EFFECTIVENESS OF THE NATIONAL ANTI-CORRUPTION BUREAU OF UKRAINE

External Independent Evaluation (Audit) Report 2025

Commission for Conducting
the External Independent Evaluation (Audit) of Effectiveness
of the National Anti-Corruption Bureau of Ukraine

Approved on 2 May 2025

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ACKNOWLEDGMENTS

The Commission greatly appreciates the cooperation received from NABU leadership and officials at all levels during this first-of-its kind independent evaluation of the Bureau. We also value the cooperation we received from the NABU's anti-corruption partners including the Verkhovna Rada's Committee on Anti-Corruption Policy, the SAPO, the NACP, the HACC, the ARMA, the NABU Public Oversight Council, and various civil society organizations. Finally, we thank the confidential witnesses who came forward to share information with the Commission.

We commend the NABU for the progress it has made to date under sometimes trying circumstances. We offer the findings, recommendations, and suggestions in this report in the hope of providing a path to even greater success in combating high-level corruption in Ukraine.

During this evaluation, we received invaluable assistance from Ukrainian experts who served in the Secretariat. These members included Iryna Kovalenko, Oleksandr Komarov, Olha Nosenko, Maksym Sereda, Andrii Mikheiev, Andrii Savitskyi, Kateryna Stupak, and Dmytro Kotlyar. We also thank our communications and design team: Svitlana Osherova, Liudmyla Rul, and Dmytro Mokryi-Voronovskyi.

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Martin Arpo Robert A. Westbrooks Hermione Cronje

SUMMARY

Why did we do this evaluation?

The Law of Ukraine on the National Anti-Corruption Bureau of Ukraine (NABU) mandates that the NABU undergo an annual external independent evaluation (audit) of the effectiveness of its activities. This is the first such evaluation since the NABU's establishment in 2015.

The NABU Law requires that this external independent evaluation be conducted by a commission of three international anti-corruption experts. The Cabinet of Ministers of Ukraine appoints these experts based on suggestions of international and foreign organizations that have recently provided Ukraine with anti-corruption technical assistance. On September 3, 2024, by resolution No. 832-p., the Cabinet of Ministers appointed the Commission members.

How did we conduct this evaluation?

The NABU Law requires that the Commission select, approve, and publish the criteria (i.e., the standards to be used to evaluate NABU's activities) and the methodology (i.e., the process to be used to gather and analyze evidence of the effectiveness of these activities).

We selected criteria based on international anti-corruption standards and principles. We selected a methodology using an approach based on international standards and good practices in government audits and evaluations. We approved the criteria and methodology on November 18, 2024, and the Cabinet of Ministers posted the document on its website shortly thereafter. As detailed below, this evaluation assessed the NABU's effectiveness in 38 individual criteria organized within 5 dimensions during the evaluation period March 2023 to November 2024.

To address the evaluation objectives, we conducted desk reviews of reports and background materials. We requested, obtained, and reviewed documents from the NABU and other institutions. We conducted video interviews of key officials and knowledgeable individuals. We conducted field work in Kyiv, Ukraine, in October 2024 and January 2025. During this field work, we interviewed officials and stakeholders and conducted confidential interviews. We reviewed closed case investigative files and documents classified for official use only.

The NABU provided the Commission with investigative and asset recovery statistical data. The Commission was unable to independently assess the reliability of this data. The Commission also could not compare the statistical data provided by NABU with data obtained from SAPO and the HACC, partly because the organizations apply different internal policies. We therefore conclude that this data is of undetermined reliability. To complete the evaluation objectives, we used the data provided by the NABU "as is" without conclusion as to the data's accuracy and completeness.

We planned and performed this evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions.

What did we find?

- Overall, the NABU has achieved its general desirable objectives to some extent, and has in place control mechanisms to mitigate some of its major risks.
- From 2023 to 2024, the NABU reported increases in the numbers of criminal proceedings initiated, indictments, and convictions. The NABU did not routinely track or monitor pre-trial investigations by priority sectors, and therefore its ability to ensure sufficient resources are dedicated to tackle priority high-level corruption was limited.
- The lack of autonomous wiretap authority—with the resultant potential exposure of sensitive pre-trial investigative information—and the lack of access to timely and impartial forensic expert services hampers the NABU's effectiveness.
- The NABU lacked a clear strategy to mature its capabilities and concrete metrics to measure its progress, even as NABU leadership has taken action to improve NABU operations in line with the recommendations from the 2023 Technical Assessment report and other initiatives. The NABU recently approved a new development strategy and is still developing its implementation plan.
- The NABU Internal Control Department (ICU) is responsible for several key functions. Gaps in legislation and some internal practices lead to increased risk and decreased effectiveness. To date, the NABU has not conducted any successful criminal investigations of NABU employees concerning leaks in its pre-trial investigations, one of the largest reputational risks facing the NABU.
- In places, the NABU's organizational structure lacks clear lines of authority, appropriate delegations of authority, or has ambiguous divisions of labor. These gaps limit the NABU's effectiveness and increase risks in areas including internal control, enterprise risk management, strategic planning, interagency coordination, and analytical support.

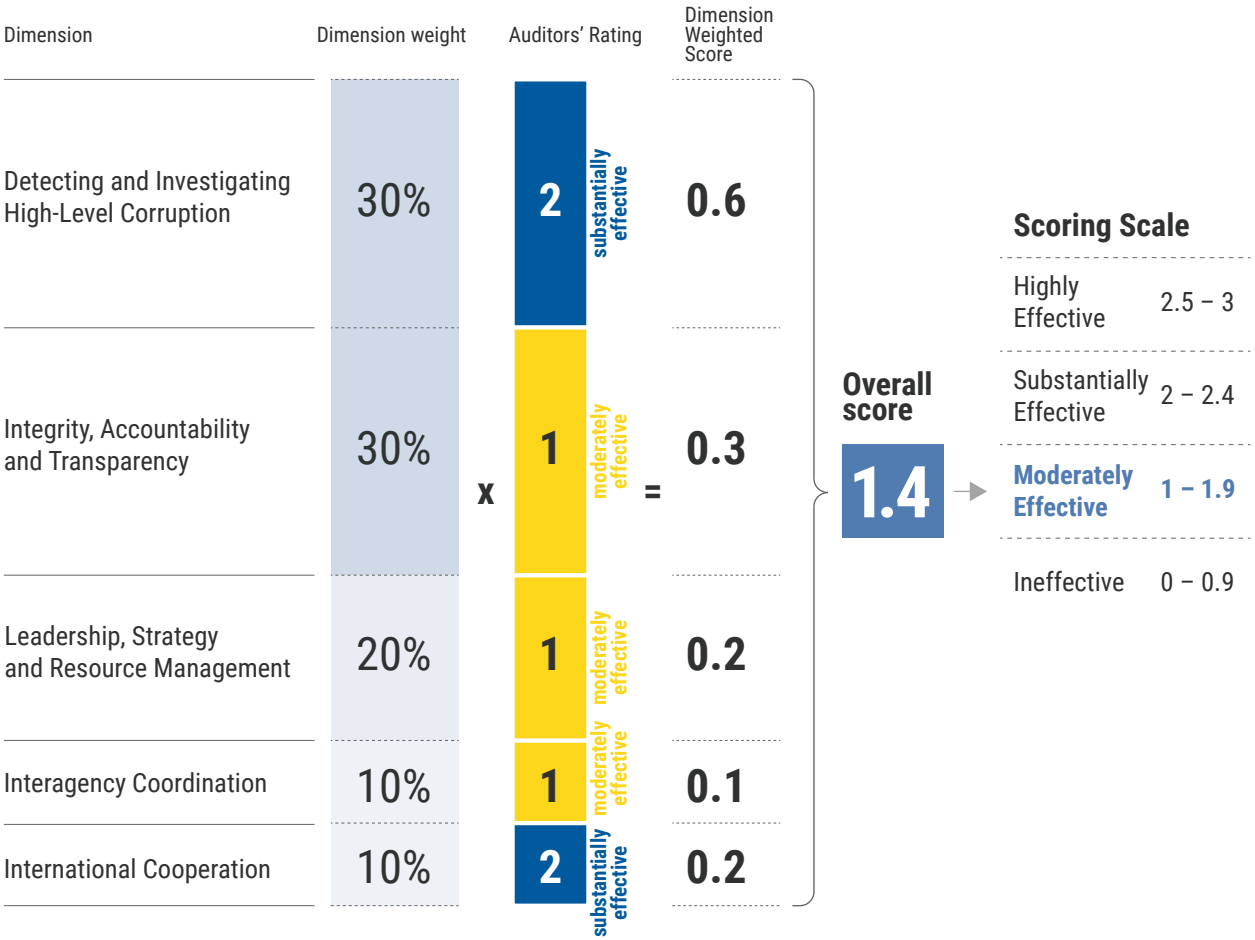
What is our overall conclusion?

The Commission reached the following conclusions about the extent to which NABU was effective in each of the Dimension of Effectiveness based upon an analysis of the totality of the evidence under such Dimension of Effectiveness, including the qualitative and quantitative nature of the evidence:

- Detecting and Investigating High-Level Corruption: **substantially effective**
- Integrity, Accountability, and Transparency: **moderately effective**
- Leadership, Strategy, and Resource Management: **moderately effective**
- Interagency Coordination: **moderately effective**
- International Cooperation: **substantially effective.**

The **overall conclusion of the independent external evaluation (audit) of the effectiveness of the NABU is that the NABU was moderately effective** during the evaluation period.

Figure 1: Commission's Rating of NABU's Effectiveness



Source: Commission analysis

The Commission did not rate any of the Dimensions "ineffective" and, therefore, the Commission did not evaluate whether the ineffectiveness was caused by improper performance of duties by the Director as required by Article 6 of the NABU Law.

What do we recommend?

We make 26 recommendations to the NABU relating to how it plans its activities, collects and uses data, monitors its progress, and other facets of its operations.

In addition, we identified instances where the NABU's effectiveness is affected by external factors beyond its control, and we present these issues below for the consideration of the Verkhovna Rada of Ukraine or other institutions.

Finally, during the course of the evaluation the individual Commissioners identified technical opportunities for improvement within their field of expertise and experience. These observations were communicated to NABU leadership in a separate management letter.

ABBREVIATIONS AND ACRONYMS

2021–2023 Strategy	Development Strategy of the NABU for 2021–2023
2023 Action Plan	Action Plan to implement the recommendations from the 2023 Technical Assessment
2023 Capacity and Management Study	Report "A Study of Capacity, Management, and Interaction of Agencies that Make up Ukraine's Anti-Corruption Infrastructure Transparency International Ukraine and USAID (2023)
2023 Technical Assessment	Report: Technical Assessment of the National Anti-Corruption Bureau of Ukraine, commissioned by the U.S. Embassy in Ukraine and the E.U. Anti-Corruption Initiative in Ukraine (October 2023)
2024 "leaks" matter	The alleged "leaks" of pre-trial information involving the Big Construction corruption investigation
ACA	Anti-corruption agency
ACU	Accounting Chamber of Ukraine
ARMA	Asset Recovery Management Agency
ASKOD	NABU's document management system
Commission	The Commission for conducting the external independent evaluation (audit) of the NABU
CPC	Criminal Procedure Code of Ukraine
CSO	Civil society organizations
DSK	Official use only
eCase	eCase information and telecommunication system of pre-trial investigations
EUACI	European Union Anti-Corruption Initiative
ICU	Internal Control Department of the NABU
ILD	International Legal Department of the NABU
IMF	International Monetary Fund
INL	US State Department – Bureau of International Narcotics and Law Enforcement

JIT	Joint investigative teams
MDU	Main detective unit of NABU
MLA	Mutual legal assistance
MOU	Memorandum of understanding
NABU Law	The Law of Ukraine on the National Anti-Corruption Bureau of Ukraine of 14 October 2014 No. 1698-VII
NABU or Bureau	National Anti-Corruption Bureau of Ukraine
NACP	National Agency for Corruption Prevention
ORD	Operative and search activities
POC	Public oversight council of the NABU
Register of Court Decisions	Unified State Register of Court Decisions
SAPO	Specialized Anti-Corruption Prosecutor's Office
SBI	State Bureau of Investigations
SBU	Security Service of Ukraine
SFMS	State Financial Monitoring Service of Ukraine
Strategic Development Department	Organizational, Analytical and Strategic Development Detective's Department of NABU
UNODC	United Nations Office on Drugs and Crime
URPTI	Unified Register of Pre-Trial Investigations

BACKGROUND

The establishment of the NABU was one of the requirements set by the International Monetary Fund (IMF) in 2014 as a structural benchmark for further financial assistance to Ukraine. Ukrainian authorities agreed to create "[a]n independent anti-corruption agency with broad investigative powers . . . [to] detect and investigate corruption offense and acts of laundering of proceeds of corruption among high-level officials, as well as other corruption offense that constitute a particular danger to society and including those reflecting allegations received through a public hotline."

The establishment of the institution was also a condition of the European Commission for the relaxation of visa restrictions between Ukraine and the EU and other support.

In 2014, the Verkhovna Rada of Ukraine passed the Law on the National Anti-Corruption Bureau of Ukraine (the NABU Law) which contained various provisions to help ensure independence, transparency, and accountability of the institution. One of the accountability requirements is contained in Article 26 and requires that an external independent evaluation be conducted annually.

This external evaluation mechanism was designed to be both an independent assessment of the effectiveness of the NABU's activities and an independent check on the director's performance. Specifically, one of the grounds of dismissal of the director under the NABU Law is a conclusion by the Commission that the NABU performed ineffectively and a determination of the improper performance of duties by its director.

The NABU is an independent agency with responsibility to prevent, detect, and investigate specified corruption offenses. These offenses included corruption committed by high-level public officials from an enumerated list or where the value of undue advantage exceeds a specified amount. NABU detectives may investigate other offenses upon the direction of the NABU director and confirmed by a SAPO prosecutor.

SAPO prosecutors supervise investigations conducted by the NABU detectives as specified in the Criminal Procedure Code (CPC) of Ukraine. The NABU is headed by a director who is selected through a merit-based competition.

In December 2023, the IMF identified the completion of this external evaluation (audit) as a structural benchmark for further financial assistance.

This evaluation covers the period March 2023 to November 2024. We note the following high-level observations as context for this evaluation:

- **2023 Investigative Accomplishments Reported by NABU**. According to the Bureau, detectives initiated 641 criminal proceedings, and NABU investigations resulted in 233 individuals indicted and 64 individuals convicted (with 4 acquitted) in 2023[1]. These cases included an alleged bribery scheme involving a top official of the Ukrainian Supreme Court and an alleged bribery scheme involving a member of parliament who sat on the Committee on Anti-Corruption Policy. According to the NABU, their combined efforts with the SAPO in 2023 resulted in the highest number of high-profile cases in its history.

[1] In Ukrainian law, a single conviction can involve multiple individuals.

- **2024 Investigative Accomplishments Reported by NABU.** According to the Bureau, detectives initiated 671 criminal proceedings, and NABU investigations resulted in 243 individuals indicted and 90 individuals convicted (with 2 acquitted) in 2024. These cases included alleged corruption committed by top officials of Ukrainian state-owned enterprises, the former head of a regional state administration, officials within the SBU, and a top official in the Office of the President of Ukraine. According to the NABU, their combined efforts with the SAPO in 2024 resulted in the highest number of indictments and claims to reclaim illicit assets in its history. We note below in criteria 5.4.6 our observations about the accuracy and verifiability of this claim regarding illicit assets.

- **Public Trust in the NABU.** According to a May 2023 survey of Ukrainian citizens, distrust of the NABU is expressed more often than trust (49% distrust and 30% trust it). The difference between trust and distrust of the NABU is – 18.9. While the level of trust is low, this is an improvement over the 2021 survey results, and the NABU had the highest level of trust among the Ukrainian anti-corruption institutions.

- **Challenging Environment.** The NABU operates in an extremely challenging environment. The Russian full-scale invasion and martial law constrain NABU's activities. The NABU is dependent on other institutions for essential investigative tools like wiretaps and expert services. Moreover, the impact of the NABU's activities in reducing high-level corruption cannot be precisely measured. Ukraine, the EU, the U.S., and international organizations have emphasized the fight against corruption to be a top priority, and they have invested heavily in public awareness of anti-corruption efforts. This focus can have the perverse effect of reinforcing the public perception that corruption is widespread.

- **Increased Staffing**. The NABU was authorized by law to increase its staff by 100 employees in 2024. It currently has an authorized staff of 800 (with approximately 681 onboard and 119 vacancies as of December 31, 2024). The NABU is authorized to increase its employee complement by 100 employees in 2025 and 100 employees in 2026.

- **Efforts to Improve Operations**. During 2024, NABU leadership focused significant efforts on addressing recommendations from a 2023 Technical Assessment report conducted at the request of the NABU. This technical assessment covered the period January 2021 to June 2023. The 2023 Technical Assessment recommendations sparked significant organizational changes to the NABU's operations and organization. The NABU has reported that it has completed 24 of the 60 recommendations that do not require external action. We note below in criteria 5.5.8 our observations regarding the accuracy of this information.

- **NABU's Progress in Capacity Development.** In October 2023, Transparency International Ukraine released a study it conducted on the capacity, management, and interaction of agencies that make up Ukraine's anti-corruption infrastructure (2023 Capacity and Management Study). This report covered the period August 2020 to June 2023. The NABU scored second highest among the five anti-corruption institutions, and it demonstrated the largest improvement between the 2023 report and an earlier 2020 report among the five anti-corruption institutions.

EVALUATION RESULTS

1. DETECTING AND INVESTIGATING HIGH-LEVEL CORRUPTION

Dimension No. 1. Characteristics of Effectiveness

Detection and investigation are the core mission of NABU that leads to the prosecution and conviction of persons involved in high-level corruption. The ultimate indicator of NABU's effectiveness is the quantity and quality of investigations of high-level corruption, along with how effectively NABU manages its investigative resources. NABU detectives should have and use all the authority, tools, and methods to ensure that detection as well as investigations are conducted effectively and according to the law.

Summary

The Commission concludes that the NABU has been **substantially effective** in the performance of activities in detecting and investigating high-level corruption during the evaluation period.

This conclusion is based upon the Commission's analysis of the totality of the evidence under this dimension, including the qualitative and quantitative nature of the evidence. None of the criteria prevail over others, nor can be interpreted independently from the others or relevant context.

NABU recently defined priorities for its detection and investigative work. The correlation of results with priorities, however, is uneven and is notably underperforming in the defense sector. At the same time, NABU has demonstrated success in investigating senior state officials and has made progress in most priority spheres.

Given the NABU's limited resources, proactive detection should be emphasized to enable the Bureau to focus on high-level corruption. The NABU has taken measures to improve its detection capability, but the lack of readily available clear and analyzed statistics is a gap in NABU's capabilities to effectively set its focus on high-level systemic corruption through precisely targeted proactive detection.

The NABU has successfully implemented the eCase management system, but there is still room for greater utilization of modern digital capabilities in data management supervision outside of criminal proceedings.

The NABU maintains a relatively low overall acquittal and dismissal rate of NABU cases and is increasing quantitatively its efforts in pre-trial investigations. The NABU maintains procedures and practices relating to handling third-party reports and ensuring the detectives' lawful performance of duties.

External factors—including the absence of autonomous wiretapping capability, independent expert examination services, and some legislative conditions—continue to impact the NABU's institutional and organizational independence and hinder its overall effectiveness.

Proactive Efforts

We evaluated the extent to which ***"NABU's proactive efforts lead to successful pre-trial investigations in priority directions identified in NABU's internal policies and other mandatory acts."*** **(5.4.1)**

The NABU Law requires the Bureau to detect corruption and other criminal offenses under its competence. More specifically, the NABU is required to carry out operative and detective measures for the prevention, detection, suppression and investigation of criminal offenses referred by law to its investigative jurisdiction. The NABU is also required to carry out informational and analytical work with a purpose of identifying and eliminating the causes and conditions that contribute to the commission of the criminal offenses referred to the investigative jurisdiction of the Bureau.

Corruption, by nature, is a latent form of criminality, which requires effective detection. Furthermore, proactive detection helps investigators focus its resources on top-level systemic corruption.

Following the 2023 Technical Assessment, the NABU agreed to (1) define case thresholds and prioritization criteria [in coordination with SAPO] to ensure that the NABU focuses on significant cases, and (2) create specialized detective units that would engage in operational work through proactive detection work.

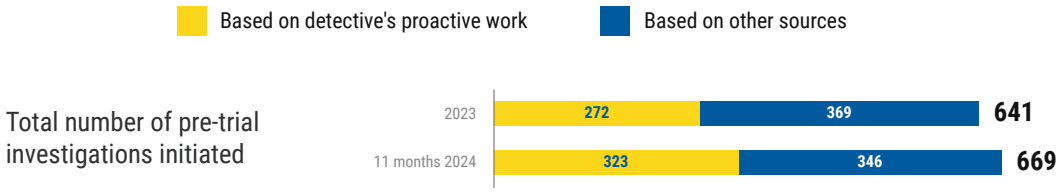
Identified Priorities. According to the current national Anti-Corruption Strategy, the priority areas of preventing and combating corruption include, among others, courts, prosecutors, the security and defense sector, customs and tax authorities, construction, and state regulation in the economic sphere. Similar priorities are mentioned in the current State Anti-Corruption Program developed by the NACP and approved by the Resolution of the Cabinet of Ministers of Ukraine.

The NABU implemented criteria for prioritizing criminal proceedings in June 2023. In January 2025, the NABU revised its investigative priorities in coordination with SAPO. The new policy contains five case prioritization criteria based on the characteristics of the crime. In January 2025, NABU also determined priority spheres for each MDU that are generally consistent with the national anti-corruption priorities. The Commission reviewed these policies, but the exact prioritization parameters are classified DSK and not for public disclosure.

According to the meeting minutes approving the priority areas, NABU leadership mandated that these priority areas should be taken into account when planning resource allocation, development, and to intensify investigations of high-priority proceedings. Additionally, the minutes noted that the NABU will analyze changes in the portfolio of criminal proceedings every six months.

Overall results of proactive detection. The overall number of pre-trial investigations initiated in the NABU was 641 in 2023 and 669 in 2024. The number of criminal proceedings initiated as a result of detectives' proactive work (self-detection) has grown from 272 in 2023 to 323 for 11 months of 2024. As the NABU has no data of proactive detection for earlier years, no conclusions about a steady growth of proactive detection can be made. The Commission gives no judgment about the percentage of cases developed through proactive detection compared to the overall number of the pre-trial investigations as the objective circumstances affecting that percentage depend on crimes investigated and differ in every legal system. However, the Commission's general observation is that the NABU should aim for a steady increase of that percentage.

Figure 2: Number of pre-trial investigations in the evaluation period



Source: NABU statistical data

Correlation of detections to identified priorities. The NABU had no clear and reliable statistics available to enable the Bureau or the Commission to evaluate the progress of the correlation of cases developed through proactive detection to identified priorities. Lack of such statistics is a gap in the NABU's capabilities to effectively set its focus on high-level systemic corruption through precisely targeted proactive detection.

Obstacles in proactive detection. The major obstacles NABU detectives and their superiors most often mentioned in their interviews were the following:

- The detectives are overwhelmed by a large number of ongoing investigations, which often concern low-level or non-systemic corruption. Such cases have often been detected by other investigative bodies (i.e. SBU, SBI), transferred to the NABU according to jurisdiction and the NABU is obliged to investigate them.
- NABU analysts have been overwhelmed by technical work or tasks that are not directly connected to detection or investigation. Such tasks include, for example, integrity checks of the staff of other institutions or entering information into Memex, generally discussed in criteria 5.4.7. It was mentioned by some interviewees that NABU analysts have too little knowledge about detective work and the number of analysts assigned to work directly with detectives is too small. One allocated analyst per detective unit is not sufficient.
- There is a high risk of leakage of information about the NABU's selected targets to potential suspects using current wiretapping procedures.

Steps taken to enhance detection. The key role of proactive detection is acknowledged within the NABU and important efforts have been made to enhance detection. In 2024, the NABU formed three new units which are tasked to focus on detection. These units, however, are not at full capacity, as a large number of positions remain unfilled. Some detectives assigned to these new units are also partially occupied with their former duties. At the same time, the majority of the detective staff interviewed shared optimism about this structural change.

The Criminal Analysis and Financial Investigation Department was allocated 19 new positions in 2024. This unit plans to fill these positions in 2025 and supply each detective unit with at least 2 allocated analysts to enhance NABU's proactive detection efforts. The detective unit responsible for the defense sector has 3 assigned analysts. However, we assess that this number is still too little given the priority of the defense sector and its challenges.

The NABU has also taken the possible steps in its part to get the independent wiretapping capability discussed further in criteria 5.4.10.

Third Party Complaints

We evaluated the extent to which ***"NABU's processing of third parties' reports of potential criminal offenses ensures that all matters are reviewed and disposed of in compliance with the law and NABU's procedures."*** **(5.4.2)**

The CPC requires that investigators immediately, but no later than 24 hours after filing a complaint/report containing information about a crime, enter the relevant information into the URPTI, initiate an investigation, and provide the applicant with an extract from the URPTI. Ukrainian law requires mandatory prosecution when signs about a crime are revealed.

Under the NABU Law, the Bureau must:

- Maintain a special telephone line for reporting, along with the ability to submit reports through the official website and by electronic means, and
- Consider anonymous statements that relate to a particular person and contain verifiable data.

Additionally, the NABU Law provides the Bureau the means to exchange reports of potential criminal activities with other agencies.

Citizens' possibilities to file a report. NABU has given citizens adequate opportunities to file a report. These include: mail, visiting NABU's public reception offices of the central and territorial departments, leaving an appeal or message in the designated boxes in public places of NABU premises, calling a special toll-free telephone line, filling out an electronic form on NABU website, or email.

The NABU also cooperates with the Government Contact Center State Institution and processes and considers appeals received by telephone to the government hotline 15–45 and via the Internet through the Government Contact Center's website. Since the beginning of September 2023, the Bureau has also been connected to the NACP's Unified Whistleblower Reporting Portal, through which a citizen can report corruption or corruption-related offenses.

