

**TECHNICAL ASSESSMENT
OF THE NATIONAL ANTI-CORRUPTION
BUREAU OF UKRAINE (NABU)
2023**

REPORT

Version for publication

October 2023

Foreword

Established in 2015, the National Anti-Corruption Bureau of Ukraine (NABU) has become a key anti-corruption institution in Ukraine. This assessment covered the period with significant objective challenges (including COVID-19 pandemic, Russia's war against Ukraine, vacant position of the chief anti-corruption prosecutor) that negatively impacted NABU's work and achievement of some of its objectives. Despite these and other challenges and attempts to undermine NABU during the past eight years, it has proven to be a robust institution delivering its mandate of pursuing high-level corruption. NABU adapted its operations when Russia started its full-scale aggression war against Ukraine and managed to preserve its staff and cases. With the appointment of the new NABU leadership in 2023 after the end of the term of NABU's first director, NABU is at a point where it should review its operation and internal organization, identify, and evaluate the challenges it faces, and develop steps to optimize its work through reforms if needed. This report aims to help NABU achieve these objectives.

This is a report of the external technical assessment of NABU conducted by a team of independent international experts commissioned by the international partners based on NABU's request. The assessment aimed to determine the following: a) how to improve the NABU's effectiveness; b) how to ensure more efficient use of human and financial resources; and c) how to streamline NABU's investigative work through better workload distribution and case prioritization. The assessment also examined the operational environment of NABU and how it affected its work. The assessment is both backward-looking, as it assesses prior performance, and forward-looking, as it provides recommendations for improvement.

The report covers the period from January 2021 to the beginning of the assessment in June 2023 (using some statistical data for the period before 2021 and to the end of August 2023). This assessment builds on the previous assessment conducted in 2017-2018.¹ The methodology, including the assessment criteria, was updated to reflect the current stage of NABU's development and the context in which NABU operates.

The assessment report provides 150 specific recommendations, including 89 recommendations aimed at NABU and 61 recommendations that require an external action (for example, adoption of legislative changes by the parliament).

A team of the following independent experts prepared the report:

- Zydrunas Bartkus (Anti-Corruption Expert, former Head of the Special Investigation Service of the Republic of Lithuania),
- Eric Johnson (former Assistant Inspector General, Investigations Division, Office of the Inspector General, U.S. Department of Justice),
- Dmytro Kotlyar (Anti-Corruption Expert),
- Masaru Tanaka (Advisor to the Minister of Finance of Ukraine, Japan), and
- Carol Taraszka (Deputy Assistant Inspector General, Office of the Inspector General, U.S. Department of Justice).

The U.S. Embassy in Ukraine (INL Section) and the E.U. Anti-Corruption Initiative in Ukraine (EUACI) commissioned and supported the assessment report. The Government of Japan also supported the preparation of the report. IDLO provided technical support to the assessment process.

Experts prepared this report based on:

- Comprehensive replies to the baseline questionnaire and other materials provided by NABU.

¹ See at <https://nabu.gov.ua/news/novyny-nabu-oprylyudnyuye-rezultaty-mizhnarodnoyi-ekspertnoyi-ocinky-diyalnosti-byuro>.

- Over 30 interviews with NABU leadership, heads and deputy heads of units and departments, detectives, and other staff.
- Interviews with SAPO, HACC, NACP, NGOs, and experts.
- An anonymous online survey of NABU employees (247 NABU employees, including 97 detectives, replied to the online survey).
- Two field missions in Warsaw to conduct interviews in June and July 2023 and a mission in Warsaw to discuss the draft report in October 2023.
- A field mission to Kyiv by one of the experts in July 2023.
- Additional desk review and analysis of available materials.
- NABU-provided comments on the draft report, which experts considered when finalizing the report.

A summary of the assessment's methodology is attached in Annex 1.

The assessment team is grateful to NABU leadership, detectives, and other personnel who actively participated in the report's preparation and openly shared their opinions through extensive written replies, oral interviews, and online surveys. The team is also grateful to all other interlocutors who provided valuable input to the report during interviews and by providing other materials. The team is thankful to the U.S. Embassy's INL Section, EUACI, IDLO, and the Government of Japan for their support and efficient organization of the assessment process.

The opinions and arguments employed in this report are those of the team of experts and do not necessarily reflect the official views of the U.S. Government, the European Union and its member states, or the Government of Japan.

Table of Contents

<i>Abbreviations</i> _____	5
<i>Key Findings and Recommendations</i> _____	6
<i>Summary Table of Recommendations</i> _____	17
Recommendations Requiring Internal NABU Action _____	17
Recommendations Requiring External Action _____	29
<i>Background</i> _____	39
<i>Assessment Findings</i> _____	42
Annex 1. Summary of the Assessment Methodology _____	44

Tables

Table 1. Recommendations requiring internal NABU action.....	17
Table 2. Recommendations requiring external action	29

Abbreviations

API	Application Programming Interface
ARMA	Asset Recovery and Management Agency
CC	Criminal Code of Ukraine
CPC	Criminal Procedure Code of Ukraine
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
GPO	General Prosecutor's Office
HACC	High Anti-Corruption Court
ICD	Internal Control Department
ICT	Information and Communication Technologies
LEA	Law Enforcement Agency
MLA	Mutual Legal Assistance
NABU	National Anti-Corruption Bureau of Ukraine
NACP	National Agency for Corruption Prevention
NGO	Non-governmental Organization
OECD	Organization for Economic Co-operation and Development
SAPO	Specialized Anti-Corruption Prosecutor's Office
SBI	State Bureau of Investigations
STT	Special Investigation Service of the Republic of Lithuania
UN	United Nations

Key Findings and Recommendations

General Observations

Established in 2015, NABU has evolved into a well-respected anti-corruption institution with a strong track record tackling high-level corruption cases. NABU has maintained an impeccable reputation, remaining untainted by any allegations of corruption while fiercely safeguarding its independence. NABU was the first specialized anti-corruption agency created in Ukraine but now is a part of an architecture that includes a specialized anti-corruption prosecutor's office (SAPO) and a dedicated court (HACC). NABU's director selection process set a precedent as the first state authority whose head was chosen through a transparent and competitive selection process.

In a notable milestone, NABU's first director completed his full seven-year term in 2022, a remarkable achievement given Ukraine's context and attempts to remove the NABU director through various means. Under the new leadership of SAPO installed in 2022, NABU has strengthened its collaboration with the specialized prosecutor's office and moved forward its investigations of top-level corruption. In just the first six months of 2023, NABU and SAPO have generated more indictments of corruption than they did in each of the years of 2022 and 2021 (however, most of these cases have been started before 2023 and were not moving ahead because for almost two years there was no new SAPO Chief Prosecutor after the previous one has resigned).

In February 2022, Ukraine faced a challenge it had never encountered before – a full-scale military aggression by Russia. Like the rest of the country, NABU had to adapt to survive. NABU's leadership at the time succeeded in urgently transferring NABU operations to Lviv and later returning to the Kyiv office. During the first months of the war, NABU's officers were actively defending the country, including by directly engaging in patrolling Kyiv, fighting off enemy groups, and providing valuable intelligence to the Armed Forces and other defense forces. As the title of NABU's report for the first half of 2022 said, NABU fought on two fronts.² Importantly, NABU preserved most of its highly qualified staff who could continue performing NABU's primary tasks of targeting high-level corruption once the enemy's initial attack was repelled and the situation stabilized in mid-2022.

NABU's role in fighting high-level corruption in Ukraine is as essential as ever and should be strengthened to address new context and emerging vulnerabilities related to post-war reconstruction. The war has caused enormous damage to Ukraine's infrastructure and economy.³ The cost of reconstruction will be very high, as will the risks of corruption in using reconstruction funds. Foreign and international donors have pledged billions in support of the reconstruction efforts. Already, Ukraine receives massive foreign assistance in the form of military equipment, ammunition, other supplies, and direct monetary assistance. The urgency of funds disbursement, huge amounts, lack of control, and weak integrity of public administration and governance in Ukraine create extreme corruption risks. Now, NABU is not sufficiently equipped to face this challenge and expand its

² <https://nabu.gov.ua/activity/reports/report-report-first-half-2022/>.

³ According to the estimate by the Kyiv School of Economics, as of April 2023, amount of only direct documented damages inflicted upon Ukraine's infrastructure due to the full-scale invasion by Russia stood at US \$147.5 billion (at replacement cost). (Source: <https://kse.ua/about-the-school/news/147-5-billion-the-total-amount-of-damages-caused-to-ukraine-s-infrastructure-due-to-the-war-as-of-april-2023>). A joint assessment released in March 2023 by the Government of Ukraine, the World Bank Group, the European Commission, and the United Nations, estimated the cost of reconstruction and recovery in Ukraine at US \$411 billion. (Source: www.worldbank.org/en/news/press-release/2023/03/23/updated-ukraine-recovery-and-reconstruction-needs-assessment)

operation because it lacks staff (notably detectives and other personnel directly involved in the operative and investigative work), its premises and hardware need urgent upgrade, NABU's presence in the regions is very limited, NABU could better use the analytics for uncovering corruption and pursuing financial investigations, and many of its other processes should be optimized.

NABU's work is critical for advancing Ukraine to the European Union's membership. Ukraine received EU membership candidate status in June 2022 on the understanding that it will take seven key steps, including "further strengthen the fight against corruption, in particular at a high level, through proactive and efficient investigations, and a credible track record of prosecutions and convictions."⁴ The focus on high-level corruption through proactive and efficient investigations and a credible track record of such cases requires NABU (but also SAPO and HACC) to step up its efforts and maximize the detection and effective investigation of top corruption cases.⁵ Strengthening of NABU was also mentioned on the Priority Reform List Linked to the Conditions on U.S. Assistance to Ukraine disclosed in the media.⁶

During the past several years, NABU continued to be targeted by attacks on its independence through various means, including Constitutional Court decisions, changes in the legislation, interference in investigations, attempts to dismiss NABU's Director, and so on. The activity of politicians and other influential actors trying to undermine NABU's operation has continued during the last three years. They were not as dramatic as before (for example, the deliberate disclosure of NABU's undercover operations and physical altercations between NABU staff and the prosecutor's office) but kept constant pressure on NABU. The civil society and international partners remained active in defending NABU against such attacks.

Pressure on NABU will not disappear and may take new forms. NABU is likely to face new challenges because of the political context in the country that has changed – Ukraine remains a democratic state with free media and civil society, but the political opposition is weak (and partly eliminated for the collaboration with Russia), parliamentary elections have been postponed at least until 2024, enormous power has been concentrated in the President and his Office who control the Parliament and the Government, the Security Service gets more and more influence for the role it has played in the war, and the broadcast media remain concentrated under the oligarchs' control and are limited by the "single TV marathon." The recent initiative of the President of Ukraine to qualify high-level corruption as state treason and transfer NABU cases to the Security Service threatens to undermine NABU's exclusive jurisdiction over high-level corruption crimes – a cornerstone of NABU's independent operation and the new anti-corruption infrastructure. Another example was the NABU investigation concerning a deputy head of the President's Office – the Prosecutor General's Office handed over NABU's case to the Security Service, which eventually terminated it.

After eight years of operation and with the change of leadership in 2023, NABU is at the juncture where it should review how it operates, find bottlenecks, and optimize to become a better

⁴ https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_3802.

⁵ G7 Ambassadors' Support Group for Ukraine Priorities for 2023 include: "Further increasing the effectiveness, independence, and integrity of NABU, SAPO, and HACC, including through legislative improvements, to allow for more efficient investigations, and building a credible track record of prosecutions and convictions for high-level corruption."

