

Draft Law No. 5031
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by people's deputies of Ukraine
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LAW OF UKRAINE

on the National Bureau of Anti-Corruption Investigations of Ukraine

This Law defines legal framework of the organisation and activity of the National Bureau of Anti-Corruption Investigations of Ukraine (hereinafter – the National Bureau), which is aimed at fighting corruption offences that are committed by higher officials authorised to perform functions of the State or of the local self-government and that are especially dangerous to the society.

CHAPTER I.

GENERAL PROVISIONS

Article 1. Status of the National Bureau

1. The National Bureau is the law enforcement central body of the executive power with a special status that is tasked with prevention, detection, suppression and investigation of crimes under its investigative jurisdiction.

2. The National Bureau is controlled by the Verkhovna Rada of Ukraine [parliament] and reports to the Cabinet of Ministers of Ukraine and the President of Ukraine within limits determined by this and other laws.

Article 2. Legal framework for the National Bureau's activity

Legal framework for activity of the National Bureau includes the Constitution of Ukraine, this and other laws of Ukraine, international treaties of Ukraine, as well as other legal normative acts adopted in accordance with them.

Article 3. Principles of organisation and activity of the National Bureau

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

- priority of the respect for rights and freedoms of natural and legal persons;
- legality;
- centralisation and single commandment;
- subjection to control and accountability;
- openness and transparency;

- non-partisanship;
- counteraction with law enforcement and other state authorities, local self-government bodies, civil society organisations.

2. Activity of the National Bureau cannot be used to unlawfully restrict the rights and freedoms of persons or to attain by force the constitutional overthrow, removal of state authorities or obstruction of their work.

Article 4. Guarantees of the National Bureau's independence

1. The independence of the National Bureau from the unlawful intrusion in its activity is guaranteed by:

- special procedure for selection, appointment and dismissal of the National Bureau's Director;
- competitive selection of the National Bureau's employees defined by this Law; special legal and social protection of the National Bureau's employees;
- special, defined by law order of financing and material and technical support of the National Bureau;
- proper conditions of remuneration of the National Bureau's employees;
- defined by law measures to ensure personal security of the National Bureau's employees, their close relatives and property;
- other measures defined by this Law.

2. The use of the National Bureau in partisan, group or personal interests is forbidden. Activity of political parties and other associations with political purposes within the National Bureau is forbidden.

3. It is forbidden for the state authorities, local self-government bodies, officials, political parties and other citizen associations, mass media to unlawfully intervene in the activities of the National Bureau.

Any instructions, proposals or demands directed to the National Bureau and its employees, which concern pre-trial investigation in specific cases and are not provided for in the Criminal Procedure Code, are illegal and should not be executed.

Article 5. International co-operation

1. The National Bureau according to international treaties and laws of Ukraine co-operates in the area of anti-corruption with relevant foreign state authorities, international organisations and non-governmental organisations.

2. The National Bureau can conclude agreements on the co-operation within its powers with foreign and international bodies and organisations.

CHAPTER 2. GENERAL STRUCTURE, LEADERSHIP AND STAFF OF THE NATIONAL BUREAU

Article 6. General structure and number of staff of the National Bureau

1. General structure of the National Bureau is composed of its Central Office and subordinated to it the following regional offices which are set up based on this Law:

- 1) a regional office located in Lviv and covering Zakarpattia, Ivano-Frankivsk and Lviv oblasts;
- 2) a regional office located in Rivne and covering Volyn, Rivne and Ternopil oblasts;
- 3) a regional office located in Vinnytsya and covering Vinnytsya, Khmelnytskyi and Chernivtsi oblasts;
- 4) a regional office located in Kyiv and covering Zhytomyr, Kyiv, Cherkasy and Chernihiv oblasts;
- 5) a regional office located in Kyiv and covering the city of Kyiv;
- 6) a regional office located in Kharkiv and covering Poltava, Sumy and Kharkiv oblasts;
- 7) a regional office located in Dnipropetrovsk and covering Dnipropetrovsk and Kirovograd oblasts;
- 8) a regional office located in Donetsk and covering Donetsk and Luhansk oblasts;
- 9) a regional office located in Zaporizhzhya and covering Zaporizhzhya and Kherson oblasts;
- 10) a regional office located in Odesa and covering Mykolayiv and Odesa oblasts;
- 11) a regional office located in Simferopol and covering the Autonomous Republic of Crimea and the city of Sevastopol.

The Cabinet of Minister of Ukraine, upon proposal of the National Bureau's Director, can set up local offices of the National Bureau whose territorial jurisdiction may not coincide with the administrative division of the country.

2. To provide in-service training for the National Bureau's staff a training facility is set up.

3. The National Bureau is organised based on the principle of lower bodies and units being controlled and accountable to the higher ones and to the National Bureau's Director.

4. Organisational structure of the National Bureau is approved by the Cabinet of Ministers of Ukraine upon proposal of the National Bureau's Director which is endorsed by the Verkhovna Rada of Ukraine's committee dealing with anti-corruption issues (hereinafter - the Verkhovna Rada Committee).

