ukraine "On Civil Service", "On Service in Local Self-Government Bodies" and "On Prevention of Corruption".

3. The main purpose of the activity of civil servants and officials of local self-government is to serve the people of Ukraine and the territorial community, to protect and promote the realization of the rights, freedoms and legitimate interests of a person and a citizen.

4. The behavior of civil servants and local government officials should ensure public confidence in the civil service and service in local self-government bodies.

5. The ethical behavior of civil servants and officials of local self-government is based on the principles of civil service and service in local self-government bodies, defined by the Laws of Ukraine "On Civil Service" and "On Service in Local Self-Government Bodies", as well as general requirements for the conduct of these persons, Defined by the Law of Ukraine "On Prevention of Corruption".

6. The compliance of civil servants with the requirements of these General Rules is taken into account during the annual evaluation of their official activities.

7. Heads of state bodies, bodies of local self-government or their structural units, in the case of detecting or receiving a notice of violation of these General rules, within the limits of their competence, in accordance with the law, are obliged to take measures to terminate the revealed violation, to eliminate its consequences and to bring the perpetrators to disciplinary Responsibility, and in cases of revealing signs of a criminal or administrative offense, also inform specially authorized subjects in the field of counteraction to corruption Hopefully

II. General duties of a civil servant and an official of local self-government

1. Civil servants and officials of local self-government in the performance of their official duties shall act only on the basis of, within the limits of authority and in the manner prescribed by the Constitution and laws of Ukraine, as well as by international agreements, the consent to be bound by which is provided by the Verkhovna Rada of Ukraine .

Acts of local executive bodies and bodies of local self-government, adopted or issued within the limits of their authority, are mandatory for execution by all civil servants and officials of local self-government in the respective territory.

2. Civil servants and officials of local self-government are obliged to timely and accurately execute decisions of state bodies, bodies of local self-government, orders (orders), orders of directors, provided on the basis and within the powers envisaged by the Constitution and laws of Ukraine.

3. In the case of civil servants doubt on the legality obtained for execution of the order (order), agency head should he claim his written confirmation after receipt of which must comply with such an order (order), order (except obviously

criminal order (order) , Commission). At the same time as the execution of such an order (order), an order from a civil servant is obliged to notify in writing the senior manager or higher level authority.

If you receive for the execution of the order (order), order that a public servant considers illegal or threatening legally protected rights, freedoms and interests of individuals, legal entities, public or public interest, it shall immediately in writing notify The head of the body in which he works.

4. Civil servants must perform their duties in good faith, competently, effectively and responsibly, take the initiative, and avoid any avoidance of decision-making and responsibility for their actions and decisions.

5. Civil servants and local government officials while performing their duties are required to fully comply with generally recognized ethical standards to be friendly and courteous, observe high culture of communication (avoid using foul language, increased tone), to respect To the rights, freedoms and legitimate interests of a person and citizen, associations of citizens, other legal entities, not to be arbitrarily or indifferent to their legitimate actions and requirements.

Civil servants and local government officials should prevent conflicts in dealing with citizens, executives, colleagues and subordinates.

6. Civil servants and local government officials are required to perform their duties fairly and impartially, regardless of personal ideological, religious or other views, not to give any advantage and not showing preference to certain natural or legal persons, public And religious organizations.

7. Civil servants and local government officials should constantly improve their skills, knowledge and skills in accordance with the functions and tasks of the position, improve their professional and cultural level, to improve organization performance.

8. Civil servants and local government officials have the authority to take care of public service and service in local government, as well as the positive reputation of the state and local governments, including compliance with the rules of etiquette, good appearance, providing high quality work set Internal service schedule.

9. Civil servants and officials of local self-government should respect national customs and national traditions.

10. Civil servants and officials of local self-government are obliged to respect the state symbols of Ukraine, use the state language during the performance of their official duties, and avoid discriminating against the state language.

11. Clothing of civil servants and officials of local self-government should be official-business style and meet the generally accepted requirements of decency.

12. Civil servants and officials of local self-government should respect the privacy of others.

III. Use of official position

1. A public servant and an official of local self-government shall use their official position exclusively for the performance of their official duties and orders of directors provided on the basis and within the limits of powers envisaged by the laws of Ukraine.

2. A public servant and an official of a local government are prohibited from using their official position in any way for political purposes, including for the involvement of civil servants, local self-government officials, budget employees and other persons in election campaigns, campaigns and Events organized by political parties.

3. Civil servants and officials of local self-government are prohibited from using their powers or their official position in the personal (private) interests or in unlawful personal interests of other persons, including using their status and information about the place of employment in order to obtain an unlawful benefit for themselves or Other people

IV. Use of State and Territorial Communities Resources

1. Civil servants and officials of local self-government have the right to use the resources of the state or a territorial community (movable and immovable property, funds, official information, technologies, intellectual property, working time, reputation, etc.) only within the limits of the official duties and instructions of the managers, Provided on the basis and within the limits of powers envisaged by the laws of Ukraine.

2. In the performance of their duties civil servants and local government officials are required to efficiently and carefully use state and municipal property, constantly improve the efficiency of its use, avoiding excessive and unnecessary costs and prevent abuse and use of state or municipal Property or funds in private interests.

3. The working time of a civil servant and an official of local self-government shall be used for the performance of his official duties.

4. Civil servants and officials of local self-government are obliged to use the resources provided to them in such a way that they do not harm the environment or human health.

5. Civil servants and officials of local self-government while exercising state or local government functions are required to act in accordance with the interests of the state or the interests of the territorial community.

6. Civil servants and local government officials should not allow, including outside the public service or service in local government, action or behavior which may harm the interests of the state or local government or negatively affect the reputation of a civil servant or official of local government .

V. Use of information

1. Civil servants and local government officials may not disclose personal data of individuals, and other confidential information with restricted access mode by the law of Ukraine "On State Secrets", "On information", "On Personal Data Protection" and "On Access To public information ", which became known to them in connection with the performance of official duties.

2. If civil servants or local government officials became aware of the threat or evidence of improper distribution of restricted information, they should immediately inform the supervisor.

VI. Information exchange

1. Civil servants and local government officials prohibited to restrict access to public information, except as prescribed by the Law of Ukraine "On access to public information."

2. A public servant and an official of a local government, when communicating during the performance of official duties, shall observe the following rules:

- 1) provide information indicating the data confirming it;
 - 2) to provide in due time in accordance with the legislation to other civil servants and officials of local self-government the information necessary for the performance of their official duties;
 - 3) to provide information materials and messages clearly, concisely and consistently for their unambiguous perception.
3. Civil servants and officials of local self-government shall comply with the established protocol in relations with representatives of foreign governments, international organizations, foreign institutions.

*Head's assistant
Department of Regulatory
Work and legal support
National Security Service*

The rules were developed with assistance by the CoE: <http://www.coe.int/en/web/corruption/-/preparation-of-new-rules-of-ethical-conduct-for-civil-servants-and-local-government-officials?desktop=true>.

11.4.8.No. 1/2016: Amendments – operation of the Unified Register

11.4.9. No. 2/2016: On initiation of the Submission System

registry code 82531/2016

NATIONAL AGENCY ON CORRUPTION PREVENTION

DECISION
10.06.2016 #2

Registered at the Ministry of Justice of Ukraine
under #958/29088 as of 15 July 2016

**1930 On initiation of the Submission and Publication System for Declarations of the Persons Authorized to
Implement the Functions of State and Local Self-Government**

In accordance with Clause 5, Section II, Article 12 and Clause 2, Section XIII of the “Final Provisions” of the Law of Ukraine “On Corruption Prevention”, the National Agency on Corruption Prevention has

DECIDED AS FOLLOWS:

In accordance with the Law of Ukraine “On Corruption Prevention” (hereinafter referred to as “the Law”), to define that the system of submission and publication of declarations of the persons authorized to implement the functions of state and local self-government shall be initiated in two stages:

- stage one – as of 00 hours 00 minutes of 15 August 2016 for the following types of declarations (notifications) and declarants:
 - annual declarations for 2015 of public officials who are appointed at positions of high and highest importance as of 15 August 2016 in accordance with Article 50 of the Law. The declarations specified in this paragraph shall be submitted in no later than 60 calendar days as of the date specified in this paragraph;

- declarations specified in Paragraph 1, Section II, Article 45 of the Law (declarations of persons who cease their activity in implementing the functions of state and local self-government), public officials who cease their activity in implementing the functions of state and local self-government as of or later than 15 August 2016 and are appointed at positions of high and highest importance on the cesser date in accordance with Article 50 of the Law;
- notifications on significant changes in asset status of a declarant considered by Section 2, Article 52 of the Law who are appointed at positions of high and highest importance as of 15 August 2016 or later date in accordance with Article 50 of the Law;
- stage two– as of 00 hours 00 minutes of 01 January 2017 for all other types of declarations (notifications) and declarants in accordance with the Law.

The declarations (notifications) specified in Clause 1 of this Decision shall be submitted in accordance with the Law by filling related forms at the official website of the National Agency on Corruption Prevention with the use of software tools of the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government.

Declarations of declarants not specified in Subclause 1, Clause 1 of this Decision shall be submitted in accordance with the form and procedure specified by the Law of Ukraine “On the Basics of Corruption Prevention and Counteraction” no later than 01 January 2017.

The Financial Control and Lifestyle Monitoring Department jointly with the Legal Support Unit shall ensure submission of this Decision for state registration to the Ministry of Justice of Ukraine.

This Decision shall be valid as of official publication thereof.

The Decision and implementation thereof shall be monitored by the Deputy Head of the National Agency on Corruption Prevention, Mr. Radetsky. R.

Head

N. KORCHAK

11.4.10. No. 3/2016: Form of significant changes

APPROVED

Decision of the National Agency on Corruption Prevention
No. 3 dated 10 June 2016

Registered with the Ministry of Justice of Ukraine
Under No. 961/29091 dated 15 July 2016

FORM

of the notice of significant changes in the property condition of the subject of declaring

1. The form of notice of significant changes in the property condition of the subject of declaring (hereinafter referred to as the “notice”) shall consist of the rules for filling in the form of notice and eight sections, where the subject of

declaring shall specify personal information and the objects in compliance with the Law of Ukraine “On Corruption Prevention”.

2. At the beginning of the notice, the following text shall be placed:

“Rules for filling in the form of notice of significant changes in the property condition of the subject of declaring

1. According to part two of Article 52 of the Law of Ukraine “On Corruption Prevention”, in the event of any significant change in the property condition of the subject of declaring, the said subject shall, no later than on the tenth calendar day from the day of receiving the income or purchasing the property, inform the National Agency on Corruption Prevention about it.

A significant change in the property condition of the subject of declaring shall be understood as the receipt of a one-off income by him/her or purchase of property in the amount exceeding 50 minimum wages established as of 1 January of the year in which the notice is submitted. In the event that a cost of the property exceeds 50 minimum wages, but it was paid by parts, the notice of significant changes in the property condition shall be submitted after the transfer of the ownership to such property. The income accrued but not paid (not received) shall not be disclosed.

For each individual case of receiving the income or purchasing the property, an individual notice of significant changes in the property condition of the subject of declaring shall be lodged.

2. The notice of significant changes in the property condition of the subject of declaring shall be submitted by him/her personally by filling in a relevant electronic form on the website of the National Agency on Corruption Prevention via an electronic personal profile of the subject of declaring in the system of the Unified State Register of Declarations of Individuals Authorized to Perform Functions of the State or Local Self-Government (hereinafter referred to as the “Register”).

A paper copy of the notice shall not be sent (not submitted).

Information specified in the notice shall be entered into the Register and published in the part of the Register, which is in public domain, on the official website of the National Agency (without specifying any confidential information on the person pursuant to the law).

3. Information on the receipt of income or purchase of property by a family member of the subject of declaring shall not be disclosed.

4. Information, which is included in the notice of significant changes in the property condition of the subject of declaring, shall be also reflected in the declaration of the person authorized to perform functions of the state or local self-government, which the subject of declaring submits in compliance with the Law of Ukraine “On Corruption Prevention”.

5. Incomes and expenditures on the purpose of property of the subject of declaring shall be specified in the monetary unit of Ukraine. Incomes/expenditures received/incurred in a foreign currency, for the purpose of showing in the notice, shall be transferred in the monetary unit of Ukraine on the basis of the foreign exchange rate of the National Bank of Ukraine, which was effective as of the date of receiving incomes/incurred expenditures.

A cost of the property, which was purchased by the subject of declaring, shall be specified in the monetary unit of Ukraine in accordance with the last monetary evaluation of the property or, in the event that such

evaluation was conducted or the findings of which are not known to the subject of declaring – as of the time of acquiring the ownership to the property (as specified in the document on the basis of which the ownership was acquired).

6. Information on financial sums (sum of the money) shall be rounded to Ukrainian Hryvnias.”

3. The subject of declaring shall confirm that he/she has read the rules for filling in the form of notice before starting to input the information into the sections of the form by placing a relevant mark.

4. The notice shall be made of the following eight sections:

1. INFORMATION ON THE SUBJECT OF DECLARING

Surname: _____ Given name: _____ Middle name (if any): _____

Identification number: _____

Next section _____

2. INCOMES, INCLUDING GIFTS

The subject of declaring holds the objects to be declared in this section

The subject of declaring does not hold any objects to be declared in this section

The subject of declaring shall specify the received income, if the sum of the income exceeds 50 minimum wages established as of 1 January of the reporting year.

Incomes shall be inclusive of the following: wage (financial provision) received both at the full-time place of work and part-time place of work, fees and other payment pursuant to the civil and legal transactions, income from the involvement in the business or independent professional activity, income from renting out the property, dividends, interests, royalties, insurance payments, donation, pension, heritage, incomes from alienation of securities and corporate rights, gifts and other incomes. A wage shall be understood as the main wage as well as any incentive and compensation payments, which are paid (provided) to the person due to the labour hiring relations.

INFORMATION ON THE INCOME

Person to whom the object of declaring is related: _____

GENERAL INFORMATION

Type of income: _____ Sum (cost): _____

SOURCE OF INCOME:

| | | | |
|--|---|--|---|
| <p>If a different individual, who is the citizen of Ukraine, is the subject, the following fields shall be filled in:</p> <p>Information on the owner:</p> <p>Surname:</p> <p>Given name:</p> <p>Middle name:</p> <p>Date of birth:</p> <p>Identification number:</p> <p>Registered place of living:</p> <p>Place of actual living matches the registered place of living</p> <p>Place of actual living:</p> | <p>If a different individual, who is a foreign citizen, is the subject, the following fields shall be filled in:</p> <p>Information on the owner:</p> <p>Full name (in English):</p> <p>Full name (in Ukrainian):</p> <p>Date of birth:</p> <p>Identification number:</p> <p>Place of living (in English):</p> <p>Place of living (in Ukrainian):</p> | <p>If the subject of a legal entity registered abroad, the following fields shall be filled in:</p> <p>Information on the owner:</p> <p>Name (in English):</p> <p>Name (in Ukrainian):</p> <p>Identification code:</p> <p>Location (in English):</p> <p>Location (in Ukrainian):</p> | <p>If the subject of a legal entity registered in Ukraine, the following fields shall be filled in:</p> <p>Information on the owner:</p> <p>Name:</p> <p>Code in the Unified State Register of Legal Entities, Private Entrepreneurs and Public Formations:</p> |
|--|---|--|---|

Note: The aforementioned fields to be filled in are also used in other sections of the notice for the purpose of specifying information on other persons, who are not the subject of declaring.

3. REAL ESTATE OBJECTS

The subject of declaring holds the objects to be declared in this section

The subject of declaring does not hold the objects to be declared in this section

The subject of declaring shall specify the real estate objects, which he/she has purchased (to which he/she acquired the ownership), if their cost exceeds 50 minimum wages established as of 1 January of the reporting year.

Next section

INFORMATION ON THE REAL ESTATE OBJECT

Person to whom the object of declaring is related: _____

GENERAL INFORMATION

| | | | |
|--|---------------------|--|---|
| Type of object: | Total area (sq. m): | Registration number: | Date of property purchase (acquisition of ownership): |
| Cost as of the date of ownership acquisition, UAH: | | Cost according to the last financial valuation, UAH: | |

LOCATION OF THE OBJECT

Country: _____

If the real estate object is located in Ukraine, the following fields shall be completed:

P.O. Box: _____ Oblast: _____ District: _____

City, settlement or village: _____ Street: _____

Building number: _____ Block number: _____ Apartment number: _____

If the real estate object is located in Ukraine, the following fields shall be completed:

P.O. Box: _____ Address (in English): _____ Address (in Ukrainian): _____

INFORMATION ON THE SELLER OF THE PROPERTY

Seller _____

Selling person: _____

Save the right _____

Note: *If a land plot is the real estate object, a relevant cadastral number of the land plot shall be specified in the field "Registration number"*

4. VALUABLE MOVABLE PROPERTY – VEHICLES

The subject of declaring holds the objects to be declared in this section

The subject of declaring does not hold the objects to be declared in this section

The subject of declaring shall specify the valuable movable property (vehicles), which he/she has purchased (to which he/she has acquired the ownership), if the cost of it exceeds 50 minimum wages established as of 1 January of the reporting year.

Next section

INFORMATION ON THE VALUABLE REAL ESTATE

Person to whom the object of declaring is related: _____

GENERAL INFORMATION

| | | | |
|-------------------|---|--------|--|
| Type of property: | Mark: | Model: | Year of manufacture: |
| Date of purchase: | Cost as of the date of acquiring the ownership, the right to possess or use, UAH: | | Cost according to the last financial valuation, UAH: |

INFORMATION ON THE SELLER OF THE PROPERTY

Seller _____

Selling person: _____

Save the right _____

Save the object _____

5. SECURITIES

The subject of declaring holds the objects to be declared in this section

The subject of declaring does not hold the objects to be declared in this section

The subject of declaring shall specify the securities, which he/she has purchased (to which he/she has acquired the ownership), if their cost exceeds 50 minimum wages established as of 1 January of the reporting year.

Next section

INFORMATION ON SECURITIES

Person to whom the object of declaring is related: _____

GENERAL INFORMATION

| | | |
|--|--|--|
| Type of securities: | Quantity: | Face value: |
| Date of purchase (acquisition of ownership): | Cost as of the date of acquisition, UAH: | Cost according to the last financial valuation, UAH: |

Issuer: _____

INFORMATION ON THE SELLER OF THE PROPERTY

Seller _____

Selling person: _____

Save the right _____

Save the object _____

6. CORPORATE RIGHTS

The subject of declaring holds the objects to be declared in this section

The subject of declaring does not hold the objects to be declared in this section

The subject of declaring shall specify the corporate rights, which he/she has purchased (to which he/she has acquired the ownership), if their cost exceeds 50 minimum wages established as of 1 January of the reporting year.

Next section

INFORMATION ON SECURITIES

Person to whom the object of declaring is related: _____

GENERAL INFORMATION

Name of the legal entity:

| | | |
|---|--|--|
| Country of registration of the headquarters: | Organizational and legal form: | |
| Cost in monetary terms: | % of the total capital: | |
| If Ukraine is the country of registration of the headquarters, the following field shall also be filled in: | Code in the Unified State Register of Legal Entities, Private Entrepreneurs and Public Formations: | |
| If any other country is the country of registration of the headquarters, the following fields shall be filled in: | Name of legal entity (in English): | |
| | Identification number: | |
| Date of purchase (acquisition of ownership): | Cost as of the date of acquisition, UAH: | Cost according to the last financial valuation, UAH: |

INFORMATION ON THE SELLER OF THE PROPERTY

Seller _____

Selling person: _____

Save the right _____

Save the object _____

7. VALUABLE MOVABLE PROPERTY (EXCLUDING VEHICLES)

The subject of declaring holds the objects to be declared in this section

The subject of declaring does not hold the objects to be declared in this section

The subject of declaring shall specify the valuable movable property (excluding vehicles), which he/she has purchased (to which he/she has acquired the ownership), if the cost of it exceeds 50 minimum wages established as of 1 January of the reporting year.

Next section

INFORMATION ON VALUABLE MOVABLE PROPERTY

Person to whom the object of declaring is related: _____

GENERAL INFORMATION

| | | |
|--------------------------|--|--|
| Type of property: | Trademark: | Manufacturer's name: |
| Description of property: | Date of purchase (acquisition of ownership): Cost according to the last financial valuation, UAH: | Cost as of the date of acquisition, UAH: |

INFORMATION ON THE SELLER OF THE PROPERTY

Seller _____

Selling person: _____

Save the right _____

Save the object _____

INTANGIBLE ASSETS

The subject of declaring holds the objects to be declared in this section

The subject of declaring does not hold the objects to be declared in this section

The subject of declaring shall specify the intangible assets, which he/she has purchased (to which he/she has acquired the ownership), if their cost exceeds 50 minimum wages established as of 1 January of the reporting year.

Next section

INFORMATION ON INTANGIBLE ASSETS

Person to whom the object of declaring is related: _____

GENERAL INFORMATION

Type of asset: _____ Description of the object of the right: _____

| | | |
|--|--|--|
| Date of purchase (acquisition of ownership): | Cost as of the date of acquisition, UAH: | Cost according to the last financial valuation, UAH: |
|--|--|--|

INFORMATION ON THE SELLER OF THE PROPERTY

Seller _____

Selling person: _____

Save the right _____

Save the object _____

*Acting Deputy Head of Department**Head of First Unit (Kyiv)**Department of Financial Control and Monitoring Lifestyle*

V.S. LYSTUSHENKO

11.4.11. No. 3/2016: Organization of the Unified State Register

APPROVED

Decision #3 of the National Agency on Corruption Prevention as of 10 June 2016

Amended in accordance with the Decision #1 of the National Agency on Corruption Prevention as of 18.08.2016.

ORDER***of organization, maintenance and publication (provision) of information from the Unified State Register of
Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government****I. General Provisions*

1. This Order defines the procedure of organization, maintenance and publication (provision) of information from the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government (hereinafter referred to as "the Register").

2. This Order shall use the following terms and definitions:

- *authentication* – an electronic procedure enabling to verify electronic identification of a physical person and/or origin and integrity of electronic data;
- *confidential information* – the Registry information with limited access thereto in accordance with Paragraph Four, Section One, Article 47 of the Law;
- *declaration* – a declaration of a person authorized to implement the functions of state and local self-government provided by the Law of Ukraine "On Corruption Prevention" (hereinafter referred to as "the Law");
- *electronic identification* – a procedure of using identification data of a person in electronic format for unambiguous identification of the person;
- *electronic seal* – electronic data attached by an electronic seal developer to other electronic data or logically connected thereto and used for identification of origin and integrity of related electronic data;
- *logical control* – setting logical conformity, integrity and correlation of data mentioned in a declaration or notification on significant changes in a declarant's status of assets;

- *personal user account* – an individual personified web page of a declarant at the Register website used for submission of electronic documentation, message exchange, etc;
- *Register complete data* – all the data input into the Register by the users thereof in accordance with the valid law;
- *Register Public Section* – a part of the Register data published at the Registry website containing declarations and notifications on significant changes in a declarant's status of assets without confidential information (extracted);
- *Register website* – a section of the official website of the National Agency on Corruption Prevention (hereinafter referred to as "the National Agency") used for organization, maintenance and publication of the Register.

Other terms shall be interpreted in accordance with the definitions provided in the Laws of Ukraine "On Electronic Documents and Electronic Document Management", "On Electronic Signature", "On Informational Security in Information and Telecommunication Systems", "On Corruption Prevention" and other laws as well as duly approved legal and regulatory acts.

3. The Register shall be maintained by the National Agency.

The Register software and Register database shall be the property of the state represented by the National Agency, which shall be considered the Register holder.

The Register Administrator appointed by the National Agency in accordance with requirements of the valid law shall ensure maintenance of the Register software, Register data storage and security, bear responsibility for operations thereof, provide access thereto and ensure data sharing with other information systems.

4. The Register shall be maintained in electronic form and in Ukrainian language.

5. The Register Users shall be as follows:

- declarants registered at the Register through the internet and in accordance with this Order;
- employees of the National Agency authorized to access the Register complete data, implement verifications and other activities related to the Register data provided by the valid law as well as message declarants;
- system administrators of the Register implementing control over user accounts of the National Agency's employees as well as parameters of the Register's operations;
- authorized officials of other public administrations provided with access to the Register in accordance with the valid law;
- physical persons and legal entities provided with free internet access to the Register Public Section and enabled to implement search, view and storage activities regarding electronic copies of the Register documentation, including those in open data format in accordance with the Law of Ukraine "On Access to Public Information".

6. Functional capacity of the Register shall provide:

- keyword matching option;
- visit monitoring and monitoring of other user activities related to the Register data;
- data security (including personal data security) against unauthorized access, destruction, modification and blocked access thereto through organizational and technical means as well as introduction of tools and methods of technical data security;

- access differentiation and control over the Register data in accordance with user rights;
- event logging for operations within the Register and related to security thereof;
- availability of user-friendly interfaces;
- electronic identification for users apart from the users of the Register Public Section.

7. The Register data security shall be ensured with a comprehensive data security system of confirmed conformity. Conformity assessment shall be implemented in accordance with results of the state review in under the order provided by the valid law.

II. Register Organization and Maintenance

1. The Register shall contain the following electronic documents (hereinafter referred to as “the documents”):

- declarations submitted in accordance with Article 45 of the Law;
- notifications on significant changes in a declarant’s status of assets required by Section Two, Article 52 of the Law;
- revised declarations submitted in accordance with Section Four, Article 45 of the Law.

2. Declarants shall submit the documents provided in Clause 1 of this Section to the Register by filling electronic forms of related documents at the Register website in accordance with form technical requirements.

The order of all types of control as well as full verification of a declaration shall be defined by the National Agency in accordance with Article 48 of the Law.

The declarants shall submit the above documents through the internet and with the use of the Register software tools in their personal user accounts after registration in the Register.

3. A declarant shall register in the Register with his/her personal key and electronic digital signature open key upgraded certificate (hereinafter referred to as “EDS”).

The use of remote identification electronic systems for a declarant’s identification applied by banking client databases (BankID) shall be implemented in the order specified by the National Agency in accordance with the valid law.

A declarant shall provide his/her email during the registration process to be used for further messages.

4. The declarants registered in the Register shall have the right to:

- access their personal user accounts after authentication with the use of a personal EDS of a physical person;
- create, modify and erase draft documents in their personal user accounts;
- submit documentation in case of conformity thereof with technical requirements to the format and a set of logical verifications as well as view submitted documentation;
- submit revised documentation in due time and order provided by Clause 7 of this Section;
- receive electronic messages on confirmation of document submission or notifications on the necessity to submit specific documentations to the Register through their personal user accounts or emails;

- refer electronic requests to the National Agency on clarifications or assistance in the work with the Register through their personal user accounts.

5. Declarants shall submit declarations in accordance with Article 45 of the Law and in conformity with the following requirements:

- 1) a declarant's annual declaration shall be submitted in the period from 00:00 of 01 January till 00:00 of 01 April of the year next to the reporting one. Such a declaration shall cover the whole reporting year (since 01 January up to and including 31 December) previous to the year of the declaration submission and contain information as of 31 December of the reporting year;
- 2) a declaration of a declarant cancelling his/her activities related to implementation of the functions of state and local self-government shall be submitted no later than the date of cancellation as such. In case implementation of the above functions was initiated by an employer, a declaration shall be submitted no later than twenty business days as of the date when a declarant should have been informed of cancellation as such.

A declaration of a declarant cancelling his/her activities related to implementation of the functions of state and local self-government shall cover a period that was not covered by declarations previously submitted by a declarant and contain information as of the last day of the period as such. The last day shall be the one preceding the declaration submission date. Both declarations submitted to the Register in accordance with the Law and those submitted under the Law of Ukraine "On the Basics of Corruption Prevention and Counteraction" shall be interpreted as previously submitted;

- 3) a declaration of a declarant who cancelled his/her activities related to implementation of the functions of state and local self-government shall be submitted no later than 00:00 of 01 April of the year next to the one when the above functions were cancelled. Such a declaration shall cover the whole reporting year (since 01 January up to and including 31 December) previous to the year of the declaration submission and contain information as of 31 December of the reporting year;
- 4) a declaration of a candidate to be appointed to one of the positions provided in Clause 1, Subclause "a", Clause 2, Section One, Article 3 of the Law shall be submitted before appointment or selection of a person as such. Such a declaration shall cover the whole reporting year (since 01 January up to and including 31 December) previous to the year when a person applied for the above positions (competition/tender) if the law does not provide otherwise and contain information as of 31 December of the reporting year.

6. Declarants shall notify the National Agency of any significant changes in the status of their assets in writing and in accordance with Section Two, Article 52 of the Law by submitting a related electronic message to the Register through their personal user accounts no later than ten days as of income generation or property procurement. The above electronic message shall be submitted by filling a specific electronic form.

7. A declarant shall have the right to submit a revised declaration at his/her own discretion no later than seven days after submission of a primary declaration thereto through creation and submission of a revised document in the Register.

In case a declarant detects any other incomplete or incorrect data in a submitted declaration (or revised declaration) later than the terms specified above, he/she shall notify the National Agency thereof through his/her personal user account and submit a revised declaration in accordance with a decision made by an authorized person of the National Agency.

In case a declarant is held liable for non-submission, untimely submission of a declaration or in case of detection of inaccurate data therein, the declarant shall submit a related declaration or revised declaration with accurate data in the terms specified by an authorized person of the National Agency.

Revised notifications on significant changes in the status of a declarant's assets shall not be submitted to the Register.

8. After having filled all the mandatory fields of a document, a declarant shall sign the document with his/her personal EDS.

Before signing the document, the declarant shall confirm his/her awareness of liability for submission of incorrect data by setting a related tick in the document.

9. The Register shall automatically provide a unique document identifier for each document submitted and seal it with the Register's electronic seal, which prevents any unauthorized modifications thereof (ensuring document integrity).

A document submission to the Register shall be confirmed with a message sent to a declarant's email specified during the registration process and his/her personal user account.