NABU procedures and practices for processing citizens' reports. The procedure of processing citizens' reports is regulated by internal procedures. All reports are registered in the ASKOD document management system as incoming correspondence. After preliminary processing and initial legal assessment, appeals and inquiries are immediately forwarded through the relevant resolution of the NABU director or first deputy to the MDU for decision-making by a detective in accordance with the requirements of the CPC. Reports that contain sufficient objective data that indicate signs of a particular criminal offense, as set forth in the CPC, are registered in the URPTI.

Proceedings initiated based on information from citizens. In 2023, the NABU initiated 200 criminal proceedings initiated upon reports from individuals and legal entities and 92 during the first 11 months of 2024. When the NABU declines to register a complaint in the URPTI, a citizen

can appeal this decision to the HACC. According to NABU and HACC statistics, citizens actively use this right. One example is discussed in criteria 5.5.7.

The Commission was provided information from some interviewees regarding occasions when NABU detectives have been reluctant or incapable of conducting successful investigation of third parties' complaints. We assess any such instances as individual occurrences and not a systemic problem. We concluded that there is a functioning mechanism in place that ensures all third parties' reports of potential criminal offenses are reviewed and disposed of in compliance with the law.

NABU procedures and practices for processing reports from other agencies. The procedure of processing information received from the NACP and other state authorities is also regulated by NABU procedures. In the case of the NACP, this procedure is also regulated by a 2017 Memorandum of Cooperation and Information Exchange between the NABU and the NACP. Upon review of the NACP information, the Bureau, regardless of the decision to enter the information into the URPTI, provides a written response on the results of such review. In case of entering information into the URPTI, such response is provided simultaneously with the relevant decision. In other cases, a response is provided within 10 days. If the information relates to the detection of a corruption offense, the information must be submitted for consideration to the relevant detective unit.

Proceedings initiated based on information from other agencies. During the evaluation period, the NABU initiated 75 criminal proceedings (excluding criminal proceedings referred to law enforcement agencies) based on materials from law enforcement agencies, among them 21 criminal proceedings based on the NACP materials.

Increased Efforts over Time

We evaluated the extent to which ***"NABU's activities lead to increases over time in the number of notices of suspicion, indictments, and necessary and well-grounded motions for procedural actions (e.g., requests for court authorization for investigative actions and preventive measures)."*** **(5.4.3)**

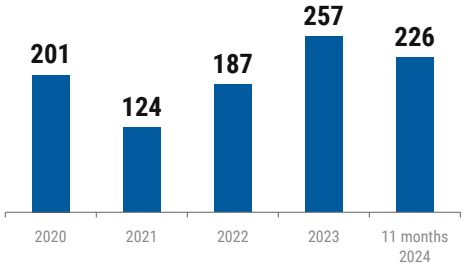
According to the criminal law, to ascertain the truth in criminal proceedings, it is the duty of the investigative body to carry out procedural acts for collecting evidence, identifying the suspect of committing a criminal offense and collecting sufficient evidence to reach indictment. Although the quantity of procedural acts is not an aim itself, it reflects the amount of investigators' effort that has to be assessed together with qualitative indicators.

The Commission recognizes that in measuring the NABU's effectiveness, quantitative metrics can only be interpreted in addition and in relation to qualitative metrics.

Motions. The NABU does not record its own statistics on motions. The HACC maintains statistics on motions for all investigative agencies within its jurisdiction, but information on the number of motions filed by NABU detectives and the results of their consideration by the HACC is not recorded separately. The HACC data generally shows an increase in the number of motions in 2023 and 2024 compared to 2020 and 2021, indicating quantitatively more activities by Ukrainian investigators to collect evidence in corruption cases. The increase has continued but slowed down in 2024. Since this information includes the number of motions filed by all participants in the criminal proceedings of cases under HACC jurisdiction, direct conclusions about NABU detective activities cannot be drawn from available statistics.

Notices of suspicion. NABU statistics show a general increase in the number of notices of suspicion over time, although the number dropped in 2024.

Figure 3: Notified of suspicion (number of persons)

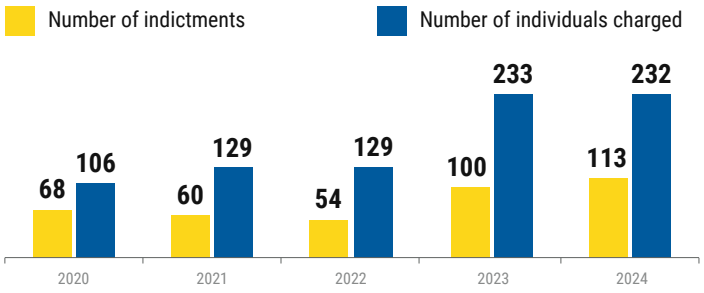


Source: NABU statistical data

Only one notice of suspicion was cancelled by the Appeals Chamber of HACC, as the court considered that the notice was served after the expiration of the pre-trial investigation. Subsequently, in 2024 this person was notified of suspicion again and an indictment was filed to the court.

Indictments. NABU statistics show a sharp increase in indictments over time. No indictments have been returned by the court since 2022.

Figure 4: Number of indictments/individuals charged



Source: NABU statistical data

How Investigative Results Correlate with Priorities

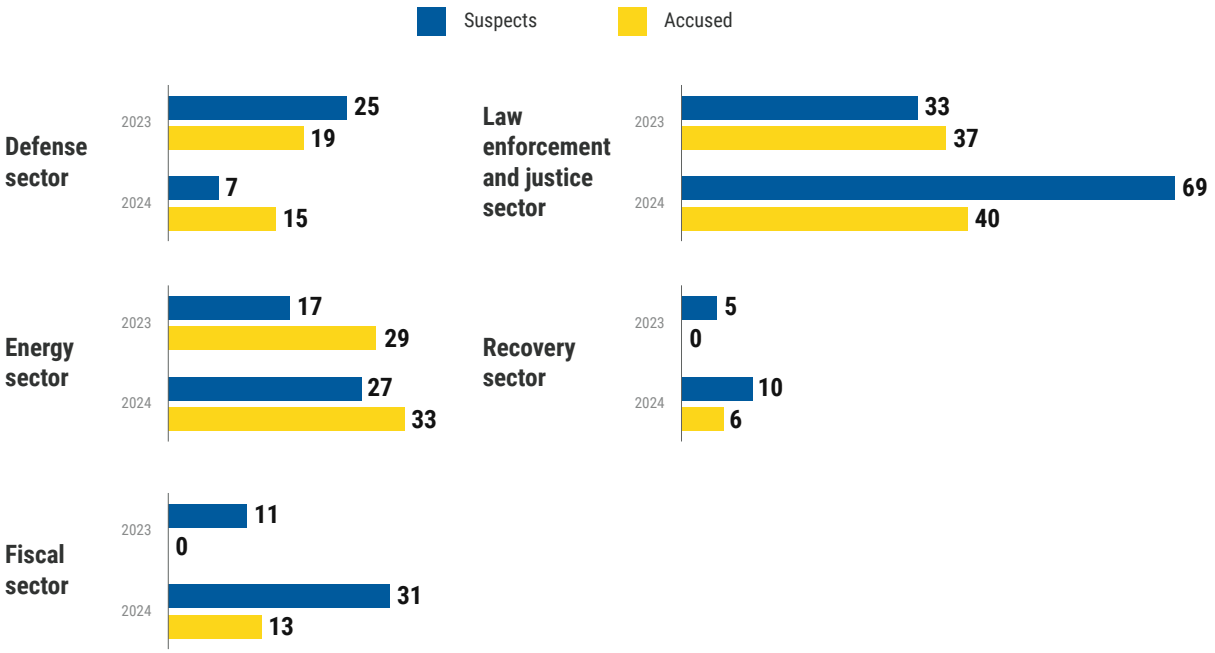
We evaluated the extent to which ***"the number of valid notices of suspicion and indictments correlate with identified priorities."*** **(5.4.4)**

The objective of NABU is to counter criminal corruption offenses committed by senior officials authorized to perform the functions of the state or local self-government and which threaten national security, and taking other statutory measures to combat corruption. The NABU's investigative priority policy is described above in criteria 5.4.1.

Priority spheres. Upon our request, NABU analyzed and provided us with the data of the number of notices of suspicion (suspects) and indictments (accused) in each priority sphere in 2023 and 2024.

- **Decreases in defense sector** – The number of suspects in the defense sector decreased from 25 (9.7% of suspects) in 2023 to 7 (3% of suspects) in 2024. The number of accused in the defense sector decreased from 19 (8% of accused) in 2023 to 15 (6% of accused) in 2024.
- **Increases in energy sector** – The number of suspects in the energy sector increased from 17 (6.6% of suspects) in 2023 to 27 (11.7% of suspects) in 2024. The number of accused in the energy sector increased from 29 (12% of accused) in 2023 to 33 (13.6% of accused) in 2024.
- **Increases in fiscal sector** – The number of suspects in the fiscal sector increased from 11 (4.3% of suspects) in 2023 to 31 (13.4% of suspects) in 2024. The number of accused in the fiscal sector increased from zero (no indictments have been submitted to court) in 2023 to 13 (5.3% of accused) in 2024.
- **Increases in law enforcement and justice sector** – The number of suspects in the law enforcement and justice sector increased from 33 (12.8% of suspects) in 2023 to 69 (27.5% of suspects) in 2024. The number of accused in the law enforcement and justice sector increased from 37 (15.9% of accused) in 2023 to 40 (16.4% of accused) in 2024.
- **Increases in the recovery sector** – The number of suspects in the recovery sector increased from 5 (2% of suspects) in 2023 to 10 (4.3% of suspects) in 2024. The number of accused in the recovery sector increased from zero in 2023 to 6 (2.5% of accused) in 2024.

Figure 5: Suspects and accused persons per priority sectors



Source: NABU statistical data

While the NABU demonstrated significant or slight increase in the prioritization results in all other spheres, the defense sector has experienced a significant decrease in the number of notices of suspicion and the number of accused persons in 2024.

The NABU also provided us with the numbers of notices of suspicion and indictments analyzed by the categories of persons within these spheres. According to this data:

- The number of notices of suspicion involving suspected senior officials of law enforcement and regulatory agencies was 0 in 2023 and 1 in 2024 (January to August 2024).
- The number involving senior officers of the Armed Forces of Ukraine, the SBU, the State Border Guard Service of Ukraine, the National Guard of Ukraine and other military formations was 1 in 2023 and 0 in 2024 (January to August 2024).
- The numbers of indictments are similarly low with only one senior official of law enforcement and regulatory agencies and two senior officers of the Armed Forces of Ukraine, the SBU, the State Border Guard Service of Ukraine, the National Guard of Ukraine and other military formations. These indictments were from 2023.

Given that defense and law enforcement spheres are mentioned among the NABU's top priorities, the numbers of notices of suspicions and indictments involving suspected senior officials of law enforcement and regulatory agencies, senior officers of the Armed Forces of Ukraine, the SBU, the State Border Guard Service of Ukraine, the National Guard of Ukraine and other military formations, is relatively low.

Targeting top level corruption. The NABU provided us with data on the number of suspects and accused persons per the type of position. Among them about 7% of the suspects (notices of suspicion) and accused persons (indicted) were senior state officials (the Prime Minister, ministers and their deputies, members of parliament, the head of the NBU and his deputies, the Secretary of the National Security and Defense Council and his deputies, etc.). In case of indictments, NABU also provided us with comparative data about categories of persons from 2022. This data demonstrates a noticeable increase of the number of senior state officials accused persons from 11 in 2022 to 19 in 2023, but again decreased to 14 in 11 months 2024. But as indictments are usually the result of several months› work (even more in cases developed from proactive efforts), this data partly reflects the effectiveness of investigative work conducted prior to the evaluation period. Given the NABU's broad jurisdiction, the importance of the investigations in other categories, and the principle of mandatory prosecution, the percentage of senior state officials can be considered high.

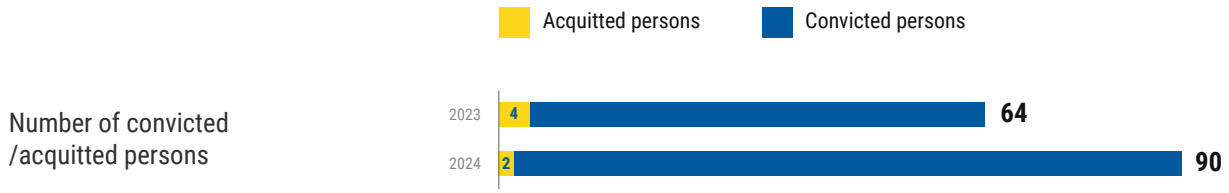
Successful Investigations

We evaluated the extent to which the ***"overall acquittal and dismissal rate of NABU cases remains low, and NABU adopts lessons learned where applicable."*** **(5.4.5)**

In response to a recommendation from the 2023 Technical Assessment, the NABU agreed to work jointly with SAPO to analyze HACC case law and NABU's investigations under Articles 191, 211 and 364 of the Criminal Code of Ukraine to clarify these elements of crime and determine how to qualify the relevant reports of possible crimes.

Investigative statistics. The data reflects a continuing positive trend of success in prosecution of cases investigated by NABU detectives. According to the Register of Court Decisions, there have been no returned indictments since 2021 (there were 4 in 2021 and 5 in 2020). According to NABU data, the number of convicted persons was 64 with 4 acquitted in 2023 (a 94% successful prosecution rate) and 90 with 2 acquitted in 2024 (a 98% successful prosecution rate).

Figure 6: Investigative statistics



Source: NABU statistical data

Part of the increase in the overall number of guilty verdicts comes from the increase of the percentage of plea agreements compared to 2021 and 2022. This trend is remarkable because, as noted by some judges, many investigations have become more complicated to prove through the years. Although other judges, however, told the Commission they note a trend that the cases that reach the court have become relatively "easier" and lower-profile since 2023, especially in plea-agreement cases.

Lessons learned. In response to the 2023 Technical Assessment, the NABU, with the involvement of external experts, analyzed the relevant acquittals in 2024 to identify and share lessons learned. NABU leadership distributed materials on the analysis of acquittals among the NABU detectives. This analysis was further used to prepare the drafts of guidelines for the qualification and distinction of criminal offenses under Articles 191, 211, and 364 of the Criminal Code of Ukraine, and to prepare other materials on the study of judicial practice.

We verified by interviews that lessons learned and best practices are consistently shared in weekly and monthly meetings with detectives, as well as through digests arranged by the Legal Department. Monitoring the results in each case and sharing the lessons learned at the MDU meeting is the responsibility of each detective unit. In some cases, the head of the respective MDU takes the initiative of sharing the most important lessons learned.

The positive impact of lessons learned efforts was noted by HACC judges, although they also noted some rare exceptions among NABU detectives who seem to ignore these measures. A vast majority of the HACC judges we interviewed recognize NABU's much higher level of overall investigation quality compared to other investigative bodies in Ukraine.

Asset Recovery

We evaluated the extent to which ***"NABU has taken effective measures to improve the tracing and seizure of corruption crime proceeds, instrumentalities, as well as unjustified assets and evidence of them being unjustified, including abroad, to increase the amount of confiscation in NABU cases."*** **(5.4.6)**

Requirements. The NABU Law requires the Bureau to take measures to trace and seize property that may be subject to confiscation or special confiscation; conduct activities to preserve seized property; and take measures to identify, collect evidence and send to SAPO materials to file lawsuits to declare assets as unjustified and recovered to the state revenue (civil and criminal enforcement of illicit enrichment laws).

In August 2023, the Cabinet of Ministers of Ukraine approved the national Asset Recovery Strategy for 2023-2025. In August 2024, the Cabinet of Ministers approved an action plan to implement this strategy. In the action plan, the NABU is designated as a co-implementer with ARMA in a number of asset recovery initiatives. These initiatives call on the NABU to analyze international instruments and work with ARMA and others to draft and submit proposed legislation to the Cabinet of Ministers, among other requirements.

In addition to these mandated requirements, the NABU agreed to a number of asset recovery related recommendations following the 2023 Technical Assessment. These recommendations included: (1) taking measures to improve tracing and seizure of corruption crime proceeds and instrumentalities to significantly increase the amount of subsequent confiscation in NABU cases; (2) proactively detecting and pursue cases of possible unjustified assets that may lead to civil confiscation or criminal prosecution of illicit enrichment; (3) issuing joint guidelines with SAPO on the application of arrest, seizure and confiscation (special confiscation); and (4) carrying out a financial investigation in parallel with every investigation of a corruption crime.

NABU's reported asset recovery activities. According to the NABU, in 2023, detectives applied for 795 motions in the HACC for the seizure of property. In 2024, this number increased to 903 motions. The NABU reported that of the 100 indictments sent to court in 2023, assets were seized in 50 cases. In 2024, assets were seized in 68 cases of 113 indictments sent to court. There was no increase in the number of confiscation orders from 2023 to 2024: the NABU obtained 17 confiscation orders in each year based on 46/51 convictions respectively.

Since its inception until November 18, 2024, the NABU has sent 92 requests for mutual legal assistance (MLA) for the seizure of assets in foreign jurisdictions. Of these requests, 68 were fulfilled. During the reporting period, the NABU sent 40 MLA requests for seizure of assets, 22 of which were executed. To date, one special confiscation order has been granted and sent abroad for execution, and assets has yet to be repatriated back to Ukraine for the benefit of the State Budget.

According to the NABU, their combined efforts with the SAPO in 2024 resulted in the highest number and value of civil claims to recover illicit assets in its history. We are unable to independently verify this assertion. Nevertheless, based on the data provided, in the three years since the civil confiscation of unjustified assets law became operational, more than UAH 44.5 million in 13 cases were recovered in favor of the state. In 2024, the HACC received 24 civil claims for the recognition of unjustified assets and their recovery for the state›s benefit, 16 claims were considered,

of which 14 were granted (including partially), and 2 claims were dismissed. The value of the unjustified assets valued UAH 31.6 million, USD 35,796, 2 apartments, a parking space, a residential building, 6 land plots, and one vehicle. The NABU sent 3 criminal cases of illicit enrichment to court with a combined value of UAH 574 million.

Concerns regarding data accuracy and completeness. While the performance data above shows high numbers of motions for the seizure of property approved by judges per year relative to the number of cases registered per year, these numbers are of limited value in assessing the NABU's overall performance in tracing, seizing, and recovering proceeds and instruments of crime. The data lacks important granularity, such as information of the legal basis for each seizure order (i.e., seizure to secure confiscation as punishment, special or extended confiscation or a compensation order). The data also lacks the value of the seized property, making it difficult to assess whether the increase in the number of seizure orders also reflects an overall increase in criminal property being neutralized. The value of assets seized is a useful indicator for assessing the seriousness of the cases the NABU is investigating.

While the increase in the number of confiscation orders is a positive development, confiscation as a criminal sanction is ordered in the majority of cases in preference to special confiscation or extended confiscation. The NABU, and SAPO, regard the low number of confiscation orders obtained in NABU and SAPO cases to be the responsibility of the HACC and not an issue within the control of investigators or prosecutors.

The NABU maintains that in the vast majority of criminal proceedings in which a decision has been made to apply confiscation and/or special confiscation of property, it is not possible to calculate the value of the property and/or determine the amount of property subject to confiscation or special confiscation, as this issue falls within the competence of the bodies and persons engaged in the enforcement of decisions. The NABU reports on such items without specifying their value. Again, as with seizure orders, in the absence of data on the value of assets confiscated, it is difficult to evaluate NABU's effectiveness in increasing the use of asset recovery tools to recover the proceeds of corruption.

NABU's progress in implementing recommendations/actions. The NABU has taken some action to implement the recommendations from the 2023 Technical Assessment. The Bureau has, for example, included asset recovery related indicators for detectives in the newly implemented performance evaluation system. Assessing detectives on their contribution to achieving an increase in assets seized and funds paid to victims or the State is a positive development that will undoubtedly improve the NABU's effectiveness in seizing and confiscating assets.

However, the NABU:

- Has not issued joint guidelines with SAPO on the application of arrest, seizure and confiscation (special confiscation);
- Does not keep records of the number of parallel financial investigations opened or the percentage of criminal cases registered or sent to court in which NABU detectives prepared reports on the income, assets and expenses of suspects, or cases in which wealth analysis targeting unjustified assets was undertaken.

Moreover, regarding the legislative interventions envisaged by the Asset Recovery Action Plan, ARMA developed and submitted to the NABU a number of draft laws and orders necessary for the implementation of the Asset Recovery Strategy. However, the NABU returned all these drafts to ARMA for revision. At present, according to ARMA, the NABU's position is that it does not support certain changes envisaged by the Strategy aimed at its legislative consolidation and implementation of relevant measures.

Concerns regarding recoveries and enforcement. The NABU Law requires the Bureau to report bi-annually on forfeited funds and property declared payable to the state. The NABU provided information on funds and property subject to confiscation under court decisions that have entered into legal force, but could not provide data on the amounts in fact recovered to the State budget from enforcement of domestic confiscation orders. NABU officials told the Commission that this function is the responsibility of the Executive Service in the Ministry of Justice.

The NABU does report data on property confiscated but does so by describing the assets rather than by estimating their value. The NABU does not provide any information on how much was collected after the realization of these assets. The State Enforcement Service in the Ministry of Justice, department entrusted with the responsibility of enforcing court decisions, confirmed to the Commission that reporting requirements provide only for a general accounting of enforcement documents and do not allow for a separation of information on the enforcement of confiscation decisions, and special confiscation decision and also does not allow for separating the pre-trial investigation body that investigated or court that issued the order. The absence of this data, not only negatively impacts the ability of the NABU or an independent evaluator to assess whether the Bureau is effective in this criteria, it also means that NABU cannot effectively comply with its reporting requirements under Article 26 of the NABU Law.

Repatriation of assets. As noted above, Ukraine has yet to repatriate any assets in cases investigated by the NABU back to Ukraine, despite an excellent track record of securing international cooperation. The reasons for the complete absence of criminal proceeds or instruments recovered from abroad and made available to the national budget of Ukraine are complex.

According to the NABU, the majority of countries, particularly EU countries, do not enforce orders of confiscation imposed as punishment. They require instead court-confirmed evidence of the link between the property and the crime and also require evidence of the value of assets already recovered domestically. The Ministry of Justice of Ukraine has confirmed to the Commission that there can be no doubt in anyone's mind that the prospect of enforcing a judgment based on confiscation as punishment abroad, is non-existent.

The lack of information on the value of seized and confiscated property and the absence of confiscation orders that target assets registered in the names of third parties, may indicate that evidence is not established or presented to court to prove the value of the benefit accused persons derive from their offense(s) and evidence of the link between assets and crimes. Judges can only rule on the evidence placed before them by investigators and prosecutors. If no evidence is presented of a link between property and the crime or evidence of the value of the accused's benefit, the court can only order confiscation as punishment as a remedy.

NABU leadership and detectives describe the challenge with enforcement of foreign confiscation orders abroad as one of a lack of understanding on the part of foreign counterparts of the peculiarities of Ukrainian law and merely encourage detectives to resolve such issues by proactively explaining the requirements of Ukrainian legislation and current practice. Focusing on collecting and presenting evidence of the value of property and the linkage to the crime may be more productive methods of increasing repatriation of assets.

Investigative Resources

We evaluated the extent to which ***"NABU detectives utilize available resources (means, methods, and techniques) in detecting and investigating high-level corruption."*** **(5.4.7)**

In its 2021–2023 Strategy, the NABU pledged to improve the overall success ratio of its criminal investigations by ensuring appropriate logistical support and funding including the allocation of sufficient working space (such as offices, laboratories, document and evidence storage rooms, archives, staff rooms, etc.). The 2021–2023 Strategy identified the goal of equipping detectives, analysts, and operatives with the skills necessary to use special-purpose analytical and information technology tools.

Observations. Our general conclusion from detective interviews and case file reviews is that NABU detectives effectively utilize a wide spectrum of means, methods, and techniques in detecting and investigating high-level corruption.

NABU's management and technical units have made efforts to obtain most necessary modern technical means, even if this is not always possible due to export policies of suppliers. Present technical means are made available for the detectives, necessary training is granted, and an effective system is implemented for feedback from detectives to technical staff, including sharing best practices.

Recognizing the NABU's high level of overall quality in investigations, judges interviewed by the Commission attributed this, in part, to the means available to NABU detectives. According to NABU's 2024 employee survey, more than 80% of NABU employees agreed in whole or part that they are fully equipped with the technical means to do their job.

Opportunities for improvements. A shortage of staff exists, especially for analysts experienced in conducting complex financial investigations. While the NABU and the Verkhovna Rada have addressed the staffing issue generally by authorizing and creating new positions, a large number of positions remain vacant as the NABU completes the recruitment process. This is discussed further in criteria 5.6.2.

The effectiveness of the NABU's digital forensics capabilities is constrained by limitations in the law and resources. The NABU reported to the Commission that it is not, for example, permitted to capture cloud data as evidence unless there is an open session, even while cloud storage is becoming more common than storing data locally in computers and smartphones. According to SAPO prosecutors, NABU detectives need more digital forensic examiners overall, as well as specialized tools to inspect special equipment that would allow them to quickly crack passwords on seized phones and analyze their digital contents.

During the evaluation period, the NABU has made significant efforts to promote greater use of its Memex data system for collecting operative and investigative data among detectives and analysts. Memex is a commercial software capable of being an every-day tool for detectives and analysts for entering information and for searching and creating analytical output, including visualisations. For a modern detection and investigation service, such a capability is a vital tool for every detective and analyst.

The utility of Memex is constrained by limitations in Ukraine law. To utilize its capabilities efficiently, Memex should contain relevant intelligence data from the ORD files, which are classified as state secrets. In practice, the Memex system is not certified for state secrets. Due to current Ukrainian legal regulations, it is unlikely that Memex or a similar system could be certified for handling state secrets. Important information cannot be included in Memex due to classification restrictions, so there will be no single repository for operative and investigative data. Moreover, in some instances detectives need to do double work to maintain information in Memex and the ORD file. In the current phase, Memex is more useful to analysts than detectives.

The lack of independent wiretapping capability continues to hinder the NABU's effectiveness, by limiting the availability of this important investigative technique. Detectives have to avoid wiretapping to protect sensitive cases from compromise, even if wiretapping is legally justified and appropriate. This issue is discussed below in criteria 5.4.10.