⁶ The reform priority list that was published in the media in September 2023 (not officially confirmed by the U.S. authorities) included the following actions related to NABU: "Increase the number of detectives by at least 300; increase forensic capacity of NABU in line with international standards and safeguards; form a public oversight council; provide NABU with wiretapping capability; and preserve NABU independence and exclusive investigative authority over high-profile corruption matters." Source: www.pravda.com.ua/eng/news/2023/09/25/7421354/.

institution. NABU needs to improve, not to become stagnant. Being focused on the current investigations, NABU did not have enough time and motivation to embark on internal improvement, streamlining operating procedures, and finding efficiency gains. The assessment report found many areas where NABU could enhance its functioning, with some areas requiring more attention, resources, and far-reaching changes (for example, the organization of the detective units, analytical function, internal control, and territorial offices). Even without additional staff (which NABU does need), these changes can boost NABU's operation and create a new quality of its work.

High work intensity, insufficient staff, bureaucracy and inefficient processes, and stress of war test NABU personnel's resolve and may affect its morale if no action is taken. NABU's staff morale remains strong, but there are signs of gradual burnout and deterioration. NABU has always had highly motivated staff with a clear sense of NABU's mission. NABU has recruited its staff through an open competitive selection, but there is a concern that internal promotions have not been merit-based and encouraged personal loyalty over performance and willingness to improve. Too many levels of managers, excessive bureaucratization of some processes, lack of prospect of professional development through promotion or salary increase, imperfect work conditions, menial work that takes a lot of detective time, and other factors put pressure on workforce morale. Other factors contributing to this are problems with workplace culture, perceived selectiveness in internal investigations, favoritism in internal decisions and attitudes, and other issues described in the report. These issues are not new developments and have been reported in the several past annual surveys NABU conducted among its staff. Several senior detectives left NABU, and an anonymous survey of staff conducted by the assessment team showed an alarming percentage of those considering leaving the organization in the next 2-3 years (which can be partly attributed to the recent legal changes allowing early retirement of NABU staff). During the first seven years of NABU's operation, its staff had been mobilized by the external pressure on the institution and the sense of mission; then came the war that energized the staff's resolve, but when the war is over—and if nothing changes with the above factors—personnel morale and effectiveness may decline. The situation is not critical but requires the leadership's attention to reverse the trend. As several interlocutors have noted to the assessment team, NABU's staff is its main asset that should be preserved and nurtured.

NABU's public perception is mixed – it has relatively low public trust, but many people consider it effective and see it as one of the critical anti-corruption actors in the country. Public trust in NABU remains low (see background and Annex 2 for an overview of the public perception). However, a high percentage of the population considers NABU effective and mentions it as one of the main state institutions responsible for eradicating corruption in the country. It can mean that there are high public expectations from NABU and that NABU needs to improve its external communications to present its achievements better and explain mistakes. According to NABU, its public communication has faced obstacles because of the limited access to broadcast (television) media and massive media campaigns carried out on behalf of the persons investigated by NABU aimed against NABU. In the assessment team's opinion, the lack of convictions (often due to court delays) in high-profile NABU cases may also contribute to the distrust. NABU's communication is not always proactive and sometimes fails to anticipate the public reaction to NABU investigations (for example, concerning the investigations in the cases of former top Government officials who were called "reformers" in the social media or in a recent case of recruitment for the NABU's external communications department). NABU should better craft its messages and coordinate communications with SAPO to show how investigations start, progress, and culminate in an HACC verdict. NABU reports should better highlight the impact of its investigations. A better NABU presence in the regions, including through proper territorial offices and stronger outreach, is also essential in expanding awareness about NABU's achievements and building public trust.

The assessment report provides 150 specific recommendations, including 89 recommendations aimed at NABU and 61 recommendations that require an external action (for example, adoption of legislative changes by the parliament). Each recommendation is tagged as a high or medium priority. Recommendations that build the foundation for other changes are given higher priority. The recommendations are also classified as short-, medium-, and long-term, reflecting the urgency of the respective action. The assessment team advises NABU to update its institutional development strategy and address these recommendations by implementing an action plan. The report also recommends that NABU set up a task force to dive deeper into the NABU business processes and propose optimization measures.

Independence and Enabling Environment

Following Constitutional Court decisions in 2020, NABU's status had to be revised, which introduced significant uncertainty but ultimately did not lead to the limitation of NABU's independence. In 2020, the Constitutional Court of Ukraine found several provisions of the NABU Law unconstitutional, which required urgent changes in the law. It caused significant uncertainty during the period when changes were considered. Following civil society and international pressure, the Parliament amended the NABU Law, changing its status to a central body of the executive power and introducing additional safeguards for NABU's independence from the Government. The potential for undue interference in the future remains, in part because Government officials may themselves become the target of NABU investigations. The report concludes that the new NABU status as an executive body is a working model in the short term. Still, NABU's constitutional status should be reviewed to ensure longer-term sustainability. Also, the selection procedure for the NABU Director may need to be amended to stipulate that the selection commission proposes one and not three candidates. It is also important to preserve the involvement of international partners in the selection procedure provided in the NABU Law as an important safeguard ensuring transparency and integrity of the selection.

From its inception, NABU faced numerous attempts of interference in its work through manipulations of its investigative jurisdiction; this practice continued during the assessment period. Interference with NABU's investigations has taken different forms: parallel investigations, transfer of proceedings from NABU to other investigative agencies, and refusal to transfer proceedings to NABU. To prevent future manipulations with NABU's investigative jurisdiction, the CPC should establish clear rules for transferring proceedings from one investigative authority to another and for NABU to take over proceedings. There should be an administrative and/or disciplinary liability for violations of the investigative jurisdiction rules. The SAPO Chief Prosecutor should resolve disputes over investigative jurisdiction in cases belonging to NABU jurisdiction, not the Prosecutor General.

NABU's effectiveness depends on the institutional capacity of SAPO and HACC, which should be strengthened. NABU relations with SAPO have significantly improved since the selection of the new SAPO Chief Prosecutor. The report recommends updating the Memorandum between SAPO and NABU to strengthen its provisions and conduct regular joint meetings of NABU, SAPO, and HACC to discuss a uniform approach to crime qualification, use of preventive measures in the criminal procedures, implementation of the e-case management system, and other cooperation issues. NABU is weakened by the lack of independent status and operational autonomy of SAPO, which should be changed through amendments in the legislation (to set up SAPO as a separate legal entity, increase number of SAPO prosecutors, streamline procedures for appointment of its Chief Prosecutor, establish safeguards of administrative independence of SAPO from PGO, and assign all criminal procedure powers related to NABU proceedings that now belong to the Prosecutor General or PGO to SAPO and its Chief Prosecutor).

There is a serious problem of delays in the judicial proceedings in HACC, which affects the outcomes of NABU work, as many of the NABU investigations concerning top officials have not been resolved in court. The CPC allows defense tactics that can result in significant delays in the judicial proceedings. HACC's statistics shows that the average time for consideration of a criminal case was 444 days; out of 214 pending proceedings in 2023, 97 criminal cases were pending for over two years. HACC's operation should be optimized by increasing the number of its judges, allowing a single-judge formation in certain cases, and amending the Criminal Procedure Code to prevent delaying defense tactics and streamline HACC proceedings. The High Council of Justice's decision in September 2023 to add judges to HACC is a welcome first step.

Following a complex investigation, NABU issues conclusions on the causes and conditions of corruption uncovered in the case. Such findings should be given much more weight to influence public policy in the relevant area and bring about systemic anti-corruption changes in the country. The report recommends specific changes in the legislation to ensure that NABU conclusions receive proper attention and follow-up action. NABU and NACP should cooperate to exchange information on the causes and conditions of corruption, systemic corruption risks in sectors, and recommendations for eliminating the causes of corruption schemes.

Operational Performance and Case Work

During the assessment period, NABU continued to target high-level corruption, although better case prioritization could increase the number of investigations concerning top officials in the public administration. Considering the insufficient number of detectives, NABU demonstrated a strong performance. The main categories of indicted perpetrators in NABU cases were judges, members of parliament, heads of large public enterprises, officials of private sector legal entities, and employees of legal entities of public law. There were very few cases against civil servants of category "A," Government members and their deputies, prosecutors, and officials of law enforcement agencies. At the time of the assessment, there were no cases against top officials of the President's Office that had at least reached a suspicion or indictment stage. The CPC also limits NABU's jurisdiction not allowing it to target effectively top officials of the President's Office, which should be urgently corrected. More complex economic crimes (usually involving abuse of office or misappropriation, embezzlement) constituted about 42 percent of NABU cases filed with HACC, while relatively less complicated offenses of bribery and trafficking in influence constituted about 35 percent, and the much simpler offense of false statement in asset declarations – about 6 percent of cases. However, success with HACC convictions lags behind as there have been no convictions in complicated economic crime with organized groups or complex corruption schemes. The presentation of statistics in NABU reports could benefit from a better case categorization to highlight high-impact cases.

Many NABU cases of abuse of office and misappropriation resulted in acquittals; such cases warrant review and possible change in NABU's approach. Several such cases that NABU pursued drew criticism from the civil society and business community, which viewed these cases as prosecution of managerial decisions taken by officials who were considered to pursue a reform agenda.

Financial investigations to trace assets, link them to crime, and seize them to ensure their return to the state should be better organized and receive more attention in NABU. The assessment team identified that NABU could improve the efforts and expertise of its detectives and analysts related to complex financial investigations. Similarly, detectives and analysts could better use open-source intelligence (OSINT) to gather information available in the public domain to identify and trace assets. NABU has uncovered and pursued very few cases of money laundering, which the insufficient financial investigations can partly explain. There were no cases of autonomous money laundering

investigations (that is investigations independent of the predicate offense). There is a high amount of assets seized in NABU cases, but because these cases have not concluded in the courts these assets have yet to be confiscated. The very low value of corruption instrumentalities and proceeds confiscated in NABU cases through special confiscation is striking and should be urgently addressed.

NABU has a significant workload that is not matched by the human resources available to it. Even an increase in the NABU staff number and redistributing staff from support units to the core detective units will not solve the workload issue. NABU needs to optimize the use of available resources by setting a clear prioritization policy to focus on the high-impact cases and cases that address systemic corruption. NABU needs to dispose of many “old” proceedings inherited from the Prosecutor’s Office, including complicated cases with no real prospect of successful prosecution. For this, NABU and SAPO should be allowed to transfer cases that do not have high importance for prosecution of high-level corruption to other investigative bodies (or refuse transfer of cases initiated by other agencies) to relieve NABU’s workload and focus it on high-impact cases. After NABU’s case prioritization policy is set, NABU should reconsider the specialization of NABU detective subunits based on the analysis of the available strategic information about the prevalence of corruption in the country, the specific experience and competencies accumulated in detective subunits, the differences between the technique of investigating bribery crimes and more complex financial corrupt schemes, available human and technical resources, etc.

Because of the insufficient resources, NABU detectives could not allocate enough time to operative work. Additional structural changes may be required to strengthen the operative work of NABU. One of the solutions is to pilot a separate unit of operational work with detectives dealing only with proactive operative detection and not conducting investigations. NABU also needs to streamline and digitize its operative and intelligence information management.

