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A new stage in Ukraine's fight against corruption

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On 6 March 2023, the Ukrainian government appointed Semen Kryvonos for a seven-year term as director of the National Anti-Corruption Bureau of Ukraine (NABU), the most important institution involved in fighting corruption among senior state and local administration officials. He was one of the three candidates put forward by a selection board approved by the government and composed of three Ukrainian lawyers and three experts from Lithuania, Moldova and the United States. Prime Minister Denys Shmyhal recommended that the new NABU head should employ the other candidates to the position at executive posts in the institution. Having accepted his nomination, Kryvonos assured the public that he will seek to maintain NABU's independent status.

Commentary

- The closing of the open competition procedure to appoint a new NABU head is an element of Ukraine's pledge to meet the obligations set by the European Commission in the EU accession process, and to deliver on its promises to the International Monetary Fund. These obligations included the requirement to reform the judiciary and to appoint new officials to the most important positions in anti-corruption institutions. In July 2022, a new head of the Special Anti-Corruption Prosecutor's Office was selected and in February 2023 the government appointed the new head of the High Anti-Corruption Court of Ukraine. These two institutions collaborate closely with NABU. Moreover, there was considerable progress in the process of forming two bodies responsible for supervising the activity of the organisations of judges: the Supreme Council of Justice (a body of the self-governing council that appoints judges and is responsible for launching disciplinary proceedings against them) and the High Qualification Commission of Judges.
- The recently revealed corruption scandals in the Ministry of Defence have accelerated the process of appointing new officials at NABU. Increased media coverage of these developments and criticism of financial abuses in the state administration from civil society members and the West have been a major challenge to the Ukrainian government. In February, President Volodymyr Zelensky assured the public that corruption will be eliminated in Ukraine. On the day preceding Kryvonos's appointment, the government approved the State Anti-Corruption Programme for 2023–25. The document envisages a plan to boost the effectiveness of the corruption prevention mechanisms in various spheres of public life, and to improve the enforcement of criminal responsibility for this type of crime.

- 78 individuals submitted their candidacies in the open competition for the head of NABU, which was announced in November 2022. The selection board's work came under criticism from civil society activists and other groups. They argued that the only task the board had carried out was the selection of candidates, it failed to make sure that only independent candidates will be selected at the final stage. Kryvonos's appointment came under criticism from anti-corruption activists. They argue, not without reason, that he lacks sufficient experience in combatting corruption. Apart from that, he has contacts with the head of the President's Office, Andriy Yermak, and his deputy Oleksiy Kuleba. This has sparked concerns that Kryvonos may potentially be biased and that Yermak may intend to expand his influence in the judiciary. It should be expected that Kryvonos's activity will be closely monitored by civil society organisations and independent journalists.
- The post of head of NABU had remained vacant since April 2022, when the powers of Artem Sytnik, the first director of this institution, expired. Until that time, NABU had enjoyed a high level of independence and the legislation valid at that time had practically made it impossible to dismiss the institution's head for political reasons. Such a dismissal would have required either a legally valid court decision stating that the official was guilty of a crime, or for the institution to receive a negative result following an impartial audit of its operation. Both of these procedures also required a joint decision from the Ukrainian parliament and the president. In an attempt to weaken NABU's position in the system of governance, in October 2021 the Ukrainian authorities introduced several important legal amendments. As a consequence, NABU was transformed into a "central body of the executive branch enjoying a special status" supervised by the prime minister. Its main tasks remain unchanged – it is involved in combatting corruption among top-level state and local administration officials. However, at present, NABU's director can be dismissed on the basis of a decision by the Cabinet of Ministers taken by a majority of two thirds of its members. The list of instances in which this procedure can be launched has not been altered, although an additional instance was added, which involves violation of the so-called anti-oligarch law.
- It should be expected that in the short-term perspective NABU will intensify its activity in response to the recommendations formulated by Ukraine's president and prime minister. Under the new director, NABU will most likely focus on auditing the financial decisions which the state officials have made since the beginning of Russia's invasion of Ukraine. It is an open question whether the institution's new head will take into consideration the suggestions from the President's Office regarding the scope and the reach of anti-corruption operations in the state administration bodies at the central and local levels.

Biographical note on Semen Kryvonos

Semen Kryvonos was born in 1983 in Mariupol. In 2005, he graduated from the faculties of agronomy and law at the National Agricultural University in Kyiv, and in 2007 he earned a master's degree from the National Academy of State Administration of the President of Ukraine. Between 2011 and 2015, he worked at the regional offices of the Ukrainian Ministry of Justice in Odesa and Kyiv Oblasts. In 2015–2016, he served as the first deputy of the head of the State Fiscal Service in Odesa Oblast – this was the period when Mikheil Saakashvili was the governor of Odesa Oblast. In 2016, he was selected as the winning

candidate in an open competition for the post of director of NABU's regional office in Odesa. However, he decided against taking this post following a media smear campaign accusing him of concealing his income. In May 2021, he was appointed as the head of the State Inspectorate for Architecture and Urban Planning of Ukraine.