After having received the above message, a declarant shall duly but no later than seven days as of the receiving date verify the contents of a submitted document and in case of incomplete or inaccurate data, he/she shall submit a revised document in accordance with this Order.

In case a declarant considers a submitted document, with its copy stored at a declarant's personal user account or published at the Register Public Section, contains information that was not submitted to the document, he/she shall promptly but no later than three days as of the fact as such notify the National Agency thereof through his/her personal user account.

10. All the documents submitted by a declarant shall be stored in the Register and automatically published (except for confidential information) at the Register Public Section in accordance with this Order. On case a revised document is generated, the primary document thereto shall not be erased but stored in the Register.

11. The documents submitted by a declarant shall be stored in the Register during the whole time of his/her implementation of the functions of state and local self-government as well as during five years after cancellation thereof except for the last declaration submitted by a person as such, which is stored at all times.

The date of submission of a declaration specified by Subclause 2, Clause 4 of this Section shall be considered the date of cancellation of functions of state and local self-government.

12. Data of the documents submitted to the Register shall be stored in a structured format (JSON, XML, etc.), which shall be also convenient for visual perception (PDF, HTML, etc.).

III. Publication and Provision of the Register Data

1. The National Agency shall ensure open 24/7 access to the Register Public Section. Such an access considers an option of data search, view, copy and print as well as acquisition (download) of documents in various common data formats, specifically, JSON, XML, PDF, HTML, etc.

Access to the Register data shall be also provided for datasets, which shall be organized in a format allowing for automated processing thereof with electronic tools (machine readability) for repeated use (as open data). Data as such

shall be provided as both separate electronic documents for downloading and for applied programming interface (API) use in accordance with the Provision on datasets for publication approved by the Decree #385 of the Cabinet of Ministers of Ukraine as of 21 October 2015.

2. Information (documents) contained in the Register shall be provided on request in accordance with the Law of Ukraine "On Access to Public Information".

*Acting Deputy Head of the Department – Head of the First Unit (Kyiv)
Financial Control and Lifestyle Monitoring Department*

V. S. Lystushenko

11.4.12. No. 4/2016: Technical Requirements to the declaration form

Technical Requirements to fields of the declaration form the Form of a notice of significant changes in the property status of the declaring entity, approved by the decision of the National Agency dated 10 June 2016 No. 4 (hereinafter – Technical Requirements to fields of the declaration form) (the EU-ACI Project did not manage to translate this Decision until the Report was drafted).

11.4.13. No. 9/2016: Regulation on the Department of Financial Control

National Emblem of Ukraine
NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
12/2 Hrushevskoho St., Kyiv, 01008, USREOU code 40381452

DECISION No. 9
2 June 2016

Kyiv

**ON APPROVAL OF THE REGULATION
on the Department of Financial Control and Monitoring the Lifestyle
of the Apparatus of the National Agency for Prevention of Corruption**

(as amended by the Decision of the National Agency for Prevention of Corruption: No. 86 of 20.10.2016; No. 15 of 12.01.2017; No. 47 of 09.02.2017)

In accordance with Part two of Article 8 of the Law of Ukraine "On Corruption Prevention", the National Agency for Prevention of Corruption has decided:

1. To approve the Regulation on the Department of Financial Control and Monitoring the Lifestyle of the Apparatus of the National Agency for Prevention of Corruption, attached.
2. The control over implementation of this decision shall be imposed on the head of the apparatus of the National Agency for Prevention of Corruption Tkachenko I.V.

*Head
Deputy Head
Members*

*N. Korchak
R. Radetskyi
R. Riaboshapka
O. Skopych*

APPROVED

Decision of the National Agency for Prevention of Corruption No. 9 of 02 June 2016

(as amended by Decisions of the National Agency for Prevention of Corruption: No. 86 of 20.10.2016; No. 15 of 12.01.2017; No. 47 of 09.02.2017; No. 287 of 06.07.2017)

REGULATION

on the Department of Financial Control and Lifestyle Monitoring

(in the text of the Regulation, the word “director” in all cases shall be replaced by the word “head” in the relevant cases under the decision of the National Agency for Prevention of Corruption No. 47 of 09.02.2017)

General Part

The Department of Financial Control and Lifestyle Monitoring (hereinafter referred to as the Department) is an independent structural unit of the National Agency for Prevention of Corruption (hereinafter referred to as the National Agency), which shall ensure the exercise of the powers of the National Agency as to the control and verification of declarations of the persons authorized to perform functions of the state or local self-government, other persons in accordance with the Law of Ukraine “On Corruption Prevention” (hereinafter referred to as the declarants), monitoring the lifestyle of these persons.

In its activities, the Department shall be guided by the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, other legislative acts, Regulation of the National Agency, provisions on the apparatus of the National Agency, as well as this Regulation.

The Department, with the purpose of processing issues that fall within the competence of the National Agency, shall interact with other structural units of the National Agency, the Secretariat of the Cabinet of Ministers of Ukraine, the Administration of the President of Ukraine, the Apparatus of the Verkhovna Rada of Ukraine, other public authorities and local self-government authorities.

II. Main Tasks of the Department

2.1. The main task of the Department is to perform the powers of the National Agency as regards financial control and monitoring the lifestyle of declarants.

III. Basic Functions of the Department

3.1. To fulfill its tasks, the Department shall:

3.1.1 provide control and verification of declarants’ declarations;

3.1.2 conduct a special verification as to persons who claim to take posts that involve taking a responsible or especially responsible position, as well as posts with an increased corruption risk in terms of checking the reliability of the information specified in the declaration of a person authorized to perform functions of the state or local self-government for the past year.

(Clause 3.1 of Section III shall be supplemented with a new sub-clause according to the decision of the National Agency for Prevention of Corruption No. 86 of 20.10.2016, In this connection, sub-clauses 3.1.2 – 3.1.12 should be considered as sub-clauses 3.1.3 – 3.1.13)

3.1.3 monitor the declarants' lifestyle;

3.1.4. organize the implementation of methodological and consultative provision of the implementation of the laws on the submission and verification of declarants' declarations;

3.1.5 detect violations, initiate issues of official investigation, taking measures to bring to justice the perpetrators of corruption or corruption-related offenses, send materials proving facts of such offenses to other specially authorized subjects in the field of combating corruption;

3.1.6 draw up protocols on administrative violations, assigned by law to the competence of the National Agency, apply the measures envisaged by the law to ensure proceedings on administrative offense cases;

3.1.7 within the limits of its competence, initiate issues of introducing provisions for eliminating violations of the Law of Ukraine "On Corruption Prevention", conducting an official investigation, bringing a guilty person to the responsibility established by the law;

(Clause 3.1 of Section III shall be supplemented with the new sub-clause 3.1.7 in accordance with the decision of the National Agency for Prevention of Corruption No. 15 of 12.01.2017)

3.1.8 prepare materials for applying to a court with a claim (application) to apply to the court with claims (applications) on the recognizing regulatory legal acts, individual decisions issued (taken) as a result of committing corruption or corruption-related offenses as illegal;

(Sub-clause 3.1.8 of Clause 3.1 of Section III in wording of the decision of the National Agency for Prevention of Corruption No. 47 of 09.02.2017)

3.1.9. prepare draft opinions on the availability of signs of a corruption offense or offense related to corruption (other than administrative) and initiate their referral by the National Agency to other specially authorized anti-corruption subjects;

3.1.10. within the limits of the powers determined by the Law of Ukraine "On Prevention of Corruption", work with information, statistics, materials, including lawsuits, which contain or may contain restricted information and information constituting state secrets;

(Clause 3.1 of Section III is supplemented with new sub-clauses 3.1.9 – 3.1.10 according to the decision of the National Agency for Prevention of Corruption No. 47 of 09.02.2017. In this regard, sub-clauses 3.1.9 – 3.1.14 should be considered as sub-clauses 3.1.11 – 3.1.16 respectively)

3.1.11 prepare proposals for amending regulatory legal acts on issues falling within the competence of the Department;

3.1.12. participate in the implementation of anti-corruption expertise of draft acts, monitoring the laws for the detection of corruption-related regulations;

3.1.13 prepare proposals for improving the technical support of the system for the submission and disclosure of declarations of persons authorized to perform functions of the state or local self-government;

3.1.14 perform analysis and monitoring of the information contained in the register of persons who, in accordance with Article 50 of the Law of Ukraine "On Prevention of Corruption", hold a responsible and specially responsible position;

3.1.15 analyze information provided in printed and electronic media as well as on social network pages, which relates to the tasks and functions of the Department;

3.1.16 prepare draft inquiries for individuals, entities, public authorities and local self-government authorities of Ukraine and other states in relation to obtaining the information necessary for the performance of the tasks and functions of the Department.

IV. Rights of the Department

4.1. The Department shall exercise the following rights in its activities:

4.1.1 to receive documents and materials necessary for the fulfillment of the tasks and functions assigned to it from the central and local executive authorities, local self-government authorities, structural units of the apparatus of the National Agency according to the established procedure;

4.1.2. to use relevant information databases of public authorities by state, including government, communication systems, special communication networks and other technical means;

4.1.3 to visit the central executive authorities, local self-government authorities, enterprises, institutions, organizations irrespective of the form of ownership according to the established procedure, to study materials relating to the implementation of the Law of Ukraine "On Corruption Prevention" within its limits of powers;

4.1.4. to attract, in accordance with the established procedure, scientists and specialists, officers of central and local executive authorities, local self-government authorities, enterprises, institutions and organizations to the implementation of certain works, participation in the study of specific issues;

4.1.5 to convene meeting in accordance with the established procedure, initiate commissions and working groups, hold scientific conferences, seminars, round tables on issues within its competence;

4.1.6 to take part in meetings of working groups on the prevention and counteraction of corruption, other advisory and consultative bodies of the Cabinet of Ministers of Ukraine, the Verkhovna Rada of Ukraine, under the President of Ukraine and the Administration of the President of Ukraine.

V. Structure of the Department and Organization of its Work

5.1 The Department consists of:

- The First Division (Kyiv);
- The Second Division (the Eastern Region);
- The Third Division (the Central Region);
- The Fourth Division (the Southern Region);
- The Fifth Division (the Western Region).

5.2 The structure and provisions on the Department shall be approved by the National Agency.

5.3 The employees of the Department shall be appointed by the Head of the National Agency on the proposal of the head of the apparatus, taking into account the provisions of the Law of Ukraine "On Civil Service", proposals by the head of the department and in agreement with the relevant member of the National Agency according to the division of duties.

5.4 The employees of the Department shall be granted rights and perform duties in accordance with the laws of Ukraine, and also bear responsibility for failure to perform or improper performance of the duties assigned to them.

VI. Head of the Department

6.1 The Department shall be headed by the head appointed by the Chairman of the National Agency on the proposal of the head of the apparatus, with the prior consent of the member of the National Agency, which, in accordance with the division of functional responsibilities, coordinates and directs the activity of the Department taking into account the provisions of the Law of Ukraine "On Civil Service".

6.2. The person who has been awarded a higher education degree not lower than a master's degree, has experience of work in civil service positions of categories "B" or "C" or service in local self-government authorities, or work in managerial positions of enterprises, institutions and organizations independently of the form of ownership for at least two years and who fluently speaks the state language shall be appointed to the position of the head of the Department.

6.3 The Head of the Department shall have two deputies (one of whom heads the division) according to the Department's activities, who exercise powers in accordance with this Regulation and in accordance with the division of responsibilities performed by the Head of the Department.

6.4 The head of the Department shall:

6.4.1 manage the activities of the Department and ensure the fulfillment of the tasks entrusted to him;

6.4.2 distribute duties between his deputies, heads of subordinated structural units, ensure coordination of their activities with activities of other employees of the Department, observance of their labor discipline;

6.4.3 submit proposals to the management of the apparatus of the National Agency regarding the appointment and dismissal of the employees of the Department, conferring ranks to them, as well as the encouragement or application, if necessary, of disciplinary actions;

6.4.4 take part in deciding the issues of professional development and training of employees of the Department;

6.4.5 provide for the development of employees' job descriptions;

6.4.6 enforce the decisions of the National Agency, instructions of the Head of the National Agency, the corresponding member of the National Agency and the head of the apparatus;

6.4.7 report at a meeting of the National Agency, to the Chairman of the National Agency, members of the National Agency, management of the apparatus on the activities of the Department;

6.4.8 endorse the draft legal acts developed by the National Agency or expertise of which the National Agency carries out;

6.4.9 organize case management in the Department;

6.4.10. organize the work of the Department for the processing of information on the involvement of declarants in special structures;

(Clause 6.4.10 of Section VI as amended by the decision of the National Agency for Prevention of Corruption No. 287 of 06.07.2017)

6.4.11. exercise control over compliance with the requirements of the laws on the protection of state secrets in the fields of the Department's activities;

6.4.12. take measures to prevent the disclosure in any manner of state secrets and official information in the unit subordinate to him;

(Clause 6.4 of Section VI is supplemented with new sub-clauses 6.4.10 – 6.4.12 in accordance with the decision of the National Agency for Prevention of Corruption No. 47 of 09.02.2017. In this regard, the sub-clause 6.4.10 shall be considered as the sub-clause 6.4.13)

6.4.13 exercise other powers in accordance with the decisions of the National Agency, its Chairman, the relevant member of the National Agency and the management of the apparatus.

6.5. The Head of the Department shall have the right:

6.5.1. to represent the National Agency in other state bodies on matters that fall within the competence of the Department;

6.5.2 on behalf of the management of the National Agency, to participate in meetings of the National Agency, consultative, advisory and other subsidiary bodies of the Cabinet of Ministers of Ukraine, the President of Ukraine, under the Administration of the President of Ukraine and other public authorities, committees of the Verkhovna Rada of Ukraine, as well as in the meetings of collegia of central and local executive authorities, local self-government authorities on issues related to the prevention and detection of corruption;

6.5.3. to receive from the central and local executive authorities, local self-government authorities, enterprises, institutions and organizations, in accordance with the established procedure, the information necessary for the analysis of the state of work on the organization of work on the prevention and detection of corruption;

6.5.4. to involve employees of structural units of the apparatus of the National Agency, central executive authorities and local self-government authorities, enterprises, institutions, organizations to consideration of issues that fall within the competence of the National Agency and participation in the preparation of the relevant materials.

6.6. The Head of the Department shall bear personal responsibility for the fulfilment of the tasks assigned to the Department.

VII. Other Issues

The National Agency shall create conditions for the Department employees' proper work and professional development, provide them with separate premises, telephone and electronic communication, modern computers and office equipment, transport for execution of official duties, document storage places equipped respectively, regulatory legal acts, reference materials, periodicals, other manuals and literature, as well as access to information bases, hygienic and sanitary conditions.

Logistical and other support for the Department employees' activities shall be carried out by the apparatus of the National Agency.

11.4.14. No. 19/2016: Procedure for Verifying the Fact of Submission

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION

DECISION

No. 19 of 06.09.2016

Registered with the Ministry of Justice of Ukraine under No. 1479/29609 on 15 November 2016

On Approval of the Procedure for Verifying the Fact of Submission of Declarations by Declarants in Accordance with the Law of Ukraine “On Corruption Prevention” and Notifying the National Agency for Prevention of Corruption about Cases of Non-Submission or Late Submission of Such Declarations

In accordance with Part One, Article 8, Clause 5 of Part One of Article 12, and Article 49 of the Law of Ukraine “On Corruption Prevention”, the National Agency for Prevention of Corruption DECIDED:

1. To approve the Procedure for Verifying the Fact of Submission of Declarations by Declarants in accordance with the Law of Ukraine “On Corruption Prevention” and Notifying the National Agency for Prevention of Corruption about the Cases of Non-Submission or Late Submission of Such Declarations, attached (hereinafter referred to as the Procedure).
2. To establish that public authorities, government authorities of the Autonomous Republic of Crimea, local self-government authorities, as well as legal entities of public law, in which the persons who, in accordance with Article 50 of the Law of Ukraine “On Corruption Prevention”, take a responsible and especially responsible position and submit, in accordance with clause 1 of the decision of the National Agency for Prevention of Corruption No. 2 of 10 June 2016 “On beginning of work of the system for submission and publishing of declarations of persons authorized to perform functions of the state or local self-government”, registered with the Ministry of Justice of Ukraine under No. 958/29088 on 15 July 2016, annual declarations for 2015, work (worked), should verify the fact of submission of the indicated declarations by such declarants in accordance with the Procedure approved by Clause 1 of this decision within 10 calendar days from the date of entry into force of this decision.
3. The Department of Financial Control and Lifestyle Monitoring together with the legal support department shall submit this decision to the Ministry of Justice of Ukraine for the state registration.
4. This decision shall enter into force from the day of its official publication.
5. The control over implementation of this decision shall be imposed on the Deputy Chairman of the National Agency for Prevention of Corruption Radetskyi R. S.

Chairman

N. Korchak

APPROVED

Decision of the National Agency for Prevention of Corruption No. 19 of 06.09.2016

Registered with the Ministry of Justice of Ukraine under No. 1479/29609 on 15 November 2015

PROCEDURE

for Verifying the Fact of Submission of Declarations by Declarants in Accordance with the Law of Ukraine “On Corruption Prevention” and Notifying the National Agency for Prevention of Corruption about Cases of Non-Submission or Late Submission of Such Declarations

1. This Procedure determines the procedure of verification by public authorities, government authorities of the Autonomous Republic of Crimea, local self-government authorities, as well as legal entities of public law (hereinafter

referred to as the authority, in which a declarant works (worked)) of the fact of submission by declarants, who work (worked) in them, of declarations of the persons authorized to perform functions of the state or local self-government (hereinafter referred to as the declaration), in accordance with the Law of Ukraine “On Corruption Prevention” (hereinafter referred to as the Law), as well as the Procedure for Notifying the National Agency for Prevention of Corruption (hereinafter referred to as the National Agency) about Cases of Non-Submission or Late Submission of Such Declarations by the authority, in which the declarant works (worked).

2. In this Procedure, the terms are used in the meanings specified in the Law and the regulatory legal acts adopted in accordance with it.

Termination of activities related to the exercise of functions of the state or local self-government shall be the day of issue of a work record book to the declarant, indicating the grounds for such termination.

3. The verification of the fact of submission of declarations and notifying the National Agency of cases of non-submission or late submission of declarations shall be imposed on an authorized unit (person) in charge of prevention and detection of corruption of the authority, in which the declarant work (works), or other structural unit of such authority (hereinafter referred to as the responsible unit (person)), determined by the head of the authority.

The head of the authority, in which the declarant works (worked), shall determine the procedure of interaction of the responsible unit (person) with other units in order to register declarants, for which the duty to file a declaration in accordance with the requirements of the Law appeared.

4. The responsible unit (person) of the authority, in which the declarants work (worked), shall verify the fact of submission of declarations in the following terms:

- 1) annual declarations of declarants – within 10 working days from the deadline for the submission of such declarations;
- 2) declarations of declarants terminating the activity connected with the performance of functions of the state or local self-government – within five working days from the date of such termination; if the termination of the said activity occurred on the initiative of the head of the body, in which the declarant worked – within five working days after the expiration of the term in twenty working days from the day when the declarant had learnt or should have learnt of such termination;
- 3) declarations of declarants, which have terminated activities related to the exercise of functions of the state or local government – within 10 working days from the deadline for the submission of such declarations following the reporting year in which such activity was terminated;
- 4) the declaration of declarants, who are persons applying for the positions specified in clause 1, sub-clause “a” of paragraph 2 of the first part of Article 3 of the Law, – until the appointment or election of a person to the position.

5. The responsible unit (person) of the authority, in which the declarants work (worked), shall verify the fact of submitting declarations by searching for and reviewing information in the public part of the Unified State Register of Declarations of persons authorized to perform functions of the state or local government on the official web Site of the National Agency.

6. In case of establishing the fact of non-submission or late submission of declarations by declarants in accordance with the requirements of the Law, the responsible unit (person) of the authority, in which declarants work (worked), shall

notify the National Agency within three working days from the date of detection of such fact. Notifying the National Agency of the fact of non-submission or late submission of declarations of persons authorized to perform functions of the state or local government (Annex 1) shall be sent to the e-mail address indicated on the official website of the National Agency and by means of postal communication (by a registered letter with a notice of delivery).

The indicated notice shall be sent by the authority, in which declarants work (worked), separately for each fact of such non-submission or late submission.

7. In case of establishing the fact that the declaration is not submitted by a declarant in accordance with the requirements of the Law, the National Agency shall notify in writing such declarant about the fact of non-submission of the declaration, and the declarant must file the declaration within ten days from the day of receipt of such notice.

A notice shall be sent to the declarant at the address of the registered place of his/her residence indicated in the last such declaration submitted by the declarant, or at the address indicated by the authority, in which a declarant works (worked), in a notice on the establishment of the fact of non-submission or late submission of the declaration. The National Agency shall have the right to find out the address of the registered place of the declarant's residence in the authority, in which he/she works (worked).

In case of establishing the fact that the declaration is not submitted by the declarant, the National Agency shall inform in writing the head of the authority, in which the relevant declarant works (worked), and specially authorized subjects in the field of counteraction to corruption.

The notice of the fact of non-submission of the declaration by the persons authorized to perform functions of the state or local self-government shall be submitted in the form specified in the annex 2 to this Procedure, taking into account the provisions of Article 216 of the Criminal Procedure Code of Ukraine.

Head of the Department of Financial Control and Lifestyle Monitoring

O.D. Markieieva

ANNEX 1 TO THE PROCEDURE

for Verifying the Fact of Submission of Declarations by Declarants in Accordance with the Law of Ukraine "On Corruption Prevention" and Notifying the National Agency for Prevention of Corruption about Cases of Non-Submission or Late Submission of Such Declarations (clause 6)

NOTIFYING

the National Agency of the Fact of Non-Submission or Late Submission of Declaration by the Persons Authorized to Perform Functions of the State or Local Self-Government

ANNEX 2 TO THE PROCEDURE

of Verifying the Fact of Submission of Declarations by Declarants in Accordance with the Law of Ukraine "On Corruption Prevention" and Notifying the National Agency for Prevention of Corruption about Cases of Non-Submission or Late Submission of Such Declarations (Clause 8)

NOTIFYING

the Persons Authorized to Perform Functions of the State or Local Self-Government about the Fact of Non-Submission of Declarations

11.4.15. No. 56/2017: Procedure for conducting control and detailed audit

APPROVED

Decision of the National Agency on Corruption Prevention Mo. 56 dated 10 February 2017

Registered with the Ministry of Justice of Ukraine on 13 February 2017 under file No. 201/30069

PROCEDURE

for conducting control and detailed audit of declarations of persons authorized to discharge functions of the state or local self-government bodies

I. General

1. This Procedure determines the mechanism of conducting control and detailed audit of declarations of persons authorized to discharge functions of the state or local self-government bodies (hereinafter – the declarations) by the National Agency on Corruption Prevention (hereinafter – the National Agency) according to Articles 48 and 50 of the Law of Ukraine “On Corruption Prevention” (hereinafter – the Law).

2. In this Procedure the terms are used in the following meaning:

- *accuracy of the declared data* – conformity of data specified in the declaration of the declaring entity to reality, unless the National Agency establishes inaccuracy of the declared data in accordance with legally prescribed procedure through control and detailed audit of the declaration;
- *inaccuracy of the declared data* – non-conformity of data specified in the declaration of the declaring entity to reality, which is established on the basis of information obtained by the National Agency in accordance with legally prescribed procedure through control and detailed audit of the declaration;
- *accuracy of estimates of the declared assets* – correctness of reflected by the declaring entity estimates of the declared by him/her assets, which is established by the National Agency through clarification of the ground or justification of the declared estimates of assets and comparing them with data specified in the declaration of the declaring entity.

Other terms shall have the meanings set forth in the Law and other regulatory acts adopted pursuant thereto.

3. Control and detailed audit of the declaration shall meet the principles of:

- 1) the rule of law;
- 2) equality and guarantee of the rights and legitimate interests of all declaring entities;
- 3) fairness, impartiality and impersonality of decisions and actions of the National Agency, its authorized persons;
- 4) reliability and completeness of information used by the National Agency, the legitimacy of receipt and use of such information;
- 5) inadmissibility of arbitrary interference in the private life of the declaring entity, except as to the extent and in the manner prescribed by the Law;
- 6) guarantee of the right to judicial protection of the declaring entities.

All measures of control and detailed audit of declarations envisaged in this Procedure should be consistent with the principles set forth herein.

4. The principles set forth in clause 3 hereof shall also apply to regulation of the relations of control and detailed audit of declarations determined by the Law and this Procedure in the following events:

- 1) the absence in the Law or this Procedure of special legal rules governing such relations;
- 2) if special rules governing such relations contradict each other;
- 3) the possibility of different interpretations of one special rule governing such relations.

5. The National Agency conducts control of declarations in accordance with this Procedure through employees of structural unit of its apparatus, whose activities are related to the discharge of such function (hereinafter – the unit), and automatically using the software of the Unified State Register of declarations of persons authorized to discharge functions of the state or local self-government bodies (hereinafter – the Register).

The National Agency conducts the detailed audit of declarations pursuant to this Procedure through employees of the unit.

II. Procedure for conducting control of declarations

1. Pursuant to the Law the National Agency conducts the following types of control over timeliness of filing declarations:

- 1) the timeliness of filing;
- 2) the accuracy and completeness of filling in;
- 3) logical and arithmetic control.

2. The National Agency conducts control over timeliness of filing declarations on the basis of:

- 1) notices arriving from public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and legal entities of public law which in accordance with the procedure established the National Agency pursuant to Article 49 of the Law shall verify the fact of filing declarations by the declaring entities which are (were) employed therein;
- 2) information arriving to the National Agency from individuals who provide assistance to prevent and combat corruption (denouncers) regarding possible failure to file or delay in filing the declaration by the declaring entity;
- 3) information published in the media, the Internet specifying possible failure to file or delay in filing the declaration by the declaring entity;
- 4) establishing by the National Agency the fact of failure to file or delay in filing the declaration by the declaring entity according to the Register;
- 5) information arriving to the National Agency from law-enforcement bodies;
- 6) information arriving to the National Agency from non-governmental organizations, their members or authorized representatives.

3. Upon receipt of information (notices) envisaged in paragraphs 1, 2 of clause 2 hereof, the National Agency shall verify the fact of failure to file or delay in filing of the declaration by the declaring entity by searching data in the Register.

4. If the National Agency establishes the fact of failure to file the declaration by the declaring entity in accordance with the Law, it shall notify the declaring entity, head of public authority, authority of the Autonomous Republic of Crimea, local self-government body, their apparatus, legal entity of public law in which the declaring entity is employed, and specially authorized entities in the area of combating corruption in accordance with the procedure determined by the National Agency.

5. If based on the results of control it is established that the declaring entity delayed in filing the declaration, the National Agency shall send to such entity a letter asking for explanation of the reasons for delay in filing the declaration. If there are signs of an administrative offense, an authorized person of the National Agency shall draw up a protocol of the administrative offense in accordance with legally prescribed procedure, which shall be referred to the court by the decision of the National Agency.

6. Control over accuracy and completeness of filling in declarations shall be automatically conducted using the software of the Registry when filing the declaration according to the form of the declaration approved by the decision of the National Agency dated 10 June 2016 No. 3, registered with the Ministry of Justice of Ukraine on 15 July 2016 under No. 960/29090 (hereinafter – the declaration form), and Technical Requirements to fields of the declaration form of persons authorized to discharge functions of the state or local self-government bodies, and the Form of a notice of significant changes in the property status of the declaring entity, approved by the decision of the National Agency dated 10 June 2016 No. 4 (hereinafter – Technical Requirements to fields of the declaration form).

7. The logical and arithmetic control over declarations which is conducted automatically using the software of the Register shall include the following components:

- 1) control over conformity of the declared data (hereinafter – Component-1) – a comparison of components of the information specified in the declaration to determine whether they comply with and/or contradict each other which is conducted upon filing the declaration;
- 2) control over conformity of the declared data to databases (hereinafter – Component-2) – a comparison of data specified in the declaration which undergoes the detailed audit with data specified in other declarations of this declaring entity, data kept in the registers, databases and other information and telecommunication systems of public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies which may contain information about certain declaring entities (hereinafter – relevant databases) which is conducted upon filing the declaration.

Component-1 is conducted according to the rules of logical and arithmetic control of the declarations approved by the decision of the National Agency.

Declarations filed prior to the approval by the National Agency of the rules of logical and arithmetic control of the declarations shall be deemed to have undergone logical and arithmetic control in terms of Component-1.

Component-2 is conducted according to the rules of automated audit of declarations and their weighting coefficients approved by the decision of the National Agency (hereinafter – the rules of automated audit).

The logical and arithmetic control in terms of Component-2 shall not be conducted prior to the approval by the National Agency of the rules of automated audit and providing technical feasibility of their application. The National Agency shall separately notify of the approval of the rules and providing technical feasibility of their application on its official website.

The rules of automated audit shall determine:

- 1) declaration risk rating index (hereinafter – declaration risk rating index), which is the degree of non-conformity of the declared data to relevant databases, in the presence whereof the detailed audit of all data reflected in the declaration is reasonable and justified;
- 2) zero declaration risk index (hereinafter – zero risk index) which indicates conformity of the declared data to relevant databases.

If the risk rating of a particular declaration is equal to or exceeds the risk rating index, the National Agency when conducting the detailed audit of the declaration shall verify all data reflected in the declaration.

If the risk rating of a particular declaration is less than the risk rating index, the National Agency when conducting the detailed audit of the declaration shall verify data only in terms of the revealed risks.

If the declaration is assigned a zero risk index, the declaration shall be deemed to meet the requirements of the Law regarding the reliability of the declared data and the accuracy of estimates of the declared assets.

III. Procedure for conducting detailed audit of declarations

1. A detailed audit of the declaration can be conducted during the period of carrying out by the declaring entity the activity related to the discharge of functions of the state or local self-government bodies and within three years upon termination of this activity, and consists in:

- 1) determination of the reliability of the declared data;
- 2) clarification of the accuracy of estimates of the declared assets;
- 3) verification of the existence of the conflict of interest;
- 4) verification of the existence of signs of illicit enrichment.