NABU facilities continue to lack adequate detective office space or interrogation rooms.

Lawful Performance of Duties

We evaluated the extent to which ***"NABU detectives perform their duties according to the law, procedural errors are monitored and analyzed by NABU management, and lessons learned are applied, where applicable."*** **(5.4.8)**

The NABU Law requires detectives to adhere to the rule of law and respect the rights and freedoms of individuals and legal entities.

In response to the 2023 Technical Assessment, the NABU agreed to hold regular joint meetings (at least once a quarter) of representatives of the NABU, SAPO and HACC to discuss problems that arise during the application of preventive measures in criminal proceedings and other aspects of cooperation.

Supervision of investigations. The legality and diligence of performance of NABU investigations are overseen by SAPO prosecutors and HACC judges according to their duties defined in the law. While the Commission has been made aware of allegations of violations of procedural errors by detectives in media reports and some interviews, we identified no systemic violations.

HACC has processed individual complaints about alleged violations by NABU detectives, but told the Commission they have observed no actual provocations of crime nor other systemic violations of procedural norms by NABU detectives. Since 2022, no indictment was returned by the court due to improper or illegal actions or inactivity of NABU detectives. The Appeals Chamber of HACC cancelled only one notice of suspicion and this is discussed above in criteria 5.4.3.

According to data provided by SAPO, there have been no cases of investigating judges dismissing motions filed by NABU detectives or SAPO prosecutors due to improper actions or inaction of NABU detectives over the past 5 years. Also, there have been no cases of successful appeals by suspects against rulings of investigating judges who granted such motions due to improper actions or inaction of NABU detectives. SAPO added that, in general, NABU detectives comply with the pre-trial investigation timeframes set for criminal proceedings. There were no cases when a person was notified of suspicion after expiration of time limits set out in the CPC.

The HACC has observed unintended procedural errors by NABU detectives, such as two cases of violation of the presumption of innocence in 2023 and 2024 (discussed in criteria 5.5.4), but told us these cases are not systemic, and lessons learned appear to be applied effectively.

NABU practices. Monitoring lawful performance of duties is conducted primarily by heads of detective units, and in more important cases by the heads of MDUs. Cases of any procedural violations and human rights violations are reported to the first deputy director, who reports to the NABU director. Lessons learned on errors are included in monthly meetings and digests to detectives. We verified through interviews with NABU detective staff that the two presumption of innocence cases were analyzed by NABU management and effective internal communication followed. This issue is discussed further in criteria 5.5.4 below.

SAPO and HACC confirmed that regular joint meetings are held with the NABU which provide an appropriate venue to share information regarding errors and deficiencies.

Supervision of Investigations

We evaluated the extent to which ***"NABU's procedures and practices ensure that pre-trial investigations are sufficiently supervised to ensure a consistent approach."*** **(5.4.9)**

Procedures. The CPC defines in detail the rights and duties of the heads of investigation bodies. They are further specified in the Regulations on the Main Detective Units and job descriptions of the heads of units. Standardized instructions are used for conducting certain (special) categories of investigations, certain investigative and procedural actions.

Direct first-level control over the status of pre-trial investigation of criminal proceedings is exercised by the heads and deputy heads of the relevant detective units. In exercising their powers as heads of the pre-trial investigation body, as defined by Article 39 of the CPC, heads and deputy heads of detective units discuss orally the progress of the investigation, conduct joint planning, discuss status of the pre-trial investigation at operational meetings, and review criminal proceedings documents. Coordination of detectives and other units is subject to oversight by the NABU director and first deputy director as discussed in criteria 5.6.5. Coordination of investigative actions is carried out directly by the head of the investigative unit and the prosecutor in the proceedings.

Practices. Our interviews with detectives and their supervisors verified the general practice that first-line supervisors (heads of detective units) are proactively engaged in operations and available for investigators when needed. They give clear instructions to the detectives when appropriate, leaving the detective with the necessary amount of independence. Detectives confirmed that regular work meetings take place and the supervisors' decisions are understandably explained. We paid special attention to the reproaches of former NABU detectives on supervision. Our interviews and reviews of documents revealed no verifiable systemic problems in the practice of supervision.

Supervision is also conducted as part of the new detective evaluation system. This system requires monitoring of metrics by supervisors and compels monthly discussions between detectives and their supervisor.

The e-Case management system promotes a standardized approach to parts of case supervision, especially in sharing documents among the NABU, SAPO and the HACC. This system simplifies and speeds up communication between detectives, their NABU supervisors, and SAPO prosecutors. In interviews with the Commission, NABU first line supervisors reported using the e-Case system daily and regarded it as a useful tool that has made them more effective.

NABU should aspire for a similarly effective system of case management in detection activities as well, as discussed above in criteria 5.4.7.

Institutional and Organizational Independence

We evaluated the extent to which ***"NABU has the institutional and organizational independence, in practice, necessary to conduct high-level corruption investigations."*** **(5.4.10)**

The Commission notes that the NABU's independence, like all anti-corruption investigative agencies, is largely determined by external factors beyond its control. While we discuss concerns related to independence below, every detective interviewed by the Commission confirmed they have the independence to initiate pre-trial investigations when there are legal grounds to do so. No detectives reported being subjected to undue influence, and all detectives expressed confidence in having the necessary legal remedies against any such attempts.

Requirements. The UNCAC states that the bodies specialized in combating corruption through law enforcement shall be granted the necessary independence, to be able to carry out their functions effectively and without any undue influence. The staff of such bodies should have the appropriate resources to carry out their tasks.

In accordance with the Convention, the NABU Law stipulates the independence of the Bureau and its employees as one of the main principles of the NABU's activity. The NABU Law prohibits any unlawful interference of state bodies, local self-government bodies, their officials and employees, political parties, public associations, other individuals or legal entities in the activities of the Bureau.

Perceptions on independence. In response to our survey of civil society organizations, most (11 of 13) agreed in whole or part that the NABU has institutional and organizational independence. Two respondents disagreed. In response to our Public Oversight Council (POC) survey, almost all (14 of 15) agreed wholly or partially that NABU has institutional and organizational independence. One replied that the question was hard to answer.

Figure 7: NABU has the institutional and organizational independence, in practice, necessary to conduct high-level corruption investigations

Source: Commission's SCO survey

Figure 8: NABU has the institutional and organizational independence, in practice, necessary to conduct high-level corruption investigations

Source: Commission's POC survey

SAPO reported to the Commission that no practical obstacles have been identified that would challenge the independence or integrity of NABU investigations.

Previous conclusions on NABU's independence. In March 2023, the Cabinet of Ministers of Ukraine approved the State Anti-Corruption Program for 2023-2025 which noted that the NABU and SAPO have not yet established sufficient guarantees of institutional and operational independence. The specific deficiencies of institutional and operational independence pointed out in the program were: (1) the NABU's inability to independently extract information from electronic communication networks, and (2) the obstacles the NABU faces when obtaining expert examinations for the purposes of criminal proceedings. Regarding the latter, the 2023 Technical Assessment recommended that the NABU rely more on private experts.

Independent wiretapping. To implement the State Anti-Corruption Program, the NABU defined the aim to remove legal and technical obstacles with NABU's autonomous wiretapping, "in particular by amending the Law on Electronic Communications, if necessary, and allocating funds for the development and implementation of technical means, necessary to ensure such access independently of the SBU and without the SBU having access to information about the purposes and content of wiretapping."

The legal obstacles have been removed. NABU leadership confirmed to the Commission that the solutions for removing the technical obstacles have been agreed between the NABU and the SBU in a memorandum of understanding. The NABU also confirmed that they found and allocated funding to perform NABU's obligations according to the memorandum, as soon as SBU prepares the technical readiness of the wiretapping system. The Commission was unable to independently verify this assertion, as the MOU is restricted.

The NABU presented the Commission with evidence purporting to demonstrate that NABU-initiated wiretaps in the past have been compromised. While the NABU has taken measures to mitigate the risk of leakage of information in wiretapping procedures, these measures alone are not sufficient as long as NABU lacks complete control over the access to wiretapping information in their cases.

Independent expert examinations. The NABU presented the Commission convincing evidence about the equally urgent need for an independent trustworthy expert examination institution in Ukraine. In some instances, state expert examinations are mandatory. The existing governmental expert institutions are dependent on officials under the NABU's jurisdiction, and could be, in some instances, subject to undue influence. These existing institutions have also been overloaded with tasks from other law enforcement agencies, which results in long queues. This can be used to artificially delay an investigation beyond the procedural deadlines, which may lead to dismissals of the case. Finally, these external institutions increase the risk of leakage of sensitive information.

To partially ameliorate this problem and to address the 2023 Technical Assessment, the NABU committed to formulating recommendations for detectives to use more private experts. This commitment was partially completed, but the number of cases where private expert services have been used remains low.

There are practical reasons why the use of private expert services remains low. Some expertise, under the law, can only be conducted by state expert institutions. Some detectives are cautious about the lack of convincing case law about the weight of private experts' opinions, although the HACC does not differentiate between state and private experts. Some detectives shared concerns about the cost of private examinations. We found, however, that the NABU has allocated sufficient funding and most detective staff confirmed that there is no monetary obstacle for preferring one expert to another.

The NABU has discussed the matter with relevant ministers but without success. SAPO also pointed out this concern as one of the main obstacles for NABU's independence.

Other serious risks relating to independence. The 2023 Technical Assessment recommended the NABU develop a procedure to obtain classified information clearance for its undercover staff members without notifying the SBU. In its action plan, the NABU agreed to develop a procedure for obtaining permission to access state secrets for NABU employees, prepare a draft of changes to the Law of Ukraine on State Secrets, and submit the draft law to the Government. It is worth noting that in summer 2024 NABU developed the relevant draft law and sent it for approval to the authorized bodies. The SBU did not support this draft law. The problem is not solved.

The NABU's independence is subject to the SBU's sole responsibility to issue and to withdraw staff security clearances and facility (institution) permits. This, inter alia, puts the NABU's detection work at risk since ORD files are classified as state secret, and risks disclosure of the identities of the undercover staff members.

The SBU has the undeniable priority right and duty to apply measures to protect information that is sensitive from the perspective of state security. However, ORD files at NABU are sensitive from the perspective of NABU investigations. They must be protected from disclosure mainly because they

contain information about NABU sources, methods, tactics, and state of knowledge about high-level corruption targets. The NABU should be competent to assess the necessity of classification and the appropriate level of classification and make its proposals for necessary amendments to the Law of State Secrets.

Finally, high quality pre-trial investigations of systemic high-level corruption are much more time-consuming compared to average investigations. Interviewed HACC judges referred to too short investigation terms having adverse effects on investigation quality. The "Lozovyi's amendments" have adversely impacted the NABU and caused closing of cases. The Supreme Court of Ukraine decided on October 31, 2022, that some of the criminal proceedings in which the pre-trial investigation period after the adoption of the "Lozovyi's amendments" was extended by the prosecutor, not the investigating judge, should be closed. The NABU has demonstrated taking actions within their mandate to make the necessary amendments to the law, but the problem has not been solved.

RECOMMENDATIONS

To improve its effectiveness in detecting and investigating high-level corruption, the Commission recommends the NABU:

1.1.1. Collect and monitor statistics on proactive detections, investigative efforts including motions (including motions for the seizure of property), parallel financial investigations, asset recovery orders, results and their correlation to priorities (to include priority spheres and other priorities).

1.1.2. Prioritize and take demonstrable action to reach agreement with ARMA to ensure legislative proposals that advance the effective execution of its asset recovery strategy.

1.1.3. Assess ways to improve the usability and usefulness of Memex, to include providing additional guidance or training to staff.

For the Consideration of the Verkhovna Rada of Ukraine and Others

1.2.1. To meet the NABU's immediate needs, consider immediate action initiating the State Action Plans for implementing the autonomous wiretapping capability for the NABU.

1.2.2. To provide the NABU with the necessary institutional independence and a lasting solution to the need for autonomous wiretap capability, consider legislative amendments or agency action to remove any remaining technical obstacles.

1.2.3. To ensure the NABU has access to timely and impartial forensic expert services, consider establishing additional legal guarantees and safeguards to ensure the availability and impartiality of independent forensic expert services.

1.2.4. So as to not undermine the NABU's ability to seize assets domestically and abroad, disregard, as impractical, proposals to change the Ukrainian law to require two month review of all asset seizure orders.

1.2.5. To provide the NABU and other law enforcement partners sufficient time to conduct pre-trial investigations and to remove other obstacles to combating high-level corruption, consider abolishing the "Lozovyi's amendments."

2. INTEGRITY, ACCOUNTABILITY AND TRANSPARENCY

Dimension No. 2 Characteristics of Effectiveness

Integrity is the cornerstone of an effective anti-corruption investigative agency. It refers to honesty and trustworthiness in the discharge of official duties. Accountability and transparency within NABU should be anchored in robust public reporting mechanisms that clearly outline its activities, resource allocation, and investigative outcomes. NABU should maintain effective internal oversight mechanisms and support effective external oversight mechanisms to appropriately address allegations of employee misconduct and enhance NABU's credibility. NABU should maintain a strong whistleblower protection system to encourage the reporting of misconduct. NABU should ensure that its investigative processes are transparent, providing timely updates to the public on its activities and achievements, while appropriately safeguarding sensitive information which may undermine the investigation. While maintaining its independence, NABU should engage with civil society, stakeholders, and community representatives to foster a culture of integrity and trust essential for effectively combating corruption in Ukraine.

Summary

The Commission concludes that NABU has been **moderately effectiv**e in the performance of activities relating to integrity, accountability, and transparency during the evaluation period. This conclusion is based upon the Commission's analysis of the totality of the evidence under this dimension, including the qualitative and quantitative nature of the evidence.

The NABU has defined few specific expected goals, outcomes, or outputs by which the NABU or an outside party can measure its success in this dimension. The NABU has achieved general desirable objectives to some extent and has in place control mechanisms to mitigate some of its major risks. The risk of improper disclosure of information remains a significant risk for the NABU, although some action has been taken to mitigate this risk. The NABU is more effective in criteria which are regulated, such as those relating to public reporting and responding to external audit findings. Refining NABU procedures and practices relating to protecting the identities of internal whistleblowers/complainants and conducting internal investigations will further promote integrity and public trust.

Mitigating the Risk of Information Leaks

We evaluated the extent to which the ***"procedures and practices of NABU (including the Internal Control unit) mitigate the risk of improper disclosure of information relating to operational and investigative activities."*** **(5.5.1)**

Following the 2023 Technical Assessment, the NABU agreed to two high priority recommendations to mitigate the risk of leaks. First, the NABU agreed to establish internal guidelines on the level of

sharing investigative and operative information within the NABU, including constricting the size and scope of informational meetings to avoid unnecessary reporting and to reduce the possibilities for information leaks. Second, the NABU agreed to implement control mechanisms such as restricting the use of mobile phone chat groups for discussion of operational issues, prohibiting the use of personal email, and firewall controls to prevent uploading documents to personal email accounts. The 2024 "leaks" matter that embroiled the NABU in scandal publicly surfaced approximately six months after the NABU received these recommendations.

Actions taken by the NABU. During the evaluation period, the NABU has taken some action to strengthen control mechanisms to reduce the risk of information leaks.

- The NABU director established a working group on the causes of information leakage in December 2023. This working group was charged with identifying internal and external sources of information leakage at each stage of the pre-trial investigation and developing a risk register of leaks.
- In January 2024, the NABU adopted a training program for newly appointed detectives, which includes an emphasis on information security and prohibitions on leaks. Fifty-two new detectives have completed this training.
- The working group prepared a register of risks of leakage of information in the activities of the MDU which was approved by order of the NABU director in August 2024.
- The NABU developed guidelines containing measures to minimize risk of information leakage during pre-trial investigations. These guidelines were adopted by order of the NABU director in September 2024.
- In an October 2024 order, the NABU director approved guidelines for minimizing the risk of leaks in the Operational and Technical Department during covert investigative actions.

We reviewed the leaks risk register and found that it contains common elements to catalog risks, along with a comprehensive approach to identifying internal and external risks throughout the pre-trial investigative process. The risk register contains 90 actions to reduce risk of leaks throughout the investigative process.

Some of the mitigating activities in the guidelines are variations on the theme of admonishments to detectives to not put too many details in internal and external records. These control mechanisms alone will likely have limited effectiveness. While such an admonishment can reduce the risk of leakage and may seem logical on its face, it (1) will be difficult for the NABU to objectively monitor and control this measure, (2) may run counter to a general good practice in law enforcement of promoting increased information sharing, and (3) will demand professional judgment by detectives in determining on a case-by-case basis how little or much evidence is required to meet evidentiary standards.

The NABU was unable to demonstrate clear responsibility for monitoring the implementation of the new leaks risk mitigation guidelines. The deputy head of the ICU is nominally responsible for oversight of implementation of the guidelines, but little action has been taken to date. While the NABU was generally unable to demonstrate the effectiveness of these control mechanisms, this was primarily due to the recency of implementation or because the measures are still pending implementation.

Technical control mechanisms. In terms of technical control mechanisms to protect information more broadly, the NABU efforts are uneven. We note that the NABU's Information Security unit has conducted various activities within its scope of authority to reduce information security risks. Overall, however, the NABU has not taken sufficient action regarding information security to protect data from leaks and spillage.

In September 2024, the ICU head prepared an internal memo based upon cybersecurity instructions from the Prime Minister of Ukraine to, among other measures, prohibit the use of messengers by NABU employees for working correspondence or transmission of an official and sensitive information and to ban the use of Telegram messenger on work computers. This prohibition was not in place during our January 2025 site visit. We observed the WhatsApp messenger app in regular use and the Telegram app is still permitted to be used. We were advised that detectives claim they require these apps for investigative purposes. While this may be true, we observed few, if any, effective compensating controls to reduce risk.

Detectives do not have NABU-issued cell phones and regularly conduct official business on personally-owned devices. The NABU does not have an adequate "bring your own device" (BYOD) policy with accompanying mobile device management software and procedures to protect sensitive NABU data from spillage and leaks.

The Information Security unit of the ICU is responsible for protecting data. The Commission was advised that this is a shared responsibility with the Information Technology Department. This diffused responsibility may contribute to a lack of clarity over authority and the necessity and urgency of corrective action regarding technical control mechanisms.

Investigating allegations of leaks within NABU. Under the CPC, investigations of leaks of ORD and pre-trial investigative information is the responsibility of the respective pre-trial body. Within the NABU, that would typically mean the MDUs and not the ICU. In the 2024 "leaks" matter, the head of SAPO ordered the case be registered and investigated by the ICU. The Commission was advised that this pre-trial investigation is still open.

To date, the NABU has not conducted any successful criminal investigations concerning leaks in its pre-trial investigations by NABU employees. NABU has had success in investigating others for alleged leaks, including a case involving an assistant judge of the Solomyansky court and a recently exposed scheme involving lawyers. During the period January 1, 2020, to December 31, 2024, one NABU employee was dismissed for violation of the oath of office for disclosing pre-trial investigation information or proprietary information.

Information leakage has been a chronic problem for the NABU and all other Ukrainian law enforcement organizations and prosecutors. Leak investigations are challenging, particularly within the Ukrainian criminal justice system where many parties have access to sensitive information. Information leakage erodes public trust in institutions, whether the leak is for an illicit purpose (for example, tipping off a criminal subject of an impending search) or for a perceived noble purpose (for example, sharing information with an investigative journalist). Implementation and monitoring of effective control mechanisms to prevent and detect leaks should remain a top focus of the NABU.

Active Engagement with the Public Oversight Council

We evaluated the extent to which ***"NABU engages with the Public Oversight Council (POC) in a manner which fosters the POC's active participation in the decision-making process within the scope of its competence under the NABU Law, provides the POC with the necessary information to effectively conduct its ongoing monitoring role, and ensures the POC is materially involved in disciplinary and competition commissions; NABU is responsive to POC input and feedback, and its actions reflect POC concerns."*** **(5.5.2)**

One of the control mechanisms in the NABU Law is the POC, which consists of 15 Ukrainian citizens who are elected by an online voting system. The POC's role is to ensure transparency and accountability over NABU's activities.

Fostering active participation and material involvement by the POC. The POC primarily participates in the decision-making process through the disciplinary commission, two selection commissions, and ad hoc participation in meetings relating to major new initiatives.

The NABU has one selection commission for detectives, one commission for civil servants, and a third for covert staff. The minimum composition of the first and second commissions is seven members with three POC representatives. Currently, the composition of the first selection commission is a total of 22 members of which 3 are POC members. The composition of the second selection commission is 18 members of which 3 are POC members.

POC representatives on both selection commissions expressed to us a favorable opinion about their level of participation in selection proceedings.

The disciplinary commission consists of five members, two of which are from the POC, with one serving as the chair as of August 2024. A POC member of the disciplinary commission expressed to us a favorable opinion about his level of participation in disciplinary proceedings. This member cited the high percentage of disciplinary cases where the NABU director concurs with the decisions of the disciplinary commission. In disciplinary proceedings, POC members vote on the finding of wrongdoing and the recommended sanction, and they are permitted to provide dissenting opinions.

The degree of POC participation on the disciplinary commission appears more substantial than its participation on the selection commissions. This is due to a greater proportional representation (i.e., 2 of 5 members of the disciplinary commission are POC members, whereas 3 of 18 or 22 members of the selection commissions are POC members). Additionally, due to the large number of candidate interviews, POC selection commission members do not attend all interviews which can lead to a lack of continuity or uniformity regarding candidate recommendations.

In addition to the commissions, POC members participate in the decision-making process through their inclusion in briefings, such as the roll-out of the Detective Evaluation System and meetings regarding implementation of the recommendations from the 2023 Technical Assessment.

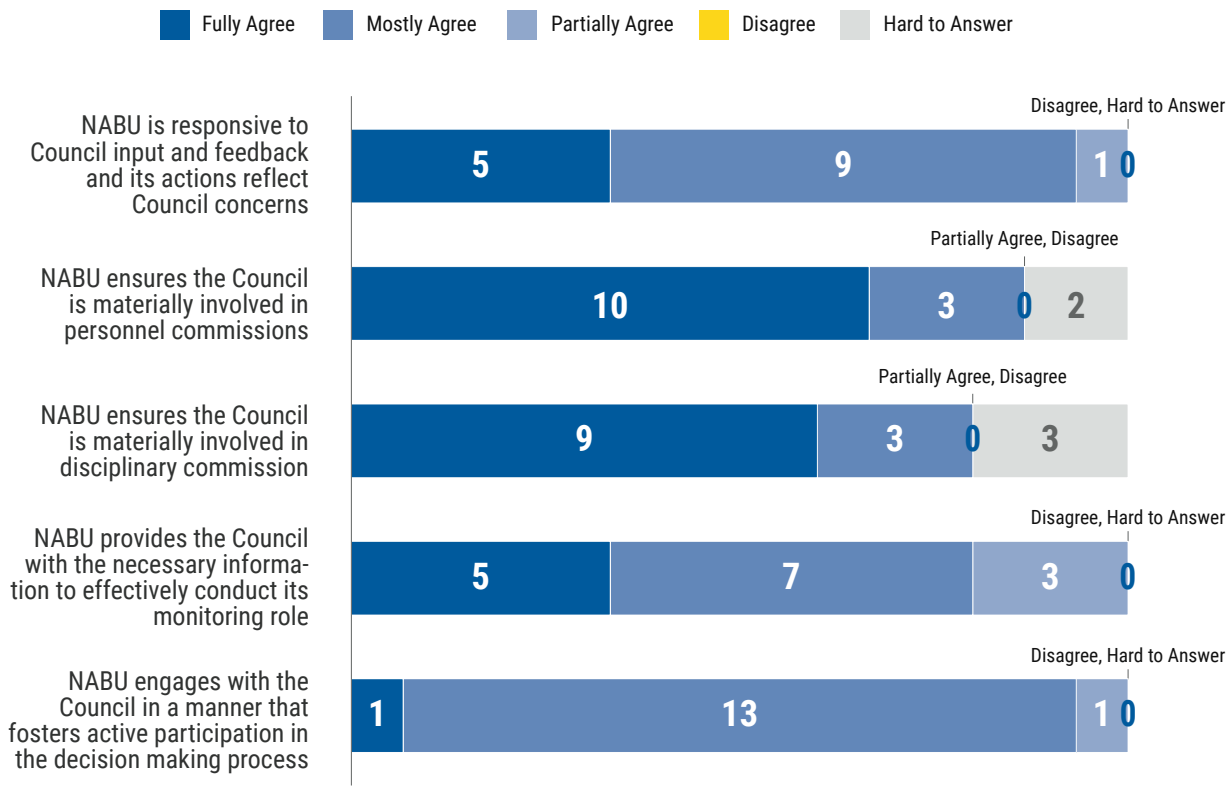
Providing necessary information. According to NABU records, during the evaluation period, the POC sent 25 letters of inquiry to the NABU that were registered in the ASKOD document management system, of which 23 were satisfied and 2 were partially satisfied because some of the information pertained to open pre-trial investigations. Additionally, the NABU director attended all POC meetings during the evaluation period (7) where his presence was requested.

Perceptions of POC members. By law, the NABU must provide a copy of its semi-annual activity report to the POC for consideration. The POC has two weeks to provide its conclusion on the NABU report, and then the report along with the POC conclusion are published and submitted to other agencies.

In its accompanying conclusions to the NABU semi-annual reports, the POC has been candid—at times complimentary and at times critical—of the NABU. During the evaluation period, the POC has, for example, expressed a "general positive opinion" about the NABU's performance, while it has called for increased attention to corruption in the defense sector, called attention to the decrease in the amount of public information that the NABU makes available, and called for more timely information regarding the 2024 "leaks" matter.

We surveyed the 15 POC members regarding their perceptions of the NABU's effectiveness in this criteria. The survey results were as follows:

Figure 9: Perception of the NABU effectiveness by POC members



Source: Commission's POC survey

These results generally reflect a perceived high level of engagement between the NABU and POC.

Detecting Potential Employee Misconduct

We evaluated the extent to which the ***"procedures and practices of the NABU internal control unit are effective in detecting potential employee misconduct through integrity checks, lifestyle monitoring, control over compliance with the rules of ethical behavior, conflict of interest, asset declaration."*** **(5.5.3)**

The NABU Law requires the Bureau to maintain an ICU to prevent and detect offenses by NABU employees and authorizes the ICU to conduct the above activities.