NABU’s Analytical Department integration with the detective units should be further enhanced. The interaction between analysts and detectives was bureaucratized and too formalistic (the situation improved with the attachment of some of the analysts to detective units, but this was not enough to achieve an effective integration). The Department could not support and lead the investigative work with strategic analysis targeting sectors and institutions, corruption trends, uncovering hot spots of corruption, and systemic vulnerabilities that could lead to the detection of new corruption schemes and their investigation. The Department should organize “big data” analysis and use other advanced analytics tools for proactive detection. NABU should also more effectively use external government registers and databases. Few NABU cases have been detected through analysis conducted by the Department of Analytics. The report recommends that NABU consider organizational and structural changes to better integrate analytical functions with the core investigative activities of NABU detectives.

NABU’s role in vetting information about candidates for high-level positions in the public administration or justice sector has been commendable and significantly contributed to building public sector integrity in Ukraine. However, laws have not stipulated this role, and NABU has not received additional resources to perform this work. NABU should be relieved of this duty, or it should be specified in the law and supported with additional resources allocated to NABU.

NABU has not been able to implement in practice its power of autonomous interception of communications in mobile networks, which continues to jeopardize the integrity of NABU investigations. The report recommends removing legal and technical obstacles to implementing autonomous wiretapping by NABU by amending the Law on Electronic Communications if needed and providing funding to develop and implement technical means required for ensuring such access independently from the Security Service (and without the latter’s access to information about targets

and the content of wiretaps). According to NABU, it had offered to the Security Service implementing technical solutions to solve this issue, but the Service did not agree to them. It appears that this is an issue of political will, not of technical obstacles.

NABU lacks effective access to certain types of information held by private sector entities, including notaries, insurers, banks, and other important information sources. The report recommends specific changes in legislation to remove these obstacles. NABU should obtain full access to tax information. The report recommends setting up a central register with information on bank accounts and safe deposit boxes and providing NABU full access. NABU has basic remote access to the register of asset declarations of public officials, which should be upgraded to ensure bulk access to complete data through a private API. NABU also does not have stable and effective access to all databases and registers held by state authorities and required for NABU's activity.

The report identified several other limitations on NABU powers that should be addressed. For example, NABU should be allowed to start investigations of possible corruption by Members of Parliament, request search of their premises, request temporary access to bank information, and take other measures based on the SAPO authorization without requiring the approval of the Prosecutor General. The report also offers recommendations to address legislative restrictions on NABU's use of certain undercover and operational tools.

NABU has been facing significant challenges in commissioning timely and impartial forensic examinations in its criminal proceedings and has proposed establishing its own expert institution. The assessment team does not oppose setting up a forensic examination entity under NABU. Still, it considers that such an action will not fully solve the issue of ensuring speedy and objective forensic expertise in NABU proceedings. If such an entity is created, it should be insulated from NABU, ensuring that experts are administratively and operationally autonomous from NABU leadership, top and middle management, and detectives. Until a forensic entity is set up at the NABU (if such a path is taken), NABU should rely more on private sector experts. The report also recommends that the Government develop a roadmap for reforming the forensic examination system in Ukraine, possibly by fully privatizing this function and delegating licensing and quality oversight of forensic experts to independent self-governance bodies.

Several CPC provisions impeded NABU's investigations and should be revised. The mandatory use of two observers (ponyati) during a search is obsolete and unnecessary, given the required audio and video recording of searches. The CPC limits non-trial resolution in NABU cases by stipulating a narrow inventory of incentives that can be offered to the cooperating suspects. NABU has not been able to use the monitoring of bank accounts in its investigations since 2015, when this measure was introduced in the CPC exclusively for NABU. International cooperation in NABU's investigations has been obstructed by the requirements to use the Prosecutor General's Office to send and receive certain MLA requests. The report mentions several other issues with the CPC and related laws that should be addressed through legislative changes. Several criminal offenses in NABU's competence fall in the category with the statute of limitation of less than five years, which undermines effective prosecution of corruption, especially in cases of false asset declarations. NABU cases have also been dismissed in court because of the so called Lozovyi amendments that set the deadlines for pre-trial investigations; these provisions should be revoked as soon as possible.

The investigative jurisdiction of NABU should be balanced to exclude minor cases from the NABU workload and update the list of officials covered by NABU's jurisdiction. The list of officials and public institutions belonging to NABU's jurisdiction should be updated to close the gaps, including top officials of the President's Office (like the head and deputy heads of the President's Office). After changes introduced in 2021, crimes of illicit enrichment and false statements in asset declarations fall

under NABU's jurisdiction only if a high-level official committed them; the high value of the crime's object no longer triggers NABU's jurisdiction for these crimes. The report recommends reversing these changes.

NABU should step up investigations of unjustified assets subject to civil confiscation because so far pursuing cases of unjustified assets was not seen as a priority of NABU, and there was a low awareness that detecting such cases was the primary responsibility of NABU. To extend the use of civil confiscation (with a lower standard of proof and a reversed burden of proof), the parliament should consider raising the threshold for illicit enrichment crimes to extend the scope of unjustified assets eligible for civil confiscation.

NABU has not been actively pursuing cases against legal persons, partly explained by the deficiencies in the corporate liability regime. The report recommends revising the conceptual approach to the liability of legal persons for corruption in Ukraine by establishing a direct criminal liability that has an autonomous nature in substantive and procedural aspects, provides for proportionate and dissuasive sanctions, covers acts of the beneficial owners or other related persons and entities, and includes the possibility of negotiating a non-trial resolution conditional on the company's implementation of anti-corruption compliance measures.

Organizational Capacity and Management

NABU's staff limit set in the law constrains NABU's effectiveness. Stakeholders interviewed by the assessment team agreed that the existing number of staff set in the NABU Law was insufficient and should be increased. While the assessment team supports the staff limit increase, its exact number should be justified by the NABU's needs to increase effectiveness, including in areas identified in this report – proactive operative work, financial investigations and targeting unjustified assets, strategic analysis, forensic examination, territorial offices, and others. The report also notes the proportion between detective and other staff, which should be reviewed to determine whether a realignment of staff is appropriate and if changes in the internal structure are needed. The new NABU leadership has already started this work in 2023 by reducing the administrative positions and adding positions of detectives and other staff directly involved in or supporting investigations. NABU should also look at other ways of optimizing its work until the staff number is increased, including by automating and reengineering some processes, relieving detectives of the technical work, etc.

In NABU, relatively small subunits of detectives cover large sectors highly vulnerable to corruption. The lack of personnel in detective units leads to insufficient attention paid to operative work, as detectives focus on investigating uncovered allegations and cannot spare much time to develop new leads through informant networks or other operative methods of proactive detection. Another consequence of the limited number of staff is the situation with the regional offices of NABU – only three out of seven offices have been set up, but they are not full-scale territorial offices. Other non-detective units should be strengthened with additional staff too, especially the Operative and Technical Department staff conducting the covert investigative measures and operative tasks.

NABU should reconsider how it organizes the work of its core detective staff. The report notes a long chain of command and a duplication of managerial functions within the Main Department of Detectives. Too many managers in charge of an investigation can lead to diverse opinions about the course of the investigation, prioritization of investigations pursued by a subunit, and even whether a crime allegation should be registered starting an investigation and under what qualification. It can also affect the effectiveness of the investigation, at least by diverting time to reach an agreement on these

points. Among other issues were the excessive bureaucratization, multiple reporting channels, and limited career opportunities for detectives.

NABU's Organizational-Methodological Unit is not designed to coordinate NABU investigations and strategically organize NABU detective activities. Instead of the Organizational-Methodological Unit, it would be appropriate to create an Investigation Coordination Unit or Department, which would report directly to the First Deputy Director, assisting him in the administrative organization of the NABU's detective activities. This unit's main possible directions of activity could be the organization of proactive activities of NABU; setting priorities; analyzing received information; organizing, coordinating, and controlling intelligence activities; recording and evaluating performance results; coordinating investigations involving several divisions of NABU or foreign countries, etc. This unit could also conduct case analysis, assist detectives in qualification of offenses, collate operational statistics, analyze trends and challenges of NABU's operational work, review case law of HACCC, provide guidance to detectives on the applicable case law of the European Court of Human Rights, engage external experts into discussion of legal issues related to NABU investigations, and develop standard operating procedures, guides, templates, and other materials supporting detective work.

NABU has not established an effective presence in the regions of Ukraine because it could set up only three territorial offices with a limited role. NABU's regional capacity should be strengthened to address high corruption risks in the regions and the upcoming post-war reconstruction of Ukraine's infrastructure that will further shift the corruption focus to the territories. The assessment team understands that the current approach to the territorial offices may have been justified by the emphasis on corruption in the central authorities located in Kyiv and by the limited human resources NABU could allocate to the regional presence. But considering that corruption in Ukraine is widespread throughout the country, the decentralization reform that devolved significant revenues to the local and regional authorities, and a grand reconstruction of the whole country that will be started once the war is over, NABU should find ways of strengthening its regional capacity. Creating an additional unit covering Dnipro region in 2023 helped to increase the regional reach of NABU, but it has used the same model of keeping relevant detectives in the central office, which may not be sufficient.

The report recommends that NABU develop a new approach to institutional strategic planning, monitoring and evaluation, and public reporting. NABU would benefit from a dedicated Strategic Development Unit not related to NABU's crime investigation activities that could take over the strategic planning, monitoring, and evaluation functions from the Internal Control Department and the preparation of NABU semi-annual reports from the External Communications Unit to raise these processes to a higher level. The new unit's activity should be closely related to NABU's strategic external communication, educating the Ukrainian public about the extent of corruption in the country and the damage caused by it and providing the NABU leadership with high-quality information for making decisions or public statements.

The report questions the arrangement with the current level of detachment of the work of the Second Detective Department from the rest of NABU's operation. The work of NABU detective units could be boosted if the Second Detective Department supported them more with its high-quality undercover operations, helping uncover and investigate complex corruption schemes, and infiltrating corruption networks, organized groups, and criminal organizations. The First Deputy Director of NABU could coordinate tasks given to the Department to manage its workload and prioritize cases.

Considering the limited staff positions in NABU and the critical situation with the detectives' workload, the Special Operations Unit's number of staff and procedures for engaging its personnel should be reviewed and optimized if necessary. The report recommends developing clear rules and

criteria for engaging the Special Operations Unit, which should be justified by the reasonable assessment of risks, the impossibility of detectives to perform these tasks, and the possible repercussions of using a SWAT team during an investigative action.

NABU's internal control function must be strengthened to address weaknesses, create an effective system for preventing and investigating leaks, and ensure a robust internal control of NABU personnel. The assessment team received mixed feedback about the performance and achievement of NABU's Internal Control Department (ICD). Many interlocutors mentioned an important problem of leaks of information from NABU investigations. The integrity testing conducted by the ICD has had a limited effect, and the recent NABU director selection process raised questions about effective internal checks of assets and interests of NABU officials. There is a low trust and perception of the effectiveness of the ICD among NABU staff, who are also concerned with the alleged selectiveness of internal investigations and focus on petty infringements. Among other things, the report recommends conducting an internal audit of the procedures used by the Internal Control Department; adopting standard operating procedures (regulations) on lifestyle monitoring, integrity checks, and other procedures conducted by the ICD; strengthening internal control in the area of conflict of interest, especially during the selection and promotion procedures; and developing criteria for assessing the effectiveness of the Internal Control Department. The ICD should also be allowed in the CPC to investigate leaks in NABU cases.