A detailed audit of the declaration(s) shall be conducted by the decision of the National Agency, granting an authorization to its member to conduct the detailed audit of the declaration(s) (hereinafter – the decision on conducting the audit) through employees of a structural unit of its apparatus, whose activity is related to the discharge of such function of the National Agency. The decision on conducting the audit should include information that enables identification of the declaration(s) on which the detailed audit is conducted, and of the declaring entity(ies) who filed such declaration(s), unless otherwise provided for in this Procedure.

The decision on conducting the audit of declarations adopted by the National Agency under paragraph two of part one of Article 50 of the Law can be adopted regarding declarations filed as of the date of such decision which are subject to the detailed audit on this basis, without giving information that enables identification of the declaration(s) regarding which the detailed audit is conducted and of the declaring entity(ies) who filed such declaration(s).

The decision on conducting the audit should be duly justified by reference to legally prescribed grounds for conducting the detailed audit of the declaration or declarations – should the decision on conducting the audit regarding more than one declaration on one legally prescribed ground is adopted. The decision on conducting the detailed audit on the basis of paragraph five of part one of Article 50 of the Law should also contain justification provided for in clause 3 hereof.

2. The National Agency shall decide on refusal to conduct the detailed audit of the declaration under paragraph five of part one of Article 50 of the Law within 15 business days upon receipt of information from individuals and legal entities, the media and other sources about possible reflection of false information in the declaration if:

- 1) on the basis of the information received it is impossible to identify the declaring entity or identify a particular declaration, or if relevant information does not contain actual data that can be verified;
- 2) the information received contains allegations about the inaccuracy of data in the declaration without any explanations of non-conformity of such data to reality;
- 3) conformity of data to reality concerning the inaccuracy of which the information was received is established earlier in accordance with legally prescribed procedure.

The decision on refusal to conduct the detailed audit of the declaration should contain justification of the ground for such refusal according to this clause.

Commencement of conducting the detailed audit of the declaration is the day following the date of adopting the decision on conducting the audit. The National Agency shall notify the declaring entity of the adopted decision on conducting the audit using the software of the Register at the latest on the date of the decision.

The decision on conducting the audit may be appealed to court.

Appeal against the decision on conducting the audit shall not suspend the detailed audit of the declaration.

3. The decision on conducting the audit shall be adopted on the grounds envisaged by the Law if:

- 1) the declaration was filed by an officer holding a responsible and particularly responsible position, a declaring entity holding a position associated with high level of corruption risks, which list is approved by the decision of the National Agency dated 17 June 2016 No. 2, registered with the Ministry of Justice of Ukraine on 19 July 2016 under No. 987/2911;
- 2) the declaration filed contains inconsistencies based on the results of logical and arithmetic controls;
- 3) the declaration filed by the declaring entity contains field(s) in which the declaring entity chose box "Family member failed to provide information" (in the event envisaged in part seven of Article 46 of the Law);
- 4) the National Agency received from individuals or legal entities, the media and other sources the information about possible false data reflected in the declaration. Such information should relate to a particular declaring entity and contain actual data that can be verified;
- 5) the establishment by the National Agency of non-conformity of living standards of the declaring entity to the declared by him/her assets and income based on the results of lifestyle monitoring.

4. When the National Agency under paragraph 4 of clause 3 hereof received information about possible reflection of false data in the declaration, the National Agency shall within 15 business days upon receipt of such information decide on conducting the detailed audit of the declaration.

If according to paragraph 4 of clause 3 hereof the decision on conducting the audit of the declaration is adopted, such decision should contain justification of the fact that:

- 1) the information received deals with a particular declaring entity and contains actual data that can be verified;

- 2) the detailed audit of a particular declaration of the declaring entity should be conducted;
- 3) conformity of data to reality concerning the inaccuracy of which the information was received is not established earlier in accordance with legally prescribed procedure.

If the declaration based on the results of logical and arithmetic controls is assigned a zero risk index and the full audit of such declaration is conducted under paragraph two of part one of Article 50 of the Law, such audit shall consist in the audit of the declaration for the conflict of interest and signs of illicit enrichment. Data specified in such declaration shall be deemed reliable, and estimates of assets declared therein shall be deemed accurate.

5. When conducting the detailed audit of the declaration the National Agency shall verify all data reflected in the declaration under clause 1 hereof, unless otherwise envisaged in this Procedure.

If the risk rating of a particular declaration is less than the risk rating index and the detailed audit of the declaration is conducted under paragraph two of part one of Article 50 of the Law, the National Agency when conducting the detailed audit of the declaration shall verify data only in terms of the revealed risks.

If the declaration based on the results of logical and arithmetic controls is assigned a zero risk index and the detailed audit of the declaration is conducted under paragraph two of part one of Article 50 of the Law, the National Agency when conducting the detailed audit of the declaration shall verify data only in terms of the existence of the conflict of interest and signs of illicit enrichment.

In the event of adoption under paragraph 4 of clause 3 hereof of the decision on conducting the detailed audit of the declaration, if the detailed audit of relevant declaration has been previously conducted, the National Agency shall undertake measures to verify information about possible reflection of false data in the declaration only in terms of new information received which has not been verified during the detailed audit. Such audit shall be conducted within the period specified in clause 14 hereof.

6. The detailed audit of the declaration involves the following actions:

- 1) adoption of the decision on conducting the audit;
- 2) analysis of data on property items to be declared (real estate, construction in progress (including information on the owner or user of the plot of land), valuable movable property (other than vehicles), valuable movable property – vehicles, securities, other corporate rights, legal entities the ultimate beneficial owner (controller) of which is the declaring entity or members of his/her family, intangible assets, income, including gifts, cash assets, financial liabilities, expenditures and transactions of the declaring entity, part-time positions or jobs of the declaring entity, membership of the declaring entity in associations (organizations) and entry to bodies thereof) specified in the declarations of the declaring entity, as well as comparing thereof with data from the registers, databases, other information and telecommunication systems of public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies which may contain information about property items to be reflected in the declaration;
- 3) creating, gathering, receiving, using of information required for the detailed audit of the declaration, using the sources of data specified in clauses 8-11 hereof;
- 4) sending by the National Agency to relevant declaring entity a letter with the proposals as to providing written explanations and/or copies of supporting documents, as well as examination and consideration of provided

explanations and/or copies of supporting documents when conducting the detailed audit of the declaration in the manner and on terms specified in clause 12 hereof;

5) adopting by the National Agency the decision on the results of conducting the detailed audit of the declaration.

7. The detailed audit under paragraph 4 of clause 3 hereof shall be conducted in the following priority:

- 1) declarations of persons holding responsible and particularly responsible positions, except for those whose positions belong to "A" or "B" category civil service positions, and those whose positions under part one of Article 14 of the Law of Ukraine "On Service in Local Self-Government Bodies" fall to category 1-3, as well as except for judges, prosecutors and investigators, heads and deputy heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more regions, the Autonomous Republic of Crimea, cities of Kyiv and Sevastopol, heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more raions, city of republican in the Autonomous Republic of Crimea or regional significance, district in a city, city of raion subordination, military senior officers;
- 2) declarations of persons whose positions belong to "A" category civil service positions, and those whose positions under part one of Article 14 of the Law of Ukraine "On Service in Local Self-Government Bodies" fall to category 1-3;
- 3) declarations of judges, prosecutors, investigators, military senior officers;
- 4) declarations of persons whose positions belong to "B" category civil service positions, and those whose positions under part one of Article 14 of the Law of Ukraine "On Service in Local Self-Government Bodies" fall to category 3, as well as declarations of the heads and deputy heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more regions, the Autonomous Republic of Crimea, cities of Kyiv and Sevastopol, heads of public authorities, authorities of the Autonomous Republic of Crimea, whose jurisdiction covers the territory of one or more raions, city of republican in the Autonomous Republic of Crimea or regional significance, district in a city, city of raion subordination;
- 5) declarations the risk rating of which is equal to or exceeds the risk rating index and the detailed audit of such declaration is conducted under paragraph two of part one of Article 50 of the Law;
- 6) declarations on which the National Agency received information from individuals or legal entities, the media and other sources about possible reflection of false data in the declaration, if such data deals with assets or other property items which have value and can vary from accurate data by the amount of 250 minimum subsistence incomes for capable persons;
- 7) declarations regarding which the National Agency received information from individuals or legal entities, the media and other sources about possible reflection of false data in the declaration, if such data deals with assets or other property items which have value and can vary from accurate data by the amount of 100 minimum subsistence incomes for capable persons;
- 8) declarations the ground for the audit whereof is the establishment of non-conformity of living standard of the declaring entity to the declared by him/her assets and income based on the results of lifestyle monitoring;
- 9) declarations of the declaring entities holding positions related to high level of corruption risks;
- 10) declarations containing field(s) in which the declaring entity chose box "Family member failed to provide information";
- 11) other declarations.

8. When conducting the detailed audit of the declarations the National Agency shall use the following sources of information:

- 1) data obtained from registers, databases and other information and telecommunication systems of public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, as well as data from registers, databases of foreign states which may contain information to be reflected in the declaration;
- 2) data provided by the declaring entity for which the audit is conducted, on own initiative or at the request of the National Agency for documentary verification or explanation of data specified in the declaration;
- 3) data arriving (received) from public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, business entities irrespective of ownership and their officials, citizens and associations thereof, as well as from public and other competent authorities of foreign states;
- 4) data from the media, the Internet which deals with a particular declaring entity and contains actual data which can be verified.

When conducting the detailed audit of the declaration the National Agency shall ensure using only reliable information received from business entities irrespective of ownership and their officials, citizens and associations thereof, from the media, the Internet.

The National Agency shall ensure the protection and security of information which it has created, gathered, received or used during the detailed audit of the declaration.

In the event of failure to receive data required to conduct the detailed audit of the declaration, within the deadlines of conducting such audit, including in the event of excessive duration of examination by the court or competent authority of a foreign state of the matter of providing to the National Agency of appropriate information, failure of the National Agency to pay a fee for obtaining relevant information under the law, if such fee is required to get an access to information, etc., the National Agency shall conduct the detailed audit of the declaration based on the available data, as outlined in the decision on the results of conducting the detailed audit of the declaration.

9. If necessary, in order to conduct the detailed audit of the declaration the National Agency has the right to file requests for documents or information to public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, business entities irrespective of ownership and their officials, citizens and associations thereof. These entities shall provide the National Agency with the requested documents or information within ten business days upon receipt of the request.

The request shall be executed on the official letterhead of the National Agency.

When conducting the detailed audit the National Agency has the right to request and receive only documents (copies of documents) and information regarding data reflected by the declaring entity in the relevant sections of the declaration in accordance with the Law and required for the detailed audit of the declaration.

10. To receive information regarding availability and status of accounts, transactions on the accounts of a particular legal entity or an individual, a private entrepreneur which is required to conduct the detailed audit of the declaration, the National Agency shall apply to the court in the manner specified in Chapter 12 of Section IV of the Civil Procedure Code of Ukraine.

11. The National Agency has the right to send the requests for receiving from public authorities and other bodies of foreign states of the information required for the detailed audit of the declaration.

To verify information about the declaring entities referred to in the declaration, the National Agency has the right to receive information from public databases, registers of foreign states, including upon paying a fee for a particular information under the Law, if such fee is required to get an access to information.

12. If when conducting the detailed audit of the declaration the National Agency reveals signs of inaccuracy of the declared data, inaccurate estimates of the declared assets, conflict of interest, illicit enrichment, the National Agency shall send to relevant declaring entity an appropriate letter with the proposals as to providing written explanations and/or copies of supporting documents.

This letter shall contain references to specific information in the declaration, for which it is proposed to provide written explanations and/or copies of supporting documents, as well as information about the grounds for conducting the audit of the declaration and such specific information. The letter may contain specific questions of the National Agency regarding data set forth in the declaration.

The letter may be sent using the software of the Register or postal services with return receipt requested. The declaring entity has the right to provide (send) explanations (copies of documents) at the latest on the tenth business day upon receipt of relevant letter of the National Agency using the software of the Register or postal services.

Written explanations and/or copies of supporting documents provided by the declaring entity shall be examined and considered by the National Agency when conducting the detailed audit of the declaration and deciding on the compliance by the declaring entity with the requirements of the Law when preparing and filing the declaration.

If necessary, the National Agency shall send to the declaring entity a letter requesting for information about name of the counterparty of the transaction under clause 10 of part one of Article 46 of the Law in the manner set forth herein.

13. When establishing the accuracy of estimates of the assets declared by the declaring entity the National Agency shall compare data contained in the documents of title to the declared assets and substantiation of the declared estimates of assets provided, if necessary, by the declaring entity with data specified in the declaration.

When establishing the accuracy of estimates of the declared assets the National Agency has no right to conduct estimates thereof on its own. If the declaring entity fails to provide explanations and/or supporting documents verifying the accuracy of estimates of the declared assets in the manner and on terms set forth in clause 12 hereof, the National Agency shall take measures to establish the circumstances through the arrangement of expert examination in accordance with legally prescribed procedure.

14. The detailed audit of the declaration according to this Procedure shall be conducted within 60 calendar days upon adoption of the decision on conducting the audit.

If necessary, the deadlines for conducting the detailed audit of the declaration may be extended, however not more than by a cumulative period of 30 calendar days. The decision on the extension of the detailed audit of the declaration shall be adopted by the National Agency in the event of failure to receive answers and/or information essentially needed to conduct the detailed audit of the declaration in response to requests (letters) of the National Agency to:

- 1) public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, business entities irrespective of ownership and their officials, citizens and associations thereof;
- 2) the declaring entity with the request to provide explanations regarding data specified in the declaration.

15. The term of the detailed audit of the declaration shall be suspended in the following events:

- 1) applying to court for information regarding availability and status of accounts, transactions on the accounts of a particular legal entity or an individual, private entrepreneur;
- 2) sending a request for information from public authorities and other bodies of foreign countries which is required to conduct the detailed audit of the declaration.

In the above events the term of the detailed audit of the declaration shall be suspended upon opening by the court of the proceedings (sending a relevant request) until the effective date of the court judgment (receiving a response to the above request).

Suspension of the term of the detailed audit of the declaration is possible within the time limits determined in paragraphs one and two of clause 14 hereof.

16. Verification of the existence of the conflict of interest during the detailed audit of the declaration shall be made subject to the requirements of the Law in the manner and on terms determined in a regulatory act adopted by the National Agency and consists in the establishment on the basis of data specified in the declaration of the compliance by the declaring entity with the restrictions on holding more than one office and combining with other activities, as well as obligation to transfer owned by the declaring entity enterprises and/or corporate rights under Articles 25, 36 of the Law.

17. Signs of possible illicit enrichment when conducting the detailed audit of the declaration shall be revealed pursuant to Article 3682 of the Criminal Code of Ukraine.

Signs of possible illicit enrichment include:

- establishing when conducting the detailed audit of the declaration that the declaration reflects false data on the assets to an amount exceeding one thousand minimum incomes at the level of tax social benefit defined in paragraph 169.1.1 of clause 169.1 of Article 169 of Section IV of the Tax Code of Ukraine for relevant year, if as the result of using the information sources specified in clauses 8-12 hereof no such grounds were established for arising rights to such assets or if circumstances of appearing such grounds have reasonable signs of offence;
- establishing the fact of the transfer of such assets (making any transactions on which basis the ownership of or the right to use assets arises, and providing another person with money or other property to make such transactions).

IV. Results of conducting detailed audit of declarations

1. Based on the results of conducted detailed audit of the declaration the National Agency shall adopt the decision on the results of conducted detailed audit of the declaration (hereinafter – the decision on the results of conducted detailed audit of the declaration).

The decision on the results of conducted detailed audit of the declaration includes the following parts:

- 1) introduction specifying the date, number and place of preparing, name of the decision on the results of conducted detailed audit of the declaration;

- 2) a narrative part specifying surname, name and patronymic of the declaring entity, position and name of public authority, authority of the Autonomous Republic of Crimea, local self-government body or legal entity of public law, legal grounds for conducting the detailed audit of the declaration, the list of information which is used when conducting the detailed audit of the declaration, components of the audited items;
- 3) a substantiation specifying the circumstances established by the National Agency referring to the evidence and reasons of ignoring certain evidence; motives of the National Agency to adopt the decision on the results of conducted detailed audit of the declaration, and provisions of the law it observed;
- 4) a conclusion specifying an opinion of the National Agency made based on the results of the detailed audit of the declaration, the possibility to appeal this decision to court.

2. If as the result of the detailed audit of the declaration(s) no false data, inaccurate estimates of the declared assets, existence of the conflict of interest or signs of illicit enrichment are established to have been reflected in the declaration(s), the decision on the results of conducted detailed audit of the declaration (detailed audits of declarations) shall be adopted in a short form and should include:

- 1) an allegation that based on the results of the detailed audit of the declaration (detailed audits of declarations) the reliability of the declared data, the accuracy of estimates of the declared assets, absence of the conflict of interest and signs of illicit enrichment have been established;
- 2) a reference to the declaration(s) which was (were) a target of the detailed audit.

The decision on the results of conducted detailed audit of the declaration (detailed audits of declarations) in a short form can be adopted regarding several declarations on the list.

If as the result of the detailed audit of the declaration it was established that the declaration reflects false data, inaccurate estimates of the declared assets, availability of the conflict of interest or signs of illicit enrichment, the decision on the results of conducted detailed audit of the declaration shall also provide justification of relevant conclusions, including reference to the materials which became the ground for conclusion and take consideration of explanations given by the declaring entity. Along with the decision on the results of conducted detailed audit of the declaration the National Agency shall adopt the decision on the referral of the decision on the results of conducted detailed audit of the declaration to specially authorized entities in the area of combating corruption subject to provisions of Article 216 of the Criminal Procedure Code of Ukraine.

The issue of preparing and referring to the court of the protocol on administrative offense and issuing an order for bringing the declaring entity to legally prescribed responsibility shall be resolved by the National Agency in accordance with legally prescribed procedure.

When conducting the detailed audit of the declaration and adopting the decision on the results of conducted detailed audit of the declaration only legally obtained information shall be used.

The National Agency shall notify the declaring entity of the completion of the detailed audit of the declaration in writing and send the decision on the results of conducted detailed audit of the declaration for review. These actions may be taken using the software of the Register or postal services by registered mail with return receipt requested. If as the result of the detailed audit of the declaration it is established that the declaration reflects false information or inaccurate estimates of the declared assets, or existence of the conflict of interest or signs of illicit enrichment, the

decision on the results of conducted detailed audit of the declaration shall be sent to the declaring entity using postal services by registered mail with return receipt requested and the software of the Register.

The decision on conducting the detailed audit of the declaration shall be placed within three business days upon adoption thereof on the website of the National Agency, except for information specified in paragraph four of part one of Article 47 of the Law.

The decision on conducting the detailed audit of the declaration may be appealed by the declaring entity to court.

3. If based on the results of the detailed audit of the declaration it is established that the declaration reflects false information, the National Agency shall notify in writing the head of relevant public authority, authority of the Autonomous Republic of Crimea, local self-government authority, their staff, a legal entity of public law employing relevant declaring entity and specially authorized entities in the area of combating corruption. Notification of specially authorized entities in the area of combating corruption of deliberately false information in the declaration shall be made subject to the provisions of Article 216 of the Criminal Procedure Code of Ukraine.

4. In the event of revealing based on the results of the detailed audit of the declaration the signs of an administrative offense associated with corruption, an authorized person of the National Agency shall draw up the protocol of such offense under the law.

5. If the declaring entity committed acts which do not entail a different kind of responsibility, the National Agency shall issue an order to the head of relevant body, enterprise, institution or organization in accordance with the procedure established by the National Agency.

6. A record of the detailed audits and the decisions on conducting the detailed audit of the declaration shall be kept in the logbook of the results of conducted detailed audit of the declaration of a person authorized to discharge functions of the state or local self-government bodies, according to the Appendix to this Procedure (hereinafter – the logbook) to be kept in writing and/or in electronic form.

The logbook should be numbered, bound and signed by an officer responsible for the audit, and if the logbook is kept in electronic form – a digital signature of such person should be put in compliance with the legislation on electronic document flow. If the logbook is kept in electronic form it should be displayed in real time mode on the website of the National Agency.

7. Information about individuals obtained when conducting the detailed audit of the declaration shall be processed according to the requirements of the Law of Ukraine "On Personal Data Protection". It is prohibited to disclose information classified under the law as confidential, except as required by law.

*Head of the Department of Financial
Control and Lifestyle Monitoring*

O. Markieieva

11.4.16. Regulation on the 1st Division of Department of Control

APPROVED

Order of the Head of the Apparatus of the National Agency for Prevention of Corruption

No. ____ of _____ 2016

REGULATION

on the First Division (Kyiv) of the Department of Financial Control and Lifestyle Monitoring of the Apparatus of the National Agency for Prevention of Corruption

General Provisions

The First Division (Kyiv) (hereinafter referred to as the Division) is a structural unit of the Department of Financial Control and Lifestyle Monitoring of the Apparatus of the National Agency for Prevention of Corruption (hereinafter referred to as the Department).

In its activities, the Division shall be guided by the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, Regulation of the National Agency for Prevention of Corruption (hereinafter referred to as the National Agency), Provision on the Apparatus of the National Agency, Regulation on the Department, decisions of the National Agency, orders of the Chairman of the National Agency, this Regulation and other regulatory legal acts.

The number of employees of the Division shall be determined in accordance with the National Agency's staffing.

Employees of the Division shall be appointed and dismissed by the Chairman of the National Agency in accordance with the procedure established by the Regulation on the Apparatus of the National Agency and the Regulation on the Department.

Employees of the Division shall work with documents that have limited access or are subject to state secrecy in accordance with the established procedure.

The competence of the Division shall extend to the city of Kyiv and the Kyiv region.

II. Main Tasks of the Division

1. The main task of the Division is to perform the powers of the Department as regards financial control and monitoring the lifestyle of declarants in the city of Kyiv and the Kyiv region.

III. Basic Functions of the Department

1. To fulfill its tasks, the Division shall:

- 1) provide control and verification of the declarants' declarations;
- 2) monitor the declarants' lifestyle;
- 3) organize the implementation of methodological and consultative provision of the implementation of the laws on the submission and verification of declarations of declarants;
- 4) detect violations, initiate issues of official investigation, taking measures to bring to justice the perpetrators

of corruption or corruption-related offenses, send materials proving facts of such offenses to other specially authorized subjects in the field of combating corruption;

- 5) draw up protocols on administrative violations, assigned by the law to the competence of the National Agency, apply the measures envisaged by the law to ensure proceedings on administrative offense cases;
- 6) prepare materials for applying to a court with claims (applications)

on the recognizing regulatory legal acts, individual decisions issued (taken) as a result of committing corruption or corruption-related offenses as illegal;

- 7) develop draft regulatory legal acts and take part in development of draft regulatory legal acts on the issues within the competence of the Division;
- 8) participate in the implementation of anti-corruption expertise of draft acts, monitoring the laws for the detection of corruption-related regulations;
- 9) prepare proposals for the improvement of technical support for the system of submission and disclosure of declarations of persons authorized to perform functions of the state or local self-government;
- 10) perform a complete verification of declarations in cases and as regards the persons specified in Article 50 of the Law of Ukraine "On Corruption Prevention" and in case of establishing the non-compliance of the level of life of the subject of declaring of the property and income declared by him;
- 11) analyze the information contained in the printed and electronic media, as well as on social network pages, concerning the performance of the tasks and functions of the Division;
- 12) prepare proposals of inquiries to individuals, business entities, public authorities and local self-government authorities of Ukraine and other states with a view to obtaining the information necessary for the performance of the tasks and functions of the Division;
- 13) perform other functions in accordance with the tasks assigned to the Division.

IV. Rights of the Division

1. To fulfill the tasks assigned to it, the Division shall exercise the following rights within its powers:
 - 1) to receive documents and materials necessary for the fulfillment of the tasks and functions assigned to the Division from the central and local executive authorities, local self-government authorities, structural units of the apparatus of the National Agency according to the established procedure;
 - 2) to use relevant information databases of public authorities by state, including government, communication systems, special communication networks and other technical means;
 - 3) to visit the central executive authorities, local self-government authorities, enterprises, institutions, organizations irrespective of the form of ownership according to the established procedure, to study materials relating to the implementation of the Law of Ukraine "On Prevention of Corruption" within its limits of powers;
 - 4) to provide suggestions to the management of the Department as to involvement, in accordance with the established procedure, of scientists and specialists, employees of central and local executive authorities, local governments, enterprises, institutions and organizations to performance of certain works, participation in the study of certain issues;

- 5) provide proposals to the management of the Department as to the convening of meetings in accordance with the established procedure, the formation of commissions and working groups, holding scientific conferences, seminars, round tables on issues that fall within the competence of the Division;
- 6) to participate in meetings and other activities on the issues relating to the competence of the Division, which are held at the National Agency and other government authorities;
- 7) to provide control and verification of the declarants' declarations;
- 8) to monitor the declarants' lifestyle;
- 9) to organize the implementation of methodological and consultative support for the implementation of the laws on the submission and verification of declarations of declarants;
- 10) to detect violations, initiate the issues of conducting official investigation, taking measures to prosecute the perpetrators of corruption or corruption-related offenses, and to send the materials evidencing the facts of such offenses to other specially authorized actors in the field of combating corruption;
- 11) to draw up protocols on administrative violations, assigned by law to the competence of the National Agency, to apply the measures envisaged by law to ensure proceedings in cases of administrative offenses;
- 12) to prepare materials for appealing to the court with claims (applications) on the recognizing regulatory legal acts, individual decisions issued (taken) as a result of committing corruption or corruption-related offenses as illegal;
- 13) to use the information bases, premises of the National Agency, service telephone communication and the relevant material and technical base;
- 14) to submit proposals for improving the work of the Division to the head of the Department, his deputy, in accordance with the division of functions, for consideration.

V. Head of the Division

The Division shall be headed by the head appointed by the Chairman of the National Agency in accordance with the procedure established by the Regulation on the Apparatus of the National Agency and Provision on the Department.

The head of the Division according to the post shall be the deputy head of the Department.

2. The person who has been awarded a higher education degree not lower than a master's degree, has experience of work in civil service positions of categories "B" or "C" or service in local self-government authorities, or work in managerial positions of enterprises, institutions and organizations independently of the form of ownership for at least two years and who fluently speaks the state language shall be appointed to the position of the head of the Division.

3. The Head of the Division shall have a deputy, who shall fulfil duties of the head of the Division during his absence.

4. The head of the Division shall:

- 1) manage the activities of the Division and ensure the fulfillment of the tasks entrusted to him;
- 2) distribute duties between employees, ensure coordination of their activities, observance of labor discipline by them; take part in solving issues of professional development and training of employees of the Division;

- 3) carry out other authorities in accordance with the decisions of the National Agency, instructions of the directing officials of the National Agency and the Department;
 - 4) submit proposals to the head of the Department on the appointment and dismissal of employees of the Division, as well as the encouragement or application, if necessary, of disciplinary measures to them;
 - 5) directly work with documents that have restricted access or are subject to state secrets in accordance with the established procedure;
 - 6) provide for the development of employees' job descriptions; directly develop and participate in the development of draft regulatory legal acts;
 - 7) ensure implementation of the decisions of the National Agency, instructions of the Head of the National Agency, members and the head of the apparatus of the National Agency;
 - 8) report to the management of the Department on the activities of the Division;
 - 9) arrange case management in the Division;
 - 10) endorse draft documents developed by the Division.
5. The Head of the Division shall have the right:
- 1) on behalf of directing officials of the National Agency and the Department, to represent the National Agency in other public authorities on matters that fall within the competence of the Division;
 - 2) to receive the information necessary for the implementation of the tasks entrusted to the Division from the central and local executive authorities, local self-government authorities, enterprises, institutions and organizations in accordance with the established procedure;
 - 3) to receive written explanations about the authenticity of the information stated in their declarations about circumstances that may indicate the violation of other requirements and restrictions under the Law of Ukraine "On Prevention of Corruption" from persons authorized to perform functions of the state or local government.
6. The Head of the Division shall bear personal responsibility for the tasks assigned to the Division.

VI. Other Issues

The National Agency shall create conditions for the proper work and professional development of employees of the Division, provide them with the conditions necessary for work, telephone communication, computers and office equipment, transport for execution of official duties, document storage places equipped respectively, as well as regulatory legal acts, reference materials, periodicals, electronic information and legal support system, as well as access to information bases.

Employees of the Division shall exercise their powers in accordance with this Regulation and official instructions approved in accordance with the established procedure.

*Acting Head of the Department of
Financial Control and Lifestyle Monitoring*

T.V. Shkrebko

11.4.17. July 2017: Draft Rules and Procedures of Arithmetic Control

Draft 25.07.2017⁴⁸

NATIONAL AGENCY ON CORRUPTION PREVENTION

___.___.2017 # __

DECISION

On approval of Logical and Arithmetical Control Rules for declarations of persons authorized to implement functions of state and local self-government, automated verification of the above declarations and weight ratios thereof

In accordance with Section 1, Article 8; Clause 5, Section 1, Article 12; as well as Articles 48 and 50 of the Law of Ukraine "On Corruption Prevention", Clause 7, Chapter II of the Order of control and full verification of a declaration of persons authorized to implement the functions of state and local self-government (approved by the Decision #56 of the National Agency on Corruption Prevention as of 10.02.2017 and registered at the Ministry of Justice of Ukraine under #201/30069 as of 13 February 2017), the National Agency on Corruption Prevention hereby DECIDED:

1. The attached Logical and Arithmetical Control Rules for declarations of persons authorized to implement functions of state and local self-government, automated verification of the above declarations and weight ratios thereof (hereinafter referred to as "the Rules") shall be approved.
2. The Financial Control and Lifestyle Monitoring Department shall ensure publication of this decision at the official website of the National Agency on Corruption Prevention.
3. The Deputy Head of the National Agency on Corruption Prevention, Radetsky R. S., shall be charged with supervising the execution of this decision.
4. This decision shall be valid as of coming into force of the Decision of the National Agency on Corruption Prevention on ensuring technical capacity for application of the Rules.
5. The rules of automated declaration verification of persons authorized to implement the functions of state and local self-government providing comparisons of data from declarations with those from registries, databases and other information and telecommunication systems of public administrations, AR Crimea public administrations and local self-government bodies that may contain information of specific declared items shall be valid as of the date of publication of a notification at the official website of the National Agency on Corruption Prevention on technical capacity for application of the above rules.