The 2023 Technical Assessment recommended that the NABU: (1) adopt specific procedures on lifestyle monitoring, integrity checks and other procedures; (2) undergo an internal audit of ICU procedures; and (3) develop criteria for assessing the effectiveness of the ICU. The 2023 Technical Assessment concluded that one detective tool used by the ICU—integrity tests through simulated exercises—has had limited results.

As a follow up to the 2023 assessment, the ICU underwent a study to examine its procedures. This study found that the ICU uses a comprehensive approach to lifestyle monitoring that allows for a high-quality check. The study concluded that the ICU's integrity check practices are reactive and could be improved by introducing an additional proactive approach. The study recommended that the ICU establish mandatory periodic reporting on quantitative and substantive indicators on the efficiency of integrity checks.

In the 2023 Capacity and Management study, the reviewers concluded, "[T]he system of internal control over the integrity of NABU employees, as well as integrity checks, lifestyle monitoring of the Bureau's employees, as well as integrity checks of candidates for positions in the NABU, is implemented and functioning in practice." Notwithstanding, the report recommended that the NABU director establish assessment criteria for the performance of the ICU.

NABU procedures. We independently reviewed the NABU's procedures and practices. NABU has procedures regulating the ICU's authorities to detect potential employee misconduct. In general, these procedures appropriately empower the ICU to conduct necessary activities while balancing the employee's right to privacy. In general, these procedures ensure independence and objectivity.

In February 2024, NABU adopted specific procedures for lifestyle monitoring, which examines an employee's standard of living in comparison to their declarations of income and expenses. Under these procedures, lifestyle monitoring is authorized by written order of the ICU head, and the results of monitoring are provided to the ICU head and the NABU director. Negative results can be the basis of commencing an internal or criminal investigation.

Internal audit of ICU. In 2024, the internal audit unit completed an audit of selected procedures of the ICU relating to requirements of the ISO 37001 (anti-bribery) standard. A more comprehensive internal audit was completed in January 2025.

ICU's detection results. Integrity checks and lifestyle monitoring are important tools to identify misconduct. The awareness and effectiveness of these programs can act as a general deterrence to discourage wrongdoing.

NABU publishes information regarding ICU activities in its semi-annual reports. During the evaluation period, the ICU reportedly conducted:

- 12 integrity checks in 2023 (no facts of misconduct were established)
- 21 integrity checks in 2024 (no facts of misconduct were established)
- 6 lifestyle monitoring in 2023 (generating 1 criminal proceeding and 1 internal investigation)
- 10 lifestyle monitoring in 2024 (generating 3 investigations)

Gaps in practice. NABU has not established procedures regarding integrity simulation testing. Alternatively, the ICU head prepared a memo to the NABU director justifying why he believes the ICU's procedures are in line with international practices, and requesting (1) the ICU's methods of conducting integrity checks be deemed effective and (2) this recommendation from the 2023 Technical Assessment be recorded as implemented. The NABU director agreed. The Technical Assessment implementation working group subsequently closed this recommendation based on the memorandum.

The 2025 ICU internal audit reviewed this ICU memorandum. While the internal auditors "partially agreed" with its conclusions, the auditors noted that it is necessary to take measures to define the concept of integrity testing at the legislative level.

We independently reviewed the ICU memo and disagree with its arguments and conclusion. The memorandum contains information regarding the extent of simulation testing practices at the NABU which is materially different from information provided to the Commission. Specifically, the memorandum represents that simulation testing is used in the "vast majority" of integrity checks. In fact, while this tool was used more frequently in prior years, it was only used in 1 of 21 checks during the evaluation period, and the ICU reported to the Commission that its goal for 2025 is to use this tool in at least 30% of planned integrity checks. Moreover, the memorandum references the practice of simulation integrity testing in law enforcement agencies outside Ukraine, but makes no mention of the internal procedures any of these agencies may have in place. The memorandum does not reflect any analysis of consideration of how ICU's simulation practices respect and observe the human rights and freedoms of employees. Finally, regarding the closure of the Technical Assessment recommendation, there appears to have been no objective consideration of the memorandum or review of the grounds for closure.

The ICU has an annual performance plan with general key performance indicators (KPIs) for its activities, including those pertaining to detection of misconduct. While this plan provides some insight into the ICU's outputs, the KPIs relating to its corruption prevention activities could be refined to more meaningfully measure how well ICU's detection activities result in positive results. For example, the KPI relating to lifestyle monitoring simply states that the ICU will conduct lifestyle monitoring of 100% of employees with information on possible discrepancies between expenses and income. This KPI does not provide insight into the effectiveness or efficiency of lifestyle monitoring, and the relatively few lifestyle monitoring activities conducted each year makes this KPI less meaningful in terms of outputs.

While the NABU publicly reports on the number of ICU detection activities conducted and the number of these activities which generated investigations, periodic evaluations of these activities should be conducted to determine the effectiveness and efficiency of the ICU's detective activities, and the results of these evaluations should inform resource allocation and refinement of KPIs for continuous improvement.

Investigating Alleged Employee Misconduct

We evaluated the extent to which ***"the procedures and practices of the NABU internal control unit are effective in providing timely, objective, and thorough investigations of allegations of potential employee misconduct."*** **(5.5.4)**

Under the NABU Law, the ICU has authority to conduct internal investigations regarding NABU employees, to implement operative and search activities and to conduct pre-trial investigations of offenses committed by NABU employees.

NABU procedures. The NABU has generally suitable procedures governing internal investigations. These procedures were last updated in January 2025. These procedures set forth the mandatory and discretionary authorities of the ICU, and provide employees a meaningful opportunity to contest the conclusions of the investigators and present additional evidence. The results of internal investigations are presented to the Disciplinary Commission.

Regarding timeliness, NABU officials told the Commission that the timeframe for initiating an internal investigation is not specified in regulations but investigations must begin immediately after the grounds are established. An investigative plan must be drawn up within two business days, identifying the measures to be taken and the timeframe for completion. Investigations must be completed within 30 days, with the possibility of an additional 30-day extension.

Regarding objectivity, ICU detectives conduct internal investigations under the supervision of the head and deputy head of the ICU, who approve the final report. ICU detectives who have a personal interest in the results, or perceived conflict of interest, are prohibited from participating in the investigation. In the event the investigation involves possible unlawful decisions, acts or omissions by the ICU head or deputy head, the investigation is conducted "under the direct supervision" of the NABU director.

Regarding completeness or thoroughness, upon conclusion of the investigation, the investigative materials and the ICU's opinion are provided to the subject of the investigation. The subject has up to 3 working days to familiarize himself with these materials. The subject then has five days to submit written comments, including evidence of lack of completeness or thoroughness. The NABU director forwards internal investigations to the Disciplinary Commission, which has the opportunity to evaluate the completeness of an internal investigation as it reviews the investigation and renders its decision.

Perception of effectiveness. Public perception is mixed regarding the ICU's effectiveness in providing timely, objective, and thorough investigations of allegations of potential employee misconduct. In response to our survey of civil society organizations, 6 of 13 respondents replied that the NABU was not effective in this area, while 5 respondents agreed or partially agreed that the NABU was effective.

Figure 10: The procedures and practices of the NABU internal control unit are effective in providing timely, objective, and thorough investigations of allegations of potential employee misconduct

Source: Commission's CSO survey

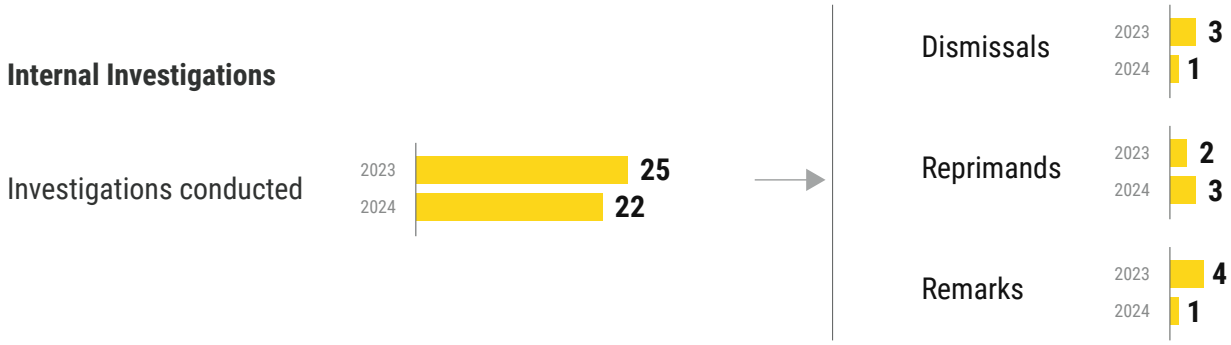
ICU's criminal investigative results. During the evaluation period, ICU investigations have produced no notices of suspicion, indictments, or convictions (and as NABU informed us no employee of the Bureau has been brought to criminal responsibility based on materials of other law enforcement agencies). In fact, the ICU has not obtained an indictment or conviction of an NABU employee in its 10-year history.

During the evaluation period, the ICU opened 6 operative cases (ORS), none of which resulted in criminal proceedings. We reviewed a list of closed pre-trial investigations conducted by the ICU during the evaluation period. It appears almost all these investigations were registered based on a court order or the facts were known to third parties. During the evaluation period, one pre-trial investigation was initiated based on ICU lifestyle monitoring.

ICU's internal investigative results. The ICU conducted 25 internal investigations in 2023. Almost half (11 of 25) were based on information from heads of structural units. The remainder of internal investigations originated from other sources and self-initiated efforts. These investigations resulted in 3 dismissals, 2 reprimands, and 4 remarks.

The ICU initiated 22 internal investigations in 2024, six of which were based on information from the heads of structural units. The remainder of internal investigations originated from other sources and self-initiated efforts. The external sources included referrals from SAPO, a regional legal aid office, outside individuals, NGOs, and lawyers. These cases resulted in 1 dismissal, 1 oral remark, 1 remark, and 3 reprimands. Additionally, based on the results of 2 internal investigations, materials were sent to the National Police for consideration and drawing up protocols on administrative offenses committed by 2 NABU employees.

Figure 11: 2023-2024 Investigations Results from the ICU



Source: NABU statistical data

Gaps in practice. Not all credible allegations of serious employee misconduct are fully and timely investigated by the ICU. For example, we found no record of an internal investigation conducted by the ICU regarding an allegation in 2022 that a detective had an inappropriate personal relationship with a witness. We learned that the ICU opened an internal investigation in March 2025, after this issue was publicly reported on social media.

We identified a separate instance during the evaluation period where NABU officials did not ensure that an employee misconduct allegation was registered in the ASKOD system in a timely manner. This error was corrected, and we found no direct evidence that this delay was due to an improper intent or adversely affected the outcome of the investigation.

There appears to be an uneven application of the ICU investigative authority. NABU's procedures require an internal investigation be conducted regarding allegations of improper performance of duties by a detective. In practice, the ICU appears to take such allegations by NABU supervisors more seriously than referrals from SAPO prosecutors. Responsible NABU officials told the Commission that referrals from SAPO are routinely forwarded first to the MDU supervisor to determine if an investigation is warranted. SAPO prosecutors are also in a position to supervise and evaluate detective activities. While there may naturally be professional differences of opinion between prosecutors and detectives, the ICU should attach greater weight to referrals from SAPO prosecutors. Currently, few referrals from SAPO result in internal investigations.

Most internal investigations, in practice, require an extension of time. The NABU's timeline for internal investigations are not well-suited for complex internal investigations. Unrealistic short timelines can lead to a lack of thoroughness.

ICU procedures on internal investigative reports do not sufficiently address the situation when ICU leadership disagrees with the conclusion of the ICU detective who investigated the case and is most familiar with the facts. We reviewed one internal investigation that was completed during the evaluation period where this occurred. While this may not be common, this was not an isolated instance. The initial conclusion of the investigating detective was rejected by the ICU management who then transferred the case materials to another ICU detective to complete the conclusion.

The original investigating detective refused to sign the report with the revised conclusion. Such a practice, without documented justification for changes to the investigating detective's conclusions, can contribute to a perception of a lack of objectivity.

In one investigation that occurred during the evaluation period, the Disciplinary Commission concluded that the materials submitted by the ICU were not sufficient to make a decision. The Disciplinary Commission requested and obtained additional relevant evidence to render its decision.

The ICU has an annual performance plan with general key performance indicators (KPIs) for its activities, including those pertaining to investigation of misconduct. While this plan provides some insight into the ICU's outputs, the KPIs relating to its investigative activities could be refined to more meaningfully measure how well ICU's investigative activities result in positive results. For example, the KPI relating to internal investigations states the ICU will conduct "proper organization of 100% of internal investigations into employee involvement." This KPI does not provide insight into the effectiveness or efficiency of internal investigations, and the ICU's performance plan is not clear on exactly what this KPI is measuring or how it can be objectively measured.

Finally, we note the inherent conflict with the ICU being responsible for both prevention and investigative functions without sufficient compensating controls. The Commission was made aware of a public statement by a responsible NABU management official who stated that the ICU's effectiveness should be measured by as low a number as possible the number of people who are held criminally or administratively liable by the ICU or other agencies—because this shows the effectiveness of the ICU's prevention activities.

The NABU director's role in internal investigations. The prominent involvement of the NABU director at multiple levels of an internal investigation creates an unnecessary potential or perceived lack of impartiality. Presently, the NABU director authorizes all internal investigations, and in some limited instances has "direct supervision" of the investigation. The NABU director had a direct supervision role in one prominent internal investigation during the evaluation period.

Before initiating an internal investigation, the ICU head first discusses the matter with the NABU director. The NABU director may opine on his views prior to authorization of the investigation and gathering of the facts. This is believed to have occurred in at least one case during the evaluation period. Specifically, the HACC referred a matter to the NABU regarding alleged violations of the presumption of innocence after NABU detectives publicly disclosed sensitive information during a podcast. According to information provided to the Commission, the NABU director concluded that an internal investigation was not warranted because the Bureau had encouraged the detectives to participate in the podcast.

The NABU director acknowledged holding pre-investigation discussions, stating that from time to time the information provided by the ICU head in the initiation memorandum is insufficient for the director to make a decision on the expediency of conducting an internal investigation. The NABU director told the Commission he does not comment on the merits of potential disciplinary violations.

One of the guiding principles of the Anti-Corruption Authority Standards published by the European Partners Against Corruption (EPAC), "is the ability (of the anti-corruption authority) to engage in its activities and carry out its functions – especially to investigate and/or prosecute

concrete allegations – effectively and efficiently and without undue influence or undue preliminary or otherwise inappropriate reporting obligations at its own discretion without prior consultation or approval."

It is unclear what, if any, value is added by the NABU director reviewing and authorizing each internal investigation, especially when weighed against the accompanying risks. While the NABU director has a supervisory role over the ICU, current procedures may call into question whether legitimate internal investigations are not pursued for fear of bringing potential public embarrassment upon the Bureau. The Commission found no direct evidence of this occurring, nevertheless the current practice subjects the NABU to unnecessary reputational risks.

We identified that upon conclusion of an internal investigation, the NABU director "reviews and approves" the ICU investigative opinion and materials prior to submission of the materials to the Disciplinary Commission. During the evaluation, we identified this as problematic; however, in January 2025, the NABU amended its procedures to remove this requirement.

Addressing Alleged Employee Misconduct

We evaluated the extent to which ***"NABU's procedures and practices on employee disciplinary proceedings are effective in addressing misconduct in a timely, objective, thorough, equitable and transparent manner."*** **(5.5.5)**

The NABU Law requires the Bureau to have a Disciplinary Commission composed of five persons including two persons from the POC. Upon consideration of an internal investigation conducted by the ICU, the Disciplinary Commission prepares a conclusion for the NABU director as to whether misconduct has been identified in the actions of an employee of the NABU, the grounds for bringing him/her to disciplinary liability, and the recommended disciplinary penalty. The NABU director may agree or disagree with the conclusion of wrongdoing and recommended disciplinary penalty.

NABU procedures. NABU has suitable procedures regarding the Disciplinary Commission. These procedures establish some timelines, prohibit disclosure of information by members, and promote objectivity through self-recusal requirements and provisions permitting investigative subjects to submit an application for recusal of members. The procedures identify factors that the Disciplinary Commission should consider when determining the type of disciplinary sanction for civil servants, sworn officers, and other NABU employees. Commission members may attach a written dissenting opinion to the record. The Disciplinary Commission's decision is advisory in nature.

Disciplinary results. The Disciplinary Commission considered 38 proceedings during the evaluation period. The Disciplinary Commission agreed with the ICU investigative conclusions in 28 cases, partially agreed in 4 cases, and disagreed in 5 (data on 1 case was unavailable).

The NABU director upheld the decision of the Disciplinary Commission in the vast majority of cases during the evaluation period. There were instances where the director decreased penalties, increased penalties, and found wrongdoing after the Disciplinary Commission concluded that there was no wrongdoing. In the last instance, the NABU director reported to us that he relied in part on a written dissenting opinion of a Commission member who believed that a disciplinary offense was present.

Public perception. Public perceptions are mixed on whether the NABU's procedures and practices on employee disciplinary proceedings are effective in addressing misconduct in a timely, objective, thorough, equitable and transparent manner. In response to our CSO survey, 5 of 13 respondents reported that these procedures are not effective.

Figure 12: NABU's procedures and practices on employee disciplinary proceedings are effective in addressing misconduct in a timely, objective, thorough, equitable and transparent manner

Source: Commission's CSO survey

Gaps in practice. While the procedures have timelines for some activities (such as when the draft written opinion must be prepared after the Commission votes), the procedures lack an overall timeline. Civil society organizations have noted this absence. The Disciplinary Commission held several meetings on the case involving the removal of the former first deputy director. The NABU invited monitors from the EU and at least three embassies to attend some of these commission meetings. While these invitations served to increase transparency and ensure a fair proceeding, members of civil society organizations complained to us about the overall closed nature of disciplinary proceedings and not being permitted to monitor proceedings.

Some record keeping regarding NABU disciplinary actions appears to be somewhat informal. While individual records are apparently maintained, the NABU does not maintain complete and verifiable aggregate data of Disciplinary Commission votes or documentation regarding the NABU director's deviations from the recommendations of the Disciplinary Commission. Such practices would promote a perception of objectivity.

Whistleblower Protection

We evaluated the extent to which ***"NABU's procedures and practices for whistleblower protection are sufficient to ensure confidentiality, prevent retaliation, and promote a speak-up culture."*** **(5.5.6)**

Separate evaluation of NABU's whistleblower protection system. On October 3, 2024, the NABU publicly announced that an assessment of its whistleblower protection system would be conducted with the support of the United Nations Office on Drugs and Crime (UNODC). The UNODC team assessed NABU's alignment with ISO37002:2021 and the EU Directive 2019/1937. The assessment team included internationally recognized whistleblower experts. While we relied in part upon the findings of the UNODC assessment, our evaluation also involved reviews of closed internal investigative files and interviews (including confidential interviews) of knowledgeable individuals both within and outside NABU.

The UNODC Final Report on Whistleblower Compliance Assessment was issued in January 2025. The experts concluded that the NABU has appropriate leadership commitment, adequate roles and responsibilities, and sufficient data management practices. The experts determined that while there are good practices in place for processing whistleblower complaints, these need to be documented, and that the NABU needs to develop a monitoring system to allow it to continuously improve its whistleblowing management system.

One area of uncertainty expressed by the UNODC team is the availability of external reporting channels. The NABU Law requires NABU employees to report suspected illegal activity of other NABU employees to the NABU director and the ICU. The European Union Directive (EU) 2019/1937 provides whistleblowers with an unconditional choice to report internally or to a competent external authority. NABU officials acknowledged that NABU employees are not explicitly instructed on optional external channels.

Another issue identified by the UNODC team relates to the limited definition of internal whistleblower. The team found that while the definition of this term in NABU regulations appears broader than the limited definition in the Ukrainian law on the Prevention of Corruption, it could be expanded even further to align with international standards.

NABU regulations. NABU's regulation on its internal whistleblower system distinguishes between internal whistleblowers and complainants (or applicants). Whistleblowers, as defined elsewhere in Ukrainian law, are individuals who report allegations of corruption and who are subject to the guarantees of state protection under the law. Complainants are NABU employees who have a reasonable belief about illegal acts or omissions by a NABU employee that are not corruption related.

This regulation contains a mandatory duty on employees to report suspected violations to the director and the ICU within the next business day. The ICU maintains a limited access logbook of internal reports of wrongdoing, and limited information is entered in the ASKOD document management system. The NABU director may issue an order to protect a complainant or whistleblower, including protecting their identity. Anonymous reports must be verified within 15 days. This regulation also provides protection for whistleblowers and complainants.

Perceptions regarding reporting misconduct. Perceptions regarding the effectiveness of reporting processes to ensure whistleblower confidentiality and prevent retaliation are mixed. In response to our CSO survey, 6 respondents answered that the NABU's procedures and practices are not effective, while 7 responded that the NABU's procedures and practices were effective in whole or part.

Figure 13: NABU's procedures and practices for whistleblower protection are sufficient to ensure confidentiality, prevent retaliation, and promote a speak-up culture

Source: Commission's CSO survey

Employee perceptions on whistleblower retaliation are also mixed. According to the NABU's 2024 employee survey, 17% of employees believe that while retaliation is not widespread, there are isolated cases, and 46 employees out of 462 who responded reported that they or someone they know personally encountered or witnessed negative consequences in the last 3 years for reporting violations committed by others or reporting problems at the NABU.

These results, coupled with the UNODC report findings regarding external report mechanisms, highlight the need to do more to establish clear and trusted channels for reporting violations without fear of retaliation to ensure a safe and transparent work environment.

Gaps in practice. In practice, few NABU employees come forward to report internal wrongdoing. The ICU received no whistleblower reports in 2023 and three reports in 2024.

In the well-publicized case occurring during our evaluation period—the 2024 "leaks" matter—the NABU director announced on 3 September 2024 the dismissal of the former first deputy director. This action was based on an internal investigation and subsequent Disciplinary Commission conclusion which found that the former first deputy director committed a number of negative actions and statements aimed at personal and professional discrediting of a NABU employee who submitted a memo on the possible facts of information leakage.

While an evaluation of a system should not be based solely on a single failure, this was not the only complaint we received regarding negative consequences for reporting wrongdoing. In another instance, a former NABU employee who reported suspected wrongdoing to the ICU told the Commission that he was warned by a current NABU department head during the evaluation period, "You better complain less to Internal Control." A separate complainant reported to the Commission that prior to the evaluation period, his identity was not appropriately protected and he was berated in front of peers by a former NABU department head. This is not the appropriate tone at the top for a mature organization committed to protecting those who report wrongdoing.

We found no direct evidence that the specific identities of whistleblowers or complainants have been improperly and explicitly unmasked; rather, contextual data regarding the complaint and the complainant are provided to others from which a complainant's identity can be easily determined.

During our review of closed internal investigations case files, we observed the following. Under NABU procedures, an employee subject to an internal investigation has the right to review the opinion and materials of the internal investigation. The ICU prepares a version of the investigative report with the identity of any whistleblower or complainant redacted. The version of the investigative report submitted to the NABU director and the Disciplinary Commission does not redact the whistleblower or complainant's identity. This practice may unnecessarily compromise the confidentiality of whistleblowers and complainants and undermine the good practices found elsewhere in NABU's whistleblower management system. NABU officials explained that Disciplinary Commission members are subject to a non-disclosure agreement. The presence of a non-disclosure agreement may not fully mitigate this risk.

Unfortunately, no whistleblower protection system, however strong, can provide absolute protection against retaliation. Gaps in procedures and improper tone at the top among NABU leaders and department heads discourages future whistleblowers and complainants from speaking up.

Responding to Public and Other Requests for Information

We evaluated the extent to which ***"NABU provides information upon the requests of oversight bodies, civil society organizations, citizens and other stakeholders in a timely manner and as established in the law; NABU's related procedures and practices are effective to prevent unnecessary assertions of secrecy, where disclosure would not jeopardize an investigation."*** **(5.5.7)**

The NABU Law requires the Bureau to publish and provide information in response to requests according to the procedure determined by the Law of Ukraine "On Access to Public Information."

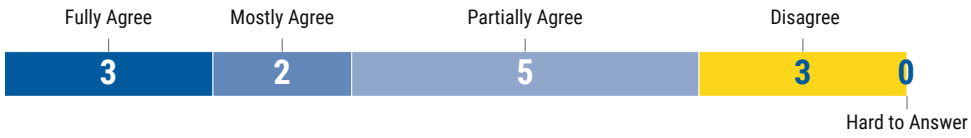
NABU procedures. Regarding internal control mechanisms to ensure access to public information, the NABU has adopted six internal orders and one memorandum between NABU and SAPO, which establishes rules for coordination between the two agencies. The NABU has a dedicated unit, Communications and External Relations, that is responsible for processing requests, and the processing and controlling of requests is carried out using the ASKOD document management system. The NABU's internal procedures include deadlines for responding and monitoring for exceptions. We observed the operation of the ASKOD system and found it generally effective in registering requests and monitoring timeliness of responses. Regarding requests for information on pre-trial investigations, the responsible detective unit makes the decision on complete refusal, partial satisfaction, or satisfaction of the request. Requests for information containing personal data are appropriately redacted.

NABU's response performance. During the evaluation period, the NABU reportedly received 1,147 requests for public information, including 316 from March 6, 2023 to December 31, 2023, and 831 from January 1, 2024 to November 18, 2024. The NABU reportedly responded to all requests within the required deadlines, except for two requests which were processed out of compliance with the 5 business day deadline.

The NABU provides statistics on all contacts received in the appendix to the semiannual activity reports. These statistics are broken down by category. In total, the NABU received over 20,000 contacts in 2024 and over 20,000 in 2023.

Perceptions of NABU's responsiveness. In response to our CSO survey, most (10 of 13) responded that the NABU is effective in whole or part in responding to requests from civil society organizations.