5. The structure of the National Bureau includes operative-detective and investigative units, units for technical support of the operative activity as well as information-analytical service, units of special forces, for protection of the criminal trial participants and of the National Bureau's employees, internal control units, public relations and public information, expert, human resources and other services and units.

6. The maximum number of staff of the National Bureau shall be 1,300 persons.

Article 7. Central Office, regional and local offices of the National Bureau

1. The Central Office of the National Bureau carries out directly the tasks of the National Bureau, coordinates and controls activity of the regional and local offices.

2. Regulations on the Central Office, regional and local offices of the National Bureau are approved by the Cabinet of Ministers of Ukraine upon proposal of the National Bureau's Director which was endorsed by the Verkhovna Rada Committee.

3. The Central Office of the National Bureau, its regional and local offices, and the training facility of the National Bureau are legal persons, have stamps with the image of the State Emblem of Ukraine and their name, other stamps, accounts in banks, including in foreign currency.

Article 8. Director of the National Bureau

1. The National Bureau is headed by the Director who is appointed to the office and dismissed from the office by the Cabinet of Ministers of Ukraine according to the procedure provided for in this Law.

2. The Director of the National Bureau can be a citizen of Ukraine, who is not younger than 35 years old, has higher legal education, experience of work in the field of law of at least 10 years, has command of the state language and is capable to perform relevant duties according to his business and moral qualities, educational and professional level, state of health.

A person who does not comply with restrictions provided for in Article 13, paragraph 1, of this Law cannot be appointed as the National Bureau's Director.

3. Director of the National Bureau is appointed for a 5-year term. The same person cannot hold this office for two consecutive terms.

4. The Director of the National Bureau can be dismissed before expiration of his term of office only in case when he:

- 1) is appointed or elected to another post upon his consent;
- 2) reached the age of 65 years;
- 3) cannot perform his duties due to the state of health according to the conclusion of a medical commission that was set up by the decision of the Cabinet of Ministers of Ukraine;
- 4) was convicted of commission of a crime and the sentence came into force;
- 5) ceased his citizenship of Ukraine;
- 6) submitted his voluntary resignation;
- 7) does not comply with restrictions provided for in Article 13, paragraphs 1-2, of this Law.

Dismissal of the National Bureau's Director before expiration of his term of office due to incompliance with restrictions provided for in Article 13, paragraph 2, of this Law and according to subparagraphs 3) and 6) of this paragraph shall be endorsed by the Verkhovna Rada Committee.

5. The National Bureau's Director:

- 1) bears responsibility for activity of the National Bureau, in particular for the legality of the operative-detective activities, pre-trial investigation carried out by the National Bureau, for the respect of person's rights and freedoms;
- 2) organises the work of the National Bureau, coordinates and controls activity of the National Bureau's offices and units;
- 3) approves the structure and list of staff positions [organisational chart] of the Central Office, regional and local offices of the National Bureau;

- 4) approves Regulations on the training facility of the National Bureau, determines the procedure and schedule of the in-service training of the National Bureau's employees;
- 5) issues, within his powers, orders and instructions that are mandatory for execution by the National Bureau's employees;
- 6) appoints and dismisses First Deputy Director and up to three Deputy Directors of the National Bureau, heads of the structural units of the Central Office of the National Bureau, directors and deputy directors of the regional and local offices of the National Bureau; determines according to the legislation the procedure for appointment and dismissal of other employees of the National Bureau, the procedure for the competitive selection of persons to the posts defined by this Law;
- 7) decides on the distribution of budgetary funds, which are managed by the National Bureau, and approves the report on their use;
- 8) approves long-term, short-term and operative plans of the National Bureau;
- 9) establishes, according to the legislation, the procedure for registration, processing, storing and destroying of information received by the National Bureau; takes measures to ensure confidentiality of the information and prevention of unauthorised access thereto, as well as ensures compliance with the legislation on access to information held by the National Bureau;
- 10) decides on the promotion of and disciplinary punishments imposed on the National Bureau's employees;
- 11) assigns, within his powers and according to the procedure established by the legislation, ranks of civil servants to the employees of the National Bureau;
- 12) submits, according to the established procedure, proposals on the improvement of the legislation on issues within National Bureau's competence;
- 13) represents the National Bureau in relations with state authorities, local self-government bodies, non-governmental organisations, as well as law enforcement bodies and other organisations of foreign states, international organisations, etc.;
- 14) ensures openness and transparency of the National Bureau's activity according to this Law; reports on the National Bureau's activity in accordance with this Law;
- 15) exercises other powers provided for in the legislation.

Article 9. Procedure for competitive selection and appointment of the National Bureau's Director

1. Director of the National Bureau is appointed to the office based on the results of an open competitive selection (hereinafter – the Competition). Any person who complies with the requirements provided for in Article 8, paragraph 2, of this Law can take part in the Competition.

2. The Competition is organised and conducted by the Selection Commission whose composition is approved by the Cabinet of Ministers of Ukraine.