Head

N.M. Korchak

⁴⁸ The draft has been developed under support from the UNDP Project "Enhanced Public Sector Transparency and Integrity" financed by the Ministry of Foreign Affairs of Denmark.

APPROVED

Decision # __ of the National Agency on Corruption Prevention as of __.__.2017

Logical and Arithmetical Control Rules for declarations of persons authorized to implement functions of state and local self-government, automated verification of the above declarations and weight ratios thereof

I. General Provisions

1. In accordance with Articles 48 and 50 of the Law of Ukraine "On Corruption Prevention" (hereinafter referred to as "the Law"), these Rules shall define the rules of logical and arithmetical control for declarations of persons authorized to implement functions of state and local self-government, automated verification of the above declarations and weight ratios thereof through software tools of support to the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government to define the declaration risk rating.

2. These Rules shall use the following terms and definitions:

- 1) weight ratio – an indicator defining the weight of a logical and arithmetical control rule for declarations as well as automated control rules for declarations from the risk rating;
- 2) declaration – a declaration (including revised ones) under logical and arithmetical control;
- 3) declared items – real estate items, items under construction (including information on a land lot); personal (movable) valuables (except for transport vehicles); personal (movable) valuables – vehicles; securities; other corporate rights; legal entities owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof; non-material assets; income, including gifts; monetary assets; liabilities; expenditures and transactions owned by a declarant; positions or part-time jobs of a declarant; a declarant's membership in associations (organizations) and participation in bodies thereof reflected in related sections of a declaration;
- 4) previous declaration – the last declaration of any type submitted by a declarant before the declaration under logical and arithmetical control. A declaration shall not be considered previous in case a revised version thereof is under logical and arithmetical control;
- 5) declaration automated verification rules – the rules of conformity control between the data in a declaration and those in databases under the Component 2 considered by Clause 7, Chapter II of the Order of control and full verification of a declarations of persons authorized to implement the functions of state and local self-government approved by the Decision #56 of the National Agency on Corruption Prevention as of 10.02.2017 and registered at the Ministry of Justice of Ukraine under #201/30069 as of 13 February 2017 (hereinafter referred to as "the Order");
- 6) declaration logical and arithmetical control rules – rules of conformity control over the data in a declaration in accordance with the Component 1 considered by Clause 7, Chapter II of the Order;
- 7) declaration risk rating – a grade of detected non-conformities in a declaration resulted from the use of declaration logical and arithmetical control rules as well as automated verification rules.

Other terms and definitions shall be interpreted in accordance with the Law and other accordingly approved legal and regulatory acts, specifically, the Order.

II. Declaration logical and arithmetical control rules

N. B.: The suggested list of rules as well as weight ratio values and declaration risk rating values are estimations and not finalized. Final values and the final list of rules shall be exclusively defined in accordance with results of practical testing thereof on actual declarations.

1. The following logical and arithmetical control rules shall be used:

| RULE # | DESCRIPTION | DECLARATION CONFORMITY TO THE RULE (P1 _p) | | RULE WEIGHT RATIO (K1 _p) |
|--------|--|---|----|--------------------------------------|
| 1 | The "Information on a declarant's family members" declaration section, "Tax number" or "ID number" field has the option "No information from a family member acquired" ticked | Yes | No | 30 |
| 2 | The "Real estate items" declaration section or "Items under construction" section is missing a real estate item ("City, town or village" field) located in the same place ("City, town or village" field) as a registered place of residence provided in the "Declarant's information" declaration section | Yes | No | 20 |
| 3 | The "Real estate items" declaration section is missing any real estate item owned by a declarant under any rule or law | Yes | No | 30 |
| 4 | The declaration section "Real estate items" contains any declared item in case the date of ownership right acquisition ("Ownership right acquisition date") is covered with the declared period, and at the same time, the "Value at the moment of right acquisition" and "Value in accordance with the last appraised monetary value" fields have the "Unknown" or "Non applicable" ticked | Yes | No | 50 |
| 5 | The "Real estate items" declaration section contains a declared item owned by a declarant or his/her family member under the right of ownership, joint ownership or when the real estate item is owned by a third party, but the declarant or his/her family member acquires or has the right to receive the income generated by the above item, or has the right of direct or indirect (through other physical persons or legal entities) actions related to the above item which are equivalent to the right to dispose thereof in case the above item is located in any other country but Ukraine | Yes | No | 50 |
| 6 | The total value of real estate items provided in the "Real estate items" section is equal or exceeding UAH 10,000,000. | Yes | No | 60 |
| 7 | The "Real estate items" declaration section provides three or more real estate items marked as land lots (the "Item type" field) | Yes | No | 50 |
| 8 | The "Real estate items" declaration section provides three or more real estate items marked as apartments (the "Item type" field) | Yes | No | 50 |
| 9 | The "Real estate items" declaration section provides three or more real estate items marked as residential houses (the "Item type" field) | Yes | No | 50 |
| 10 | The "Real estate items" declaration section provides a real estate item marked as an apartment or residential house (the "Item type" field) with the total area (the "Total area" field) value equivalent or exceeding 200 m ² | Yes | No | 40 |
| 11 | In the "Real estate items" declaration section, the total area (the "Total area" field) value for land lots (the "Item type" field) provided in this section is equivalent or exceeding 50,000 m ² | Yes | No | 70 |
| 12 | In the "Real estate items" declaration section, the total area (the "Total area" field) value for real estate items, except for land lots (the "Item type" field), provided in this section is equivalent or exceeding 1,000 m ² | Yes | No | 70 |



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| 13 | The "Real estate items" declaration section provides a garage available (the "Item type" field) in case the "Personal (movable) valuables – vehicles" is missing information on any vehicle | Yes | No | 40 |
| 14 | The "Real estate items" declaration section provides a residence or garden (cottage) house (the "Item type" field) in case the "Real estate items" declaration section is missing information on land lot owned by a declarant or his/her family member | Yes | No | 40 |
| 15 | The "Real estate items" declaration section provides a real estate item or items owned by a declarant's family member (members) under the right of ownership, joint ownership or when the real estate item is owned by a third party, but the family member acquires or has the right to receive the income generated by the above item or has the right of direct or indirect (through other physical persons or legal entities) actions related to the above item which are equivalent to the right to dispose thereof in case any of the above item is not owned by the declarant under any of the rights provided | Yes | No | 50 |
| 16 | The "Items under construction" declaration section provides an item under construction located in any other country but Ukraine | Yes | No | 50 |
| 17 | The "Items under construction" declaration section provides three or more items under construction | Yes | No | 50 |
| 18 | The total area (the "Total area" field) of items under construction provided in the "Items under construction" declaration section is equal or exceeding 1,000 m ² | Yes | No | 40 |
| 19 | The "Personal (movable) valuables (except for transport vehicles)" section provides any item with the ownership thereof acquired (the "Ownership right acquisition date" field) during the declared period in case the "Value as of the ownership, possession or use acquisition date" field has the "Unknown" ticked Note. This rule shall be used under condition that a personal (movable) valuable is owned by a declarant or his/her family member under the right of ownership, joint ownership or when the real estate item is owned by a third party, but the declarant or his/her family member acquires or has the right to receive the income generated by the above item, or has the right of direct or indirect (through other physical persons or legal entities) actions related to the above item which are equivalent to the right to dispose thereof | Yes | No | 50 |
| 20 | The "Personal (movable) valuables (except for transport vehicles)" section provides five or more declared items | Yes | No | 60 |
| 21 | The "Personal (movable) valuables – vehicles" declaration section provides any item with the ownership thereof acquired (the "Ownership right acquisition date" field) during the declared period in case the "Value as of the ownership, possession or use acquisition date" field has the "Unknown" ticked Note. This rule shall be used under condition that a vehicle is owned by a declarant or his/her family member under the right of ownership, joint ownership or when the real estate item is owned by a third party, but the declarant or his/her family member acquires or has the right to receive the income generated by the above item, or has the right of direct or indirect (through other physical persons or legal entities) actions related to the above item which are equivalent to the right to dispose thereof | Yes | No | 50 |

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| 22 | The total value of vehicles provided in the "Personal (movable) valuables – vehicles" declaration field is equal or exceeding UAH 1,000,000 | Yes | No | 60 |
| 23 | The "Personal (movable) valuables – vehicles" declaration section provides a vehicle marked as an "Airborne vehicle" (the "Item type" field) | Yes | No | 60 |
| 24 | The total value of securities provided in the "Securities" declaration field is equal or exceeding UAH 1,000,000 | Yes | No | 60 |
| 25 | The "Corporate rights" declaration section provides a legal entity with its head office registered in any other country but Ukraine (the "HQ registration field") | Yes | No | 40 |
| 26 | The total monetary value of corporate rights provided in the "Corporate rights" section is equal or exceeding UAH 1,000,000 | | | 50 |
| 27 | The "Legal entities owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof" declaration section provides at least one legal entity owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof | Yes | No | 40 |
| 28 | The "Legal entities owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof" declaration section provides a legal entity owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof in case the head office of the entity is registered in any other country but Ukraine (the "HQ registration field") | Yes | No | 80 |
| 29 | <p>The "Non-material assets" declaration section provides any item with the right of ownership thereof (the "Ownership right acquisition date") acquired during the declared period in case the "Value as of the ownership acquisition date" field has the "Unknown" ticked</p> <p>Note. This rule shall be used under condition that a non-material asset is owned by a declarant or his/her family member under the right of ownership, joint ownership or when the real estate item is owned by a third party, but the declarant or his/her family member acquires or has the right to receive the income generated by the above item, or has the right of direct or indirect (through other physical persons or legal entities) actions related to the above item which are equivalent to the right to dispose thereof</p> | Yes | No | 50 |
| 30 | The total monetary value of items provided in the "Monetary assets" section and owned by family members of a declarant exceed the value of 90% of the total monetary value provided in the "Monetary assets" declaration section | Yes | No | 50 |
| 31 | The total monetary value of items provided in the "Monetary assets" declaration section exceeds UAH 10,000,000 | Yes | No | 50 |
| 32 | The total monetary value of items provided in the "Monetary assets" declaration section exceeds UAH 100,000,000 | Yes | No | 70 |
| 33 | The total value of cash items provided in the "Monetary assets" declaration section exceeds UAH 5,000,000 | Yes | No | 60 |
| 34 | The total value of cash items provided in the "Monetary assets" declaration section exceeds UAH 50,000,000 | Yes | H | 80 |
| 35 | The total value of cash items provided in the "Monetary assets" declaration section exceeds the total income value provided in the "Income, including gifts" section by five or more times | Yes | No | 50 |



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| 36 | The "Monetary assets" declaration section regarding a declarant or his/her family member provides a monetary asset as costs borrowed to third parties (the "Asset type" field) in case the total value of monetary assets of this type is equal or exceeding UAH 300,000 | Yes | No | 50 |
| 37 | The total value of monetary assets borrowed to third parties (the "Asset type" field) provided in the "Monetary assets" declaration section is equal or exceeding the total income value provided in the "Income, including gifts" section | Yes | No | 60 |
| 38 | The "Monetary assets" declaration section provides available monetary assets as costs deposited to bank accounts or contributions to credit unions and other non-banking financial institutions (the "Asset type" field) in case the above institution with accounts or contributions deposited is a legal entity registered abroad (the "The institution with accounts or contributions deposited") | Yes | No | 60 |
| 39 | The "Monetary assets" declaration section provides no monetary assets as costs deposited to bank accounts (the "Asset type" field) | Yes | No | 70 |
| 40 | The "Income, including gifts" declaration section provides no income owned by a declarant | Yes | No | 60 |
| 41 | The "Income, including gifts" declaration section regarding the income declared in the "Income source" field in case the declarant himself/herself or his/her family member who acquired income as such <i>Note. This rule shall not be used in case the "Income type" field has the options "Business income", "Independent professional income" or "Gift" options selected</i> | Yes | No | 60 |
| 42 | The "Income, including gifts" declaration section regarding the income declared as a gift in the "Income type" in case the declarant himself/herself is marked as the "Income source" or his/her family member who acquired a gift as such | Yes | No | 100 |
| 43 | The total value of gifts provided in the "Income, including gifts" declaration section exceeds UAH 25,000 of the total income value provided in the same declaration section | Yes | No | 100 |
| 44 | The declaration section "Income, including gifts" provides income sourced from a foreign citizen or legal entity registered abroad (the "Person/entity" type) | Yes | No | 60 |
| 45 | The "Monetary assets" declaration section regarding a declarant provides available monetary assets as costs deposited to bank accounts with the total value exceeding UAH 1,000,000 in case the "Income, including gifts" declaration section is missing any income for a declarant specified in percentage | Yes | No | 50 |
| 46 | The "Monetary assets" declaration section regarding a declarant's family member provides available monetary assets as costs deposited to bank accounts with the total value exceeding UAH 1,000,000 in case the "Income, including gifts" declaration section is missing any income for a declarant's family member specified in percentage | Yes | No | 50 |
| 47 | The "Income, including gifts" declaration section provides a gift acquired by a declarant or his/her family member in the monetary or non-monetary form (the "Income type" field) with the value thereof (the "Amount (value)" field) equal or exceeding UAH 100,000 | Yes | No | 50 |

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| 48 | The "Income, including gifts" declaration section provides a gift acquired by a declarant or his/her family member in the monetary or non-monetary form (the "Income type" field) with the value thereof (the "Amount (value)" field) equal or exceeding UAH 1,000,000 | | | 70 |
| 49 | The "Income, including gifts" declaration section provides a gift acquired by a declarant or his/her family member in the prize/award form (the "Income type" field) with the value thereof (the "Amount (value)" field) equal or exceeding UAH 25,000 | Yes | No | 60 |
| 50 | The "Income, including gifts" declaration section provides income acquired by a declarant in case it is sourced (the "Income source" field) from a family member thereof | Yes | No | 50 |
| 51 | The "Income, including gifts" declaration section provides income acquired by a declarant's family member in case it is sourced (the "Income source" field) from another family member thereof or a declarant himself/herself | Yes | No | 50 |
| 52 | The "Income, including gifts" declaration section provides income acquired by a declarant or his/her family member in case it is sourced (the "Income source" field) from another physical person or legal entity (i.e., a person who is not a the declarant or his/her family member), and in case the same person/entity is mentioned in any other declaration section | Yes | No | 40 |
| 53 | The total income of a declarant's family member provided in the "Income, including gifts" declaration system exceeds the declarant's total income provided in the same declaration section by five or more times | Yes | No | 40 |
| 54 | The "Income, including gifts" declaration section provides income in the form of dividends (the "Income type" field) in case the "Corporate rights" declaration section does not provide any item | Yes | No | 40 |
| 55 | The "Income, including gifts" declaration section provides income in the form of royalty (the "Income type" field) in case the "Non-material assets" declaration section does not provide any item | Yes | No | 40 |
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| 56 | Total value of expenditures provided in the "Expenditures and transactions owned by a declarant" declaration section exceeds UAH 1,000,000. | Yes | No | 50 |
| 57 | Total value of expenditures provided in the "Expenditures and transactions owned by a declarant" declaration section exceeds the total income value provided in the "Income, including gifts" declaration section | Yes | No | 70 |
| 58 | Total value of expenditures provided in the "Expenditures and transactions owned by a declarant" declaration section exceeds the total monetary assets value provided in the "Monetary assets" declaration section and total income value provided in the "Income, including gifts" declaration section | Yes | No | 90 |
| 59 | Total value of expenditures provided in the "Expenditures and transactions owned by a declarant" declaration section provides five or more other transactions that did not involve any expenditures | Yes | No | 30 |
| | | | | |
| 60 | The total value of liabilities provided in the "Liabilities" declaration section exceeds the total amount of monetary assets provided on the "Monetary assets" declaration section as well as the total income value provided in the "Income, including gifts" declaration section by three or more times | Yes | No | 60 |

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|----|---|-----|----|----|
| 61 | The "Liabilities" declaration section regarding a declarant or his/her family member provides liabilities in the form funds borrowed to the declarant or his/her family members by other persons/entities (the "Liability type" field) in case a person in advantage due to such a liability (the "Person in advantage due to such a liability") is a citizen of Ukraine or other country (the "Person/entity type") and the liability value is equal or exceeding UAH 300,000 | Yes | No | 70 |
| 62 | The "Liabilities" declaration section provides a legal entity mentioned in any other section of the declaration as a guarantor (the "Guarantor") or owner of property acting as a security bond (the "Owner of property acting as a security bond" field) | Yes | No | 50 |
| 63 | The "Declarant's position or part-time job" declaration section provides a position or employment executed (was executed) part-time in case the "Employing (part-time) physical person or legal entity", "Tax number" (in case a person is a citizen of Ukraine), "Identification number" (in case a person is a foreign citizen or legal entity registered abroad) or "Code in the Unified State Register of Legal Entities, Physical Persons Entrepreneurs and Civic Associations" (in case of a legal entity registered in Ukraine) fields have the "Unknown" ticked | Yes | No | 70 |
| 64 | The "Declarant's position or part-time job" declaration section provides a position or employment executed (was executed) part-time in case the above position (employment) is marked as "Paid" in the related field | | | 40 |
| 65 | A declarant or his/her family member has under the right of rent or any other right of use any declared item (the "Real estate items", "Items under construction", "Personal (movable) valuables (except for transport vehicles)", "Personal (movable) valuables – vehicles", "Securities", "Corporate rights", "Non-material assets", "Income, including gifts" and "Monetary assets" declaration sections), and the registered owner thereof is a legal entity, but this entity is not provided in the "Legal entities owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof" declaration section | Yes | No | 50 |
| 66 | A declarant or his/her family member has under the right of rent or any other right of use any declared item (the "Real estate items", "Items under construction", "Personal (movable) valuables (except for transport vehicles)", "Personal (movable) valuables – vehicles", "Securities", "Corporate rights", "Non-material assets", "Income, including gifts" and "Monetary assets" declaration sections), and the registered owner thereof has the "Unknown" ticked in the "Tax number" (owner is a citizen of Ukraine), "Identification number" (owner is a foreign citizen or a legal entity registered abroad) or "Code in the Unified State Register of Legal Entities, Physical Persons Entrepreneurs and Civic Associations" (owner is a legal entity registered in Ukraine) fields | Yes | No | 50 |
| 67 | A declarant or his/her family member has any declared item in joint ownership (the "Real estate items", "Items under construction", "Personal (movable) valuables (except for transport vehicles)", "Personal (movable) valuables – vehicles", "Securities", "Corporate rights", "Non-material assets", "Income, including gifts" and "Monetary assets" declaration sections) in case a legal entity is provided as a co-owner of the above | Yes | No | 40 |

Note. In case any cash assets and/or other monetary assets are declared in foreign currency, when determining the total value of the above funds (assets) and in order to use the rules specified, there shall be used the total costs (assets) in foreign currency exchanged into the amount in Ukrainian hryvnas in accordance with the official currency exchange rates thereof set by the National Bank of Ukraine as of the last reporting date for a declaration as such.

2. Under the logical and arithmetical control rules specified in Clause 1 of this Chapter, a declaration's conformity to the above rules shall be calculated as follows:

$$S1 = \sum_{i=1}^N P1_i \times K1_i$$

wherein:

S1 – declaration's conformity to logical and arithmetical control rules;

N – total quantity of logical and arithmetical control rules used for S1 calculation;

P1_i – solution acquired as a result of use of i-th logical and arithmetical control rule (P1_i shall be 1 in case of "Yes"; P1_i shall be 0 in case the answer is "No");

K1_i – weight ratio of the i-th declaration logical and arithmetical control rule (from 10 to 100).

III. Declaration automated verification rules

N. B.: The suggested list of rules as well as weight ratio values and declaration risk rating values are estimations and not finalized. Final values and the final list of rules shall be exclusively defined in accordance with results of practical testing thereof on actual declarations.

1. The following automated verification rules shall be used:

| RULE # | DESCRIPTION | DECLARATION CONFORMITY TO THE RULE (P _{2j}) | | RULE WEIGHT RATIO (K _{2j}) |
|--------|---|---|----|--------------------------------------|
| 1 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there are detected two or more new declared real estate items in the "Real estate items" declaration section | Yes | No | 50 |
| 2 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there are detected two or more new declared items under construction in the "Items under construction" declaration section | Yes | No | 50 |
| 3 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there are detected two or more new personal (movable) valuables (except for transport vehicles) in the "Personal (movable) valuables (except for transport vehicles)" declaration section | Yes | No | 50 |
| 4 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there are detected two or more declared items in the "Personal (movable) valuables – vehicles" declaration section | Yes | No | 50 |
| 5 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there is detected increased total income in the "Income, including gifts" declaration section by two or more times | Yes | No | 60 |
| 6 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there is detected increased total expenditure value in the "Expenditures and transactions owned by a declarant" declaration section by two or more times | Yes | No | 70 |

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|----|--|-----|----|-----|
| 7 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there is detected a missing declared item provided in a previous declaration within the “Real estate items” declaration section, and at the same time, the “Income, including gifts” declaration section is missing income related to real estate alienation (the “Income type” field) | Yes | No | 50 |
| 8 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there is detected a missing declared item provided in a previous declaration within the “Personal (movable) valuables (except for transport vehicles” declaration section or “Personal (movable) valuables – vehicles” declaration section, and at the same time, the “Income, including gifts” declaration section is missing income related to personal (movable) property alienation (the “Income type” field) | Yes | No | 50 |
| 9 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, there is detected a missing declared item provided in a previous declaration within the “Securities” or “Corporate rights” section, and at the same time, the “Income, including gifts” declaration section is missing income related to security or corporate rights alienation (the “Income type” field) | Yes | No | 50 |
| 10 | As a result of comparison between the data in a declaration and those in a previous declaration of declarant, it is detected that the total value of monetary assets provided in a declaration is lower than the amount of total monetary assets provided in a previous declaration as well as the total income provided in the declaration. At the same time, the following formula is used: $A1 + I < A2$, wherein: A1 – is the total value of monetary assets provided in a declarant’s previous declaration, within the “Monetary assets” declaration section; I – is the total income value provided in the “Income, including gifts” declaration section; A2 – is the total value of monetary assets provided in the “Monetary assets” declaration section. | | | 100 |
| 11 | As a result of comparison between the data in a declaration and those in the State Civil Register, there is a detected non-conformity with the data provided in the “Information on a declarant’s family members” declaration section | Yes | No | 60 |
| 12 | As a result of comparison between the data in a declaration and those in the State Register of Proprietary Rights to Immovable Property, there is a detected non-conformity with a declared item provided in the “Real estate items” and “Liabilities” declaration sections | Yes | No | 70 |
| 13 | As a result of comparison between the data in a declaration and those in the State Register of Proprietary Rights to Immovable Property, there is a detected non-conformity with two or more declared items provided in the “Real estate items” and “Liabilities” declaration sections | Yes | No | 70 |
| 14 | As a result of comparison between the data in a declaration and those in the State Land Cadastre, there is a detected non-conformity with a declared item provided in the “Real estate items” and “Items under construction” declaration sections | Yes | No | 70 |
| 15 | As a result of comparison between the data in a declaration and those in the State Land Cadastre, there is a detected non-conformity with two or more declared items provided in the “Real estate items” and “Items under construction” sections | Yes | No | 70 |

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|----|--|-----|----|----|
| 16 | As a result of comparison between the data in a declaration and those in databases of the State Architectural and Construction Inspection of Ukraine, there is a detected non-conformity with a declared item provided in the "Real estate items" and "Items under construction" declaration sections | Yes | No | 70 |
| 17 | As a result of comparison between the data in a declaration and those in databases of the State Architectural and Construction Inspection of Ukraine, there is a detected non-conformity with two or more items provided in the "Real estate items" and "Items under construction" declaration sections | Yes | No | 70 |
| 18 | As a result of comparison between the data in a declaration and those in the Unified State Register of Registered Motor Vehicles and their Owners at the Ministry of Internal Affairs, there is a detected non-conformity with a declared item provided in the "Personal (movable) valuables – vehicles " declaration section | Yes | No | 70 |
| 19 | As a result of comparison between the data in a declaration and those in the Unified State Register of Registered Motor Vehicles and their Owners at the Ministry of Internal Affairs, there is a detected non-conformity with two or more declared items provided in the "Personal (movable) valuables – vehicles" declaration section | Yes | No | 70 |
| 20 | <i>As a result of comparison between the data in a declaration and those in the State Register of Airborne Vessels, there is a detected non-conformity with a declared item provided in the "Personal (movable) valuables – vehicles" declaration section</i> | Yes | No | 70 |
| 21 | <i>As a result of comparison between the data in a declaration and those in the State Register of Airborne Vessels, there is a detected non-conformity with two or more declared items provided in the "Personal (movable) valuables – vehicles" declaration section</i> | Yes | No | 70 |
| 22 | As a result of comparison between the data in a declaration and those in the State Ship Register of Ukraine and Vessel Book, there is a detected non-conformity with a declared item provided in the "Personal (movable) valuables – vehicles " declaration section | Yes | No | 70 |
| 23 | As a result of comparison between the data in a declaration and those in the State Ship Register of Ukraine and Vessel Book, there is a detected non-conformity with two or more declared items provided in the "Personal (movable) valuables – vehicles" declaration section | Yes | No | 70 |
| 24 | As a result of comparison between the data in "Personal (movable) valuables – vehicles" declaration section (the "Value as of the ownership, possession or use acquisition date" field) regarding a passenger car (the "Asset type") with the data on the average cost of passenger cars estimated for taxation thereof in accordance with a Clause of the Tax Code of Ukraine and the Average Price Estimation Technique for passenger cars approved by the Decree of the Cabinet of Ministers of Ukraine, there is a detected non-conformity between a declared cost of the above car and an average market price thereof for a related brand, type, model and manufacturing date, which exceeds UAH 200,000 | Yes | No | 90 |
| 25 | As a result of comparison between the data in a declaration and those in databases (registries) of the National Securities and Stock Market Commission, there is a detected non-conformity with a declared item provided in the "Securities" declaration section | Yes | No | 70 |
| 26 | As a result of comparison between the data in a declaration and those in databases (registries) of the National Securities and Stock Market Commission, there is a detected non-conformity with two or more declared items provided in the "Securities" declaration section | Yes | No | 70 |

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|----|--|-----|----|----|
| 27 | As a result of comparison between the data in a declaration and those in the Unified State Register of Legal Entities, Physical Persons Entrepreneurs and Civic Associations, there is a detected non-conformity with a declared item provided in the "Corporate rights", "Legal entities owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof" or "Declarant's membership in associations (organizations) and participation in bodies thereof" declaration sections | Yes | No | 70 |
| 28 | As a result of comparison between the data in a declaration and those in the Unified State Register of Legal Entities, Physical Persons Entrepreneurs and Civic Associations, there is a detected non-conformity with two or more declared items provided in the "Corporate rights", "Legal entities owned by a declarant or his/her family members who are end beneficiary owners (controllers) thereof" or "Declarant's membership in associations (organizations) and participation in bodies thereof" declaration sections | Yes | No | 70 |
| 29 | As a result of comparison between the data in a declaration and those in databases of the State Fiscal Service, there is a detected non-conformity with a declared item provided in the "Income, including gifts" declaration section | Yes | No | 70 |
| 30 | As a result of comparison between the data in a declaration and those in databases of the State Fiscal Service, there is a detected non-conformity with two or more declared items provided in the "Income, including gifts" declaration section | Yes | No | 70 |
| 31 | As a result of comparison between the data in a declaration and those in databases of the Pension Fund of Ukraine, there is a detected non-conformity with a declared item provided in the "Income, including gifts" declaration section | Yes | No | 70 |
| 32 | As a result of comparison between the data in a declaration and those in databases of the Pension Fund of Ukraine, there is a detected non-conformity with two or more declared items provided in the "Income, including gifts" declaration section | Yes | No | 70 |
| 33 | As a result of comparison between the data in a declaration and those in databases of the Ministry of Social Policy of Ukraine, there is a detected non-conformity with a declared item provided in the "Income, including gifts" declaration section | Yes | No | 70 |
| 34 | As a result of comparison between the data in a declaration and those in databases of the Ministry of Social Policy of Ukraine, there is a detected non-conformity with two or more declared items provided in the "Income, including gifts" declaration section | Yes | No | 70 |
| 35 | As a result of comparison between the data in a declaration and those in the Unified Register of Powers of Attorney, there is a detected non-conformity with a declared item provided in the "Real estate items", "Items under construction", "Personal (movable) valuables (except for transport vehicles)", "Personal (movable) valuables – vehicles", "Securities", "Corporate rights" and "Non-material assets" declaration sections | Yes | No | 70 |
| 36 | As a result of comparison between the data in a declaration and those in the Unified Register of Powers of Attorney, there is a detected non-conformity with two or more declared items provided in the "Real estate items", "Items under construction", "Personal (movable) valuables (except for transport vehicles)", "Personal (movable) valuables – vehicles", "Securities", "Corporate rights" and "Non-material assets" declaration sections | Yes | No | 70 |

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|----|---|-----|----|----|
| 37 | As a result of comparison between the data in a declaration and those in the State Register of Personal Property Limitation, there is a detected non-conformity with a declared item provided in the "Personal (movable) valuables (except for transport vehicles"; "Personal (movable) valuables – vehicles"; "Liabilities" declaration sections | Yes | No | 70 |
| 38 | As a result of comparison between the data in a declaration and those in the State Register of Personal Property Limitation, there is a detected non-conformity with two or more items provided in the "Personal (movable) valuables (except for transport vehicles"; "Personal (movable) valuables – vehicles"; "Liabilities" declaration sections | Yes | No | 70 |

Note. 1. The non-conformity detected with comparison between data in a declaration with those in registries, databases and other information and telecommunication systems of public administrations, AR Crimea public administrations and local self-government bodies that may contain information of specific declared items (hereinafter referred to as "related databases") shall be interpreted as availability of data on a declared item in related databases which are different from those data provided in a declaration, as well as data in related databases regarding a declared item which is not provided in a declaration.