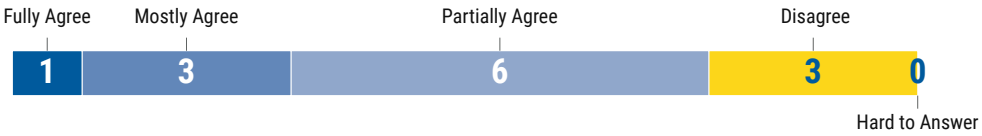
Figure 14: NABU provides information upon the requests of civil society organizations in a timely manner and as established in the law



Source: Commission's CSO survey

While this criteria is limited to the NABU's effectiveness in responding to requests for public information, an adjacent and relevant issue is the NABU's responsiveness to information and feedback from civil society organizations. In our survey, most (10 of 13) responded that the NABU is effective in whole or part in being responsive to information received from civil society organizations.

Figure 15: NABU is responsive to NGOs input and feedback, and its actions reflect NGOs concerns



Source: Commission's CSO survey

During our evaluation, we identified a few notable exceptions. In one instance, a civil society organization sent the NABU a complaint regarding corruption involving a regional military administration. Detectives did not register the complaint in the URPTI in accordance with the CPC requirements. The organization applied to the HACC which ordered that the matter be registered. Upon receipt of the HACC decision—which was unfortunately delayed—the NABU registered the case. According to one civil society organization, it submitted ten investigative referrals to NABU in 2024, and NABU registered six of these matters. The organization received replies from the NABU on the four that were not registered. According to the organization's representative, NABU's reasoning for these four was weak and reflected, in this official's view, a general reluctance on the part of the NABU of registering regional cases other than one involving judges.

Oversight Recommendation Follow-Up

We evaluated the extent to which ***"NABU develops internal action plans to implement agreed upon recommendations from technical assessments or other oversight bodies (e.g., the Accounting Chamber of Ukraine), and implements recommendations."*** **(5.5.8)**

Law and procedures. The NABU is required under the Law of Ukraine on the Accounting Chamber of Ukraine (ACU) to respond to audits within one month. According to internal NABU procedures, NABU units have 20 working days to respond to an internal audit issued by the NABU Internal Audit unit.

Monitoring—which includes the use of internal and external assessments to improve performance—is an essential component of internationally accepted internal control frameworks such as the one from the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The NABU has stated its intention to adhere to COSO requirements.

NABU's responsiveness to audit findings. Since 2019, the ACU has issued nine audit recommendations to the NABU. These recommendations were combined into a new report provided to the NABU in August 2024. The new ACU report was a consolidation of all recommendations recently issued to Ukraine's law enforcement and anti-corruption bodies. Of the nine recommendations, the ACU determined that the NABU had implemented six and had not implemented three. The ACU determined one recommendation is no longer relevant, leaving two open recommendations. According to the ACU, the NABU submitted an updated action plan in October 2024, within the required time.

The NABU Internal Audit unit conducted 5 audits in 2023 and 4 audits in 2024, issuing over 50 recommendations in these audits. The NABU has written internal procedures regulating the internal audit follow-up process, and we found these procedures are operating effectively in practice. These control mechanisms include monitoring of audit follow-up by the Internal Audit unit. They also allow the head of internal audit to attempt to resolve disputes with unit heads first, and then to escalate concerns to the NABU director if necessary. An annual report on internal audit is provided to the director, with an annual report on internal audit submitted to the Ministry of Finance. In at least one instance during the evaluation period, a NABU structural unit did not respond with sufficient and timely information on the implementation of agreed-upon recommendations. The Internal Audit unit persisted until the matter was satisfactorily resolved.

In October 2023, the NABU received the results of the 2023 Technical Assessment. This report contained 150 recommendations, including 90 recommendations aimed at the NABU and 60 recommendations that require external action (for example, adoption of legislative changes by the parliament). The NABU adopted an action plan to implement the recommendations in February 2024. The action plan detailed a list of measures to be taken, responsible implementers and managers, funding sources, and deadlines. Some of the recommendations were grouped, totaling 144 action plan points, and 485 measures to implement the recommendations.

The NABU established a working group to implement the recommendations. The working group met at least four times in 2024 and invited representatives of donor organizations and international partners (EUACI, INL, IDLO) to its meetings to track progress in the implementation of the action plan. According to the NABU, it has completed 24 of the 90 recommendations.

Gaps in practice. The recommendations from the 2023 Technical Assessment feature prominently in NABU organizational transformation efforts during the evaluation period. While we commend NABU for its demonstrable commitment to implementing these recommendations, its practices for evaluating, monitoring, and closing recommendations are somewhat opaque. As a result, we were unable to independently verify the completion of some recommendations. As noted below in criteria 5.5.3, 5.6.1 and 5.6.5, we observed shortcomings in the action plan data.

Public Outreach

We evaluated the extent to which ***"NABU communicates with the public in a manner to increase awareness of its role as a trusted, independent, and objective investigative organization, and to fortify a culture of integrity."*** **(5.5.9)**

The NABU Law requires the Bureau to regularly inform the public about its activities through mass media, its official website, and in other forms. The 2023 Technical Assessment noted a need

for the NABU to be more proactive in expanding awareness about its achievements and building public trust. The Communications Strategy for Preventing and Combating Corruption, approved by order of the Cabinet of Ministers of Ukraine No. 1203-r dated December 22, 2023, calls for agencies like the NABU to expand their outreach to increase public trust. This strategy identifies target audiences including educational institutions and students, media, international donor and partner organizations, citizens of Ukraine and others. Insufficient awareness of anti-corruption activities leads to distorted perceptions about the level of corruption and law enforcement agencies' effectiveness in combating corruption.

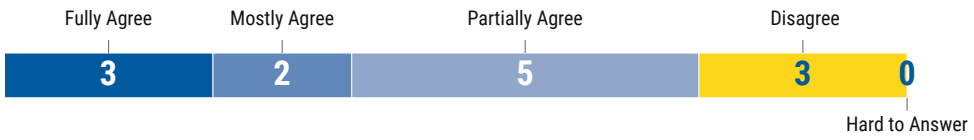
NABU activities. The NABU reports on its outreach activities in the appendices to the semi-annual activity reports. In 2023, for example, the NABU reported 86 media briefings and conferences and 55 public events. In 2024, the NABU reported 66 media briefings and 106 public events. These public events included study visits to the NABU, Moot Court, Anti-Corruption Camp, online lectures, and other events. In total, the NABU has reportedly issued approximately 550 press releases and approximately 1,000 social media posts across its platforms. The NABU has a sizable social media presence with approximately 98,000 Facebook followers, over 15,000 Telegram subscribers, and over 18,000 subscribers to its YouTube channel where it has posted over 580 videos.

Figure 16: 2023-2024 NABU Outreach Activities

Source: NABU statistical data

Perception of NABU's effectiveness. In response to our CSO survey, 10 of 13 respondents agreed in whole or part that the NABU is effective in keeping the public informed.

Figure 17: NABU communicates with the public in a manner to increase awareness of its role as a trusted, independent, and objective investigative organization, and to fortify a culture of integrity



Source: Commission's CSO survey

Gaps in practice. The NABU recognizes that its public outreach efforts would benefit from a formal communication strategy to coordinate its activities. A draft communication strategy was prepared in early 2022 but was not approved due to the full-scale invasion. Among the elements of an effective communications strategy are (1) guidance on channels to ensure communications are aligned with target audiences, (2) guidance on messaging to ensure clear, concise, and consistent messages, (3) guidance on monitoring to evaluate the effectiveness of communications, and (4) direction on crisis communications. The NABU told us they plan to request assistance from an international donor in 2025 to complete a communication strategy.

Public Reporting on Activities

We evaluated the extent to which ***"NABU reports on the details of its investigative activities and outcomes in a manner that is timely, publicly accessible, with reliable data in an easily digestible form and in line with legal requirements."*** **(5.5.10)**

The NABU Law requires the Bureau to regularly inform the public about its activities through mass media, its official website, and in other forms, and to publish not later than 10 February and 10 August, in national printed media and on its website, a six-month report of activity which is submitted to the President of Ukraine, Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine.

NABU's reporting. The NABU activity report for the first half of 2023 was posted on the Government's Portal of Open Data on 16 August 2023, the activity report for the second half of 2023 was posted on 21 February 2024. The activity report for the first half of 2024 was posted on 9 August 2024, and the activity report for the second half of 2024 was posted on 11 February 2025. The delay with the posting in at least one instance was due to an external problem with the portal.

Public accessibility in line with legal requirements. The NABU's extensive use of social media to communicate with the public—including Facebook, X, YouTube, Telegram, Instagram, and WhatsApp—fosters public accessibility and digestibility of information.

The NABU's website contains investigative statistics, news, information about the organization and its executives, information about the POC, and a corruption reporting mechanism. The website is available in Ukrainian, with some information available in English.

The NABU's semi-annual activity reports provide statistics on various investigative results, including summary statistics and by categories of subjects, information on seizures of property and confiscation of criminal proceeds, results of international cooperation, cooperation with media and public, budget and human resource information, ICU activities, and other activities.

In its oversight reports, the POC concluded that all three semi-annual activity reports relevant for our evaluation period contain the mandatory information required by law, as well as additional information.

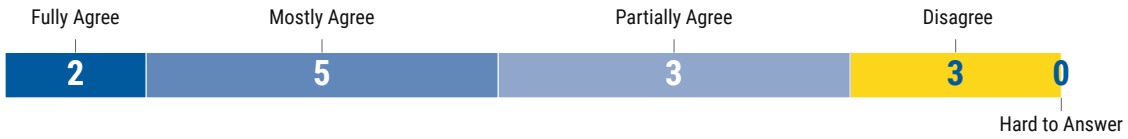
Public perception. Opinions regarding the sufficiency of the NABU's public reporting naturally vary among stakeholders and over time.

In its oversight report on the NABU's activity report for the second half of 2023, the POC cautioned, "The Council draws attention to the decrease in the amount of public information [from the NABU]. . ." In its oversight report on the NABU's report for the first half of 2024, the Council cautioned the NABU about the need for greater reporting regarding major investigations and the 2024 "leaks" matter.

In its 2023 Capacity and Management Study, the researchers concluded, "in practice, the level of the NABU's transparency is high, the communication of the NABU with society is regular and meaningful, and it takes place via all possible types of channels. Therefore, we can conclude that the level of the NABU's publicity is high."

In response to our CSO survey, 10 of 13 respondents agreed that the NABU is effective in whole or part regarding its public reporting activities.

Figure 18: NABU reports on the details of its investigative activities and outcomes in a manner that is timely, publicly accessible, with reliable data in an easily digestible form and in line with legal requirements



Source: Commission's CSO survey

Control mechanisms and improvements in public reporting. The NABU relies on control mechanisms for its public reporting requirements. These mechanisms include internal regulations on disclosing information about investigations and external communications, and protocols between NABU and SAPO requiring that both parties approve disclosure of information and simultaneously issue jointly approved press releases.

In response to the 2023 Technical Assessment, the NABU agreed to implement two recommendations to improve public reporting. First, the NABU agreed to add a section to its website and semiannual activity report on "particularly important cases." The NABU successfully implemented this recommendation. Second, the NABU agreed to implement a new statistical reporting system.

Gaps in practice. We reviewed NABU's new statistical reporting process, which it began using in April 2024. While this new process is an improvement, the process still involves manual steps and opportunity for human error. The process is an Excel worksheet controlled by a responsible official in the Communications Department. Through the ASKOD document management system, the NABU director requires operating units to provide data to the Communications Department. Some data must be reported monthly and some quarterly.

For the Main Detective Units, the Strategic Development Department is responsible for certifying the reliability of the data. The Strategic Development Department extracts some data from the URPTI. Given the authoritative source, this data is at lower risk of error. Some investigative data must be culled from the detective units and is therefore at a higher risk of error or misstatement. One area of particular concern is the reliability of asset recovery data.

To help ensure the reliability and validity of the statistics in the semiannual report, the NABU compares data with monthly and semi-annual submissions of statistical information. The information relating to investigations is checked and agreed to by SAPO.

The new statistical reporting process allows for more up to date information to be reported on the NABU's website and elsewhere, but the gathering of investigative statistics within the NABU, however, remains largely a manual process susceptible to error in certain areas.

Culture of Integrity

We evaluated the extent to which ***"NABU leadership promotes a culture of integrity through establishing clearly defined ethical expectations, leading by example, organizing integrity-related training to staff, and holding individuals accountable."*** **(5.5.11)**

Following the 2023 Technical Assessment, the NABU agreed to provide additional training and awareness on ethics and integrity issues.

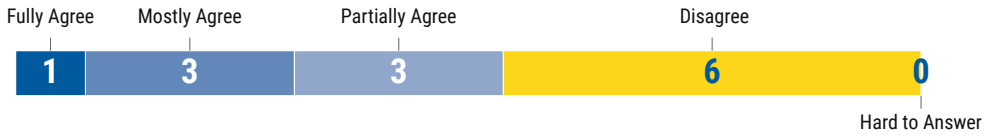
NABU procedures. The NABU has a code of professional ethics that new employees must familiarize themselves with. The ICU is responsible for managing NABU's ethics training program. Employees are required to complete annual online ethics training. Throughout the year, the ICU also provides employees with advisory support regarding the application of ethics requirements. Employees routinely use this support, mainly on matters relating to asset declarations. The NABU's ethics activities are incorporated in its Anti-Corruption Program.

NABU activities. The NABU director messages to staff his high expectations regarding integrity, and he has communicated his expectations regarding integrity and whistleblower protection in social media posts. During the evaluation period, NABU leadership began a monthly newsletter to employees which communicates, among other things, the outcome of disciplinary proceedings. The NABU's website contains references to this expectation, and candidates for positions at the NABU must undergo vetting of personal, business, and morale qualities.

The NABU updated its ethics training materials to include new theoretical questions and case studies. It conducts an annual online course required of all employees with a minimum passing score. Answers to the knowledge check are analyzed and additional in-person training is provided to units who have been identified as needing additional training.

Perceptions regarding culture of integrity. Perceptions about NABU's culture of integrity are mixed. In response to our CSO survey, 6 of 13 respondents replied that NABU does not promote such a culture, while 7 respondents perceive that NABU does promote such a culture in whole or part.

Figure 19: NABU leadership promotes a culture of integrity through establishing clearly defined ethical expectations, leading by example, organizing integrity-related training to staff, and holding individuals accountable



Source: Commission's CSO survey

According to the 2024 NABU employee survey, 55 of 462 employees have witnessed or personally know someone who has witnessed ethical violations or lack of integrity in the past 3 years. Additionally, when asked whether ethical conduct or integrity violations are widespread, 21% of respondents said these are not widespread practices but there are isolated cases, 2% said these are widespread practices, and 39% said they did not know or did not have an opinion on the matter. These results suggest NABU can do more to continue to promote a culture of integrity.

Oversight of the Second Main Special Detective Department

We evaluated the extent to which ***"NABU's acts, policies, procedures, and practices ensure that the activities and special tasks of the Second Main Special Detective Department (D2) are sufficiently authorized, supervised, and monitored."*** **(5.5.12)**

We received broad access to records and cooperation from D2. Given the nature of D2's work, however, we were limited in our evaluation to protect on-going operations and state secrets. We evaluated D2's procedures and practices to determine whether they were in line with international good practices regarding accountability.

Law and procedures. D2 procedures are suitably designed and in line with international good practices in the areas of authorizing, supervision, and monitoring of activities. Special tasks, or undercover operations, are approved by the head of D2 and the NABU director. Some of its tasks are supervised by a SAPO prosecutor and governed by the CPC.

At the commencement of every new special task, team members must reacquaint themselves with the legal rules on provocation and sign an acknowledgement. The D2 establishes formal roles and responsibilities for each special task. Regular reports are provided to the head of D2 and to the NABU director to monitor and control activities.

The head of D2 has delegated authority to approve fund expenditures up to a specified amount. Approval from the NABU director is required for expenditures over this threshold. Accountability of operative funds is maintained through D2 internal accounting practices, and by internal audits from the Internal Audit Unit and external audits from the ACU.

Gaps in practice. While operatives must acknowledge understanding of the law regarding provocation at the commencement of each special task, D2 employees do not have an annual ethics training requirement. Comprehensive ethics training would cover topics other than provocation.

D2 staff are not subject to ICU jurisdiction for internal investigations into misconduct allegations. D2 has its own separate process, and reported to us that this process resulted in three employee disciplinary cases during the evaluation period. D2 reported to us that it conducts its own lifestyle monitoring, but does rely on ICU polygraphers on occasion.

Little information regarding D2 is publicly reported. While this may be understandable for information pertaining to special tasks, additional public reporting of accountability results, such as summaries of audit results or other accountability activities, would enhance transparency and promote public trust.

RECOMMENDATIONS

To improve its effectiveness in integrity, accountability, and transparency, the Commission recommends the NABU:

2.1.1. Implement a monitoring component to its whistleblower program to include, where appropriate, obtaining confidential feedback from whistleblowers and complainants.

2.1.2. Revise procedures to protect the identities of internal complainants and whistleblowers who report mismanagement or wrongdoing, to include permitting the redaction of whistleblowers' and complainants' identities from records provided to the NABU director and Disciplinary Commission, unless required by law. **(KEY RECOMMENDATION)**

2.1.3. Designate a senior official responsible for oversight of implementation of the leaks risk mitigation plan, and ensure regular monitoring of progress with measurable metrics.

2.1.4. Acquire official cell phones or develop a bring your own device program with sufficient mobile device security policies and software solutions. **(KEY RECOMMENDATION)**

2.1.5. Implement restrictions or compensating controls over social media and the use of private email for NABU business.

2.1.6. Develop training or guidance for managers on the required tone at the top for protecting whistleblowers and complainants who come forward to report possible wrongdoing.

2.1.7. Conduct an objective assessment of current simulation integrity testing practices by the ICU and develop a policy governing this practice.

2.1.8. Develop meaningful KPIs to measure the effectiveness and efficiency of ICU detective and investigative activities that are specific, measurable, attainable, relevant, and time-bound.

2.1.9. Conduct an objective assessment of procedures and practices relating to the initiation of internal investigations, and revise procedures as necessary, to ensure that all credible allegations of serious employee misconduct are objectively and timely evaluated and investigated.

2.1.10. Revise procedures to ensure differences of opinion on investigative conclusions between ICU detectives and supervisors are documented, and an internal record is retained detailing the nature of the disagreement and how the matter was resolved.

2.1.11. Maintain complete and verifiable records of disciplinary proceedings—including the conclusions of the ICU, Disciplinary Commission, and NABU director—to monitor lessons learned and ensure the consistency of procedures and sanctions.

2.1.12. Develop and implement a NABU communication strategy, to include monitoring the effectiveness of communications.

2.1.13. Develop procedures to objectively verify the accuracy and completeness of publicly reported data provided by the MDUs and the ICU. **(KEY RECOMMENDATION)**

For the Consideration of the Verkhovna Rada Of Ukraine

2.2.1. To improve accountability of the NABU, consider amending the NABU Law to require the external evaluation every two years instead of annually, standardize the period of evaluation to reduce overlaps and eliminate gaps, and establish the key dimensions of effectiveness to be evaluated, while allowing the Commission the flexibility to develop its methodologies and specific risk-based criteria as appropriate.

3. LEADERSHIP, STRATEGY, AND RESOURCE MANAGEMENT

Dimension No. 3 Characteristics of Effectiveness

The effectiveness of NABU in leadership, strategy, and resource management is founded on the presence of a multi-year strategy complemented by detailed work plans. It also includes an effective organizational structure, with aligned mandates, clear lines of authority and responsibility, and segregation of duties. Robust human capital management practices should foster a motivated workforce. Knowledge and information management systems play a critical role in facilitating informed decision-making. Rigorous internal monitoring and evaluation processes should be used to assess progress and effectiveness. The careful allocation of technical and material resources contributes to internal integrity and accountability. Sound budget planning and execution, alongside effective utilization of international technical assistance, reinforce the NABU's capacity to combat corruption effectively.

Summary

The Commission concludes that NABU has been **moderately effective** in the performance of activities relating to leadership, strategy, and resource management during the evaluation period. This conclusion is based upon the Commission's analysis of the totality of the evidence under this dimension, including the qualitative and quantitative nature of the evidence.

The NABU has defined few specific expected goals, outcomes, or outputs by which the NABU or an outside party can measure its success in this dimension. The NABU has achieved general desirable objectives to some extent and has in place control mechanisms to mitigate some of its major risks.

During the evaluation period, NABU leadership restructured the organization and focused attention on the development and implementation of an investigative priorities policy to focus on investigations that matter most. Despite these efforts, NABU is at an inflection point. To mature the organization, the Bureau needs an overarching strategic approach with measurable goals and objectives. The achievement of these goals and objectives should be monitored and evaluated on an ongoing basis and the results publicly reported.

Strategic Planning

We evaluated to what extent ***"NABU has a strategic plan and is successful in achieving its strategic goals and expected outputs."*** **(5.6.1)**

While Ukrainian law does not require that the NABU maintain a strategic plan, the NABU Law requires the director to approve long-term, current and operational plans. Coherent plans are difficult to operationalize without an overarching strategy.

The 2023 Technical Assessment recommended that NABU develop a new approach to strategic planning to include creating a Strategic Development unit not related to the NABU's crime investigation activities. This unit, according to the Technical Assessment, should take over the strategic planning, monitoring, and evaluation functions from the ICU.

The 2023 Capacity and Management Study noted the absence of NABU's strategic plan on the NABU website. The absence of a current strategic plan can cause fragmented, disjointed, and inefficient activities that sacrifice short-term activity for long-term success. Strategic planning is especially critical as the NABU prepares to significantly increase its staffing and confront its ongoing risks. While the 2023 Technical Assessment is a valuable resource, the NABU should look beyond that document and exercise its own judgment in defining strategic objectives, goals, and measurable performance indicators.Strategic planning is a good practice promoted by international organizations. Elements of a comprehensive strategic plan include strategic goals, objectives, and performance indicators. Performance indicators should be specific, measurable, achievable, relevant and time-bound. Strategic plans in public institutions are an important accountability mechanism for measuring and monitoring progress. Developing and monitoring a strategic plan is not a pro forma exercise, and it is not a task that can be delegated to those outside the organization. A strategic plan is a foundational document for planning, executing, internal tracking, and external monitoring.

The NABU's anti-corruption partner, NACP, posts its plans on its website, identifying strategic objectives, annual objectives, and key results.

Strategic Plan. The NABU had no strategic plan during the evaluation period. Its most recent plan expired in 2023, and that plan did not contain specific, measurable performance indicators. NABU management officials told us they were waiting on implementation of certain recommendations from the 2023 Technical Assessment before developing a new strategic plan and that the new plan would be approved in December 2024. We were further advised that the 2023 Technical Assessment would be used as a road map in developing this plan.

In March 2025, following our audit field work, the audit commission was informed that the NABU director approved the Development Strategy for 2025–2030. The Commission was further advised that an implementation plan for this strategy with specific measurable results is currently being developed.

Action Plan. The NABU maintained an implementation action plan to implement its 2021–2023 Strategy, which contained 16 strategic objectives with 71 expected strategic outcomes and 223 measures to achieve strategic results. According to the NABU, it completed 148 measures, partially completed 44 measures, and did not complete 41 measures. We could not independently verify these results provided by the NABU.

Our review of documentation provided by the NABU revealed that some measures marked as completed lacked specificity. For example, one general measure marked as completed was "improve the level of professional skills." This was measured by a certificate of successful completion of training, with no measurable quantitative or qualitative reference. Other measures marked as completed were ambiguous. For example, one measure states: "NABU detectives are provided the necessary material and technical means." While this action was marked as completed, it also reflected that the development of additional premises for interview rooms is planned for a later date. We note that some measures were not completed due to a lack of funding.

Strategic Unit. The NABU created a new strategic development unit subordinated to the first deputy director. The Commission was told in October 2024 that there was no progress on the new strategic plan from this unit due to a lack of qualified staff and resources, and that the competencies for strategic planning are not typical for detectives experienced in conducting pre-trial investigations. The previous 2021–2023 Strategy, and the current one, was relegated to the ICU.

Investigative Priorities and Alignment of Resources

We evaluated the extent to which ***"NABU maintains an investigative priority policy that ensures investigative resources are dedicated, in practice, to systemic, high-level corruption."*** **(5.6.2)**

The 2023 Technical Assessment recommended that the NABU develop a case prioritization criteria to ensure that the NABU is focused on meaningful cases with positive potential, and to link the case prioritization policy to the NABU's strategic planning and the detective performance evaluation system.

NABU policies and procedures. As discussed in criteria 5.4.1, the NABU implemented an investigative priority policy in 2023 and updated it in 2025. The Commission reviewed this policy, but the exact parameters of the listed categories are classified as DSK and not for public disclosure.

NABU's procedures distinguish between strategic (permanent) priorities and operational (short-term) priorities. Strategic priorities reflect various relevant offender and offense characteristics. These priorities are identified as category 1 through 5 based on those characteristics. Operational priorities can fluctuate and include factors such as procedural deadlines in pre-trial proceedings. These factors are incorporated into the detective's evaluation system with additional points awarded based on category. This policy was prepared in agreement with SAPO.

During our evaluation, the NABU finalized its policy to identify priority spheres within each of the four MDUs. NABU's prioritization policies are generally consistent with anti-corruption priorities identified by the NACP.

According to the meeting minutes approving the priority areas, these priority areas should be taken into account when, inter alia, planning resource allocation and development.

Gaps in practice. While we were able to evaluate the priority policies, NABU's draft strategic plan was not approved and available for evaluation. We are, therefore, unable to determine if the new strategic plan is sufficiently linked to its priority policies.

The investigative priority policy identifies a number of officials who are responsible for assigning case priority. This includes the NABU director who's role is limited to influencing priority involving public resonance.

During the evaluation period, the NABU did not maintain a controlled list or data management system to enable NABU leadership or an external evaluator to identify, monitor, or evaluate priority investigations. NABU has advised the Commission that since 2025, the system has been improved, as a result of which detailed accounting is also conducted for criminal proceedings that have been initiated, and the system has been supplemented with certain additional criteria.