3. The Selection Commission comprises:

- 1) the Prime Minister of Ukraine, who is the Chair of the Selection Commission;
- 2) five persons determined by the Verkhovna Rada Committee from among its members;
- 3) Minister of Justice of Ukraine;
- 4) Prosecutor General of Ukraine or Deputy Prosecutor General;
- 5) a representative of the President of Ukraine;

6) two representatives of the judiciary who are designated by the Council of Judges of Ukraine.

4. A decision of the Selection Commission is considered as approved if it was voted for by at least seven members of the Commission at its meeting.

Meetings of the Selection Commission are open for the mass media.

5. The Selection Commission:

1) approves the Regulations on the Competition;
2) places announcement about the conditions and timeline of the Competition in the national print media outlets and on the official web-site of the Cabinet of Ministers of Ukraine;

3) reviews applications submitted by the candidates for the post of the National Bureau's Director and conducts interviews with three selected candidates;

4) selects, by a secret ballot, one candidate who complies with the requirements for the Director of the National Bureau and has, in the Selection Commission's opinion, the best professional experience, knowledge and merits to perform the duties of the National Bureau's Director;

5) places on the official web-site of the Cabinet of Ministers of Ukraine information about all candidates who applied to the Competition according to the Regulations on the Competition, including information on their education and professional experience, as well as information about three candidates who were interviewed by the Selection Commission and about the candidate who was selected by the Selection Commission;

6) submits to the Cabinet of Minister of Ukraine proposal on appointment of the candidate selected by the Selection Commission to the post of the National Bureau's Director.

6. The Cabinet of Ministers of Ukraine appoints as the National Bureau's Director the candidate who was selected by the Selection Commission.

Article 10. Directors of regional and local offices of the National Bureau

1. Directors of the regional and local offices of the National Bureau are appointed to and dismissed from their posts by the National Bureau's Director upon approval of the Verkhovna Rada Committee.

2. Director of the regional or local office of the National Bureau:

1) organises work of the respective office to carry out the National Bureau's duties, orders and instructions of the National Bureau's Director;

2) appoints and dismisses employees of the respective office, except for those who are appointed by the National Bureau's Director;

3) submits proposals to the National Bureau's Director on assigning in accordance with the legislation of civil servant ranks to employees of the respective office;

4) submits proposals to the Director of the National Bureau on the structure and list of staff positions [organisational chart] of the respective office;

5) issues, within his powers, orders and instructions;

6) exercises other powers provided for in the legislation.

Article 11. Employees of the National Bureau

1. Staff of the National Bureau consists of civil servants and other employees with whom a labour agreement is concluded.
2. The time of service in the National Bureau is included in the work record, record of work according to specialty and record of civil service.
3. National Bureau's employees regularly and at least once in three years undergo a mandatory in-service training.

Article 12. Procedure for selection and appointment of the National Bureau's employees

1. Citizens of Ukraine, who have a higher education degree and are capable to perform relevant duties according to their business and moral qualities, educational and professional level, state of health can be employed to serve in the National Bureau.
2. Persons who have a higher legal education and the following work experience can be appointed to the posts of the National Bureau's employees, which are mentioned in this paragraph:
 - 1) for Deputy Directors of the National Bureau – at least seven years of work in the field of law;
 - 2) for directors and deputy directors of regional and local offices of the National Bureau – at least seven years of work in law enforcement agencies on positions related to the operative-detective or investigatory work;
 - 3) for heads of operative-detective and investigative units – at least five years of work in law enforcement agencies on positions related to the operative-detective or investigatory work.
3. Appointment to the positions of investigators, operative officers, heads of operative-detective and investigative units, directors and deputy directors of regional and local offices is carried out solely on the basis of an open competition that is conducted according to the procedure approved by the National Bureau's Director.

Article 13. Restrictions applicable to the National Bureau's employees

1. A person cannot be appointed as a National Bureau's employee if he:
 - 1) was declared according to the law incapacitated or with a limited capacity;
 - 2) has a conviction for commission of a crime;
 - 3) has been brought to responsibility for a corruption offence;
 - 4) when appointed would be directly subordinated to a person who is his close relative.
2. Employees of the National Bureau are not allowed to:
 - 1) be a member or participate in the activity of political parties, organise or take part in strikes;
 - 2) carry out entrepreneurial activity directly or through intermediaries or fake persons, as well as to carry out any other remunerated activity (except for academic work, lecturing or creative work);

- 3) represent third persons in relations with the National Bureau;
- 4) use the National Bureau, its employees and property in partisan, group or personal interests, as well as take part in creation or activity of organisational structures of political parties within the National Bureau.

3. An employee of the National Bureau who does not comply with one of the restrictions specified above shall be dismissed from the National Bureau.

A National Bureau's employee can also be dismissed as a result of his internship in the National Bureau.

Article 14. Internship in the National Bureau

1. Persons, who have no prior experience of work in the law enforcement agencies on positions related to the operative-detective or investigatory work, after passing the competition for the posts of an investigator or an operative officer of the National Bureau undergo a mandatory internship of six months to one year.