NABU will become the first law enforcement agency in Ukraine to use the e-Case Management system once it is fully implemented. The system has a great potential and will benefit NABU's work significantly once it is fully operational. NABU's e-Case Management System was connected with SAPO but has not been connected with HACC. Also, this system is not integrated with the Unified Register of Pre-trial Investigations and the Unified Judicial Information and Telecommunication System. Other Ukrainian law enforcement institutions do not use it for pre-trial investigations. As of mid-2023, the e-Case Management System was still under development, and only some of the possible functions were used, so the mandatory use of the system has become an additional burden for detectives. According to NABU, the system should become operational by the end of 2023.

There is no system of performance evaluation of detective units and individual detectives. The performance of NABU detectives is no longer evaluated under the civil service performance evaluation system, and the existing system of informal evaluation is not sustainable and is not based on clear, uniform criteria. A new performance evaluation system for detectives should include fair indicators reflecting the quality and impact of detective work. The new evaluation system should ensure a sense of justice among detectives, motivate them to cooperate and achieve both individual and team performance results, and, at the same time, promote healthy competition for better results. It should also correctly evaluate the efforts put into investigations, which, for objective reasons, ended unsuccessfully.

The current pay structure of NABU staff and the ban on bonuses limit the range of incentives available to NABU managers to encourage and reward good performance. Specific officers' long-term, non-growing wages reduce their job satisfaction and career prospects and may encourage them to look for other career opportunities. NABU has a limited number of administrative positions and, with relatively low turnover, new positions for promotion open very rarely, thus limiting the use of promotions as an incentive to encourage better performance and reward achievements. The assessment team does not consider it necessary to introduce discretionary bonuses to NABU staff, as such payments may create problems of unfair salary allocation and undermine the integrity and autonomy of NABU staff. However, the NABU Law could be amended to allow the NABU Director to set a grade/pay scale system that allows for differentiation of people for longevity and does not require promotion or the creation of unnecessary administrative positions.

The assessment team has identified several areas within the Human Resources management that could be enhanced or improved, such as better workforce analysis and planning, increasing opportunities for advancement and leadership training, creating an independent ombudsman position, and making greater use of feedback provided annually by the workforce. These and other improvements could help NABU leadership improve employee morale and help ensure that NABU continues to have the workforce needed to achieve its mission. The anonymous survey conducted by the assessment team showed a high number of NABU staff, especially detectives, who planned to leave the organization in the next 2 to 3 years; NABU should conduct an additional staff satisfaction survey to understand the reasons behind this and develop respective remedial actions. A position of a psychologist in NABU's staff could strengthen NABU's investigations and help build a better workforce.

The report notes concerns about workplace culture in NABU and recommends creating an independent Ombudsman position to review employee and outside groups' concerns about NABU's workplace culture and organizational concerns. Creating such a position will provide a confidential communication route for employees and other stakeholders to report NABU-related workplace concerns, alleged improprieties, and systemic problems and serve as a feedback mechanism for organizational climate issues. NABU leadership should also make a clear statement about appropriate workplace culture and that any harassment will not be tolerated. It should advocate for a speak-up culture and take steps to instill confidence in the system of raising concerns to leadership or the Internal Control Department.

NABU lacks an effective internal communication policy, which is imperative to building and maintaining a solid culture and making employees feel valued, engaged, and excited about their work. A more robust internal communications strategy would enhance information sharing, increase transparency, prevent the spread of rumors, and help employees better understand organizational changes, and provide for an effective flow of information among NABU's leadership, departments, and colleagues to enhance information sharing within the agency. The strategy should include regular communications from leadership about organization news, key events, and achievements. The strategy should also include town hall-style meetings that allow employees to interact with senior management, ask questions, and provide feedback.

Regarding physical resources, NABU's capacity should be strengthened by allocating it with additional premises. It would allow increasing the number of interrogation rooms so that all interrogations and interviews can be conducted simultaneously in the same physical conditions, adding space for detective offices, and allocating special premises for the defense representatives to review case file materials. NABU also needs a budget for upgrading NABU's office ICT hardware, special equipment, and tools for covert investigative and operative measures.

