

**INDEPENDENT EXTERNAL ASSESSMENT
OF THE EFFECTIVENESS OF THE NATIONAL AGENCY
ON CORRUPTION PREVENTION'S ACTIVITY**

ASSESSMENT REPORT

*Approved by the Commission for Conducting Independent
Assessment of the Effectiveness of the National Agency on Corruption
Prevention's Activity on 24 July 2023*

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Abbreviations

ACREC	Anti-Corruption Research and Education Centre
AD	Asset declaration
AntAC	Anti-Corruption Action Centre
ARMA	National Agency of Ukraine for Detecting, Tracing and Managing Assets Obtained from Corruption and Other Crimes
CAO	Code of Ukraine on Administrative Offences
CCU	Constitutional Court of Ukraine
CMU	Cabinet of Ministers of Ukraine
CoI	conflict of interests
Commission, Assessment Commission	Commission for Conducting Independent Assessment of the Effectiveness of the National Agency on Corruption Prevention's Activity
CPC	Criminal Procedure Code of Ukraine
CSO	civil society organisations
DACK	District Administrative Court of Kyiv
FIU	Financial Intelligence Unit, The State Financial Monitoring Service of Ukraine
GRECO	Group of States against Corruption
EUACI	The European Union Anti-Corruption Initiative
HCI	High Council of Justice
ICU	Internal Control Unit of the NACP
IFES	International Foundation of Electoral Systems
LAC	logical and arithmetical control
LCP	Law of Ukraine on Corruption Prevention
LPP	Law of Ukraine on Political Parties
MoJ	Ministry of Justice of Ukraine
MoU	Memorandum of Understanding
MP	member of Parliament
NABU	National Anti-Corruption Bureau of Ukraine

NACP, National Agency	National Agency on Corruption Prevention
NBU	The National Bank of Ukraine
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
POLITDATA	Electronic system for submitting and publishing reports of political parties on the property, income, expenses, and financial liabilities
PP	Political Party
SACCI	Support to Anti-Corruption Champion Institutions (USAID-funded programme)
SAPO	Specialized Anti-Corruption Prosecutor's Office
SBI	State Bureau of Investigations
SSU	Security Service of Ukraine
TI	Transparency International
UNCAC	The United Nations Convention against Corruption
UNDP	The United Nations Development Program
USAID	The United States Agency for International Development

Introduction

This Assessment Report was prepared by the Commission for the Independent Assessment of the Effectiveness of the National Agency on Corruption Prevention (the Commission) according to Article 14 of the Law of Ukraine on Corruption Prevention (LCP).

The Commission consists of three international experts appointed by the Cabinet of Ministers of Ukraine on 10 November 2021¹ based on the proposal of international donors who provided technical assistance to Ukraine in the anti-corruption area: Joseph Gangloff (USA), Diana Kurpniece (Latvia), and Laura Stefan (Romania).

Members of the Commission were assisted by the secretariat: Oleksandr Kalitenko, Oksana Nesterenko, Kateryna Ryzhenko, Yuliia Zaltsberh, Dmytro Kotlyar, and Yuliia Sergiiko. The technical assistance to the assessment process was provided by the EU Anti-Corruption Initiative and the USAID-funded Support to Anti-Corruption Champion Institutions (SACCI) programme.

The Commission assessed the NACP according to the Assessment Criteria and Methodology approved by the Cabinet of Ministers of Ukraine² and the Rules of Procedure, which the Commission approved. The assessment covered the period of 2020-2021 and focused on specific areas of the NACP activities (called “assessment objects”).

The assessment timeline was as follows:

- On 24 January 2022, the Commission launched its assessment.
- The Commission conducted a field mission to Kyiv in January 2022, during which its members met with the leadership and staff of the NACP, representatives of the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the National Anti-Corruption Bureau of Ukraine, the NACP’s Public Oversight Council, civil society, and other stakeholders. The Commission started data collection and review of available information.
- In January 2022, the Commission sent to the NACP an English version of the Baseline Questionnaire to obtain information about the assessment objects. A Ukrainian-language version followed in February 2022.
- In March 2022, following Russia’s full-scale aggression against Ukraine, the activities of the Commission were suspended until its further decision considering the introduced martial law in Ukraine and reported constraints in the functioning of the NACP and other stakeholders hindering data collection for the assessment.
- In June 2022, the Commission decided to resume its activity as the reported constraints in the functioning of the NACP and other stakeholders have diminished significantly, and data collection for the assessment could continue. Due to martial law in the country and the objective difficulties that the NACP experienced in responding to requests, the Commission approved the updated timeline, stages, and schedule of the Commission’s activity.
- In June 2022, the NACP submitted the completed Baseline Questionnaire to the Commission with attachments.

¹ <https://zakon.rada.gov.ua/laws/show/1423-2021-%D1%80>. See also other documents on the Commission and its activity at www.kmu.gov.ua/gromadskosti/diyalnist-komisiyi-z-provedennya-nezalezhnoyi-ocinki-efektivnosti-diyalnosti-nacionalnogo-agentstva-z-pitan-zapobigannya-korupciyi.

² <https://zakon.rada.gov.ua/laws/show/458-2020-%D0%BE>.

- In July 2022, the Commission sent requests to public authorities, individuals, and legal entities to provide information for the Baseline Questionnaire. The questionnaire was sent to over 130 governmental and non-governmental stakeholders. The Commission received 40 completed questionnaires (see Annex 1). The Commission, jointly with the secretariat, reviewed responses and other available materials.
- In November-December 2022, the Commission held a second round of interviews with NACP's employees and other stakeholders, including confidential interviews. The interviews were conducted online.
- In the additional letter dated 1 August 2022, the Commission requested the NACP to expeditiously provide documents and information that was missing in the completed Baseline Questionnaire. The requested documents included those containing information with restricted access and information in response to additional questions. The Commission informed the NACP that access to such information was essential for proper performance by the Commission of its duties. The non-receipt of such information undermined the Commission's ability to carry out a thorough and objective assessment of the effectiveness of the NACP.
- In September 2022, the Commission repeated the request to the NACP to provide the information mentioned above. In mid-September 2022, the NACP provided the Commission with the text of the rules for logical and arithmetic control of declarations. However, the NACP did not provide the procedures on the financial control measures regarding certain categories of declarants as it argued that such disclosure would violate the legislation on information protection, hamper proper performance of duties by the NACP employees, and present a threat to national security. The NACP invited the Commission members to familiarize themselves with the relevant documents at the premises of the NACP.
- In November 2022, the Commission sent to the NACP a list of questions for clarification and requested to provide missing information, including the above-mentioned procedures. At the end of December 2022, the NACP provided the Commission with a second (clarified) baseline questionnaire but refused to provide the requested procedures and repeated its invitation for the members of the Commission to review them at the premises of the NACP.
- In January 2023, the Commission sent to the NACP another request to obtain the above-mentioned procedures and asked for additional documents after conducting an analysis of the second (clarified) baseline questionnaire replies submitted by the NACP. In February 2023, the NACP repeated its previous answer to the Commission.
- Given the security situation and the fact that the members of the Commission were not located in Ukraine, as well as the impossibility of adequately processing the relevant documents solely by reviewing them at the premises of the NACP, the Commission concluded that it had not been able to access the above-mentioned documents.
- In line with the Methodology, the Commission selected specific cases considered by the NACP in 2020-2021 and held consultations with the NACP in August – November 2022. In November 2022, the NACP provided most of the case materials requested by the Commission. In December 2022, the Commission requested the documents regarding the relevant cases which either were not made available by the NACP earlier or which the Commission could not open for technical reasons. In January 2023, the NACP provided the remaining documents for the specific cases selected by the Commission. The NACP did not provide the materials regarding integrity checks of employees of the NACP because, according to the NACP, they were destroyed when martial law was introduced in Ukraine by the Decree of the President

of Ukraine dated 24.02.2022 No. 64/2022.

- The Commission approved the draft assessment report on 26 April 2023 and sent it to the NACP for comments on 1 May 2023 (English version) and 19 May 2023 (Ukrainian version). The NACP provided its official feedback to the draft report by a letter signed by the NACP Head on 2 June 2023.
- After reviewing the NACP official comments, the Commission updated the report and unanimously approved the final report (in English) on 24 July 2023.

The Commission members are grateful to the NACP staff for their cooperation during the assessment process, to the civil society organisations and other stakeholders who completed the questionnaire and met commissioners for the interviews. The Commission is also grateful to the Cabinet of Ministers' Secretariat for its organisational support to the assessment process.

The Commissioners express gratitude to the Secretariat. Without their assistance, this comprehensive evaluation would not have been feasible. The Secretariat fostered a well-organised and efficient review process, providing the expert level of research and communications support critical to the breadth of this complex report. At the same time, the Commissioners emphasize that while the Secretariat's support was crucial to building the foundation for analysis, every aspect of this report is a direct result of independent analysis by the Commissioners.

Finally, the Commissioners are pleased to report that the Commissioners reached unanimous agreement on all analysis, conclusions, and recommendations in this report. In brief, the Commissioners collectively made deliberate joint decisions on each word of praise and criticism and take full accountability for every facet of this report.

Summary of Key Conclusions

Conclusion on the Effectiveness or Ineffectiveness of the NACP Activity

Based on the assessment of the criteria and the formula stipulated by the Government-approved Methodology, the Commission concluded that the activity of the National Agency on Corruption Prevention during the assessment period (2020-2021) was not ineffective.

This conclusion is based on the conditions for finding the NACP's activity ineffective as determined in the assessment's methodology. The Commission's evaluation of all criteria under Evaluation Objects showed that cumulatively the activity of the NACP during the assessment period did not reach the threshold of ineffectiveness (see the table and explanation below). However, the Commission refrained from concluding that the NACP was effective because of the Commission's assessment of NACP compliance with the criteria and the Commission's general opinion on the NACP's performance during the specified period.

Overall, the Commission believes that, during the assessment period, the NACP satisfactorily performed most of its tasks. It was able, in particular, to correct many of the deficiencies which resulted in the disbandment of the previous composition of the NACP. The Commission also notes that in 2020-2021 the NACP had to operate during the COVID-19 pandemic and that several powers within its mandate were suspended by decisions of external actors affecting the NACP's work. However, the Commission highlights that in several aspects the NACP failed to deliver high-quality results, which was related mainly to the insufficient level of transparency of its work, serious mistakes in the approach chosen towards the development of legal acts regulating the work of the NACP staff in key areas, deficiencies in the organisational structure and staffing decisions, and operation of the internal control function. These and other issues are explained in the Summary and main part of the report below.

According to the Methodology, to conclude that the NACP activity was ineffective, one of the following conditions had to be present:

- 1) Under more than half of the Assessment Objects 2 to 9 (including Objects 4-6), the NACP did not meet more than 2/3 of the criteria.
- 2) Under each Assessment Object 2 to 9, the NACP did not meet half of the criteria.

The table below shows the final calculation of the assessment under each Object. When calculating the ratio of the criteria met or not met by the NACP, the Commission had to disregard the criteria which the NACP did not meet due to external factors (actions, inaction, or decisions of other entities, or force majeure circumstances) and the criteria for which the Commission did not have sufficient information to reach a conclusion.

Table 1. NACP compliance with the assessment criteria

Assessment Object	Total Criteria	Criteria Not Met Due to External Factors	Criteria with Insufficient Information to Reach a Conclusion	Total Criteria under Consideration	Criteria Met	Criteria Not Met	% of Criteria That Were Not Met
2. Policy Coordination	12	6	0	6	5	1	17%
3. Risk Assessment and Anti-Corruption Programmes	24	0	2	22	21	1	5%
4. Conflict of Interest and Other Restrictions	29	0	0	29	20	9	31%
5. Asset Declarations, Lifestyle Monitoring	38	5	4	29	23	6	21%
6. Party Financing	31	4	2	25	21	4	16%
7. Whistleblowers	14	0	0	14	10	4	29%
8. Co-operation with Stakeholders	32	3	0	29	21	8	28%
9. Management and Organisational Capacity	57	5	0	52	27	25	48%
<i>Total</i>	<i>237</i>	<i>23</i>	<i>8</i>	<i>206</i>	<i>148</i>	<i>58</i>	<i>28%</i>

Note: According to the methodology, assessment under Object 1 was not considered in the general calculation of compliance.

The report evaluated the NACP under nine areas (Assessment Objects) and 237 criteria. The assessment found that the NACP complied with 148 (72%) out of 206 criteria taken into consideration (other criteria were not considered for the calculation because the Commission did not receive sufficient information to reach a conclusion or because the NACP could not implement these criteria due to external factors). The NACP did not comply with 58 criteria (28%). The report provided 120 recommendations, including 46 high-priority recommendations and 74 other recommendations, for the NACP to improve its effectiveness further.

Summary of Conclusions under Assessment Objects

Ensuring Independence and Providing the NACP with the Necessary Resources³

During the evaluation period, the NACP's operating environment was seriously affected by several decisions of the external actors – the Parliament and the Constitutional Court. The most significant attempt at curtailing the NACP's authority was the Constitutional Court of Ukraine's (CCU) decision of October 2020 abolishing several essential powers of the NACP, including financial control over public officials' assets and interests. The CCU decision seriously undermined the anti-corruption legal framework. It resulted in the termination of numerous criminal and administrative cases of alleged corruption or related offences, including pending NACP cases.

The NACP's capacity to perform its mandate was also severely hampered by the suspension of the obligation of political parties to submit financial reports during the COVID-19 pandemic and the delay by the Parliament in approving the national anti-corruption strategy. The limitations imposed on the level of remuneration of the NACP staff due to COVID-19 restrictions had also negatively impacted the NACP's operation. It is undisputed that the salary cuts enacted by the Government interfered with the NACP's capacity to perform its functions properly. However, the Assessment Commission cannot see as justified NACP's practice of possibly intentionally keeping the agency understaffed with many vacancies not filled for an extended period to increase funds that can be spent on the remuneration of the existing staff. The NACP did not have a dedicated budget for training its personnel and other public officials, which shows that there was no sustainable approach to developing staff competencies.

The Assessment Commission recommends ensuring that the NACP's access to personal data is based on clear legal grounds and procedures defining the scope of access and other requirements for the lawful processing of such data (for example, in the area of telecommunication companies). Another issue concerns the quality of government data which the NACP uses in its work. It should be addressed through government-wide policies for improving data quality and governance.

Anti-corruption Policy Development, Co-ordination, and Monitoring

The NACP could not meet half of the criteria in this assessment area due to the significant delay in adopting the new Anti-Corruption Strategy of Ukraine. Although the NACP drafted the Anti-corruption Strategy for 2021-2025 and timely submitted it to the Parliament, the Parliament failed to adopt it until after the evaluation period of this report (namely in June 2022). In drafting the strategy and the subsequent action plan, the NACP comprehensively considered findings of sociological surveys and other research, including recommendations and analysis by Ukrainian and international non-government organisations. The NACP also consulted independent experts and representatives of the public. The Assessment Commission notes that the NACP ensured an inclusive and participatory process when developing the draft strategy and action plan, a notable achievement considering that in many other cases of drafting its regulations, the NACP failed to engage with the public transparently.

Faced with the absence of a formal anti-corruption strategy adopted by the Parliament, the NACP could have taken concrete and transparent measures, independent of external stakeholders, to ensure accountability for its performance, build public confidence, and promote understanding of and support for its mission. The NACP could have improved its public outreach to explain its priorities, establish benchmarks for measuring effectiveness, and identify near and long-term objectives. The

³ According to the Assessment Methodology, the analysis of the situation with the independence and resources of the NACP does not affect the Commission's conclusions as to the NACP's effectiveness.

NACP did not fulfil the legal requirement to publish its findings concerning the corruption level and the perception of anti-corruption institutions.

The Organisation of Corruption Prevention and Detection Measures (Risk Assessment and Anti-corruption Programmes)

The NACP was proactive in guiding the corruption risk management process in public institutions, in particular by updating a Methodology for corruption risk assessment and preparation of the institutional anti-corruption programmes, raising awareness and supplying integrity officials with support materials. The NACP researched several priority areas to identify areas vulnerable to corruption and assessed corruption risks in many draft laws. These activities involved public consultations with relevant stakeholders and publication of the results on the NACP's website.

Regarding the risk assessment methodology and the procedure for developing institutional anti-corruption measures, the Assessment Commission warns of the risk of bureaucratising the anti-corruption management systems. Mechanical application of the prescribed algorithms may not allow taking into account the specific circumstances of each organisation. At the same time, the organisations could benefit from additional practical guidance in implementing their risk frameworks – for example, templates to draw up corruption risk maps, create an incident register, determine risk tolerance levels, and analyse residual risks. The NACP should shift the focus from periodic planning of anti-corruption measures for a fixed period to establishing a functioning internal anti-corruption control system in each institution, the effective functioning of which should be the responsibility of the head of the institution.

The Assessment Commission notes that the existing requirement for approval of the institutional programmes by a central authority (NACP) may not be the most effective model for ensuring an effective corruption prevention system on the organisational level. It should be the primary responsibility of the head of the institution, who should be held accountable if the anti-corruption program has not been sufficiently effective. The NACP could provide guidance and methodological support and review the existing institutional systems when conducting a risk assessment of the relevant sector. Notably, the NACP did not approve its own anti-corruption program for 2020, which did not lead to any disciplinary measures or other consequences. The NACP failed to act as a model in this regard.

Compliance with Conflict of Interest and Other Anti-corruption Restrictions

The Assessment Commission determined that the NACP effectively implemented its responsibilities in this area. However, it did not meet several important criteria. The NACP should improve the accuracy, consistency, and transparency of its activities in this area. The Commission noted the opinion of civil society concerning the quality and impartiality of the NACP's actions, and the NACP should take steps to enhance public trust in this regard. In addition, the NACP could use information obtained through the conflicts of interest framework more effectively to enhance its approaches to detection and prevention.

The NACP did not implement a deliberate strategy to engage the public and demonstrate commitment to embracing accountability for its performance. The NACP did not effectively recognise the importance of transparency in building and maintaining public trust and support. The NACP did not timely update guidance, explanatory, and training materials. Nor did the NACP conduct a comprehensive periodic review of its internal procedures to monitor and control compliance to increase their effectiveness. The NACP did not demonstrate the capacity to file follow-up actions in each case where violations of conflict-of-interest requirements provided grounds to revoke decisions and acts. The NACP did not implement transparent procedures for handling petitions and notifications of natural and legal persons on alleged offences.

One particularly problematic issue is not exclusive to this area and represents a systemic deficiency that can be attributed to the approach introduced by the NACP Head in 2020. During the evaluation

period, the NACP revoked its regulations on preparing the administrative protocols concerning violations related to conflict of interest and other anti-corruption restrictions (for example, gifts and incompatibilities). Instead, the NACP issued three separate “methodical recommendations” as non-binding documents that described how the NACP’s authorised officials should detect relevant offences, collect evidence, and prepare administrative protocols on the infringements. Regulating such proceedings through “recommendations” deprives the affected public officials of legal certainty and may result in abuse of the NACP powers. This practice also appears to contradict the principle of legality that should govern the conduct of public authorities. In performing their core functions, the NACP officials should act in line with the legislative requirements and not “soft law” recommendations, which, through their very designation, cannot impose duties on officials. This approach may be explained by the reluctance of the NACP’s leadership to follow regular legal drafting procedures that require a public discussion, as well as the desire to avoid the review of the act in question by the Ministry of Justice and the publication of the document. Another (even more concerning) explanation could be that such an approach may be used to avoid potential liability for improper performance of the NACP functions in the respective area. The Assessment Commission cannot accept such practices, as they limit the accountability of the NACP and undermine basic principles of the operation of public authorities. The Commission calls on the NACP to urgently reverse this approach.

Verification of Asset Declarations and Lifestyle Monitoring

The NACP performance in this area presented a mixed picture during the evaluation period. The NACP further streamlined its procedures to verify asset declarations and simplified the process of the asset declaration submission by providing comprehensive explanations on how to fill out the declaration forms. Compared with the previous composition of the NACP, it no longer created obstacles for law enforcement agencies to investigate false declarations or illegal enrichment effectively. The NACP also improved access to government data and its use for verifying asset declarations.

However, the NACP failed to ensure an open and participatory process in developing its regulations and other documents related to the financial control mandate. In several cases, despite the requirement of the law, the NACP did not publish draft documents. The NACP also failed to ensure a sufficient timeframe for stakeholders to provide feedback or engage in a meaningful discussion of draft documents. The new rules of logical and arithmetical control contained major deficiencies and received negative feedback from stakeholders. Following this criticism, the NACP restricted access to the rules altogether. The legality of such a restriction is questionable. The NACP introduced a new procedure of the so-called ‘fast’ checks of declarations instead of proper control of correct and complete filling-in of declarations which went beyond its legal mandate and caused duplication.

As with the conflict-of-interest regulation, the NACP classified several other internal regulations as “recommendations”, in an attempt to avoid public scrutiny and mandatory registration with the Ministry of Justice. Instead of adopting formal rules, the NACP passed non-binding acts. This was the case, for example, with the lifestyle monitoring regulations, a procedure with a high degree of interference in the privacy of the persons concerned. Instead of adopting a proper regulation, the NACP issued recommendations for its staff. This practice raised concerns and legal risks concerning the performance of the financial control mandate of the NACP, which undermines trust in the NACP.

The NACP failed to establish a transparent and accountable approach to verifying asset declarations of intelligence officers and classified personnel of other agencies. The relevant regulations were not made public and did not undergo public scrutiny when developed. The NACP Head assigned the verification function for these declarations to the NACP’s Internal Control Unit which does not correspond to the unit’s mandate as articulated in the Law on Corruption Prevention. The head of the Internal Control Unit was a former Security Service officer, which implicated a possible conflict of interest. Also, the NACP refused to provide the regulations on submitting and verifying such

declarations to the Assessment Commission in a way that would have been accessible to the Commission members.

Control of Political Party Finances

The Assessment Commission acknowledged the progress achieved by the NACP in controlling the financing of political parties during the assessment period. The NACP, within its competence, objectively verified the compliance of the political parties' activities with the legal requirements. However, the assessment in this area has limited relevance because, in April 2020, the Parliament suspended the submission of reports on the property, income, expenses and financial obligations. Therefore, the NACP's mandate in this area was suspended during most of the assessment period (and unfortunately remained suspended at the time of preparation of this report). The Assessment Commission calls on the Parliament to restore, without any further delay, the full mandate of the NACP and all obligations of political parties related to the submission of financial reports. The Commission also recommends restoring public access to the online register of reports submitted by political parties.

The NACP ensured the suspending and termination of the financing of statutory activities of political parties in cases stipulated by the law. The NACP developed the procedure for verifying the political party's statements and the methodology for calculating the amount of donation, which, according to this assessment, did not raise serious objections. The NACP provided clarifications and methodological guidance on applying provisions of the Law on Political Parties and regulations adopted for its implementation. The NACP also provided training on this topic.

However, the NACP failed to develop and launch the electronic system for the submission and publication of financial reports of political parties by the deadline set in the legislation. The NACP also did not apply timely and appropriate measures to sanction persons guilty of violating the deadlines for submitting such reports.

Protection of Whistleblowers

The NACP made significant strides in implementing the provisions of the Law on Corruption Prevention which establish the rights of whistleblowers, the requirements for providing confidentiality, and the process for reporting corruption offences. The NACP provided state authorities with comprehensive guidance on whistleblower protection and informed whistleblowers of their rights and protection options. The NACP took appropriate measures to represent whistleblowers in court as required by legislation. The NACP thoroughly monitored the drafting and implementation of whistleblower legislation and developed recommendations for improvements. The NACP collaborated closely with Ukrainian and international non-government organisations to develop policies and legislation aligned with international standards.

However, the NACP's effectiveness in protecting whistleblowers was uneven. The NACP did not meet the requirement to create its internal secure channels to ensure the confidentiality of anonymous whistleblowers. The NACP did not provide evidence of specific instances where corruption or corruption-related offences detected by whistleblower reports resulted in the liability of offenders. The Assessment Commission stresses the need for the NACP to raise awareness about the essential role whistleblowers play in preventing and detecting corruption, as well as about channels for reporting and the extent of appropriate protections. Further, the Commission recognises the need for the NACP to improve cooperative relationships with state authorities to prevent retaliation against whistleblowers in the first instance and promptly take corrective actions when required. The NACP's focus on the relevance of whistleblower-reported information was almost exclusively on detecting, investigating, and resolving discrete allegations against identified individuals. As a result, the NACP neglected the opportunity to use whistleblower reports to mitigate the negative impact of corrupt acts and prevent future violations more effectively.

Co-operation with Stakeholders

The NACP ensured an inclusive and participatory process in developing the draft Anti-Corruption Strategy. It also effectively managed the process related to the pilot 5th round monitoring of the implementation of the OECD Istanbul Anti-Corruption Action Plan in Ukraine and the GRECO evaluations. The NACP developed a sound methodology for the standard survey on the corruption level in Ukraine with the involvement of NGOs. The NACP used an innovative approach of establishing a separate structural unit for external communication and collaboration with the public (Office of Educational Work and Training Programmes), which performed its functions effectively.

The creation of a "research library" on the NACP's official website, which accumulated links to anti-corruption research done by non-governmental organisations, is an example of commendable practice. The NACP also created a section "Monitoring of the NACP activities" on its website, which included information on the outcomes of the NACP's performance in the main areas of its mandate. The NACP ensured an open and transparent selection of the members of its Public Council.

The Commission detected serious shortcomings in the NACP's approach to publishing some of its draft bylaws and holding consultations on them. Such deficiencies were highlighted in the assessment under specific areas of the NACP activities. In several instances, the NACP failed to comply with the Law on Access to Public Information. There were instances when the communication between NACP and the Public Council was suboptimal. During the assessment period, the NACP did not conclude MoUs with foreign competent authorities, in particular, concerning information exchange. No progress was made in the cooperation between the NACP and NGOs in foreign countries. The annual reports of NACP did not include all the elements prescribed by law and were not comprehensive enough in some areas.

Management and Organisational Capacity of the NACP

This is the area where the Assessment Commission found that the NACP had not met the highest percentage of assessment criteria (48%). The NACP's organisational structure caused significant objections, with some acting heads performing their duties for an unreasonable long term. The measures prescribed under the institutional development strategy did not match the strategic objectives and were not accompanied by measurable indicators. The NACP regulation on the open competitive selection of its staff drew material objections. The competitive selection of the NACP staff lacked openness, transparency, and impartiality.

Some legal acts of the NACP had serious deficiencies in terms of their quality and compliance with the law. In several cases, the NACP leadership chose to avoid adopting binding legal acts. It replaced them with "methodological recommendations" or similar non-binding documents not subject to registration at the Ministry of Justice. The adoption of such documents was often not based on public consultations, and in some cases, the documents were not available for public scrutiny even after their approval. Some required legal acts that existed before were cancelled (and not replaced with new ones) or not adopted at all.

The automated allocation of inspections to authorised persons of the NACP did not cover all inspections falling under the NACP mandate, which contradicted the LCP. There were deficiencies in the procedure for the automated allocation of inspections to authorised persons of the NACP, which created the risk of potential interference in the automated allocation. Operation of the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences raised concern because the NACP included in the register persons who committed offences not classified as corruption or corruption-related by the legislation. The NACP also did not address the issue of the absence of specification of the maximum period during which persons remain on the register, which may be seen as a disproportionate interference with their rights.

The following NACP achievements were identified during the assessment period: the implementation of the e-case management system and the e-document management system; improved interaction

and information exchange among structural units of the NACP; active participation of the Public Council members in the NACP staff selection procedures; the transfer of the ownership of the hardware and software of the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Government to the NACP.

The Assessment Commission found serious deficiencies in the organisation of the internal control function within the NACP, which raises concern given the importance this function has for the effective and accountable operation of a public organisation. The NACP's Internal Control Unit had functions (verification of asset declarations of special categories of declarants) extending beyond its mandate as determined in the Law on Corruption Prevention. The Internal Control Unit incorporated a corruption prevention unit contrary to the intended separation of the control and prevention functions as prescribed by the 2019 amendments in the LCP. The integrity checks and lifestyle monitoring procedures of the NACP staff raised objections from the stakeholders, which the NACP did not address. There were no effective internal channels for the authorised persons of the NACP to report cases of internal or external interference in their activities. A dedicated procedure for processing such reports was also missing. The Commission also notes that the available disciplinary procedures could have been applied more effectively.