2. The procedure of internship is determined by the Regulations that are approved by the National Bureau's Director.

Article 15. Secondment of prosecutors and other persons to the National Bureau

1. Prosecutors and employees of other state authorities can be seconded to the National Bureau while remaining in service at the respective authority or by transfer to the staff of the National Bureau.

2. The procedure for secondment to the National Bureau of prosecutors is established by the Law of Ukraine "On the Procuracy" and by this Law.

Decision on the secondment of prosecutors to the National Bureau and their withdrawal shall be endorsed by the Verkhovna Rada Committee.

3. The procedure for secondment to the National Bureau of employees of the state executive authorities is determined by the Cabinet of Ministers of Ukraine.

CHAPTER III. POWERS OF THE NATIONAL BUREAU

Article 16. Duties of the National Bureau

The National Bureau:

- 1) carries out operative-detective measures in order to prevent, detect, suppress and solve crimes referred by law to its investigative jurisdiction;
- 2) carries out pre-trial investigation in criminal cases referred by law to its investigative jurisdiction;
- 3) interacts with other state authorities, local self-government bodies and others in order to perform its duties;
- 4) carries out analytical work with a view to determine and eliminate reasons and conditions that foster commission of crimes referred to its investigative jurisdiction;

5) ensures personal security of its employees and other persons determined by law, ensures protection of persons who take part in criminal proceedings in cases under its jurisdiction;

6) participates in vetting of candidates for public offices in accordance with legislation;

7) ensures, according to the legislation, compliance with the internal security provisions and defined by law confidentiality of information and its sources, as well as the legislative provisions on access to information;

8) reports on its activity in accordance with this Law and informs society of results of its work;

9) conducts international co-operation and interaction within its competence according to the legislation and international treaties of Ukraine.

Article 17. Rights of the National Bureau

The National Bureau and its employees in order to perform their duties have the right to:

1) open operative-detective files based on the resolution approved by the head of the respective unit of the National Bureau, and carry out - on the grounds and in order established by law - overt and covert operative-detective measures in order to solve crimes under the investigative jurisdiction of the National Bureau;

2) demand - according to the established procedure through the prosecutor - from the law enforcement agencies operative materials and criminal cases which concern crimes referred by law to the National Bureau's investigative jurisdiction;

3) demand - according to the established procedure upon decision of the National Bureau's Director - from law enforcement and other state bodies information required to perform duties of the National Bureau, including information on assets, income, expenses, financial commitments, etc. of officials which they have declared according to law, as well as to receive free of charge information on the issues relating to the National Bureau's competence from the automated information systems and databases that are created by the state authorities. While doing this the National Bureau shall ensure compliance with legislation on the protection of personal data. Persons who receive such requests for information are obliged immediately, or if not possible to execute immediately – within 10 days, to provide relevant information or notify of the reasons why the request cannot be executed;

4) inspect documents necessary to prevent, detect, suppress or investigate crimes under investigative jurisdiction of the National Bureau, including documents containing confidential information;

5) upon written demand signed by the National Bureau's Director receive from banks, financial and other institutions, enterprises and organisations regardless of the form of their ownership information and documents on operations, accounts, deposits, agreements with natural and legal persons. Receiving of information that contain bank secrets is carried out according to the rules and to the extent determined in law;

6) upon decision of the National Bureau's Director approved by the prosecutor to suspend operations on the bank accounts, arrest property or money on accounts of natural and legal persons in financial institutions or otherwise restrict the rights of a person to control money on his account – if the National Bureau has a reasonable suspicion that the said money, property are the object of the crime referred to the National Bureau's investigative jurisdiction or the proceeds of such crime. Such measures can be applied for no more than 72 hours and the National Bureau's Director within 24 hours from the moment when the

decision was made shall notify about it the court which can amend or cancel such measure, or extend the time of its application;

7) upon decision of the National Bureau's Director approved by the prosecutor (and in emergency situations when there is a threat that objects or documents which could be used in the investigation of the crime can be destroyed, concealed or lost - with the following notification of the prosecutor within 24 hours) for the term of up to 10 days to seal archives, cashboxes, premises (except for residential premises), take them under protection, seize objects and documents while drawing up relevant record. A copy of the record is handed over to the natural person or representative of the enterprise, institution or organisation;

8) engage, in particular on the contractual basis, qualified specialists and experts from institutions, organisations, controlling and financial bodies to ensure execution of the National Bureau's duties;

9) upon decision of the National Bureau's Director approved by the prosecutor set up joint investigative teams that include operative officers and investigators from other pre-trial investigation agencies;

10) upon written instruction of the National Bureau's Director and by showing the official ID to enter premises of the state authorities and local self-government bodies, military units and institutions, border-crossing points, customs areas. Exceptionally, in the course of stopping the ongoing crime under the National Bureau's investigative jurisdiction, pursuing the suspects of their commission – to enter any residential, office, industrial or other premises, territories and land plots and inspect them with the following notification of the prosecutor within 24 hours;