2. In case of detecting a non-conformity resulted from comparison between declared data and those in related databases, which refers to quantitative characteristics of a declared item, such a non-conformity is considered in case its value exceeds UAH 1,000 for monetary expressed characteristics, 2 m² for real estate area characteristics (except for a land lot), 10 m² for a land lot characteristics.

2. In accordance with results of applying automated verification rules provided in Clause 1 of this Chapter as well as logical and arithmetical control rules provided in Chapter II of these Rules regarding a declaration, the declaration risk rating shall be calculated as follows:

$R = S1 + S2$, wherein:

R – declaration risk rating;

S1 – declaration's conformity to logical and arithmetical control rules determined in accordance with Chapter II of these Rules;

S2 – declaration's conformity to automated verification rules. At the same time:

$$S2 = \sum_{i=1}^N P2_i \times K2_i$$

wherein:

N – total number of declaration automated verification rules used for S2 determination;

$P2_i$ – solution acquired as a result of use of i-th automated verification rule ($P2_i$ shall be 1 in case of "Yes"; $P2_i$ shall be 0 in case the answer is "No");

$K2_i$ – weight ratio of the i-th declaration automated verification rule (from 10 to 100).

3. R shall be considered the declaration risk rating value, which is equal to 3,100.

11.4.18. Court judgments

a. No. #755/10343/17 (late declaration)

Case category #755/10343/17: Administrative cases; financial control violations.

Sent by the Court: 28.07.2017. Registered: 28.07.2017. Published: 01.08.2017.

Case #755/10343/17

3/755/5203/17

DECREE

IN THE NAME OF UKRAINE

On "24" July 2017, Dnipro Rayon Court of the City of Kyiv composed of:

Chaired by the Judge Kurylo A. V., Secretary Chub N. S., Participated by Prosecutor Andreev Y. A,

after a public hearing of administrative material provided by the Economic Security Department of the National Police on instituting administrative action against PERSON_2, INFORMATION_1, resident of the city of Kyiv, citizen of Ukraine, unemployed, registered and residing at: ADDRESS_1

regarding administrative violation provided in Part 1, Article 1726, the Administrative Code of Ukraine (hereinafter referred to as "ACU"),-

decreed as follows:

PERSON_2, being a person dismissed from public service on 30 September 2016 and the one who ceased his activities related to implementation of the functions of state and local self-government, was obliged to submit a declaration of a person authorized to implement the functions of state and local self-government for the previous year no later than 01 May 2017 by filling a specific form at the official website of the National Agency on Corruption Prevention of Ukraine, with the format of the latter approved by the National Agency. However, in accordance with the Public Section of the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government, the declaration of the above person was submitted as late as 24.06.2017.

During the hearing of the case at the court, PERSON_2 pleaded guilty and explained that he visited the NACP website beforehand to fill in an electronic declaration for 2016. After successful registration, he started filling the form but had to do that at night due to constant system overload and website freezing. After several attempts to do the above, he managed to finish on 23.04.2017 late at night and save it as a draft. Later, he got a message confirming the saved copy, which he considered a notification of successful submission. On 20.06.2017, he had a call from Dnipro RSA that the National Police had requested information on his declaration submission. Afterwards, he entered his NACP website account and noticed that his declaration had not been submitted as such but saved as a draft. On 24.06.2017, he submitted the electronic declaration properly. Moreover, he explained that he had no intent not to submit or unduly submit the electronic declaration.

During the hearing at the court, the Prosecutor requested to hold PERSON_2 administratively liable in accordance with Part 1, Article 1726, ACU.

After having considered opinions of the case participants and studied the related materials, the court determines the following.

Part 1, Article 1726, ACU considers liability for untimely submission of a declaration of a person authorized to implement the functions of state and local self-government without a clear reason.

In accordance with Article 245, ACU, a proceeding of an administrative violation is to determine circumstances of each specific case in a timely, comprehensive and unbiased manner to decide in absolute accordance with the valid Law.

In accordance with Article 22, ACU, considering the minor nature of an administrative violation/offence, a public administration/public official authorized to decide the case has the right to free a defender from administrative liability and restrict with a verbal warning.

Considering the fact that PERSON_2 had no to unduly submit the electronic declaration, and his actions did not inflict any serious harm on public interests, the court duly arrives at the conclusion on a possible release of the defendant from administrative liability restricting with a verbal warning.

In accordance with Articles 22, 33, 34, Part 1 of 1727, 252, 283-285, 289, 291, 294, ACU, the court, -

DULY DECREES:

to find PERSON_2 guilty in administrative violation considered by Part 1, Article 1726. ACU.

to free PERSON_2 from administrative liability for the administrative violation committed and provided in Part 1, Article 1726, ACU due to minor nature thereof and restrict with a verbal warning.

The Decree can be contested in no later than ten days as of issue thereof at the Court of Appeal of the City of Kyiv through the Dnipro Rayon Court of the City of Kyiv.

Judge:

b. No. #757/14908/17 (late declaration)

Case category #757/14908/17-p: Administrative cases; financial control violations.

Sent by the Court: 27.07.2017. Registered: 28.07.2017. Published: 31.07.2017.

Pechersk Rayon Court of the City of Kyiv

Case #757/14908/17-p

DECREE

IN THE NAME OF UKRAINE

On 22 April 2017, a Judge of the Pechersk Rayon Court of the City of Kyiv, Tarasyuk K. E., accompanied with the Secretary Ksendzova A. V., participated by the Prosecutor Sotchenko M. M., a person under administrative trial at the court, PERSON_1, after a public hearing of a case of administrative violation committed by PERSON_1, INFORMATION_1, a citizen of Ukraine, holding the position of the Head of the Informatization, Telecommunication and Information Security Office at the Supreme Court of Ukraine, place of residence: ADDRESS_1 according to Part 1, Article 176-6, Administrative Code of Ukraine (hereinafter referred to as "ACU"),-

decreed as follows:

PERSON_1, holding the position of the Head of the Informatization, Telecommunication and Information Security Office at the Supreme Court of Ukraine located at: Kyiv, 8 Pylypa Orlyka Str. since 25.04.2016 and up to now, while being a declarant in accordance with the note to Article 50 of the Law of Ukraine "On Corruption Prevention", in contradiction to Clause 2, Section XII "Final Provisions" of the Law of Ukraine "On Corruption Prevention" as well as

the Decision #2 made by the National Agency on Corruption Prevention of Ukraine “On initiation of the system of declaration submission and publication for persons authorized to implement the functions of state and local self-government” as of 10.06.2016 registered at the Ministry of Justice of Ukraine under #958/29088 as of 15.07.2016, was late with submission of an annual declaration for 2015 by filling a specific form at the official website of the National Agency on Corruption Prevention of Ukraine, which is 03.11.2016, with the deadlines stated no later than 30.10.2016.

The violation was committed on 03.11.2016 at: ADDRESS_2 and detected on 01.03.2017.

After the hearing of the case at the court regarding the testimony of PERSON_1 who pleads guilty to the violation charged, the Prosecutor who supported evidence-based protocol data on the administrative violation at hand and having reviewed the case papers, the court duly arrived at the following conclusion.

Paragraphs 2, 3, Clause 2, Section XII “Final Provisions” of the Law of Ukraine “On Corruption Prevention” provide that the National Agency shall make a decision on initiation of the system for declaration submission and publication in accordance with the valid Law. In 2016, public officials who are holding positions of high and highest importance at the moment of initiation of the above system and in accordance with Article 50 of the Law shall submit annual declarations for the previous year in accordance with the order provided by this Law but no later than 60 days as of the initiation of the system.

In accordance with the Decision #2 of the National Agency on Corruption Prevention of Ukraine “On initiation of the Submission and Publication System for Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government” as of 10.06.2016 registered at the Ministry of Justice of Ukraine under #958/29088 as of 15.07.2016, the deadline for submission of a declaration for 2015 by public officials holding positions of high and highest importance as of 01 September 2016 shall be 30.10.2016.

With the above in mind, PERSON_1 was obliged to submit an annual declaration for 2015 no later than 30.10.2016 by filling a specific form at the official website of the National Agency on Corruption Prevention of Ukraine but did not do as such, and the declaration was submitted as late as on 03.11.2016.

The above circumstances were acknowledged by PERSON_1 at the trial and confirmed by the Letter #242-3935/0/8-16 as of 02.11.2016 and the Letter #242-4415/0/8-16 as of 08.12.2016 from the Supreme Court of Ukraine on untimely submission of an annual declaration for 2015 by PERSON_1, as well as the Opinion #207/50-51 of the National Agency on Corruption Prevention of Ukraine as of 29.11.2016.

With actual circumstances of the case in mind, the court determines activities of PERSON_1 under Part 1, Article 172-6, ACU as an untimely submission of a declaration for 2015 by a person authorized to implement the functions of state and local self-government without a clear reason.

When determining an administrative forfeiture, the court followed provisions of Article 33, ACU and considered the nature of the violation committed, data on the offender’s identity who has independent income and is under administrative trial for the first time, pleaded guilty and is honest with repentance, which is considered extenuating circumstances by the court, and the latter deems appropriate to impose a minimum sanctioned fine on PERSON_1 as an educational measure in accordance with Part 1, Article 172-6, ACU.

With the above in mind and in accordance with Articles 245, 280, 283, 284, ACU, the court,-

DULY DECREES:

to find PERSON_1 guilty in administrative violation considered by Part 1, Article 172-6, ACU and impose a fine in the amount of 50 tax-free minimum incomes of an individual, which is UAH 850.

to recover a court fee in the amount of UAH 320 from PERSON_1 to the benefit of the state.

The Decree can be contested in no later than ten days as of issue thereof at the Court of Appeal of the City of Kyiv through the Pechersk Rayon Court of the City of Kyiv.

The Decree shall be legally binding in no later than 3 months.

Judge

K.E. Tarasyuk

c. No. #753/11752/17 (late declaration)

Case category #753/11752/17: Administrative cases; financial control violations.

Sent by the Court: 27.07.2017. Registered: 30.07.2017. Published: 01.08.2017.

Darnytsya Rayon Court of the City of Kyiv

Case #753/11752/17

proceeding #3/753/3730/17

DECREE

IN THE NAME OF UKRAINE

On 20 July 2017, a Judge of the Darnytsya Rayon Court of the City of Kyiv, Shchasna T. V., accompanied with a Prosecutor of the Kyiv City Prosecution Office #2, Babinska A. V., after having reviewed a protocol of administrative corruption violation considered by Article 172-6, Part 1, the Administrative Code of Ukraine (hereinafter referred to as "ACU") committed by PERSON_3, INFORMATION_1, resident of the city of Kyiv, citizen of Ukraine, unemployed, registered and residing at: ADDRESS_1,-

decreed as follows:

PERSON_3 INFORMATION_1, holding the position of the Head of a department – a public registrar of the Darnytsya Public Registration Unit for Legal Entities and Public Persons-Entrepreneurs at the Public Registration Office of the Public Registration Administration of the Chief Territorial Administration of Justice in the City of Kyiv from 10.12.2015 to 21.10.2016, being a "B" category public official, in accordance with Subclause "c", Clause 1, Section 1, Article 3 of the Law of Ukraine "On Corruption Prevention", note to Article 172-6, ACU, being a subject of liability covered by the Law of Ukraine "On Corruption Prevention", a subject liable for violations related to corruption in accordance with requirements provided in Section 1, Paragraph 1, Section 2, Article 45 of this Law at the time of cancellation of activities related to implementation of the functions of state and local self-government, untimely and without a clear reason submitted a declaration of a person authorized to implement the functions of state and local self-government for a period previously not covered by submitted declarations, which is an administrative violation related to corruption with liability imposed in accordance with Section 1, Article 172-6, ACU.

Hence, in accordance with the Order #3385/03 of the Chief Territorial Administration of Justice in the City of Kyiv as of 10.12.2015, PERSON_3, was appointed at the position of the Head of a department – a public registrar of the Darnytsya

Public Registration Unit for Legal Entities and Public Persons-Entrepreneurs at the Public Registration Office of the Public Registration Administration of the Chief Territorial Administration of Justice in the City of Kyiv as of 10.12.2015.

As of 01.07.2013, PERSON_3 has been warned on special restrictions provided by the Law of Ukraine "On Civil Service" and "The Basics of Corruption Prevention and Counteraction" regarding employment at civil service institutions and execution of civil service as such.

As of 10.08.2105, PERSON_3 has been warned on special restrictions provided by the Law of Ukraine related to employment and execution of civil service.

In accordance with the Order #2224/03 of the Chief Territorial Administration of Justice in the City of Kyiv as of 18.10.2016, PERSON_3 has been dismissed from the position of the Head of a department – a public registrar of the Darnytsya Public Registration Unit for Legal Entities and Public Persons-Entrepreneurs at the Public Registration Office of the Public Registration Administration of the Chief Territorial Administration of Justice in the City of Kyiv as of 21.10.2016 by mutual agreement of the parties and in accordance with Part 2, Article 86, of the Law of Ukraine "On Civil Service".

In accordance with Article 68 of the Constitution of Ukraine, every citizen shall ultimately comply with the Constitution of Ukraine and Laws of Ukraine, never to infringe on human rights, freedoms, honor and dignity. Ignorance of the law is no excuse for legal binding.

In accordance with Clause 9, Article 1 of the Law of Ukraine "On Corruption Prevention", a corruption-related violation is an action without corruption indicators but violating requirements provided by this Law, as well as bans and restrictions, which is committed by a person provided in Section 1, Article 3 of this Law, for which the above person shall be hold criminally, administratively, disciplinary and/or legally liable.

In accordance with Section 1, Article 65 of this Law, persons who committed a corruption or corruption-related crime or violation, as provided in Section 1, Article 3 of this Law, shall be hold criminally, administratively, disciplinary and/or legally liable in accordance with the legally set order.

In accordance with Subclause "c", Clause 1, Section 1, Article 3 of the Law of Ukraine "On Corruption Prevention", public officials are subjects covered by this Law.

In accordance with Article 1 of the above Law, declarants are the persons provided in Clause 1, Subclauses "a" and "c" of Clause 2, Clauses 4-5, Section 1, Article 3 of this Law as well as other persons obliged to submit a declaration in accordance with this Law.

Hence, PERSON_3, being a public official, was a subject covered by the Law of Ukraine "On Corruption Prevention" and holds liability for corruption-related violations.

Paragraph 1, Section 2, Article 45 of the Law of Ukraine "On Corruption Prevention" provide that the persons provided in Clause 1, Subclauses "a" and "c" of Clause 5, Section 1, Article 3 of this Law who cease their activities related to the functions of state and local self-government shall submit a declaration of a person authorized to implement the functions of state and local self-government for the period previously non-covered by submitted declarations.

In accordance with Paragraph 3, Clause 2, Chapter XIII of the "Final Provisions" of the Law of Ukraine "On Corruption Prevention", in 2016, public officials who are holding positions of high and highest importance at the moment of initiation of the above system and in accordance with Article 50 of this Law shall submit annual declarations for the previous year in accordance with the order provided by this Law but no later than 60 days as of the initiation of the system.

In accordance with the note to Article 50 of the Law of Ukraine “On Corruption Prevention”, public officials who are holding positions of high and highest importance for the purpose of the above article shall be those belonging to the “A” or “B” civil service category.

In accordance with the Decision #2 of the National Agency on Corruption Prevention of Ukraine (hereinafter referred to as “the National Agency”) “On initiation of the Submission and Publication System for Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government” as of 10.06.2016 registered at the Ministry of Justice of Ukraine under #958/29088 as of 15.07.2016, it is defined that the system of submission and publication of declarations of the persons authorized to implement the functions of state and local self-government shall be initiated in two stages, with the stage one – as of 00 hours 00 minutes of 15 August 2016, including such types of declarations (notifications) and declarants as those specified in Paragraph 1, Section 2, Article 45 of the Law (declarations of persons who cease their activity in implementing the functions of state and local self-government), public officials who are appointed at positions of high and highest importance as of 15 August 2016 in accordance with Article 50 of the Law.

In accordance with the Decision #1 of the National Agency as of 18.08.2016 “On amendments to specific decisions made by the National Agency on Corruption Prevention of Ukraine regarding operations of the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government”, amendments to Subclause 1, Clause 1 of the NACP Decision #2 “On initiation of the Submission and Publication System for Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government” as of 10.06.2016 registered at the Ministry of Justice of Ukraine under #958/29088 as of 15.07.2016, specifically, the words and values “15 August 2016” shall be replaced with the words and values “01 September 2016”. Hence, in accordance with the Law of Ukraine “On Corruption Prevention”, the Submission and Publication System for declarations of persons authorized to implement the functions of state and local self-government was initiated in two stages: the first stage – as of 00 hours 00 minutes of 01 September 2016, including such types of declarations (notifications) and declarants as those specified in Paragraph 1, Section 2, Article 45 of the Law (declarations of persons who cease their activity in implementing the functions of state and local self-government), public officials who are appointed at positions of high and highest importance as of 01 September 2016 in accordance with Article 50 of the Law.

In accordance with Subclause 2, Clause 5, Chapter II of the Order of provision of information from the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government approved by the Decision #3 of the National Agency on Corruption Prevention of Ukraine as of 10.06.2016 registered at the Ministry of Justice of Ukraine under #959/29089 as of 15.07.2016, a declaration of declarants who cease their activity in implementing the functions of state and local self-government shall be submitted no later than the day of cessation thereof. In case the latter is initiated by an employer, a declaration shall be submitted in no later than twenty days as of the moment a declarant was or supposed to be aware of the above cessation.

A declaration of declarants who cease their activities related to the functions of state and local self-government shall submit a declaration of a person authorized to implement the functions of state and local self-government for the period previously non-covered by submitted declarations. The date before the declaration submission shall be the last day covered by a declaration as such. Previously submitted declarations shall be those submitted to the Register in accordance with the Law and those in accordance with the Law of Ukraine “On the Basics of Corruption Prevention and Counteraction”.

In accordance with Paragraph 4, Section 1, Article 2 of the Law of Ukraine “On Civil Service”, a civil service position shall be determined by the structure and staffing schedule, which is a primary structural unit of a public administration with official duties authorized by Section 1, Article 1 of this Law.

Paragraph 2, Section 2, Article 6 of the Law of Ukraine “On Civil Service” provides that the “B” category of civil service shall include public officials appointed as heads of ministerial structural divisions as well as those of other central executive bodies and other public administrations, their deputies, heads of territorial offices of the above public administrations as well as heads and deputy heads of structural divisions thereof.

Moreover, in accordance with the annual declaration 2016 (after dismissal) of the person authorized to implement the functions of state and local self-government as the head of a department at the Darnytsya Public Registration Unit for Legal Entities and Public Persons-Entrepreneur, PERSON_3, the above hereby provides that the civil service position hold by the defendant during the reporting period shall be related to the “B” category of civil service.

Hence, PERSON_3, holding the position of the Head of a department – a public registrar of the Darnytsya Public Registration Unit for Legal Entities and Public Persons-Entrepreneurs at the Public Registration Office of the Public Registration Administration of the Chief Territorial Administration of Justice in the City of Kyiv and being a “B” category public official at the moment of cessation of functions of state and local self-government was obliged to submit a declaration of a person who ceases activities in implementing the functions of state and local self-government no later than the cessation date thereof.

It was clarified that as of 21.10.2016, PERSON_3, while being dismissed from the position of the Head of a department – a public registrar of the Darnytsya Public Registration Unit for Legal Entities and Public Persons-Entrepreneurs at the Public Registration Office of the Public Registration Administration of the Chief Territorial Administration of Justice in the City of Kyiv, hence ceasing activities in implementing the functions of state and local self-government, understanding the obligation of submitting a declaration of a person who ceases activities in implementing the functions of state and local self-government for a period previously not covered by submitted declarations no later than the cessation date thereof in accordance with the Public Section of the Unified State Register of Declarations of the Persons Authorized to Implement the Functions of State and Local Self-Government, submitted the above declaration to the Submission and Publication System in accordance with the Law of Ukraine “On Corruption Prevention” regarding declarations of all persons authorized to implement the functions of state and local self-government as later as on 22.05.2017, which is determined as an untimely submission with no clear reason.

The date of the corruption-related administrative violation shall be the cessation date of functions of state and local self-government by PERSON_3, which is 21 October 2016.

In this case, the location cannot be determined since PERSON_3 had an opportunity to submit a declaration of a person authorized to implement the functions of state and local self-government through the internet network from anywhere.

With the above in mind, PERSON_3, INFORMATION_1, holding the position of the Head of a department – a public registrar of the Darnytsya Public Registration Unit for Legal Entities and Public Persons-Entrepreneurs at the Public Registration Office of the Public Registration Administration of the Chief Territorial Administration of Justice in the City of Kyiv and being a “B” category public official at the moment of cessation of functions of state and local self-government, in accordance with Subclause “b”, Clause 1, Section 1, Article 3 of the Law of Ukraine “On Corruption Prevention”, note to Article 172-6, ACU, being a subject of liability covered by the Law of Ukraine “On Corruption Prevention”, a subject liable for violations related to corruption in accordance with requirements provided in Section 1, Paragraph 1, Section 2, Article 45 of this Law at the time of cancellation of activities related to implementation of the functions of state and local self-government, untimely and without a clear reason submitted a declaration of a person authorized to implement the functions of state and local self-government for a period previously not covered by submitted declarations, which is an administrative violation related to corruption with liability imposed in accordance with Section 1, Article 172-6, ACU.

During the hearing, PERSON_3 filed a request on termination of the case proceeding on administrative violation due to expiration of terms for imposing an administrative fine since in accordance with the Notification #51-12/8342/17 from the National Agency on Corruption Prevention of Ukraine on the fact of a non-submitted declaration of a person authorized to implement the functions of state and local self-government as of 28.03.2017 referred to the National Police of Ukraine, as provided in the case evidence, it is considered that the National Agency on Corruption Prevention of Ukraine notified the National Police of Ukraine on the fact of a non-submitted declaration of a person authorized to implement the functions of state and local self-government for a period previously not covered by submitted declarations (from 01.01.2016 to 20.10.2016).

In accordance with the incoming seal of the Economic Security Department of the National Police of Ukraine, it is considered that the Economic Security Department received the above Notification #6557 as of 03.04.2017.

Hence, in accordance with provisions of Section 3, Article 38, ACU, the 3-month term provided for administrative liability for a violation provided in Article 172-6, ACU, in any case was over as of 03.07.2017 already.

Therefore, as of today, the court has no reason for holding PERSON_3 administratively responsible for a violation provided in Article 172-6, ACU.

During the hearing, PERSON_3 endorsed the idea of the defender on termination of the case proceeding on administrative violation due to expiration of terms for imposing an administrative fine but noted that he did not plead guilty since he had submitted the declaration in the paper format in due time.

The guilt is evidenced by provided pre-trial materials, specifically, by the protocol of administrative violation as of 21.06.2017, a copy of the declaration, a letter on arrangement of the notification review approved by the Order #3 of NP ESD "Provisions on economic security management in the City of Kyiv" issued by the Economic Security Department of the National Police of Ukraine as of 16.11.2015.

At the same time, the administrative violation was committed by PERSON_3 on 21.10.2016.

In accordance with Section 2, Article 38, ACU, if an administrative case is considered in accordance with the valid Code or other laws under jurisdiction of a judge (judges), a fine can only be imposed no later than three months as of the date a violation was committed.

Since more than three months had passed as of the moment of the commitment, all the proceedings under this case shall be terminated.

In accordance with Article 38, Section 2, 172-20, Section 1, 247, Section 7, 284, ACU, the court, -

DULY DECREES:

to find PERSON_3 guilty in administrative violation considered by Section 1, Article 172-6, ACU.

Proceeding under the case on holding PERSON_3 administratively liable in accordance with Section 1, Article 172-6, ACU shall be terminated in accordance with Article 38, ACU, due to expiration of terms for administrative fine imposing.

The Decree can be contested in no later than ten days as of issue thereof at the Court of Appeal of the City of Kyiv through the Darnytsya Rayon Court of the City of Kyiv.

In the absence of claims thereto, the Decree shall be legally binding as of the end of the ten-day terms set for contests.

Judge

d. No. #757/26815/17 (undeclared change of assets)

Case category № 757/26815/17-п: Administrative cases; Breach of the requirements of financial control.

Sent by court: 27.06.2017. Registered: 29.06.2017. Published: 30.06.2017.

Pecherskyi District Court of Kyiv City

Case № 757/26815/17-п

RESOLUTION

IN THE NAME OF UKRAINE

On June 09, 2017 the Judge of Pecherskyi District Court in the city of Kyiv, Tarasiuk K.E., with secretaries Burlachenko O.V., the prosecutors Blahovisna A.S., with the participation of a responsible individual INDIVIDUAL_1, a defendant INDIVIDUAL_2, having heard in a public court hearing in the city of Kyiv a matter about administrative violation committed by INDIVIDUAL_1, INFORMATION_1, citizen of Ukraine, who occupies the position of the Judge of the Supreme Administrative Court of Ukraine, residing at the following address: ADDRESS_1, identification code NUMBER_1, based on Section 2 of Article 172-6 of the Administrative Code of Ukraine

established the following:

INDIVIDUAL_1, occupies the position of the Judge of the Supreme Administrative Court of Ukraine and according to Subparagraph «r» of Part 1 of Section 1 of Article 3 of the Law of Ukraine «On Corruption Prevention» (hereinafter referred to as Law) is an agent to declare assets; INDIVIDUAL_1 untimely informed of their significant changes of assets under the following circumstances.

According to Section 2 of Article 52 of the Law (as of 2016) in case of a substantial changes in assets of an agent to declare assets, specifically their income, purchase of property in the amount exceeding 50 minimal wages, determined as of January 1 of a respective year, said agent must inform the National Agency in writing within ten days as of moment of receipt of income or purchase of property.

Pursuant to Section 3 of Article 52 of the Law the procedure of informing the National Agency about the substantial changes in assets is determined by the National Agency.

By Decision № 3 of the National Agency as of June 10, 2016 «On Functioning of the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments», registered at the Ministry of Justice of Ukraine on July 15, 2016 under № 959/29089, a special form for declaring substantial changes in assets of an agent has been approved.

According to the provisions of 50 of the Law INDIVIDUAL_1, acting as a People's Deputy of Ukraine, belongs to a category of individuals, who have a responsible status.

According to the information of the Regional Service Center of the Ministry of Internal Affairs in the city of Kyiv, INDIVIDUAL_1 on March 09, 2017 purchased and registered in his name a motor vehicle Volkswagen Touareg, which cost 918,000 UAH, which exceeds 50 minimal wages, determined as of January 1 of a respective year.

Therefore, Judge INDIVIDUAL_1 must have informed the National Agency about their substantial changes in assets filling out a respective form on the official website of the National Agency at the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments within 10 days as of March 09, 2017.

According to documents from the Register the declaration about the substantial changes in assets, pertaining to the motor vehicle, was submitted by INDIVIDUAL_1 only on March 21, 2017.

Thus, INDIVIDUAL_1 violated the provisions of Section 2 of Article 52 of the Law, as well as the decision of the National Agency as of June 10, 2016 № 3 «On Functioning of the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments» in part where it requires to submit a notification about the substantial changes in assets in a timely manner by means of filling out a respective form on the official website of the National Agency at the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments.

The violation occurred on March 20, 2017, that is on the following day after the deadline to submit the notification about the substantial changes in asset at the following address: 8 Moskovska Street, Kyiv.

During the court hearing INDIVIDUAL_1 did not admit their guilt in violating the stated law. As reasoning of the procedural defense position, as their defendant in written objections, INDIVIDUAL_1 explained that they had no malicious intent to declare substantial changes in assets with delay. INDIVIDUAL_1 stated that the investigation agency used calendar days while preparing a protocol about the administrative violation, which resulted in a two-day delay with declaring their substantial changes in assets, whereas INDIVIDUAL_1 calculated business days while calculating the term to submit a declaration according to Section 2 of Article 52 of the Law. The foregoing gives reason to conclude that the notification about the substantial changes in assets was made within the term, determined by the Law, specifically on the 8th business day.

Having heard the explanations of INDIVIDUAL_1 and their defendant INDIVIDUAL_2, the prosecutor, who acknowledged factual data of the protocol about the administrative violation, having examined the materials of the case, the court concludes as follows.

According to Section 2 of Article 52 of the Law (as of 2016) in case of a substantial changes in assets of an agent to declare assets, specifically their income, purchase of property in the amount exceeding 50 minimal wages, determined as of January 1 of a respective year, said agent must inform the National Agency in writing within ten days as of moment of receipt of income or purchase of property.

The responsibility of INDIVIDUAL_1 in committing an administrative violation, stated in Section 2 of Article 176-2 of Administrative Code of Ukraine in circumstances, determined by the court, is confirmed by the factual data of the protocol about the administrative violation, which is prepared by a competent individual the content of which corresponds to the requirements of Article 256 of Administrative Code of Ukraine, the information of the Regional Service Center of the Ministry of Internal Affairs in the city of Kyiv, according to which INDIVIDUAL_1 on March 09, 2017 purchased and registered in his name a motor vehicle Volkswagen Touareg, which cost 918,000 UAH, the registration card for the stated motor vehicle, and the documents from the Register about substantial changes in assets of INDIVIDUAL_1 as of March 21, 2017.

The stated documents and materials prove that despite the requirements of Section 2 of Article 52 of the Law, the decision of the National Agency as of June 10, 2016 № 3 «On Functioning of the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments» INDIVIDUAL_1 failed to provide a written statement to the National Agency about the purchase of Volkswagen Touareg for 918 000 UAH, which exceeds 50 minimal wages, determined as of January 1 of a respective year, by means of filling out a respective form to inform about the substantial changes in assets of the agent within ten days of as such change in assets.