The NACP Head showed a proactive approach to public communication, a strong commitment to work, and leadership in attracting talent to work in the agency. There were no allegations of corruption regarding the NACP Head. However, the Commission noted significant deficiencies outlined above concerning the management and organisational capacity of the NACP and the failure to meet some of the criteria under different assessment objects, which fall within the mandate of the NACP Head. The notable examples concerned the practice of substituting mandatory regulations with non-binding documents, limiting public access to draft or approved regulations of the NACP, failure to conduct meaningful public consultations on certain NACP documents, and failure to act in line with the Law on Corruption Prevention in certain cases (organisation of the internal control and corruption prevention units, determining the scope of the automated allocation of cases, etc.). Those practices undermined the institutional accountability of the NACP and the principle of legal certainty. Considering all the above achievements and shortcomings, the Assessment Commission could not conclude that, during the assessment period, the Head of the NACP had reached the standard of demonstrating a high degree of expertise and professionalism.

Assessment Objects

Object 1. Ensuring the independence of the NACP and providing it with the necessary resources

Summary of Findings

1. Overall, during the evaluation period, the NACP's operating environment and conditions were found to be largely satisfactory, except in certain situations.

As regards the stability of the legal framework, no legislative changes were identified that permanently limited the independence of the NACP. However, decisions of the state authorities or inaction of the Parliament compromised the ability of the NACP to perform its functions to the full extent, thus having an indirect impact on the NACP's ability to perform its functions independently.

Namely, the Decision of the Constitutional Court of Ukraine (CCU) of 27 October 2020 No. 13-p/2020 directly limited NACP's powers to control assets and interests of public officials. It was a significant limitation on the NACP's powers restricting its ability to carry out its functions effectively. The NACP was forced to request courts to close the proceedings in 62 cases, and the NACP was unable to complete 572 pending verifications of asset declarations, including those proceedings that concerned the Constitutional Court judges.

There is a very high probability that the decision by the CCU was taken with the aim of unduly influencing the actions of the NACP in controlling the integrity of individual judges. Thus, it could amount to a violation of paragraph 4, Article 9 of the LCP. This situation created unjustified obstacles for the National Agency in the exercise of its powers.

The capacity and execution of functions of the NACP were also severely hampered by the abolition of the obligation for parties to submit reports during the COVID-19 pandemic and the delay by the Parliament in approving the National Anti-Corruption Strategy.

Based on the information available to the Commission, the following guarantees of independence of the NACP were not significantly compromised during the assessment period:

- the special status of the NACP,
- the special procedure for selecting, appointing, and terminating the powers of the Head of the NACP,
- the special procedure for funding and material and technical support of the NACP by law,
- the proper terms of remuneration of the Chairman, Deputy Chairman of the NACP and employees of the NACP, determined by this and other laws.

No cases of external interference in the appointment / dismissal of employees of the National Agency have been recorded.

2. The powers of the National Agency are defined at the legislative and regulatory levels in all areas. The NACP does not have duplication of powers with other specially authorized entities in the field of anti-corruption or central executive bodies.

The NACP is a central body of executive power created to perform separate functions for the implementation of state policy.

Overall, NACP's cooperation with the legislator is good. According to the Agency itself, in all cases where legislative changes affected the NACP's competence or powers, it actively participated in consultations on the need for legislative regulation of certain aspects of its functions.

3. The NACP does not usually experience obstacles with the access to the information it needs to be able to exercise its powers. The NACP's answers in the questionnaire indicate that there have been no problems in obtaining electronic access to the national digital registers necessary for the execution of the NACP's functions.

Based on its analysis, the Commission can conclude that the NACP has a general right to obtain information from business entities regardless of their form of ownership and their officials, including restricted information, as may be necessary to fulfil the NACP's objectives. However, given possible privacy concerns and sensitivities surrounding private communication, it would be preferable to specify the extent of the NACP rights to receive such information in the Law on Electronic Communications. This would allow to avoid different interpretations of legal rules.

4. Expenditures for the National Agency's activities in the 2020 state budget were significantly lower than the National Agency's budget request - by more than 10%. Failure to meet the 10% benchmark in 2020 was very significant, especially in terms of funding the statutory activities of political parties. In 2021, the situation improved. However, according to the NACP, funding for the statutory activities of political parties remained insufficient.

The scope of financing of the National Agency has been identified as a separate item (line) of the state budget. The NACP found it challenging to exercise its powers properly with allocated funds for salaries of the staff. As the budget did not provide for separate expenditures for training it is not possible to achieve the best possible results and plan long-term training activities for example development of special training platforms or tools.

The restrictions on the level of remuneration of NACP employees were established longer than it was proportionate to the objectives of COVID-19 prevention.

5. NACP had difficulties to properly exercise its powers with allocated funds for salaries of the staff.

The NACP had a very high vacancy rate throughout the assessment period. 10.3% of all posts were vacant at the beginning of 2020. The percentage more than doubled to 28.7% of all posts by the beginning of 2021 and remained very high at the end of 2021 when it was 16.7%. The staffing situation, therefore, remained critical throughout the assessment period.

As the budget did not provide for separate expenditures for training, it was not possible to achieve the best possible results and plan long-term training activities, such as the development of special training platforms and tools and the creation of dedicated training facilities, including at the regional level. While the NACP's performance and ingenuity in providing training gives the impression that there is no problem in this respect, the absence of a discretionary budget for training is not sustainable. One of the NACP's most important tasks is to ensure that subjects of the law do not commit offences due to ignorance. The development of training materials and the provision of training must be budget-constrained. It is therefore advisable to ensure that training plans are supported by adequate budgetary resources.

A relatively high vacancy rate of 28.7% at the end of 2020, as well as a slightly lower rate of 16.7% at the end of 2021, raise concerns as to the insufficient number of staff necessary to allow the NACP to perform its tasks stipulated by law. A comparison of the actual average annual remuneration and the expected average annual remuneration per post shows that the funds saved on vacant positions led to a significant increase of the employees' remuneration.

Recommendations

1. Legislation concerning the NACP should be more stable and harmonised. Any changes should allow a transitional period to not significantly limit the NACP's powers and not to impose restrictions on its ability to carry out its functions effectively.
2. We recommend that due consideration needs to be given to amending the regulatory framework on the approval of the anti-corruption strategy and program. The difficulties in reaching agreement at the parliamentary level led to the absence of a single decisive policy. This situation undermined anti-corruption efforts at the institutional level and prevented progress towards a corruption-free public administration. We, therefore, recommend that the Strategy and Program be approved at the executive level so that both the development and implementation of these key anti-corruption documents would be in the ambit of responsibility of the executive power. This approach might mitigate possible delays in developing and adopting these strategic documents and prevent further roadblocks for Ukraine's efforts to fight corruption.
3. While the Commission is convinced that the level of remuneration of NACP staff should necessarily increase to attract and retain the highest quality staff, the practice of possibly creating a number of vacancies so that additional remuneration payments can be made from the wage savings is not in line with the principle of good governance. The principle requires certainty and precision as to the use of the funds allocated for remuneration for a specific type of activity or function.

Detailed Assessment

EVALUATION OBJECT 1: Ensuring the Independence of the NACP and Providing It with the Necessary Resources		
Criteria/Assessment		
1.1. The legislation regulating the National Agency have been stable, no unjustified changes have been made to limit the independence of the National Agency		
<p>According to Article 6 of United Nations Convention against Corruption, guarantees of independence of the preventive anti-corruption body or bodies are formulated as the ability <i>“to carry out their functions effectively and free from any undue influence”</i>. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.</p> <p><i>Table 1. A sample of laws and regulations that could affect the independence of the NACP, identified among all laws and regulations amended during the assessment period.</i></p>		
Statutory document	Relevant legal provisions	Conclusions of the Commission
LCP	Article 9. Guarantees of independence of the National Agency	<p>Based on the information available to the Commission, it does not appear that the following guarantees of independence of the NACP were significantly compromised during the assessment period:</p> <ul style="list-style-type: none"> ● the special status of the NACP, ● the special procedure for selecting, appointing and terminating the powers of the Head of the NACP, ● the special procedure for funding and material and technical support of the NACP by law,

		<ul style="list-style-type: none"> the proper terms of remuneration of the Chairman, Deputy Chairman of the NACP and employees of the NACP, determined by this and other laws. <p>At the same time, the restrictions on the level of remuneration of NACP employees went far beyond and was no longer proportionate to the means necessary for the original purpose of limiting COVID-19 restrictions.</p>
LCP	The CCU adopted Decision № 13-r / 2020 27.10.2020	<p>Due to the adoption of the CCU Decision No. 13-r/2020 on 27.10.2020, the NACP was unable to complete 572 pending inspections, including those that examined the legality of the activities of the Constitutional Court judges. Due to the adoption of the Decision of the Constitutional Court of Ukraine dated 10/27/2020 No. 13-p/2020, the NACP was forced to send a petition to the courts to close the proceedings in 62 cases. The CCU decision directly concerned the powers of the NACP to control the activities of high-ranking public officials.</p> <p>Although the full statistics on the cases closed as a result of the CCU decision are not available for all institutions, the number of cases closed by the NACP is significant.</p> <p>The immediate entry into force of the CCU decision without a transitional period, its extension to any subject of the LCP law—and not only for the judges who were the subject of the CCU constitutional review—, is a significant limitation on the NACP's powers and its ability to carry out its functions effectively. However, a finding of undue influence on the NACP by the CCU requires an examination of whether the CCU took its decision within the limits of its powers, followed the procedure and the necessary principles of transparency, and whether the decision entered into force in accordance with the law.</p> <p>On December 11, the Venice Commission published Opinion No.1012/2020 on this case. The Venice Commission pointed out that Article 60 of the Law on the Constitutional Court of Ukraine recognises situations of conflict of interest of the Constitutional Court judges and provides for withdrawal/recusal from the case for judges who might find themselves in a conflict of interest.</p> <p>The procedure under Article 60 of the Law and Section 44 of the Rules of Procedure is not set out in the decision.</p> <p>What is essential in such a difficult situation is therefore that this issue be presented transparently in the decision of the Court itself or – where the legal tradition is open for alternative ways – also in a separate public decision or procedural ruling to avoid any speculation why a judge participated in a decision. This seems not to be the case in Decision 13-r/2020, which lacks discussion of this issue and does not explain why some judges, including even the reporting judge, did not withdraw when this a priori would have been warranted.</p> <p>It must therefore be acknowledged that there is a very high probability that the decision by the CCU was taken with the aim of unduly influencing the actions of the NACP in controlling the performance of individual judges. Thus, it could be a violation of paragraph 4, Article 9 of LCP.</p>
On amendments to the LPC regarding the restoration of the institutional mechanism for the prevention of corruption	<p>Article 12, to supplement items 1¹ and 1²: 5¹–5⁷, 11¹ and 11² etc.</p> <p>Part 6 - 9 of Article 13-1 of the Law etc.</p>	<p>In response to the CCU Decision No. 13-r/2020 on 27.10.2020, the Parliament adopted Law № 1079-IX of 15.12.2020, which partially restored the powers of the NACP limited by the aforementioned decision.</p> <p>A special procedure for monitoring and control over the implementation of anti-corruption legislation by judges and judges of the CCU was established.</p>
On Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2020"	Article 10. To supplement Articles 28-32 with the following content:	<p>Articles 28 to 32 of the amendments show that the law sets limits on the reimbursement to the fund for the fight against COVID-19 and its consequences during the quarantine period.</p> <p>A ceiling on the indemnity is set, with the salary being calculated at an amount not exceeding 10 times the minimum wage set on 1 January 2020.</p> <p>At the same time, the allowance cap does not include the amount of</p>

		<p>temporary incapacity benefits, health care allowances, financial support for social and domestic issues and annual leave.</p> <p>These limits are fixed for a period starting in April 2020, are uniform and apply to almost all staff, civil servants and budget officials.</p> <p>While it must be acknowledged that salary reductions in themselves may have a negative impact on employees, given the general nature of salary restrictions, it is not possible to establish their undue impact on or a direct threat to the independence of NACP officials because the restrictions are not aimed exclusively at NACPs employees.</p>
LCP	<p>Article 9, part 1, paragraph 4,</p> <p>Article 16. Remuneration of the Chairman, Deputy Chairman of the National Agency and staff of the National Agency</p>	<p>The Commission is aware of the NACP's claims that</p> <ul style="list-style-type: none"> ● during the preparation and adoption of the Law of Ukraine "On the State Budget of Ukraine for 2021" were violated the requirements of the Law of Ukraine "On Corruption Prevention", which now clearly defines the rules for calculating salaries of NACP employee). As a result, during 2021, NACP employees received lower salaries than they should have received in accordance with the Law of Ukraine "On Corruption Prevention"; ● During the preparation of the draft Law of Ukraine "On the State Budget of Ukraine for 2022", the previous practice of illegal limitation of salaries for NACP employees at the level of 2020 continued. <p>The Commission was pleased to learn that, in 2022, in response to the numerous comments by the NACP and the reservations expressed by the Budget Committee of the Verkhovna Rada of Ukraine, as well as by the Main Scientific and Expert Department in the Parliament and individual MPs, the Law of Ukraine "On the State Budget of Ukraine for 2022" was amended. The adopted version established that the norm on the application of salaries of employees of other state bodies, whose remuneration is regulated by special laws, the subsistence level for citizens in the amount of 2102 UAH does not apply to NABU employees and NACP.</p>
LCP		<p>The Commission noted that the NACP had provided information on a number of draft bills in the Verkhovna Rada of Ukraine, registered during 2020-2022, which envisaged to modify the legal framework for the appointment and dismissal of the NACP Head, as well as remove independent international experts from the independent evaluation of NACP activities that have not become law.</p> <p>The Commission points out that ensuring the independence of the NACP, not only in theory but also in practice, including the respect shown by all officials for the duties of the NACP, is an essential element in preventing corruption. If the representatives of the legislator detect signs of a wrongdoing in the conduct of NACP officials, any suspicions must be verified in the manner prescribed by law.</p>

1.2. Legislation clearly defines powers of the National Agency and duly delineates them with those of other state authorities

The powers of the National Agency are defined at the legislative and regulatory levels in all areas. The NACP does not have duplication of powers with other specially authorized entities in the field of anti-corruption or central executive bodies.

The NACP is a central executive body whose task is to perform separate functions for the implementation of state policy.

Table 2. Overview of the statutory documents defining powers of the NACP

Statutory document	Relevant legal provisions	Conclusions of the Commission
		As regards the clear definition of the NACP powers, the Commission has not identified any significant issues.
Constitution of Ukraine	Part 2, Article 19	Government authorities and local government and their officials shall be obliged to act only on the grounds, within the powers, and in the manner envisaged by the Constitution and the laws of Ukraine.

The Law of Ukraine "On Central Bodies of Executive Power"	Part 1 of Article 17	<p>Tasks of central executive bodies</p> <p>1. The main tasks of central executive bodies are:</p> <ol style="list-style-type: none"> 1) provision of administrative services; 2) implementation of state supervision (control); 3) management of state-owned objects; 4) submission of proposals to ensure the formation of state policy for the consideration of the ministers who direct and coordinate their activities; 5) implementation of other tasks defined by the laws of Ukraine.
LCP	Part 1 of Article 4	The National Agency for the Prevention of Corruption is a central body of the executive power with a special status, which ensures the formation and implementation of the state anti-corruption policy.
The Law of Ukraine "On Central Bodies of Executive Power"	Part 2 of paragraph 1, part 4, Article 24.	<p>Other central bodies of executive power with special status may be established by the Cabinet of Ministers of Ukraine or established in accordance with the law.</p> <p>4. The provisions of this Law apply to (..) other central bodies of executive power with a special status established by the Cabinet of Ministers of Ukraine, except for cases when the Constitution and laws of Ukraine determine other features of the organization and order of their activities.</p>
LCP	Article 11. Powers of the National Agency and other stipulations by the law / Article 12. Rights of the National Agency	<p>The scope of the powers vested in the NACP along with those stipulated in the Article 11 the LCP may be exercised through the rights conferred by section 12 of the Act.</p> <p>The powers of the NACP derive from all laws and regulations which the NACP is competent to enforce, but which are not explicitly stated to be the powers of the NACP.</p>
Law of Ukraine "On the Judiciary and the Status of Judges" and LCP	paragraph 6 of Part 8 of Art. 133 of the Law of Ukraine "On the Judiciary and the Status of Judges" and Part 5 of Art. 28 of LCP	<p>Issue of potential overlap of functions</p> <p>The NACP, in its reply to the questionnaire (1.5.1.), points out that the power of the Council of Judges of Ukraine to clarify conflicts of interest of judges contradicts the exclusive competence of the National Agency to provide clarification to any person (including judges) who have doubts about their conflicts of interest.</p> <p>The Commission disagrees that there is a functional overlap in this respect.</p> <p>The NACP provides explanations taking into account the regulation of the law, while the Council of Judges takes into account the entire framework of ethical principles and legal norms and procedures relating to the impartiality of judges.</p> <p>Specific sectoral anti-corruption control measures in the public sector, implemented by the head of the institution or, in the case of independent officials, by a governing collegial body, aim to take all necessary preventive measures to avoid corruption and conflicts of interest. Preventive measures include internal training, awareness raising, counselling and clarification of what constitutes a conflict of interest, including the resolution of conflict-of-interest situations of subordinate staff or independent officials, the granting of authorizations to combine posts etc. The proper assessment of conflicts of interest arising in a specific professional field is key in this respect.</p> <p>The judiciary has very specific mechanisms to prevent conflicts of interest, such as those stemming from the Constitution, the international Bangalore Principles, or the subjective and objective impartiality test developed by the European Court of Human Rights, along with national regulations, such as LCP.</p> <p>The specific issues of professional ethics and the actual, perceived or potential conflict of interest may not be familiar to a non-professional in the relevant field. Therefore, it is excessive to claim that the NACP holds the exclusive competence to identify a conflict-of-interest situation in any field.</p>
LCP	Article 11. Powers of the National	Minor issues:

	Agency and other stipulations by the law	<p>The mandate of the NACP is most likely limited to the prevention of corruption in the public sector but does not explicitly include the state obligations under Article 12 of the UNCAC to take measures to prevent corruption involving the private sector (except the development of a typical anti-corruption program of a legal entity and tasks defined in the second part of Article 62 of the LCP). Therefore, it would be advisable to expand the mandate of the NACP by including the functions of analysing the corruption situation of legal persons and promoting transparency among private entities if these functions are not carried out by other public authorities.</p> <p>B. Unlike other areas of the NACP's activities, the LCP does not specifically require the NACP to organize training for representatives of political parties, although the NACP does so based on its general obligations. Most likely due to the historical reasons, the LCP contains a dual regulation. Certain NACP functions, such as whistleblower protection, are casuistically regulated by listing specific tasks of the NACP, including training, while the Agency's functions in the area of political party financing are listed in general terms. While the general regulation of the NACP's competences is more in line with the principle of good law-making, the precise listing of duties in other areas gives the impression that, for example, the provision of training in the area of political party financing was not considered necessary by the legislator. The Commission recommends to the legislator to clarify NACP powers to cover all functional areas equally by using more general terms.</p>
<p>1.3. Legislation has not been subject to amendments that would compromise the ability of the National Agency to duly exercise its powers</p>		
<p>Legislation (see details under criterion 1.1.) has been subject to amendments that compromised the ability of the National Agency to duly exercise its powers.</p>		
<p>1.4. The National Agency has been engaged in consultations on and discussions of legislative amendments that had impact on its activities</p>		
<p>According to information provided by the NACP, any such facts are currently unknown to the National Agency.</p> <p>In all cases where legislative changes affected the competence or powers of the National Agency, the National Agency was an active participant in consultations on the need for legislative regulation of certain aspects of the National Agency.</p>		
<p>1.5. No entities or their activities have created unjustified obstacles for the National Agency in the exercise of its powers</p>		
<p>CCU decision of 27.10.2020 № 13-p/2020, which abolished a number of the control functions of the agency (see details under criterion 1.1.) has created unjustified obstacles for the National Agency in the exercise of its powers.</p>		
<p>1.6. State authorities, local self-government bodies, other natural and legal persons have provided the National Agency with timely access to information under their control that was needed for the National Agency to exercise its powers</p>		
<p>The NACP questionnaire lists about 10 cases where individuals or organizations have refused to provide information requested by the NACP. Provided that this represents only a small share of all requests for information, the number is insignificant, which means that the NACP does not usually experience issues with access to information.</p> <p>However, requests for information and the adequacy of the information available is one of the most complex issues in the work of administrative corruption prevention bodies. For example, without information on transactions in the bank account of a public official or his/her family members or related persons, it is impossible to fully carry out lifestyle monitoring or apply conflict of interest control measures.</p> <p>Pursuant to paragraph 1-1, 1-2, 2-1 of part 1 of Art. 12 and part 1 of Art. 13 of the Law of Ukraine "On Prevention of Corruption", the National Agency has the right to obtain information, to have direct automated access to information and telecommunication and reference systems, registers, databanks, including those containing restricted information and request required documents and other information, including restricted information, in connection with the exercise of their powers.</p>		

Following the public sector principle that a public authority is only allowed to do what is specifically authorized to do by law, access to information of private nature, the confidentiality of which is constitutionally protected, should only be allowed in cases provided for by law, following a certain procedure.

If an administrative authority, whose mandate is to work only within the framework of administrative proceedings, is granted the right to obtain information from communication (telecommunication) organizations about their customers, such as a customer list or confirmation that a person is a customer, the person's telephone number, or their telecommunication expenses, it should be expressly provided by law that the authority has the right to inspect such information.

Similarly with regard to requests for information from credit institutions, the authority's rights should be explicitly stated in the Law and accompanied by a dedicated procedure which would guarantee that no data is released without authorization.

The NACP informed the Commission of problems in obtaining from the telecommunications operator information that the Agency allegedly has the right to receive. The information is on the receipt and/or payment of telecommunications services by the declaring subject. The Commission can conclude that, according to the analysis below, the NACP has a general right to obtain information from business entities regardless of their form of ownership and their officials including restricted information, as may be necessary to fulfil its objectives. However, given the privacy and sensitive nature of the information on telecommunications and the fact that the Law on Telecommunication does not specifically state that the NACP has the right to obtain information from telecommunications operators, it should be recognised that the NACP does not have the right to request such information from operators.

Table 3. Verification, in accordance with NACP's statutory powers, whether NACP has the power to obtain information from telecommunications operators

Statutory document	Relevant legal provisions	Stipulation	Commentary
LCP	Article 12 The national agency has the following rights in order to fulfil the powers assigned to	1 ¹⁾ to obtain information, under the procedure stipulated by law and upon written requests, from state authorities, authorities of the Autonomous Republic of Crimea, local government, business entities regardless of their form of ownership and their officials, citizens and their associations, including restricted information, as may be necessary to fulfil its objectives;	<i>Applicable to the particular situation</i>
		1 ²⁾ to have direct automated access to information and telecommunication and reference systems, registers, data banks, including those containing information with limited access, the holder (administrator) of which is state bodies or local self-government bodies, to use state, in including government, means of communication and communications, special communication networks and other technical means. Obtaining information from the Unified Register of Pretrial Investigations is carried out in the order and scope determined by a joint order of the National Agency and the Prosecutor General. The National Agency processes such information in compliance with the legislation on personal data protection and confidentiality protected by law;	<i>Not applicable to the particular subject</i>
		2 ¹⁾ to receive information from open databases, registers of foreign states, including after payment of a fee for obtaining the relevant information, if such a fee is required for access to the information;	<i>Not applicable</i>
		5 ¹⁾ receive statements from individuals and legal entities about violations of the requirements of this Law, carry out on their own initiative an inspection of possible facts of violations of the requirements of this Law;	<i>Not applicable</i>
		5 ⁴⁾ to receive written explanations from persons authorized to perform the functions of the state or local self-government, economic entities regardless of the form of ownership, their officials, citizens and their associations regarding circumstances that may indicate a violation of the rules of ethical behavior , prevention and settlement of conflicts of interest, other requirements and restrictions provided for by this Law regarding	<i>Not applicable</i>

		the authenticity of the information specified in the declarations of persons authorized to perform the functions of the state or local self-government;	
		5 ⁵⁾ to receive from persons authorized to perform the functions of the state or local self-government, persons equated to them, employees of legal entities under public law and legal entities specified in the second part of Article 62 of this Law, written explanations regarding circumstances that may indicate violation of the requirements of this Law on the protection of whistleblowers;	<i>Not applicable to the particular subject</i>
LCP	Article 13. paragraph 3 and 4	The authorised persons of the National Agency shall have the right to: request any necessary documents or other information, including those with the restricted access, in connection with the exercise of their powers; obtain, within their competence, written clarifications from (..) economic entities, regardless of their form of ownership, their officials, citizens and their associations;	<i>Applicable</i>

Minor issues:

Data quality or data compliance problems in national information systems to which the NACP has access sometimes necessitate the NACP to request from the national authority holding the relevant register to provide information in document form. This situation should be remedied by institutions in charge. At the same time, it appears that administrative liability for failure to provide information (see table below) cannot be imposed in this situation.

NACP quote: Officials of state and local self-government bodies occasionally refuse to provide information requested by the National Agency due to the NACP's direct automated access to information and telecommunication and reference systems, registers, data banks, including those containing information with limited access, the holder (administrator) of which are state bodies or local self-government bodies (Part 12 of Article 12 of the Law of Ukraine "On Prevention of Corruption"). However, it should be noted that the Office of Full Audits makes such requests only if the information contained in such registers and databases is incomplete and if it is impossible to conduct a comprehensive verification of the information specified in the declaration (for example, no information about the object cost and characteristics, etc.).

Table 4. NACP's statutory rights in case of failure to provide information.

The Code of Administrative Procedure	Article 188-46. Failure to comply with legal requirements (instructions) of the National Agency on Corruption Prevention	Failure to comply with the legal requirements (instructions) of the National Agency for Prevention of Corruption to eliminate violations of the legislation on preventing and combating corruption, failure to provide information, documents, as well as violation of the deadlines established by law, providing knowingly false information or not incomplete information - shall entail a penalty in the amount from one hundred to two hundred and fifty tax-free minimum incomes. The same actions committed by a person who was subjected to an administrative penalty for the same violation within a year shall entail a fine of two hundred to three hundred non-taxable minimum incomes.
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1.7. State authorities, local self-government bodies have provided the National Agency with a direct automated access to IT and reference systems, registers, databases, including those containing restricted information, of which they are owners (administrators)

The NACP answers in the questionnaire indicates that there have been no problems in obtaining electronic access to the national digital registers necessary for the execution of the NACP's functions. Given that the NACP is satisfied with the current situation (with some non-systematic exceptions), the criterion is considered to be met.

Table 5. Overview of statutory documents defining powers of the NACP to access information

Statutory document	Relevant legal provisions	Stipulation
LCP	Article 12 The national agency has the following rights in order to fulfil the powers assigned to	<p>to obtain information, under the procedure stipulated by law and upon written requests, from state authorities, authorities of the Autonomous Republic of Crimea, local government, business entities regardless of their form of ownership and their officials, citizens and their associations, including restricted information, as may be necessary to fulfil its objectives;</p> <p>to have direct automated access to information and telecommunication and reference systems, registers, data banks, including those containing information with limited access, the holder (administrator) of which is state bodies or local self-government bodies, to use state, including government, means of communication and communications, special communication networks and other technical means. Obtaining information from the Unified Register of Pretrial Investigations is carried out in the order and scope determined by a joint order of the National Agency and the Prosecutor General.</p> <p>The National Agency processes such information in compliance with the legislation on personal data protection and confidentiality protected by law.</p>

Observations:

The NACP, together with other state bodies, is constantly working to improve information interaction to obtain from the NACP the information necessary for the exercise of its powers and rights. For example, during the assessment period, the NACP received an increased amount of information from the State Land Cadastre and the State Register of Individuals - Taxpayers. To obtain proper automated access to these data sources, the NACP had taken all appropriate measures and, as a result, as of December 2021, the necessary access to all these registers and databases was provided.

The National Tax Service informed that the NACP has access to the taxpayer database, but other registers do not provide for online access. The National Tax Service handles several thousand NACP requests per year. For security reasons, access to the relevant information is only provided on a single NACP stationary computer. This means that the NACP is likely to have only one user, which, in turn, creates a significant administrative burden for the NACP in terms of keeping track of which official has requested which information in which case.

1.8. No instances recorded of undue interference of state authorities, the authorities of the Autonomous Republic of Crimea, local self-government bodies, their officers and officials, political parties, civil society associations, or any other persons in the activities pursued by the National Agency while fulfilling its responsibilities

According to the NACP answers, there were no cases of undue interference by local self-government authorities and their officials, or by political parties.

The NACP answers indicate several instances of undue interference of state authorities, civil society associations, or any other persons in the NACP activities.

Table 6. Examples of undue influence provided by the NACP and the Commission's comments on them.