11) apprehend persons suspected of committing crimes under the National Bureau's investigative jurisdiction and hold them in temporary isolation wards of the Ministry of Interior according to the rules and duration specified by law; conduct inspection of such persons, belongings found on them, their vehicles and seize objects and documents that can be material evidence. While carrying out such measures the National Bureau is subject to the requirements provided for in Article 5 of the Law "On Militia";

12) use - with the following compensation of the inflicted harm - vehicles which belong to natural or legal persons (except for vehicles of diplomatic or consular missions, special vehicles) in order to get to the crime scene, to stop the crime, to pursue and apprehend suspects, to bring to medical institutions persons requiring urgent medical assistance;

13) send to the state authorities, local self-government bodies mandatory for consideration proposals and recommendations concerning removal of reasons and conditions fostering commission of crimes under the National Bureau's investigative jurisdiction, as well as to receive from them information on how such proposals and recommendations were addressed;

14) co-operate with individuals, in particular on the contractual basis, according to the voluntary and confidential nature of such relations; reward by moral appreciation or pecuniary means persons who assist in prevention, detection, suppression and investigation of crimes under the National Bureau's investigative jurisdiction;

15) with a view of operative-detective and investigative activity to set up informational systems and to keep operative records in the extent and according to the duties of the National Bureau defined by this Law;

16) keep, bear and use firearms and special means, as well as apply physical force in cases and according to the rules provided for in the Law "On Militia";

17) in case of danger to the life and health of persons under the National Bureau's protection provide them, according to the legislation, with arms, special means of personal protection and notification of the danger.

Article 18. Notification of crime

1. Notifications by natural and legal persons of crimes referred to the investigative jurisdiction of the National Bureau can be submitted to the National Bureau in oral or written form with indication of the notifier's identity or without such indication. Notification of the crime that does not contain information on the person who addressed such notification is considered by the National Bureau upon condition that relevant information concerns a specific person, contains factual data and can be verified.

2. To receive notifications of crimes under the National Bureau's investigative jurisdiction the National Bureau creates a special telephone line and ensures the possibility for submission of such notifications via official web-page of the National Bureau and by electronic communication means.

3. The procedure for processing notifications of crimes under the National Bureau's investigative jurisdiction is determined by the Director of the National Bureau.

Article 19. Responsibility of the National Bureau's employees

1. Employees of the National Bureau make decisions independently within their powers. They shall refuse to execute any orders, instructions or commands that contradict legislation.

2. Employees of the National Bureau for their illegal actions or inaction bear disciplinary, civil, administrative or criminal responsibility.

3. In case of violation by the National Bureau's employees during performance of their service duties of person's rights and freedoms the National Bureau takes measures within its powers to restore such rights and freedoms, compensate inflicted material or immaterial damage, and bring the responsible persons to legal liability.

CHAPTER IV. INTERACTION OF THE NATIONAL BUREAU WITH OTHER STATE AUTHORITIES

Article 20. Interaction of the National Bureau with the public prosecution bodies, interior bodies, Security Service of Ukraine, bodies of the state tax service and the special executive authority on financial monitoring [FIU]

1. With a view to ensuring interaction of the National Bureau with the public prosecution bodies, interior bodies, Security Service of Ukraine, bodies of the state tax service and special executive authority on financial monitoring, in the central offices of these bodies there shall be created positions of persons responsible for interaction with the National Bureau.

2. The exchange of operative information between the National Bureau and the interior bodies, Security Service of Ukraine, bodies of the state tax service concerning joint actions are carried out upon written order of the heads of the relevant units.

3. Conditions and procedure for exchange of information between the National Bureau and the interior bodies, Security Service of Ukraine, bodies of the state tax service and the special executive authority on financial monitoring are regulated by joint legal acts of the National Bureau, Ministry of Interior, Security Service of Ukraine, State Tax Administration of Ukraine and the special executive authority on financial monitoring.

4. The transfer of the operative information from the National Bureau to the territorial and other bodies of the interior, Security Service of Ukraine, bodies of the state tax service and the special executive authority on financial monitoring is allowed only upon consent and written order of the head of the relevant unit of the National Bureau.

5. Territorial and other bodies of the interior, Security Service of Ukraine, bodies of the state tax service and the special executive authority on financial monitoring are obliged to transfer to the National Bureau operative information, documents and other materials connected to crimes referred by the law to the investigative jurisdiction of the National Bureau.

Article 21. Interaction of the National Bureau with other state authorities

1. The National Bureau interacts with the National Bank of Ukraine, customs bodies, State Property Fund of Ukraine, Antimonopoly Committee of Ukraine, the special authorised executive body for protection of the state border and other state authorities.

The National Bureau can sign with separate state authorities agreements (memoranda) on co-operation and exchange of information.