The priority spheres policy identifies priorities within the MDUs, but it provides little guidance for the allocation of resources among the MDUs and other NABU units. NABU's investigative priority policy is only loosely tied to its allocation of human and material resources. For example, in 2024 the NABU was authorized by law to increase its staffing an additional 100 new employees (90 officers and 10 civil servants). In determining allocation of these new civil service positions, NABU leadership generally considered increased workload or functional proportionality among units. In determining allocation of new detectives, NABU leadership simply divided the new positions equally among the MDUs.

Management Internal Information Systems

We evaluated the extent to which ***"NABU leadership collects and uses internal information to monitor NABU's performance and the adequacy of safeguards to mitigate risks."*** **(5.6.3)**

In response to the 2023 Technical Assessment, the NABU agreed to review the system of statistical data collection to provide sufficient materials for reporting to the NABU leadership and management team.

Information and communication is an essential component of internationally accepted internal control frameworks such as the one from the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The NABU has stated its intention to adhere to COSO requirements.

The information and communication component requires management to generate and use relevant, quality information from internal and external sources on a continual basis to meet its organizational objectives. Organizational objectives include operational objectives (those pertaining to effectiveness and performance), reporting objectives (those pertaining to internal and external reporting requirements), and compliance objectives (those pertaining to laws and regulations).

According to the Anti-Corruption Authority Standards published by the European Partners Against Corruption (EPAC), anti-corruption agencies should establish appropriate mechanisms to ensure proper governance of its performance and effectiveness. One such mechanism for anti-corruption agencies is monitoring, which can be defined as a continuous function that uses the systematic collection of data on specified indicators to provide management and stakeholders with indications of the extent of progress and achievement of objectives. Another such mechanism for anti-corruption agencies is evaluation, which can be defined as a systematic and objective assessment of programs and activities, including their design, implementation and results. Evaluations should be performed by both internal and external parties.

NABU procedures and practices. In terms of operational activities, the NABU director receives regular reports from the heads of structural units. These reports include quantitative data from the detective units, as well as reports from enabling units such as Special Operations, Budget, Human Resources, Internal Control, Internal Audit, and others. NABU leadership holds weekly management meetings where NABU's activities are discussed.

NABU leadership obtains information from employees in the form of an annual anonymous survey. In 2024, approximately 460 NABU employees responded.

The NABU's reporting objectives are controlled through various means including an Excel-based statistical reporting process that was enhanced to implement a 2023 Technical Assessment recommendation. This new statistical reporting process requires more timely reporting data from the MDUs. Our observations regarding this new system are discussed above in criteria 5.5.10.

One internal system relied upon by the NABU to manage some of its compliance objectives is the ASKOD document management system. This system tracks correspondence that warrant response, and it contains accountability features for managers to monitor timeliness of action.

The NABU regularly monitors external information in the news and social media. This monitoring includes both the quantity of media messages regarding the NABU's activities, and qualitative characteristics such as tone and focus of the messages.

Gaps in practice. There is little doubt that NABU leadership collects information to manage the Bureau's activities. The NABU has provided the Commission with numerous internal reports, action plans, and other documents which we have reviewed.

The NABU lacks a project management system to coordinate and monitor the multitude of programs, projects, and activities. Such a system will enable NABU leadership to align resources, monitor progress across the organization, and provide an auditable record for internal and external evaluators to objectively measure the Bureau's progress. A more organized and systematic approach to information management will also likely lead to a reduction in administrative burden on the organization.

The NABU also lacks an internal management system to collect, monitor, and objectively validate statistics not captured in the Unified Registry, such as priority cases. The NABU's current statistical data collection process is discussed further in criteria 5.5.10.

Leadership Independence

We evaluated the extent to which ***"NABU leadership makes decisions independently without undue influence from third parties."*** **(5.6.4)**

One of the main principles of operation under the NABU Law is independence of the Bureau and its leadership and employees. The NABU Law contains several provisions to safeguard independence.

NABU and its director perform in the spotlight, and public scrutiny is a necessary check and balance on the NABU's investigative powers. Public scrutiny comes from various interests: some well-intentioned, some well-intentioned but uninformed, and some with less than altruistic motives. The NABU director must continuously balance responsiveness with independence. Reasonable minds may disagree about individual decisions and the motives behind them.

Examples. In two publicly reported instances, the NABU director took actions to ostensibly safeguard his independence.

The first instance occurred upon the director's appointment in March 2023. Following the announcement of his appointment, the Prime Minister "recommended" the appointment of two unsuccessful finalists to senior positions within the NABU. The NABU director disregarded this suggestion. The POC and others publicly commended the NABU director for passing this initial test of independence.

The second instance is less straightforward. It involved the controversial decision by the NABU director to decline a June 2024 invitation to testify before the Verkhovna Rada's Committee on Anti-Corruption Policy about the circumstances surrounding the 2024 "leaks" matter. The NABU director posted his explanation on Facebook. He posted, "the proposal to publicly discuss the pre-trial investigation before its completion is premature," to appear would 'politicize' the matter, and that he could not discuss any interim results of the investigations without the participation of the head of SAPO. The NABU director ultimately agreed to attend a committee field meeting in July 2024 at the NABU with the head of SAPO.

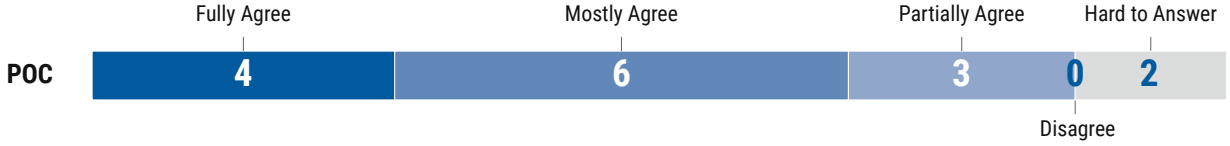
The NABU director was criticized by some for his initial decision to decline the invitation, and his motives were questioned. According to some, the decision to decline the initial invitation to testify was to avoid embarrassment and accountability. An evaluation cannot ascertain individual motives in the absence of objective evidence. Given the circumstances, we take the NABU director's words at face value but apply the appropriate weight to this evidence.

Director's decision regarding firing of former first deputy director. The NABU director unquestionably faced pressure from different perspectives regarding his handling of the 2024 "leaks" matter and the subsequent investigation and disciplinary action taken against the former first deputy director. We found no direct and incontrovertible evidence of the NABU director surrendering his independence and making decisions relating to that or any other matter based on undue influence. The NABU director's decision regarding disciplinary action was within his managerial discretion under NABU procedures and practices.

Perception of independence. In response to our CSO survey, 7 of 13 agreed in full or part that NABU leadership makes decisions independently without undue influence from third parties. Four disagreed, and two replied that it was hard to answer. In response to our POC survey, 13 of 15 members agreed in full or part that NABU leadership makes decisions independently, while 2 replied that it was hard to answer.

Figure 20: NABU leadership make decisions independently without undue influence from third parties.

Source: Commission's CSO survey



Source: Commission's POC survey

These results generally reflect that more can be done to strengthen public perception regarding the NABU director's independence.

Organizational Structure

We evaluated the extent to which ***"NABU has an effective organizational structure in line with organizational goals; with clear reporting lines of authority, clear flow of information, appropriate allocation of staff resources based on identified priorities, unambiguous division of labor, and segregation of duties where appropriate."*** **(5.6.5)**

As of January 2023, NABU's organizational tree had three main branches. The first branch reported to the first deputy director and consisted of the main detective unit, the second unit of detectives (D2), and the IT, analytical and operational-technical units. The second branch reported to the deputy director and consisted of the Bureau's support functions and territorial offices. The third branch consisted of at least seven different units reporting directly to the NABU director. The NABU Law required that one of these units, Internal Control, be subordinated directly to the NABU director.

The 2023 Technical Assessment recommended a number of actions to strengthen the NABU's organizational structure.

Actions taken by NABU. During the evaluation period, NABU leadership took a number of actions in response to, or in line with, the 2023 Technical Assessment recommendations including:

- Eliminating the position of head of the Main Detective Unit, creating four independent MDUs.
- Strategic Development Department was established, while the Department of Analytics and Information Processing was renamed the Department of Criminal Analysis and Financial Investigations.
- Redesignating the Digital Forensic Laboratory an independent structural unit.
- Creating a new deputy director position responsible for the Communications and External Relations Department and Document Management Department.
- Liquidating the Legal Unit and establishing the International Legal Unit and Legal Support and Litigation Unit.
- Allocating additional positions across the organization including to the operative and technical department and to the Criminal Analysis and Financial Investigations Department (which was renamed to emphasize a focus on financial investigations).

As of October 2024, the NABU organizational tree has four main branches. This first deputy director oversees the four MDUs, the Criminal Analysis and Financial Investigations Department, the Strategic Development Department, and the Information Technology Department. One deputy director oversees the accounting and resources functions and territorial offices. Another deputy director oversees the Communication and External Relations Department, and the Document Flow unit. The NABU director oversees over ten units including the ICU, the Second Main Special Detectives Department, the Digital Forensic Laboratory, Special Operations, and others.

Staff levels within structural units are generally proportional to priorities. Some units, such as the Criminal Analysis and Financial Investigations Department and the Digital Forensic Laboratory, have a number of vacancies due to specialized labor shortages. Other vacancies are attributable to NABU's extensive and time-consuming competition process.

NABU needs to increase the number of analysts with expertise and experience in conducting complex and sometimes offshore financial investigations. We note that the NABU has made some efforts to offset the shortage of analysts. These efforts include simplifying procedures for analytic requests and providing detectives with the Information Broker, a self-service tool for detectives to query various state databases.

NABU leadership has made demonstrable progress in organizational information sharing with staff. In the 2024 NABU employee survey, approximately 87% agreed in whole or part that they are receiving enough information regarding internal changes within NABU and feel informed in the reform process. In an earlier 2023 Technical Assessment employee survey, only 63% of employees agreed that they were receiving enough information regarding internal changes.

Gaps in practice. We recognize there is no one-size-fits-all approach to organizational structure, and that restructuring efforts typically involve trade-offs and often require time to mature. Despite the actions taken, NABU leadership should continue to refine the organization to optimize the Bureau's resources to match its goals. Such an approach will enhance NABU's performance and reduce risk.

Despite the addition of an additional deputy director, the NABU director has over ten direct reports which suggests an opportunity for additional delegation of administrative responsibilities. The elimination of the head of the Main Detective Unit created more direct reports for the first deputy director, and it generated a need to foster coordination between the four MDU heads. This coordination can be complicated by the administrative nature of the position of first deputy and NABU director.

The NABU director and the first deputy director have no investigative powers and are not designated as a head of the pretrial investigative body in the CPC. They hold administrative positions. This means that by law the NABU director and first deputy director are not entitled to routine access to case materials and investigative activities. By law, their authority to manage investigative activity is limited. Yet, in practice, the NABU director and first deputy director have few limitations regarding access. An official with express authority and responsibility under the law should conduct coordination of detectives.

The NABU director appoints the first deputy and deputy director positions without open competition. Unit head positions are subject to competition, but under current law the NABU director does not have the ability to rotate unit heads for career development or needs of the Bureau.

Despite the NABU's recent restructuring, some activities remain misaligned. For example, a new Strategic Development Department was established, but it is not responsible for preparing the NABU's strategic plan. Analysts with the Criminal Analysis and Financial Investigations Department (renamed to emphasize financial investigations) are doing few, if any, financial investigations.

The ICU is responsible for a broad range of important activities, yet its structure lacks accurate and clear divisions of labor. A chief specialist assigned to the ICU and assigned the duties of whistleblower protection has, in fact, been subordinated to the head of the Special Operations Directorate since January 2019 and in practice provides security for the NABU director.

The ICU's Corruption Prevention unit is not responsible for investigations, yet is staffed by detectives. NABU officials originally told the Commission that these detectives are independent from the Investigations unit and should not be involved in those functions. We were later told by NABU officials that detectives in the corruption prevention unit are occasionally assigned to conduct internal and criminal investigations and are therefore properly classified as detectives.

Finally, the ICU's information security function is a shared responsibility with the Information Technology Department which reports to the first deputy director. Shared responsibility can create potential problems regarding accountability. Moreover, in addition to its compliance function, the Information Security unit also performs some technology-enabled operative activities with little oversight beyond the ICU head.

IT Modernization

We evaluated the extent to which ***"NABU has implemented technological solutions to improve the effectiveness and efficiency of processes."*** **(5.6.6)**

NABU's 2021–2023 Strategy identified the need to enhance the Bureau's technology and communication tools. In October 2023, the NABU director created the position of deputy director for digital development and digital transformation to spearhead these efforts.

NABU's activities. The NABU has implemented various technological solutions to improve operations. These tools include the eCase case management system, the Memex data analysis system, the Information Broker, and various analytical and back office tools. While some solutions were initially implemented prior to the evaluation, the use and enhancements of these tools continued during the evaluation period.

The eCase case management system automates pre-trial procedural motions and documents between NABU, SAPO prosecutors, and HACC judges. It was the first digitization effort of its kind in the Ukrainian criminal justice system. It saves time and material resources. To date, the system contains approximately 1,500 criminal proceedings.

The Memex system, discussed above, allows detectives to research data, enter new data, and track analytical requests. Analysts piloted the system first in 2020. In 2024, NABU received a donation of laptops for detectives to securely access the Memex system.

The Information Broker is a self-service tool that allows detectives to conduct searches of state registers and databases.

In 2024, the NABU created a strategic plan for the development of information technologies and digitization. Among other things, this plan calls on the NABU to implement a task and project management system and to implement a single unified data management system. The existence of such a plan is encouraging, but due to its recency we were unable to evaluate any implementation.

Gaps in practice. While a data collection and analytics system is essential for an anti-corruption agency, reviews among staff regarding the Memex system are mixed. Some detectives expressed to us a concern that Memex is an overall outdated platform and lacks artificial intelligence functionality. Some expressed concern over entering sensitive information which will limit its usefulness. System use is encouraged by management and the number of active users and records in the system are increasing.

Detectives' opinions on the eCase management system are generally positive, with some urging further development of the system. Greater implementation of the eCase system is constrained by fragmented digitization efforts in the Ukrainian criminal justice system. The Prosecutor General's Office and National Police, for example, use a different system. And while the eCase system is currently integrated with the D3 system used by the judiciary, changes in either system may affect future integration. While the eCase system overall saves time and material resources, current eCase practices require some duplication of tasks. Additionally, the eCase system is currently only used for 3 of 15 motions at HACC. The NABU provided some data to support the economic benefit of the eCase system, but officials acknowledged that some publicly reported data on its benefits may not be accurate. For example, NABU publicly reported that eCase saves 200 work hours per year but NABU officials could not explain how this figure was calculated.

In the 2024 NABU employee survey, more than 80% of NABU employees agreed in whole or part that they are fully equipped with the technical means to do their job.

Financial Resources

We evaluated the extent to which ***"NABU budgets for and allocates available technical and material resources according to identified priorities."*** **(5.6.7)**

In addition to its investigative priorities, the NABU has identified various organizational priorities including the need for acquiring other facilities and technology tools. Historically, salaries and related expenses make up a significant percentage of the NABU's budget (approximately 67% in 2024), with the balance for goods and services and capital expenditures.

In response to the 2023 Technical Assessment, the NABU agreed to some specific budget related actions including identifying its computer forensic equipment and other material needs.

Laws and procedures. The NABU is funded from the State Budget of Ukraine, although the NABU Law permits it to use additional funding obtained through international technical assistance projects. The NABU maintains that this additional funding is only in the form of non-financial in-kind material assistance. The NABU is ultimately dependent on the Cabinet of Ministers, particularly the Ministry of Finance, and the Verkhovna Rada, to ensure it has the necessary material means, technical devices, equipment, and other assets to enable it to perform its functions.

The NABU is responsible for internal procedures and practices to ensure that priority budget needs are identified and presented to funding parties and that funding is allocated based on need. The NABU is required to publish its budget information in the semiannual activity reports, and the POC publishes the budget information in its public reports.

In practice. The NABU has control mechanisms in place to help ensure the heads of structural units can advocate for resources in the state budget. This occurs during the formation of the request for the state budget process.

The NABU's approved 2023 budget for current expenses and capital expenditures was UAH 1,262 million (roughly USD 35 million and EUR 32 million). Its approved 2024 budget for current expenses and capital expenditures was UAH 1,875 million (roughly USD 47 million and EUR 43 million). The NABU's budget increased in 2024 in part to fund new positions and capital

construction. The NABU effectively executed its budget within reasonable tolerance in 2024, slightly underspending its approved budget (92% overall fulfillment). This budget variance was due in part to the unpredictable timing of onboarding new employees.

For the years 2023 and 2024, the NABU's approved budgets were less than its actual needs. The NABU reported that material needs still unfunded include: computer software and hardware, tactical equipment, and capital repairs and reconstruction of buildings in Kyiv and territorial offices of the NABU in Lviv and Kharkiv.

The NABU relied upon assistance from international donors to meet some of its technology and other material needs. In terms of tangible assets or material assistance provided by international donors, this included: maintenance, support and upgrades for the eCase system, computers and laptops, forensic software licenses and digital evidence storage for the Digital Forensic Laboratory, video conferencing equipment, 3D printing equipment for Special Operations Department, vehicles and protective equipment. During the period March 6, 2023 to November 18, 2024, the NABU reported receipt of donor assistance totaling UAH 99 million (roughly USD 2.5 million USD and EUR 2.4 million). This assistance was provided by the US, EU, and UK.

We note that the value of donor assistance provided by the NABU is lower than the information we received from international donors. While the NABU reported receiving material international assistance of roughly USD 2.5 million, the total figure is over double that. International donors provide the NABU with more than tangible assets. This assistance included foreign trips, training, and consulting or advisory services. The NABU reports based on the current legislation, but the value of this assistance is not otherwise tracked or publicly reported by the NABU. In its activity report for the first half of 2024, the NABU reported on employee training events sponsored by a donor. The NABU discontinued this practice in its second half 2024 activity report.

International donor funds are limited, and the NABU's process for annually identifying its material needs outside of the state budget is not clearly linked to identified priorities.

We note, as reflected in criteria 5.4.7, that the NABU lacks sufficient interview rooms, agency issued cell phones or mobile device management software, and other material needs that would enhance performance and reduce risk.

Human Capital Management Practices

We evaluated the extent to which ***"NABU's leadership and human capital management practices support a high-performing and motivated workforce."*** **(5.6.8)**

NABU's 2021–2023 Strategy reflected the Bureau's general desire to enhance the professional and technical skills of its employees. The 2023 Technical Assessment noted that the NABU has traditionally had a highly motivated staff; however, the intensity of the work, inefficient processes, and the stress of war test NABU employee's resolve and may affect morale if no action is taken.

NABU activities. NABU leadership has undertaken a number of human capital management activities to maintain or improve employee morale and performance. For example, the organization has benefited from donor-funded consulting services from an international consulting firm to develop a comprehensive human resources strategy. This project resulted in the development of a number of actionable recommendations that have been implemented by the NABU. These include

the identification and tracking of key human resource metrics, strengthening communications, and improving training opportunities for all employees. Some activities have included social activities like sports tournaments and intellectual games. While it may be difficult to measure the impact of these activities on performance, they can be generally viewed as activities which build comradery in an organization.

Other activities included the following. The NABU revised its Basic Professional Knowledge initial training for new detectives and maintains a mentoring program for new employees. For civil service employees, there has been an increased emphasis on training. The NABU underwent a gender audit to identify gaps and opportunities to enhance gender equity in the Bureau. In 2023, with the assistance from an international donor, the NABU obtained the services of a psychologist-consultant to provide individual counseling at the NABU premises and through online video conference. Finally, NABU leadership conducts an annual survey to obtain anonymous feedback from employees on a number of topics including employee motivation.

Employee perceptions. NABU's investigative performance is discussed in Dimension 1. Employee motivation can be inferred from various questions in the 2024 employee survey. For example, over 85% of NABU employees said they enjoy their work, and less than 5% responded that they plan to change jobs in the near future. When asked if they would recommend NABU to a friend as a potential place of employment, on a scale of 1 to 10, the median answer was 9.

Regarding the detective performance evaluation system, detectives have a general favorable opinion. Detectives were asked to rate on a 1–5 scale (1 – not at all, 5 – very much) whether the evaluation system was a motivating force. Approximately 69% rated the system as 3 or higher. Approximately 79% of detectives agreed in whole or part that the evaluation system supports the NABU's mission.

In general, NABU employees were asked to what extent does the system of motivation and incentives at the NABU match their perceptions and expectations. Approximately 70% agreed in whole or part that the system of motivation and incentives match expectations, while approximately 25% responded that they were disappointed or expected more.

Gaps in practice. While the detective performance evaluation system is a positive development, questions remain whether the system appropriately incentivizes complex, long-term investigations or collaboration across MDUs. There is no comparable evaluation system for ICU detectives and non-detective staff in other units.

RECOMMENDATIONS

To improve its effectiveness in Leadership, Strategy, and Resource Management, the Commission recommends the NABU:

3.1.1. Formally designate to the appropriate structural unit the responsibility for the implementation and monitoring of the NABU strategic plan.

3.1.2. Develop, publish, and implement a comprehensive and specific strategic plan that contains goals, objectives, and measurable performance metrics. **(KEY RECOMMENDATION)**

3.1.3. Implement and maintain a unified project management system to coordinate and continuously monitor NABU's programs and activities to ensure the Bureau is achieving its operational, reporting, and compliance objectives.

3.1.4. Develop a Bureau-wide strategic workforce plan, with timelines and metrics, that aligns the NABU's human capital program with mission goals and includes long-term strategies for acquiring, developing, and retaining staff to achieve goals and objectives. **(KEY RECOMMENDATION)**

3.1.5. Conduct an objective assessment of the Information Security Unit's functions to determine whether its reporting structure and duties are properly aligned.

3.1.6. Conduct an assessment to determine whether it is in the best interest of the NABU for additional management positions to be subject to competition or subject to rotation or limited in time, and if so, initiate action to effect this change.

3.1.7. Review, and revise as necessary, procedures on identifying material needs linked to identified priorities for the state budget and international assistance funding.

4. INTERAGENCY COORDINATION

Dimension No. 4 Characteristics of Effectiveness

NABU should demonstrate a well-coordinated, functional, and streamlined collaboration process with all key domestic partner agencies. This cooperation is an important driver of NABU's operational success. NABU should leverage the capabilities, expertise, and resources of partner agencies in a manner that enables it to efficiently investigate and prosecute corruption cases.

Summary

The Commission concludes that NABU has been **moderately effective** in the performance of activities relating to interagency coordination during the evaluation period.

This conclusion is based upon the Commission's analysis of the totality of the evidence under this dimension, including the qualitative and quantitative nature of the evidence. None of the criteria prevail over others, nor be interpreted independently from the others or relevant context.

The NABU has defined few, if any, specific expected goals, outcomes, or outputs by which the NABU or an outside party can measure its success in this dimension. The NABU has achieved general desirable objectives to some extent, and the Bureau has in place control mechanisms to mitigate some of its major risks.

While the NABU typically has formal cooperation agreements in place with many of its key partners, these agreements seldom articulate clear joint objectives or measurable outputs, and seldom contain effective mechanisms for the resolution of disputes. NABU leadership does not consistently monitor compliance with these agreements and seldom reviews and updates its cooperation framework to incorporate lessons learned.

Formal Interagency Agreements

We evaluated the extent to which ***"NABU has in place formal interagency cooperation agreements (MOUs), protocols, or regulations with key partners that are aligned with NABU's mission and contain mechanisms for the resolution of disputes; NABU leadership consistently monitors compliance with these MOUs, protocols, or regulations and periodically reviews and updates its cooperation framework to incorporate lessons learned."*** **(5.7.1)**

According to the UNDP Practitioners Guide: Capacity Assessment of Anti-Corruption Agencies (ACAs), in tackling corruption it is important for an ACA to understand where other institutions

support and contribute to its work and where they hamper its effectiveness. Ideally, the legal framework should establish a coherent institutional framework with effective coordination mechanisms in place that foster inter-institutional collaboration. However, more typically, challenges with overlapping mandates or lack of authority tend to result in institutional rivalries and poor coordination.

The NABU Law imposes an obligation on the NABU to cooperate with other state authorities, local self-government bodies and other entities to fulfil its duties. It empowers the NABU director to represent the Bureau in relations with other state authorities and law enforcement agencies.

Both the 2023 Technical Assessment and NABU's 2021–2023 Strategy contain a number of recommendations and activities related to improving coordination with relevant agencies, including a strategic objective to "enhance cooperation and information exchange with other anti-corruption infrastructure bodies for analytical work, investigations, and joint operations."

NABU's formal interaction with SAPO. The NABU and SAPO signed an MoU in 2017. Despite undertaking to update the agreement to reflect the new realities and improve its provisions, the NABU reported that in 2024 a draft updated MoU had been developed which has yet to be adopted.

Key provisions of the 2017 MoU are not being complied with. No working group was created to monitor compliance with the terms of the MoU, and while regular meetings are held between NABU and SAPO, they are not minuted. While the MoU has extensive requirements for the production of written and signed investigation plans, the parties confirm that plans are typically concluded orally. Similarly, the MoU provides for strict timeframes for the exchange of draft motions, notices of suspicion and indictments, however compliance is not monitored or evaluated.

Despite the absence of the updated MoU, the health of the current relationship between the NABU and SAPO is apparent in a number of key indicators of effectiveness which all show a steady improvement in the evaluation period, including: the number of cases, number of notices of suspicion issued to suspects, indictments sent to court, convictions, and assets seized.

After a tumultuous period prior to the appointment of the current head of SAPO, there is now alignment at leadership level of NABU and SAPO on important issues, such as the need to implement NABU's prioritization policy, how to defend NABU's exclusive jurisdiction to investigate high level corruption cases, and other more routine activities. Given the importance of the NABU-SAPO relationship, we urge the parties to update the current MOU and to systematically regulate coordination activities rather than relying on ad hoc coordination or placing too much reliance on good interpersonal relationships.

NABU's formal interaction with pre-trial investigation bodies. The NABU Law envisages that NABU cooperates with internal affairs authorities, the SBU, and other law enforcement agencies, such as the National Police Force, and SBI, through the exchange of operative information, and conducting joint activities.