The statement of the defense, that there is no uniform and unambiguous approach to calculating the ten-day term to submit the declaration about the changes in assets, and that it should be counted as business days rather than calendar days, is not based on the provisions of the Law, which prescribes that the marginal term to submit a declaration is counted by a specific date and/or calendar days.

No reasons were detected which made it objectively impossible for INDIVIDUAL_1 to declare the substantial changes in assets by means of filling out a respective form on the official website of the National Agency at the Uniform State Register of Declarations of Individuals , Authorized to Perform Functions of a State or Local Governments within 10 calendar days.

During the determination of the administrative penalty the court, according to the provisions of Article 33 of Administrative Code of Ukraine, takes into consideration the nature of the violation, the information about the law-violator, who is employed and receives income, who is administratively responsible for the first time for this kind of a violation, the lack of mitigating or aggravating circumstances, believes that it is necessary to order INDIVIDUAL_1 to pay a penalty within the minimal limits of sanctions of Section 2 of Article 172-6 of Administrative Code of Ukraine.

According to Articles 38, 245, 247, 283, 284, КпАП of Ukraine, the court

RESOLVED:

to pronounce INDIVIDUAL_1 administratively responsible pursuant to Section 2 of Article 172-6 of Administrative Code of Ukraine, and to order INDIVIDUAL_1 to pay a penalty in the amount of 100 untaxed minimal wages, which is 1,700 UAH.

To order INDIVIDUAL_1 to pay a court fee in the amount of 320 UAH.

This Resolution may be appealed by the individual, against whom it was rendered, their defendant within ten days as of date of its rendition by means of submitting an appeal to Kyiv City Appellate Court through the trial court.

Judge

Tarasiuk T.E.

e. No. #757/11255/17 (undeclared change of assets)

Case category № 757/11255/17-п: Administrative cases; Breach of the requirements of financial control.

Sent by court: 18.05.2017. Registered: 19.05.2017. Published: 23.05.2017.

Pecherskyi District Court of Kyiv City

Case № 757/11255/17-п

RESOLUTION

IN THE NAME OF UKRAINE

On May 18, 2017 the Judge of Pecherskyi District Court in the city of Kyiv , Tarasiuk K.E., with secretaries Burlachenko O.V., Ksendzova A.V., with the participation of an administratively responsible individual INDIVIDUAL_1, a defendant INDIVIDUAL_2, the prosecutors Blahovisna A.S., Spuskaniuk R.Yu., Panafeda N.M., having heard in a public court hearing in the city of Kyiv a matter about administrative violation committed by INDIVIDUAL _1, INFORMATION_1, citizen of Ukraine, a People's Deputy of the Supreme Council of Ukraine, residing at the following address: ADDRESS_1, identification code NUMBER_1, based on Section 2 of Article 172-6 of the Administrative Code of Ukraine

established the following:

INDIVIDUAL _1, according to the Protocol of the Central Election Committee as of November 10, 2014, is a People's Deputy of Ukraine elected during the extraordinary elections of the people's deputies of Ukraine on October 26, 2014, and according to Subparagraph «б» of Part 1 of Section 1 of Article 3 of the Law of Ukraine «On Corruption Prevention» (hereinafter referred to as Law) is an agent to declare assets; INDIVIDUAL _1 untimely informed of their significant changes of assets under the following circumstances.

According to the information of «National Information System of the State Automobile Inspection» of the Ministry of Internal Affairs of Ukraine the following motor vehicle is registered in the name of INDIVIDUAL _1 as of September 21, 2016: (motorcycle) HARLEY-DAVIDSON FLHX STREET GLIDE 1960 of year 2012, engine number NUMBER_2, chassis NUMBER_4, д.н.з. NUMBER_3.

According to Section 2 of Article 52 of the Law (as of 2016) in case of a substantial changes in assets of an agent to declare assets, specifically their income, purchase of property in the amount exceeding 50 minimal wages, determined as of January 1 of a respective year, said agent must inform the National Agency in writing within ten days as of moment of receipt of income or purchase of property.

Pursuant to Section 3 of Article 52 of the Law the procedure of informing the National Agency about the substantial changes in assets is determined by the National Agency.

By Decision № 3 of the National Agency as of June 10, 2016 «On Functioning of the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments», registered at the Ministry of Justice of Ukraine on July 15, 2016 under № 959/29089, a special form for declaring substantial changes in assets of an agent has been approved.

According to the provisions of Article 50 of the Law INDIVIDUAL_1, acting as a People's Deputy of Ukraine, belongs to a category of individuals, who have a responsible status.

According to Article 334 of the Civil Code of Ukraine, the right of ownership of an individual arises upon the transfer of property under an agreement, unless otherwise prescribed by the agreement or the Law.

On September 14, 2016 «Motodom Company, LLC» (Seller) and INDIVIDUAL_1 (Buyer) entered into Agreement of Sale-Purchase МДК № 000566 and executed the Act of Transfer-Acceptance of a Purchased Item № 000566, according to which INDIVIDUAL _1 purchased a motor vehicle (motorcycle) HARLEY-DAVIDSON FLHX STREET GLIDE 1960 of 2012, engine number NUMBER_2, chassis NUMBER_4, for 141,020.00 UAH, which exceeds 50 minimal wages, determined as of January 1 of a respective year.

Therefore, INDIVIDUAL _1 must have informed the National Agency about their substantial changes in assets filling out a respective form on the official website of the National Agency at the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments within 10 days as of September 15, 2016.

According to documents from the Register the declaration about the substantial changes in assets, pertaining to the motor vehicle, was submitted by INDIVIDUAL _1 only on November 18, 2016.

Thus, INDIVIDUAL _1 violated the provisions of Section 2 of Article 52 of the Law, as well as the decision of the National Agency as of June 10, 2016 № 3 «On Functioning of the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments» and the decision of the National Agency as of June 10, 2016 №

2 «On Commencement of the Operation of the System to Submit and Publish Declarations of Individuals, Authorized to Perform the Functions of a State or Local Governments».

The violation was committed on September 25, 2016 and discovered by authorized agencies on February 22, 2017.

During the court hearing, as well as during the investigation, INDIVIDUAL_1 admitted their guilt in violating the stated law, and explained that they untimely submitted a required form about the substantial changes in assets due to the ignorance of the law and the lack of sufficient experience in filling out electronic declarations. INDIVIDUAL_1 requested the court to excuse them from administrative responsibility based on Article 22 Administrative Code of Ukraine taking into consideration the insignificance of the violation.

Having heard the explanations of INDIVIDUAL_1 and their defendant INDIVIDUAL_2, who also initiated the termination of process against INDIVIDUAL_1 per Article 38 Administrative Code of Ukraine due to the expiration of the statute of limitations, considering that the violation was discovered on November 15, 2016, citing the letter of Prosecutor General's Office of Ukraine to the National Agency on Corruption Prevention regarding this administrative case against INDIVIDUAL_1, the prosecutor Panafeda N.M., who acknowledged factual data of the protocol about the administrative violation, having examined the materials of the case, the court concludes as follows.

According to Section 2 of Article 52 of the Law (as of 2016) in case of a substantial changes in assets of an agent to declare assets, specifically their income, purchase of property in the amount exceeding 50 minimal wages, determined as of January 1 of a respective year, said agent must inform the National Agency in writing within ten days as of moment of receipt of income or purchase of property.

The responsibility of INDIVIDUAL_1 in committing an administrative violation, stated in Section 2 of Article 176-2 of the Administrative Code of Ukraine in circumstances, determined by the court, is confirmed by the factual data of the protocol about the administrative violation, which is prepared by a competent individual the content of which corresponds to the requirements of Article 256 Administrative Code of Ukraine, the agreement of sale-purchase of motorcycle HARLEY-DAVIDSON FLHX STREET GLIDE 1960 of 2012, engine number NUMBER_2, chassis NUMBER_4, by INDIVIDUAL_1 for 141,020.00 UAH, the registration card for the stated motor vehicle, and the documents from the Register about substantial changes in assets of INDIVIDUAL_1 as of November 18, 2016.

The stated documents and materials prove that despite the requirements of Section 2 of Article 52 of the Law, the decision of the National Agency as of June 10, 2016 № 3 «On Functioning of the Uniform State Register of Declarations of Individuals, Authorized to Perform Functions of a State or Local Governments» and the decision of the National Agency as of June 10, 2016 № 2 «On Commencement of the Operation of the System to Submit and Publish Declarations of Individuals, Authorized to Perform the Functions of a State or Local Governments», INDIVIDUAL_1 failed to provide a written statement to the National Agency about the purchase of motorcycle HARLEY-DAVIDSON FLHX STREET GLIDE 1960 of 2012, engine number NUMBER_2, chassis NUMBER_4 within ten days of its purchase by means of filling out a respective form to inform about the substantial changes in assets of the agent. Concerning the statute of limitations in this case, the court agrees with the prosecutor's statement that the date the violation was discovered is February 22, 2017 – the date of the protocol of the administrative violation by INDIVIDUAL_1, since and despite the fact that the letter of Prosecutor General's Office of Ukraine as of November 15, 2016, which forwarded said material to the National Agency on Corruption Prevention, an authorized person, having certain facts, which defined the signs of said administrative violation, should have also determined all of the required signs under Section 2 of Article 172-6 Administrative Code of Ukraine, including the subjective part, which took place only after the receipt of respective explanations of INDIVIDUAL_1 on 22.02.2017 which became the reason to prepare a respective protocol about the administrative violation that same day.

Taking into consideration the foregoing, and according to Article 38 Administrative Code of Ukraine, the court concluded that during the court hearing the statute of limitations has not run out.

During the determination of the administrative penalty the court, according to the provisions of Article 33 Administrative Code of Ukraine, takes into consideration the nature of the violation, the information about the law-violator, who is employed and receives income, and who has admitted his guilt and sincerely regrets the act done, which mitigate the responsibility, believes that it is necessary to order INDIVIDUAL_1 to pay a penalty within the minimal limits of sanctions of Section 2 of Article 172-6 Administrative Code of Ukraine.

The court believes that there are no legal reasons to excuse INDIVIDUAL_1 from responsibility according to Article 22 Administrative Code of Ukraine, because the corruption wrongdoing of INDIVIDUAL_1 is not insignificant.

Taking into consideration the foregoing and according to Articles 245, 247, 280, 283, 284 Administrative Code of Ukraine, the court

RESOLVED:

to pronounce INDIVIDUAL_1 administratively responsible pursuant to Section 2 of Article 176-2 Administrative Code of Ukraine, and to order INDIVIDUAL_1 to pay a penalty in the amount of 100 untaxed minimal wages, which is 1,700 UAH.

To order INDIVIDUAL_1 to pay a court fee in the amount of 320 UAH.

This Resolution may be appealed within ten days as of date of its rendition to the Appellate Court of Kyiv City through Pecherskyi District Court in the city of Kyiv.

Term to submit resolution for enforcement – 3 months.

Judge

Tarasiuk K.E.

11.5. TEMPLATES (ENGLISH)

11.5.1. Form of Declaration

(separate document)

11.5.2. Notification about significant changes in assets

(separate document)

11.5.3. Decision on carrying out a complete verification

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
28 Druzhby Narodov Ave., Kyiv, 01103, USREOU code 40381452

National Emblem of Ukraine
No. _____ Kyiv

DECISION

on carrying out a complete verification of the declaration(s) of the person authorized to perform functions of the state or local self-government for (2015 and) 2016, submitted by XXX, received from the subject of appeal

According to Part one of Article 8, paragraph 5 of Part one of Article 50 of the Law of Ukraine “On Corruption Prevention”, sub-clause 4 of clause 3 of Section III of the Procedure for Controlling and Complete Verification of the Declaration of the Person Authorized to Perform Functions of the State or Local Self-Government, approved by the decision of the National Agency for Prevention of Corruption No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 of 13.02.2017, the National Agency for Prevention of Corruption

DECIDED:

The information received from the subject of appeal (ref. No. XXX of XXX) in relation to the data in the declaration(s) of the person authorized to perform functions of the state or local government (hereinafter referred to as the declaration) for (2015 and) 2016, submitted by XXX, contains factual data that can be verified (regarding the submission of inaccurate information in the declaration); refers to the particular declarant;

in accordance with the procedure established by the Law of Ukraine “Corruption Prevention”, the accuracy of the information, regarding the unreliability of which the information has been received, has not been established previously.

2. To entrust a member of the National Agency for Prevention of Corruption – Deputy Chairman Radetskyi Ruslan Stanislavovych, through the authorized person of the Department of Financial Control and Lifestyle Monitoring of the National Agency for Prevention of Corruption, with conducting a complete verification of the declaration(s) submitted by (XXX) for (2015 and) 2016 (a unique number(s) of the declaration(s): XXX.

3. Verification shall be carried out with the involvement, if necessary, of employees of other independent structural units of the apparatus of the National Agency for Prevention of Corruption in accordance with the competence.

4. The Department of Financial Control and Lifestyle Monitoring shall ensure notification of the declarant of the decision taken by means of software of the Unified State Register of Declarations of the Persons Authorized to Perform Functions of the State or Local Self-Government, in accordance with the procedure established by the law.

5. The control over implementation of this decision shall be imposed on the Deputy Chairman of the National Agency for Prevention of Corruption Radetskyi R. S.

Chairman

Korchak N.M.

Under the effective laws

in accordance with the collegial decision of the National Agency

Minutes No. _____ of the Meeting of the National Agency of _____

Deputy Chairman

R.S. Radetskyi

Head of the Apparatus

I.V. Tkachenko

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

Head of the Legal Support Department

O.D. Markieyeva

XXX – a chief specialist of the Fifth Division (the Western region) of the Department of Financial Control and Lifestyle Monitoring

11.5.4. Decision On extension of the period of a complete verification

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
28 Druzhby Narodov Ave., Kyiv, 01103, USREOU code 40381452

National Emblem of Ukraine
No. _____ Kyiv

DECISION

On extension of the period of a complete verification of declarations(s) of the person authorized to perform functions of the state or local self-government for 2015 and 2016, submitted by XXX

In the National Agency for Prevention of Corruption, on the basis of the decision No. XXX of XXX "On carrying out a full examination of the declaration(s) of the person authorized to perform functions of the state or local self-government for 2015 and 2016", the verification of the declaration(s) of the person authorized to perform the functions of the state or local self-government for 2015 and 2016 submitted by XXX has been started.

The National Agency for Prevention of Corruption has not received explanations from the declarant, responses and substantive information necessary for carrying out such an examination within 60 calendar days, provided for in the first paragraph of Clause 14 of Section III of the Procedure for Carrying out Control and Complete Verification of the Declaration of the Person Authorized to Perform Functions of the State or Local Self-government, approved by the decision of the National Agency for Prevention of Corruption No. 56 of 10 February 2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 on 13 February 2017 (hereinafter referred to as the Procedure).

According to Part 1 of Article 8, Part 1 of Article 50 of the Law of Ukraine "On Corruption Prevention", sub-clause(s) 1 and 2 of paragraph 2 of

Clause 14 of Section III of the Procedure, the National Agency for Prevention of Corruption

DECIDED:

1. To extend the period of a complete verification of declarations(s) of the person authorized to perform functions of the state or local self-government for 2015 and 2016, submitted by XXX from XXX to 30 calendar days.
2. The Department of Financial Control and Lifestyle Monitoring shall ensure notification of the declarant of the decision taken by means of software of the Unified State Register of Declarations of Persons Authorized to Perform Functions of the State or Local Self-government.
3. Control over the implementation of this decision shall be imposed on the Deputy Chairman of the National Agency for Prevention of Corruption Radetskyi R. S.

Chairman

Korchak N.M.

Under the effective laws

in accordance with the collegial decision of the National Agency

Minutes No. _____ of the Meeting of the National Agency of _____

Deputy Chairman

R.S. Radetskyi

Head of the Apparatus

I.V. Tkachenko

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

Head of the Legal Support Department

O.D. Markieyeva

XXX – a chief specialist of the Fifth Division (the Western region) of the Department of Financial Control and Lifestyle Monitoring

SUBMISSION LETTER FOR ARGUMENTED OPINION

XXX
13/15 XXX St., Kyiv, 01011

Dear XXX!

The National Agency for Prevention of Corruption (hereinafter referred to as the National Agency) under paragraph five of part one of Article 50 of the Law of Ukraine "On Corruption Prevention" (hereinafter referred to as the Law), sub-clause 1 of clause 3 of Section III of the Procedure for Carrying out Control and Complete Verification of the Declaration of the Person Authorized to Perform Functions of the State or Local Self-Government, approved by the Decision of the National Agency No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 of 13.02.2017 (hereinafter referred to as the Procedure) and clause 9 of the annex to the decision of the National Agency No. 99 of 21.03.2017 "On Carrying out Complete Verification of Declarations of Persons Authorized to Perform Functions of the State or Local Self-Government", the decision of the National Agency No. 210 of 18.05.2017 "On the Extension of Full Examination of Declarations of the Person Authorized to Perform Functions of the State or Local Self-Government for 2015 and 2016", conducted a complete verification of the declarations of the person authorized to perform functions of the state or local self-government (hereinafter referred to as the declaration), submitted by XXX for 2015 (a unique document ID – XXX) and 2016 (a unique document ID – XXX), (hereinafter – complete verification of the declaration).

By the results of the violations revealed, it was established that the declarant XXX, while preparing and filing declarations, violated the requirements of the Law and submitted false information different from the reliable one in the amount of more than 250 subsistence minima for able-bodied persons, which entails responsibility under Article 366-1 of the Criminal Code of Ukraine.

According to paragraph 3 of sub-clause 2 of clause 2 of Section IV of the Procedure, we send the decision of the National Agency No. 343 of 20.07.2017 "On Approval of the Argued Opinion on a Corruption or Corruption-Related Offense and Sending the Decision "On the Results of a Complete Verification of Declarations of the Person Authorized to Perform Functions of the State or Local Self-Government, for 2015 and 2016, submitted by XXX to the Specialized Anti-Corruption Prosecutor's Office".

Please inform the National Agency of the decision taken.

Annexes:

1. copy of the decision of the National Agency No. 323 of 14.07.2017 "On the results of complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2015, submitted by XXX" on 10 sheets in 1 copy;
2. copy of the decision of the National Agency No. 324 of 14.07.2017 "On the results of complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, submitted by XXX" on 11 sheets in 1 copy;
3. copy of the decision of the National Agency No. 343 of 20.07.2017 "On approval of the grounded opinion on the corruption or corruption-related offense and sending the decision "On the results of complete verification of the declarations of the person authorized to perform functions of the state or local self-government, for 2015 and 2016, submitted by XXX to the Specialized Anti-Corruption Prosecutor's Office" on 7 sheets in 1 copy.

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

XXX

200-06-93

**DECISION ON APPROVING THE ARGUMENTED OPINION ON A CORRUPTION
OR CORRUPTION-RELATED OFFENSE**

DRAFT

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
28 Druzhby Narodov Ave., Kyiv, 01103, USREOU code 40381452

National Emblem of Ukraine
No. _____ Kyiv

DECISION

**On approving the argued opinion on a corruption or corruption-related offense and referring
the decision "On the results of the complete verification of declarations of the person authorized to perform
functions of the state of local self-government, for 2015 and 2016, submitted by XXX to the Specialized
Anti-Corruption Prosecutor's Office**

Pursuant to clause 8 of part one, part three of Article 12, paragraph five of part one of Article 50 of the Law of Ukraine "On Corruption Prevention" and the paragraph three of sub-clause 2 of clause 2 of Section IV of the Procedure for the Control and Complete Verification of the Declaration of the Person Authorized to Perform Functions of the State or Local Self-Government, approved by the decision of the National Agency No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 on 13.02.2017, the National Agency for Prevention of Corruption

DECIDED:

1. To approve the argued opinion on a corruption or corruption-related offense attached.
2. The Department of Financial Control and Lifestyle Monitoring shall ensure notifying the Specialized Anti-Corruption Prosecutor's Office of the decision taken by sending the argued opinion on a corruption or corruption-related offense and decisions of the National Agency No. 323 of 14.07.2017 "On the results of the complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2015, submitted by XXX", No. 324 of 14.07.2017 "On the results of the complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, submitted by XXX"
3. The control over the implementation of this decision shall be imposed on the member of the National Agency for Prevention of Corruption Radetskyi Ruslan Stanislavovich.

Chairman

Korchak N.M.

Under the effective laws

in accordance with the collegial decision of the National Agency

Minutes No. _____ of the Meeting of the National Agency of _____

Deputy Chairman

R.S. Radetskyi

Head of the Apparatus

I.V. Tkachenko

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

Head of the Legal Support Department

O.D. Markieyeva

Authorized person of the National Agency chief specialist of the Second Division (the Eastern region)

XXX

TEMPLATE ON THE DENIAL TO CONDUCT A FULL VERIFICATION

EXAMPLE

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
28 Druzhby Narodov Ave., Kyiv, 01103, USREOU code 40381452

National Emblem of Ukraine
No. _____ Kyiv

DECISION

On consideration of the information indicated in the notice of the subject of appeal regarding the availability of grounds for a complete verification of the declaration of the person authorized to perform functions of the state or local self-government, XXX, for 2016

In the National Agency for Prevention of Corruption, the notification from the subject of appeal No. XXX of XXX (ref. No. XXX of XXX) regarding the failure of the declarant to represent certain information in the declaration of the person authorized to perform functions of the state or local self-government, for 2016, namely, movable property (fur Coats, diamonds, other jewels), the value of which exceeds 100 subsistence minima, established for able-bodied persons, as well as available cash assets.

The facts or any explanations regarding the availability of the relevant declarant's movable property are not indicated in the notice.

In the declaration of the person authorized to perform functions of the state or local self-government, submitted by the subject of declaring, for 2016,

in section 12 "Cash Assets" information on available cash is indicated.

In accordance with Part one of Article 8 of the Law of Ukraine "On Corruption Prevention", sub-clause 2 of clause 2 of Section III of the Procedure for Carrying out Control and Complete Verification of the Declaration of the Person Authorized to Perform the Functions of the State or Local Self-Government, approved by the decision of the National Agency for Prevention of Corruption No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 on 13.02.2017, the National Agency for Prevention of Corruption

DECIDED:

1. To refuse the subject of appeal in conducting a complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, on the grounds set out in the notice in relation to XXX.
2. The control over implementation of this decision shall be imposed on the Deputy Chairman of the National Agency for Prevention of Corruption Radetskyi R. S.

Chairman

Korchak N.M.

Under the effective laws

in accordance with the collegial decision of the National Agency

Minutes No. _____ of the Meeting of the National Agency of _____

Deputy Chairman

R.S. Radetskyi

Head of the Apparatus

I.V. Tkachenko

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

Head of the Legal Support Department

O.D. Markieyeva

XXX – a chief specialist of the Fifth Division (the Western region) of the Department of Financial Control and Lifestyle Monitoring

ARGUMENTED OPINION ON A CORRUPTION OR CORRUPTION-RELATED OFFENSE

ANNEX

to the decision of the National Agency for Prevention of Corruption

_____ No. _____

ARGUMENTED OPINION on a Corruption or Corruption-Related Offense

The National Agency for Prevention of Corruption (hereinafter referred to as the National Agency), in accordance with clause 8 of part one, part three of Article 12, paragraph five of part one of Article 50 of the Law of Ukraine "On Corruption Prevention" (hereinafter referred to as the Law), sub-clause 1 of clause 3 of Section III of the Procedure for carrying out the control and complete verification of the declaration of the person authorized to perform functions of the state or local self-government, approved by the decision of the National Agency No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 on 13.02.2017 (hereinafter referred to as the Procedure) and clause 9 of the annex to the decision of the National Agency No. 99 of 21.03.2017, conducted a complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, submitted by XXX (unique document ID – XXX), (hereinafter referred to as the complete verification of the declaration).

As a result of the revealed violations, it was established that the declarant XXX, while drawing up and submitting the declaration of the person authorized to perform functions of the state or local self-government, for 2015 (unique document ID – XXX) and 2016 (unique document ID – XXX), violated the requirements of clauses 1, 2, 3, 5, 7, and 10 of part one of Article 46 of the Law of Ukraine "On Corruption Prevention" and provided incorrect information different from the reliable one in the amount of more than 250 subsistence minima for able-bodied persons, which brings responsibility in accordance with Article 366-1 of the Criminal Code of Ukraine.

Circumstances of the case:

On the day of submission of the declaration, XXX was dismissed from the post of XXX.

The position of XXX falls within the scope of the note of Article 50 of the Law, that is, XXX is an official who takes a responsible and especially responsible position.

According to Article 45 of the Law, the persons referred to in clause 1, sub-clauses "a" and "c" of clause 2, clause 5 of part one of Article 3 of the Law, should submit annually by April 1 by filling in the declaration of a person authorized to perform functions of the state or local self-government (hereinafter referred to as the declaration) for the previous year in the form determined by the National Agency on the official website of the National Agency.

Taking into account the above, XXX shall be a declarant.

According to the results of a complete verification of the declarations for 2015 and 2016, the National Agency established:

1. In Section 2.2 "Information on the declarant's family members" of the declarations:

The declarant did not represent:

- the information on the citizen XXX, the date of birth XXX, tax number XXX, with whom the declarant lived in a common family in 2016, namely: joint residence, daily life, communication, crossing the state border (according to the letters received from the Specialized Anti-Corruption Prosecutor's Office and enclosed copies of documents).

2. In Section 3 “Immovable property” of the declarations:

The declarant did not represent:

- the information about the building at the address: XXX, which is represented in Section 2.1 “Information on the declarant” of the declaration as the registered and actual place of residence;
- use (rent) of the apartment with a total area of XXX m² at the address: XXX, about which the information was provided in the letters of the Specialized Anti-Corruption Prosecutor’s Office.

In addition, according to the information indicated in the letters of the Specialized Anti-Corruption Prosecutor’s Office, the declarant did not indicate information regarding real estate belonging to a member of his family XXX under the right of ownership, lease or other right of use, irrespective of the form of the conclusion of the transaction, which resulted in acquiring such a right.

According to the information certificate from the State Register of Real Property Rights, the Register of Property Rights to Real Estate No. XXX of 27.03.2017, XXX owns:

- a feeding center building with a total area of XXX m² at the address: XXX;
- a sow house building of a pig-breeder with a total area of XXX m² at the address: XXX;
- a pig feeder building with a total area of XXX m² at the address: XXX;
- an apartment with a total area of 68.5 m² at the address: XXX;
- office premises with a total area of 47.1 m² at the address: XXX;
- an apartment with a total area of 53.6 m² at the address: XXX;
- a dwelling house at the address: XXX.

According to the information contained in the letters of the Specialized Anti-Corruption Prosecutor’s Office, XXX also used (rented) the apartment with a total area of 68.0 m² at the address: XXX.

- In addition to the above-mentioned violations found in the declaration for 2015, in 2016, the declarant did not represent the following:
- the information on the use (rent) of the premises of the technical floor No. 12, 13 in the residential building “A-8” with the total area of 165.1 m² at the address: XXX;
- the information on the use (rent) of non-residential premises of the entresol of the ground floor No. 1-36 -:-1-39 in the residential home “A-8” with a total area of 36.1 m² at the address: XXX0,
- a parking lot No. 21 in the basement of the residential building “A-8” with a total area of 18.5 m² at the address: XXX;
- an apartment with a total area of 158.7 m² at the address: Kharkiv, XXX.

At the same time, according to the information contained in the letters of the Specialized Anti-Corruption Prosecutor’s Office, XXX:

- used (rented) the premises of the technical floor No. 12, 13 in the residential building “A-8” with the total area of 165.1 m² at the address: XXX;

- used (rented) the non-residential premises of the entresol of the ground floor No. 1-36-: -1-39 in the residential building "A-8" with a total area of 36.1 m² at the address: XXX.

3. In Section 6 "Valuable movable property – vehicles" of the declarations,

- the declarant did not represent:
- the information on the car XXX 2014 model year,
- under the right to use (drive). This is confirmed by the information and documents sent to the National Agency by the Main Service Center of the Ministry of Internal Affairs of Ukraine by the letter No. 31/5936 of 06.04.2017 and the information indicated in the letters of the Specialized Anti-Corruption Prosecutor's Office, the declarant should have indicated the information concerning vehicles belonging to XXX under the right of ownership.

According to the excerpts from the National Automated Information System of the Department of State Automobile Inspection of the Ministry of Internal Affairs of Ukraine of 18 April 2017, the information and documents sent to the National Agency by the Main Service Center of the Ministry of Internal Affairs of Ukraine by the letter No. XXX of XXX, XXX owns:

- the car NISSAN PATHFINDER 2014 model year;
- the car BMW X6 2011 model year;
- the car ZAZ 110558 2010 model year;
- the car ZAZ 110558-42 2010 model year;
- the car Opel Record 1986 model year;
- VAZ 2101 1974 model year.

The declarant, when entering information in the declaration on vehicles, also indicated the information on his own car VAZ 21073 2008 model year, not filling in the field "information on the rights to the property".

4. In Section 8 "Corporate rights" of the declarations:

The declarant did not represent:

- the information on corporate rights in Luch-Argo Limited Liability Company, USREOU code XXX, belonging to XXX (according to the information indicated in the letters of the Specialized Anti-Corruption Prosecutor's Office). Ownership is confirmed by an extract from the Unified State Register of Legal Entities, Individual Entrepreneurs and Non-Government Organizations of XXX No. XXX.

5. In Section 11 "Income, including gifts" of the declarations:

Based on the results of the verification, the unreliability of the represented data was detected, namely:

- In the declaration for 2015, the following data are not indicated: the information on income in the form of salaries received at the main place of work (source of income is indicated – XXX in the amount of UAH XXX).

