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Ukraine: the Specialised Anti-Corruption Prosecutor's Office has a new head

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On 19 July, a selection committee approved the selection of Oleksandr Klymenko as head of the Specialised Anti-Corruption Prosecutor's Office (SAP) – a separate unit of the Prosecutor General's Office that prepares indictments based on materials provided by the National Anti-Corruption Bureau of Ukraine (NABU) – and requested the acting Prosecutor General to appoint him to the post. Klymenko, a 36-year-old lawyer, had previously worked as an investigator in the National Police of Ukraine, where he specialised in fighting corruption, and later as an investigator and head of one of the NABU's departments. The completion of the procedures related to the appointment of Klymenko as well as a new NABU head was called for by President Volodymyr Zelensky on 17 July.

Commentary

- The approval of Klymenko is Kyiv's response to the European Commission's requirements for Ukraine's EU accession process. When recommending to the European Council that the country be granted candidate status, the Commission made demands for Kyiv to implement reforms in seven areas. These include completing the process of selecting the head of the SAP, appointing a new director of the NABU, making thorough changes in the judiciary and the media, and reducing the influence of oligarchs. The granting of EU candidate status to Ukraine on 23 June was greeted with euphoria in the country, so the public would view the open blocking of the recommended reforms negatively.
- The post of SAP head had been vacant since August 2020, when Nazar Kholodnytsky resigned in protest against the interference of the Prosecutor General in the work of the office. Klymenko was selected in December 2021 through a competition in which he defeated a representative of the Prosecutor General's Office supported by the President's Office. However, his approval was blocked for months afterwards by members of the commission representing state offices, which prompted criticism from the European Commission and the G7 countries. Also, the post of head of the NABU has remained vacant, since the expiry of Artem Sytnyk's term in April this year.
- The blocking of Klymenko's approval has been linked to the actions of the head of the President's Office, Andriy Yermak, and his influential deputy Oleh Tatarov (a senior Interior Ministry official from the period of Viktor Yanukovych's presidency, now overseeing law enforcement institutions, including the prosecutor's office). Klymenko, as

an NABU investigator, was investigating Tatarov for allegedly giving bribes and falsifying documents in 2020 but, as a result of pressure from the President's Office, this investigation was handed over to the Security Service of Ukraine (SBU), which abandoned work on it. Consequently, it cannot be ruled out that the Prosecutor General's Office will delay the formal appointment of Klymenko as head of the SAP.

- The EU's requirements for judicial reform come into conflict with the political interests of Zelensky's team, seeking to strengthen oversight in this area, as well as over institutions that are formally independent of the presidential centre. The priority of control is illustrated by the personnel decisions initiated by Zelensky on 17 July at the SBU and the Prosecutor General's Office. The heads of these bodies – loyal but, for various reasons, unsatisfactory to the President's Office – were replaced by people who have a grip on their institutions, and who are fully controllable by the president. Oleksiy Symonenko, who has repeatedly demonstrated a disposition towards the President's Office (including coordinating the handover of the Tatarov investigation to the SBU), has been appointed Acting Prosecutor General. This reduces the likelihood of independent action, either by the Prosecutor's Office itself or the SAP, whose head is also one of the deputies of the Prosecutor General.
- The NABU and SAP were established in 2015 as bodies to combat corruption in the central and local government institutions. Their establishment and the subsequent selection of their heads in an open competition were among the requirements of the International Monetary Fund and the European Commission and were among the conditions for visa liberalisation with the EU. Western states and institutions have repeatedly criticised attempts to limit their independence – including SAP's subordination to the Prosecutor General's Office and the NABU – to the government (by a 2021 law), as well as numerous attempts made by those in power to hamper the SAP and NABU investigations into government and business representatives, as occurred under both Petro Poroshenko and Zelensky's presidencies.