Summary Table of Recommendations

Recommendations Requiring Internal NABU Action

Table 1. Recommendations requiring internal NABU action

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
Independence and Enabling Environment				
Cooperation with ARMA	7	Conduct consultations with ARMA to explore ways of using ARMA's facilities to identify and trace assets and work jointly on planning seizure of assets in NABU proceedings.	M	MT
Specialized Anti-Corruption Prosecution Office	8.1.	Update Memorandum between SAPO and NABU to improve its provisions.	M	ST
NABU's Recommendations to Address Systemic Corruption Issues	12.3.	Assign the preparation of systemic reports on causes and conditions of corruption to one of the NABU units, for example, to the new Investigation Coordination Unit	M	LT
Operational Performance and Case Work				
Performance and Operational Statistics	13.1.	NABU and SAPO should jointly, with the involvement of external experts if needed, analyze HACC case law and NABU investigations under Articles 191, 211, and 364 CC to clarify the scope of these incriminations and how relevant allegations should be treated.	H	LT
	13.2.	Develop guidance for NABU detectives for qualification of cases under Articles 191, 211, 364 CC.	H	LT
	14.1.	Take measures to improve detecting and tracing of corruption crime proceeds and instrumentalities, including abroad, by NABU detectives and analysts to significantly increase the amount of subsequent confiscation in NABU cases.	H	ST
	14.2.	Jointly with SAPO, review the application of seizure and confiscation measures in NABU cases, including special confiscation and extended confiscation under Article 100 CPC.	M	LT
	15.1.	Revise the system for collating statistics within NABU, including the scope and granularity of data, to provide sufficient materials for NABU leadership/management reporting and strategic analysis.	H	LT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
	15.2.	Revise the scope and presentation of statistical data included in the public reports to ensure meaningful information with explanation that allows tracking NABU performance and reflects the impact of its work while complying with the general requirements of the NABU Law as to categories of data that should be covered.	M	LT
	15.3.	Define large-scale cases based on clear criteria and introduce a separate category of such cases (for example, "major crime" cases). Align such classification with the NABU case prioritization policy and explain to the public why these cases are considered of high impact.	M	LT
	15.4.	Start providing data on disclosure, investigation, and trial results of "major crime" cases in NABU's semi-annual reports separately as the most important results of NABU's activities.	M	LT
Registration of Crime Notifications	16	Consider extending the powers of the unit for examining crime statements and reports to perform initial information verification steps after registering an allegation, if necessary, in consultation with the head of the Detective Unit according to specialization, so that only statements and reports about the most complex cases of corruption that meet NABU's priorities are transferred to the Detective Unit.	M	ST
Case Workload and Prioritization	17.1.	Assess how many investigations and operational measures NABU can pursue simultaneously, considering the average amount of time required for different types of investigations and operative measures.	H	ST
	17.2.	In coordination with SAPO, determine case thresholds and case prioritization criteria to ensure that NABU is focused on meaningful cases with positive potential to impact the anticorruption landscape using such criteria as investigations targeting root causes of corruption in sectors or institutions, the damage caused to the state, the positions held by the persons under investigation, the judicial perspectives of the investigation, etc.	H	ST
	17.3.	Link the case prioritization policy to the performance evaluation of NABU detective units, the strategy of the NABU's institutional development, and individual performance	H	MT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		evaluation of detectives; develop a set of transparent KPIs for each level of assessment.		
	18.1.	In concert with previous recommendations, establish a system for aging and reconsidering cases on a routine basis to ensure detective time is not wasted on cases that will have no impact or have no resolution prospect.	M	LT
Specialization of Detective Units	19	After determining the priority directions of NABU activities (case prioritization policy), reconsider the specialization of NABU detective subunits based on the analysis of the available strategic information about the prevalence of corruption in the country, the specific experience and competencies accumulated in detective subunits, the differences between the technique of investigating bribery crimes and more complex financial corrupt schemes, available human and technical resources, etc.	H	ST
Operative and Intelligence Work	20	Consider setting up a specialized detective unit dealing with operative work and supporting investigations of other detectives with proactive detections and other operative work; continue encouraging all detectives to allocate a certain amount of time to collecting operative information supporting their investigations.	H	MT
	21.1.	Create an information system for operational activities carried out by NABU, in which all information obtained during operational activities, both intelligence and operational investigations, would be accumulated, systematized, and cataloged, which would later be used for proactive analysis and information support for other operational investigations	H	LT
	21.2	Create an IT system or module designed to register all persons providing information to NABU or performing operational tasks (with proper assurance of confidentiality of personal data). Such a system would allow efficient organization, analysis, and evaluation of detectives' work with information sources, more efficient use of the intelligence capabilities of already available information sources, and help avoid situations where the same source provides information to several NABU officers without their knowledge.	H	LT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
Analytical function in NABU	22.1.	Strengthen NABU's analytical activities in two directions: 1) analytical support for criminal investigations, including through support of the financial investigations, and 2) proactive analysis focusing on the detection of specific cases of corruption through analytical methods, including big data analysis, other advanced analytics methods, OSINT.	H	MT
	22.2.	When the general staff number of NABU allows, increase the number of analysts so that, on average, one detective unit is supported by at least two to three analysts (the exact number should be determined taking into account the specialization of the unit and specifics of the investigated crimes).	H	MT
	22.3.	Consider organizational and structural changes to better integrate analytical functions with the core investigative activities of NABU detectives.	H	MT
	23.2.	When NABU performs the task of external integrity vetting and applicant checks, automate such analysis as much as possible to free up analyst time.	M	LT
	24	Pursue categorization of analytical work to identify and assign more technical data processing tasks not requiring high-level expertise and sophisticated skills to lower-level staff or even interns.	M	LT
	25.1.	Implement an integrated data platform that can ensure a single-entry point to data accessible to NABU. Explore tools for collaborative analytics, where NABU does not pool all the data in its storage but can still use multiple data sources for analysis while ensuring personal data protection (in particular, by using “privacy-enhancing technologies”).	H	MT
	26.1.	Consider transferring the Criminal Laboratory out of the Analytics Department and instructing it to specialize only in the field of finding, retrieving, and restoring digital information. The information captured should be passed on to the detectives and further analyzed together with other data collected in the case or available to the detectives or analysts.	M	MT
	26.2.	Taking into account the ever-accelerating digitalization of the world and the related current and future challenges of law enforcement	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		institutions, the number of employees of the Criminal Laboratory should be significantly increased.		
	26.3.	Assess needs and upgrade the electronic surveillance and computer forensic equipment; pursue necessary training of staff to keep abreast with the latest technological and data processing developments.	H	MT
Financial investigations and asset tracing	27.1.	NABU should carry out a financial investigation in parallel with every investigation of a corruption crime assigned to the competence of NABU both reactively (after the corruption crime has been revealed and a pre-trial investigation has been launched) and proactively (recording all information related to an individual's income, assets and especially expenses even at the stage of operational activities, conducting wealth analysis, targeting unjustified assets, and looking for signs of money laundering, including autonomous money laundering).	H	MT
	27.2.	Engage analysts to support parallel financial investigations, including by using as much as possible OSINT methods. Consider specializing some analysts as financial investigators.	H	MT
	27.3.	Conduct training of detectives and analysts on financial investigations and OSINT methods.	M	LT
	27.4.	Include outcomes of the financial investigations as indicators of the performance assessment of detectives subunits, detectives, and analysts.	M	LT
	27.5.	Systematically review the practice of joint work with other Ukrainian institutions involved in the asset recovery process (ARMA, FIU, etc.) to achieve effective and efficient cooperation in the field of asset recovery.	M	LT
Data exchange with FIU	28.1.	Set up a joint task force of NABU and FIU to review the existing cooperation between the two agencies and develop measures to make it more effective, in particular by using best practices of data exchange tools	M	LT
	28.2.	Hold a discussion involving law enforcement agencies, experts, academics, and other stakeholders about the possible use of the FIU information as evidence in criminal proceedings.	M	LT
Wiretapping	30.1.	Develop an IT solution allowing detectives to record important information in real time and control, sort, connect and systematize it. Such a	M	LT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		system would also allow centralized analysis of information in the context of all NABU investigations and may even reveal new corruption crimes (the IT tool "TELEDATA," developed by the STT of Lithuania, could be an example).		
	30.2.	To obtain or create a tool based on Artificial Intelligence which would automatically convert recorded significant telephone conversations into textual information.	M	LT
Access to databases and other information	33.1.	NABU should raise the issue and take practical steps to obtain effective access to asset declaration data held by the NACP to obtain such access in bulk through a private API that allows access to machine-readable data of asset declarations, including confidential information removed from public access.	M	MT
	33.2.	Consider ways of ensuring that NABU access to specific information in the asset declaration register is not revealed to NACP staff.	M	MT
Forensic expert institution	39.2.	Regardless of whether a new forensic entity is set up at the NABU, NABU should rely more on the private sector experts.	M	ST
Targeting unjustified assets	52.1.	NABU should proactively detect and pursue cases of possible unjustified assets that may lead to civil confiscation or criminal prosecution of illicit enrichment.	H	ST
Organization capacity and management				
Staff Limit and Organizational Structure	55.2.	Substantially increase the proportion of detectives investigating criminal offenses in the total staff number, if needed, by decreasing the staff numbers in other units after carefully reviewing their workload and prioritization of tasks	H	ST
	56	Increase the staff number of the Operative and Technical Department while optimizing its internal structure.	H	ST
Distribution of Tasks among Deputy Directors	57	Review the areas supervised by NABU Deputy Directors and revise the supervision tasks according to specific, clear criteria, ensuring the smooth organization of the institution's work.	M	MT
Organization of the Detective Work	58.1.	In light of the experts' observations and the possible significant increase in the number of detectives (if relevant amendments in the law are adopted), consider changing the structure of NABU to (a) abolish the Main Detective	H	MT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		Department as a structural unit and upgrade its four sub-departments (підрозділи детективів) to the level of departments reporting directly to the First Deputy Director of NABU; (b) upgrade the Detective Subunits (відділи детективів) to the level of sub-departments, which would legally enable the heads and deputy heads of these units to be paid a management salary; and (c) consider abolishing positions of deputy heads of the lowest level detective structural units.		
	58.2.	Reconsider and establish internal guidelines on the scope and level of sharing investigative and operative information within NABU. As a part of this exercise, review the practice of informational meetings happening at all levels of NABU to avoid unnecessary reporting and reduce possibilities for information leaks.	M	MT
	58.3.	Instead of an Organizational-Methodological Unit, consider the creation of an Investigation Coordination Unit or Department, which would report directly to the First Deputy Director and assist him in the administrative organization and strategic development of the detective work carried out by NABU. This unit should also conduct case analysis, collate operational statistics and analyze it, and provide guidance to detectives in various forms.	H	MT
	58.4.	Where possible, create new posts of technical assistants (it should be a technical person, a civil servant) in all Detective Subunits for doing technical work of file management.	H	ST
Strategic Planning and Organizational Development	59	Create a Strategic Development Unit not related to NABU's crime investigation activities. This unit should take over the strategic planning, monitoring, and evaluation functions from the Internal Control Department and the preparation of NABU semi-annual reports from the External Communications Unit to raise these processes to a higher level. The new unit's activity should also be closely related to NABU's strategic external communication, educating the Ukrainian public about the extent of corruption in the country and the damage caused by it, and providing the NABU leadership with high-quality information for making decisions or public statements.	H	MT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
	60.1.	Select an appropriate process management model and implement it in NABU (for example, LEAN).	M	LT
	60.2.	Set up a temporary or permanent task force to review and optimize NABU's internal business processes, develop related guidelines and standard operating procedures, and implement internal policies to optimize NABU's work.	H	ST
Undercover Work (Second Detective Department)	61	Reconsider approach to the organization of work and tasks of the Second Detective Department so that it can support other detective units of NABU with undercover operations to uncover and investigate complex corruption schemes, infiltrate corruption networks, organized groups, and criminal organizations. The First Deputy Director of NABU could coordinate tasks given to the Department to manage its workload and prioritize cases.	H	MT
Special Operations Unit	62.1.	Review the number of staff in the Special Operations Unit to check whether it is commensurate to the tasks that the unit performs.	H	MT
	62.2.	Develop clear rules and criteria for the engagement of the Special Operations Unit, which should be justified by the reasonable assessment of risks, the impossibility of detectives to perform these tasks, and possible repercussions of using a SWAT team during an investigative activity.	H	LT
Internal Control Function	63.1.	Address the problems of leaks in NABU proceedings by reviewing operational procedures and methods to remove possibilities for leaks and facilitate relevant controls (for example, by restricting the use of mobile phone chat groups for discussion of operational issues, prohibiting the use of personal emails, establishing firewalls that prevent employees from emailing documents to personal email accounts and uploading documents to personal cloud accounts); reconsider the aggregation and avoid excessive sharing of information on the planned investigative measures within NABU. Consider extracting the information security unit from the Internal Control Department (with possible placement in the ICT department).	H	MT
	63.2.	Refresh methods for performing integrity checks to make them more effective.	M	LT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
	63.3.	Establish internal guidelines on the use of official vehicles for personal purposes.	M	ST
	63.4.	Conduct an internal audit of the procedures used by the Internal Control Department.	M	LT
	63.5.	Adopt standard operating procedures (regulations) on lifestyle monitoring, integrity checks, and other procedures conducted by the Internal Control Department.	M	MT
	63.6.	Strengthen internal control in the area of conflict of interest, especially during the selection and promotion procedures, in particular by extending the internal regulations to cover perceived conflict of interest to address the widely reported situations of favoritism and nepotism and by conducting additional training and awareness-raising on issues of ethics and integrity.	H	MT
	63.7.	Develop criteria for assessing the effectiveness of the Internal Control Department.	M	MT
Legal Department	64	Implement expert recommendations concerning the optimization of the NABU's Legal Department that remain relevant.	M	LT
Territorial Offices	65.1.	When the general number of staff allows it, establish additional territorial offices of NABU	H	LT
	65.2.	Reconsider the approach to NABU territorial offices to make them autonomous NABU units operating in the regions with allocated detectives and support staff. As a part of the reform, consider increasing the role of the heads of territorial offices who could be fully responsible for the organization of NABU's activities in the assigned territory, including receiving information about corruption crimes, proactively uncovering crimes, and investigating cases. Detectives working in a territorial office should report directly to the head of the territorial unit. If needed, initiate relevant changes in the NABU Law and CPC.	H	LT
	65.3.	Once the territorial units are empowered to carry out detective activities, these units should be under the supervision of the First Deputy Director, who oversees all NABU investigations.	M	LT
E-case Management and Document Processing	66.1.	Carry out a detailed inventory of the e-Case Management system and complete the project (including integration with HACC) as soon as possible to start benefiting detective work.	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
	66.2.	When implementing changes like the e-Case Management system that affect the daily activities of each detective, it is recommended to use all internal communication channels so that each detective is informed about the advantages of the new system and its benefits for NABU or the effectiveness of the investigation of corruption crimes in general.	M	LT
	66.3.	To benefit more from the e-Case Management system, accelerate the process of creating analytical and statistical modules of this system.	H	MT
	66.4.	Pursue an integration/connection between e-Case Management and the register of pre-trial investigations to remove the double entry of data and eliminate potential errors/inconsistencies.	H	ST
Performance Evaluation of Detectives	67	Implement a system for measuring the performance of NABU detectives based on clear and transparent criteria that were developed in an inclusive process and consider the quality and impact of the investigative work, including in cases that were ultimately unsuccessful.	H	MT
Staff Salary and Incentives	68	Consider raising the base salary rates of NABU detectives and senior detectives, heads of detective sub-units and units, and heads/deputy heads of other units and departments in NABU to be at least 10 percent higher than relevant positions in other investigative agencies.	M	LT
	69	Increase the base salary rate of detectives holding administrative positions.	M	LT
Other HR Issues	73	Assess recruitment and hiring trends to help plan for and forecast future hiring actions by identifying positive and negative influences and taking action to expand the use of best practices, including regarding gender representation.	M	LT
	74.1.	Conduct an additional staff satisfaction survey to understand the reasons behind the high percentage of staff planning to leave the organization in the next 2 to 3 years and develop respective remedial actions.	H	ST
	74.2.	Require the Human Resources Department to routinely perform workforce analyses that track turnover/retirement ages so that significant changes can be anticipated and planned for.	M	LT
	74.3.	Introduce an effective procedure for exit interviews with departing staff to better understand reasons for why employees leave	M	MT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		NABU and receive feedback related on workforce-impacting processes in NABU.		
	75	NABU leadership should explore opportunities for its high-performing employees that could result in meaningful work experiences when promotions are not available.	M	MT
	76.1.	Create an independent Ombudsman position to provide a confidential communication route for employees and other stakeholders to report NABU-related workplace concerns, alleged improprieties, and systemic problems and to serve as a feedback mechanism for organizational climate issues.	H	ST
	76.2.	NABU leadership should make a clear statement about appropriate workplace culture and that any harassment will not be tolerated. It should also advocate for a speak-up culture and take steps to instill confidence in the system of raising concerns to leadership or ICD and take appropriate measures to ensure that employees and external stakeholders who report matters are provided with timely feedback on the results of any investigation of their complaint.	H	ST
	77.1.	Implement a robust organizational strategy for employee development that benchmarks objectives and assesses training provided to help ensure the organization is positioned to meet its mission.	M	MT
	77.2.	Raise the financial and ICT literacy of NABU, collaborating with the National Bank of Ukraine and the State Financial Monitoring Service (FIU), and provide training to the Criminal Lab staff to lead and maintain the advanced financial and ICT literacy of NABU.	M	LT
	77.3.	Develop and implement a strategy to provide leadership training to executives, managers, and supervisors to improve focus on motivating employees and building mutual trust.	M	ST
	78.1.	Ensure that NABU's annual workforce survey results are distributed to supervisors and encourage them to take action in an effort to improve general morale and perceptions of organizational atmosphere.	M	LT
	78.2.	Study the response rate to the survey to understand reasons for the decrease in replies and take corrective action, for example, by	M	LT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		raising awareness and providing examples of how staff surveys impact internal organizational decisions		
	79	Create a position of a psychologist (or even several psychologists) in the NABU’s HR unit.	H	MT
	80	NABU should develop and implement a robust internal communication strategy that provides an effective flow of information between NABU’s leadership, departments, and colleagues and enhances information sharing within the agency. The strategy should include regular communications from leadership about organization news, key events, and achievements. The strategy should also include town hall style meetings that allow employees to interact with senior management, ask questions, and provide feedback. The organization of the internal communications could be entrusted to a dedicated position or a small unit.	H	ST
Physical Resources	82	Provided necessary budgetary funding is allocated to NABU, conduct necessary acquisitions to upgrade NABU’s office ICT hardware and special equipment and tools for covert investigative and operative measures.	H	ST
Accounting, Internal Financial Control, Internal Audit, Property Management	83	To check and measure ongoing risks in an institution, NABU should consider introducing a middle office utilizing the International Financial Reporting Standards which can calculate the ongoing total risks of the institution and can compliantly mediate the property management (front office) and internal accounting (back office) to minimize the ongoing total risks and report to the management simultaneously, which will prevent potential concealed manipulations in the internal accounting (back office).	M	MT