2. The National Bank of Ukraine, customs bodies, State Property Fund of Ukraine, Antimonopoly Committee of Ukraine, bodies of the state control and audit service and other state authorities authorised to exercise control over compliance by natural and legal persons with legislation of Ukraine with a view of preventing and countering crimes under the investigative jurisdiction of the National Bureau are obliged:

1) while performing within their powers the functions of control to discover illegal acts of natural and legal persons that can indicate corrupt activity or create conditions for such activity;

2) transfer to the National Bureau information that was obtained during performance of their control functions and analysis of information when such information can indicate corrupt activity and can be used to prevent, detect, suppress and investigate crimes referred by the law to the National Bureau's investigative jurisdiction;

3) upon instruction of the National Bureau to conduct within their competence inspections, checks and other actions of control over compliance by natural and legal persons with the legislation of Ukraine.

CHAPTER V.

LEGAL AND SOCIAL PROTECTION OF THE NATIONAL BUREAU'S EMPLOYEES AND OTHER PERSONS

Article 22. Legal protection of the National Bureau's employees and other persons

1. Employees of the National Bureau when performing their duties are representatives of the state power, act on behalf of the State and are under its protection. No one is allowed to

intervene in their legal activity, except for authorised officials of state authorities in cases provided for in the law.

2. It is not allowed to apprehend the National Bureau's employee, as well as to carry out his search or search of belongings found on him, the vehicle he uses without presence of a prosecutor, except for cases when there is an urgent need to prevent a crime or to stop it, or if the apprehension takes place immediately after or at the scene of a violent crime. Director of the National Bureau or director of the relevant regional or local office of the National Bureau shall be immediately notified of the apprehension of the National Bureau's employee.

3. In case of an arrest of the National Bureau's employee upon suspicion of commission of a crime or his detention pending trial the National Bureau's employee shall be held separately from other persons.

4. A criminal case can be opened and charges can be brought against the National Bureau's employee upon consent of the Prosecutor General of Ukraine.

5. The State guarantees protection to persons who voluntarily, in particular on the contractual basis, provide assistance to the National Bureau in performing its duties. Illegal divulging of information about such persons, as well as other violations against them and their close relatives committed in connection with their relations with the National Bureau, leads to liability provided by law.

6. The National Bureau's employee who according to this Law notified of illegal actions or inaction by another employee of the National Bureau cannot be dismissed from office or be forced to resign, brought to liability or otherwise persecuted for such notification. Officials of the National Bureau are not allowed to divulge information about National Bureau's employees who notified of violations.

Article 23. Social protection of the National Bureau's employees

1. The State ensures social protection of the employees of the National Bureau according to the Constitution of Ukraine, this Law and other legislative acts.

2. The working week for the National Bureau's employees is 41 hours. When necessary the National Bureau's employees shall serve beyond the established duration of work, as well as during weekends and holidays with substitution of such days with other days off.

3. The National Bureau's employees have annual paid vacation. The duration of such vacation for employees who have work experience of up to 10 years is 30 days, from 10 to 20 years – 35 days, from 20 to 25 years – 40 days, more than 25 years – 45 days not taking into account the time necessary to get to the place of vacation and return. Participants of military actions and persons of equal status receive 45 days of vacation regardless of their work experience.

4. The National Bureau's employees receive money allowance for health improvement in the amount determined by the legislation.

5. The National Bureau's employees receive additional annual vacation according to the legislation. The National Bureau's employees can receive additional paid vacation time of

up to 10 days for family reasons or other substantiated grounds according to the procedure defined by the National Bureau's Director.

6. The State provides the National Bureau's employees and their family members with residential premises on grounds, according to the procedure and in compliance with requirements set forth by the legislation on housing. Residential premises for permanent residence shall be provided to the National Bureau's employees one time during their employment at the National Bureau.

7. Before receiving permanent residence premises the National Bureau's employees who according to the legislation require improvement of their housing conditions are provided with in-service residence or a place at the hostel. If such residence is not available the National Bureau temporarily rents residence to be provided to the employee or, if preferred by the employee, pays a monetary compensation for the rent of residence according to the procedure, in the amount and on conditions set forth by the Cabinet of Ministers of Ukraine. Such employees shall preserve their right to the residential space which they had before employment at the National Bureau. They cannot be excluded from the waiting list of citizens to receive a residence.

8. The National Bureau's employees and those who served for at least 20 years and were dismissed because of health condition, age or lay-off shall be provided with residential premises by central or local bodies of the executive power in the first place, but not later than within 3 months after this person arrived to the place of residence chosen in accordance with the established procedure.

9. The National Bureau's employees when dismissed from the service because of age, after expiration of their contract, due to the state of health, lay-off or reorganisation receive a monetary allowance in the amount of 50 per cent of their monthly remuneration for each full calendar year of service. The National Bureau's employees who were dismissed from the National Bureau for family reasons or other substantiated grounds, the list of which is determined by the Cabinet of Ministers of Ukraine, receive a monetary allowance in the amount of 25 per cent of their monthly remuneration for each full calendar year of service. The National Bureau's employees dismissed for service inadequacy, as a result of a valid conviction shall not receive a monetary allowance.