Brief description of NACP allegations	Comment by the Commission
<p>On 21.09.2020, the Chairman of the NACP was interrogated as a witness by the State Bureau of Investigations in the framework of criminal proceedings under Part 2 of Art. 364 of the Criminal Code of Ukraine.). Later, the Cassation Commercial Chamber of the Supreme Court recognized the NACP's actions as lawful (https://reyestr.court.gov.ua/Review/101027362). According to the NACP, these proceedings could be characterized as improper interference with the Agency's activities,</p> <p>On September 14, 2020, the NACP sent a letter to the Chairman of the Verkhovna Rada Committee on Law Enforcement Activities regarding the conflict of interest of the First Deputy Director of the State Bureau of Investigations. On 16.09.2020, the NACP issued an order to the Acting Director of the State Bureau of Investigation to eliminate the violation of the</p>	<p>The situation is not unambiguous; there could be different explanations.</p> <p>For example, it should be noted that the NACP leader was interrogated in a case initiated on May 7, 2020, which is several months before September 14, 2020, when the NACP sent a letter to the Chairman of the Verkhovna Rada Committee on Law Enforcement Activities.</p> <p>The Commission is not empowered to examine the legality of the actions of authorities other than the NACP, so if we accept the fact that the SBI had the legal power to initiate the case, we can assume that the interrogation of the NACP Director was indeed necessary for the criminal proceedings and not related</p>

requirements of Part 4 of Art. 12 of the Law of Ukraine "On Corruption Prevention".	to the order on the prevention of conflict of interest situation prepared by the NACP.
Numerous reports from a person who pretended to be a representative of an NGO complaining about improper consideration of such reports by the National Agency. The seal and signatures on the appeals were forged. The National Police in Kyiv is conducting a pre-trial investigation on the grounds of Part 1 of Art. 358 of the Criminal Code of Ukraine.	The persons named by the NACP do not belong to the circle of entities that have the power to interfere in the activities of the NACP and influence the actions of its officials. All public authorities must respect the constitutional provision guaranteeing to everyone the right to apply to the public authorities and to obtain a substantive response.
Numerous lawyer's inquiries with identical requests to provide clarifications to a specific client. As the legal basis for the request was indicated laws of Ukraine "On citizens' appeals", "On access to public information" and even "On free legal aid". Asked for clarifications, using channels of communication about possible facts of corruption or corruption-related offences, the Government Contact Centre, etc.; asked questions that were formulated in a way that did not allow to provide a comprehensive and unambiguous answer, questions related to future management decisions, contained "warnings" about criminal or administrative liability in case of failure to respond in the form desired by the lawyer.	

1.9. The expenditures allocated for activities of the National Agency in the state budget correspond to or are not more than 10 percent less than the budget amount requested by the National Agency

The expenditures allocated for the activities of the National Agency in the 2020 state budget were significantly less than 10 percent of the budget amount requested by the National Agency. The non-fulfilment of the criterion in 2020 was very substantial, especially regarding financing of the statutory activities of political parties (See Table below). The situation improved in 2021, but the funding for financing of the statutory activities of political parties was still insufficient according to the data submitted by the NACP.

Table 7. Comparison of the amount of financial resources requested to finance the activities of the NACP and the statutory activities of political parties, with the amount of the budget approved by the Cabinet of Ministers and the Verkhovna Rada of Ukraine. (Source: NACP data; amounts in thousands UAH)

Budget program:	Amount of the budget funds specified in the budget request of the National Agency	Budget approved by the Cabinet of Ministers and submitted to the Verkhovna Rada for the first reading	Needs identified during the revision of the draft state budget for the second reading	Budget adopted by the Verkhovna Rada of Ukraine
2020				
Total	1,243,554.9	812,064.8	0.0	689,283.1
including	100.0%	65.3%		55%
6331010 "Leadership and management in the field of corruption prevention"	485,148.4	245,003.0		405,752.2
	100.0%	50.5%		84%
6331020 "Financing of the statutory activities of political parties"	758,406.5	567,061.8		283,530.9
	100.0%	74.8%		37%
2021				
Total	1,251,923.9	1,106,072.4	38,273.3	1,144,345.7
В Т.Ч.	100.0%	88.35%		91.4%

6331010 "Leadership and management in the field of corruption prevention"	420,812.0	408,978.9	38,273.3	447,252.2
	100.0%	97.2%		106.3%
6331020 "Financing of the statutory activities of political parties"	831,111.9	697,093.5		697,093.5
	100.0%	84%		84%
2022				
Total	1,360,711.8	1,289,848.6	90,300.1	1,316,462.0
в т.ч.	100.0%	94.8%		96.7%
6331010 "Ensuring the activity of the National Agency on Corruption Prevention"	475,138.9	404,275.7	90,300.1	430,889.1
	100.0%	85%		90.7%
6331020 "Financing of the statutory activities of political parties"	885,572.9	885,572.9		885,572.9
	100.0%	100%		100%

1.10. The scope of financing of the National Agency has been identified as a separate item (line) of the state budget and enabled the National Agency to properly exercise its powers, including providing sufficient funds for salary payments, conducting corruption situation research, awareness-raising campaigns and training on preventing and combating corruption, acquisition of appropriate supplies, hardware, equipment, other assets for the performance of official activities, the establishment of regional bodies of the National Agency

The scope of financing of the National Agency was identified as a separate item (line) of the state budget. The NACP faced difficulties with its ability to properly exercise its powers with the funds allocated for salaries of the staff. As the budget did not provide for separate expenditures for training, it is not possible to achieve the best possible results and plan long-term training activities, for example, the development of special training platforms or tools.

Table 8. Overview of the adequacy of NACP's funding for its various activities

Position	NACP Explanation	The Commission's assessment
a) salaries of the staff of the National Agency	<p>The salaries of the staff of the National Agency in 2020 and 2021 were provided from the State budget. However, during the preparation of the draft Law of Ukraine "On the State Budget of Ukraine for 2021" by the Ministry of Finance of Ukraine, salaries of employees of the National Agency, as well as salaries of employees of other anti-corruption bodies, remained at the level set for 2020.</p> <p>In 2020, in accordance with paragraph 10 of section I of the Law of Ukraine "On Amendments to the Law of Ukraine on the State Budget of Ukraine for 2020" dated 13.04.2020 № 553-IX, item 1 of the resolution of the Cabinet of Ministers of Ukraine dated 11.03.2020 «211 "On prevention of the spread of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2" in</p>	<p>The NACP faced difficulties with its ability to properly exercise its powers with the funds allocated for salaries of the staff.</p> <p>The NACP had a very high vacancy rate throughout the assessment period. 10.3% of all posts were vacant at the beginning of 2020. This more than doubled by the beginning of 2021 to 28.7% of all posts and remained very high (16,7%) at the end of 2021. The staffing situation was, therefore, critical throughout the assessment period.</p> <p>In an interview with the Commission in January 2022, the NACP Director Mr. Novikov reported that the financial resources saved due to the vacancies were paid in bonuses and salary supplements to the staff employed.</p> <p>The Commission relies on the fact that the high vacancy rate is not maintained in order to save resources in the wage fund to reallocate them in favour of the staff employed. This would be unacceptable since the State has set up an institution</p>

	<p>Ukraine, it was established that the salaries of government officials until the end of quarantine cannot exceed the minimum wage set for January 1, 2020 by over 10 times.</p>	<p>with a fixed number of posts in order to fulfil the powers assigned by the law which cannot be achieved with a significantly smaller number of staff.</p> <p>At the same time, the Commission supports the NACP's efforts to advocate for higher remuneration levels. A successful fight against corruption is not possible if the organization is not given sufficient resources to attract highly professional staff.</p>
b) conducting research on corruption and analysis	<p>Research on corruption and analysis in 2020 and 2021 was conducted at the expense of funds provided in the State Budget and at the expense of international technical assistance.</p>	<p>There were no major difficulties to properly exercise its powers with allocated funds.</p>
c) information and education campaigns	<p>Information and educational campaigns were conducted at the expense of the State Budget and international technical assistance in 2020 - 2021. The production of printed materials for these campaigns was provided and a video studio was equipped to create video materials.</p> <p>In addition, the National Agency in working order appealed to the ITD project "Support to Leading Organizations in Combating Corruption in Ukraine" Interaction "(USAID) to finance information and education campaigns to develop zero tolerance for corruption among citizens.</p> <p>Two stages were agreed:</p> <p>1) development of a Strategy for the formation of zero tolerance for corruption, which would define a holistic vision of the National Agency, which reflects how it is necessary to conduct appropriate campaigns;</p> <p>2) conducting informational and educational campaigns.</p> <p>The Terms of Reference for the development of the strategy was given to the project "Support to Leading Organizations in Combating Corruption in Ukraine" Interaction "(USAID) in August 2020. In April 2021, the project selected a contractor to develop a document. In August 2021, the contractor, presenting the previous stages of the work (deliverables) began work on the Strategy. At the end of November, work on the Strategy was completed.</p>	<p>There were no difficulties to properly exercise its powers with allocated funds and support of donors. However, this approach is not sustainable in the long term and as soon as donor funding becomes unavailable its function risks grinding to a halt.</p>
d) training on preventing and combating corruption	<p>During 2020-2021, the budget did not provide for separate expenditures for training. At the same time, the National Agency has a Department for Training and Evaluation of Authorized Units of the Office of Strategic Analysis for the</p>	<p>As the budget did not provide for separate expenditures for training, it is not possible to achieve the best possible results and plan long-term training activities, for example, the development of special training platforms or tools, setting up study rooms, including in the regions etc. While the NACP's</p>

	Prevention of Corruption of the Department for the Prevention and Detection of Corruption, which carries out relevant training activities.	<p>performance and ingenuity in providing training gives the impression that there is no problem in this respect, the absence of a discretionary budget for training is not sustainable.</p> <p>One of the NACP's most important tasks is to ensure that subjects of the law do not commit offences due to ignorance. The development of training materials and the provision of training must be budget constrained.</p> <p>Therefore, it is advisable to ensure that training plans are supported by adequate budgetary resources.</p>
e) provision of the necessary material means, machinery, equipment, and other property for the performance of official activities	The amount of funds from the State Budget in 2020–2021 for these purposes was sufficient. In the same period, intangible assets, software products, tangible assets, machinery, equipment, and other assets were also provided to the National Agency at the expense of international technical assistance.	<p>There were no difficulties with the proper exercise of the NACP's powers with the allocated funds and support of international technical assistance.</p> <p>However, this approach is not sustainable in the long term. Once international technical assistance funding becomes unavailable, the National Agency's functioning risks grinding to a halt.</p>
f) establishment of territorial bodies of the National Agency	Territorial units of the National Agency were not created in 2020–2021. In view of the above, no expenditures were provided for these purposes at the expense of the State Budget.	The non-establishment of territorial units is not due to a lack of financial resources but to a managerial decision and is therefore not analysed in the context of funding.
g) other costs	From the State Budget in 2020 and 2021, funds were allocated for the overhaul of the administrative building of the National Agency, travel expenses, court fees, utilities, and energy bills.	There were no difficulties with the proper exercise of the NACP's powers with the allocated funds and support of donors.

1.11. The National Agency's Head had the possibility to present, whenever necessary, the position of the National Agency on its financing at the meetings of the Cabinet of Ministers of Ukraine or committees or at plenary sessions of the Verkhovna Rada of Ukraine

During 2020-2021, there were no cases when the Head of the National Agency did not have the opportunity to present the position of the National Agency on its financing at meetings of the Cabinet of Ministers of Ukraine, parliamentary committee hearings or plenary sessions of the Verkhovna Rada of Ukraine.

1.12. Remuneration conditions of officers and officials of the National Agency have been laid down in laws, are properly put into practice, and are not subject to unjustified changes

The maximum number of employees of the National Agency, determined by the Cabinet of Ministers, is 408. Not all positions were occupied during the evaluation period. As of 01.01.2020, there were 42 vacant positions, on 01.01.2021 - 117, and on 31.12.2021 - 68.

Meanwhile, the amount of financial resources allocated to remuneration increased slightly every year, amounting to UAH (thousands) 218938.40 (thousands) in 2020, 253717.20 in 2021 and envisaged UAH 291262.00 (thousands) for 2022. It is good practice to keep the number of vacant posts to 10%. If this percentage is exceeded, it signals either unacceptable working conditions or problems with the management. In the public sector, it tends to be common practice to have a high vacancy rate to increase remuneration in the form of supplements or bonuses for other staff members. A relatively very high vacancy rate of 28.7% at the end of 2020 and a slightly lower rate of 16.7% at the end of 2021 raise concerns as to the insufficient number of staff necessary to allow the NACP to perform its statutory tasks.

A comparison of the actual average annual remuneration and the expected average annual remuneration per post (in thousands UAH) shows that the financial savings due to vacancies have enabled a significant increase in the level of remuneration per person.

While the Commission is convinced that the level of remuneration of NACP staff should, without doubt, increase in order to attract and retain the highest quality staff, this practice is not in line with the principle of good

governance, where the legislator is informed when granting remuneration that a certain amount of work will be done with the funds allocated for remuneration.

1.13. The maximum number of staff members of the central and regional bodies of the National Agency has been set at a level that enables the National Agency to properly exercise its powers

The maximum number of employees of the National Agency, determined by the Cabinet of Ministers, is 408. Although not all positions were occupied during the evaluation period. As of 01.01.2020, there were 42 vacant positions, on 01.01.2021 - 117, and on 31.12.2021 - 68.

The Commission estimated that the NACP's functions, in particular in the area of examination of senior officials' asset declarations, conflict of interest and full control of the vested interests and the legality of political party financing, are disproportionately low compared to similar organisations in other countries. However, given that the NACP had a very high vacancy rate, reaching as high as 28.7% at the beginning of 2021 and remaining at 16.7% until the end of the year, the Commission must express their concern about the insufficient capacity of the management to attract staff to the already vacant posts. Therefore, the NACP management must first ensure that all current positions are filled before advocating for the creation of new positions. The criterion is, therefore, assessed as adequately met by the country.

1.14. No instances of actual or attempted violations of the defined procedure for termination of the National Agency's Head have been recorded

There were no cases of violations or attempts to violate the special procedure for terminating the powers of the Head of the National Agency.

1.15. No instances of attempts on the life and health of the National Agency staff or their close persons, the destruction of or damage to their property, threatened murder, violence, or damage to property

The Commission took note of the information provided by the NACP on a case of robbery. Namely, at the beginning of 2020, the private house of the head of the Department for Special Inspections and Lifestyle Monitoring was robbed. On February 4th, 2020, the National Police opened a criminal investigation (№ 12020110200000654) into this allegation under Art. 3, 4 st. 185 of the Criminal Code of Ukraine. There is no evidence that the case is related to the performance of his duties. We agree that the NACP should continue to draw the attention of the National Police to the need to conclude the investigation.

At the same time, the Commission draws attention to the fact that the NACP's sphere of activity is civil, not criminal, in its legal nature. Therefore, the Commission would like to express some reservations towards the NACP's proposal to grant the right to store, carry, and use weapons and special equipment to all employees of the National Agency. This issue is part of the national matter of work for such organisations. Generally, civil servants do not face a level of risk in their supervisory and control functions in relation to other state or public officials that would require the use of weapons and other special means of self-defence.

1.16. Each instance of an attempt on the life and health of the National Agency staff or their close persons, the destruction of or damage to their property, threatened murder, violence or damage to property has been properly investigated, and competent authorities have taken appropriate steps to ensure security of the National Agency staff

The NACP suspects that one case of house robbery was related to the performance of official duties (See 1.15.).

Following the robbery of the private residence of a NACP employee, the reaction of the National Police was limited to entering information into the Unified State Register of Pre-Trial Investigations. The perpetrators have not been identified.

The pre-trial investigation body of the National Police explained its inaction by heavy workload.

The Commission agrees that the NACP should continue to draw the attention of the National Police to the need to conclude the investigation.

1.17. No cases of external interference in the appointment/dismissal of the National Agency staff, including its leadership

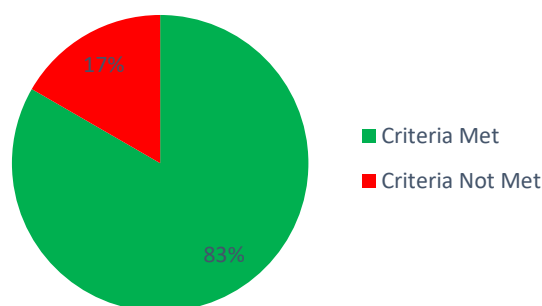
No cases of external interference in the appointment / dismissal of employees of the National Agency have been recorded

Object 2. Development, coordination, and monitoring of anti-corruption policy by the NACP

Summary of Findings

The NACP met five of the six Object 2 criteria appropriately considered for evaluation, thus achieving a ratio of 83%.

Total criteria	12	
Criteria not met because of factors external to the NACP	6	
Criteria for which the Commission did not have sufficient information to reach a conclusion	0	
Criteria under consideration	6	
Criteria met	5	83%
Criteria not met	1	17%



Object 2 of the assessment methodology defines 12 criteria for assessing the performance of the NACP relating to forming, coordinating, and monitoring of Anti-Corruption Policy. Pursuant to the Methodology, the Commission took into account that inaction by an entity other than the NACP – an “external” factor – was responsible for the NACP’s inability to meet half of these criteria.

The Commission determined that inaction on the part of Verkhovna Rada of Ukraine prevented the NACP from meeting six of the 12 criteria. Specifically, although the NACP drafted the Anti-corruption Strategy and timely submitted it to the Parliament, the Parliament failed to adopt it. In sum, the adoption of the Anti-Corruption Strategy was essential to provide the predicate for the NACP to meet these criteria. In its self-assessment relating to Object 2, the NACP cited inaction by the Parliament as the reason why the NACP could not meet four criteria (2.7, 2.9, 2.10, and 2.11). The Commission agreed as to these four criteria and determined that additional two criteria (2.5 and 2.12) should not be considered for the same reason.

Of the six criteria assessed, the NACP met the requirements for five (2.1, 2.3, 2.4, 2.6, and 2.8). With respect to four of these criteria, the NACP demonstrated a commendable level of success (2.1, 2.3, 2.4, and 2.8). The NACP’s performance failed to meet the requirements for only one criterion (2.2).

Key Achievements

1. The NACP timely prepared a draft national anti-corruption strategy and an action plan for its implementation. The draft strategy was submitted to the Parliament.
2. In drafting the strategy and action plan, the NACP comprehensively considered findings of sociological surveys and other research, including recommendations and analysis by Ukrainian and international non-government organisations. The NACP also consulted independent experts and representatives of the public.

3. The NACP developed and adopted an improved survey methodology for the assessment of the corruption situation. The NACP collaborated with stakeholders and independent experts for refining the survey methodology.

Challenges and Weaknesses

1. The Parliament did not adopt the Anti-Corruption Strategy. Demonstrably sustained political will is a keystone for effective implementation of anti-corruption measures. Without a formal strategy to establish clear anti-corruption priorities and objectives, it is difficult for the NACP and other state authorities to evaluate progress and align their efforts, resulting in fragmented and uncoordinated actions limiting the NACP's overall effectiveness. Lack of political will also hinders the ability of the NACP to ensure adequate resources and cooperation from stakeholders. Significantly, lack of a formal strategy can seriously undermine civil society's trust and engagement in the government's commitment to fighting corruption.

2. Faced with the absence of a formal anti-corruption strategy adopted by the Parliament, the NACP could have taken concrete and transparent measures, independent of external stakeholders, to ensure accountability for its performance, build public confidence, and promote understanding of and support for its mission. The NACP could have done significantly more publicly to explain its priorities, establish benchmarks for measuring its effectiveness, and identify near and long-term objectives. With a clear self-defined strategy and self-defined priorities in place, the NACP could have been more effective. This information could have been widely disseminated to underscore the NACP's commitment to transparency and accountability.

3. The NACP did not fulfil the legal requirement to publish its findings concerning the corruption level and the perception of anti-corruption institutions. The NACP failed to appreciate the critical importance of the timely publication of survey results and related analysis as a powerful tool for combating corruption and promoting public trust.

Criteria Met

The Commission commends the NACP for having timely adopted the Methodology of Standard Corruption Survey in Ukraine (2.1). The survey was relevant and drew no significant objections. The Commission recognized that this survey methodology, adopted in December 2021, substantially improved upon the survey methodology in force during the review period. Further, the NACP demonstrated commitment to a process for ongoing review and refinement of the updated survey. Notably, the NACP sent relevant materials to a wide range of experts dealing with corruption. At the same time, the Commission notes that the survey conducted in 2021 was administered near the end of the review period and that the timing of the survey was a significant reason why the 2021 survey results were not published. The publication issue is more fully addressed below in the discussion of the NACP's failure to meet the publication requirement of criterion 2.2.

The Commission also commends the NACP for comprehensively gathering and taking into account the findings of sociological surveys and other research in the formulation of anti-corruption policy (2.3). In particular, the Commission notes that NACP's draft Anti-corruption Strategy includes extensive references to relevant studies and well-considered analysis of the results of several reports. In addition, the NACP's draft strategy also takes into account studies and analytical reports of non-governmental organisations. In reaching the determination that the NACP met criteria 2.3, the Commission is mindful that the scope of the criteria includes "implementation" as well as "formulation" of anti-corruption policy. The Commission considers only the formulation aspect of the NACP's work for this criterion.

The Commission concludes that because the anti-corruption strategy was not timely adopted, the NACP was not required to submit the draft action plan. The overarching focus of Object 2 is "Anti-Corruption Policy." The Commission notes that the references to the national strategy, action plan, and related policy issues throughout Object 2 criteria implicitly establish that the "policy" to be

implemented could properly have been derived only where the underlying anti-corruption strategy was put in place. The Commission also notes the absence of a clear alternative definition of policy for the purpose of assessing 2.3. In this context, the NACP's use of sociological surveys and other research relating to the "implementation" – in contrast to the "formulation" – of policy could not be meaningfully assessed.

The NACP's timely preparation of a draft national anti-corruption strategy and a government action plan for implementation was also commendable (2.4). The Commission draws attention to the fact that this criterion relates only to the drafting of the relevant documents; timely submission to the Cabinet of Ministers is the focus of a different criterion (2.5), discussed below; the draft action plan was not actually submitted. The draft strategy and draft action plan were developed in consultation with experts in corruption prevention and detection. The experts consulted included independent experts, as well as representatives of the public and international organisations.

With respect to the draft national report (2.6), the Commission concludes that the criterion was minimally met. While the information listed in Article 20 of the Law of Ukraine on Corruption Prevention ("Law") and the situation with preventing and combating corruption is adequately referenced, the NACP could have more fully and transparently elaborated on its functions, programmes, and processes. The Commission suggests that overall, the NACP could make better use of opportunities – as present with respect to the draft national report – to promote public confidence in and support for the NACP's anti-corruption efforts by promoting greater public understanding of its work. The importance of comprehensive external communication is further emphasised below in the discussion of the NACP's failure to timely publish survey results.

The Commission commends the NACP's comprehensive activities and accomplishments concerning drafting, discussing, and finalising draft regulations related to the formulation or implementation of the state anti-corruption policy (2.8). Here, the Commission notes that the scope of the criterion includes formulation "or" implementation. For this reason, the Commission determined that the criterion was fully met, even though the state anti-corruption policy was not in place and "implementation" therefore was not possible.

Criterion Not Met

The NACP failed to meet only one of the six criteria that were within the Commission's scope of review. Although the NACP assessed the corruption level and the perception of anti-corruption institutions, its findings were not published during the review period (2.2). (The standard survey on the level of corruption was conducted in 2020 and a sociological survey of the corruption level was conducted in 2021) It is regrettable that the NACP did not meet this essential element of the criterion. Notably, Object 2.2 is the only assessed criterion of Object 2 that directly requires public dissemination of information. (Two other criteria – 2.9 and 2.10 – that would have been assessed if the anti-corruption strategy had been adopted, also underscore the importance of active, timely communication with the public.)

In 2021, NACP started the survey with the expert poll only in June, while the general population poll was conducted only in November and December. The Commission understands that the sociological survey on corruption was conducted near the end of the review period, and that the timing of the survey was a significant reason why the results were not timely published; however, the Commission notes that the requirement to publish survey results within the timeframe of the methodology was well known and that the NACP could have planned its schedule of work accordingly. Timely publication of pertinent information as required by law is an essential component of the criteria throughout the methodology.

The Commission is particularly concerned that the NACP failed to appreciate the critical importance of timely publication of survey results and related analysis in effectively combating corruption. While survey data concerning the extent and nature of corruption, as well as pertinent perceptions by

stakeholders, provides valuable data to government policymakers, publication is otherwise a powerful tool for combating corruption.

Timely publication of survey results and analysis enhances the work of the NACP in several important ways. Public trust is significantly promoted by underscoring the NACP's commitment to transparency, openness, and accountability. Generally, raising public awareness about what the NACP is doing to identify and analyse corruption predictably reinforces a culture of integrity, encouraging citizens to report instances of corruption, as well as to identify systemic corruption vulnerabilities that they may observe. Likewise, publication invites civil society organisations and other stakeholders to make well-considered recommendations to the government when developing proposals for anti-corruption strategies and policies. Publication sets the tone for establishing transparent benchmarks that allow stakeholders to understand and broadly track the effectiveness of national anti-corruption efforts. In turn, shared attention to benchmarks helps to identify areas where action should be prioritised and promotes government and nongovernment support for further action, improved legislation, and enhanced anti-corruption policies. Publication also facilitates international cooperation, both in terms of sharing best practices relating to anti-corruption issues and attracting technical and financial support for anti-corruption programmes, as well as for broader areas of economic development.

Criteria Not Met Due to Factors External to the NACP

It is regrettable that the Parliament did not adopt the national anti-corruption strategy, and, consequently, no action plan for implementation of the strategy was created. For this reason, several important obligations that were anticipated by the Methodology were not imposed on the NACP. Indeed, six criteria were placed outside the scope of the NACP's responsibilities by reason of this single external factor. In view of the NACP's overall success in meeting other criteria, the Commission suggests that the work of the NACP would have been significantly more effective if the obligations subject to these criteria had been successfully placed within the responsibilities of the NACP. The Commission emphasises that demonstrably sustained political will is a keystone to effective implementation of anti-corruption measures.

Four of the six criteria that were not considered are identified in the NACP's self-assessment as dependent on adoption of the anti-corruption strategy by the Parliament. These criteria encompass drafting and implementation of regulations predicated on the strategy and action plan (2.7), coordination and implementation of the strategy and state program with other authorities (2.9), monitoring and implementation of anti-corruption policy and publication of the results (2.10), and assessment by the NACP of the effectiveness and implementation of the strategy and state program for its implementation (2.11). The Commission concludes that two additional criteria should not be considered either.

Criterion 2.5 comprises two indicators: 1) the NACP's submission of the draft strategy and 2) the NACP's submission of the draft action plan. The NACP submitted the draft strategy in 2020. The NACP's self-assessment acknowledges that the overall criterion was not met, because the draft action plan for its implementation was not submitted. The Commission concludes that, as noted in the NACP's response, the submission of the draft action plan for implementation was required only after adoption of the strategy by the Parliament. Because the Parliament did not adopt the strategy, the submission of the draft action plan was not appropriate. Likewise, the Commission determines that recognition of the NACP as an effective and unbiased institution in "formulating, coordinating, and monitoring the implementation of the state anti-corruption policy" by non-governmental organisations, international organisations, and donors (2.12) could not be meaningfully assessed. Absent the underlying national strategy and action plan, there is no adequately identified "state anti-corruption policy" to provide a basis for assessment.

It is crucial that the NACP establish a clear basis for accountability that allows domestic and international stakeholders to understand and evaluate the NACP's strategic planning and progress

with respect to meeting goals that are not wholly dependent on action by external stakeholders. Particularly given the lack of action on the part of the Parliament, it is worthwhile to recognize that the effectiveness of the NACP would benefit by the NACP's comprehensive self-identification of priorities, short- and long-term objectives, internal strategies, and methods for measuring results. This information should be publicly disseminated to underscore the NACP's commitment to transparency and accountability. Establishing benchmarks for performance and sharing them with the public is essential. Sharing benchmarks, priorities, time-framed goals, and progress would substantially enhance public trust in the NACP. The Commission also emphasises the importance of open communication with the public in the above discussion of criteria 2.2. Fostering public trust is critical given the ongoing challenge of maintaining the political will necessary to ensure that the NACP receives adequate resources and appropriate cooperation from stakeholders.

High Priority Recommendations

1. The NACP should timely meet all requirements of the law for publishing information relating to its responsibilities. If a publication requirement cannot be timely met, the NACP should timely publish an explanation to justify why the requirement to publish was not met. In addition, the NACP, to the greatest practicable extent, should publish comprehensive information about its priorities, objectives, strategies, benchmarks, processes, and analytical studies.
2. The NACP should establish a clear basis for accountability that is not solely dependent on external stakeholders by developing and sharing self-identified benchmarks, priorities, time-framed goals, and methods for measuring results to enable domestic and international stakeholders to better understand and evaluate the NACP's strategic planning and progress.