Recommendations Requiring External Action

Table 2. Recommendations requiring external action

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
Independence and Enabling Environment				
Independence Safeguards in the Legislation	1	Amend the procedure for the NABU Director selection establishing that the competition commission selects and proposes to the Government one best candidate for the appointment.	M	LT
	2	Consider the possibility of constitutional amendments to provide a special status and independence safeguards to NABU that are sustainable in longer term.	H	LT
	3	Abstain from classifying corruption offenses as treason and reject any proposals to dilute NABU's jurisdiction by assigning cases of high-level corruption to other agencies, including the Security Service.	H	ST
Budgetary Autonomy, Benefits, and Salary	4	Ensure that the NABU's state budget includes capital expenses required to update equipment and hardware and conduct necessary renovations or acquisitions.	H	ST
	5	Consider removing the indexation freeze of basic salary rates of NABU staff by matching it with the minimum subsistence level for able-bodied persons increased annually in the State Budget Law; avoid changes in the legislation that remove the autonomous regulation of NABU salaries in the NABU Law and subordinate it to the Government decisions.	M	LT
Interference with NABU investigative jurisdiction	6.1.	To prevent future manipulations with investigative jurisdiction, stipulate in the CPC clear rules for transferring proceedings from one investigative authority to another and for NABU to take over proceedings.	H	ST
	6.2.	Introduce administrative and/or disciplinary liability, including disciplinary liability under the Law on the Prosecutor's Office and Law on the State Bureau of Investigations, for violations of investigative jurisdiction or not complying with decisions taken by NABU and SAPO or other prosecutors on the transfer of proceedings into NABU's competence.	H	ST
	6.3.	Stipulate in the CPC that disputes over investigative jurisdiction in cases that may	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		belong to NABU jurisdiction should be resolved by the SAPO Chief Prosecutor, not the Prosecutor General.		
Specialized Anti-Corruption Prosecution Office	8.2.	Conduct regular joint meetings of NABU, SAPO and HACC to discuss a uniform approach to crime qualification, the use of preventive measures in criminal procedures, the implementation of the e-case management system, and other issues of cooperation.	M	MT
	8.3.	SAPO could consider assigning prosecutors to specific units of NABU detectives to develop their specialization and harmonize approach to the NABU investigations.	M	LT
	9	Amend legislation to strengthen SAPO's independence, in particular by ensuring the following: 1) SAPO is transformed into a separate legal entity. 2) Increasing the number of SAPO staff (to at least 15% of the NABU total staff). 3) Assigning powers to determine the structure and internal organization of SAPO to its Chief Prosecutor. 4) The internationally nominated members of the selection commission for SAPO Chief Prosecutor have a decisive vote in the commission's decisions. 5) The Prosecutor General and other PGO prosecutors do not act as senior prosecutors regarding SAPO prosecutors. 6) Setting up a special disciplinary body for SAPO prosecutors. 7) Introducing other safeguards of SAPO's autonomy from the PGO and Prosecutor General. 8) Assign all procedural powers related to NABU proceedings that now belong to the Prosecutor General or PGO to SAPO and its Chief Prosecutor through changes in the Criminal Procedure Code and Law on Operative Detective Activity.	H	ST
High Anti-Corruption Court	10.1.	Increase the number of judges in the first instance and appellate chambers of the HACC.	H	ST
	10.2.	Amend the Criminal Procedure Code to streamline HACC proceedings, in particular by allowing single-judge formation in certain cases.	H	ST
	10.3.	Avoid extending HACC's jurisdiction to cases of administrative violations related to corruption.	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
Public Control Council	11	Revise the procedure for selecting members of the NABU's Public Control Council to ensure that only NGOs with a proven track record may nominate experienced and reputable candidates, and that related NGOs and NGOs connected to political parties are not eligible to participate in the process.	M	MT
NABU's recommendations to address systemic corruption issues	12.1.	NABU and NACP should cooperate to exchange information on the causes and conditions of corruption, systemic corruption risks in sectors and areas, and recommendations for eliminating causes of the corruption schemes.	M	MT
	12.2.	Amend the legislation to integrate NABU conclusions and recommendations on the causes and conditions of corruption in the state anti-corruption policy, for example, by requiring that each such report addressed to the Government is considered at the Government's level with the proposals reflecting the action recommended in the report, setting a requirement and deadlines for responding to NABU conclusions addressed to individual state public authorities, requiring that each state institution that received NABU's conclusions on systemic corruption issues provide a public response describing measures taken to address the identified causes and conditions of corruption.	M	LT
Operational Performance and Case Work				
Case Workload and Prioritization	18.2.	Provide in the CPC a possibility for NABU, based on SAPO approval, to transfer cases that do not have high importance for prosecution of high-level corruption to other investigative bodies (or refuse transfer of cases initiated by other agencies) to relieve NABU's workload and focus it on high priority cases.	H	ST
Analytical Function in NABU	23.1.	Relieve NABU of the duty to conduct external integrity vetting and applicant checks or stipulate this in the law and allocate additional resources to NABU to perform it.	H	MT
	25.2.	Other authorities, including ministries and agencies, should facilitate NABU's access to their data by building necessary APIs, data exchange protocols, and removing other technical barriers. Ministry of Digital Transformation could facilitate this work by standardizing the data exchange requirements and providing agencies with API	H	MT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		tools or ensuring that such data exchange is possible through the interoperability platform Trembita.		
Wiretapping	29	Remove legal and technical obstacles to implementing autonomous wiretapping by NABU, in particular by amending the Law on Electronic Communications, if needed, and providing funding to develop and implement technical means required for ensuring such access independently from the Security Service and without the latter's access to information about targets and content of wiretaps.	H	MT
Access to Databases and Other Information	31.1.	Amend the NABU Law and Law on the Notary Activity to stipulate NABU's power to access notary information (notary secrets) for collecting evidence of unjustified assets and operative and pre-trial investigation activity.	M	MT
	31.2.	Remove the limitation in the Law on Insurance that allows NABU to access personal information held by an insurer (insurance secrecy) only after notifying suspicion to the person.	M	MT
	31.3.	Clarify NABU's access to bank information by amending the Law on Banks and Banking Activity to stipulate that access is provided to the full scope of information held by banks and information is provided in a machine-readable format; align provisions on access to bank information in the NABU Law and Law on Banks and Banking Activity.	H	MT
	31.4.	Amend legislation and set up a central register with information on bank accounts and safe deposit boxes (vaults), including information on the person who opened the account (box), account beneficiaries, and who has the right of access or use of the account (box); provide NABU with full access to such register once it is set up.	H	LT
	31.5.	Remove the excessive requirement from the CPC that motions for temporary access to objects and documents that contain secrets (at least as regards bank secrets and other information held by financial institutions) protected by law should include justification of how such information may not be obtained otherwise, as with such information there should be a presumption that it cannot be obtained through other means because it is secret.	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
	31.6.	Set a short deadline for banks, other financial institutions and other entities that receive orders to provide temporary access to documents under Article 160 CPC to provide relevant documents and information.	M	MT
	32	Provide NABU with full access to tax databases, logs, and VAT credit and liabilities comparison tools.	M	MT
	34.1.	Clarify in the NABU Law what “direct, including automated, access” to databases and registers means, in particular, to expressly stipulate that it includes bulk access to machine-readable data in such registers and databases.	M	MT
	34.2.	Consider tools to conceal NABU’s data search and access in the registers and databases it has access to; conduct necessary negotiations with the database owners to implement relevant tools; if necessary, initiate amendments in the NABU Law and other laws to stipulate procedures for concealing NABU’s access to registers and databases.	H	MT
Other Limitations on NABU Powers	35	Amend Article 482-2 CPC to authorize the SAPO Chief Prosecutor to register criminal proceedings, give permission for apprehension, and request detention and other intrusive and covert investigative measures against an MP.	H	ST
	36	Conduct consultations with SAPO to resolve the issue of lawsuits filed during the pre-trial investigation and reinstate such practice; amend the MoU between SAPO and NABU to clarify the procedure for proposing and supporting such claims; initiate amendments in the legislation, if necessary, to remove obstacles for SAPO prosecutors to file such claims based on NABU’s proposals.	H	MT
	37.1.	Amend legislation and create technical capabilities for NABU to be able to produce operational undercover documents and include fake information in the government-held registers for undercover operations.	H	MT
	37.2.	Stipulate the procedure for NABU to obtain classified information clearance for its undercover staff members without notifying the Security Service.	H	MT
	38	Amend legislation to stipulate that NABU motions and related court decisions at the pre-trial stage	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		are automatically closed for access to all users of the Register of Court Decisions; or that such motions and decisions are closed for access unless the investigative judge decides that they can be opened.		
Forensic Expert Institution	39.1.	If a separate forensic institution is set up for NABU, it should be insulated from NABU administratively and operationally ensuring the full autonomy of NABU forensic experts, including in terms of their selection, appointment, dismissal, remuneration, and other aspects.	H	LT
	39.3.	The Government should develop a roadmap for the reform of the forensic examination system in Ukraine, possibly by fully privatizing this function and delegating licensing and quality oversight of forensic experts to independent self-governance bodies.	H	LT
Limitations in CPC	40	Revise the CPC to remove the requirement of mandatory presence of witnesses during the execution of searches.	H	ST
	41.1.	Allow using conditional release from punishment or reduced punishment measures as a result of plea agreements concluded in corruption and corruption-related offenses assigned to NABU jurisdiction provided that the person cooperated with the investigation and exposed a similar or higher gravity crime or person who committed it.	H	ST
	41.2.	Allow a repeat proposal of a plea agreement if it has been rejected by the court after the grounds for rejection have been rectified.	H	ST
	42	Revise provisions of the CPC to change the procedure for recognizing state-owned entities as victims in criminal proceedings based on the request of the prosecutor.	M	MT
	43	Amend legislation to ensure that NABU can apply effectively in practice Article 269-1 CPC on the monitoring of bank accounts.	M	MT
	44	Revise CPC provisions that allow delaying tactics in court proceedings, in particular, to ensure that the non-appearance of one of the defense representatives does not trigger a postponement and resolve the issue of the simultaneous presence of all defendants and their representatives during the court's preparatory hearing.	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
	45.1.	Amend the CPC to stipulate that in NABU proceedings requests for extradition are sent by the Chief Prosecutor of SAPO and that the SAPO Chief Prosecutor also sets up joint investigative teams in NABU cases independently from the PGO.	H	ST
	45.2.	Initiate and negotiate amendments in the MLA agreements in which PGO is mentioned as the Central Authority to include NABU in these agreements.	H	LT
	46.1.	Amend the CPC to address bottlenecks undermining effective criminal proceedings in NABU cases, including the following: 1) Define the term "a person declared an internationally wanted person." 2) Extend the maximum duration of the temporary seizure under Article 170 CPC to five days. 3) Amend Article 71 CPC stipulating that a specialist in criminal proceedings may provide conclusions on issues related to their field of knowledge not only during the pre-trial investigation of criminal misdemeanors but also during the investigation of crimes. 4) Clarify in the CPC (for example, in Article 93) that the investigator's requests to provide information and copies of documents are mandatory for persons and entities that receive them. 5) Revoke or provide exceptions to the rule in Article 87 CPC that evidence obtained during the execution of a decision on permission to search a person's home or other possessions is inadmissible if such a decision was issued by an investigative judge without full recording of the session with technical means. 6) Allow the prosecutor to appeal against the decision of the investigative judge to refuse property seizure or the decision to cancel property seizure. 7) Amend the Law on the State Registration of Legal Entities allowing temporary seizure of ownership rights in companies based on the NABU Director's decision. 8) Provide in the CPC for a separate investigative action of a search of a person and his belongings.	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		9) Reconsider the requirement for the mandatory participation of an attorney to start a personal search of a person.		
	46.2.	Revoke the so called Lozovyi amendments that have resulted in the dismissal of NABU cases due to the lapse of unjustified procedural deadlines.	H	ST
Investigative Jurisdiction	47	Consider raising the value thresholds for NABU investigations (under clause 2 of part 5 Article 216 CPC) to balance its workload based on the analysis of NABU case statistics.	H	MT
	48	To close the gaps and cover all high-risk positions (including top officials of the President's Office), update the list of public officials and institutions in NABU's investigative jurisdiction in the CPC.	M	MT
	49	Reverse the amendment introduced in November 2021 to Article 216 of the Criminal Procedure Code to stipulate that NABU should investigate illicit enrichment and false statement in asset declaration regardless of the public official who perpetrated the offense, if the crime object exceeds the threshold which could be the existing threshold for the aggravated offense of false statement (that is over 2,000 amounts of subsistence level) and the threshold for illicit enrichment crime (6,500 amounts of the minimum subsistence level).	H	MT
	50	Amend CPC to extend HACC's jurisdiction to cases that were investigated by NABU even if they do not fall into NABU's core competence under part 5 of Article 216 CPC.	M	MT
	51	Carefully consider the rationale for extending NABU jurisdiction to any new offenses ensuring that it is aimed at tackling high-level corruption and is matched by the respective increase of the NABU staff limit.	H	MT
Targeting Unjustified Assets	52.2.	The parliament of Ukraine should consider raising the threshold for illicit enrichment crime to extend the scope of unjustified assets eligible for civil confiscation.	H	ST
Statute of Limitations	53	Raise the statute of limitations for all crimes in NABU's jurisdiction to at least five years by amending applicable sanctions or establishing a minimum statute of limitations for corruption offenses regardless of their type/gravity; stipulate that the limitation period is interrupted when the person is indicted and the case goes to	H	ST