According to the information available at the National Agency, the declarant received income in the form of salaries at the main place of work (source of income – XXX, which is confirmed by the information from the State Register of Individuals – Taxpayers on the amounts of income accrued to individuals by tax agents and/or the amount of income received by self-employed persons, as well as the amount of the tax deducted from personal income tax of XXX);

- the information on the source of income in the form of a pension, insurance payments (source of income is indicated – XXX, but a legal entity or an individual who calculates and pays the respective type of income should be indicated as the source of income).

The information on the proprietary right to salary, pensions, insurance payments, and income from the alienation of movable property is not represented.

In the declaration for 2016, the following data are not indicated:

- the information on income in the form of salary received at the main place of work (source of income is indicated – XXX), in the amount of UAH XXX.

According to the information available at the National Agency, the declarant received income in the form of salary at the main place of work (source of income – X) in the amount of UAH X (the discrepancy is confirmed by the information from the State Register of Individuals – Taxpayers on the amounts of income accrued to individuals by tax agents, and/or the amount of income received by self-employed persons, as well as the amount of the deducted personal income tax of X).

- the information on the source of income in the form of pension, insurance payments (the source of income is indicated – X, but a legal entity or individual who calculates and pays the respective type of income should be indicated as the source of income).

Information on the proprietary right to salary and pension is not represented.

6. In Section 14 “Declarant’s expenditures and transactions” of the declaration:

In the declaration for 2015, the following data is not specified:

- the information on the sale of the car X 2014 model year, which was owned under the proprietary right till 23.12.2015 X (removal from the register for sale).

The amount of this transaction is UAH X, which is confirmed by the information, which is represented in Section 11 “Income, including gifts” of the declaration, namely, income from the alienation of movable property is indicated in the amount of UAH X.

In the declaration for 2016, the following information is not indicated:

- the information on the purchase of the apartment with a total area of 136.9 m² at the address: X, which belongs under the proprietary right of 07.04.2016 X, the cost of the apartment is UAH X, which is confirmed by the information represented in Section 3 “Immovable property” of the declaration, namely the cost as of the date of acquisition is indicated in the amount of UAH X.
- purchase of a parking lot No. 212 with a total area of 15.1 m² at the address: X, which belongs under the proprietary right from 08.06.2016 to Samoilenko Y.Y., the cost of the parking lot is UAH 248,800.00, which is confirmed by the information represented in Section 3 “Immovable property” of the declaration, namely the cost as the date of acquisition is indicated in the amount of UAH 248,800.00.

The amount of these transactions is UAH 1,920,713.00, which is confirmed by the information displayed in the box “Cost as of the date of acquisition” in Section 3 “Immovable property” of the declaration.

It should be noted that as of the moment of completion of the complete verification of the declarations for 2015 and 2016, the declarant did not provide explanations on the violations and discrepancies found, as well as the provision of supporting documents to the letters of the National Agency No. X, No. X of 04.05.2017.

The corresponding inquiries have also been sent to the declarant through a personal e-mail account. According to USEP Ukrposhta, as of 10.05.2017, the letter No. XXX of 04.05.2017 was not handed over at the time of delivery and the recipient was repeatedly informed of the receipt of the postal item to his postal address, the letter No. XXX of 04.05.2017 was sent to the post office. As of the date of the decision of the National Agency, the letters are returned to the National Agency with a mark "under the term of storing", which may indicate the reluctance of the declarant to receive the said letters.

The foregoing gives grounds to come to the argued conclusion on the representation of inaccurate information amounting to more than 250 subsistence minima for able-bodied persons by XXX in the declarations for 2015 and 2016, which is the basis for bringing him to justice in accordance with Article 366-1 of the Criminal Code of Ukraine.

Deputy Head of the National Agency for Prevention of Corruption

Radetskyi R.S.

SUPPORTING LETTER TO THE COURT: ON COMMITTING ADMINISTRATIVE OFFENSE

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION

National Emblem of Ukraine

DEPARTMENT OF FINANCIAL CONTROL AND LIFESTYLE MONITORING

28 Druzhby Narodov Ave., Kyiv, 01103, tel. (044) 200-08-27, fax (044) 200-06-97

technical support tel. (044) 200-06-94, hot line (044) 200-08-29

tel. for notifying on corruption (044) 200-06-91, fax (044) 200-06-97

official web-site www.nazk.gov.ua, e-mail: info@nazk.gov.ua

Tarashcha District, Court of Kyiv region

75 Sikevycha Volodymyra St., Kyiv region, Tarashcha, 09500

On committing administrative offense

The National Agency for Prevention of Corruption (hereinafter referred to as the National Agency), in accordance with clause 121 of Part one of Article 12 of the Law of Ukraine "On Corruption Prevention", Articles 221, 257, Part one of Article 276 of the Code of Ukraine on Administrative Offenses, the Procedure for the Drawing up Reports on Administrative Offenses and Entering Instructions by the National Agency, approved by the decision of the National Agency for Prevention of Corruption No. 5 of 09.06.2016, registered with the Minister Justice of Ukraine under No. 1019/291 on 25.07.2016, sends a report on an administrative offense No. 51-06/17/17 of 17.07.07, the materials of which became the basis for its drawing up in relation to the deputy of the Tarashcha City Council of the VII convocation for the commission of an administrative offense provided for by Part one of Article 1726 of the Code of Ukraine on Administrative Offenses, for the consideration of cases.

Based on the results of the consideration of the cases on administrative offenses, please send a copy of the ruling on the case to the National Agency.

Annex: the case of an administrative offense committed by XXX, in one volume on ___ sheets.

Head of the Department

H. Zh. Solomatina

11.5.5. Submission letter to Special Prosecutor

XXX

13/15 XXX St., Kyiv, 01011

Dear XXX!

The National Agency for Prevention of Corruption (hereinafter referred to as the National Agency) under paragraph five of part one of Article 50 of the Law of Ukraine "On Corruption Prevention" (hereinafter referred to as the Law), sub-clause 1 of clause 3 of Section III of the Procedure for Carrying out Control and Complete Verification of the Declaration of the Person Authorized to Perform Functions of the State or Local Self-Government, approved by the Decision of the National agency No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 of 13.02.2017 (hereinafter referred to as the Procedure) and clause 9 of the annex to the decision of the National Agency No. 99 of 21.03.2017 "On Carrying out Complete Verification of Declarations of Persons Authorized to Perform Functions of the State or Local Self-Government", the decision of the National Agency No. 210 of 18.05.2017 "On the Extension of Full Examination of Declarations of the Person Authorized to Perform Functions of the State or Local Self-Government for 2015 and 2016", conducted a complete verification of the declarations of the person authorized to perform functions of the state or local self-government (hereinafter referred to as the declaration), submitted by XXX for 2015 (a unique document ID – XXX) and 2016 (a unique document ID – XXX), (hereinafter – complete verification of the declaration).

By the results of the violations revealed, it was established that the declarant XXX, while preparing and filing declarations, violated the requirements of the Law and submitted false information different from the reliable one in the amount of more than 250 subsistence minima for able-bodied persons, which entails responsibility under Article 366-1 of the Criminal Code of Ukraine.

According to paragraph 3 of sub-clause 2 of clause 2 of Section IV of the Procedure, we send the decision of the National Agency No. 343 of 20.07.2017 "On Approval of the Argumented Opinion on a Corruption or Corruption-Related Offense and Sending the Decision "On the Results of a Complete Verification of Declarations of the Person Authorized to Perform Functions of the State or Local Self-Government, for 2015 and 2016, submitted by XXX to the Specialized Anti-Corruption Prosecutor's Office".

Please inform the National Agency of the decision taken.

Annexes: 1. copy of the decision of the National Agency No. 323 of 14.07.2017 "On the results of complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2015, submitted by XXX" on 10 sheets in 1 copy;

2. copy of the decision of the National Agency No. 324 of 14.07.2017 "On the results of complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, submitted by XXX" on 11 sheets in 1 copy;

3. copy of the decision of the National Agency No. 343 of 20.07.2017 "On approval of the grounded opinion on the corruption or corruption-related offense and sending the decision "On the results of complete verification of the declarations of the person authorized to perform functions of the state or local self-government, for 2015 and 2016, submitted by XXX to the Specialized Anti-Corruption Prosecutor's Office" on 7 sheets in 1 copy.

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

XXX

200-06-93

11.5.6. Decision on the Argumented Opinion on a Corruption Offense

DRAFT

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
28 Druzhby Narodov Ave., Kyiv, 01103, USREOU code 40381452

National Emblem of Ukraine
No. _____ Kyiv

DECISION

On approving the argumented opinion on a corruption or corruption-related offense and referring the decision "On the results of the complete verification of declarations of the person authorized to perform functions of the state of local self-government, for 2015 and 2016, submitted by XXX to the Specialized Anti-Corruption Prosecutor's Office

Pursuant to clause 8 of part one, part three of Article 12, paragraph five of part one of Article 50 of the Law of Ukraine "On Corruption Prevention" and the paragraph three of sub-clause 2 of clause 2 of Section IV of the Procedure for the Control and Complete Verification of the Declaration of the Person Authorized to Perform Functions of the State or Local Self-Government, approved by the decision of the National Agency No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 on 13.02.2017, the National Agency for Prevention of Corruption

DECIDED:

1. To approve the argumented opinion on a corruption or corruption-related offense attached.
2. The Department of Financial Control and Lifestyle Monitoring shall ensure notifying the Specialized Anti-Corruption Prosecutor's Office of the decision taken by sending the argumented opinion on a corruption or corruption-related offense and decisions of the National Agency No. 323 of 14.07.2017 "On the results of the complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2015, submitted by XXX", No. 324 of 14.07.2017 "On the results of the complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, submitted by XXX"
3. The control over the implementation of this decision shall be imposed on the member of the National Agency for Prevention of Corruption Radetskyi Ruslan Stanislavovych.

Chairman

Korchak N.M.

Under the effective laws

in accordance with the collegial decision of the National Agency

Minutes No. _____ of the Meeting of the National Agency of _____

Deputy Chairman

R.S. Radetskyi

Head of the Apparatus

I.V. Tkachenko

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

Head of the Legal Support Department

A.V. Marchenko

Authorized person of the National Agency chief specialist of the Second Division (the Eastern region)

XXX

11.5.7. Template on the Denial to conduct a full verification

EXAMPLE

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
28 Druzhby Narodov Ave., Kyiv, 01103, USREOU code 40381452

National Emblem of Ukraine
No. _____ Kyiv

DECISION

On consideration of the information indicated in the notice of the subject of appeal regarding the availability of grounds for a complete verification of the declaration of the person authorized to perform functions of the state or local self-government, XXX, for 2016

In the National Agency for Prevention of Corruption, the notification from the subject of appeal No. XXX of XXX (ref. No. XXX of XXX) regarding the failure of the declarant to represent certain information in the declaration of the person authorized to perform functions of the state or local self-government, for 2016, namely, movable property (fur coats, diamonds, other jewels), the value of which exceeds 100 subsistence minima, established for able-bodied persons, as well as available cash assets.

The facts or any explanations regarding the availability of the relevant declarant's movable property are not indicated in the notice.

In the declaration of the person authorized to perform functions of the state or local self-government, submitted by the subject of declaring, for 2016,

in section 12 "Cash Assets" information on available cash is indicated.

In accordance with Part one of Article 8 of the Law of Ukraine "On Corruption Prevention", sub-clause 2 of clause 2 of Section III of the Procedure for Carrying out Control and Complete Verification of the Declaration of the Person Authorized to Perform the Functions of the State or Local Self-Government, approved by the decision of the National Agency for Prevention of Corruption No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 on 13.02.2017, the National Agency for Prevention of Corruption

DECIDED:

1. To refuse the subject of appeal in conducting a complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, on the grounds set out in the notice in relation to XXX.
2. The control over implementation of this decision shall be imposed on the Deputy Chairman of the National Agency for Prevention of Corruption Radetskyi R. S.

Chairman

Korchak N.M.

Under the effective laws in accordance with the collegial decision of the National Agency

Minutes No. _____ of the Meeting of the National Agency of _____

Deputy Chairman

R.S. Radetskyi

Head of the Apparatus

I.V. Tkachenko

Head of the Department of Financial Control and Lifestyle Monitoring

H. Zh. Solomatina

Head of the Legal Support Department

O.D. Markieyeva

XXX – a chief specialist of the Fifth Division (the Western region) of the Department of Financial Control and Lifestyle Monitoring

11.5.8. Argumented Opinion on a Corruption Offense

ANNEX

to the decision of the National Agency for Prevention of Corruption _____ No. _____

ARGUMENTED OPINION on a Corruption or Corruption-Related Offense

The National Agency for Prevention of Corruption (hereinafter referred to as the National Agency), in accordance with clause 8 of part one, part three of Article 12, paragraph five of part one of Article 50 of the Law of Ukraine "On Corruption Prevention" (hereinafter referred to as the Law), sub-clause 1 of clause 3 of Section III of the Procedure for carrying out the control and complete verification of the declaration of the person authorized to perform functions of the state or local self-government, approved by the decision of the National Agency No. 56 of 10.02.2017, registered with the Ministry of Justice of Ukraine under No. 201/30069 on 13.02.2017 (hereinafter referred to as the Procedure) and clause 9 of the annex to the decision of the National Agency No. 99 of 21.03.2017, conducted a complete verification of the declaration of the person authorized to perform functions of the state or local self-government, for 2016, submitted by XXX (unique document ID – XXX), (hereinafter referred to as the complete verification of the declaration).

As a result of the revealed violations, it was established that the declarant XXX, while drawing up and submitting the declaration of the person authorized to perform functions of the state or local self-government, for 2015 (unique document ID – XXX) and 2016 (unique document ID – XXX), violated the requirements of clauses 1, 2, 3, 5, 7, and 10 of part one of Article 46 of the Law of Ukraine "On Corruption Prevention" and provided incorrect information different from the reliable one in the amount of more than 250 subsistence minima for able-bodied persons, which brings responsibility in accordance with Article 366-1 of the Criminal Code of Ukraine.

Circumstances of the case:

On the day of submission of the declaration, XXX was dismissed from the post of XXX.

The position of XXX falls within the scope of the note of Article 50 of the Law, that is, XXX is an official who takes a responsible and especially responsible position.

According to Article 45 of the Law, the persons referred to in clause 1, sub-clauses "a" and "c" of clause 2, clause 5 of part one of Article 3 of the Law, should submit annually by April 1 by filling in the declaration of a person authorized to perform functions of the state or local self-government (hereinafter referred to as the declaration) for the previous year in the form determined by the National Agency on the official website of the National Agency.

Taking into account the above, XXX shall be a declarant.

According to the results of a complete verification of the declarations for 2015 and 2016, the National Agency established:

1. In Section 2.2 "Information on the declarant's family members" of the declarations:

The declarant did not represent:

- the information on the citizen XXX, the date of birth XXX, tax number XXX, with whom the declarant lived in a common family in 2016, namely: joint residence, daily life, communication, crossing the state border (according to the letters received from the Specialized Anti-Corruption Prosecutor's Office and enclosed copies of documents).

2. In Section 3 “Immovable property” of the declarations:

The declarant did not represent:

- the information about the building at the address: XXX, which is represented in Section 2.1 “Information on the declarant” of the declaration as the registered and actual place of residence;
- use (rent) of the apartment with a total area of XXX m² at the address: XXX, about which the information was provided in the letters of the Specialized Anti-Corruption Prosecutor’s Office.

In addition, according to the information indicated in the letters of the Specialized Anti-Corruption Prosecutor’s Office, the declarant did not indicate information regarding real estate belonging to a member of his family XXX under the right of ownership, lease or other right of use, irrespective of the form of the conclusion of the transaction, which resulted in acquiring such a right.

According to the information certificate from the State Register of Real Property Rights, the Register of Property Rights to Real Estate No. XXX of 27.03.2017, XXX owns:

- a feeding center building with a total area of XXX m² at the address: XXX;
- a sow house building of a pig-breeder with a total area of XXX m² at the address: XXX;
- a pig feeder building with a total area of XXX m² at the address: XXX;
- an apartment with a total area of 68.5 m² at the address: XXX;
- office premises with a total area of 47.1 m² at the address: XXX;
- an apartment with a total area of 53.6 m² at the address: XXX;
- a dwelling house at the address: XXX.

According to the information contained in the letters of the Specialized Anti-Corruption Prosecutor’s Office, XXX also used (rented) the apartment with a total area of 68.0 m² at the address: XXX.

In addition to the above-mentioned violations found in the declaration for 2015, in 2016, the declarant did not represent the following:

- the information on the use (rent) of the premises of the technical floor No. 12, 13 in the residential building “A-8” with the total area of 165.1 m² at the address: XXX;
- the information on the use (rent) of non-residential premises of the entresol of the ground floor No. 1-36 -: -1-39 in the residential home “A-8” with a total area of 36.1 m² at the address: XXX0,
- a parking lot No. 21 in the basement of the residential building “A-8” with a total area of 18.5 m² at the address: XXX;
- an apartment with a total area of 158.7 m² at the address: Kharkiv, XXX.

At the same time, according to the information contained in the letters of the Specialized Anti-Corruption Prosecutor’s Office, XXX:

- used (rented) the premises of the technical floor No. 12, 13 in the residential building “A-8” with the total area of 165.1 m² at the address: XXX;
- used (rented) the non-residential premises of the entresol of the ground floor No. 1-36:-1-39 in the residential building “A-8” with a total area of 36.1 m² at the address: XXX.

3. In Section 6 “Valuable movable property – vehicles” of the declarations,

- the declarant did not represent:
- the information on the car XXX 2014 model year,

under the right to use (drive). This is confirmed by the information and documents sent to the National Agency by the Main Service Center of the Ministry of Internal Affairs of Ukraine by the letter No. 31/5936 of 06.04.2017 and the information indicated in the letters of the Specialized Anti-Corruption Prosecutor’s Office, the declarant should have indicated the information concerning vehicles belonging to XXX under the right of ownership.

According to the excerpts from the National Automated Information System of the Department of State Automobile Inspection of the Ministry of Internal Affairs of Ukraine of 18 April 2017, the information and documents sent to the National Agency by the Main Service Center of the Ministry of Internal Affairs of Ukraine by the letter No. XXX of XXX, XXX owns:

- the car NISSAN PATHFINDER 2014 model year;
- the car BMW X6 2011 model year;
- the car ZAZ 110558 2010 model year;
- the car ZAZ 110558-42 2010 model year;
- the car Opel Record 1986 model year;
- VAZ 2101 1974 model year.

The declarant, when entering information in the declaration on vehicles, also indicated the information on his own car VAZ 21073 2008 model year, not filling in the field “information on the rights to the property”.

4. In Section 8 “Corporate rights” of the declarations:

The declarant did not represent:

- the information on corporate rights in Luch-Argo Limited Liability Company, USREOU code XXX, belonging to XXX (according to the information indicated in the letters of the Specialized Anti-Corruption Prosecutor’s Office). Ownership is confirmed by an extract from the Unified State Register of Legal Entities, Individual Entrepreneurs and Non-Government Organizations of XXX No. XXX.

5. In Section 11 “Income, including gifts” of the declarations:

Based on the results of the verification, the unreliability of the represented data was detected, namely:

In the declaration for 2015, the following data are not indicated:

- the information on income in the form of salaries received at the main place of work (source of income is indicated – XXX in the amount of UAH XXX).

According to the information available at the National Agency, the declarant received income in the form of salaries at the main place of work (source of income – XXX, which is confirmed by the information from the State Register of Individuals – Taxpayers on the amounts of income accrued to individuals by tax agents and/or the amount of income received by self-employed persons, as well as the amount of the tax deducted from personal income tax of XXX);

- the information on the source of income in the form of a pension, insurance payments (source of income is indicated – XXX, but a legal entity or an individual who calculates and pays the respective type of income should be indicated as the source of income).

The information on the proprietary right to salary, pensions, insurance payments, and income from the alienation of movable property is not represented.

In the declaration for 2016, the following data are not indicated:

- the information on income in the form of salary received at the main place of work (source of income is indicated – XXX), in the amount of UAH XXX.

According to the information available at the National Agency, the declarant received income in the form of salary at the main place of work (source of income – X) in the amount of UAH X (the discrepancy is confirmed by the information from the State Register of Individuals – Taxpayers on the amounts of income accrued to individuals by tax agents, and/or the amount of income received by self-employed persons, as well as the amount of the deducted personal income tax of X).

- the information on the source of income in the form of pension, insurance payments (the source of income is indicated – X, but a legal entity or individual who calculates and pays the respective type of income should be indicated as the source of income).

Information on the proprietary right to salary and pension is not represented.

6. In Section 14 “Declarant’s expenditures and transactions” of the declaration:

In the declaration for 2015, the following data is not specified:

- the information on the sale of the car X 2014 model year, which was owned under the proprietary right till 23.12.2015 X (removal from the register for sale).

The amount of this transaction is UAH X, which is confirmed by the information, which is represented in Section 11 “Income, including gifts” of the declaration, namely, income from the alienation of movable property is indicated in the amount of UAH X.

In the declaration for 2016,

the following information is not indicated:

- the information on the purchase of the apartment with a total area of 136.9 m² at the address: X, which belongs under the proprietary right of 07.04.2016 X, the cost of the apartment is UAH X, which is confirmed by the information represented in Section 3 “Immovable property” of the declaration, namely the cost as of the date of acquisition is indicated in the amount of UAH X.

– purchase of a parking lot No. 212 with a total area of 15.1 m² at the address: X, which belongs under the proprietary right from 08.06.2016 to Samoilenko Y.Y., the cost of the parking lot is UAH 248,800.00, which is confirmed by the information represented in Section 3 “Immovable property” of the declaration, namely the cost as the date of acquisition is indicated in the amount of UAH 248,800.00.

The amount of these transactions is UAH 1,920,713.00, which is confirmed by the information displayed in the box “Cost as of the date of acquisition” in Section 3 “Immovable property” of the declaration.

It should be noted that as of the moment of completion of the complete verification of the declarations for 2015 and 2016, the declarant did not provide explanations on the violations and discrepancies found, as well as the provision of supporting documents to the letters of the National Agency No. X, No. X of 04.05.2017.

The corresponding inquiries have also been sent to the declarant through a personal e-mail account. According to USEP Ukrposhta, as of 10.05.2017, the letter No. XXX of 04.05.2017 was not handed over at the time of delivery and the recipient was repeatedly informed of the receipt of the postal item to his postal address, the letter No. XXX of 04.05.2017 was sent to the post office. As of the date of the decision of the National Agency, the letters are returned to the National Agency with a mark “under the term of storing”, which may indicate the reluctance of the declarant to receive the said letters.

The foregoing gives grounds to come to the argued conclusion on the representation of inaccurate information amounting to more than 250 subsistence minima for able-bodied persons by XXX in the declarations for 2015 and 2016, which is the basis for bringing him to justice in accordance with Article 366-1 of the Criminal Code of Ukraine.

Deputy Head of the National Agency for Prevention of Corruption

Radetskyi R.S.

11.5.9. Letter to the court: On committing administrative offense

NATIONAL AGENCY FOR PREVENTION OF CORRUPTION
DEPARTMENT OF FINANCIAL CONTROL AND LIFESTYLE MONITORING
28 Druzhby Narodov Ave., Kyiv, 01103, tel. (044) 200-08-27, fax (044) 200-06-97
technical support tel. (044) 200-06-94, hot line (044) 200-08-29
tel. for notifying on corruption (044) 200-06-91, fax (044) 200-06-97
official web-site www.nazk.gov.ua, e-mail: info@nazk.gov.ua

National Emblem of Ukraine

Tarashcha District, Court of Kyiv region
75 Sikevycha Volodymyra St., Kyiv region, Tarashcha, 09500
On committing administrative offense

The National Agency for Prevention of Corruption (hereinafter referred to as the National Agency), in accordance with clause 121 of Part one of Article 12 of the Law of Ukraine “On Corruption Prevention”, Articles 221, 257, Part one of Article 276 of the Code of Ukraine on Administrative Offenses, the Procedure for the Drawing up Reports on Administrative Offenses and Entering Instructions by the National Agency, approved by the decision of the National Agency for Prevention of Corruption No. 5 of 09.06.2016, registered with the Minister Justice of Ukraine under No. 1019/291 on 25.07.2016, sends a report on an administrative offense No. 51-06/17/17 of 17.07.07, the materials of which became the basis for its drawing up in relation to the deputy of the Tarashcha City Council of the VII convocation for the commission of an administrative offense provided for by Part one of Article 1726 of the Code of Ukraine on Administrative Offenses,

for the consideration of cases.

Based on the results of the consideration of the cases on administrative offenses, please send a copy of the ruling on the case to the National Agency.

Annex: the case of an administrative offense committed by XXX, in one volume on ___ sheets.

Head of the Department

H. Zh. Solomatina

11.6. PRESS RELEASES/PUBLIC INFO (ENGLISH)

11.6.1. 27 July 2017: Obligation for members of NGOs to declare

NACP provides explanation regarding the obligation to declare on members of the anticorruption non-governmental organizations

The National Agency on Corruption Prevention provides explanation for application of separate provisions of the LoU "On Amending of Certain Laws of Ukraine on the Peculiarities of Financial Control of Separate Categories of the Officials" regarding the definition of the subjects of declaration. It should be emphasized that the National Agency is the executor of the adopted amendments to the Law that were made on the initiative of Member of the Parliament Tetyana Chornovil, and adopted at the sitting of Verkhovna Rada of 23.03.2017.

July 27, 2017

The National Agency on Corruption Prevention provides explanation for application of separate provisions of the LoU "On Amending of Certain Laws of Ukraine on the Peculiarities of Financial Control of Separate Categories of the Officials" regarding the definition of the subjects of declaration. It should be emphasized that the National Agency is the executor of the adopted amendments to the Law that were made on the initiative of Member of the Parliament Tetyana Chornovil, and adopted at the sitting of Verkhovna Rada of 23.03.2017.

Please, note, according to the provisions of the Law (third paragraph of clause 5 of the first part of article 3), activists of anticorruption non-governmental organizations or their employees become subjects of declaration only if they are funded through anti-corruption project or are member of the governing bodies of non-governmental organizations that conduct anti-corruption activity. That is, employees that render services to such organizations (drivers, cleaning staff, etc.) do not automatically become the subjects of declaration, but only if this is provided by the relevant program or project of NGO to which they are rendering services (by budget, description, etc.).

Thus, the Law is extended to individuals who:

Receive funds, property in terms of implementation in Ukraine of programs (projects) of technical or other, including irreversible, assistance in the field of prevention, counteraction of corruption both directly, and through the third parties or in any other way provided by the relevant program (project);

Systematically, during the year, carry out work, render services on implementation of standards in the field of anti-corruption policy, monitoring of anticorruption policy in Ukraine, preparation of proposals on the issues of formation, implementation of such policy, – if funding (payment) of such work, services is carried out directly or through the third parties at the expense of technical or other, including irreversible, assistance in the field of prevention, counteraction of corruption;

Are heads or are members of a supreme governing body, other governing bodies, non-governmental organizations, other non-profit organizations, if such non-governmental organizations, non-profit organizations: carries out activity related to prevention, counteraction corruption, implementation of standards in the field of anti-corruption policy, monitoring of anticorruption policy in Ukraine, preparation of proposals on issues of formation, implementation of such policy, and/or participates, is involved in implementation of activities related to prevention, counteraction of corruption.

Further information on explanations can be found at NACP website by the link: <https://goo.gl/DtCs3T>

We also provide a full response to the request of the Head of the Public Council under the National Agency on Corruption Prevention Taran V. V. regarding this issue: <https://goo.gl/ks694S>

Dear Viktor Viktorovich!

The National Agency on Corruption Prevention (hereinafter – National Agency) has reviewed your request of 15.06.2017 № 017/06/2017 and informs the following.

1. According to the amendments introduced by the Law of Ukraine № 1975-VIII “On Amendments to Certain Laws of Ukraine Regarding the Peculiarities of Financial Control of Separate Categories of Officials” of 23.03.2017 (hereinafter – Law № 1975-VIII,) the subjects of declaration are in particular individuals which receive funds, property in terms of implementation in Ukraine of programs (projects) of technical or other, including irreversible, assistance in the field of prevention, counteraction of corruption (both direct and through the third parties or in any other way provided by the relative program (project) (second paragraph of clause 5 of the first part of article 3 of the Law of Ukraine “On Corruption Prevention”; hereinafter – Law).

The field of corruption prevention should mean any activity related to the system of measures on corruption prevention, provided by the Law, in particular (but not limited to):

- participation in formation or implementation of anticorruption policy (art. 18 of the Law);
- participation in development, execution or control of execution of anticorruption programs (art. 19 of the Law);
- any forms of public participation in the activities on corruption prevention provided in the article 21 of the Law;
- informing of the National Agency about possible display of false details in declaration of the subjects authorized to perform functions of the state or local self-government (art. 50 of the Law);
- informing of the National Agency about discrepancy in the level of living of the subjects of declaration to the declared property and income (art. 51 of the Law);
- conducting of public anticorruption expertise (art. 55 of the Law);
- sending of requests for getting information provided in the second part of the article 60 of the Law.

The field of corruption prevention means activity of specially authorized subjects in sphere of corruption counteraction (prosecuting bodies, National police, National anti-corruption bureau of Ukraine, National agency of corruption prevention) regarding identification, termination, investigation, prosecution for corruption and corruption-related offences.

Considering the provisions of the Procedure for the Involvement, Use and Monitoring of the International Technical Assistance, approved by the Resolution of the Cabinet of Ministers of Ukraine of February 15, 2002 № 153 (hereinafter – Procedure) “project” should mean a document that defines mutual activities of the participants of the project (donors, executors, beneficiaries, recipients), and the resources required for reaching the aims of the provided international technical assistance within the specified period of time; “program” means the projects connected for achieving mutual aim.

According to the given provisions of the second paragraph of clause 5 of the first part of article 3 of the Law, the subjects of declaration are individuals that receive funds, property in terms of implementation in Ukraine of programs (projects) in the field of prevention, counteraction of corruption “both directly and through the third parties or in any other way provided by the relevant program (project)”. Thus, the subjects of declaration are individuals that receive the funds, property directly, and those who receive funds, property through the third parties or in any other way, provided it is specified by the relevant program or project (their budget, description, etc.).