Other Recommendations

1. The NACP should strengthen the professional capacities of employees by systemic, comprehensive educational programmes and training sessions. For instance, education and training should aim to develop skills in the analysis of data using digital tools; methods of policy impact assessment; and best practices in policy formulation and implementation.
2. The NACP should leverage the use of advanced technologies, such as artificial intelligence, and big data analysis, to improve its monitoring and detection capabilities, streamline its processes, and enhance its decision-making.
3. The NACP should clearly define the role of the Coordination Working Group on Anti-corruption Policy in monitoring the implementation of state anti-corruption policy measures; the NACP should ensure participation in the working group of CSOs and international organisations that can provide technical assistance.
4. The NACP should publish on its website all relevant documents, reports, assessments, and meeting summaries of the Working Group on Anti-corruption Policy.
5. The NACP should develop a strategy and action plan to strengthen inter-agency cooperation and coordination with other anti-corruption bodies, such as the National Anti-Corruption Bureau of Ukraine (NABU) and the Specialized Anti-Corruption Prosecutor's Office (SAPO).

Detailed Assessment

EVALUATION OBJECT 2: Forming, Coordinating and Monitoring of Anti-Corruption Policy by the NACP	
Assessment	Explanation
2.1. The Methodology of Standard Corruption Survey in Ukraine has been adopted, it is relevant and draws no reasonable material objections	
Met	<p>The Updated Methodology of the Standard Survey on Corruption in Ukraine was approved by the order of the National Agency № 842 dated 30.12.2021. So, the Methodology of Standard Corruption Survey in Ukraine has been adopted, it is relevant and draws no reasonable material objections.</p> <p>According to the updated approach of the NACP to the organisation of research was identified, which should be aimed at: a) study of the general situation regarding corruption; b) identification of the spheres of public life most affected by corruption; c) identification of its causes and prevalence in such areas. In the new Methodology, the NACP has taken in consideration recommendations of leading CSOs, public council at the NACP, other key stakeholders as well as the results of an expert survey conducted in the third quarter of 2021. According to the NACP, 208 respondents took part in the survey, including about 80 representatives of the public, anti-corruption environment experts, representatives of public associations, international organisations and the media.</p> <p>According to AntAC's opinion, updated methodology was much more relevant.</p>
2.2. An annual assessment of the corruption level in Ukraine, the perception of and trust in anti-corruption and other institutions etc. is conducted, and its findings are published	
Not met	<p>An annual assessment of the corruption level in Ukraine, the perception of and trust in anti-corruption and other institutions was conducted at the end of the inspection period. However, the result was not timely published.</p> <ol style="list-style-type: none"> 1. The report on the results of the standard survey on the level of corruption conducted in 2020 "Corruption in Ukraine 2020: understanding, perception, prevalence" ⁴(Annex 2.1.3). 2. The analytical report on the results of the sociological survey on corruption in Ukraine conducted in November-December 2021 was planned to be posted on the NACP website after the presentation of the survey by the sociological company. 3. The NACP did not publish the survey results on time during the evaluation period due – in part – to the late date of the assessment. Publication is an essential element of the criterion. The NACP justifies the violation of the deadline by the limitations imposed by martial law. <p>Therefore, while the NACP conducted both the standard survey on the level of corruption in 2020 and a sociological survey of the corruption level in 2021, it failed to publish the results during the review period.</p>
2.3. The findings of sociological surveys and other research are taken into account in the formulation and implementation of anti-corruption policy by the National Agency	
Met	<p>The NACP has gathered and taken into account the findings of sociological surveys and other research in the development of anti-corruption policy. The explanatory note of the draft Anti-</p>

⁴ Корупція в Україні 2020: розуміння, сприйняття, поширеність, https://nazk.gov.ua/wp-content/uploads/2020/05/Corruption_Survey_2020_Presentation_Info-Sapiens.pdf.

	<p>Corruption Strategy for 2020-2024, published by the NACP, contained references to the studies. The NACP also took into account studies and analytical reports from non-governmental organisations, particularly:</p> <ul style="list-style-type: none"> - The Report “Corruption in Ukraine 2020: Understanding, Perception, Prevalence”; - Research “Corruption in Ukraine: Perception, Experience, Attitude. Analysis of the 2015-2018 Nationwide Survey, conducted by the Kyiv International Institute of Sociology with the support of the USAID Join!; - Public Opinion Survey to Assess Changes in Citizens' Awareness of NGOs and their Activities (January 2020), conducted by the Kyiv International Institute of Sociology with the support of the USAID Join!; - Global Corruption Barometer Study (2013); - Global Corruption Barometer Study (2016); - Global Corruption Barometer Survey (2017); - Enterprise Surveys Survey. Ukraine 2019. Country Profile; - Survey of Foreign Investors conducted by Dragon Capital and the European Business Association in 2016; - Survey of Foreign Investors conducted by Dragon Capital, the European Business Association and the Centre for Economic Strategy in 2017; - Survey of Foreign Investors conducted by Dragon Capital, the European Business Association and the Centre for Economic Strategy in 2018; - Survey of Foreign Investors conducted by Dragon Capital, the European Business Association and the Centre for Economic Strategy in 2019; - World Governance Indicators study (2020).
	<p>2.4. An anti-corruption strategy and a government program (action plan) for its implementation are drafted without unreasonable delays based on the analysis of:</p> <ul style="list-style-type: none"> - the situation with corruption - the outcomes of the previous anti-corruption strategy.
<p>Met</p>	<p>The NACP developed the draft anti-corruption strategy and the government program for its implementation. Although the NACP timely submitted the draft strategy, the Parliament failed to adopt it during the period under review.</p> <p>The stakeholders confirmed that the NACP developed the draft Anti-Corruption Strategy on time.</p> <p>The Commission has verified NACP’s self-assessment and has confirmed that:</p> <p>The draft Anti-Corruption Strategy was prepared by the National Agency in 2020.</p> <p>According to the current version of Part 4 of Art. 18 of the LCP, the Anti-Corruption Strategy is implemented through a state program developed by the National Agency and approved by the Cabinet of Ministers of Ukraine. The development of the state program had to follow the adoption of the Anti-Corruption Strategy. The NACP could not implement the part of the criterion concerning development of draft state program because the Strategy was not adopted during the evaluation period.</p> <p>The main stages of the preparation of the draft Anti-Corruption Strategy are as follows:</p> <ul style="list-style-type: none"> - January-June 2020 - development of the draft Anti-Corruption Strategy by specialists of the National Agency in fruitful cooperation with representatives of a number of other state institutions, academia, independent experts, the public and international partners;

	<ul style="list-style-type: none"> - June 23, 2020 - the draft Anti-Corruption Strategy was published on the official website of the National Agency to ensure a broad discussion of this document by all stakeholders; - June – July 2020 - eight public consultations with the public were held, during which the main priority sectors of the Anti-Corruption Strategy were discussed (270 participants, 30 experts, 31,500 viewers of the broadcasts on the National Agency's social networks took part in the public consultations); - July-August 2020 - processing by experts of the National Agency of comments, suggestions and comments made by 36 state institutions, eight detailed joint comments / conclusions from international and non-governmental organisations, as well as 30 other appeals received by mail. In total, the National Agency meticulously examined and gave individualized consideration to more than 1,000 comments, suggestions and / or comments on the draft Anti-Corruption Strategy; - August – September 2020 - mandatory conciliation procedures defined by the Regulations of the Cabinet of Ministers of Ukraine were organised and completed successfully and expeditiously (in total, the document was approved by 22 ministries and other central executive bodies); - September 16, 2020 - the Government approved the draft Anti-Corruption Strategy; - September 21, 2020 - the Cabinet of Ministers of Ukraine submitted the Anti-Corruption Strategy for the approval of the Verkhovna Rada of Ukraine. Hence, the draft strategy and draft action plan were developed in consultation with experts in the field of corruption prevention and detection. The consultations involved both independent experts and representatives of the public and international organisations.
<p>2.5. The draft anti-corruption strategy and the draft government program (action plan) for its implementation are submitted to the Cabinet of Ministers of Ukraine without unreasonable delays</p>	
<p>Not met due to an external factor</p>	<p>The NACP's self-assessment (January 2022) acknowledges that the NACP did not achieve this criterion. The criterion includes two indicators: 1) submission of the draft strategy, and 2) submission of the draft action plan.</p> <p>While the NACP submitted the draft strategy in 2020 without significant delay, the draft action plan for its implementation was not submitted.</p> <p>As noted in the NACP's response, the submission of the draft action plan for implementation was required only after the adoption of the strategy by the Parliament. Because the Parliament did not adopt the Anti-Corruption Strategy during the pertinent period, the submission of the draft action plan was not appropriate. Thus, the failure to meet this criterion is attributed to the inaction of the Parliament.</p>
<p>2.6. The draft national report includes all the information listed in Article 20 of the Law of Ukraine on Corruption Prevention ("Law"), and the situation with preventing and combating corruption is fully and impartially assessed</p>	
<p>Met</p>	<p>The Commission concluded that the criterion was minimally met. Nevertheless, the assessment of the documents shows that the national report mentioned only achievements of the Agency. For example, according to the NGO Anti-Corruption Action Centre, the NACP did not reflect in the report the evaluation of its work by CSOs. This information is missing even in the section on external challenges faced by the Agency, except for CSOs' commentary on the decision of the Constitutional Court of Ukraine on limiting the NACP's powers. Certain factual descriptions in the report are unjustifiably detailed and lengthy. For example, this is the case with the descriptions of the CCU's decision and the process of preparing the draft Anti-Corruption Strategy.</p>
<p>2.7. Regulations included in the scope of responsibility of the National Agency under the anti-corruption strategy and/or the government program (action plan) for its implementation are developed without unreasonable delays. Such draft regulations are adopted (when it concerns own regulations) or submitted by the National Agency for consideration to respective decision-makers, submitted for state registration</p>	

Not met due to an external factor	Neither the Anti-Corruption Strategy nor the action plan was adopted by the Parliament during the pertinent period; therefore, the NACP could not develop, draft, and submit relevant regulations due to external factors. The NACP's self-assessment states that this criterion was "not taken into account," because the strategy had not been approved by the Parliament.
2.8. The National Agency participates in drafting, discussing, and finalizing other draft regulations related to the formulation or implementation of the state anti-corruption policy	
Met	<p>During the reporting period, the National Agency drafted three bills:</p> <ol style="list-style-type: none"> 1) "On Amendments to the Law of Ukraine "On Prevention of Corruption" on Improving Certain Anti-Corruption Mechanisms"; 2) "On Amendments to the Code of Ukraine on Administrative Offences to Improve the Provisions and Procedures for the Application of Administrative Liability for Corruption-Related Offences"; 3) "On Amendments to the Code of Ukraine on Administrative Offences and the Law of Ukraine "On the High Anti-Corruption Court" on Improving the Procedure for Prosecuting Administrative Offences Related to Corruption and Certain Other Offences." <p>The draft laws are aimed at clarifying the list of subjects covered by the law, supplementing the list of information specified in the declaration, improving procedures related to the submission of declarations, financial control and other measures aimed at preventing and combating corruption.</p> <p>The proposed amendments have not lost their relevance. However, due to martial law and the prioritisation of legislation in the field of national security, further work on these amendments, such as coordination with central executive bodies and / or submitting them to the Cabinet of Ministers of Ukraine, was suspended.</p> <p>In addition, the National Agency participated in the preparation of the following proposals:</p> <ul style="list-style-type: none"> - the National Economic Strategy for the period up to 2030 (approved by the resolution of the Cabinet of Ministers of Ukraine № 179 dated 03.03.2021); - the Government's Priority Action Plan for 2021 in terms of anti-corruption policy measures (approved by the order of the Cabinet of Ministers of Ukraine № 276 dated 24.03.2021); - the programmes of activities of the Cabinet of Ministers of Ukraine related to formation and implementation by the National Agency for Anti-Corruption Policy; - The Government's Priority Action Plan for 2022 in terms of anti-corruption policy measures. <p>The National Agency also drafted 83 draft legislative acts. Separately, the NACP prepared 26 conclusions (position papers) on draft laws related to the formation or implementation of anti-corruption policy. In particular, the National Agency participated in the discussion of bills at the hearings of the Committee of the Verkhovna Rada of Ukraine on Anti-Corruption Policy and other designated committees. The Commission found that the criterion had been fully met, despite the fact that the national anti-corruption strategy had not been adopted and, consequently, the state anti-corruption policy was not yet in place.</p>
2.9. The National Agency coordinates the implementation by other state authorities of the anti-corruption strategy and the government program (action plan) for its implementation	
Not met due to an external factor	Neither the Anti-Corruption Strategy nor the action plan was adopted by the Parliament during the pertinent period; therefore, coordination with other authorities was not possible due to external factors. The NACP's self-assessment states that this criterion was "not taken into account" because the strategy had not been approved by the Parliament.

2.10. The implementation of the state anti-corruption policy is monitored (including by engaging representatives of the public) and the findings of such monitoring are published on the official website of the National Agency. The above monitoring and publication of its findings are done at least annually.

Not met due to an external factor	Neither the anti-corruption strategy nor the action plan was adopted by the Parliament during the pertinent period; therefore, monitoring of implementation was not possible due to factors external to the NACP. (The NACP’s self-assessment states that this criterion was “not taken into account,” because the strategy had not been approved by the Parliament.)
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2.11. Evaluation of effectiveness of the implementation of the anti-corruption strategy and the government programme (action plan) for its implementation is conducted and the findings of such monitoring are published on the official website of the National Agency. The above monitoring and publication of its findings are done at least annually

Not met due to an external factor	Neither the anti-corruption strategy nor the action plan was adopted by the Parliament during the pertinent period; therefore, evaluation of their effectiveness was not possible due to factors external to the NACP. (The NACP’s self-assessment states that this criterion was “not taken into account,” because the strategy had not been approved by the Parliament.)
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2.12. Non-governmental, international organisations, donors conducting activity in the area of preventing and/or combating corruption recognize the National Agency as an effective and unbiased institution in the area of formulating, coordinating, and monitoring the implementation of the state anti-corruption policy

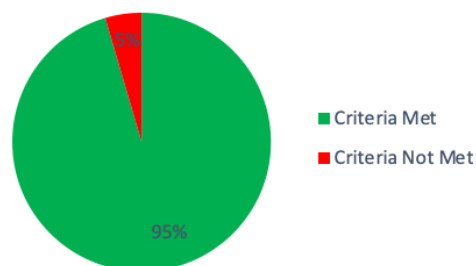
Not met due to an external factor	<p>Neither the anti-corruption strategy nor the action plan was adopted by the Parliament during the pertinent period. This criterion requires assessment of third-party perceptions and recognition of NACP’s performance with respect to “anti-corruption policy.” There was no clearly formulated “anti-corruption policy” for the purpose of this criterion.</p> <p>In the absence of a strategy or action plan – particularly in the context of understanding the appropriate scope of “anti-corruption policy” with reference to criteria 2.7. 2.9, 2.10, and 2.11 – there was an insufficient basis for assessing the NACP’s effectiveness and lack of bias in “formulating, coordinating, and monitoring” anti-corruption policy.</p> <p>Therefore, meaningful evaluation of this criterion was not possible due to factors external to the NACP.</p>
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Object 3. Organisation by the NACP of corruption prevention and identification measures

Summary of Findings

The NACP met 21 of the 22 Object 3 criteria taken into consideration, a ratio of 95%.

Total criteria	24	
Criteria not met because of factors external to the NACP	0	
Criteria for which the Commission did not have sufficient information to reach a conclusion	2	
Criteria under consideration	22	
Criteria met	21	95%
Criteria not met	1	5%



Based on the information from the NACP and other stakeholders, the Commission was not able to assess two criteria out of 24 (3.8 and 3.19) due to the Commission lacking sufficient information to decide whether they were met. Out of the remaining 22 criteria, 21 criteria were met (3.1-3.7, 3.9-3.17 and 3.20-3.24) and 1 criterion was not met (3.18).

Background

The Law of Ukraine on Corruption Prevention establish that National Agency has powers of coordination and provision of methodological assistance regarding the identification by state bodies, authorities of the Autonomous Republic of Crimea, and local self-government bodies of corruption risks in their activities and their implementation of measures to eliminate them, including the preparation and implementation of anti-corruption programmes (Article 11). Anti-corruption programmes and changes to them are subject to approval by the National Agency in the manner determined by it (Article 19). Anti-corruption programmes should include:

- determination of the principles of the general departmental policy regarding the prevention and counteraction of corruption in the relevant sphere, measures for their implementation, as well as for the implementation of the anti-corruption strategy and the state anti-corruption program;
- assessment of corruption risks in the activity of the body, institution, organization, the causes that give rise to them and the conditions that contribute to them;
- measures to eliminate identified corruption risks, persons responsible for their implementation, deadlines and necessary resources;
- training and information dissemination activities regarding anti-corruption programmes;
- procedures for monitoring, evaluation of implementation and periodic review of programmes;

- other measures aimed at preventing corruption and corruption-related offences.

The NACP has the right to approve the methodology for assessing corruption risks in the activities of public authorities, analyse anti-corruption programmes of public authorities and submit mandatory proposals for such programmes (Article 12).

Key Achievements

1. It is positive that the NACP has continuously provided methodological guidance to the corruption risk management process and established a common methodology for that process.
2. The NACP devoted significant resources to its educational role, as institutions in transition societies lack the knowledge of how to systematically prevent corruption cases. High-fidelity risk management per se can be difficult to understand in organizations that do not have their own risk management professionals, so embedding generic corruption risk management practices is a gradual process where the NACP took a decisive role. During the assessment period, the NACP developed a number of guidelines, information and explanatory materials on corruption risk assessment and preparation of anti-corruption programmes for legal entities. All these materials are also accessible through the website of the NACP and were disseminated among stakeholders.
3. During the assessment period, the NACP applied the Methodology for assessing corruption risks in the activities of public authorities, approved by the NACP decision № 126 dated 02.12.2016. At the end of 2021, the NACP adopted a new more comprehensive methodology along with the Procedure for submitting anti-corruption programmes and amendments thereto for approval to the National Agency on Corruption Prevention. The latest document contains valuable information on possible causes or factors of corruption, which can be used as a checklist to select the most appropriate range of issues to be addressed by the organization concerned. The new Standard Anti-Corruption Program of a Legal Entity was approved by the NACP Order No. 794/21 of December 10, 2021, which was registered with the Ministry of Justice on December 31, 2021 under No. 1702/37324.
4. The NACP conducted research of several priority areas in 2020-2021 to identify areas particularly prone to corruption. The areas for analysis had been identified according to a sound methodology, detailed in the analytical study "Priority areas for strategic analysis of corruption risks". In addition, the NACP also assessed corruption risks in a number of draft laws. The NACP conducted public consultations, as well as bilateral consultations with relevant stakeholders. The results of these consultations were published on the National Agency's website. Additionally, the NACP succeeded in concluding with relevant stakeholders Memorandums of Understanding focused on minimising corruption risks in a number of key policy areas. The NACP also initiated and organized the survey "Anti-corruption integrity - 2020".
5. The methodology for conducting anti-corruption expertise of existing and draft regulatory acts by the NACP was approved by the order of the NACP dated 20.10.2020.
6. All the conclusions of the anti-corruption examination of draft regulations have been published on the NACP's official website.
7. A Model Regulation on the Authorized Unit (Authorized Person) for Prevention and Detection of Corruption was approved by the NACP Order on 27.05.2021, including mandatory requirements for the minimum number of employees of the authorized unit in state bodies.
8. The NACP has adopted the procedure of giving consent to dismissal of the head of the authorized unit (authorized person) on corruption prevention.

Challenges and Weaknesses

1. A thorough and detailed procedure on developing institutional anti-corruption programmes may make it easier for implementers to automatically apply the approach. At the same time, the

perceived high level of bureaucratization is a major threat to effective corruption risk management. The cautious attitude by the Assessment Commission stems from the excessively detailed description of the risk assessment process in both the procedure and the methodology and the lack of ready-made risk assessment templates (usually in Microsoft Excel format with predefined risk calculation formulae) that could reduce the administrative burden for the institutions which have to prepare an anti-corruption program.

The corruption risk management process can be organized in different ways as long as they achieve the objective of preventing corruption risks in the organization. Mechanically applicable "algorithms" for managing corruption risks are of questionable usefulness. The standard algorithms are unable to account for the specific circumstances and individual situations of each organisation.

As the NACP has adopted the procedure for drafting and approving anti-corruption programmes towards the end of the assessment period (28 December 2021), the Commission does not have information on the impact the new procedure had on the effectiveness of the internal anti-corruption systems. Therefore, it is not possible to clearly determine whether the procedure is relevant and draws no reasonable material objections because the implementation of this procedure took place after the end of the assessment period. The Commission recognises that the procedure sets out, in a very high level of detail, the obligation to take conceptually correct but practically burdensome actions to prevent corruption.

2. The 2021 Methodology for assessing corruption risks and preparing an anti-corruption program requires to prepare nine different analytical reports, four lists and process (sub-process) flowcharts for each function, processes (sub-processes) potentially vulnerable to corruption, as well as to conduct surveys and consultations.

In 2020, 106 anti-corruption programmes were submitted to the NACP for approval. In 2021, 155 programmes were submitted to the National Agency. Some programmes were submitted for approval repeatedly and more than two times after their non-approval by the NACP. The National Agency considered 71 and 122 anti-corruption programmes in 2020 and 2021 respectively. While it can be assumed that the programmes initially submitted were of very poor quality, such statistics may also indicate that the requirements set by the NACP are unclear.

3. Even though the NACP has the mandate to assess and endorse the anti-corruption programmes of other public authorities and entities, the NACP did not develop and adopt its own program in 2020. The NACP organised public discussions in December 2020 but adopted its program only in 2021. It is a reason for concern, considering that such actions by another state agency would have caused an order from the NACP and disciplinary actions directed against responsible employees.

During the assessment period, 261 anti-corruption programmes (155 in 2021, 106 in 2020) were received by the NACP for review and approval. The NACP examined a total of 104 programmes and approved 94 programmes. As the statistics show, the NACP has a relatively high proportion of declined anti-corruption programmes and programmes left without consideration. This clearly indicates that the NACP evaluates programmes carefully. At the same time, it may also mean that institutions do not have the capacity, knowledge or will to set up appropriate programmes.

There are no publicly available reports as to the analyses of the implementation of the anti-corruption programmes in 2020 and 2021.

The NACP explains that it did not produce an analytical document on the application of the Procedure applied during 2020-2021. Instead, the National Agency conducted this analysis sporadically in its daily operational work.

4. In accordance with the order of the National Agency № 74/20 dated 28.02.2020, the structure of the NACP was optimized. A Department for Conducting Anti-corruption Expertise composed of six

permanent units has been established. As of 31 December 2021, the department had six employees, while three positions remained vacant. It is commendable that the NACP has made significant progress on this question during the evaluation period. However, in a context where the NACP is severely under-resourced to fully assist many Ukrainian institutions with their anti-corruption policy and measures, the existence of unfilled posts is a major shortcoming that needs to be avoided in the future.

5. The NACP failed to develop relevant, effective, and clear recommendations for specialists who draft norms on the state and local level. Therefore, it is unclear how systematic problems defined by the NACP can be addressed and fixed in the future. It also affects the effectiveness of such functions as anti-corruption examination.

The Commission draws attention to the fact that new legislation is being drafted regularly in the country and that it would be useful for the NACP to make recommendations or prepare guidelines to the drafters of legislation, which would mitigate the risks of corruption.

6. During 2020-2021, the NACP received and considered 1,136 written and oral appeals from authorized units (authorized persons) on the prevention and detection of corruption. According to the Commission's observations, the NACP receives a relatively high number of requests for clarifications or submissions on issues related to the development of anti-corruption programmes or the organization of the work of the authorized Anti-Corruption Officers.

The high level of interest shows that the authorities are willing to implement the necessary anti-corruption procedures correctly and in line with the NACP requirements. At the same time, a large number of questions, especially those submitted in writing, may indicate a lack of clarity in the applicable procedure. It is, therefore, advisable to analyse in more depth the reasons for the high demand for further clarifications and to make the necessary adjustments to enable the institutions' anti-corruption officers to perform their duties more independently.

Recommendations

1. The Commission recommends updating the Methodology corruption risks management in due time (it was updated only in 2022; in 2020-2021, the 2016 methodology remained applicable) and do more to study the best practices of the Ukrainian authorities to find out which methods are most effective in curbing corruption. If it is not possible to tackle corruption risks all at once, it is sometimes more valuable to move forward one step at a time with a single set of measures. Common templates that are easy for everyone to fill in can be used to draw up corruption risk checklists, create an incident register, determine risk tolerance levels, and analyse residual risk.

It is preferable to focus more on the mandatory responsibilities of managers to prevent corruption, which should be set out in the job descriptions of each head of the institution and of managers at all levels. For example, these responsibilities can include: ensuring that subordinate employees do not perform their duties in a conflict-of-interest situation; implementation of a zero gifts policy in the institution; a transparent and open recruitment procedure for all posts; the rotation of officials in corruption vulnerable positions every five years; an open and competitive procurement process, etc. It is recommended to ensure accountability of the head of the institution for repeated incidents of corruption in the institution by subordinate staff. Institutional leaders are then likely to find the most effective way to curb corruption, especially in personnel management processes.

2. The NACP should stimulate a gradual transition from periodic planning of anti-corruption measures for a fixed period to the establishment of a functioning internal anti-corruption control system in each institution, the effective functioning of which is the responsibility of the head of the institution. Managers need to be given discretion as to the most effective way

of eliminating corruption and reducing the risk of corruption occurring. Each head of an institution must also bear a certain degree of responsibility for the misconduct of the institution's staff as a result of inadequate supervision and control. The failure of the head of an institution to ensure that subordinate staff at any level do not perform their duties in a situation of conflict of interest, commit corruption offences would indicate that he or she is not fit for office.

3. The approval of an anti-corruption program by a central organization is not a common practice in other countries. Ensuring the adequacy of anti-corruption measures is usually the direct responsibility of the head of the institution. The NACP must gather a lot of information and to carry out a de facto assessment of the institution's work to approve a program. The Assessment Commission recommends that the legislator should consider removing the requirement for the NACP to approve the anti-corruption programmes of all institutions. Instead, the heads of institutions should not only be generally responsible for preventing corruption or conflicts of interest in their institutions, but also must be held accountable if the institution's employees commit offences, which indicate that the anti-corruption program in place has not been sufficiently effective. In its turn, the NACP could review the institutional programmes and risk assessment frameworks when conducting a sectoral corruption risk analysis or in other ad hoc cases (for example, when the NACP detects a systemic violation of the anti-corruption restrictions in the institution).
4. Simplify Methodological recommendations for the preparation and implementation of anti-corruption programmes of authorities and legal entities. Given the high level of detail of the last approved procedure, including the need to document and provide evidence to the NACP on various types of in-depth research on corruption risks, causes and factors, which is a very resource-intensive process, it is recommended that no later than two to five years after the approval of the procedure, a critical assessment be made of the extent to which the measures contained in the procedure are effective, does not create unnecessary administrative burdens and directly curbing corruption in the institutions. The procedure seems to over emphasize various activities, which also removes the responsibility for preventing corruption in the institution from the head of the institution to the working group.
5. The NACP should serve as an example to other institutions on how to effectively design and implement an internal anti-corruption program. Any delays in this process should be effectively explained to the public. Otherwise, the situation may give the impression of an abuse of the NACP's independence. The NACP should carry out its function of the implementation of measures to prevent and detect corruption in strict accordance with the requirements of the law, without any exceptions.
6. The Commission recommends considering the possibility to introduce the publication of information on the analysis of the state of implementation of anti-corruption programmes by authorities, including the elimination (minimization) of corruption risks in their activities. The NACP should develop and disseminate relevant methodological recommendations, informative and explanatory materials on the assessment of corruption risks and the preparation of anti-corruption programmes by authorities and legal entities.
7. The NACP should conduct an evaluation of the scope of work completed by the National Agency in this area, in particular to check whether there are unsubstantiated delays or unreasonable workload due to the low capacity.
8. The NACP should provide more coordination and information support to employees of authorized units (authorized persons).

9. The NACP should update the mandatory requirements for the minimum staffing of the authorized units for the prevention and detection of corruption in state bodies, considering the practical situations faced by the employees of such divisions.