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
		court and that the limitation period is suspended during the period when the official enjoyed immunity from criminal prosecution.		
Liability of Legal Persons	54	Revise the conceptual approach to the corporate liability for corruption in Ukraine by establishing a direct criminal liability that has an autonomous nature in substantive and procedural aspects, provides for proportionate and dissuasive sanctions, covers acts of the beneficial owners or other related persons and entities, and includes the possibility of negotiating a non-trial resolution conditional on the company's implementation of anti-corruption compliance measures.	H	LT
Organization Capacity and Management				
Staff Limit and Organizational Structure	55.1.	Increase the NABU staff limit set in the law based on a justified calculation of the additional personnel needs considering NABU's workload.	H	ST
Internal Control Function	63.8.	Amend CPC to authorize NABU's Internal Control Department to investigate allegations of leaks in NABU cases.	H	LT
Staff Salary and Incentives	70	Amend NABU Law to authorize the NABU Director to establish a system of pay grades (steps) for detectives and other staff to recognize longevity, encourage and reward performance, and provide better career development opportunities; such a pay grade system should be linked to the individual performance evaluation of detectives and other employees based on clear criteria and transparent evaluation process.	H	ST
	71	Amend the NABU Law to stipulate that the Rules of Service for NABU ranking officers should be determined by the Government, and the Disciplinary Statute – by special law; ensure that the service rules and disciplinary provisions applicable to detectives serving as ranking officers do not affect their autonomy and provide for the safeguards of individual rights on a par with those afforded to civil servants.	H	ST
	72	Introduce additional benefits and safeguards for NABU staff to improve work conditions (including one-time payment in case of disability, the right to receive official living quarters, and additional increments available to civil servants under the Civil Service Law).	M	LT

Topic	Rec No.	Recommendation	Priority (Medium, High)	Timeline (Short-, Medium-Long-Term)
Physical Resources	81	Provide NABU with additional premises allowing NABU to increase the number of interrogation rooms to the extent that all interrogations and interviews can be conducted simultaneously in the same physical conditions, add rooms for detective offices, and allocate special premises for the defense representatives to review casefile materials.	H	ST

Background

Perceptions of Corruption and Efforts to Combat Corruption

According to population polls, in 2021 and 2022, corruption was named as the most serious problem in Ukraine (64 per cent of respondents in 2022), following only the high cost of living and war. Meanwhile, 55 per cent of business respondents considered corruption a very serious problem (only war received a higher per cent).⁷ The perception of corruption has decreased but remained very high (81 per cent of the population and 69 per cent of businesses considered it to be somewhat or very widespread).⁸ In 2022, the most corrupt areas (according to the population) were – in decreasing order – judiciary, customs service, border control, land relations, law enforcement bodies, movement of people and goods from Ukraine’s controlled territory to the occupied territory and back, public healthcare, higher education, patrol police, war-related humanitarian aid, Ministry of Interior’s service centers (registration of vehicles, etc.).⁹ After the start of the war, the level of intolerance towards corruption has significantly increased – from 42 per cent in 2018 and 2021 to 53 per cent in 2023 (per cent of those replied that giving a bribe or gift can never be justified to solve an important problem).¹⁰

NABU is seen as one of the key actors responsible for fighting corruption. When asked who is responsible for eradicating corruption in Ukraine, in 2022 almost 32 per cent of the population replied it was NABU (39 per cent in 2021) – the second highest result after the President of Ukraine (almost 44 per cent), while business saw NABU as the main responsible entity with 37.5 per cent (32.8 per cent in 2021) choosing it over the President (35.4 per cent) and all other entities – see figures in Annex 2.¹¹ When combined together, NABU, SAPO and HACC were perceived to be the main entities responsible for anti-corruption in Ukraine despite their limited mandate to tackle high-level corruption only. The 2022 survey of population and business showed that NABU was considered one of the most effective entities in anti-corruption work but not the most effective one (with the increase in the perceived effectiveness compared with 2021) – see figures in Annex 2.

Trust in NABU remains relatively low. The level of trust in NABU has been relatively low compared to other law enforcement agencies. According to a 2023 poll, 21 per cent “completely trusted” or “rather trusted” in NABU – a significant increase from 7 per cent in 2021 but it is explained by the similar increase of trust to all state authorities and some other actors following the full-scale war.¹² In 2023, more people trusted in the State Bureau of Investigations, regional government, Parliament, Government, National Police, Local self-government, Security Service, NGOs, President and his Office, Armed Forces of Ukraine than in NABU – see figures in Annex 2. According to another poll, in 2023, 54.4 per cent completely did not trust or somewhat did not trust in NABU and 28.8 per cent completely

⁷ “Corruption in Ukraine 2022: Understanding, Perception, Extent” by NACP, EUACI, InfoSapiens, Annual Report based on survey of population and businesses, April 2023, page 9, https://nazk.gov.ua/wp-content/uploads/2023/05/KORUPTSIYA-V-UKRAYINI-2022-analitychnyj-zvit_Engl_final.pdf.

⁸ Idem, page 9.

⁹ Idem, pages 34-35.

¹⁰ “State of Corruption in Ukraine 2023: Perception, Experience, Attitude”, PACT, July 2023, <https://engage.org.ua/eng/national-corruption-perceptions-and-experience-poll-2023/>.

¹¹ “Corruption in Ukraine 2022: Understanding, Perception, Extent” by NACP, EUACI, InfoSapiens, pages 40-41.

¹² “State of Corruption in Ukraine 2023: Perception, Experience, Attitude”, PACT, July 2023, <https://engage.org.ua/eng/national-corruption-perceptions-and-experience-poll-2023/>.

trusted or somewhat trusted in NABU.¹³ Therefore, NABU had a balance of trust/distrust of -25.7 – a higher value than other anti-corruption agencies (SAPO, NACP) and judiciary, prosecution’s office but lower than many other government agencies – see table in Annex 2.

NABU and Other Anti-Corruption Actors

NABU was the first specialized anti-corruption agency established in Ukraine. It is an investigative agency targeting mainly high-level corruption. The NABU Law determines its status, mandate, powers, and organization; the Criminal Procedure Code of Ukraine defines its investigative jurisdiction. The Specialized Anti-Corruption Prosecution Office (SAPO) has the role of procedural leadership in criminal proceedings carried out by NABU. SAPO approves charges and supports public prosecution in court in cases investigated by NABU. In October 2019, the parliament passed amendments extending the mandate of NABU and SAPO to investigate and present in court claims of civil confiscation of unjustified assets (assets that do not correspond to the public official’s lawful income).

NABU started its investigations in late 2015 after its first director was selected through an open competition that had never been conducted before in Ukraine. The parliament adopted the Law on the NABU in October 2014, and it came into force in January 2015. The President of Ukraine formally decided to establish the new anti-corruption agency and appointed the first Head (Director) of the National Bureau in April 2015 following an open call for candidates and selection conducted by an independent panel. The selection panel consisted of nine members nominated by the President, the Cabinet of Ministers and the parliament (three members each) and included independent experts. The selection panel proposed three candidates from whom the President selected one. NABU was the first public authority in Ukraine whose head was selected through an open and transparent competition conducted by an independent commission; NABU staff was also selected through an open competitive selection – a new practice for law enforcement agencies in Ukraine. NABU started its first investigations in December 2015 following the establishment of the Specialized Anti-Corruption Prosecutor’s Office.

NABU’s was brought under the executive branch in 2021 with additional safeguards of independence. In October 2021, the Parliament of Ukraine changed NABU’s status to align the NABU Law with the decision of the Constitutional Court of Ukraine. The Constitutional Court’s ruling of September 2020 found several provisions of the NABU Law unconstitutional, including NABU’s status as a state law enforcement body and the power of the President of Ukraine to appoint the NABU’s Director. The 2021 amendments designated NABU as a central body of the executive power with a special status making NABU formally a part of the executive branch under the Cabinet of Ministers of Ukraine. To offset the status change, the amendments introduced additional safeguards to ensure NABU’s independence from the Government. To align with the new status, the power to appoint the NABU’s Director was assigned to the Government, which selects the Director from among three candidates proposed by an independent selection commission.

NABU’s first director served his full term of office despite numerous attempts to remove him. The first NABU Director’s 7-year mandate expired in April 2022. Despite the numerous attempts to terminate early the NABU Director’s term, the first NABU Director served his full term of office, which in Ukraine’s context can be considered a significant achievement. It proved that the design of the anti-corruption agency with strong safeguards of independence, including a secure tenure of the agency’s

¹³ <https://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/otsinka-gromadianamy-sytuatsii-v-kraini-dovira-do-sotsialnykh-instytutiv-politykiv-posadovtsiv-ta-gromadskykh-diiachiv-stavlennia-do-okremykh-initsiatyv-organiv-vlady-lypen-2023r>.

head, was viable. However, it also underlined that defending NABU's independence required significant continuous efforts of the Ukrainian civil society and international partners.

Changes in the law allowed a smooth transition to the new director, but there was a gap between directors that should be avoided in the future. After the first NABU Director's term of office expired in April 2022, the NABU First Deputy Director took over all respective duties of the Director in full scope, which was thanks to the Law of October 2021 that regulated the transition to the new Director anticipating the possible delay in the conclusion of the appointment procedure. It ensured a transition to the new leadership without any disruptions and proved to be essential during the complicated period of NABU work in the first months after Russia's invasion in Ukraine in February 2022. Using the new procedure for selecting the NABU Director and following an open competitive selection, the Government appointed the new NABU Director on 6 March 2023.¹⁴ Despite that, there was a significant gap between the two Directors (of almost a year), which should be avoided in the future.