NABU has formal agreements in place with the SBU, SBI, and the National Police dating back to its establishment. None of these agreements appear to be living documents that guide in practice a constructive and productive working relationship. There is little data on how the NABU assesses the strength or effectiveness of its relationships with these key partners.

No data is collected or maintained that can be used to evaluate incidents of the positive exchange of operative information between the NABU and other pre-trial investigation bodies. No data is kept on the number of joint operations that have yielded positive outcomes in the fight against corruption in Ukraine.

NABU faces significant challenges with interference in cases that fall within its exclusive jurisdiction. While these cases are discussed in more detail under 5.7.4, we note here that addressing jurisdiction disputes could benefit from improved dispute resolution mechanisms in an MoU.

NABU's formal interaction with the NACP. The NACP is responsible for verification of asset declarations of public officials in Ukraine. When it identifies evidence of a criminal offense, involving public officials holding high-level positions, it refers the case to the NABU. The procedure for doing so is regulated by a 2017 Memorandum of Cooperation and Information Exchange between the NABU and the NACP.

While NABU and NACP communicate effectively on cases referred to NABU by NACP, the number of convictions and sanctions arising from these cases are disappointingly low and the two agencies could more effectively coordinate their activities to achieve better outcomes.

In response to the 2023 Technical Assessment, the NABU agreed to provide information on identified corruption schemes and possible causes and conditions for corruption-related criminal offenses to the NACP. In November 2024, the NABU director approved new procedures for identifying the causes and conditions that contribute to the commission of criminal offenses under the jurisdiction of the NABU. Given the recency of this order, we were unable to evaluate its effectiveness.

The NABU and the NACP appear to be in dispute about the approach to monitoring asset declarations of NABU covert personnel. There is an exception from a general rule of online submission of declarations applied to the staff of intelligence agencies and officials working in classified positions. Their declarations must be submitted in a way that prevents the disclosure of their affiliation with the relevant state bodies or military formations.

To help build trust in the system of submission of asset declarations by intelligence operatives, a 2024 OECD Review of Ukrainian anti-corruption institutions recommended that the NACP proactively share with the public selected unclassified information (e.g., statistical data) on its efforts of verifying declarations submitted by this special category and identify any attempts to misuse the special system.

In a meeting with the Commission, the NACP leadership highlighted a disagreement between the NACP and the NABU on the issue of the monitoring asset declarations of NABU covert staff. The NACP has submitted for approval to the NABU a draft order which NABU declined to approve. The NABU submitted a counter-proposal, effectively postponing a resolution of this issue to after the end of martial law. The NABU has not received a response from the NACP with the proposed amendments to the draft order and this issue remains unresolved.

NABU's formal interaction with ARMA. In response to the 2023 Technical Assessment, NABU agreed to use ARMA resources for asset identification and tracing; work together to plan for the seizure and management of assets, systematically analyze the practice of joint work with other

Ukrainian institutions involved in the asset recovery process (ARMA, FIU, etc.); and to achieve effective and efficient cooperation in the field of asset recovery.

A Memorandum of Cooperation and Information Exchange has been in force between the NABU and ARMA since 2017. In ARMA's view, this memorandum does not fully address the issue of transferring assets to ARMA for management. In 2023, ARMA submitted a proposal to the NABU to conclude a new agreement on cooperation and information exchange between the agencies. According to ARMA, it developed a new draft memorandum aimed at addressing risks related to the management of assets, coordination of joint actions and exchange of practical experience, as well as regulating the issue of "planning the transfer of seized assets." According to ARMA, the NABU has refused to address the issue.

ARMA reported that it has sent a number of draft laws and orders necessary for the implementation of Ukraine's Asset Recovery Strategy. NABU reported that it plays an active role in providing suggestions and comments on draft laws (regulations) prepared by the ARMA. According to ARMA, however, all of its drafts were returned by NABU to ARMA for revision and that NABU's position is that it does not support certain changes envisaged by the Asset Recovery Strategy.

The NABU reported to the Commission that in October and November 2024, it held two working meetings with ARMA, during which agreements were reached to establish certain elements of cooperation and interaction. No formal minutes of decision taken at the meetings were recorded.

The NABU reported that ARMA responses to Bureau requests for assistance with asset identification and tracing typically do not contain any significant information not already known to NABU through existing domestic registers.

NABU's formal interaction with SFMS. The 2023 Technical Assessment recommended that NABU set up a joint task force of the NABU and the State Financial Monitoring Service (SFMS) 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.

Cooperation between NABU and the SFMS are subject to a 2015 interagency and information cooperation agreement, relevant procedures, and a Joint Order of the NABU and the Ministry of Finance of Ukraine.

The interaction between the two state bodies takes place through letters sent by the NABU to the SFMS with requests to investigate certain financial transactions that are being investigated within the NABU. In some cases, the SFMS proactively provides information on suspicious financial transactions related to money laundering or on assets linked to corruption-related criminal offenses within the NABU's jurisdiction.

The NABU does not report on the number of requests sent to the SFMS or the number of reports received from the SFMS that have resulted in cases sent to court on money laundering or corruption-related charges. However NABU reported to us that they do a semiannual reconciliation with the SFMS regarding processing of summarized materials.

In March 2024, a working meeting was held between representatives of the NABU and the SFMS, which resulted in an agreement to create a joint working group consisting of representatives from the two institutions to review the existing format of cooperation to find ways to improve it by developing a plan of necessary measures and to take measures aimed at ensuring more effective

cooperation, in particular, using the best practices of information exchange and applying all available tools of interaction.

In August 2024, the SFMS requested that NABU identify five employees to participate in a joint working group with the SFMS to develop measures to ensure more effective cooperation. As of December 2024, the working group had not met, and the implementation of this recommendation remains in progress.

NABU's formal interaction with other regulatory bodies. Under the NABU Law, the NABU may cooperate with other state authorities. The NABU can sign agreements on cooperation and exchange of information in some instances.

The NABU has in place agreements with several regulatory bodies and it has in place internal procedures to process third parties' reports of potential criminal offenses in a manner that ensures that all matters are reviewed and disposed of in compliance with the law.

Gaps in practice. Under the NABU Law, the NABU director is required to report bi-annually on activities that deal with cooperation with other state authorities, local self-government bodies, enterprises, institutions, and organizations. In the evaluation period, the NABU reported only on the quantity of draft laws and by-laws analyzed by NABU lawyers.

NABU does not have in place formal mechanisms to strategically and periodically review interagency coordination, does not set goals for improving the effectiveness of its collaboration, and does not assign responsibility within the organisation for collecting data to monitor the effectiveness or general health of the relationship.

The NABU typically does not report publicly on the number of reports on criminal conduct received from regulatory bodies nor does it report on the outcome of such case referrals.

NABU did not provide any examples of successful dispute resolution practices with any of its key partners.

Information Sharing

We evaluated the extent to which ***"NABU has access to and effectively uses data from government registers and databases and from private sector entities like banks, notaries, and insurers to investigate high-level corruption."*** **(5.7.2)**

The NABU Law gives the Bureau the right to direct access to automated information and reference systems, registers and data banks, which are administered by state authorities or local self-government authorities, using state, including governmental communications, special communication networks and other technical means.

The 2023 Technical Assessment found that the NABU does not have stable and effective access to all databases and registers held by state authorities and required for NABU's activity. In its action plan, the NABU undertook to clarify in the NABU Law on what it means to have "direct, including automated, access" to databases and registers, in particular, to expressly provide that it includes simultaneous access to the entire array of machine-readable data in such registers and databases.

NABU activities. Analysts assist detectives when they need access to information held on state databases. Analysts gather feedback on database access requirements and difficulties experienced and identify problems and escalate them for resolution. Detectives drive communication with external agencies and are responsible for making requests for data and support, ensuring that their specific case-related needs are met. Regular workflow reviews help the NABU address access issues and allocate resources effectively. The Criminal Analysis and Financial Investigations Department maintains a detailed list of government agencies, associated registers, and specifies accessibility via Web, Data Warehouse, or Information Broker. An up-to-date list is available on the helpdesk user support system page through a live link.

NABU employees have online access to some state registers. For example, NABU employees can remotely access the NACP's registry of asset declaration data through an API and in a machine-readable format. The NABU has cooperation agreements with the State Tax Service of Ukraine and State Customs Service of Ukraine, and direct access to tax and customs information through the relevant registers and databases.

Interactions between the NABU and other government agencies occur through written requests. For example, the NABU currently sends the SFMS requests to investigate certain financial transactions. The SFMS is in the process of implementing an electronic information exchange. Similarly, the NABU interacts with ARMA through exchange of written requests. ARMA has proposed an electronic information exchange with its key partners.

Gaps in practice. While Ukrainian law grants the NABU direct and automated access to certain databases, in practice NABU faces difficulties in securing comprehensive access to key registries. Some registries are only partially accessible, requiring negotiations or clarifications to expand access. In some cases, access to certain data is withheld due to it being considered proprietary.

Infrastructure updates by data custodians, such as the State Customs Service's transition to more advanced software, can lead to disruptions in the NABU's access, providing outdated data or causing complete access loss. The State Customs Service switched to a new automated system of customs clearance at checkpoints in July 2024, and since the upgrade NABU employees have access only to the old system with no new data.

The NABU often learns about these disruptions through third parties rather than direct notifications from the relevant authorities. To mitigate these challenges, the NABU sends formal requests to these authorities to restore or expand access, though this process can be time-consuming and complicated.

The NABU reported experiencing difficulties with access to the NACP Register of Declarations, such as, periodic significant changes to the structure of the open API. There appears to be no agreement on providing the NABU with full information on declarations for download.

In money laundering cases, NABU solicits the SFMS for data about bank accounts of the individuals. The SFMS can send such requests in an automated manner and receive a response in a short time. However, this data cannot be used as evidence in court, and NABU has to follow up directly requesting the relevant information.

The NABU continues to face challenges in accessing certain types of information held by private sector entities. NABU can request information from banks without a court order by means of a detailed procedure defined in Regulations of the National Bank of Ukraine. The National Bank

introduced amendments to the regulations enabling the NABU to access information about counterparties (i.e., the recipient's name and account number).

The National Bank also defined a set of information to be provided to the NABU and engaged with banks to resolve the issues with providing the NABU access to required records. However, there are still challenges in practice as some banks refuse to provide information, provide it with long delays, provide incomplete information or in a format not suitable for analysis, causing delays in investigations.

The 2024 OECD Review of Anti-Corruption Reforms in Ukraine, which assessed Ukraine's anti-corruption reforms, found that NABU access to bank data remains challenging in practice. The lack of a unified registry of bank accounts of natural persons makes the identification of bank accounts and institutions maintaining them difficult. As a result, the NABU must send requests to all the banks. Of 67 banks, 5 reject NABU's requests on a regular basis. The NABU recently appealed to the National Bank seeking written explanation on how banks should act in response to these information requests. There are also ongoing discussions about legislative amendments that would allow detectives to impose stricter deadlines for banks to release relevant data.

Exposure of Case-Related Information

We evaluated the extent to which ***"NABU mitigates the risks of exposing case-related information during inter-agency collaboration activities."*** **(5.7.3)**

As noted in the Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies (UNODC 2020), most anti-corruption agencies are legally bound to keep the details of ongoing investigations confidential, although they may be empowered to share information with other law enforcement agencies. ACAs must also carefully manage partnerships with other agencies and non-governmental institutions to avoid potential conflicts of interest. The more extensively their information is shared, the more care ACAs will need to take, guided by specific information-sharing rules and protocols to avoid confidentiality and privacy breaches (Colombo Commentary).

In its 2021–2023 Strategy, NABU identified the goal of ensuring proper control over the process of providing access to information and information systems of the Bureau.

NABU's activities. In an August 2024 order, the NABU director approved guidelines for counteracting the risks of leakage or disclosure of information. These guidelines provide detectives with recommendations aimed at minimizing the risks of information leakage or disclosure, in the course of interagency cooperation with representatives of other pre-trial investigation agencies and operational units.

The guidelines encourage detectives to weigh up the benefits and risks of involvement of other agencies in their work. Additional caution is advised when the investigation involves particularly high level or influential subjects. Additional recommendations require detectives to maintain records of specific contact persons information is shared with, minimize operational information sharing to a 'need to know' basis only and using only secure communication channels to share information.

During interagency cooperation with representatives of other pre-trial investigation agencies and operational units, detectives and other employees of the NABU are instructed to act in a manner adapted to the circumstances and situations, as well as guided by the best interests of the Bureau.

Covert search of public databases to maintain the confidentiality of the NABU's interest in the subject. Multiple government registers and databases are accessed for investigation purposes. A mandatory requirement for access to information resources is the requirement to identify system users using authorization data (e.g., QES). This access mode allows for full identification of the employee who searches and accesses such information. To mitigate the risk of premature disclosure of NABU's involvement in a case, NABU adopted a policy that guides its employees on searching state registers and databases while concealing their actions, ensuring maximum confidentiality in pre-trial investigations.

Authority and Jurisdictional Disputes

We evaluated the extent to which ***"NABU protects its exclusive authority to conduct pre-trial investigation of high-level corruption from improper interference from other pre-trial investigative authorities; NABU makes good-faith efforts to resolve jurisdictional disputes between NABU and other pre-trial investigative authorities prior to interventions on the part of the Prosecutor General."*** **(5.7.4)**

The aim of the NABU Law is to ensure the autonomy of NABU investigations and prevent interference from other pre-trial investigative bodies and the prosecutor's office. It does so by delineating the NABU's exclusive jurisdiction over corruption cases in Article 216 of the CPC. Prosecutors, including the Prosecutor General, may not transfer NABU's proceedings to any other investigative agency under any condition. The NABU, upon agreement of the SAPO prosecutor, can take over any proceedings to investigate crimes within its jurisdiction.

Procedures regarding jurisdictional disputes. Under the NABU Law, in order to verify the the facts of a violation of the rules of jurisdiction and resolve any dispute, the NABU director may request operational and investigative cases and criminal proceedings related to criminal offenses under the NABU's jurisdiction from other law enforcement agencies. Upon receipt and review of the materials, the SAPO may initiate a request to change jurisdiction to the NABU. Pursuant to the CPC, a dispute over a case that may fall under the NABU's jurisdiction is resolved by the Prosecutor General or the Deputy Prosecutor General - Head of the SAPO (person performing his/her duties).

NABU's practices to protect its jurisdiction. During the evaluation period, there were no jurisdictional disputes within the meaning of the CPC. There were no cases of SAPO prosecutors entrusting other pre-trial investigation bodies with criminal proceedings under the NABU's jurisdiction.

When the NABU became aware of interference in cases within its exclusive jurisdiction, it took steps to request the transfer of investigative materials to it. However, as discussed below, the NABU is limited in fully defending its jurisdiction due to shortcomings in the law.

Gaps in practice. The NABU provided examples of cases where it had requested another pre-trial investigative body to transfer case materials, where, to avoid complying with the request, the pre-trial investigation materials were sent to the PGO. In one case, the investigative materials were only

provided to the NABU after the SAPO head determined that the Bureau had jurisdiction. This case took two years to resolve.

The NABU provided examples of other pre-trial investigation agencies duplicating registration of criminal cases under NABU's jurisdiction ("clones"). These duplicates make it difficult for NABU to conduct a full, comprehensive and impartial investigation. NABU provided other examples of its efforts to compel other pre-trial investigative bodies to transfer evidence, which were resisted under various pretexts.

There are no clear rules in the CPC for transferring proceedings from one investigative authority to another and for NABU to take over proceedings. There is also no administrative or disciplinary liability under the law for the PGO, the SBI or other pre-trial investigations bodies for violations of investigative jurisdiction or not complying with decisions taken by NABU and SAPO or other prosecutors on the transfer of proceedings. The shortcomings in the law result in NABU investigations which are delayed and evidence collected which could be ruled inadmissible during trial.

RECOMMENDATIONS

To improve its effectiveness in Interagency Coordination, the Commission recommends the NABU:

4.1.1. Review, and update as warranted, formal existing interagency cooperation agreements to ensure the existence of clear joint objectives and measurable outputs that ensure more strategic alignment to achieve common objectives.

4.1.2. Implement procedures to ensure the monitoring and periodic review of interagency cooperation agreements, including improved monitoring of interagency coordination at leadership level and improved reporting on interagency coordination to stakeholders and to strengthen dispute resolution mechanisms to better address jurisdictional disputes and other operational disputes, and to incorporate lessons learned.

For the Consideration of the Verkhovna Rada of Ukraine

4.2.1. To address encroachments on the NABU's jurisdiction, consider amendments to the CPC establishing (1) clear rules, including timeframes, for transferring proceedings from one investigative authority to another and for NABU to take over proceedings, and (2) administrative or disciplinary liability for the PGO, the SBI and other pre-trial investigation bodies for violations of investigative jurisdiction or not complying with decisions taken by NABU and SAPO or other prosecutors on the transfer of proceedings.

5. INTERNATIONAL COOPERATION

Dimension No. 5 Characteristics of Effectiveness

NABU should seek international cooperation to secure evidence, pursue criminals and their illicit assets through informal and formal means and provide international cooperation when requested by others.

Summary

The Commission concludes that NABU has been **substantially effective** in the performance of activities relating to international coordination during the evaluation period in that in general it has achieved desirable objectives to a large extent. Control mechanisms (prevention, detection, and correction) to mitigate most major risks are operating effectively. While there is room for NABU to more proactively assess its cross-border corruption threats and risks and on the basis of this assessment, identify and approach the competent authorities in these countries to strengthen collaboration in addressing the threat, as well as to actively manage the outcomes of international cooperation to secure better results for Ukraine, NABU is on track to reach a high level of effectiveness.

This conclusion is based upon the Commission's analysis of the totality of the evidence under this dimension, including the qualitative and quantitative nature of the evidence. None of the criteria prevail over others, nor be interpreted independently from the others or relevant context.

Requests for International Assistance

We evaluated the extent to which ***"NABU has internal procedures and practices in place to ensure international requests for assistance meet the legal, formal, and quality standards to ensure their efficient and effective execution."*** **(5.8.1)**

The UNDP Capacity Assessment Guide (2011) specifies that ACAs should have robust internal procedures and practices to ensure international requests for assistance meet legal, formal, and quality standards for efficient and effective execution. The Jakarta Statement on Principles for Anti-Corruption Agencies (2012) also points to the necessity for ACAs to foster good working relations with international counterparts, facilitating effective international cooperation.

An expert assessment of the NABU conducted in 2018 recommended that the Legal Department of NABU be divided into two separate departments: the International Legal Department (ILD) and the Legal Support and Litigation Department, with the former assuming responsibility for international cooperation in criminal proceedings during pre-trial investigation of criminal offenses under NABU's jurisdiction. In addition, it was recommended that two additional posts be created, at least one employee responsible for analytical work and accumulating knowledge on best practices

and that criteria for the effectiveness of the work of the department and its employees be developed, taking into account NABU's development strategy. The 2023 Technical Assessment found that the expert recommendations concerning the optimization of NABU's Legal Department from the 2018 assessment remain relevant and should be implemented.

In its 2021–2023 Strategy, NABU undertook to foster and expand international cooperation by concluding agreements or memoranda of understanding and by collecting, processing, analyzing, and updating information in the form of analytical materials, reports, and briefs about anti-corruption and law enforcement agencies of foreign states.

International Legal Department. In July 2024, NABU established the International Legal Department (ILD) as a separate structural component within NABU. Although the staff complement initially remained the same (i.e., a head, deputy, three legal advisors and two interpreters), the creation of two additional posts has been approved: one additional legal advisor and one more interpreter, which will bring the total staff complement up to 9 members.

The ILD is responsible for, among others, handling outgoing requests for MLA and the execution of incoming requests from foreign states and for police cooperation; developing proposals for legislative improvements regarding NABU's international cooperation in criminal proceedings, preparing interagency agreements; and interacting with the PGO, the Ministry of Justice, and other central executive bodies, courts, and law enforcement agencies on international cooperation issues.

NABU procedures and practices. We independently reviewed the NABU's procedures and practices for seeking MLA in criminal matters. While the CPC and relevant international treaties set out in some detail the procedures and time-frames within which assistance must be requested, the NABU also has in place internal procedures that supplement the formal legal procedures prescribed in the law, such as additional procedures for processing documents or the procedure for accessing additional instruments for securing informal cooperation. The internal procedures, and subsequent amendments and updates, are approved by the NABU director and communicated to the NABU employees in the prescribed manner.

The ILD reviews all requests for MLA to ensure their validity and compliance with Ukrainian laws, international agreements and with the NABU's internal procedures, before onward transmission through authorized channels. The ILD encourages the use of modern instruments of international cooperation in criminal proceedings such as conducting interrogations via video-conference, initiating and participating in joint investigation teams and holding coordination meetings at Eurojust.

The NABU has created an electronic log of incoming and outgoing requests for MLA based on the ASKOD electronic document management system. Information on each request is entered by an employee of the ILD and is stored in the existing electronic journal templates. Using the system, the ILD can analyze the status of requests by country, assess the average timeframe for execution of requests, filter requests by the type of assistance requested, the crime under investigation, and generate management statistics and report on incoming/outgoing requests for NABU leadership.

The high level of success in the execution of NABU's MLA requests, discussed below under criteria 5.8.4, bears testimony to the effectiveness of the NABU's internal procedures and practices in place to ensure the execution of international requests for assistance. During the evaluation period, the

ILD facilitated a joint meeting between NABU detectives and their international counterparts to address common challenges faced with the execution of a number of requests to that country. This kind of intervention demonstrates the ILD's willingness to proactively solve problems in the area of international cooperation.

Training and advisory services. In 2017, the NABU and the Basel Institute on Governance in Switzerland signed an Agreement on the provision of advisory services. Since then, the Institute's experts have been systematically engaged to provide expert assistance in the preparation of MLA requests to foreign jurisdictions in the most complex criminal proceedings. Also since 2017, a representative of the ILD has been a contact person of the European Judicial Network (EJN) and regularly participates in its annual plenary sessions and other forms of the network's work, which provides an additional opportunity to have knowledge of the latest trends and problematic issues arising in the field of international cooperation in criminal proceedings, to establish the necessary contacts with representatives of various foreign jurisdictions.

In 2022, in cooperation with the EUACI in Ukraine, the application "Recommendations on International Cooperation in Criminal Proceedings" was created. The ILD systematically updates this resource with guidelines and recommendations on various issues of international cooperation in criminal proceedings. The resource contains guidelines on the specific aspects of cooperation with foreign jurisdictions, samples of basic procedural documents, guidelines for resolving common problem issues that arise in the course of NABU's international cooperation (for example, an ICAR report on arrest and confiscation, a Eurojust opinion on the "ne bis in idem" principle, recommendations of the Interpol General Secretariat on the quality of the presentation of facts in alerts and requests, etc.). In the period under review the application was supplemented with three new materials.

NABU has a mandatory training program for detectives that includes international cooperation training. Two employees of the ILD are internal trainers for detectives on international cooperation in criminal proceedings. During the assessment period, an employee of the ILD conducted 4 training sessions (1.5 hours each) for the NABU's detectives. The presentation materials used by the trainer were shared with the Commission.

During the evaluation period, an expert from the Basel Institute on Governance conducted a series of practical training on searching for information in open sources. Over the course of 12 working days (lasting 3 hours) more than 100 NABU detectives and analysts benefited from training in this category.

NABU detectives interviewed spoke favorably of the support and training received from the ILD staff, and counterparts in the Ministry of Justice spoke favourably of the ILD staff's diligence in engaging on matters within their competence.

Gaps in practice. The head of the ILD in an interview acknowledged the challenges with Ukraine's asset recovery efforts in NABU cases abroad. Despite the high number of executed seizure orders, the length of time between seizure and confiscation is a challenge, some being in force for almost 10 years. The complete absence of confiscation orders enforced abroad needs to be addressed. The ILD needs to do more to advocate among detectives the importance of linking property to crimes in their investigations, as discussed in more detail under criteria 5.4.6. We assess that more can be done internally to address the underlying reasons for such low levels of execution of confiscation orders abroad but recognize that it is an area that could also benefit from law reform.

Responding to Requests for International Assistance

We evaluated the extent to which ***"NABU processes and responds to requests for Mutual Legal Assistance in a timely manner and in accordance with the requirements of the relevant governing instruments."*** **(5.8.2)**

The procedure and standards to be applied in the execution of MLA from foreign competent authorities are regulated in the CPC. The law dictates that such requests be executed within one month from the date of receipt by the direct executor. The deadline may be extended by the NABU if it is necessary to perform complex and large-scale procedural actions, including those that require the approval of the prosecutor or can be performed only on the basis of a decision of the investigating judge.

NABU procedures and practices. To ensure timely execution of received MLA requests, the NABU has in place standard procedures that it implements. Once a MLA request is received from a foreign competent authority, it is transferred to the ILD for priority processing. The Head of the ILD assigns one of the staff members of the ILD to process the MLA request, who then prepares a draft memorandum to the first deputy director, identifying the structural units that should be involved in its execution and draws attention to the need to fulfil the MLA request expeditiously. The employee enters the request into the electronic log of MLA requests in the ASKOD system and monitors the timeliness of its execution by detectives, provides advice on issues related to the execution of the MLA request, extends the timeframe for the execution of the MLA request in case of receipt of substantiated written requests from detectives, and sends the execution materials to the requesting party after they are received from the relevant detective unit.

Since its inception and up until November 2024, the NABU reports that it received a total of 178 MLA requests from foreign jurisdictions and fulfilled 168 of them. During the evaluation period, the NABU received 55 MLA requests for execution and fulfilled 50 requests for MLA from foreign competent authorities.

The fulfilment of each MLA request of a foreign competent authority is monitored by both the ILD and the relevant detective unit. According to NABU, the average time for the execution of MLA requests received by it for execution is 1-2 months from the date of receipt by the direct executor; bar the exceptional circumstances provided for in the law.

Gaps in practice. The armed invasion by the Russian Federation in Ukraine and the temporarily occupied territories of Ukraine presented the main challenge with executing MLA requests, especially in cases that required procedural actions to be conducted in the temporarily occupied territory of Ukraine or the territory where active hostilities are taking place. Equally, requests to assist with the identification and interrogation of persons as witnesses or suspects, typically take a long time to fulfil, as many people have left their permanent place of residence/registration not only to other countries, but also to other territories within Ukraine where there is less shelling or better electricity. It therefore takes detectives more time to establish the location of such persons, and in addition, due to constant shelling, persons do not always arrive for interrogation on the first occasion, for objective reasons, which leads to postponement of such interrogations to other dates and extension of the timeframe for fulfilling the MLA request.