Detailed Assessment

EVALUATION OBJECT 3: Organization of Measures to Prevent and Detect Corruption														
Assessment	Explanation													
3.1. Adopting the methodology for assessing corruption risks in the activities of state authorities that is relevant and draws no reasonable material objections														
Met	<p>During the assessment period, the NACP applied the Methodology for assessing corruption risks in the activities of public authorities, approved by the NACP decision № 126 dated 02.12.2016. At the end of 2021, the NACP adopted a new more comprehensive methodology along with the Procedure for submitting anti-corruption programmes and amendments thereto for approval to the National Agency on Corruption Prevention and for their approval. The corruption risk management process can be organized in very different ways unless it is achieving the objective of preventing corruption risks in the organization. The Commission therefore concluded that at the current stage of development of the Ukrainian public administration, which requires active awareness raising on the corruption risk assessment process, the documents are relevant and draws no reasonable material objections.</p> <p style="text-align: center;"><i>Table 1. Relevant legal provisions.</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Statutory document</th> <th style="width: 15%;">Entry in force</th> <th style="width: 20%;">Reference</th> <th style="width: 50%;">Relevant legal provisions</th> </tr> </thead> <tbody> <tr> <td rowspan="2">LCP</td> <td rowspan="2">The version as of 09.12.2021</td> <td>Article 8, paragraphs 5, 11 of part one of Article 12</td> <td>Article 12. Rights of the National Agency 11) to approve the methodology for assessing corruption risks in the activities of public authorities, analyse anti-corruption programmes of public authorities and submit mandatory proposals for such programmes;</td> </tr> <tr> <td>Clause 7 of part one of Article 11</td> <td>Article 11. Powers of the National Agency coordination and provision of methodological assistance regarding the identification by state bodies, authorities of the Autonomous Republic of Crimea, and local self-government bodies of corruption risks in their activities and their implementation of measures to eliminate them, including the preparation and implementation of anti-corruption programmes.</td> </tr> </tbody> </table>				Statutory document	Entry in force	Reference	Relevant legal provisions	LCP	The version as of 09.12.2021	Article 8, paragraphs 5, 11 of part one of Article 12	Article 12. Rights of the National Agency 11) to approve the methodology for assessing corruption risks in the activities of public authorities, analyse anti-corruption programmes of public authorities and submit mandatory proposals for such programmes;	Clause 7 of part one of Article 11	Article 11. Powers of the National Agency coordination and provision of methodological assistance regarding the identification by state bodies, authorities of the Autonomous Republic of Crimea, and local self-government bodies of corruption risks in their activities and their implementation of measures to eliminate them, including the preparation and implementation of anti-corruption programmes.
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	LCP	The version as of 09.12.2021	Article 8, paragraphs 5, 11 of part one of Article 12	Article 12. Rights of the National Agency 11) to approve the methodology for assessing corruption risks in the activities of public authorities, analyse anti-corruption programmes of public authorities and submit mandatory proposals for such programmes;										
			Clause 7 of part one of Article 11	Article 11. Powers of the National Agency coordination and provision of methodological assistance regarding the identification by state bodies, authorities of the Autonomous Republic of Crimea, and local self-government bodies of corruption risks in their activities and their implementation of measures to eliminate them, including the preparation and implementation of anti-corruption programmes.										
<p>Applying the powers delegated to NACP by law, the following orders of the Head of the NACP were in force during the assessment period:</p> <p style="text-align: center;"><i>Table 2. Overview of relevant NACP orders.</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">NACP Approval date and number</th> <th style="width: 15%;">Registered with the Ministry of Justice of Ukraine</th> <th style="width: 40%;">Title</th> <th style="width: 15%;">Entry in force</th> <th style="width: 15%;">Cancellation date</th> </tr> </thead> <tbody> <tr> <td>02.12.2016 № 126</td> <td>28.12.2016 for No. 1718/29848</td> <td>On approval of the Methodology for assessing corruption risks in the activities of public authorities</td> <td>28.12.2016</td> <td>04.06.2022</td> </tr> </tbody> </table>				NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date	02.12.2016 № 126	28.12.2016 for No. 1718/29848	On approval of the Methodology for assessing corruption risks in the activities of public authorities	28.12.2016	04.06.2022	
NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date										
02.12.2016 № 126	28.12.2016 for No. 1718/29848	On approval of the Methodology for assessing corruption risks in the activities of public authorities	28.12.2016	04.06.2022										

		Methodology for assessing corruption risks in the activities of public authorities (Methodology 2016)		
28.12.2021 № 830/21	17.02.2022 under No. 219/37555	On improving the corruption risk management process. Methodology for managing corruption risks (Methodology 2021)	04.04.2022	<i>In force</i>

The establishment of a common methodology is a right, not an obligation, of the NACP. It is, therefore, positive that the NACP has continuously provided methodological guidance to the corruption risk management process. This has an important educational role, as institutions in transition societies lack the knowledge of how to systematically prevent corruption cases. High-fidelity risk management per se can be difficult to understand in organizations that do not have their own risk management professionals, so embedding generic corruption risk management practices is a gradual process. The methodology issued in 2016 is a relatively simple and clear guide to identifying and assessing risks in isolation from other corruption risk management processes. This was a good start to start implementing a corruption risk management approach. The document issued in December 2021, on the other hand, is thematically much broader guidance on corruption risk management, covering all stages of risk management: assessing corruption risks, preparing, monitoring, evaluating the implementation and reviewing anti-corruption programmes.

The cautious attitude by the Commission stems from the excessively detailed description of the process in both documents (methodology and procedure) and the lack of ready-made risk assessment templates (usually in Microsoft Excel format with predefined risk calculation formulae) that could reduce the administrative burden for the institutions and enhance more standardized approach.

The latest document of 2021 contains valuable information on possible causes or factors of corruption, which can be used as a checklist to select the most appropriate range of issues to be addressed by the organization concerned. However, the procedure described also contains seemingly minor procedural issues that lead to redundant documents that are not particularly useful for effective corruption prevention work, such as obligation to create the description of functions, processes (sub-processes) potentially vulnerable to corruption, the detailed description of establishment and working procedures of a working group, the organization of meetings, and many other details. This very high level of detail may make it easier for implementers to automatically apply the approach, but the perceived high level of bureaucratization is a major threat to effective corruption risk management. For example, the Methodology 2021 in the course of assessing corruption risks and preparing an anti-corruption programme request to prepare 9 different analytical reports, 4 lists and process (sub-process) flowcharts for each function, processes (sub-processes) potentially vulnerable to corruption.

The corruption risk management process can be organized in very different ways unless it is achieving the objective of preventing corruption risks in the organization. A full risk assessment is necessary to avoid missing a major risk, but it doesn't matter whether the Director carries out the risk assessment alone or as part of a team - it's important that the action plan or programme includes all necessary anti-corruption measures.

The procedure developed is not inherently flawed, but more thought is advised on how to ensure that corruption risk management purposefully excludes the existence of corruption in an organization rather than piling up mountains of paperwork.

The NACP should do more to study the best practices of the Ukrainian authorities, to find out which methods are most effective in curbing corruption. If it is not possible to tackle corruption risks all at once, it is sometimes more valuable to move forward one step at a time with a single set of measures. Common templates that are easy for everyone to fill in can be used to draw up corruption risk lists, create an incident register, determine risk tolerance levels, and analyse residual risk.

It is preferable to focus more on the mandatory responsibilities of managers to prevent corruption, which should be set out in the job descriptions of each head of the institution and of managers at all levels. For example, not allowing subordinate employees to perform their duties in a conflict-

	<p>of-interest situation. Ensure a zero gifts policy in the institution, a transparent and open recruitment procedure for all posts, the rotation of officials in corruption vulnerable positions every five years, an open and competitive procurement process etc. Make the head of the institution responsible for repeated incidents of corruption in the institution by subordinate staff. Institutional leaders are then likely to find the most effective way to curb corruption, especially in personnel management processes.</p> <p>The management of corruption risks is the responsibility of the head of the institution or organization concerned, as with other organizational risks. In the case of collegially governed institutions or independent officials, leadership in addressing corruption risks may be delegated to collegial governance bodies (except for courts, where the president of the court plays a major role). Managers must have discretion as to the most effective way of eliminating corruption and reducing the risk of corruption occurring. Mechanically applicable "algorithms" for managing corruption risks are of questionable usefulness, considering the specific circumstances and situations of each organization.</p> <p>Several experts and civil society organizations point out that the methodology applicable during assessment time was outdated and very complicated in its implementation.</p> <p>In addition, there is a report by independent expert produced by EUACI (published on 2018) that also underline number of problems when it comes to the Methodology of 2016 (https://euaci.eu/ua/what-we-do/resources/oczinka-korupczijnix-rizikiv-v-ukrajini-potochnij-stan-sprav-visnovki-i-rekomendacziji).</p> <p>The new Methodology for managing corruption risks of 28 December 2021 did not raise any reasoned material objections during the discussion of the draft. A number of state representatives, local and international experts were involved in public discussions of its provisions or otherwise consulted. It would be premature to assess its effectiveness, as the methodology has been applied only since the beginning of 2022.</p>
<p>3.2. Adopting the procedure for drafting and approving anti-corruption programmes that is relevant and draws no reasonable material objections</p>	
<p>Met</p>	<p>During the assessment period the NACP applied the Procedure for preparation, submission of anti-corruption programmes for approval to the National Agency on Corruption Prevention and their approval (Procedure 2017). NACP has adopted the procedure for drafting and approving anti-corruption programmes on one of the last working days of the year 28 December 2021 (Procedure 2021). The Commission does not have information on the impact of the new elaborated procedure developed and approved by the NACP for the development of institutional anti-corruption programmes on the effectiveness of the internal anti-corruption system, therefore it is not possible to clearly determine whether the procedure is relevant and draws no reasonable material objections because the implementation of this instruction took place after the end of the assessment period. The Commission recognises that the procedure sets out, in a very high level of detail, the obligation to take theoretically correct but burdensome actions to prevent corruption. We therefore consider that the criterion is likely to be met.</p> <p>At the same time, given the high level of detail of the last approved procedure, including the need to document and provide evidence to the NACP on various types of in-depth research on corruption risks, causes and factors, which is a very resource-intensive process, it is recommended that no later than two to five years after the approval of the procedure, a critical assessment be made of the extent to which the measures contained in the procedure are effective, does not create unnecessary administrative burdens and directly curbing corruption in the institutions. The procedure seems to overemphasize the various activities, removing responsibility for preventing corruption in the institution from the head of the institution to the working group. It is therefore recommended that the legislator should consider removing the requirement for the NACP to approve the anti-corruption programmes of all institutions and instead not only require heads of institutions to prevent corruption or conflicts of interest in the institution he/she heads, but also to establish accountability in the event that the institution he/she heads commits offences which indicate that the anti-corruption programme in place has not been sufficiently effective.</p> <p><i>Table 3. Relevant legal provisions.</i></p>

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	the version as of 09.12.2021	Clause 7 of part one of Article 11	Article 11. Powers of the National Agency coordination and provision of methodological assistance regarding the identification by state bodies, authorities of the Autonomous Republic of Crimea, and local self-government bodies of corruption risks in their activities and their implementation of measures to eliminate them, including the preparation and implementation of anti-corruption programmes;
LCP	the version as of 09.12.2021	Paragraph six of part one of Article 19	Article 19. Anti-corruption programmes Anti-corruption programmes and changes to them are subject to approval by the National Agency in the manner determined by it.
		Paragraph six of part two of Article 19	2. Anti-corruption programmes should include: determination of the principles of the general departmental policy regarding the prevention and counteraction of corruption in the relevant sphere, measures for their implementation, as well as for the implementation of the anti-corruption strategy and the state anti-corruption program; assessment of corruption risks in the activity of the body, institution, organization, the causes that give rise to them and the conditions that contribute to them; measures to eliminate identified corruption risks, persons responsible for their implementation, deadlines and necessary resources; training and information dissemination activities regarding anti-corruption programmes; procedures for monitoring, evaluation of implementation and periodic review of programmes; other measures aimed at preventing corruption and corruption-related offences.

Applying the powers delegated to NACP by law, the following orders of the Head of the NACP were in force during the assessment period:

Table 4. Overview of relevant NACP orders.

NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date
08.12.2017 № 1379	22.01.2018 by No. 87/31539	On approval of the Procedure for preparation, submission of anti-corruption programmes for approval to the National Agency on Corruption Prevention and their approval (Procedure 2017)	22.01.2018.	06.04.2022
15.11.2019 № 148/19	27.12.2019. by No. 1299/34270	On amendments to the Procedure for preparation, submission of anti-corruption programmes for approval to the National Agency on Corruption Prevention and their approval. Amendments	27.12.2019	06.04.2022

		to the Procedure for preparation, submission of anti-corruption programmes for approval to the National Agency on Corruption Prevention and their approval (Procedure 2019)		
28.12.2021 № 830/21	17.02.2022 under No. 219/37556	Procedure for submitting anti-corruption programmes, amendments to them for approval to the National Agency on Corruption Prevention and their approval (Procedure 2021)	17.02.2022	In force

The procedure for preparation, submission of anti-corruption programmes for approval to the NACP and their implementation was adopted by the NACP's order of 08.12.2017 № 1379 and amended on 27.12.2019. Therefore, during the period under assessment, the procedure developed and adopted by the NACP's before assessment was applied.

The procedure for the approval of anti-corruption programmes issued by the NACP in different periods should indicate the parameters how the NACP assesses anti-corruption programmes submitted for the approval. The NACP is obliged to assess whether the programmes contain the elements required by law. Given that the Commission analysed translated documents, it is likely that compliance with the law is considered in the process of assessing the compliance of programmes.

Both the 2017 and 2021 Methodologies are not limited to assessing compliance with the requirements of the law, but also require institutions to comply with other formal requirements set out in Methodology 2021 or earlier in Methodology 2016. For example, NACP Procedure 2017 (part IV, Approval of anti-corruption programmes clause 1) envisages that the process of approval of anti-corruption programmes consists of several stages of analysis of their provisions as to compliance with the Law, Methodology, and this Procedure, which culminates in the approval order by the National Agency.

Procedure 2021 provides for sanctions if there is no one or more sections of the anti-corruption program provided for by the Methodology; or the procedure for adopting the anti-corruption program provided for by the Methodology has been violated; or the procedure for assessing corruption risks in the organization's activities provided for by the Methodology has been violated. The 2021 Methodology mandates to prepare nine different analytical reports, four checklists and process (sub-process) flowcharts for each function, processes (sub-processes) potentially vulnerable to corruption, as well as to conduct surveys and consultations, while assessing corruption risks and preparing an anti-corruption programme request.

Getting a central organization to agree on an anti-corruption programme is quite unusual. Ensuring the adequacy of anti-corruption measures is usually the direct responsibility of the head of the institution. For the NACP to decide whether a programme should be approved, it is necessary to gather a lot of information and to carry out a de facto assessment of the institution's work.

The volume of evidence and documentation gives the impression that it is necessary not to manage corruption risks per se, but to facilitate the NACP's process of verifying the compliance of programmes. Ukrainian legislation should consider whether it would be more appropriate to shift the balance of responsibility for developing an appropriate anti-corruption programme from the NACP to the management of the institution. Where there are instances of corruption in an institution, the responsibility for allowing them to occur must rest with the head of the institution, whether or not an anti-corruption programme has been developed and approved by the NACP. Currently, NACP approval can be used as an inducement, allowing the head of an institution who has been unable or unwilling to put in place sufficiently robust anti-corruption controls to excuse himself or herself if cases of corruption are discovered in the institution.

3.3. Analysing anti-corruption programmes submitted to the National Agency for approval according to the established procedure

Met

During the assessment period, 261 anti-corruption programmes (155 in 2021, 106 in 2020) were received by the NACP for review and approval. The NACP examined a total of 104 programmes and approved 94 programmes.

The NACP has published an overview of the results of the review of anti-corruption programmes for 2020 and 2021 on the NACP Anti-Corruption Portal at the following links: <http://surl.li/bktur>, <http://surl.li/bktuq/>

The justification provided by the NACP on grounds for disapproval of programmes stems from the minimum legal requirements (Article 19 of the Law on Corruption Prevention) or the procedure established by the NACP.

As we can see from the statistics overview below the NACP has a relatively high proportion of declined anti-corruption programmes and programmes that are left without consideration. This clearly shows that the NACP evaluates programmes carefully. At the same time, however, it may also mean that institutions do not have the capacity, knowledge or will to set up appropriate programmes.

Table 5. Overview of statistics on the anti-corruption programmes submitted to the NACP for approval in 2020-2021.

	Anti-corruption programmes				
	Received	Left without consideration	Considered	Approved	Declined
2020	106	35	71	37	34
2021	155	33	122	62	60
Total	261	68	193	99	94

Issues:

1. There are no publicly available reports as to the analyses of the implementation of the particular programmes in 2020 and 2021.

The NACP explains that the Agency did not conduct an analysis in the form of a formal document on the application of the Procedure used during 2020-2021. The analysis of the Procedure application was carried out during the operational work.

The Commission recommends considering the possibility of publishing information on the analysis of institutions' anti-corruption programmes.

2. In 2020, 106 anti-corruption programmes were submitted to the NACP for approval, in 2021 - 155. Some programmes were submitted for approval repeatedly and more than 2 times after non-approval. In 2020 the National Agency considered 71 anti-corruption programmes, and in 2021 - 122 programmes;

3. Some programmes were submitted for approval repeatedly and more than 2 times after non-approval.

4. It is necessary to point out that even though the NACP was assessing the anti-corruption programmes during 2020 and 2021, NACP itself didn't develop and adopt their program in 2020. They had public discussions in December 2020, but adopted their program only in 2021. Which is a reason for concerns, considering that such actions by another state agency would have caused order from the NACP and disciplinary actions directed on responsible employees.

3.4. Conducting an annual assessment of corruption risks in at least one priority area determined by the National Agency

Met

1. NACP conducted research of the several priority areas in 2020-2021. In addition, they assessed also corruption risks in any related draft laws connected to the topic. There were public consultations, consultations with relevant stakeholders and results were published on the NACP's web-site. In addition, in some areas there were even Memorandums signed between NACP and

	<p>relevant stakeholders to minimise corruption risks. Link to the Catalogue of Corruption Risks which systematizes the risks from the above research: https://antycorportal.nazk.gov.ua/risks/</p> <p>2. The areas for analysis are identified according to a sound methodology, detailed in the analytical study "Priority areas for strategic analysis of corruption risks", conducted in August-October 2020 (https://nazk.gov.ua/wp-content/uploads/2020/10/Priorytetni-galuzi-dlya-analizu.pdf).</p>								
<p>3.5. Ensuring the development, dissemination, and relevance of guidelines, information and explanatory materials on corruption risk assessment and preparation of anti-corruption programmes for entities that conduct it</p>									
Met	<p>1. During the assessment period, the NACP developed a number of guidelines, information and explanatory materials on corruption risk assessment and preparation of anti-corruption programmes for entities. All these materials are also accessible through the website of the NACP and were disseminated among stakeholders.</p> <p>2. It is important to point out that almost all of these materials were developed and published in 2021 therefore such a resource was not available for entities in 2020 and early 2021. Trainings concerning these issues also mostly took place in 2021. That could have affected the quality of anti-corruption programmes and risk assessment work of the stakeholders.</p> <p>3. The NACP also initiated and organized the "Survey of anti-corruption integrity - 2020", which included, in particular, the question: "In which areas (areas) do you need additional knowledge / practical skills?" https://cutt.ly/t1mQK7J.</p>								
<p>3.6. Adopting a model corporate anti-corruption programme for legal entities. Public consultations with stakeholders are conducted before the approval or modification of a model corporate anti-corruption programme</p>									
Met	<p>1. The new Standard Anti-Corruption Program of a Legal Entity was approved by the NACP Order No. 794/21 of December 10, 2021, which was registered with the Ministry of Justice on December 31, 2021 under No. 1702/37324. The Model Anti-Corruption Program was adopted and published only in November 2021. Basically, during the assessment period there were previous Model Anti-Corruption Program was in place adopted in 2017.</p> <p>2. Several participants of the discussions that were conducted before the adoption of the model corporate anti-corruption program pointed out in their questionnaires that even though they were consulted during the discussion, the NACP disregarded their expertise and proposals. Following this approach demonstrated by the NACP during the consultations, these participants see no practical value in their participation in any future events/discussions.</p> <p><i>Table 6.</i></p> <table border="1"> <thead> <tr> <th>Statutory document</th> <th>Entry in force</th> <th>Reference</th> <th>Relevant legal provisions</th> </tr> </thead> <tbody> <tr> <td>LCP</td> <td>the version as of 09.12.2021</td> <td>Part 12 art. 11</td> <td>Approval of the anti-corruption programmes of the state agencies, authorities of the Autonomous Republic of Crimea, local self-government bodies, development of the standard anti-corruption program of a legal entity;</td> </tr> </tbody> </table>	Statutory document	Entry in force	Reference	Relevant legal provisions	LCP	the version as of 09.12.2021	Part 12 art. 11	Approval of the anti-corruption programmes of the state agencies, authorities of the Autonomous Republic of Crimea, local self-government bodies, development of the standard anti-corruption program of a legal entity;
Statutory document	Entry in force	Reference	Relevant legal provisions						
LCP	the version as of 09.12.2021	Part 12 art. 11	Approval of the anti-corruption programmes of the state agencies, authorities of the Autonomous Republic of Crimea, local self-government bodies, development of the standard anti-corruption program of a legal entity;						
<p>3.7. Ensuring the development, dissemination, and relevance of guidelines, information and explanatory materials on the preparation, adoption, and implementation of a corporate anti-corruption programme</p>									
Met	<p>The NACP conducted a wide range of different activities with the participation of public and private legal entities during the assessment period.</p> <p>Namely, the NACP proceeded with the implementation of the previously launched activities accompanied with the already established methodological support for the development of anti-corruption programmes for public sector bodies. In parallel, a new draft procedure was being developed, without which it would not be appropriate to update the methodology.</p>								

	<p>For private legal entities, a new model anti-corruption program was developed and approved in 2021, accompanied with explanatory work on its application.</p> <p>1.NACP has developed and disseminated guidelines and information materials which were largely developed before the assessment period.</p> <p>In March 2017, the NACP approved the first edition of the Standard anti-corruption program of a legal entity, Further, in September 2017, it also approved the Methodical recommendations on the preparation and implementation of anti-corruption programmes of legal entities (shorturl.at/hCFKU).</p> <p>The NACP has developed and disseminated the following materials:</p> <ul style="list-style-type: none"> - a presentation on corruption risk management in the organization; - information letters on certain aspects of the implementation of new standards for the prevention of corruption in the activities of legal entities and bringing the anti-corruption programmes of these legal entities in line with the new Standard Anti-Corruption Program; - a practical guide to work with whistleblowers for authorized units (authorized persons) on the prevention and detection of corruption (https://wiki.nazk.gov.ua/?cat=201). <p>Other methodological recommendations for the preparation, approval and implementation of the anti-corruption program of the legal entity on the basis of the new Standard anti-corruption program of the legal entity in the period 2020-2021 have not been developed. The development of such recommendations could start only after the entry into force of the new Standard Anti-Corruption Program of a legal entity. Currently, the Guidelines for the preparation and implementation of anti-corruption programmes of legal entities are in force, as approved by the decision of the National Agency v dated 22.09.2017, in the part that does not contradict the new Standard Anti-Corruption Program (https://bit.ly/3KjCgkH).</p> <p>2. After the NACP approved in March 2017 the first edition of the Standard anti-corruption program of a legal entity, in September 2017 Methodical recommendations on the preparation and implementation of anti-corruption programmes of legal entities were approved (shorturl.at/hCFKU). Methodological recommendations for the new Standard anti-corruption program of the legal entity NACP were not developed and approved during the assessment period.</p>
	<p>3.8. Non-governmental, international organizations, donors that conduct activity in the area of preventing and/or combating corruption recognize the National Agency as an effective and unbiased institution in the area of drafting and approving anti-corruption programmes</p>
<p>Insufficient information to reach a conclusion on the compliance</p>	<p>1. There is some level of cooperation between the NACP and non-governmental, international organizations, donors that conduct activities in the area of preventing and/or combating corruption. The NACP provided evidence of consultations with NGOs and their assessment of the National Agency's work. The most significant document that concerns the assessment period is the Alternative report on the evaluation of the effectiveness of the implementation of state anti-corruption policy (pp. 113-120) done by a number of CSOs: https://cutt.ly/RPghyOt. There is no evidence of publications prepared by international organizations or donors.</p> <p>2. At least in part, the current level of progress in this criterion can be explained by the low interest of the mentioned stakeholders in this sphere of the NACP work. The low level of involvement of the non-governmental sector could also be explained by the peculiar nature of the anti-corruption process, which concerns the streamlining of non-public internal processes of an institution and focuses on two-way cooperation between the NACP and the institution concerned.</p>
	<p>3.9. Creating and ensuring operation of a separate structural unit at the National Agency that carries out anti-corruption examination (proofing) under Article 55 of the Law on Corruption Prevention</p>
<p>Met</p>	<p>1. Regulations on the Anti-Corruption Examination Division of the Strategic Analysis of Corruption Prevention Department of the Corruption Prevention and Detection Department, approved by the NACP order № 131/20 dated 03.04.2020.</p> <p>2. In accordance with the NACP order № 74/20 dated 28.02.2020, the structure of the National Agency was optimized. A Department for conducting anti-corruption expertise in the amount of six full-time units was established. As of December 31, 2021, the department had six employees; three positions remained vacant.</p>

3.10. Adopting the methodology of anti-corruption examination (proofing) of existing and draft acts that is relevant and draws no reasonable material objections	
Met	<p>1. The methodology for conducting anti-corruption expertise of existing and draft acts by the NACP was approved by the order of the NACP № 470/20 dated 20.10.2020 - https://nazk.gov.ua/wp-content/uploads/2020/10/MetodologD196D18F.pdf.</p> <p>2. Even though some discussions on related topics were held with the Ministry of Justice and the Anti-corruption Committee of the Parliament before the methodology was adopted, the Committee underlines that the views of these two institutions were not collected during the drafting process. This omission raises concerns, as the Ministry and the Parliamentary Committee also conduct anti-corruption examination of draft regulatory acts.</p> <p>3. There were no effective and clear recommendations developed for specialists who draft norms on the state and local level that remain relevant. Therefore, it is unclear how systematic problems defined by the NACP can be addressed and fixed in the future and it affects effectiveness of such functions as anti-corruption examination.</p>
3.11. Ensuring systematic monitoring of existing and draft legal acts and selecting for anti-corruption examination those acts that are of the highest public importance and concern areas highly prone to corruption	
Met	<p>1. The NACP monitors draft legislation and other regulatory acts submitted to the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine according to the Methodology. The Procedure and Methodology for Anti-Corruption Examination by the National Agency for Prevention of Corruption 29.07.2020 № 325/20 was registered with the Ministry of Justice of Ukraine on 14.08.2020 under № 787/35070.</p> <p>2. During the assessment period, the NACP conducted an anti-corruption examination of 139 draft regulations.</p> <p>3. It needs to be noted that several Members of the Parliament pointed out in the questionnaire that the lack of clarity in the criteria applied by the NACP in deciding to initiate an anti-corruption examination. This is particularly concerning because the examination can cause delays in the consideration of draft laws in the Parliament.</p>
3.12. Publishing the National Agency's findings of the anti-corruption examination (proofing) that are reasoned and include recommendations on eliminating corruption factors	
Met	<p>All conclusions of the anti-corruption examinations of draft regulations have been published on the NACP's official website. Currently the majority of these examinations are not available, because many articles from the website were subsequently taken down due to martial law.</p>
3.13. Sending findings of the anti-corruption expert examination to respective decision-makers, and taking steps within its powers to make sure that the findings are taken account of	
Met	<p>1. All conclusions of the anti-corruption examination of draft regulations were sent to the relevant subjects of rulemaking (as far as we can assess).</p> <p>2. The NACP maintains constant communication with relevant stakeholders in order to ensure that their findings are taken into account. For example, the NACP published information on its website that, according to the results of its anti-corruption examinations for the 1st quarter of 2021, 85% of NACP's recommendations to draft laws and resolutions of the Cabinet of Ministers had been taken into account.</p> <p>3. We must point out the absence of a clear mechanism of actions after receiving the conclusions of the anti-corruption examination of draft laws from the NACP. The NACP also failed to systematically participate in the Parliamentary committee hearings to present conclusions of such examinations. At the same time, the NACP underlines that their representatives are constantly participating in working groups, discussions, and consultations with the MPs.</p>
3.14. Non-governmental, international organizations, donors that conduct activity in the area of preventing and/or combating corruption recognize the National Agency as an effective and unbiased institution in the area of anti-corruption examination (proofing)	