A Specialized Anti-Corruption Prosecution Office leads NABU's investigations and prosecutes its cases. SAPO was established based on the Prosecution Service Law enacted in July 2015. It was formally set up in September 2015. The Prosecutor General of Ukraine appointed the first SAPO Chief Prosecutor in November 2015 following a competitive selection conducted by a panel comprised of members determined by the parliament and four senior prosecutors appointed by the Prosecutor General. The position of the SAPO Chief Prosecutor became vacant when the first Chief Prosecutor resigned in August 2020. The Prosecutor General appointed the new SAPO Chief Prosecutor in July 2022. The appointment followed a protracted and controversial selection process by a special panel that included international experts.¹⁵ The selection process highlighted many loopholes in the selection procedure and attempts by the Prosecutor General and top politicians to control the outcome. Absence of the SAPO Chief Prosecutor for almost two years negatively impacted NABU's performance, as the powers of the acting Chief Prosecutor were limited allowing interference from the Prosecutor General in NABU investigations.

A dedicated court has been set up to adjudicate cases investigated by NABU. The High Anti-Corruption Court of Ukraine (HACC) started its work in September 2019 based on the new legislation adopted in June 2018. HACC consists of the first instance court (27 judges) and the court of appeals (12 judges). It adjudicates mostly criminal cases investigated by NABU and prosecuted by SAPO, as well as cases of civil confiscation of unjustified assets. HACC has investigative judges that decide on pre-trial investigation matters in NABU cases. In May 2022, following Russia's full-scale aggression against Ukraine, the court's jurisdiction was extended to cases of sanctions applied in administrative proceedings.

¹⁴ The Selection Commission held its first meeting on August 22, 2022, and approved the announcement and conditions for the competition on November 14, 2022. The Commission held its final meeting to approve three candidates proposed to the Government on March 4, 2023.

¹⁵ See statements and news on the selection process: <https://kyivindependent.com/g-7-ambassadors-urge-ukraine-to-appoint-head-of-specialized-anti-corruption-prosecutors-office-vacant-since-august-2020>, <https://kyivindependent.com/commission-fails-to-nominate-anti-graft-prosecutor-for-third-time/>, <https://english.nv.ua/nation/main-facts-about-newly-appointed-head-of-the-specialized-anti-corruption-prosecutor-s-office-50259573.html>.

Assessment Findings

The assessment team concluded that NABU has developed into a strong and effective institution with a solid track record of high-level corruption investigations. NABU has resisted numerous external attacks on its independence, and its first director served the complete seven-year term of office. NABU has had an unblemished reputation, and its staff has shown high integrity. NABU has adapted to the challenges of recent years, notably Russia's full-scale war against Ukraine. NABU has had many high-profile investigations, although their impact has been limited by the lack of court decisions in the complex corruption cases against top officials. Despite the achievements, there is much room for NABU's improvement. At this juncture, NABU should use the opportunity to streamline its internal organization and operational procedures to make them more effective, remove deficiencies, and, if needed, make hard reform decisions. The report points to internal weaknesses and offers many suggestions for overcoming them. The report also provides a long to-do list of changes that NABU needs and that depend on the external stakeholders, including an increase in NABU staff and removing legislative obstacles for its operation.

This report's findings are arranged into three sections: 1) independence and enabling environment, 2) operational performance and casework, and 3) operational capacity and management. Below is a recap of the key assessment questions and the assessment team's answer to each.

1. To what extent have NABU's activities corresponded to and achieved the overall aims and objectives of the agency?

NABU activities fully corresponded to the overall aims and objectives of the agency, which were to prevent, uncover, and investigate high-level corruption crime impartially and independently.

2. To what extent has NABU efficiently used its resources?

The assessment team found no evidence of inefficiencies in using resources available to NABU, considering staff limitations set in the law and budgetary cuts for capital investment beyond NABU's control.

3. Have NABU's organizational structure and interaction among units been appropriately organized to achieve its objectives and efficiently use the available resources?

NABU's organizational structure and inter-unit interaction could be improved by reconsidering the internal distribution of staff, the role and placement of specific structural units, and the organization of work, notably concerning the Main Detective Department, Organizational and Methodological Unit, Second Detective Department, Department of Analytics, Criminal Lab, Special Operations Unit, and territorial offices.

4. To what extent has the legal framework and operational environment enabled NABU's institutional and operational independence?

Despite significant changes in NABU's legal framework caused by the Constitutional Court decisions, ultimately, NABU's independence was not limited. There were other attempts to undermine NABU's independence through legislative changes, but they failed. A low number of judges in HACC and delays in judicial proceedings, lack of autonomy, and insufficient prosecutors in SAPO weakened NABU's effectiveness.

5. To what extent the work of the core NABU units (investigation, analytical, and technical support) have been properly organized and quality assured?

See answer to Question 3.

6. Has NABU been effectively prioritizing its caseload? What factors have affected its ability to process cases and complete investigations within a reasonable time?

NABU did not have an effective case prioritization policy and should urgently develop and implement one. The case prioritization policy should be linked to the performance evaluation of units and detectives. While the assessment team did not observe any significant issues with investigation delays, NABU must increase its capacity for analysis and quality assurance of detective work.

7. Based on the evidence obtained by the assessment, have there been any significant and systemic mistakes of a procedural nature, serious human rights violations, or instances of undue interference contributing to the lack of success in important individual criminal proceedings?

The assessment team did not find evidence of any significant and systemic mistakes of a procedural nature, serious human rights violations, or instances of undue interference contributing to the lack of success in important individual criminal proceedings of NABU. However, the qualification and investigation of some categories of cases requires internal analysis and better external communications.

8. What recommendations can be made to improve NABU's performance sustainably and strengthen its independence and organizational capacity?

See the Key Recommendations section above and recommendations throughout the text of this report.

Annex 1. Summary of the Assessment Methodology

The **purpose** of the NABU technical assessment is to determine the following: a) how to improve the NABU's effectiveness; b) how to ensure more efficient use of human and financial resources; and c) how to streamline NABU's investigative work through better workload distribution and case prioritization. The assessment will also examine the operational environment of the NABU and how it affects its work.

The **objectives** of the NABU technical assessment are to obtain descriptive and analytic information related to the NABU's activity, whether the internal systems of the NABU have been suitably designed and operated effectively and efficiently during the evaluation period, what are the internal and external risks for the NABU's independence and how they should be addressed. The assessment is both backwards looking as it assesses prior performance and forward-looking as it provides recommendations for improvement.

The NABU technical assessment will provide an independent, objective, non-partisan, professional assessment within its scope.

Assessment conclusions will be presented in writing to the NABU. The assessment conclusions will also be presented to the main stakeholders and may be publicly disclosed, considering legislative restrictions and the sensitive nature of the information.

The technical assessment is not an audit exercise but will draw on system and performance audit practices and methods. The assessment will use standards and principles applicable to anti-corruption agencies according to international instruments, including:

- UN Convention Against Corruption (Article 36)
- Council of Europe Criminal Law Convention on Corruption (Article 20)
- Council of Europe Resolution (97) 24 on the twenty guiding principles for the fight against corruption (Guiding Principle 3)
- European Partners Against Corruption, Anti-Corruption Authority Standards
- Jakarta Statement on Principles for Anti-Corruption Agencies.
- Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies.

The assessment will use **criteria (benchmarks)** developed specifically for this exercise considering the NABU's functions and modalities of operations.

Principles of integrity, objectivity, independence, transparency, and evidence-based assessment will guide the assessment. Experts will carry out their tasks without influence or pressure from the NABU or other public authorities or stakeholders. Experts have complete autonomy in preparing and reporting their conclusions. Experts act in their personal capacity and do not represent their employing organization or its position during the assessment.

The NABU technical assessment aims to evaluate the NABU's **effectiveness, efficiency, and independence**.

The NABU's effectiveness means the extent to which its activity attained the agency's objectives during the period under evaluation. In other words, it measures progress towards achieving the agency's objectives and intended results. According to the NABU Law, the agency's objectives are to counter criminal corruption and other offenses within its jurisdiction that are committed by senior public officials and threaten national security and take other measures to counter corruption foreseen by the law (including investigation of unjustified assets).

The assessment will also examine whether the NABU has attained its objectives efficiently, i.e. how economically resources/inputs (funds, expertise, time, etc.) have been converted to results.

While assessing the NABU's performance, the experts will take into account that the agency's outcomes depend on external entities (prosecutors, judiciary; Ministry of Internal Affairs and Security Service - for carrying out interception of communications; other public agencies – for accessing information required for investigations, for example, the register of asset declarations of public officials maintained by the National Agency for Corruption Prevention; etc.) and that expectations of the agency's effectiveness may be exaggerated.

The independence of NABU means freedom from undue third-party interference in legal and practical terms, the least possible degree of government participation in the agency's work and decision-making, and financial autonomy. It includes both institutional and operational independence.

Period. The assessment will cover the period starting from January 2021 and up to the beginning of the assessment in mid-2023. To provide a comparison of data, the assessment may examine statistics of the NABU operation before 2021.

Format. The assessment will be conducted in a hybrid format with physical and online meetings.

Key assessment questions. The assessment will aim to answer the following key assessment questions (the expert team may adjust the list of questions based on the information available and time constraints).

Key assessment questions:

1. To what extent have the NABU's activities corresponded and achieved the overall aims and objectives of the agency?
2. To what extent has the NABU efficiently used its resources?
3. Have the NABU's organizational structure and interaction among units been appropriately organized to achieve its objectives and efficiently use the available resources?
4. To what extent has the legal framework and operational environment enabled the NABU's institutional and operational independence?
5. To what extent the work of the core NABU units (investigation, analytical and technical support) have been properly organized and quality assured?
6. Has the NABU been effectively prioritizing its caseload? What factors have affected its ability to process cases and complete investigations within a reasonable time?
7. Based on the evidence obtained by the assessment, have there been any significant and systemic mistakes of procedural nature, serious human rights violations, or instances of undue interference contributing to the lack of success in important individual criminal proceedings?
8. What recommendations can be made to improve NABU's performance sustainably and strengthen its independence and organizational capacity?

Methods. The NABU's technical assessment will use a sound methodology based on credible evidence to answer the key assessment questions. The assessment will use the following mixture of methods:

1. Baseline questionnaire. The NABU will be asked to fill in a baseline assessment questionnaire to provide information on its mandate, operations, outputs, outcomes and impact of activities, as well as to provide a self-assessment of its capacity and challenges.
2. Structured interviews with key stakeholders inside and outside of the NABU (the final list of stakeholder interviews will be approved by the expert team). Individual interviews will be

confidential, and the report will not disclose the interviewees' identities to the report's recipients and the public. This will contribute to ensuring frank and open discussions during interviews.

3. **Desk research.** Experts and supporting staff will study available reports and submissions on the corruption situation in Ukraine and NABU's activities.

Data sources. The assessment will use the following main data sources: Replies to the baseline questionnaire; NABU's reports prepared under the NABU Law; Statistics on the NABU's work; Interviews; International reports on anti-corruption monitoring and other assessments; Written submissions by key stakeholders; Media reports; Public opinion polls.

Report. The report was prepared in English and translated into Ukrainian. NABU leadership was provided with the report in draft form prior to finalization.