10. In case of death of the National Bureau's employee during performance of his duties the family of the deceased, or if it is absent – parents and dependents, shall receive a one-time monetary allowance in the amount of 10 years of the remuneration of the deceased at his last position, according to the procedure and on conditions determined by the Cabinet of Ministers of Ukraine. The family of the deceased shall preserve the right to receive the residential premises.

11. In case of injury sustained by the National Bureau's employee during performance of his duties, as well as disability that occurred during his service or not later than within three months after dismissal from the service in the National Bureau (or beyond this term if it was caused by a disease or accident during service in the National Bureau) depending on the degree of work disability the employee receives a one-time monetary allowance in the amount of five years of remuneration at his last position according to the procedure and on conditions determined by the Cabinet of Ministers of Ukraine. [...]

[...]

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

15. Other issues of the social protection of civil servants and other employees of the National Bureau are regulated by the labour legislation and legislation on civil service.

Article 24. Medical and sanatorium treatment of the National Bureau's employees

[...]

Article 25. Remuneration of the National Bureau's employees

1. Remuneration of the National Bureau's employees consists of the basic salary, an additional payment for work experience, as well as an additional payment for special conditions of work in the National Bureau that cannot be less than the amount of the basic salary. Remuneration of the National Bureau's employees shall ensure sufficient material conditions for proper performance of their duties taking into account the nature, intensity and danger of work, ensure recruitment and work in the National Bureau of qualified staff, encourage achievement of high performance results, compensate for the physical and mental efforts of employees.

2. The sizes of the basic salary, additional payments for work experience and special conditions of work are approved by the Cabinet of Ministers of Ukraine and cannot be decreased.

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

Article 26. Financing of the National Bureau

1. The National Bureau is financed from the State budget of Ukraine. Financing of the National Bureau from other sources is forbidden.

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

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

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

Budget of the National Bureau shall provide for creation of a fund for special operative-detective and investigative measures, which can be used with authorisation of the National Bureau's Director.

Article 27. Material and technical support of the National Bureau

1. The State provides the National Bureau with necessary material means, technical devices, equipment, and other property to enable it to perform its functions.

Material and technical provision of the National Bureau is carried out in accordance with the rules defined by the Cabinet of Ministers of Ukraine.

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

3. The National Bureau can own residential premises and can procure construction of residence. [...]

CHAPTER VII.

CONTROL AND OVERSIGHT OVER ACTIVITY OF THE NATIONAL BUREAU

Article 28. Control over activity of the National Bureau

1. Control over activity of the National Bureau is exerted according to the Constitution of Ukraine, laws of Ukraine "On the Democratic Civil Control over Military Organisation and Law Enforcement Bodies of the State" and "On the Committees of the Verkhovna Rada of Ukraine", this and other laws of Ukraine.

2. The National Bureau's Director:

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

2) annually, not later than by 31 January and by 31 July, submits to the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine and the President of Ukraine a written report on activity of the National Bureau during previous six months;

3. The Verkhovna Rada Committee at least once a year conducts open-for-the-public hearings on the topic of activity of the National Bureau, execution of its tasks, compliance with legislation, respect for rights and freedoms of persons.

Article 29. Internal control units of the National Bureau

1. With a view to preventing and detecting corruption and other office-related offences of the National Bureau's employees units of internal control are established within the National Bureau and subordinated directly to the National Bureau's Director. Internal control units function within the Central Office, regional and local offices of the National Bureau.

Head of the Internal Control Unit of the Central Office of the National Bureau is appointed and dismissed by the National Bureau's Director upon approval of the Verkhovna Rada Committee.

2. The duties of the internal control units of the National Bureau are to:

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

2) control compliance by the National Bureau's employees with the rules of integrity on public service and legislation on the financial control over declaration of assets and income and on the conflict of interests;

3) verify information contained in complaints of natural and legal persons, mass media reports, other sources, in particular information received through a special telephone line created for such complaints, - concerning involvement of the National Bureau's employees in the corruption or other office-related offences;

4) conduct disciplinary and internal investigations concerning the National Bureau's employees;

5) carry out vetting of the candidates for positions in the National Bureau;

6) examine and analyse corruption risks in activity of the National Bureau, prepare proposals and recommendations on removal of such risks, control their enforcement;

7) take measures to ensure legal protection of the National Bureau's employees who notified of illegal actions or inaction committed by other National Bureau's employees.

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

4. The National Bureau's employee annually before 31 March submits to the internal control unit information on his income, financial commitments, assets in his use, and the same information concerning his family members.

The Internal Control Unit of the National Bureau's Central Office ensures publication of the mentioned information concerning the National Bureau's Director and Deputy Directors, directors and deputy directors of the regional and local offices of the National Bureau, and other employees of the National Bureau and their family members.

The list of other employees information about whose income and assets shall be published, the extent of information to be published and the procedure for such publication is defined by the Cabinet of Ministers of Ukraine upon approval of the Verkhovna Rada Committee.