Met	Several stakeholders among non-governmental institutions and international organizations pointed out that they consider the National Agency as an effective and unbiased institution in the area of anti-corruption examination.
3.15. Adopting the Model regulations on the authorized unit (authorized person) on corruption prevention and detection that is relevant and draws no reasonable material objections	
Met	<p>1. The current Model Regulation on the Authorized Unit (Authorized Person) for Prevention and Detection of Corruption, approved by the NACP Order № 277/21 on 27.05.2021, registered with the Ministry of Justice on 14.07.2021 at № 914/36536 (http://surl.li/bkopx). As it was only adopted in the second half of 2021, it is still relevant and applicable.</p> <p>2. Previously, the Model Regulations approved by the NACP's order № 102/20 dated 17.03.2020 was in place.</p>
3.16. Establishing mandatory requirements for the minimum number of staff of the authorized unit on corruption prevention and detection at state authorities	
Met	<p>The national agency established mandatory requirements for the minimum number of employees of the authorized unit in state bodies in accordance with paragraph 5 of the first part of Article 12, part five of Article 13 - 1 of the Law of Ukraine "On Prevention of Corruption".</p> <p>The minimum required number of staff of the authorized unit for the prevention and detection of corruption in public bodies was first approved by the NACP order № 112/20 of 24.03.2020. In 2021, this requirement was revised by the NACP order № 240/21 of 26.04.2021. It starts from the minimum number of staff of the authorized unit in the state body with up to 50 full-time employees is one authorized person appointed to a separate position created in the staff list or determined from among the employees of the entity</p>
3.17. Ensuring the development, dissemination, and relevance of guidelines, information, and explanatory materials on the activity of authorized units (authorized persons) for corruption prevention and detection	
Met	<p>1. During the assessment period, the NACP developed a number of guidelines, information and explanatory materials on the activity of authorized units (authorized persons) for corruption prevention and detection. All these materials are also accessible through the website of the NACP and were disseminated among stakeholders.</p> <p>2. It is important to point out that almost all these materials were developed and published in 2021. It follows that no such resource was available for entities in 2020 and early 2021. That could have affected the quality of authorized units and persons. At the same time, there were training events organized for different groups of authorized units and persons, they took place both in 2020 and 2021.</p>
3.18. Conducting an annual survey of authorized units (authorized persons) on corruption prevention and detection concerning ways of optimizing how the National Agency supports such authorized units (authorized persons) in performing their duties	
Not met	<p>1. As of the end of 2021, the total number of personnel authorized for Prevention and Detection of Corruption was 5,425.</p> <p>2. The NACP conducted a single survey in December 2020. The survey entitled "Anti-Corruption Integrity - 2020" was carried out among authorized units/officials and civil servants on roads was carried out with the support of the Centre for Integrity in the Defence Sector at the Norwegian Ministry of Defence and the National Civil Service Agency of Ukraine. The respondents were consulted on how to best optimize NACP's support to the aforementioned units and officials in carrying out their tasks (http://surl.li/abzwwg). In 2021, the National Agency's work in this area was limited to producing three updated questionnaire forms.</p>
3.19. Non-governmental, international organizations, donors that conduct activity in the area of preventing and/or combating corruption recognize the National Agency as an effective institution that provides guidance and support to authorized units (authorized persons) on corruption prevention and detection	
Insufficient information to reach a conclusion on	There is an established cooperation between NACP and a number of non-governmental, international organizations, donors that conduct activity in the area of preventing and/or combating corruption. Common training sessions, lectures, and other events took place during 2020-2021.

the compliance	<p>However, the Commission did not receive the views on the effectiveness of the NACP from NGOs, international organizations, and donors which conduct activities in the area of preventing and/or combating corruption. Consequently, the criterion could not be assessed.</p>																														
3.20. Adopting and applying the procedure of giving consent to dismissal of the head of the authorized unit (authorized person) on corruption prevention and detection that is relevant and draws no reasonable material objections																															
Met	<p>The NACP adopted the procedure of approving the dismissal of the head of the authorized unit (authorized person) on corruption prevention.</p> <p>The procedure was first approved by the NACP order № 100/20 of 17.03.2020. The NACP Order № 268/21 of 21.05.2021 declared the NACP Order № 100/20 of 17.03.2020 invalid and approved the Procedure for granting consent by the National Agency for Prevention of Corruption to dismiss the head of the authorized unit (authorized person) for prevention and detection of corruption of a state body whose jurisdiction extends to the entire territory of Ukraine is attached.</p> <p>The updated version of the Procedure sets out the list of documents that must be attached to the application for consent to dismiss the head of the authorized unit (authorized person), and sufficient deadlines for consideration of the application by the National Agency. (https://zakon.rada.gov.ua/laws/show/z0828-21#n7)</p> <p><i>Table 7. Relevant legal provisions.</i></p> <table border="1"> <thead> <tr> <th>Statutory document</th> <th>Entry in force</th> <th>Reference</th> <th colspan="3">Relevant legal provisions</th> </tr> </thead> <tbody> <tr> <td rowspan="2">The Law of Ukraine on Corruption Prevention</td> <td rowspan="2">the version as of 09.12.2021</td> <td>paragraph 5 of the first part of Article 12, part five of Article 13 - 1</td> <td colspan="3">Authorized units (authorized persons) on issues of prevention and detection of corruption</td> </tr> <tr> <td>the first and third parts of Article 53⁴</td> <td colspan="3">5. The National Agency approves the Standard Regulation on the authorized unit (authorized person) and the procedure for granting consent to the dismissal of the head of the authorized unit (authorized person). Protection of the whistleblower's labour rights.</td> </tr> </tbody> </table> <p>Applying the powers delegated to NACP by law, the following orders of the Director of the NACP were in force during the assessment period:</p> <p><i>Table 8. Overview of relevant NACP orders.</i></p> <table border="1"> <thead> <tr> <th>NACP Approval date and number</th> <th>Registered with the Ministry of Justice of Ukraine</th> <th>Title</th> <th>Entry in force</th> <th>Cancellation date</th> </tr> </thead> <tbody> <tr> <td>21.05.2021 No. 268/21</td> <td>23.06.2021 under No. 828/36450</td> <td>Procedure for granting consent by the National Agency for the Prevention of Corruption to the dismissal of the head of the authorized unit (authorized person) for the prevention and detection of corruption of a state body whose jurisdiction extends to the entire territory of Ukraine</td> <td>6.07.2021</td> <td>In force</td> </tr> </tbody> </table>					Statutory document	Entry in force	Reference	Relevant legal provisions			The Law of Ukraine on Corruption Prevention	the version as of 09.12.2021	paragraph 5 of the first part of Article 12, part five of Article 13 - 1	Authorized units (authorized persons) on issues of prevention and detection of corruption			the first and third parts of Article 53 ⁴	5. The National Agency approves the Standard Regulation on the authorized unit (authorized person) and the procedure for granting consent to the dismissal of the head of the authorized unit (authorized person). Protection of the whistleblower's labour rights.			NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date	21.05.2021 No. 268/21	23.06.2021 under No. 828/36450	Procedure for granting consent by the National Agency for the Prevention of Corruption to the dismissal of the head of the authorized unit (authorized person) for the prevention and detection of corruption of a state body whose jurisdiction extends to the entire territory of Ukraine	6.07.2021	In force
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3.21. Conducting a regular analysis of effectiveness of activity of authorized units (authorized persons) on corruption prevention and detection and submitting recommendations based on such analysis to improve their work. Publishing analysis findings and recommendations on the official website of the National Agency																															
Met	<p>During 2020, a pilot study was conducted by the NACP to analyse the effectiveness of authorized units (authorized persons). During 2021, three studies were conducted on the effectiveness of the authorized persons and units. The analysis is being conducted relatively regularly. The NACP</p>																														

published the results of the studies, as well as information on associated public events, on its website and social media.

3.22. Providing clarifications in response to requests of authorized units (authorized persons) on corruption prevention and detection

Met

During 2020-2021 (as of December 31, 2021), the NACP received and considered 1,136 written and oral appeals from authorized units (authorized persons) on the prevention and detection of corruption. Based on the results of monitoring of requests from the authorized units and persons for Prevention and Detection of Corruption prepares and publishes generalized answers (clarifications, methodological materials) to typical and topical questions.

According to the Commission’s observations, the NACP receives a relatively high number of requests for clarifications or submissions on issues related to the development of anti-corruption programmes or the organisation of the work of the authorised Anti-Corruption Officers.

The high level of interest shows that the authorities are willing to implement the necessary anti-corruption procedures correctly and in line with the NACP requirements. At the same time, a large number of questions, especially in writing, may indicate a lack of clarity in the applicable procedure. It is, therefore, advisable to analyse in more depth the reasons for the high demand for further clarifications and to make the necessary adjustments to enable the institutions' anti-corruption officers to perform their duties more independently.

3.23. Adopting and applying the procedure for inspecting the organization of work on corruption prevention and detection at state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, legal entities of public law and legal entities listed in part two, Article 62 of the Law on Corruption Prevention that is relevant and draws no reasonable material objections

Met

The NACP adopted the procedure for inspecting the organization of work on corruption prevention and detection at state authorities (..)that is relevant and draws no reasonable material objections.

Table 9. Relevant legal provisions.

Statutory document	Entry in force	Reference	Relevant legal provisions
The Law of Ukraine on Corruption Prevention	the version as of 9.12.2021	clauses 5, 5 - 2 of the first part of Article 12	to carry out inspections of the organization of work on the prevention and detection of corruption in state bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies, legal entities under public law and legal entities specified in the second part of Article 62 of this Law, in particular with regard to the preparation and implementation of anti - corruption programmes, functioning of internal and regular channels of notification of possible facts of corruption or corruption-related offences, other violations of this Law, protection of whistleblowers;

Applying the powers delegated to NACP by law, the following orders of the Head of the NACP were in force during the assessment period:

Table 10. Overview of relevant NACP orders.

NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date
18.01.2021 № 11/21	8.02.2021 under No. 166/35788	The procedure for conducting inspections of the organization of work on prevention and detection of corruption	19.02.2021	In force

3.24. Conducting at least ten inspections during a year into the organization of work on corruption prevention and detection at state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, legal entities of public law and legal entities listed in part two, Article 62 of the Law on Corruption Prevention

Met

The minimum number of inspections specified in the indicator has been reached by the NACP.

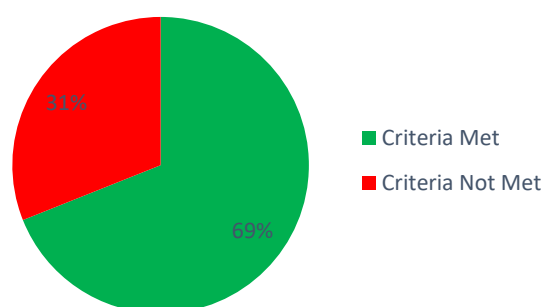
During 2020-2021, the National Agency conducted 29 scheduled and two unscheduled inspections, of which 25 were completed two inspections (conducted in December 2021) were underway at the moment of receiving these answers, and four inspections were not completed (terminated due to the decision of the CCU № 13-р / 2020).

Object 4. Monitoring and control by the NACP of compliance with legislation on the prevention and resolution of conflict of interest, other requirements and restrictions provided by the Law

Summary of Findings

The NACP met 20 of the 29 Object 4 criteria, a ratio of 69%.

Total criteria	29	
Criteria not met because of factors external to the NACP	0	
Criteria for which the Commission did not have sufficient information to reach a conclusion	0	
Criteria under consideration	29	
Criteria met	20	69%
Criteria not met	9	31%



Object 4 of the assessment methodology defines 29 criteria for assessing the performance of the NACP relating to monitoring and control over compliance with conflicts of interest legislation. The Commission considered all criteria and determined that the NACP met the requirements for 20 criteria but did not meet the requirements for nine (4.2, 4.4, 4.8, 4.9, 4.15, 4.17, 4.25, 4.27, and 4.29).

Overall, the Commission determined that the NACP effectively implemented its responsibilities in this area. The NACP should immediately focus on several criteria for which it did not meet the requirements. The Commission notes that the review criteria largely concerned structural and procedural aspects of the conflicts of interest framework. As it matures, the NACP should take measures to improve the accuracy, consistency, and transparency of its work. Perceptions of civil society concerning the quality and impartiality of the NACP's actions are noted, and steps should be taken by the NACP to enhance public trust in this regard.

In addition, the NACP could make better use of information obtained through the conflicts of interest framework to enhance its approaches to detection and prevention. Specifically, comprehensive, cross-cutting information could be used to identify evolving risks of corruption relating to investments in particular economic sectors and to refine detection, training, and public awareness strategies. Trending information about the vulnerabilities of sectors could also be used to identify conflicts of interest reports that warrant enhanced scrutiny. The Commission stresses that it would be key for the NACP to promote public trust in its full range of responsibilities by raising awareness about the keystone role of the conflicts of interest framework in detecting and preventing corruption. Adhering to the mandated timeframes and transparently sharing information about the program to the greatest extent practicable are essential. The Commission recognizes that many of the highlighted weaknesses and challenges are not exclusive to Object 4 and recognize that several of the challenges are common to other institutions in Ukraine.

Key Achievements

1. The NACP monitored and contributed to the refinement of legislation concerning the conflicts of interest framework, working to clarify regulations, streamline processes, and address inconsistencies and ambiguities.
2. The NACP achieved a high level of automated access to relevant government registers and databases.
3. The NACP administered and improved the electronic declaration system, making it more accessible for public officials to complete and submit their conflicts of interest declarations. Significantly, the electronic system enhanced the capacity for the NACP to review individual declarations, gather cross-cutting information, and promote transparency to the public and other stakeholders.
4. The NACP made progress in investigating and taking enforcement actions, prevented conflicts, deterred deliberate violations, and promoted public trust.
5. The NACP consulted with international partners, non-government organisations, and other stakeholders to improve its procedures, strengthen its capacity, and examine best practices.

Weaknesses

1. The NACP did not implement a deliberate strategy to engage the public and demonstrate commitment to embracing accountability for its own performance. The NACP did not effectively recognize the importance of transparency in building and maintaining public trust and support.
2. The NACP did not timely update guidance, explanatory, and training materials. Deficiencies relating to the accuracy and consistency of materials that were not up to date contributed to delays and other process inefficiencies.
3. The NACP did not conduct a comprehensive periodic review of its internal procedures for the monitoring and control of compliance in order to increase their effectiveness.
4. The NACP did not demonstrate the capacity to file follow-up actions in each case where a violation of conflicts of interest requirements provided grounds to revoke decisions or regulatory acts. Lack of capacity may have resulted from a shortage of qualified staff or resource limitations beyond the NACP's direct control.
5. The NACP did not implement transparent procedures for handling petitions and notifications of natural and legal persons on alleged offences.
6. The NACP revoked its proceedings on preparing the administrative protocols concerning violations related to conflict of interest and other anti-corruption restrictions (for example, gifts, incompatibilities). Instead, the NACP issued three separate "methodical recommendations" as non-binding documents that described how the NACP's authorised officials should detect relevant offences, collect evidence, and prepare administrative protocols on the infringements. This reflects the broader practice of the NACP of replacing mandatory regulations with non-binding guidelines that do not undergo review of the Ministry of Justice and, usually, are not public and not discussed with the public and other stakeholders during their preparation. This is a negative practice undermining the accountability of the NACP that should be urgently reversed.
7. The NACP did not implement adequate training and technological measures to ensure a high level of effectiveness in understanding complex financial situations and discovering hidden financial interests.
8. The NACP did not analyse and use comprehensive, cross-cutting information to identify evolving risks of corruption relating to investments in particular economic sectors and to refine detection, training, and public awareness strategies accordingly.

Challenges

1. Building and sustaining public trust in the NACP's ability to address corruption and conflicts of interest effectively and impartially is an ongoing challenge for the NACP. Some stakeholders perceived that the NACP's effectiveness was undermined by political pressures that compromised its ability to act independently and impartially. This perception, without regard to its underlying validity, undermined public trust in and support of the NACP.
2. Here, as in other areas of its responsibilities, the NACP faced challenges related to limited financial and human resources. The impact was particularly acute in the area of conflicts of interest monitoring and control over compliance given the large volume of asset declarations, the complexity of the information the NACP is required to analyse, the strict timeframes for mandated actions, the need for skilled staff and technological support, and the demands of continually updating relevant guidance, advice, and training.
3. The NACP was not well equipped to identify, evaluate, obtain, and implement technological tools, programmes, and software that could have had a long-term positive impact on its ability to significantly improve the accuracy, consistency, transparency, and timeliness of its work.

Overview

The NACP's conflicts of interest framework is a keystone of Ukraine's comprehensive approach to preventing, detecting, investigating, and prosecuting corruption. The framework is well aligned with international anti-corruption standards. Significantly, successful implementation of the framework builds public trust in Ukraine's ability to ensure the integrity of governmental processes and decision-making and reinforces the political will which is key to ensuring that the NACP receives full cooperation from other state authorities and the resources necessary to meet its broad mandate.

To ensure effectiveness, the NACP must not only meet legislative requirements but also clearly demonstrate its commitment to accountability for its own actions and embrace the public and civil society organisations as partners. Only if the NACP demonstrates that it is competent and impartial, will it receive the support essential to its success. While the NACP's framework for monitoring and compliance control relating to conflicts of interest is strong, resource limitations require that the NACP achieve operational efficiencies to the greatest extent possible. To this end, constant review, analyses, and updating of processes and procedures is crucial.

The NACP must be ever mindful of public perceptions and expectations. As stewards of limited resources, the NACP should provide self-defined standards of accountability to promote understanding of and support for its mission. In brief, the NACP should transparently assess risks, identify priorities, set realistic long- and short-term objectives, and target time-framed, measurable results. Beyond fully meeting legislative requirements relating to conflicts of interest, the NACP should deliberately demonstrate and preserve its commitment to the principles of transparency, accountability, consistency, accuracy, timeliness, and efficiency.

Criteria Met

Although the Commission concludes that the NACP met the requirements of most criteria relating to monitoring and controlling compliance with conflicts of interest legislation, the Commission raises concerns about the ability of the NACP to administer its responsibilities sustainably and effectively. In brief, many of the criteria focus on technical aspects of the NACP's conflicts of interest framework, rather than on whether systems put in place were efficiently used to achieve intended outcomes. For example, access to information and channels of communication may be established but not used effectively for several reasons including lack of awareness, lack of training, lack of personnel, and lack of comprehensive cooperation by all stakeholders. Similarly, processes and procedures to provide advice and training may be operational, but the quality and timeliness of the information and materials provided may be of concern. Continuous and consistent monitoring of the quality of the

NACP's work is essential. The commitment to enhancing NACP's accountability for producing high quality work should incorporate recognition of the critical importance of public perceptions and feedback from stakeholders.

The NACP met the criteria to obtain and use automated access to pertinent registers and databases (4.1); however, the practical accessibility of available information, processes concerning the triggering and timeliness of access, the level of resource allocation, and the usefulness of the information obtained were beyond the scope of the assessment. The Commission emphasizes that the NACP's use of the Logical and Arithmetic Control (LAC) module of the asset declaration system to access registries and databases raises concerns as well. This module was intended for the risk assessment and cross-checks of data from the asset declarations; it was not intended for the COI detection outside of the asset declaration control and verification procedures. Using the LAC module for secondary objectives could raise the issue of lawful use of data and overload the technical capacity of the module to the detriment of the asset declaration verification process. These issues are significant, particularly as they relate to the NACP's ability and willingness to understand complex financial situations and to timely discover "hidden" interests. In the same vein, the Commission concludes that the NACP established pertinent communication channels for providing clarifications, advice, and support (4.5), provided clarifications and advice within timeframes set by legislation (4.6), and used software tools to detect violations (4.7). At the same time, representatives of civil society raised concerns about the quality of information provided by NACP and highlighted shortcomings of the software tools used by the NACP to detect hidden interests.

The Commission learned that some delays affecting control of compliance were caused by decisions, action, or inaction on the part of authorized persons of the NACP. Regretfully, at least one matter affected a top-tier official, raising concerns of representatives of civil society of an adverse impact on public trust in the NACP's impartiality. The Commission concludes, however, that systemic unreasonable delays were not apparent and the NACP met the relevant criterion (4.10). The Commission also determines that the relatively few instances in which authorized persons of the NACP neglected to take appropriate measures to exchange pertinent information with state authorities, use open-source information, request information from foreign authorities, or obtain information from natural and legal persons were not systemic (4.11).

Four additional criteria also addressed the NACP's performance in taking time-framed actions to share information with other state authorities. The Commission did not receive information raising significant concerns in these areas and concludes that the respective criteria were met. Specifically, the Commission did not identify concerning delays or failures to comply with time limits set by legislation relating to the responsibilities of authorized persons to report to appropriate authorities: signs of corruption related administrative offences (4.12), signs of corruption related criminal offences (4.13), and signs of offences outside the area of the NACP's direct enforcement mandate (4.14). The Commission notes that specific concerns were raised by stakeholders only with respect to the NACP's consistency and comprehensiveness in informing state authorities responsible for enforcement of laws outside the area of corruption (for example, tax and money laundering authorities) of pertinent information without delays. Stakeholders did not cite deficiencies with respect to the NACP's performance in providing timely responses to pertinent information requests from natural and legal persons (4.22). In addition to meeting all criteria to appropriately distribute information to enforcement authorities, the NACP met the closely associated criterion of implementing measures to prevent the unauthorized disclosure of restricted information related to its monitoring and control of compliance responsibilities (4.16).

Five criteria establish specific metric indicators for assessing NACP's performance relating to inspections in respect to detection of violations of conflicts of interest legislation. In each of these areas, the NACP met the required standards. Statistical data provided by the NACP demonstrated: 1) over 25% of inspections undertaken were timely completed (4.19); 2) over 80% of the inspections

related to officials holding positions of responsibility and especially high responsibility (4.20); 3) over 50% of the inspections launched and completed during the review period were completed within three months (4.21); 4) under 10% of cases the NACP sent to court were closed due to the expiration of the statute of limitations caused by unreasonable delays by the NACP (4.23); and 5) in at least 90% of cases where state authorities, local self-government bodies or other entities failed to comply with the NACP's directions, the NACP filed court protocols on administrative offences as required by law (4.24). Representatives of civil society cited examples of commendable work done by the NACP in the context of individual inspections and commended the NACP's progress in using digital tools to detect signs of possible violations. The Commission notes that, given the evolving ability of the NACP to launch and complete inspections effectively and in consideration of the positive impact of inspections in deterring violations and promoting public trust, the NACP should consider developing internal metric targets that exceed the requirements of the assessment methodology, particularly with respect to the number of inspections undertaken and timely completed.

The Commission highlights the narrow scope of the criteria relating to the NACP's creation and operation of a separate autonomous structural unit with sufficient staff to monitor and control compliance with conflicts of interest legislation (4.26). As required, the NACP created and operated a separate autonomous unit. Notably, the NACP developed internal procedures governing the staffing and activities of the unit. Although the Commission learned of stakeholder concerns that the unit's staff was not sufficiently qualified and appropriately trained to carry out the responsibilities of the unit effectively, the quality of the unit's operations was not within the scope of the assessment.

The Commission concludes that the NACP minimally met the requirement to constantly publish statistics on the monitoring and control of conflicts of interest legislation (4.28). The Commission stresses that the NACP should strive to comprehensively fulfil the direct requirement of Art. 14 by publishing transparent information about the effectiveness of review of the protocols and the entered prescriptions. In this regard, the NACP could better format the statistics provided to make them more useful for discerning the overarching situation relating to conflicts of interest and facilitating cross-cutting analysis. In addition, the NACP could provide more meaningful case-specific information and details about its monitoring activities to promote understanding and assessment of its performance. The NACP also minimally met the criteria for conducting systematic monitoring and control concerning prohibitions, requirements, and restrictions laid down in sections IV-VI of the Law (4.18); the Commission received suggestions from stakeholders for enhancement of the NACP's performance in this regard.

Criteria Not Met

The Commission concludes that the NACP did not meet the requirements of nine criteria (4.2, 4.4, 4.8, 4.9, 4.15, 4.17, 4.25, 4.27, and 4.29). With respect to three, the Commission determines that the overarching deficit relates to ensuring timely updating and comprehensive dissemination of relevant information. The assessment methodology stresses that a critical aspect of assessing the "relevance" of the NACP's guidelines and other explanatory materials, including training materials, is the development of regular updates that take account of the needs of target audiences and survey findings. A determination of relevance also requires that the NACP make effective use of contemporary methods for circulating the information.

The NACP did not update and disseminate pertinent information to authorized persons of the NACP until late in the review period. (4.2). During at least the entirety of 2020 and half of 2021, authorized persons were operating without pertinent methodologies. The Commission also notes that the content of the materials presented for assessment merely articulates normative information, rather than provides guidance. Regrettably, the Commission also learned that the NACP did not provide access to this "guidance" when requested by stakeholders outside of the NACP. The Commission emphasizes that timely dissemination to the public and other stakeholders of the procedures and internal guidelines followed by the NACP helps to ensure the NACP's accountability for impartial

decision-making thereby promoting public trust. Although the NACP developed training materials, including online courses, during the review period, updated training materials were not available for use until the end of November 2021 (4.4).

The Commission was informed of several instances in which the NACP did not address petitions or notifications concerning alleged conflicts of interest offences according to timeframes and procedures established by law (4.8). In fact, the NACP had no clear procedures in place for analysing and investigating these matters and for reporting the results. The perception of stakeholders that the NACP failed to adequately review complaints and to undertake appropriate verification of reports relating to alleged offences has the potential to significantly undermine public trust in the NACP. Similarly, the Commission notes deficiencies in the NACP's procedures to ensure comprehensive recording of conflicts of interest violations (4.9). Significantly, the employees authorized to record violations and to draw up administrative protocols are not clearly designated, and it does not appear that an assessment mechanism is in place to evaluate the scope and accuracy of recording procedures. The NACP replaced a binding regulation of the proceedings in administrative violations concerning this area with three separate "methodological recommendations" addressed to its staff (see table under 4.9. for additional details). In 2020-2021, the NACP increasingly used this approach in different areas of its activities, and it raises serious concerns. The monitoring and control activities, collection of evidence in such cases, and subsequent proceedings on the possible administrative infringements affect public officials' rights and may result in significant sanctions, including fines, confiscation of assets, and dismissal. Regulating such proceedings through "guidelines" deprives affected public officials of legal certainty and may result in abuse of the NACP powers. It also appears to conflict with the principle of legality that should govern the activity of public authorities - in performing their core functions, the NACP officials should act in line with the legislative requirements and not "soft-law" recommendations, which, through their very designation, cannot impose duties on officials. Such a practice is not unique for this evaluation area and reflects a systemic practice introduced since 2020 by the NACP Head. This approach may be explained by the reluctance of the NACP leadership to follow regular legal drafting procedures that require a public discussion, review of the act in the Ministry of Justice, and publication of the document. Another (even more concerning) explanation could be that such an approach may be used to avoid potential liability for improper performance of the NACP functions in the respective area. The Commission cannot accept such justification for this practice, as it limits the accountability of the NACP and undermines basic principles of operation of the public authorities.

The Commission also notes overarching deficiencies of the NACP in preventing, documenting, and mitigating material mistakes and violations by NACP employees in connection with the NACP's implementation of monitoring and control procedures (4.15). Representatives of civil society raised concerns about the impact of employee mistakes and violations in terms of delays and outcomes in connection with specific matters, as well as the potential overarching erosion of public trust. The Commission identifies several cases, several of which involved court decisions, that affected the NACP's ability to fully comply with monitoring and control of conflicts of interest legislation, notably regarding timeliness. Along the same lines, the Commission was informed of concerns on the part of civil society that the NACP had not taken thorough and objective measures to ensure political impartiality in its monitoring and compliance activities (4.17). The concerns focused on perceived lack of independence and transparency in matters involving high-level officials and politically sensitive issues. The Commission is not aware of specific measures taken by the NACP to ensure its impartiality and to promote public confidence that its enforcement actions are timely and unbiased. Significantly, representatives of civil society highlighted the NACP's refusal to extend the automated random case allocation system to COI monitoring. The Commission expresses concern that the NACP justified its refusal by citing its own overly restrictive technical distinction between its "monitoring" and "inspection" responsibilities under the law. Rather than trying to find a justification to exclude a significant part of its compliance mandate from the application of an important accountability

mechanism and to avoid enhancing the effectiveness of its operational systems, the NACP should strive to demonstrate fully its commitment to promoting transparency and accountability.