In this case these could be individuals which in terms of educational or awareness-raising campaigns in the field of prevention, counteraction of corruption free of charge receive presentation or educational materials, stationery, accommodation services, food, compensation of the travel cost to the place of carrying out the campaign at the expense of the costs and according to the program or project, regardless of which organization or individual are paying such costs/provide relevant property

Besides, this provision covers individuals which receive funds, property in terms of implementation in Ukraine of programs (projects) of technical or other, including irreversible, assistance in the field of prevention, counteraction of corruption regardless if such funds or property are provided for carrying out actions directly connected with corruption prevention. Thus, this provision covers in particular individuals which render services, perform work, supply goods that have no direct relation to prevention or counteraction of corruption (for example, cleaning services, supplying food or stationery, etc.), if this was provided by the relevant program (project).

It should be noted that the abovementioned and other provisions of clause 5 of the first part of article 3 of the Law applies only to those individuals specified in it, and do not spread on individual entrepreneurs and legal persons.

2. “Technical assistance” in this provision of the Law means international technical assistance. According to the Procedure, international technical assistance is financial and other resources and services that are provided, according to the international agreements of Ukraine, by donors free of charge and in irreversible manner for support of Ukraine. “Irreversible assistance” means any funds or any other property or property rights transferred to the recipient of this assistance according to the donation agreements, other similar agreements or without concluding such agreements (charitable contribution, donation).

3. “Systematically” in this provision of the Law means carrying out of specified work or provision of services more than once within a year.

For this tracking of systematic nature of activity is carried out directly by the individual, which, in case of systematic carrying out of such activity (see above), becomes a subject of declaration and, accordingly, is obliged to follow the requirements for financial control which are provided by the Law.

4. According to the third paragraph of clause 5 of the first part of article 3 of the Law, the subjects of declaration are also individuals, which systematically within a year, carry out work, provide services for implementation of standards in the field of anti-corruption policy, monitoring of anti-corruption policy in Ukraine, preparation of proposals on the

issues of formation, implementation of such policy, – if financing (payment) of such work, services is made directly or through the third parties at the expense of technical or other, including irreversible, assistance in the field of prevention, counteraction of corruption.

The determining characteristic for qualifying an individual as a subject for declaration by this provision is receiving by him / her of payment (funding) at the expense of technical or other, including irreversible, assistance in the field of prevention, counteraction of corruption, and of carrying out work or rendering services for which payment was received. But in this case an individual becomes the subject of declaration if he / she was directly carrying out any specific activity in the field of prevention, counteraction of corruption, and in particular carried out work or rendered services for implementation of standards in the field of anti-corruption policy, monitoring of anti-corruption policy in Ukraine, preparation of proposals on the issues of formation, implementation of such policy.

Furthermore, it implies specifically carrying out by individual of actions for implementation of standards in the field of anticorruption policy, monitoring of anti-corruption policy in Ukraine, preparation of proposals on the issues of formation, implementation of such policy. Accordingly, this paragraph does not concern those individuals, who render services or carry out work, including provision of premises for rent, drinking water delivery, manufacturing of printed materials, etc.

5. According to the fourth paragraph of clause 5 of the first part of article 3 of the Law, the subjects of declaration are also individuals, who are leaders or part of a supreme governing body, other governing bodies of non-governmental associations, other non-profit organizations that carry out activity related to prevention, counteraction of corruption, implementation of standards in the field of anti-corruption policy, monitoring of anti-corruption policy in Ukraine, preparation of proposals on the issues of formation, implementation of such policy, and/or participate, are involved into carrying out activities related to prevention, counteraction of corruption.

Considering the provisions of the Law of Ukraine “On non-governmental associations” and other legislative acts of Ukraine, leaders, persons who are members of a supreme governing body, other governing bodies of non-governmental associations, other non-profit organizations, in particular, are:

All members of the general meeting, congress, conference or other supreme governing body of management of a non-profit organization, if such organization or association carry out activity stipulated in the paragraph;

Leaders and members of governing bodies of non-governmental associations, other non-profit organizations, if such association or organization carry out activity stipulated in the paragraph. The governing bodies and head of association (organization) are determined by its articles of association. Such body could be, in particular, board or other executive body (including, single-person, for example, head, executive director of organization). It should be considered that the supervisory board of association (organization) is not a governing body, if other is not stipulated in the articles of association of organization.

It should be regarded that the type of relationship between member of the supreme or any other governing body, in particular labor or civil-law relationships, paid or not work, does not matter for the purposes of this provision. Individual is regarded as the subject of declaration if he / she is a member of the specified body or is a head of a non-governmental association, other non-profit organization that carries out activity stipulated in the paragraph.

6. The notion of non-governmental association is defined by the Law of Ukraine “On non-governmental associations”: voluntary association of individuals and/or legal persons of private law for implementation and protection of rights and freedoms, satisfaction of public, in particular, economic, social, cultural, ecological, and other interests.

The notion of non-profit organization is defined by the Civil Code of Ukraine, according to which organization is an organization created through unification of individuals (members) that have the right to be members of this organization. Organization can be created by a single person, if other is not specified by the Law (art. 83 of the Civil Code). Non-profit organizations are organizations that have no purpose of getting income for its potential division between the members (art. 85 of the Civil Code). Examples of non-profit organizations: cooperatives (except industrial), charitable organizations, chambers of commerce and industry, political parties, religious organizations, trade unions, associations of lawyers, credit unions, associations on art, self-regulatory organizations, etc.

Regarding the leaders or members of the governing bodies of the management of non-governmental associations, other non-profit organizations, which carry out the specified anti-corruption activity, then the relevant individuals are subjects of declaration only in case of actual carrying out of the relevant activity by the specified organization. That is identification of anti-corruption activity in the statutory documents of organization are not confirmation of carrying out of this activity. Furthermore, if organization actually implements anti-corruption activity, though such activity is not specified in its statutory documents, it nevertheless becomes subjected to this provision. For example, if a non-governmental organization, the main activity of which is related to protection of the environment, would carry out activity in the field of corruption prevention, then its leaders, members of the governing bodies would become the subjects of declaration according to the Law.

7. The phrase “and/or participate, are involved into carrying out activities related to prevention, counteraction of corruption” regards not individuals, but non-governmental associations, other non-profit organizations. Thus, if association (organization) does not conduct its major activity in the field of prevention, counteraction of corruption, but participates, is involved into carrying out activities related to prevention, counteraction of corruption, then the leaders and members of such association (organization) are subject to declaration under the Law.

8. Regarding the submission of a notice on sufficient changes in the property status of the persons provided by clause 5 of the first part of article 3 of the Law, the National agency notes that requirements of article 52 of the Law extend to all subjects of declaration without exception, including the persons specified in this clause.

According to the Final provisions of the Law №1975-VIII, the persons that have been specified by the Law as the subjects of declaration, should submit the first declaration of a person that is authorized to perform the functions of the state or of the local self-government, in 2018 for the period from the date of this law’s entry into force, until December 31, 2017.

This provision relates only to the obligation of submitting a declaration and does not cover other requirements of financial control, specified by the Law. Thus, from the date the amendments, specified by the Law № 1975-VIII, enter into force, that is of March 30, 2017, individuals who are specified by clause 5 of the first part of article 3 of the Law, should complete the requirements of article 52 of the Law, that is to submit notifications about substantial changes in their property status, notifications about opening of a foreign-currency-account in a non-resident-banking institution.

We will appreciate provision of any additional suggestions or comments.

Sincerely, Head of the Department G. Zh. Solomatina

The inquiry by the NGO “Transparency International-Ukraine” on extension of the number of subjects of declaration and full response of the National agency are available by the link.

11.6.2. 28 July 2017: Results of inspections of selected declarations

NACP approved the results of inspections of the declarations of the Prime Minister, members of the Government and other high-level officials.

The National Agency on Corruption Prevention decided at its meeting on approval of the results of inspections of the declarations of the Prime Minister Volodymyr Groysman, members of the Cabinet of Ministers Pavlo Klimkin, Taras Kutovyy, Ivanna Klympush-Tsyntsadze, members of parliament, judges and other high-level officials.

July 28, 2017

The National Agency on Corruption Prevention decided at its meeting on approval of the results of inspections of the declarations of the Prime Minister Volodymyr Groysman, members of the Cabinet of Ministers Pavlo Klimkin, Taras Kutovyy, Ivanna Klympush-Tsyntsadze, members of parliament, judges and other high-level officials.

In the declarations of the Head of the Government, Volodymyr Groysman, and of the Minister of Agrarian Policy and Food of Ukraine, Taras Kutovyy, there are no violations. Declarations of other declaring subjects the majority of violations are made in respect of Article 46 of the Law of Ukraine "On Corruption Prevention": incomplete reflection of income (p. 7, p. 1 Art. 46), incomplete reflection of information about available cash assets (p. 8 p. 1 Art. 46), financial liabilities (p. 9 p. 1 Art. 46), expenses and transactions executed during the reported period (p. 10, p. 1, Art. 46) etc.

According to the results of inspection violations in the declaration of the judge of Supreme Administrative Court of Ukraine, Anatoliy Ieromin, were found: he provided false details on the amount that does not exceed 100 living wages for able-bodied persons. The National Agency decided to issue an order according to paragraph 5 of Chapter IV "Procedure for Control and Full Inspection of Declaration of a Person Authorized to Perform Functions of the State or of Local Self-Government" approved by the decision of the National Agency of 10.02.2017 №56.

According to the results of inspection of the declarations of other officials, corruption violations or violations related to corruption, conflict of interest, signs of illegal enrichment have not been found. It should be mentioned that accuracy of assessment of the declared assets corresponds the data obtained from the available sources.

It should be recalled that inspection is performed based on the second paragraph of the second part of Article 50 of the Law of Ukraine "On Corruption Prevention" and sub-paragraph 1 of paragraph 3 of chapter III "Procedure for Control and Full Inspection of Declaration of a Person Authorized to Perform Functions of the State or of Local Self-Government" approved by the decision of the National Agency of 10.02.2017 №56, registered in the Ministry of Justice of Ukraine of 13.02.2017 under № 201/30069.

Further information on the inspection of declarations can be found in the table:

| Nº | NAME | POSITION | YEAR OF DECLARATION | PRESENCE OF A VIOLATION | ARTICLE OF LOU "ON CORRUPTION PREVENTION" VIOLATED BY THE SUBJECT |
|----|--------------------------------|---|---------------------|-------------------------|---|
| 1 | Abdullin Oleksandr Rafkatovych | Member of the Parliament of Ukraine of VIII convocation | 2015 | yes | Paragraph 2 of the first part of Article 46 |
| 2 | Tretyakov Oleksandr Iuriyovych | Member of the Parliament of Ukraine of VIII convocation | 2016 | yes | Paragraph 2 of the first part of Article 46 of the Law |
| 3 | Groysman Volodymyr Borysovych | Prime-Minister | 2015 | no | |

| | | | | | |
|----|--------------------------------------|---|------|-----|--|
| 4 | Klympush-Tsyntsadze Ivanna Orestivna | Vice Prime-Minister of Ukraine on issues of European and Euro-Atlantic integration of Ukraine | 2015 | yes | Paragraphs 2 and 3 of the first part of Article 46 |
| 5 | Klimkin Pavlo anatoliyovych | Minister for Foreign Affairs | 2015 | yes | Paragraphs 2 and 10 of the first part of Article 46 |
| 6 | Kutovyy Taras Viktorovych | Minister of Agrarian Policy and Food of Ukraine | 2015 | no | |
| | | | 2016 | no | |
| 7 | Benedycyuk Igor Mykhaylovych | Head of the High Council for Justice | 2015 | yes | Paragraphs 2, 3 and 7 of the first part of Article 46 |
| 8 | Ieromin Anatoliy Vasylovych | Judge of the Supreme Administrative Court of Ukraine | 2015 | yes | Paragraphs 2-1 and 7 of the first part of Article 46 |
| 9 | Lysenko Sergiy Dmytrovych | Fired from the position of the Head of Melitopol local prosecutor's office of Zaporizkyy region | 2015 | yes | Paragraphs 2, 3, 9 of the first part of Article 46 |
| 10 | Solomko Veronika Romanivna | Former investigator of the investigative department of Dniprovskyy police department of Kherson Police department of the Head Office of the National Police in Khersonskyy region | 2016 | yes | Paragraphs 2, 7 and 10 of the first part of Article 46 |

11.6.3. 2 August 2017: NACP checks (only) details after April 2015.

NACP checks details in declarations in respect of property, assets and corporate rights that have been accrued by the declaring subject after April 2015.

National Agency on Corruption Prevention monitors and verifies declarations only in respect of property, assets and corporate rights that have been accrued by the declaring subject after April 2015, as stipulated by the Law of Ukraine "On Corruption Prevention" adopted by Verkhovna Rada of Ukraine on October 14, 2014.

August 2, 2017

National Agency on Corruption Prevention monitors and verifies declarations only in respect of property, assets and corporate rights that have been accrued by the declaring subject after April 2015, as stipulated by the Law of Ukraine "On Corruption Prevention" adopted by Verkhovna Rada of Ukraine on October 14, 2014.

According to the Final Provisions of the Law, it enters into force on the day following the day of its publication, and is put into effect after six months from its entry into force. At the same time, the Law was first officially published in the issue of "Voice of Ukraine" on October 25, 2014.

Considering the abovementioned, provisions of the Law "On Corruption Prevention", related to regulation of public relations in anti-corruption field, were enacted on April 26, 2015. It should be noted that it is the date of the entry into force of the Law "On Corruption Prevention" is the beginning for emergence, change or termination or rights and obligations of the relevant subjects of legal relations.

At the same time, it should be noted that the new edition sets out Article 368-2 of the Criminal Code of Ukraine, according to which the subject of a crime is persons authorized to perform functions of the state or of local self-government as set in paragraph 1 of part one of Article 3 of the Law of Ukraine "On Corruption Prevention". In this regard, the acquisition from April 26, 2015, by such person of assets in significant amounts, the legality of which is not evidence-based, as well as transfer of such assets to any other person, entails criminal liability provided by Article 368-2 of the CCU.

11.6.4. 4 August 2017: Key indicators conflict of interest in 2017

Key indicators of the NACP activity in monitoring compliance with the laws on conflict of interest in 2017

As of August of the current year, the Department for Monitoring the Compliance with the Laws on Conflict of Interest and Other Restrictions as to Prevention of Corruption of the NACP carried out 120 inspections on the existence of conflict of interest in the course of complete verification of declarations, and other 129 verifications are still being carried out.

August 4, 2017

As of August of the current year, the Department for Monitoring the Compliance with the Laws on Conflict of Interest and Other Restrictions as to Prevention of Corruption of the NACP carried out 120 inspections on the existence of a conflict of interest in the course of complete verification of declarations, and another 129 verifications are still being carried out.

Since the beginning of the year, 922 explanations have been provided on the existence of conflict of interest and other restrictions as to prevention of corruption. The Department monitored 691 persons: 490 on its own initiative and 201 according to the reported violations. The monitoring was carried out in compliance with the requirements of the Law of Ukraine "On Corruption Prevention" in the part of prevention and settlement of conflict of interests (Article 28) and prevention of conflict of interest in connection with the availability of enterprises or corporate rights of a person (Article 36).

The Department has drawn up 61 reports on violations of the requirements of the laws and has issued 4 orders for the elimination of violations. During this period, 264 verifications were carried out to observe the restrictions provided for in the Law of Ukraine "On Corruption Prevention":

- regarding the use of official powers or position (Article 22);
- regarding the receipt of gifts (Article 23);
- regarding the combination and combination with other activities (Article 25);
- after the termination of activities related to the fulfillment of functions of the state, local self-government (Article 26)

About the work done in the infographics:

Key indicators of the NACP activity in monitoring the compliance with the laws on conflict of interest and other restrictions as to prevention of corruption in 2017

| Response measures taken | | Monitoring the compliance with the laws |
|--|-------------------------------------|--|
| 922 explanations provided | 264 verifications carried out | 490 monitorings started on the NACP's initiative |
| 61 reports drawn up | 4 orders issued | 201 monitorings started according to the reported violations |
| Verifications as to availability of conflict of interests in the course of complete verification of e-declarations | | |
| 249 verifications initiated | 129 verifications being carried out | 120 verifications completed |

11.6.5. Compatibility status of EDS tools

Compatibility status of EDS tools

Software for verification of compatibility status of EDS tools with the software of central certifying authority:

Go to online service of verification and applying EDS (<http://czo.gov.ua/online-ecp>)

For information of the accredited centers of certification of keys and other stakeholders

Pursuant to the findings of independent test carried out by software developer of the Unified State Register of persons authorized to perform the functions of the state or local self-government, according to its letter # UNDP/SPM/2016 of 27 April 2016, the software of the following accredited centers of certification of keys is compatible with the software of this e-declaration system:

- Accredited center of certification of keys of the Armed Forces of Ukraine;
- Accredited center of certification of keys of the State Treasury Service of Ukraine;
- Accredited center of certification of keys of the state-run enterprise "Main Information Computer Center of the State Railroad Transport of Ukraine;"
- Accredited center of certification of keys of justice authorities of Ukraine;
- Accredited center of certification of keys of the state-run enterprise "Ukrainian Special Systems;"
- Accredited center of certification of keys of Information and Consultations Department of the State Fiscal Service;
- Accredited center of certification of keys of Public Joint Stock Company "UkrSibbank;"
- Accredited center of certification of keys "eSign" of limited liability company "Altersign;"
- Accredited center of certification of keys "Masterkey" of limited liability company "Art-master;"
- Accredited center of certification of keys of limited liability company "Key systems."

The verification of the following centers is pending:

- Accredited center of certification of keys of Public Joint Stock Company "Commercial Bank 'Privatbank;"
- Accredited center of certification of keys of the State-Run Enterprise "Ukrainian Intellectual Property Institute."

Take also note that according to explanations of the customer of e-declaration system software ("Enhanced Public Sector Transparency and Integrity" Project of United Nations Development Programme in Ukraine), the enhanced certificate of open key generated and issued by the accredited center of certification of keys, the above-mentioned e-declaration system software will use the attribute from the field "Signer's personal data" (subjectDirectoryAttributes) – namely, individual taxpayer number or passport number of the citizen of Ukraine (for natural persons who refused from individual taxpayer number due to their religious beliefs, notified the respective controlling body accordingly and have the respective mark in their passports) – as the main identifier of a declarant in the system.

(link <http://czo.gov.ua/status-ecp>)

11.6.6. Free IT access

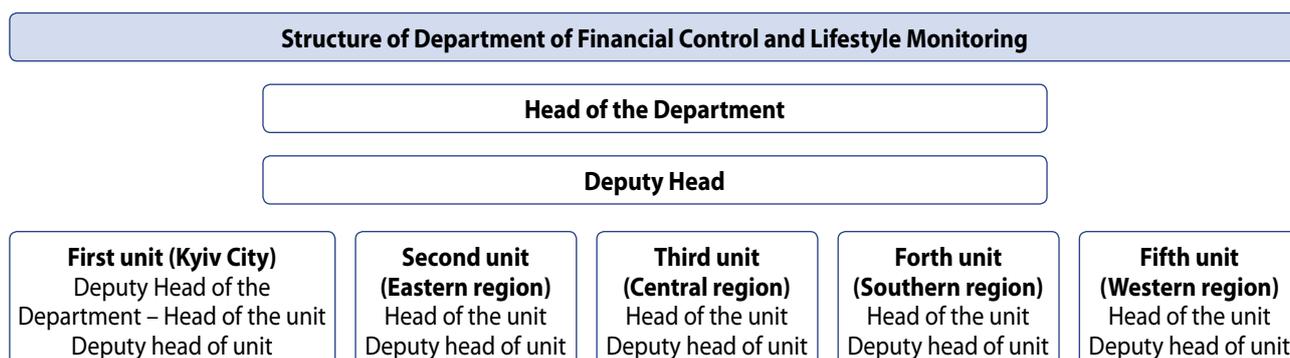
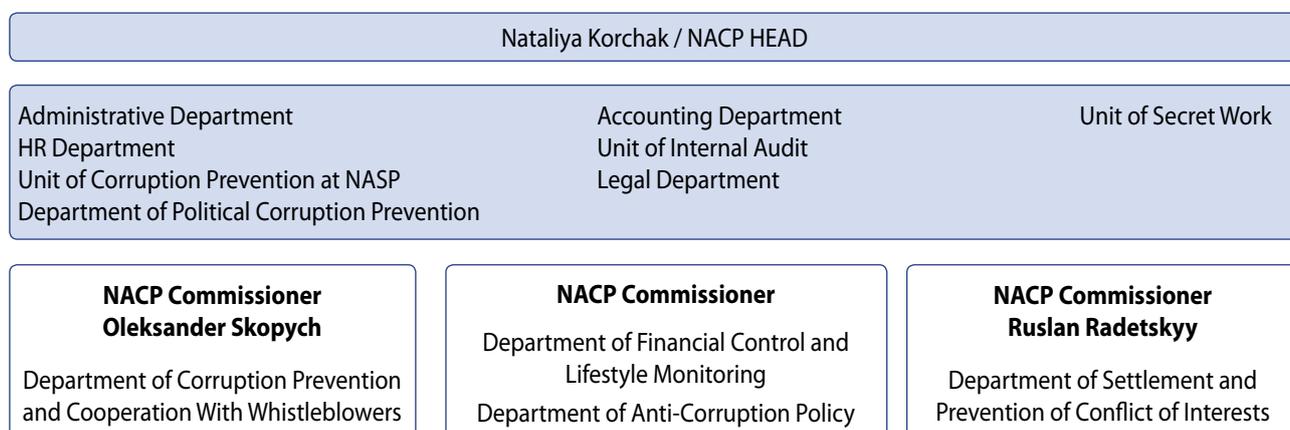
For information of declarants – persons specified in item 1, sub-item “a” of item 2 of part one of Article 3 of the Law of Ukraine “On the Prevention of Corruption,” other persons who are requested to submit asset and income declarations pursuant to this Law

According to the Law of Ukraine “On Electronic Digital Signature,” the Resolution of the Cabinet of Ministers of Ukraine # 1452 of 28 October 2004 “On the Application of Procedure of Use of Electronic Digital Signature by Public Authorities, Local Self-Government Bodies, and State-Run Enterprises, Institutions and Organizations,” and the Instruction of the Cabinet of Ministers of Ukraine # 145-p of 24 February 2016 “On Ensuring the Provision of Electronic Digital Signature Services to Public Officials Holding Positions of Categories A and B and other Equated Positions,” electronic digital services are provided free of charge by the following providers:

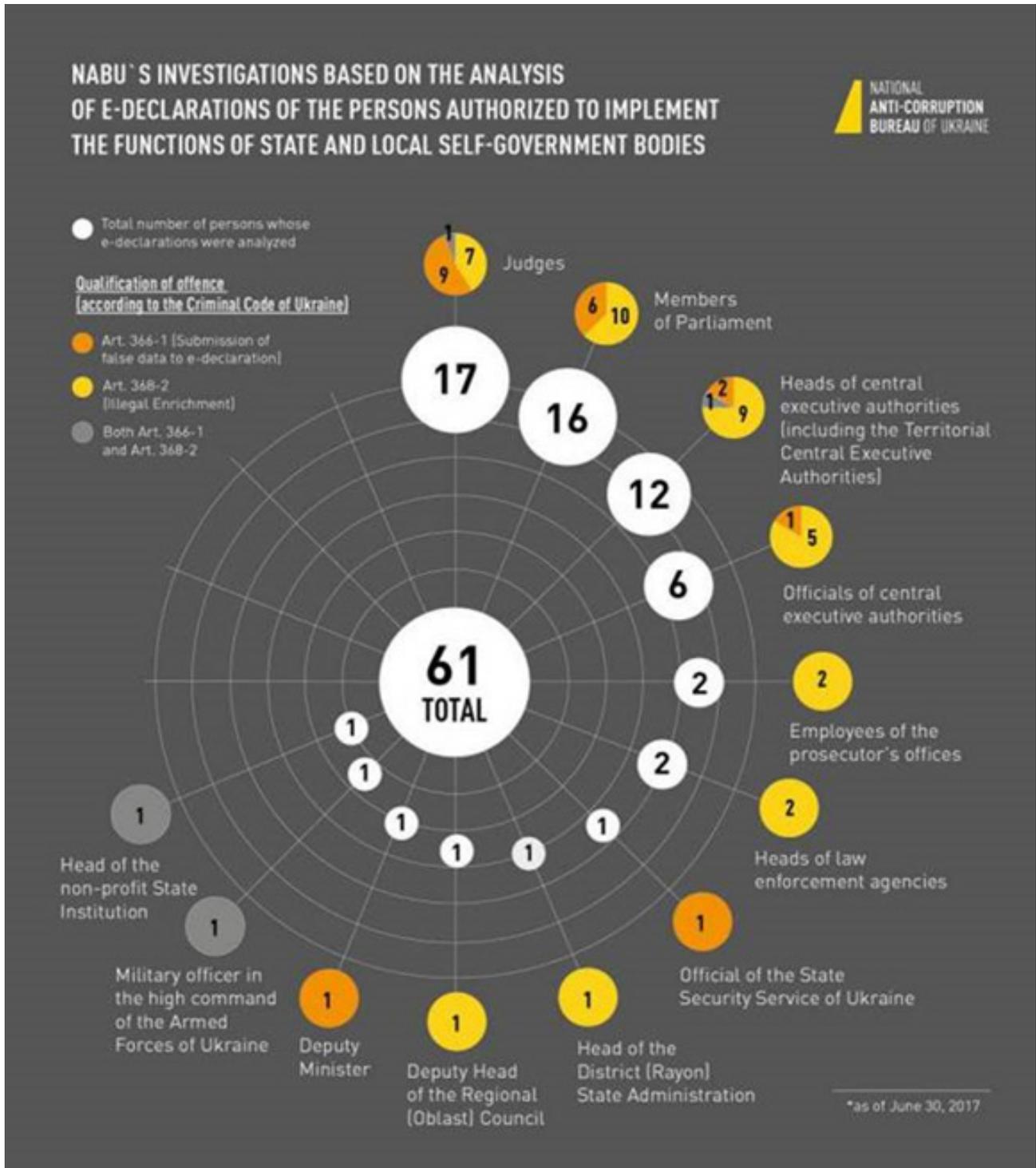
- Accredited center of certification of keys of justice authorities of Ukraine, tel. +380 (44) 206 71 33, 206 71 59, 206 71 94, e-mail ca@informjust.ua;
- Accredited center of certification of keys of Information and Consultations Department of the State Fiscal Service, tel. +380 (44) 284 00 10, e-mail inform@acschild.gov.ua;
- Accredited center of certification of keys of the State Treasury Service of Ukraine, tel. +380 (44) 286 48 68, e-mail t_cadku@treasury.gov.ua

(link <http://czo.gov.ua>)

11.6.7. Organisational charts (NACP, Department)



11.6.8. NABU statistics



11.6.9. Complaint to the Constitutional Court

The constitutional complaint by 48 MPs, which was lodged on 30 December 2015, seeks to strike as unconstitutional several provisions of the Law on Prevention of Corruption (which makes e-declarations mandatory for public officials) and one provision of the Criminal Code (criminal liability for submitting knowingly false information in declarations)

| PROVISION DISPUTED | DETAIL | WHY ALLEGEDLY UNCONSTITUTIONAL | CONSTITUTIONAL PROVISIONS OR COURT DECISIONS | ECHR DECISIONS CITED |
|--------------------------------|---|---|---|--|
| Art 1, part 1, para 14 of LoPC | The definition of family members: “their children, including of age, parents” and “other persons who reside together” | Interference in personal and family life. | Art 32 (prohibited to collect information about persons without consent, except for cases outlined by law) | |
| | | Confidential and personal information is disseminated | Court decision as of 30 October 1997 (official interpretation of the Law on Information) | <ul style="list-style-type: none"> • Z vs. Finland • Hannover vs. Germany 2004 • Peck vs UK • Norris vs Ireland 1998 |
| Art 46 of LoPC | Information that should be listed in e-declarations, inc. “incomplete construction”, cash, movable property | Violates the principle of legal certainty: mostly an argument about “unclear” terms used in law | | <ul style="list-style-type: none"> • Baranowski vs. Poland • Soldatenko vs. Ukraine |
| Art 51 of LoPC | NACP carries out selective monitoring of lifestyle | “monitoring” is the same as operative-search activities, which can only be carried out by operative units | Art 19 (authorities must act only within the law) | |
| | | Violates the principle of equality | Art 21 (equality of rights) | Willis vs UK |
| Art 366-1 of Penal Code | Submission of knowingly false information in declarations (imprisonment up to 2 years) | Criminal liability imposed for action (or omission) of third persons, which “are neither crimes nor misdemeanors, as mandatory elements of crime are missing” | Constitutional court decision as of 30 May 2001: “legal responsibility has individual nature” (Art. 58, 61, 92) | Handyside vs United Kingdom (proportionality) |

Reaction of the Civil Society

In preparation to the CCU hearing, Ms. Oleksandra Drik, the coordinator of the CSO coalition “Declaration under control”, sent an open letter (12 pages) to Stanislav Shevchuk, the CCU Judge Rapporteur.

In this open letter, the CSO coalition coordinator opposed the 48 MPs, mainly from the “Opposition Bloc” parliamentary faction, who challenge constitutionality of separate legal provisions on “e-declaration” (Law on Prevention of Corruption). Ms. Drik analysed the constitutional submission point by point to conclude that MPs did not provide sufficient evidence proving unconstitutionality of the challenged provisions. On top of this, she underlined positive assessment of the challenged provisions by international partners including the EU.

As a result, the CSO coalition “Declarations under control” called upon the CCU to stop the constitutional proceedings due to a lack of legal justification and recognize the challenged provisions as compliant with Constitution.





EU ANTI-CORRUPTION INITIATIVE IN UKRAINE

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