During the evaluation period, there were also MLA requests when a foreign party requested to be present during procedural actions, which made it even more difficult to fulfil the MLA request in the current circumstances.

Informal Means of Cooperation

We evaluated the extent to which ***"NABU detectives actively employ informal means of international law enforcement cooperation, engage contacts in informal networks to progress cross-border investigations, and employ open-source information in cross-border investigations."*** **(5.8.3)**

Article 46 of UNCAC enjoins States to afford one another the widest possible support in the investigation and prosecution of corruption offenses and Article 48 encourages States to cooperate closely with one another to enhance the effectiveness of law enforcement action to combat corruption offense and, in particular, take effective measures to provide for direct cooperation between law enforcement authorities.

NABU activities. The NABU has established and maintains contacts with foreign anti-corruption bodies; concludes interdepartmental agreements; and encourages detectives to establish personal contacts with representatives of foreign competent authorities abroad, to cooperate with liaison officers at foreign embassies in Ukraine, and use Interpol and Europol channels.

Since the NABU was established, 37 interagency cooperation agreements have been concluded with foreign institutions, including agreements with foreign law enforcement agencies that also have anti-corruption responsibilities, such as: the Central Anti-Corruption Bureau of the Republic of Poland, the Federal Bureau of Investigation of the United States; the Anti-Corruption Directorate General of the Ministry of Internal Affairs of Romania; the Anti-Corruption Directorate within the Prosecutor's Office of the Supreme Court of Cassation of Romania; the Bureau for Prevention and Combating Corruption of the Republic of Latvia; the Special Investigation Service of the Republic of Lithuania; the Estonian Center for Eastern Partnership; the Estonian Police and Border Guard Board; and others.

While informal communication is ongoing through correspondence, personal meetings, telephone conversations, and online meetings, the NABU demonstrated regular informal cooperation with the competent authorities of foreign jurisdictions in the evaluation period. According to data provided by the NABU: 281 requests for operational information was sent via SIENA, the platform used by Europol's liaison officers, analysts and experts and third parties with which Europol has cooperation agreements/working arrangements; 32 requests were sent through liaison officers at foreign embassies in Ukraine, including within the framework of existing cooperation agreements with foreign law enforcement/anti-corruption agencies; and 4 requests were sent through the Anti-Money Laundering Operational Network (AMON).

During the evaluation period, an employee of the ILD was granted access to the SIRIUS project through the Europol Platform for Experts. SIRIUS is an EU-funded project that helps law enforcement and judicial authorities access cross-border electronic evidence in criminal investigations and proceedings. The SIRIUS project is a central reference point in the EU for knowledge sharing on cross-border access to electronic evidence and is now widely used by detectives within NABU.

Detectives can also access Threema, a secure, end-to-end encrypted communication tool for direct contact and sharing of information between practitioners who are members of the Global Operational Network of Anti-Corruption Law Enforcement Authorities (the GlobE Network). Similarly, Proton services, and Europol's 2023 report on the procedure for cooperation and obtaining information from existing crypto exchanges are available to NABU detectives.

Evidence, Suspects, and Assets Located Abroad

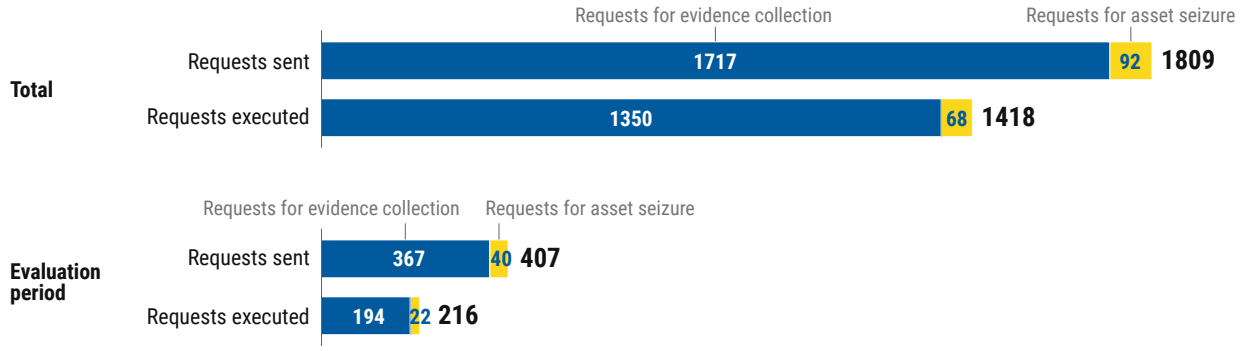
We evaluated the extent to which ***"NABU is successful in using international cooperation to gather evidence, extradite suspects and identify, seize and repatriate assets located abroad."*** **(5.8.4)**

The NABU Law mandates the Bureau to carry out legal cooperation with competent authorities of foreign states and international organizations regarding the conduct of operational-search activities, pre-trial investigations, the detection of unjustified assets, and the collection of evidence of their unjustified nature based on the laws of Ukraine and international treaties.

NABU activities. From its inception until November 2024, NABU has sent a total of 1809 requests for assistance in the collection of evidence, of which 1717 were requests for evidence collection and 92 were for asset seizure. A total of 1418 requests were executed, of which 1350 were for evidence collection and 68 were for asset seizure.

During the evaluation period, the NABU sent 407 requests, of which 367 were for evidence collection and 40 were for asset seizure. A total of 216 requests were executed, of which 194 were for evidence collection and 22 were for asset seizure. To date, the Ministry of Justice has sent one request for the enforcement of a special confiscation order granted by the HACC and execution of this request is pending.

Figure 21: NABU's requests for international assistance



Source: NABU statistical data

The GPO, on the NABU's behalf, sent a total of 79 extradition requests. A total of 6 suspects were extradited. During the evaluation period a total of 51 extradition requests were sent on NABU's behalf and one suspect was successfully extradited to Ukraine.

Figure 22: Extradiction requests

Source: NABU statistical data

Gaps in practice. NABU's success rate with the execution of evidence collection and asset seizure requests appear, in the experience of the Commissioners, to be on par or better than similarly situated countries. NABU is proactive in addressing issues with the execution of its request through persistent communication, reminders, and consultations with foreign representatives, sometimes escalating to leadership or diplomatic levels where necessary.

While the NABU achieves a relatively high level of enforcement of seizure orders, challenges with converting the seizure orders into confiscation and return of the proceeds to Ukraine needs a more concerted intervention on the part of NABU other stakeholders in the execution of court orders and the legislature.

Executing extradition requests presents more of a problem. Apart from low levels of extradition, there are also long delays with the execution of requests. The 2023 Technical Assessment found that international cooperation in NABU's investigations has been obstructed by the requirements to use the Prosecutor General's Office to send and receive certain extradition requests. The ILD, however, reported very good cooperation with the GPO on extradition in the evaluation period.

Some countries refuse extradition due to security concerns arising from the Russian full-scale invasion. The NABU cannot resolve these political challenges alone, but it has made efforts to reassure foreign authorities about the safety and functioning of Ukrainian institutions. Ukraine has implemented measures to ensure the safety and proper conditions for individuals in detention, including relocating them away from conflict zones and updating facilities. Legislative changes provide additional guarantees for extradited persons, specifying detention facilities far from active combat areas and allowing Ukrainian authorities to offer such guarantees.

Joint Investigative Teams. A 2021 report on Mentoring Consultancy Service for Detectives found that the contradicting provisions and the lack of proper regulation related to the establishment of joint investigative teams (JITs) with other countries hinders the NABU's ability to effectively apply these provisions in practice. The report made a number of proposals to policymakers on how to strengthen the NABU's use of the tool. It also recommended that the NABU establish contacts with Europol and Eurojust, to learn more about the practices of other countries in establishing the JITs, and to use these contacts whenever there is a need to set up a JIT with the competent authorities in one of the EU member states.

NABU established four JITs, three prior to and one during the evaluation period. The NABU provided the Commission with an example of effective cooperation within the framework of the JIT provisions in the CPC between the NABU and the SAPO and the competent authorities of France and Estonia. Suspects' property was seized in France; and a suspect entered into a plea agreement approved by the HACC, which included an obligation to provide evidence in both Ukrainian criminal proceedings and in the French and Estonian investigations, as well as paying compensation for damages to Ukraine.

Similarly in March 2024, within the framework of a JIT involving NABU detectives, SAPO, and employees of the National Criminal Investigation Bureau of the Finnish Criminal Police, three people were detained in Finland on suspicion of laundering funds of the Ministry of Defense of Ukraine during the purchase of personal protective equipment worth EUR 5.7 million. The property of one of the detainees, a Finnish citizen, was seized.

As a result of joint efforts of the NABU detectives, SAPO prosecutors, and representatives of law enforcement agencies of Austria and France, assets of members of a criminal organization headed by the former head of the State Property Fund of Ukraine, including premium cars used by the suspects abroad, were seized. French law enforcement officers seized the suspects' real estate worth almost EUR 6.5 million. These results were made possible by the collaboration offered by the JIT mechanism and has assisted the NABU in overcoming some of the challenges with seizing and confiscating assets of Ukrainian criminals held abroad.

RECOMMENDATIONS

To improve its effectiveness in International Cooperation, the Commission recommends the NABU:

5.1.1. Develop guidance and training for detectives to encourage them to gather evidence that link property to crimes and to increase the use of special confiscation measures.

MANAGEMENT'S COMMENTS

Dear members of the Commission, dear members of the Secretariat,

First of all, I would like to thank you for the work you have done. This is the first audit in the history of the NABU. And these six months have certainly shown that an audit is not an easy process, but it is very necessary and useful for the institution.

Thank you for the draft report. We have reviewed it and provided some technical comments.

On our part, we will ensure the effective implementation of the recommendations provided to improve the efficiency and effectiveness of the National Bureau.

Yours sincerely

Semen Kryvonos

COMMISSION'S RESPONSE TO MANAGEMENT'S COMMENTS

In accordance with our Criteria and Methodology, we carefully considered the technical comments provided by the NABU. In some instances, we made minor changes to our draft report based on updated information, additional evidence, typographical errors, or translation issues. These technical comments did not materially affect our findings, conclusions, and recommendations.

ANNEX

Approval of the Evaluation Criteria and Methodology

Article 26 of the NABU Law required the Commission to adopt and publish the criteria and methodology for conducting the evaluation. The Commission adopted its criteria and methodology by unanimous decision on November 18, 2024, and the same was published on the Commission's webpage on the Government Portal.

Objective and Scope

This report provides an independent, impartial, non-partisan, professional, and transparent evaluation of NABU's effectiveness during the period March 6, 2023 to November 18, 2024. Events or activities occurring in the ordinary course of NABU's activities prior to the evaluation period were used for comparison purposes only in the final report.

The objective for this evaluation was to answer the following overarching questions:

- To what extent have NABU's activities corresponded to and achieved desirable objectives identified as criteria?
- What can be done to improve NABU's effectiveness?

A follow-on objective was to determine if a rating of "ineffective" was caused by improper performance of duties by the Director as required by Article 6 of the NABU law.

This effectiveness evaluation has a fundamentally different approach from assessing compliance, since it requires a judgment to what extent, or whether, desirable objectives are achieved. The evaluation process is reliant on the professional judgment of the commissioners and is intended to provide reasonable assurances that desired objectives are achieved and control mechanisms are in place to mitigate major risks.

Methodology

In conducting this evaluation, the commissioners and their assistants (the "Secretariat") generally followed professional standards that are in line with specific relevant standards and principles contained in the ISSAI 100 Fundamental Principles of Public-Sector Auditing and ISSAI 300 Performance Audit Principles issued by the International Organization of Supreme Audit Institutions (INTOSAI). The specific relevant standards pertain to: integrity, ethics, and independence; professional judgment, due care, and professional skepticism; competency; communication; planning; materiality; documentation; evidence; reporting; and quality management.

In planning this evaluation, the Commission:

- Gained an understanding of NABU's operations, risks, and operating environment using a consultative approach considering the views of key stakeholders. In planning this evaluation we reviewed numerous documents and reports including (but not limited to): The Law of

Ukraine on the National Anti-Corruption Bureau of Ukraine, Mentoring Consultancy Services for the Detectives of the National Anti-Corruption Bureau of Ukraine Report (2021), Expert Analysis of the Activities of the National Anti-Corruption Bureau of Ukraine (2018), Technical Assessment of the National Anti-Corruption Bureau of Ukraine (2023), NABU's Semi-annual Reports of Activities, A Study of Capacity, Management, and Interaction of Agencies That Make up Ukraine's Anti-corruption Infrastructure Report (USAID/Transparency International) (2023), Progress in Ukraine's anti-corruption and judicial reform efforts (Transparency International, Basel Institute on Governance, Swiss Confederation (2024), OECD Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring, The Istanbul Anti-Corruption Action Plan (2024), and other similar documents. We also requested, received, and reviewed scores of internal documents from NABU.

- The Commission conducted a field visit to Kyiv, Ukraine, during 30 September to 11 October 2024, and met with key Ukrainian anti-corruption stakeholders including leaders from the NABU, the NABU Civil Oversight Council, the High Anti-Corruption Court (HACC), the National Agency for Corruption Prevention (NACP), the Asset Recovery and Management Agency (ARMA), the Special Anti-Corruption Prosecutor's Office (SAPO), and the Verkhovna Rada Committee on Anti-Corruption Policy. We hosted a listening forum with civil society organizations. We conducted a series of in-person audit planning meetings with the various operating and enabling components of the NABU. These meetings were designed to help inform our assessment of key risks and challenges facing the NABU.

- Assessed NABU's risks in view of the overall evaluation objectives. The Commission conducted an independent risk assessment based upon its review of documents and first Kyiv field visit.

- Identified suitable criteria and developed an efficient, fit-for-purpose, and risk-based methodology. The Commission's criteria and methodology is based on international standards and good practices on government auditing, program evaluation, and anti-corruption activities. There is no uniform, internationally accepted list of criteria to measure the effectiveness of all dimensions of an anti-corruption investigative agency. The Commission developed the criteria using an approach based on international standards and good practices in government audits and evaluations, and by using international anti-corruption principles. The evaluation standards and leading practices included but are not limited to the following: The International Standards of Supreme Audit Institutions (ISS) ISSAI-300 Performance Audit Principles (paragraph 27); the U.S. Council of the Inspectors General on Integrity and Efficiency Quality Standards for Inspection and Evaluation (2020)(paragraph 3.4 a-b); the U.S. Government Accountability Office's Government Auditing Standards (8.17-8.18); and the OECD "Applying Evaluation Criteria Thoughtfully" (chapter 4) (2021), Financial Action Task Force (FATF) Methodology for assessing the effectiveness of AML/CFT systems. The international anti-corruption principles included but were not limited to those found in the following: 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; OECD Anti-Bribery Convention and related documents; OECD Anti- Corruption Network for Eastern Europe and Central Asia, Fifth Round Monitoring Framework.

In conducting this evaluation, the Commission:

- Identified and collected evidence through various means including questionnaires, interviews, surveys, case file reviews, document reviews, and data analysis as appropriate from NABU and external sources.
- Conducted field work in Kyiv during the period 10 to 26 January 2025.
- Evaluated the evidence and reached conclusions regarding the NABU's effectiveness as described below.
- Prepared a draft report and shared preliminary conclusions with the NABU. This was done in line with best practices and international standards to obtain and consider management's views and comments.
- Issued the final report to the NABU and the Secretariat of the Cabinet of Ministers of Ukraine for publishing as required by NABU law.

In total, the Commission obtained and reviewed hundreds of documents and interviewed over 80 officials.

How the Commission Reached its Conclusions on Effectiveness

As explained in the Commission's criteria and methodology document, the Commission's conclusions on the NABU's effectiveness and its effectiveness in each Dimension of Effectiveness was in the form of a rating. There are four possible ratings:

- High level of effectiveness (Highly Effective): Overall, specific and measurable desirable objectives have been established and are achieved to a very large extent. Control mechanisms (prevention, detection, and correction) to mitigate major risks have been suitably designed, implemented in writing, and are operating effectively. Minor improvements may be needed.
- Substantial level of effectiveness (Substantially Effective): Overall, little or non- specific, measurable desirable objectives have been established but general desirable objectives are achieved to a large extent. Control mechanisms (prevention, detection, and correction) to mitigate most major risks are operating effectively. Some improvements are needed to reach a high level of effectiveness.
- Moderate level of effectiveness (Moderately Effective): Overall, little or non- specific, measurable desirable objectives have been established but general desirable objectives are achieved to some extent. Control mechanisms (prevention, detection, and correction) are in place to mitigate some major risks. Major improvements are needed to reach a high level of effectiveness.
- Low level of effectiveness (Ineffective): Overall, general or specific desirable objectives are not achieved or are achieved to a negligible extent. Control mechanisms (prevention, detection, and correction) to mitigate most major risks are largely absent. Fundamental improvements are needed to reach a high level of effectiveness.

The conclusion on the NABU's effectiveness was made in two stages.

At the first stage, the Commission reached a conclusion about the extent to which the NABU was (or was not) effective in each of the Dimension of Effectiveness based upon an analysis of the totality of the evidence under such Dimension of Effectiveness, including the qualitative and quantitative nature of the evidence. In terms of control mechanisms, a single control failure will not necessarily imply a failure of control mechanisms, as control mechanisms are designed to provide reasonable and not absolute assurance.

In the event of a rating of "Ineffective" in any Dimension of Effectiveness, the Commission would evaluate whether the ineffectiveness was caused by improper performance of duties by the Director as required by Article 6 of the NABU Law. This step consists of identifying and isolating (to the extent practical) the specific root causes of the finding of ineffectiveness for that Dimension of Effectiveness. If the root cause of the ineffectiveness is substantially attributable to a dereliction of duties or abuse of discretion by the Director, then the Commission will find that the ineffectiveness in that Dimension of Effectiveness was caused by the improper performance of duties by the Director.

Should the Commission conclude that any ineffectiveness was caused by external factors beyond the scope of duties or authorities of the Director, then no adverse conclusion will be made regarding the Director's performance of duties.

At the second stage, the Commission's overall conclusion regarding the NABU's effectiveness (or ineffectiveness) was determined based on the following scoring model:

Core Dimensions of Effectiveness are assigned the following weights:

- Detecting and Investigating High-Level Corruption (30%)
- Integrity, Accountability, and Transparency (30%)

Enabling Dimensions of Effectiveness are assigned the following weights:

- Leadership, Strategy, and Resource Management (20%)
- Interagency Coordination (10%)
- International Cooperation (10%)

The four possible ratings for each Dimension of Effectiveness are assigned the following points: Highly Effective (3 points); Substantially Effective (2 points); Moderately Effective (1 points); Ineffective (0 points).

Except as specified below, the overall conclusion regarding the NABU's effectiveness (or ineffectiveness) was calculated as the sum of each Dimension of Effectiveness' rating point score multiplied by its Dimension of Effectiveness' weight and determined as follows:

- Highly Effective (the sum is from 2.5 to 3)
- Substantially Effective (the sum is from 2 to 2.4)

- Moderately Effective (the sum is from 1 to 1.9)
- Ineffective (the sum is from 0 to 0.9)

Notwithstanding this formula, a rating of "Ineffective" (0 points) in either core Dimension of Effectiveness (Detecting and Investigating High Level Corruption, or Integrity, Accountability and Transparency) would result in an overall NABU rating of "Ineffective."

CONSOLIDATED LIST OF RECOMMENDATIONS

To improve its effectiveness in **detecting and investigating high-level corruption, the Commission recommends the NABU:**

1.1.1. Collect and monitor statistics on proactive detections, investigative efforts including motions, (including motions for the seizure of property), parallel financial investigations, asset recovery orders, results and their correlation to priorities (to include priority spheres and other priorities).

1.1.2. Prioritize and take demonstrable action to reach agreement with ARMA to ensure legislative proposals that advance the effective execution of its asset recovery strategy.

1.1.3. Assess ways to improve the usability and usefulness of Memex, to include providing additional guidance or training to staff.

To improve its effectiveness in **integrity, transparency, and accountability, the Commission recommends the NABU:**

2.1.1. Implement a monitoring component to its whistleblower program to include, where appropriate, obtaining confidential feedback from whistleblowers and complainants.

2.1.2. Revise procedures to protect the identities of internal complainants and whistleblowers who report mismanagement or wrongdoing, to include permitting the redaction of whistleblowers' and complainants' identities from records provided to the NABU director and Disciplinary Commission, unless required by law. **(KEY RECOMMENDATION)**

2.1.3. Designate a senior official responsible for oversight of implementation of the leaks risk mitigation plan, and ensure regular monitoring of progress with measurable metrics.

2.1.4. Acquire official cell phones or develop a bring your own device program with sufficient mobile device security policies and software solutions. **(KEY RECOMMENDATION)**

2.1.5. Implement restrictions or compensating controls over social media and the use of private email for NABU business.

2.1.6. Develop training or guidance for managers on the required tone at the top for protecting whistleblowers and complainants who come forward to report possible wrongdoing.

2.1.7. Conduct an objective assessment of current simulation integrity testing practices by the ICU and develop a policy governing this practice.

2.1.8. Develop meaningful KPIs to measure the effectiveness and efficiency of ICU detective and investigative activities that are specific, measurable, attainable, relevant, and time-bound.

2.1.9. Conduct an objective assessment of procedures and practices relating to the initiation of internal investigations, and revise procedures as necessary, to ensure that all credible allegations of serious employee misconduct are objectively and timely evaluated and investigated.

2.1.10. Revise procedures to ensure differences of opinion on investigative conclusions between ICU detectives and supervisors are documented, and an internal record is retained detailing the nature of the disagreement and how the matter was resolved.

2.1.11. Maintain complete and verifiable records of disciplinary proceedings—including the conclusions of the ICU, Disciplinary Commission, and NABU director—to monitor lessons learned and ensure the consistency of procedures and sanctions.

2.1.12. Develop and implement a NABU communication strategy, to include monitoring the effectiveness of communications.

2.1.13. Develop procedures to objectively verify the accuracy and completeness of publicly reported data provided by the MDUs and the ICU. **(KEY RECOMMENDATION)**

To improve its effectiveness in **leadership, strategy, and resource management, the Commission recommends the NABU**:

3.1.1. Formally designate to the appropriate structural unit the responsibility for the implementation and monitoring of the NABU strategic plan.

3.1.2. Develop, publish, and implement a comprehensive and specific strategic plan that contains goals, objectives, and measurable performance metrics. **(KEY RECOMMENDATION)**

3.1.3. Implement and maintain a unified project management system to coordinate and continuously monitor NABU's programs and activities to ensure the Bureau is achieving its operational, reporting, and compliance objectives.

3.1.4. Develop a Bureau-wide strategic workforce plan, with timelines and metrics, that aligns the NABU's human capital program with mission goals and includes long-term strategies for acquiring, developing, and retaining staff to achieve goals and objectives. **(KEY RECOMMENDATION)**

3.1.5. Conduct an objective assessment of the Information Security Unit functions to determine whether its reporting structure and duties are properly aligned.

3.1.6. Conduct an assessment to determine whether it is in the best interest of the NABU for additional management positions to be subject to competition or subject to rotation or limited in time, and if so, initiate action to effect this change.

3.1.7. Review, and revise as necessary, procedures on identifying material needs linked to identified priorities for the state budget and international assistance funding.

To improve its effectiveness in **interagency coordination, the Commission recommends the NABU:**

4.1.1. Review, and update as warranted, formal existing interagency cooperation agreements to ensure the existence of clear joint objectives and measurable outputs that ensure more strategic alignment to achieve common objectives.

4.1.2. Implement procedures to ensure the monitoring and periodic review of interagency cooperation agreements, including improved monitoring of interagency coordination at leadership level and improved reporting on interagency coordination to stakeholders and to strengthen dispute resolution mechanisms to better address jurisdictional disputes and other operational disputes, and to incorporate lessons learned.

To improve its effectiveness in **international cooperation, the Commission recommends the NABU:**

5.1.1. Develop guidance and training for detectives to encourage them to gather evidence that link property to crimes and to increase the use of special confiscation measures.

For the Consideration of the Verkhovna Rada of Ukraine or Others

To improve NABU's effectiveness, the Commission suggests to the Verkhovna Rada of Ukraine and other competent authorities:

1.2.1. To meet the NABU's immediate needs, consider immediate action initiating the State Action Plans for implementing the autonomous wiretapping capability for the NABU.

1.2.2. To provide the NABU with the necessary institutional independence and a lasting solution to the need for autonomous wiretap capability, consider legislative amendments or agency action to remove any remaining technical obstacles.

1.2.3. To ensure the NABU has access to timely and impartial forensic expert services, consider establishing additional legal guarantees and safeguards to ensure the availability and impartiality of independent forensic expert services.

1.2.4. So as to not undermine the NABU's ability to seize assets domestically and abroad, disregard, as impractical, proposals to change the Ukrainian law to require two month review of all asset seizure orders.

1.2.5. To provide the NABU and other law enforcement partners sufficient time to conduct pre-trial investigations and to remove other obstacles to combating high-level corruption, consider abolishing the "Lozovyi's amendments."

2.2.1. To improve accountability of the NABU, consider amending the NABU Law to require the external evaluation every two years instead of annually, standardize the period of evaluation to reduce overlaps and eliminate gaps, and establish the key dimensions of effectiveness to be evaluated, while allowing the Commission the flexibility to develop its methodologies and specific risk-based criteria as appropriate.

4.2.1. To address encroachments on the NABU's jurisdiction, consider amendments to the CPC establishing (1) clear rules, including timeframes, for transferring proceedings from one investigative authority to another and for NABU to take over proceedings, and (2) administrative or disciplinary liability for the PGO, the SBI and other pre-trial investigation bodies for violations of investigative jurisdiction or not complying with decisions taken by NABU and SAPO or other prosecutors on the transfer of proceedings.

Commission for Conducting
the External Independent Evaluation (Audit) of Effectiveness
of the National Anti-Corruption Bureau of Ukraine