Regrettably, particularly in the context of the procedural deficiencies noted, the Commission did not receive evidence demonstrating that the NACP conducted a periodic review of its internal procedures for the monitoring and control of compliance in order to increase their effectiveness (4.27). The Commission recognizes that some analysis of procedures necessarily occurred, for example in connection with the modifications to conflicts of interest guidelines and methodology that occurred near the end of the review period, and that the NACP worked with donors to develop concepts for procedural improvements. Still, the Commission concludes that the NACP did not initiate an explicit, comprehensive, periodic review as anticipated by the assessment criterion.

The Commission concludes that the NACP did not meet the criterion for addressing the court without unreasonable delays in each case where a violation of conflicts of interest requirements provided grounds to revoke decisions, acts, and contracts (4.25). In this regard, the Commission considers the concerns of representatives of civil society that there were very few cases in which the NACP requested that the court revoke a decision, normative act, or contract; in fact, the NACP cited only four such cases during the review period. Given the very high number of conflicts of interest violations uncovered and sanctioned by the NACP and given the lack of countervailing information from the NACP, the Commission concludes that this small number of court actions does not establish that the NACP timely filed an action with the court in each case where filing was warranted. The Commission observes that the NACP may lack the capacity to file follow-up actions in all appropriate cases because of a shortage of qualified staff; however, because there were very few cases when the NACP applied for the revocation of decisions, normative acts, or contracts, the staff shortage alone cannot explain the lack of proactive approach in this area. In any event, the NACP should review its practice of applying for the revocation of such cases and analyse reasons for the low number of cases pursued. The NACP should also develop transparent criteria to prioritize and select actions that it chooses to pursue. Given the lack of information providing insight into the anomalous data reviewed, the Commission is mindful that concerns about the effectiveness and impartiality of the NACP may be heightened.

Lastly, the Commission concludes that the civil society, international donors and partners did not recognize the NACP as an effective and unbiased institution in the area of control of compliance with the COI and other anti-corruption requirements (4.29). Significantly, the stakeholders cited the lack of transparency on the part of the NACP about its priorities, objectives, and results in this area, low effectiveness in preparing administrative protocols on the respective offences and obtaining successful resolution in the judicial proceedings, and insufficient efforts to advocate the legislative reforms to remove some of the procedural bottlenecks in the administrative offence proceedings. Concerns were also raised about inconsistencies in advice given, failure to provide timely clarifications when requested, and errors in training materials.

High Priority Recommendations

1. The NACP should establish a clear review schedule to ensure timely updates of its procedures, guidelines, explanatory materials, and training materials to keep pace with changes in laws, procedures, operational experience, and technology. Reviews should also take into account feedback from targeted audiences, comments from civil society organisations, and the evolution of international best practices. Periodic review and assessment should occur at least annually.
2. The NACP should implement a comprehensive internal audit process to ensure the quality of the NACP's guidance, explanatory materials, and training in terms of accuracy, consistency, transparency, and timeliness. Cases in which delays or mistakes occurred and case management inefficiencies should be analysed to determine root causes and improve internal controls. The schedule, scope, method,

and results of audits should be archived and timely shared with stakeholders to the greatest extent practicable. The reviews should take into account feedback from external stakeholders.

3. The NACP should develop internal reporting procedures and incorporate appropriate training to encourage staff to report instances of perceived bias or partiality resulting from lack of clear procedural guidance or from discretionary actions by supervisors. These procedures should be disseminated to stakeholders.

4. The NACP should develop clear, transparent procedures for handling petitions and notifications of natural and legal persons on alleged offences. These procedures should be developed in consultation with representatives of civil society and should include requirements about informing the source of an allegation about the scope and result of the investigation and other action taken by the NACP.

5. The NACP should adopt binding bylaws regulating its internal proceedings related to the detection, evidence collection, and drawing up of administrative protocols concerning violations of conflict of interest and other anti-corruption restrictions. The NACP should avoid regulating its procedures through non-binding recommendations or similar documents. The adoption of the relevant regulations should involve broad and inclusive public consultations, clearance of the regulations with the Ministry of Justice, and publication of the approved documents.

6. The NACP should enhance the technical qualifications of the separate autonomous structural unit's staff to ensure that they can effectively carry out their responsibilities. In particular, the NACP should ensure that staff are well-trained and are supported by relevant technology to effectively understand complex financial situations and detect hidden financial interests.

Other Recommendations

1. The NACP should develop and implement a strategic communication plan to increase public understanding and support for its activities related to conflicts of interest legislation. The NACP should emphasize the essential role of the conflicts of interest framework in the fight against corruption, demonstrate commitment to accountability for its actions, highlight successful enforcement actions, underscore its responsiveness to pertinent legislative and situational developments, and identify operational challenges that may enhance public support for appropriate resources and mitigate the potential for untoward political pressures.

2. In view of the scope, complexity, volume, and time constraints of its work, the NACP should comprehensively assess the extent to which enhanced use of technology and data management systems could streamline processes and facilitate more efficient use of staff. Assessment should include realistic estimates of costs, evaluation of practical obstacles to timely implementation, and identification of specific operational benefits that would be gained. Particularly with respect to the rapidly advancing capabilities of artificial intelligence (AI), the NACP should consult with international partners.

3. The NACP should develop a case management system that provides clear, transparent criteria for prioritizing cases, tracking milestones, and ensuring internal staff accountability for meeting quality standards and avoiding unwarranted delays.

4. The NACP should consider developing internal metric targets that exceed the requirements of the assessment methodology, particularly with respect to the number of inspections undertaken and timely completed.

5. The NACP should improve the formatting of published statistical reports and include meaningful details about case-specific information.

6. The NACP should consider strategies to analyse and use comprehensive, cross-cutting information to identify evolving risks of corruption relating to investments in particular economic sectors and to refine detection, training, and public awareness strategies. Insights about vulnerabilities and methods

of detection and investigation could be shared with other enforcement authorities with responsibilities for financial crimes.

Detailed Assessment

EVALUATION OBJECT 4: Monitoring and Control over Compliance with Legislation on Prevention and Resolution of Conflict of Interest, Other Requirements and Restrictions	
Assessment	Explanation
4.1. Obtaining and using an automated access to all state registers and databases required to monitor and control compliance with the legislative requirements on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation	
Met	<p>The National Agency informed the Commission that it uses the following registers to monitor and control compliance with the requirements of the legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions established by anti-corruption legislation: 1) The Unified State Register of Declarations of Persons Authorized to Perform State or Local Self-Government Functions; 2) The integrated interdepartmental automated system of information exchange on control of persons, vehicles and goods crossing the state border "Arkan"; 3) The State Register of Individuals - Taxpayers; 4) The database of the subsystem of the National Automated Information System "Unified State Register of the Ministry of Internal Affairs" (search of vehicles); 5) The State Land Cadastre; 6) The Unified State Register of Judgments; 7) The State Register of Real Property Rights; 8) The Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations; 9) The State Register of Civil Status Acts; 10) The information database of the National Securities and Stock Market Commission on the securities market.</p> <p>At the same time, the CSO Anti-corruption Action Centre emphasized that the question arises as to how these registers are accessed by the NACP. If the logical and arithmetic control module of the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government is used for these purposes, it should be assessed to what extent its use for purposes other than the implementation of financial control measures affects the pace of declaration analysis. If the speed of comparison of declaration information with other registers or databases is reduced due to the use of the LAC module for the purposes of monitoring compliance with the rules on conflict of interest, it is important for the NACP to find a technical solution that would allow separate access to the registers and databases, without the use of outside the LAC module.</p> <p>Therefore, while the NACP met the criteria to obtain and use automated access to pertinent registers and databases, the Commission emphasizes that the NACP's use of the Logical and Arithmetic Control (LAC) module of the asset declaration system to access registries and databases raises concerns as well. This module was intended for the risk assessment and cross-checks of data from the asset declarations; it was not intended for the COI detection outside of the asset declaration control and verification procedures. Using the LAC module for secondary objectives could raise the issue of lawful use of data and overload the technical capacity of the module to the detriment of the asset declaration verification process.</p>
4.2. Ensuring the development, dissemination, and relevance of guidelines, information, and explanatory materials for authorized persons of the National Agency on the monitoring of and control over compliance with the legislative requirements on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation	
Not met	<p>The NACP did not meet the requirements of the criterion. Particularly, the NACP did not update and disseminate pertinent information to authorized persons of the NACP until a very late stage in the review period. During at least the entirety of 2020 and half of 2021, authorized persons were operating without pertinent methodologies. The Commission also notes that the content of the materials presented for assessment merely articulates normative information, rather than providing guidance. Regrettably, the Commission also learned that the NACP did not provide access to this</p>

	<p>“guidance” when requested by stakeholders outside of the NACP. The Commission emphasizes that timely dissemination to the public and other stakeholders of the procedures and internal guidelines followed by the NACP helps to ensure the NACP’s accountability for impartial decision-making thereby promoting public trust.</p>
<p>4.3. Ensuring the development, dissemination, and relevance of guidelines, information, and explanatory materials on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation</p>	
Met	<p>The NACP updated and disseminated relevant guidelines, information, and explanatory materials on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation. Although, in some cases, the guidelines were updated and disseminated with a delay.</p>
<p>4.4. Ensuring the development, dissemination, and relevance of training materials, including online courses, on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation</p>	
Not met	<p>Although the NACP developed training materials, including online courses, during the assessment period, the updated training materials were not available for use until the end of November 2021.</p> <p>The Anti-corruption Action Centre raised concerns regarding the content of the course. Even without mistakes in the content, not keeping training materials updated can qualify as non-compliance due to loss of "relevance."</p>
<p>4.5. Ensuring operation of communication channels for providing clarifications, advice, support related to the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation</p>	
Met	<p>In principle, channels that allow to obtain clarifications, advice, support related to the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation exist.</p> <p>Nonetheless, the NACP did not always provide timely answers to requests or appeals for clarifications which it received.</p> <p>According to Anti-corruption Action Centre, in at least in two court cases where the defendant was brought to administrative responsibility, said defendant alleged that the NACP had failed to respond to his/her appeals: (1) case 433/1461/20 included a statement "he applied to the NACP three times, but did not receive a single answer"; (2) in the decision in court case 557/956/21 it is also indicated that the person applied to NACP in January 2021, but as of September 2021, he had not received a response.</p>
<p>4.6. Providing clarifications and advice on the prevention and resolution of conflicts of interest, compliance with other legislative requirements and restrictions within time set by legislation</p>	
Met	<p>The NACP provided clarifications and advice within the timeframes set by legislation</p>
<p>4.7. Using software tools to detect violations of legislation on the prevention and resolution of conflicts of interest, other requirements and restrictions laid down in anti-corruption legislation</p>	
Met	<p>The NACP used software tools to detect violations of legislation on the prevention and resolution of conflicts of interest, other requirements and restrictions laid down in anti-corruption legislation, for example “Hidden interests”, the electronic public procurement system “Prozorro”, and the Register of Lawyers of Ukraine. The open database of assistants of MPs of the Verkhovna Rada of Ukraine, the Unified Register of Court Decisions, Automated System of Executive Proceedings, etc. However, the Anti-corruption Action Centre noted that "Hidden interests" was a relatively basic system tracing back to the similar system launched under the previous NACP composition (https://uacrisis.org/uk/53148-prihovani-interesi).</p>
<p>4.8. Reviewing petitions and notifications of natural and legal persons on alleged offences within the time limits and according to the procedure established in the legislation</p>	

Not met	<p>The Commission found several instances in which the NACP did not address petitions or notifications concerning alleged conflicts of interest offences according to timeframes and procedures established by law. The NACP had no clear procedures in place for analysing and investigating these matters and for reporting the results. The perception of stakeholders that the NACP failed to adequately review complaints and to undertake appropriate verification of reports relating to alleged offences has the potential to significantly undermine public trust in the NACP. For example, the Anti-corruption Action Centre reported a COI offence to the NACP about an actual conflict of interest in decision-making by Minister of Energy Yury Vitrenko. However, the NACP did not conduct any investigation on this offence report. There were other high profile cases as well.</p>
<p>4.9. Ensuring recording of violations of legislation requirements on the prevention and resolution of conflicts of interest, other requirements and restrictions laid down in anti-corruption legislation in accordance with the legislation</p>	
Not met	<p>The Commission found deficiencies in the NACP's procedures to ensure comprehensive recording of conflicts of interest violations. Significantly, the employees authorized to record violations and to draw up administrative protocols are not clearly designated, and it does not appear that an assessment mechanism is in place to evaluate the scope and accuracy of recording procedures.</p> <p>Besides, in September 2021, the NACP cancelled its previous regulation on the procedure for preparing and processing of the administrative protocols concerning violations of anti-corruption requirements. Instead, the NACP Head approved three separate "methodological recommendations" concerning proceedings in such cases:</p> <ul style="list-style-type: none"> - in June 2021, methodological recommendations on the collection of evidence to confirm or refute administrative offences related to corruption that belong to the competence of the Department on the Compliance with the Conflict of Interest and Other Corruption Prevention Restrictions; - in October 2021, methodological recommendations on the monitoring and control of the legislation concerning conflict of interest and compliance with other restrictions of the Law on Corruption Prevention; - in February 2022, methodological recommendations on the preparation of administrative protocols in such cases. <p>The documents, despite their title and approval in the form that has no binding effect, contain provisions that, in substance, are legal norms that regulate the actions of the NACP staff when investigating allegations of relevant offences. To be in line with the rule of law principles, such regulations should have a normative force and be binding for the NACP authorised officers. The monitoring and control activities, collection of evidence in such cases, and subsequent proceedings on the possible administrative infringements affect public officials' rights and may result in significant sanctions, including fines, confiscation of assets, and dismissal. Regulating such proceedings through "guidelines" deprives affected public officials of legal certainty and may result in abuse of the NACP powers. It also appears to conflict with the principle of legality that should govern the activity of public authorities - in performing their core functions, the NACP officials should act in line with the legislative requirements and not "soft-law" recommendations, which, through their very designation, cannot impose duties on officials. The non-compliance with such recommendations cannot lead to disciplinary or other type of liability. Such a practice is not unique for this evaluation area and reflects a systemic practice introduced by the NACP Head since 2020. This approach may be explained by the reluctance of the NACP leadership to follow regular legal drafting procedures that require a public discussion, review of the act in the Ministry of Justice, and publication of the document. Another (even more concerning) explanation could be that this approach may be used to avoid potential liability for improper performance of the NACP functions in the respective area. The Commission cannot accept such justification for this practice, as it limits the accountability of the NACP and undermines basic principles of operation of the public authorities.</p>
<p>4.10. There are no systematic unreasonable delays caused by decisions, actions, or inaction of the authorized person of the National Agency during monitoring and control of compliance with legislation on the</p>	

prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation

Met

The Commission learned that some delays affecting control of compliance were caused by decisions, action, or inaction on the part of authorized persons of the NACP. Regretfully, at least one matter affected a top-tier official, raising concerns of representatives of civil society of an adverse impact on public trust in the NACP's impartiality. The Commission concludes, however, that systemic unreasonable delays were not apparent and the NACP met the relevant criterion. For instance, during the inspection of possible violations by the head of the Presidential Office Andrii Yermak, the NACP conducted the inspection for so long that the time limits for imposing an administrative penalty expired, but no final decision was made. The Commission's conclusions on t question 1.6.1. provide more information about this investigation.

4.11. Taking necessary measures, according to the law, while conducting monitoring and control of compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation, by authorized persons of the National Agency to ensure a thorough monitoring and control, inter alia by:

- exchanging information with other state authorities;
- using open source information;
- sending information requests to foreign competent authorities;
- obtaining information that constitutes bank secret;
- obtaining information from natural and legal persons.

Met

While the NACP met the criterion, the Commission also found the relatively few instances in which authorized persons of the NACP avoided carrying out a full set of actions that were necessary for a comprehensive and objective assessment of the circumstances of possible offences committed by employees. There have been cases that call into question a thorough and comprehensive monitoring and control of specified requirements by the NACP. For instance, the NACP investigated a potential conflict of interest of the deputy head of the Office of the President Oleg Tatarov. In 2020-2021, Tatarov was a suspect in criminal proceedings.

During those proceedings, even though he was served with a formal notice of suspicion, Tatarov interfered with the investigation through the Office of the General Prosecutor. The NABU reported that, on December 23, 2020, Deputy Prosecutor General Oleksiy Symonenko transferred the criminal proceedings against the Tatarov from the NABU to the Security Service of Ukraine.

The State Bureau of Investigation also hindered the NABU's investigation of this case. It conducted a pre-trial investigation in criminal proceedings 6202000000001016. Within the framework of those proceedings, the transfer of the criminal proceedings against Tatarov from the NABU to the SSU was of decisive importance.

NABU detectives had evidence that Tatarov, in the past a top official of the UkrBud state company, was involved in providing an illegal benefit for ensuring the issuance of an unreliable written opinion of a forensic expert in the case of the misappropriation of UAH 81 million from the National Guard of Ukraine.

At the same time, according to the available information, Tatarov continued to exercise his powers to coordinate the activities of law enforcement agencies, and his conflict of interests was resolved only in relation to the NABU, the Office of the Prosecutor General, and the SSU. As for other bodies - in particular, the State Bureau of Investigation - such decisions were not made. In a 2021 [interview](#) with the media outlet *Slovo i Dilo*, the head of the NACP Oleksandr Novikov commented on this situation as follows:

Journalist:

“Let's continue the conversation about the conflict of interest. The story with the deputy head of the President's Office Oleg Tatarov has been going on for the past year. As far as I know, despite the fact that he was served with a notice of suspicion, he continued to direct the work of law enforcement agencies. Did the NACP carry out any verification of these circumstances? Do you have any response from the Office of the President on this?”

	<p>Oleksandr Novikov:</p> <p>“The Anti-Corruption Centre contacted us with a request to check these circumstances. We turned to the Office of the President for materials. We were told there that, according to the order of the head of the president's office Andriy Yermak, the powers were re-distributed in connection with this situation. Therefore, the issues of coordination of those bodies in which Tatarov could have a conflict of interest were transferred to another deputy head of the President’s Office Andriy Smirnov. This is one of the ways to resolve a conflict of interest provided for in Article 29 of the Law on Prevention of Corruption. Officially, the head of the President’s Office submitted documents on the settlement of the conflict of interest”.</p> <p>Journalist:</p> <p>“Did Tatarov himself turn to you or to Yermak regarding a possible conflict of interest?”</p> <p>Oleksandr Novikov:</p> <p>“He himself did not refer to us. By law, he must contact his immediate supervisor. A week ago, we received a new appeal, and we will ask the President's Office what the current situation is with the settlement of this conflict of interest. I would like to point out that the main function of the NACP and the law "On Prevention of Corruption" is to settle conflicts of interest”.</p> <p>Journalist:</p> <p>“Mykhailo Tkach's investigation into Oleg Tatarov's birthday celebration was recently made public. Deputy Prosecutor General Oleksiy Symonenko came to [the celebration], and he , in fact, took Tatarov's case from the NABU and the SAPO and handed it over to the Security Service of Ukraine in December 2020. Do you check these facts?”</p> <p>Oleksandr Novikov:</p> <p>“We have not received any appeals on this matter. I want to emphasise that a conflict of interest would exist if friendly relations or any other relations arose before the decision to transfer Tatarov's case to the Security Service of Ukraine. You yourself said that Symonenko made a decision almost a year ago. That is, the fact that he was present at Tatarov's birthday a year later cannot in itself indicate a conflict of interest, even for chronological reasons. We cannot start monitoring on our own because there is no reason”.</p>
<p>4.12. When detecting signs of a corruption-related administrative offence, authorized persons of the National Agency draw up, without unreasonable delays, a report on the offence (within their respective competences) or forward a reasoned opinion to specially authorized entities on combating corruption, allowing for the time of imposition of an administrative penalty</p>	
Met	<p>The Commission did not receive information raising significant concerns in these areas and concludes that the respective criteria were met. Specifically, the Commission did not identify delays or failures to comply with time limits set by legislation relating to the responsibilities of authorized persons to report to appropriate authorities the signs of corruption-related administrative offences.</p>
<p>4.13. When detecting signs of a criminal offence or grounds for bringing a lawsuit to recognize assets as unjustified, the National Agency sends its reasoned opinion within the time limits set by the legislation to specially authorized entities on combating corruption</p>	
Met	<p>The Commission did not find violations of this criterion.</p>
<p>4.14. Informing promptly without unreasonable delays other public authorities of all other offences (in particular, of alleged tax evasion or laundering of criminal proceeds)</p>	
Met	<p>The NACP met the criteria, but there were signs of offences outside the area of the NACP’s direct enforcement mandate. The Commission notes that specific concerns were raised by stakeholders only with respect to the NACP’s consistency and comprehensiveness in providing state authorities responsible for enforcement of laws outside the area of corruption (for example, tax and money laundering authorities) with pertinent information without delays.</p>
<p>4.15. During the monitoring and control procedures, the National Agency's employees did not make material mistakes or violations that undermine the results of the monitoring and control of compliance with legislation</p>	

on the prevention and resolution of conflicts of interests, compliance with other requirements and restrictions laid down in anti-corruption legislation

Not met

The Commission found significant deficiencies of the NACP in preventing, documenting, and mitigating material mistakes and violations by NACP employees in connection with the NACP's implementation of monitoring and control procedures. Representatives of civil society raised concerns about the impact of employee mistakes and violations in terms of delays and outcomes in connection with specific matters, as well as the potential overarching erosion of public trust.

The Commission identified numerous cases in which NACP did not comply with this criterion. The list includes cases of Tatarov, Ivanisov, Vitrenko', Leros, Yermak, etc. Likewise, relevant conclusions can also be drawn on the basis of a number of court decisions (the comprehensive analysis can be found in AntAC's answer to this question).

For example, in 2020, AntAC appealed to the NACP regarding possible conflict of interest violations by People's Deputy of Ukraine Roman Ivanisov. During a hearing in the Verkhovna Rada Committee on Anti-corruption Policy, where the members of the competitive commission for the selection of the Chairman of ARMA were determined, Ivanisov voted for the candidacy of his former assistant-consultant. It should be noted that at the time of the interviews in the parliament's Committee, the person was still a *pro bono* assistant-consultant to Ivanisov but had already left his position by the time of the vote for candidates in the Committee. Given that a COI concern had been raised during the interviews, resignation, or dismissal of the said assistant-consultant could have been a deliberate step aimed at concealment of a private interest. In response to this appeal, the NACP informed about the start of "monitoring and control" of that situation (letter 32-02/10749/20 dated March 23, 2020). On March 31, 2020 the NACP informed (letter 31-02/21604/20) that they had not established the presence of a private interest of Ivanisov when considering the relevant issue. It follows from the answer that the NACP was guided by the explanations of Ivanisov himself when making the decision, who denied the existence of an off-duty relationship with his former assistant consultant, and the lack of information that would have come from the Anti-Corruption Centre or other persons regarding the agreements between Ivanisov and his former assistant-consultant regarding the influence on the latter's decision during the selection of the Chairman of ARMA. According to the AntAC, the NACP conducted this check extremely superficially and did not take sufficient measures to provide a comprehensive and objective assessment of Ivanisov's actions based on the evidence obtained. The NGO published a negative assessment of the actions of the NACP in this inspection.

In March 2021, the Anti-Corruption Centre contacted Oleg Tatarov, the deputy head of the Office of the President of Ukraine, about possible conflict of interest violations. In 2020-2021, he was subject to a criminal investigation as a suspect. At the same time, attempts to interfere in the implementation of criminal proceedings against Tatarov began to take place, which was repeatedly reported by the NABU. The State Bureau of Investigation also played a role in this obstruction: it conducted a pre-trial investigation in criminal proceedings 6202000000001016 and within the framework of these proceedings the materials of the court case were seized, which was of decisive importance for the transfer of the criminal proceedings against Tatarov from the NABU to the SSU. It is also known that the SBI conducted a pre-trial investigation in criminal proceedings regarding the possible prosecution of an innocent person in criminal proceedings against Tatarov and others. At the same time, according to the available information, Tatarov continued to exercise his powers to coordinate the activities of law enforcement agencies, and his conflict of interest was resolved only in relation to the NABU, the Office of the Prosecutor General, and the SSU. As for other bodies - in particular, the SBI - such decisions were not made. The Anti-Corruption Centre sent an appeal regarding these circumstances in March 2021. In response to it, on March 17, 2021, the NACP informed (letter 33-02/14969/21) that it will monitor and control compliance with the relevant requirements of the law. In the future, the NACP did not inform about any decisions made or actions taken. Only in response to an additional request, the NACP reported (letter 92-02/69888-21 dated 17.09.2021) that it had made inquiries to the Office of the President of Ukraine and the Office of the Prosecutor General and received the necessary information and copies of documents from them. The NACP letter also stated that "measures have been taken in the Office of the President of Ukraine to eliminate any possibility of interaction with the Prosecutor's Office, the National Anti-Corruption Bureau of Ukraine, and the Security Service of Ukraine", while the corresponding powers were assigned to another deputy head Office of the President of Ukraine Smirnov in December 2021. However, the lack of review of Tatarov's powers in relation to other

	<p>investigative bodies, including the SBI, as it follows from the answer, was not investigated at all. Furthermore, the NACP did not provide any assessment of the key allegations stated in the appeal. In addition, the Law of Ukraine "On Prevention of Corruption" does not provide for such a conflict-of-interest resolution measure as "removing any possibility of interaction" with someone. Therefore, in principle, the question arises as to the legality and justification of the NACP decisions during the inspection.</p> <p>The case of judge Holub is another illustrative example to this end. In March 2020, the Anti-Corruption Centre appealed to the NACP regarding possible COI violations by judge Oksana Golub. The complaint was prepared on the basis of a journalistic investigation by the "Schemes" program (Radio Liberty). The investigation alleged that the judge was hearing a criminal case involving her husband's former manager. In letter 31-02/57526/20 dated October 22, 2020, the NACP has not found any COI violations.</p> <p>The Anti-corruption Action Centre notes that, at the beginning of 2020, a journalistic investigation of the program "Schemes" (Radio Liberty) reported a possible violation of restrictions on receiving gifts by the head of the Office of the President of Ukraine Andriy Yermak, who used a private plane for a flight from Minsk to Kyiv free of charge. The Anti-corruption Action Centre appealed to the NACP regarding a possible violation of the requirements of the Law of Ukraine "On Prevention of Corruption". In response to this appeal, the NACP informed (letter 31-02/13555/20 dated 14.04.2020) that "the collection of factual data is being carried out, on the basis of which the presence or absence of an administrative offence related to corruption will be established". However, the NACP did not follow up on this letter with any information about the results of this inspection. The time limits for imposing an administrative penalty have now expired. However, in the Commission's opinion, the NACP was verifying the aforementioned allegations for an unreasonably long time. The Anti-corruption Action Centre did not learn what specific actions had been taken within the scope of that inspection. Accordingly, the Commission cannot assess whether the authorized persons of the NACP took all the necessary actions to establish all the circumstances required for decision-making.</p>
<p>4.16. Implementing a system of measures to prevent unauthorized disclosure (leaks) of restricted information related to the monitoring and control of compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation</p>	
<p>Met</p>	<p>The Commission did not find that the NACP violated this requirement.</p>
<p>4.17. Ensuring thorough, objective, and impartial measures, inter alia, consistent with the principle of political impartiality, to monitor and control compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation</p>	
<p>Not met</p>	<p>The Commission was informed of concerns on the part of civil society that the NACP had not taken thorough and objective measures to ensure political impartiality in its monitoring and compliance activities. The concerns focused on perceived lack of independence and transparency in matters involving high-level officials and politically sensitive issues. The Commission was not aware of specific measures taken by the NACP to ensure its impartiality and to promote public confidence that its enforcement actions are timely and unbiased.</p> <p>Significantly, representatives of civil society highlighted the NACP's refusal to extend the automated random case allocation system to COI monitoring. The Commission expresses concern that the NACP justified its refusal by citing its own overly restrictive and technical distinction between its "monitoring" and "inspection" responsibilities under the law. Rather than citing adherence to the minimal technical requirements of the law to avoid enhancing the effectiveness of its operational systems, the NACP should strive to fully demonstrate its commitment to promoting transparency and accountability.</p> <p>The Anti-Corruption Action Centre NGO noted that, at least in some cases, the NACP did not sufficiently fully and impartially carry out measures of control, monitoring, inspection, etc. in relation to high-ranking officials. At the very least, there appears to have been a lack of impartiality during the inspections and follow-up on cases of Tatarov and the member of the Parliament of Ukraine, Mr. Leros.</p>