5. If information is discovered about alleged commission of a crime by the National Bureau's employee the internal control unit of the National Bureau shall immediately notify the Prosecutor General of Ukraine or the prosecutor authorised by the latter.

6. Order of activity, powers and procedure for appointment of the heads of the internal control units of the regional and local offices of the National Bureau is defined by the Regulations to be adopted by the National Bureau's Director upon approval of the Verkhovna Rada Committee.

Article 30. Oversight over legality in activity of the National Bureau

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

Article 31. Ensuring transparency in the National Bureau's activity

1. The National Bureau shall regularly inform the society about its activity through the mass media and other forms.

2. Twice a year the National Bureau prepares and publishes in national printed media outlets and on the Internet a report on its activity which shall contain information about:

1) notifications of crimes received by the National Bureau, their sources and results of consideration;

2) number of operative files opened by the National Bureau, results of proceedings in these files;

3) criminal cases that are being investigated by the National Bureau - classified by crimes under National Bureau's investigative jurisdiction, persons suspected of their commission, stage of proceedings in cases; information on adjudication in the relevant cases, etc.;

4) confiscation of objects and proceeds of crimes referred by the law to the National Bureau's investigative jurisdiction;

5) proposals and recommendations sent by the National Bureau concerning removal of reasons and conditions for commission of crimes under the National Bureau's investigative jurisdiction;

6) interaction with other state authorities, local self-government bodies, foreign law enforcement and other bodies, international organisations;

7) co-operation with non-governmental organisations, mass media;

8) analysis of the National Bureau's activity with regard to the prevention, detection, suppression and investigation of crimes referred by the law to the National Bureau's investigative jurisdiction;

9) staff of the National Bureau, qualification and experience of its employees, their training, etc.;

10) activity of internal control units of the National Bureau, in particular the number of notifications of the offences committed by the National Bureau's employees, results of their consideration, bringing of the National Bureau's employees to responsibility;

11) budget of the National Bureau and its execution;

12) other information concerning results of the National Bureau's activity and execution of its tasks.

3. It is forbidden to impose restrictions on the publication or access to information concerning the overall budget of the National Bureau, its competence, main directions of its activity, and cases of illegal actions or inaction by the National Bureau's employees.

4. Information that constitute state or other secrets established by law, as well as information of confidential nature whose divulging may infringe protected by law rights of natural and legal persons, shall not be divulged.

CHAPTER VIII. FINAL PROVISIONS

1. This law becomes valid from the day of its publication, but not earlier than on 1 January 2010, and enters into force in six months after such validation.

2. Make the following amendments in the legislation of Ukraine.

[See a table with legislative amendments introduced by the Draft Law in a separate file]

3. The National Bureau and its regional offices are set up on the basis of the Main Department for the Fight against Corruption and Organised Crime of the Security Service of Ukraine, units on the fight against corruption and organised crime of the bodies of the Security Service of Ukraine in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol; Main Department for the Fight against Organised Crime of the Ministry of Interior, departments for the fight against organised crime of the bodies of the Ministry of Interior in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol; investigative units of the public prosecution bodies.

4. The Cabinet of Minister of Ukraine within six months from validation of this Law shall:

1) solve issues related to the creation of the National Bureau and its regional offices at the expense of the units of the law enforcement agencies mentioned in paragraph 3 of this Chapter;

2) organise an open competition to the post of the National Bureau's Director according to this Law;

3) adopt legal acts mentioned in this Law;

4) bring its legal acts in compliance with this Law;

5) ensure that ministries and other central bodies of the executive power review and abolish their legal acts contradicting this Law.

5. The Ministry of Interior, Security Service and public prosecution bodies within six months from the date when this Law enters into force shall ensure transfer to the National Bureau and its regional offices of administrative premises, vehicles, means of communication and material and technical support, special equipment of the units for the technical support of operative measures and operative documenting, weapons, special means of protection, other property and information databases attached to relevant units in the part necessary to establish and ensure functioning of the National Bureau and its regional offices.

6. Open competition according to Article 12 of this Law to fill positions in the Central Office of the National Bureau shall be conducted within four months from the date when this Law enters into force and to fill positions in the regional offices of the National Bureau within six months from the date when this Law enters into force.

7. Further actions in the proceedings launched before enactment of this Law in criminal cases which according to this Law are referred to the National Bureau's investigative jurisdiction are decided by the prosecutor.

8. Before other laws and legal acts are brought in compliance with this Law they shall be valid in part not contradicting this Law.

LAW OF UKRAINE

on the National Bureau of Anti-Corruption Investigations of Ukraine

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Chapter VIII. FINAL PROVISIONS

[This chapter includes amendments to the following legal acts:

- Criminal Procedure Code;
- Civil Code;
- Law on the Procuracy;
- Law on the Operative-Detective Activity;
- Law on the Pre-trial Detention;
- Law on Ensuring Protection of Participants of the Criminal Proceedings;
- Law on the State Protection of the Staff of Courts and Law Enforcement Bodies;
- Law on the Prevention of and Counteraction to Corruption;
- etc.]