	<p>AntAC stated that, as a matter of priority and urgency, measures should be taken to ensure that the NACP can implement actions with minimal dependence on other bodies. According to AntAC, these measures should include, <i>inter alia</i>, proper legal regulation of control procedures at the NACP level; procedures for drawing up and submitting protocols on administrative offences to court; and introduction of random case distribution for inspections or measures of control of this type. The NACP should also eliminate errors and shortcomings in the work of authorized persons of the NACP. In the future, the NACP should focus on creating the necessary communication and advocacy capacity for the adoption of legislative changes that would facilitate a more effective and impartial judicial review of the NACP administrative protocols.</p>
<p>4.18. Conducting systematic monitoring and control concerning prohibitions, requirements, and restrictions laid down in sections IV-VI of the Law on Corruption Prevention</p>	
Met	<p>The collected information proved that the NACP conducted systematic monitoring and control concerning prohibitions, requirements, and restrictions laid down in sections IV-VI of the Law on Corruption Prevention.</p> <p>However, the NACP should scale up its work on proactive detection of offences, using "monitoring" not as a tool to "replace" checks on appeals, but as general analysis of the potential COI situation in compliance with the specified requirements of the Law, <i>inter alia</i> through identification of areas of increased risk and detection signs of offences. As it seems, the monitoring is currently not risk-oriented or in any way targeted.</p>
<p>4.19. At least 25 percent of control activities (inspections) are completed in respect of detection of violations of legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation</p>	
Met	<p>The NACP has provided the statistical data that confirms compliance.</p> <p>Statistics on control measures (inspections):</p> <ul style="list-style-type: none"> a) the number of control measures (inspections) initiated during the evaluation period - 319; b) the number of control measures (inspections) completed during the evaluation period - 345; c) the number of initiated control measures (inspections) in respect of persons holding responsible and especially responsible positions - 316; d) the number of control measures (inspections) completed within three months after the start of the proceedings (if the proceedings were initiated in 2020-2021) - 171.
<p>4.20. At least 80 percent of control activities (inspections) are undertaken in relation to officials holding responsible and especially responsible positions</p>	
Met	<p>Over 80% of the inspections related to officials holding responsible and especially responsible positions.</p>
<p>4.21. At least 50 percent of control activities (inspections) are completed within three months</p>	
Met	<p>Over 50% of the inspections launched and completed during the review period were completed within three months.</p>
<p>4.22. Providing comprehensive and on time response to information requests from natural and legal persons related to compliance with legislation on the prevention and resolution of conflicts of interest and compliance with other requirements and restrictions laid down in anti-corruption legislation</p>	
Met	<p>The NACP met this criterion.</p>
<p>4.23. Not more than 10 percent of cases of violation of requirements for prevention and resolution of conflicts of interest and compliance with other requirements and restrictions laid down in anti-corruption legislation sent by the National Agency to court are closed due to the expiration of the statute of limitations because of unreasonable delays by the National Agency</p>	
Met	<p>Less than 10% of cases, which the NACP submitted to court, were closed due to the expiration of the statute of limitations caused by unreasonable delays by the NACP.</p>

4.24. The National Agency draws up and sends to court protocols on administrative offence provided in Article 188-46 of the Code of Ukraine on Administrative Offences in at least 90 percent of cases where state authorities, local self-government bodies or other entities fail to comply with the directions of the National Agency issued as a result of controlling compliance with legislation on the prevention and resolution of conflicts of interest, other requirements and restrictions laid down in anti-corruption legislation

Met	In at least 90% of cases where state authorities, local self-government bodies or other entities failed to comply with the NACP's directions, the NACP filed court protocols on administrative offences, as required by law.
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4.25. Addressing the court without unreasonable delays in each case when there are grounds to revoke decisions, acts, contracts adopted (concluded) in violation of statutory requirements

Not met	<p>The Anti-corruption Action Centre noted that there were few cases when the NACP appealed to the court. The number is too low to determine if the NACP had valid reasons in every lawsuit it filed.</p> <p>For example, the NACP applied to the court in the lawsuit regarding the termination of the contract with the Chairman of the Board of Naftogaz of Ukraine Yurii. Vitrenko for violating the restrictions established by Art. 26 of the Law of Ukraine "On Prevention of Corruption".</p> <p>In this regard, the Commission considers the concerns of representatives of civil society that there were very few cases in which the NACP requested that the court revoke a decision, normative act, or contract; in fact, the NACP cited only four such cases during the review period. Given the very high number of conflicts of interest violations uncovered and sanctioned by the NACP and given the lack of countervailing information from the NACP, the Commission concludes that this small number of court actions does not establish that the NACP timely filed an action with the court in each case where filing was warranted.</p> <p>The Commission observes that the NACP may lack the capacity to file follow-up actions in all appropriate cases because of a shortage of qualified staff; however, because there were very few cases when the NACP applied for the revocation of decisions, normative acts, or contracts, the staff shortage alone cannot explain the lack of proactive approach in this area. In any event, the NACP should review its practice of applying for the revocation of such cases and analyse reasons for the low number of cases pursued. The NACP should also develop transparent criteria to prioritize and select actions that it chooses to pursue. Given the lack of information providing insight into the anomalous data reviewed, the Commission is mindful that concerns about the effectiveness and impartiality of the NACP may be heightened.</p>
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4.26. Creating and ensuring operation of a separate autonomous structural unit at the National Agency with sufficient staff to monitor and control compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation

Met	<p>The separate autonomous structural unit at the National Agency has been created. However, the Commission identified numerous issues in the process of the appointment of the officials of this unit and in the performance of their duties.</p> <p>At the same time, the indicator directly does not include any quality requirements for the unit's operation, or the professional capacity and impartiality of the unit's officials.</p> <p>The National Agency reported that, as of 1 January 2020, the Department for Monitoring Compliance with the Law on Conflict of Interest and Other Restrictions on Prevention of Corruption (from 11.03.2020 Department for Compliance with the Law on Conflict of Interest and Restrictions on Prevention of Corruption) had 55 employees and one vacant position. As of 1 January 2021, the number of employees was 29, and four vacancies remained unfilled. As of 31 December 2021, the number of employees was 30, with three vacant positions.</p> <p>So, technically, the NACP complied with this criterion. However, the Commission is concerned about the professional capacity and integrity of the unit's staff.</p>
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4.27. Conducting a periodic review of procedures for the monitoring and control of compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation to increase their effectiveness

Not Met	<p>The NACP stated that it had conducted this activity but refused to provide the corroborating documents.</p> <p>The NACP did not understand the indicator and the relevant questions. The indicator requires an internal review of procedures. It does not relate to COI monitoring as such. The NACP did update the methodology for COI work and guidelines for public officials on COI compliance, so it could be assumed that a certain degree of review preceded the creation of these new documents. However, no corroborating evidence was provided by the NACP.</p> <p>Separately, the OECD's Pilot 5th Round Monitoring Report did not show that the NACP conducted a periodic review of procedures for the monitoring and control of compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation to increase their effectiveness.</p> <p>Regrettably, particularly in the context of the procedural deficiencies noted, the Commission did not receive evidence demonstrating that the NACP conducted a periodic review of its internal procedures for the monitoring and control of compliance in order to increase their effectiveness. The Commission recognizes that some analysis of procedures necessarily occurred, for example in connection with the modifications to conflicts of interest guidelines and methodology near the end of the review period. It also needs to be acknowledged that the NACP worked with donors to develop a concept of draft law for improvement of COI regulation in the LCP and other laws. Still, the Commission concludes that the NACP did not initiate an explicit, comprehensive, periodic review as anticipated by the assessment criterion.</p>
4.28. Ensuring constant publishing of statistics on the monitoring of and control of compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation	
Met	<p>While the NACP's activity met this criterion, there is space for improvements., The Commission reiterates the following recommendation expressed by AntAC:</p> <ol style="list-style-type: none"> 1. First of all, the NACP should fulfil the direct requirement of Art. 14 of the Law of Ukraine "On the Prevention of Corruption" and to indicate, at least in its annual reports, information about the effectiveness of the review of the protocols and the entered prescriptions. 2. If the NACP publishes detailed information about each drawn-up protocol, it would be worthwhile to also indicate information about the results of the court proceedings that follow. Before the beginning of the war, the fields for information on "case number", "court name", "judge's full name", "date, time of the meeting", "data about the meeting" were added to the "activity monitoring" page in the section about compiled protocols. - but "Functional under development" is immediately indicated for them, and no such data is given for any protocol. 3. The NACP should consider opting for a different format of indicating statistical indicators so that they are not overly generalized. They could more detailed. For example, according to the protocols, it should be possible to specify the exact provisions of legislation allegedly violated by the perpetrator.
4.29. Non-governmental, international organisations, donors conducting activity in the area of preventing and/or combating corruption recognize the National Agency as an effective and unbiased institution in the area of control of compliance with legislation on the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation	
Not Met	<p>The Commission notes that, regarding the recognition of the NACP's work as effective and unbiased in the area of control over compliance with pertinent laws, many representatives of non-governmental organisations, international organisations, and donors expressed concerns. For example, leading Ukrainian anti-corruption CSOs expressed a slight dissatisfaction with the activities of the NACP.</p> <p>For example, some illustrative comments were as follows, "the volume of information that I know about the NACP's work in the described areas is not enough for a general assessment of its effective and unbiased [activities?]" and "the work of the NACP was not effective for this evaluation object." Moreover, the NACP's methodical, consulting and informational activities were marked by contradictory approaches. For example, some of the NACPs' materials do not explain aspects important for the correct application of legislation. At times, the NACP takes an extremely contradictory and unfounded position in the interpretation of specific legal norms and their</p>

application, and, occasionally, there are frank errors in educational materials. In addition, there are at least two examples of the possible failure to provide clarifications on issues of conflict of interest, established by court, which raises the question of how timely the NACP provides clarifications.

Significantly, lack of transparency on the part of the NACP about its priorities, objectives, and results was cited as an impediment to accessing enough pertinent information to form a meaningful opinion. Concerns were also raised about inconsistencies in the advice given, failure to provide timely clarifications when requested, and errors in training materials.

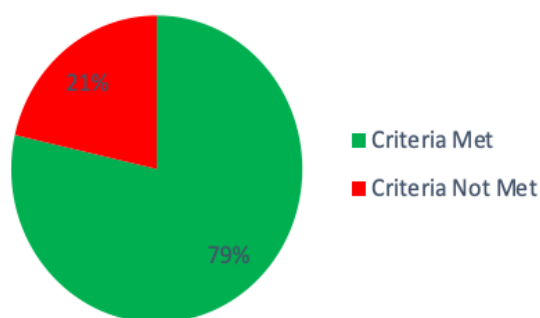
Therefore, the NACP has not received sufficient recognition from non-governmental, international organisations, and donors conducting activity in the area of preventing and/or combating corruption as an effective and unbiased institution in the area of control of compliance with legislation. As such, the National Agency did not meet this requirement of the assessment methodology.

Object 5. Control and verification by the NACP of declarations of persons authorized to perform the functions of the state or local self-government, and lifestyle monitoring of declarants

Summary of Findings

The NACP met 23 of the 29 Object 5 criteria that were considered, a ratio of 79%.

Total criteria	38	
Criteria not met because of factors external to the NACP	5	
Criteria for which the Commission did not have sufficient information to reach a conclusion	4	
Criteria under consideration	29	
Criteria met	23	79%
Criteria not met	6	21%



Based on the information from the NACP and other stakeholders, the Commission did not consider 9 criteria out of 38 under Object 5: four of them were the criteria for which the Commission lacked sufficient information to reach a conclusion (5.8, 5.11, 5.32, and 5.38), and five were the criteria which the NACP did not meet due to actions, inaction, or decisions of other entities (5.27 – 5.31).

Out of the remaining 29 criteria, 23 criteria (79%) were met (5.1, 5.2, 5.3, 5.7, 5.12 – 5.19, 5.20., 5.21, 5.22, 5.23, 5.25, 5.26, 5.33 – 5.37), and six criteria were not met (5.4, 5.5, 5.6, 5.9, 5.10, and 5.24).

Despite repeated requests from the Commission, the NACP did not provide the procedures for submission and verification of the asset declarations of undercover and intelligence officers, which are covered by the Art. 52-1 of the LCP.

Background

Ukraine has a very advanced asset declaration (AD) system, as enshrined in the LCP, which should be preserved. According to the LCP, financial control includes lifestyle monitoring, full verification of ADs, control of timeliness of submission of AD, control of correct and complete filling-in of declarations, and logical and arithmetical control of AD.

AD should undergo three types of control according to the Law:

- 1) control of timeliness of submission of AD;
- 2) control of correct and complete filling-in of declarations;
- 3) logical and arithmetical control of AD.

While the procedure for conducting each type of control should be clearly defined by the legislation and by the NACP, many substantial changes occurred during the assessment period (see the evaluation under criteria 5.1 – 5.9).

In April 2020, the NACP adopted and enacted a new Regulation on the Control and Full Verification of ADs, i.e., this legal act defined how each type of control is conducted. At that time, the system of AD controls was consistent and clear, fully in line with the Law requirements and the intent of legislators:

1) control of timeliness of submission of AD was conducted according to the 2020 special Regulation in a decentralized way: each public agency/institution conducted this control, and in case of the identification of non-submission of AD or late submission of AD, the NACP had to be notified and conduct a further check, when a serious reason justified the non-submission/late submission of AD; based on the NACP check, follow-up actions might have been taken such as filing an administrative protocol to the court (in case of late submission without serious reason) or sending a grounded opinion to a law enforcement agency (in case of the non-submission of AD without a serious reason even after the request of the NACP) – see the evaluation in criterion 5.8;

2) control of correct and complete filling-in of data declared in the AD was conducted automatically simultaneously with filling in an AD based on technical rules defined by the NACP. The purpose of that control at that time was to help the declarant fill-in an AD correctly, e.g., not to miss any mandatory fields, avoid mentioning wrong symbols in the AD's fields and inconsistencies between data declared in different fields or chapters of the AD, and so on. The AD could not be submitted without successfully passing this type of control, i.e., until a declarant had fixed all the mistakes identified by the automatic system – see the evaluation in criterion 5.9;

3) logical and arithmetical control (referred to as "LAC") was also conducted automatically and contained two components: cross-checking of the consistency of data internally in a particular AD and with previously submitted ADs; and cross-checking of data contained in a particular AD against the data contained in other state databases and registers. Based on the results of the two checks, a risk coefficient was calculated for each AD. See the evaluation in criteria 5.4-5.5.

In 2021, the NACP revised the approach to the two latter types of control. The logical and arithmetical control covered only the first component (i.e., cross-checking of data internally in a particular AD and with previously submitted ADs).

The control of correct and complete filling-in of declarations was split into two types of control: "control of the correctness of declarations," which is conducted automatically before the submission of an AD to detect mistakes or inaccuracies made by the declarant; and "control of completeness of declarations" which now foresees cross-checking of an AD against other state registers and databases. If discrepancies are detected during the second stage of the control process, NACP officials would manually verify the discrepancies detected. Discrepancies found during this control, in general, would not lead to the full verification of an AD. See the evaluation in criterion 5.9.

The full verification procedure was not changed substantially. All the main inconsistencies that had been previously criticized by civil society and international experts were eliminated in the version of the respective regulations approved by the NACP in April 2020. The version of the Regulation on full verification procedure was approved in January 2021 and, in general, it was a solid document with minor issues. However, the practice of conducting full verifications of ADs raised some questions and concerns – see the evaluation in criteria 5.20 and 5.24.

The amendments adopted in October 2019 (Law 140-IX) instructed the NACP to define a procedure for the selection of ADs for full verification and rules for prioritization for full verification. In May 2020, the NACP adopted such a Regulation No. 172/20, which was a welcome step, despite minor inconsistencies in the final text of the legal act. However, in August 2020, the NACP amended the Regulation and prescribed that the provisions for selecting ADs were a "recommended algorithm." In this respect, the Regulation derails from the LCP, as the NACP was mandated to define a "procedure"

for selection and not a “recommended” procedure. The wording of the Regulation does not mitigate the risks of hand-picking of ADs for full verification, which was one of the objectives of the legislator when adopting the amendments – see the evaluation in criterion 5.6.

Lifestyle monitoring is another financial control measure. The NACP did not adopt a legal act but instead issued “methodological recommendations” for conducting lifestyle monitoring. This is again in breach of the legal requirements: the LCP requires the NACP to define the “procedure” to conduct lifestyle monitoring and this, under the Ukrainian legal framework, means that the bylaw should be a binding legal act that undergoes state registration with the Ministry of Justice. The content of the “methodological recommendations” clearly shows their normative nature, as they set mandatory rules for the NACP staff who conduct lifestyle monitoring. It is critical that the rules be clear, transparent, and predictable for all the stakeholders, especially for public officials who undergo such “lifestyle monitoring”. The use of formally non-binding recommendations for conducting lifestyle monitoring can undermine the validity of the findings that result from the procedure, as it raises questions regarding the legal basis. Such concerns are especially relevant for a procedure that includes significant interference with the privacy and personal data protection of the declarants subject to lifestyle monitoring. The existence of lawful grounds for interference with the rights to privacy and data protection is the first step in establishing compliance with the human rights standards established in the Constitution of Ukraine and the European Convention on Human Rights. The lack of properly adopted legal rules for conducting the lifestyle monitoring procedure and the use of non-binding “recommendations” may therefore result in the violation of the human rights of declarants and other persons and can be seen as contrary to the rule of law principles. See the evaluation in criterion 5.10.

For the procedure of the lifestyle monitoring of NACP employees, the NACP leadership chose a different approach and adopted a proper Regulation No. 595/20 by order of the Head of the NACP which is a mandatory legal act. There is no justification for adopting a different regulatory approach to a similar procedure for different groups of officials.

The system of financial control measures also includes some specific procedures for two categories of public officials: (1) intelligence officers and employees of the security agencies whose positions or activities are classified and (2) judges and CCU judges.

As to the financial control of undercover and intelligence officers, the public scrutiny was absent, as the NACP limited the access to the relevant regulations, contrary to the Law on Access to Public Information. The NACP Head assigned the function of verifying such declarations to the NACP’s internal control unit, which can be seen as contradicting the mandate of such unit outlined in the LCP (Article 17-1, part 1, clearly provides that the exhaustive objective of the internal control unit is to ensure the integrity of the NACP staff and ensuring compliance with the LCP within the NACP, and nothing else). See the evaluation in criteria 5.11 and 9.1.

Following the Constitutional Court of Ukraine decision, some further legislative amendments were adopted to reinstate the system of control and verification of ADs.

As to the judges and CCU judges, to address the CCU Decision’s consequences, in December 2020, the Parliament adopted amendments to the Law providing special procedures for financial measures with respect to judges and CCU judges. These features included the obligation of the NACP to inform respectively the CCU or the HCJ about the start of the full verification or lifestyle monitoring in regard to the CCU judge or judge; the results of such verification or monitoring should be approved by the Head of the NACP or his Deputy; the administrative protocol or the grounded opinion on the detection of a criminal offence could be adopted only by the Head of the NACP or his Deputy; the HCJ or the CCU could initiate disciplinary proceedings on the basis of a NACP notification against the judge or CCU judge; CCU judges or judges had the right to complain respectively to the CCU or the HCJ on alleged interference or pressure in the course of NACP activities; respective bodies could then ask the

Head of the NACP for a report (mandatory for consideration) on the elimination of violations based on the judge's report.

Another feature was that the regulations on the lifestyle monitoring of judges and full verification of ADs of judges or CCU judges had to be approved by the NACP with the consent of the CCU and the HCJ, respectively. However, a transitional provision of Law 1079-IX adopted in December 2020 provides that if the HCJ or the CCU fails to provide such a consent within one month after the NACP submitted the draft regulations to the CCU and HCJ, the NACP will be able to conduct relevant procedures in respect to judges and CCU judges "directly" based on the LCP provisions in Articles 51-1 – 51-4. The NACP was not able to obtain the approval of the judicial bodies and conducted the verification and lifestyle monitoring based on the LCP provision. See the evaluation in criteria 5.7 and 5.10.

Key Achievements

1. The NACP adopted a new regulation on the full verification of asset declarations that did not raise significant objections and was a product of an open and inclusive public discussion in March 2020. The procedure for the full verification of asset declaration, in some cases, included more effective approaches to detecting illicit enrichment or unjustified assets in practice. The NACP took steps for clarifying the business processes for full verifications with further potential to improve them. See the evaluation in criteria 5.7, 5.12 and 5.26.
2. After the Parliament restored the asset declaration system following the Constitutional Court decision, the NACP started to verify the declarations of judges and CCU judges based on the LCP provisions despite not being able to obtain an endorsement of the relevant procedures by the judicial bodies. See the evaluation in criterion 5.7.
3. The NACP simplified the process of the asset declaration submission and provided explanations on how to fill out the declaration forms (despite some shortcomings in providing timely clarifications in all cases or inconsistencies in the clarifications provided). See the evaluation in criteria 5.13 – 5.15.
4. Compared to the period before 2020, the NACP no longer created obstacles for law enforcement agencies to effectively investigate false declarations or illegal enrichment.

Challenges and Weaknesses

1. The NACP failed to ensure an open and participatory process of the development of its regulations and other documents related to its financial control mandate. In several cases, the NACP did not publish draft documents as required by the legislation, or it did not provide sufficient time for stakeholders to provide feedback, or it did not engage in a meaningful discussion of draft documents. See the evaluation in criteria 5.1, 5.5, 5.6, 5.7, 5.9, 5.10, 5.11.
2. The new rules of logical and arithmetical control contained major deficiencies and received negative feedback from stakeholders. Following this criticism, the NACP restricted access to the rules altogether. See the evaluation in criteria 5.4 and 5.5.
3. The NACP introduced a new procedure of the so-called 'fast' checks instead of proper control of correct and complete filling-in of declarations which goes beyond the National Agency's legal mandate and generates duplications. See the evaluation in criteria 5.5 and 5.9.
4. The NACP classified some internal regulations as "recommendations", trying to avoid their public scrutiny and mandatory registration with the Ministry of Justice. Where formal rules should have been adopted, NACP passed technical non-binding acts. There was also a practice of artificially splitting the financial control regulations into several documents. These practices raised concerns and legal risks regarding the performance of the financial control mandate of the NACP, thus undermining public trust in the NACP. The procedure for selecting declarations for full verification is one such

example – it was reclassified from a binding bylaw into a recommendation (see the evaluation in criterion 5.6).

5. The regulation of lifestyle monitoring is another example of a loose approach to legal regulation. This procedure had serious gaps and was criticized by the stakeholders. The NACP failed to establish a special procedure for conducting lifestyle monitoring for SSU, NABU staff, etc. See the evaluation in criterion 5.10.

6. The NACP failed to establish a transparent and accountable approach to the verification of asset declarations of intelligence officers and classified personnel of other security service agencies. The relevant regulations were not made public and did not undergo public scrutiny during the drafting process. The NACP Head assigned the verification functions to the NACP's Internal Control Unit contrary to the clear articulation of the unit's mandate in the LCP. The head of the internal control unit was a former Security Service of Ukraine officer which also raised an issue of a possible conflict of interest. See the evaluation in criterion 5.11.

External Factors That Affected the NACP's Performance

1. The Constitutional Court adopted the decision #13-r/2020 which abolished the system of asset declaration disclosure of public officials. This decision particularly impacted on open access to ADs, on the provisions on control and full verification of declarations and lifestyle monitoring, and on the criminal responsibility for failure to submit an AD or false information therein, etc. The immediate result was that many cases of false declarations were terminated. After the CCU decision, legislative steps were taken towards the full and quick restoration of NACP's powers in accordance with Venice Commission recommendations. Criminal liability leading potentially to imprisonment was also later reintroduced based on Article 366-2 of the Criminal Code concerning false declarations and intentional failure to submit them. However, given the non-retroactive effect of criminal law provisions, this type of liability will not impact the annual declarations for 2020 (see the evaluation in criteria 5.27-5.31).

2. Due to the COVID-19 pandemic, the Verkhovna Rada postponed the deadline for the submission of the annual declarations in 2020 until 1 June, instead of 1 April.

High Priority Recommendations

1. To ensure legal certainty and public accountability, the NACP should revise its approach to the regulation of financial control procedures, namely by consolidating relevant procedures instead of artificially splitting them into separate documents, avoiding classifying internal rules as non-binding "recommendations" or "methodologies," adopting all procedures as normative legal acts following an open and inclusive consultation process on the drafts, and registering the regulations with the Ministry of Justice.

2. The NACP should ensure that an automated system of logical and arithmetic control is applied for all declarations submitted under Art. 52-1 of the LCP. See the evaluation in criterion 5.4.

3. The NACP should publish the logical and arithmetical control rules; if the NACP takes a policy decision that the rules should not be accessible to the declarants and other persons, it should initiate relevant changes in the laws to create a proper legal basis for restricting access to these rules. Before that, the NACP should conduct public consultations. See the evaluation in criterion 5.5.

4. The NACP should abolish the separate parallel procedure for control of complete filling-in of declarations and return to the previous approach when control of correct and complete filling-in of declarations was done by the NACP as a unified type of control, as prescribed by the LCP. See the evaluation in criteria 5.5, 5.7, and 5.9.

5. The NACP should carefully review the stakeholders' reservations and inclusively determine and apply the procedure for selecting declarations for mandatory full verification. The sequence of

this verification procedure should be based on a risk assessment and not based on loose recommendations. See the evaluation in criterion 5.6.

6. The NACP should publish the procedures of the control and full verification of ADs submitted under Art. 52-1 of LCP. See the evaluation in criteria 5.8.

7. The NACP should determine, in consultations with stakeholders, the procedure for the lifestyle monitoring of the declarants and abolish the relevant methodological recommendations. The reservations issued by stakeholders should be carefully reviewed by the NACP when developing a procedure. See the evaluation in criteria 5.10.

8. The NACP should review its practice of replies to MP's information requests and requests for public information. The NACP may engage external experts or the Ombudsman office to evaluate its practice and align it with the law. See the evaluation in criteria 5.12.

9. The NACP should provide timely, consistent clarifications for declarants regarding the submission and filling out of declarations. See the evaluation in criteria 5.12.

Other Recommendations

1. The NACP should provide sufficient time (for example, ten working days) for stakeholders to analyse public drafts of the financial control documents and prepare their comments and reservations. Such drafts should be published on the official NACP website in advance. Also, sufficient time should be dedicated for discussion of such drafts with stakeholders. See the evaluation in criteria 5.1, 5.5, 5.6, 5.7, 5.9, 5.10, 5.11.

2. The NACP should introduce sustainable technical solutions for providing separate access to the authorized persons of the NACP (outside of the use of the LAC module) for analysing information contained in the state registers and databases. See the evaluation in criterion 5.3.

3. Provide the NACP with DWH / DM (Data Warehouse / Data mining) system for data analysis. See the evaluation in criterion 5.3.

4. The NACP should further refine the rules of logical and arithmetic control through public consultations involving stakeholders and based on analysis of the application of the rules of logical and arithmetic control in previous years while comparing the effectiveness of further measures for the full verification of declarations. See the evaluation in the criterion 5.5.

5. The NACP should collect and process statistics based on the results of the application of the LAC for the further development of the system and improvement of its efficiency. It would be desirable to analyse the list of statistical indicators and data that the LAC module allows to collect and expand it, if necessary, also considering the need for further technical improvements of the system. See the evaluation in criterion 5.5.

6. The NACP should analyse examples of false alarms when the LAC risk indicator is revealed as a result of a formal error in the declaration instead of the objective existence of the risk and find ways to avoid false alarms – either by further revising the LAC rules (to avoid any vagueness of the wording, the possibility of their different interpretation, the discrepancy between the wording in the LAC rules and the names of the declaration fields, etc.) or by improving technical requirements for the fields of the declaration form to avoid any inefficient use of resources. See the evaluation in criterion 5.5.

7. The NACP should use its limited resources during full verification of ADs to identify significant undeclared assets, signs of illegal enrichment or unjustified assets, and not minor discrepancies. See the evaluation in criteria 5.7, 5.24.

8. The NACP should not conduct full verification of the ADs solely in an automated mode using the software tools of the Register. See the evaluation in criterion 5.7.

9. The NACP should elaborate in collaboration with stakeholders the special procedures for the full verification of ADs submitted by judges and CCU judges. See the evaluation in criterion 5.7.
10. The NACP should introduce step-by-step automated verification of the fact of the timeliness of declaration submission and verification of the fact of declaration submission. See the evaluation in criterion 5.8.
11. The NACP should elaborate in collaboration with stakeholders the special procedures for the lifestyle monitoring of judges and CCU judges. See the evaluation in criterion 5.10.
12. The NACP should conduct an analysis of the scope and grounds for applying special procedures for implementing financial control measures under Article 52-1 of the LCP and propose changes in the LCP and regulations of individual bodies to limit the scope of persons/functions covered. See the evaluation in criterion 5.11.
13. The NACP should revise its position regarding the need for the approval of draft normative legal acts under the Art.52-1 of the LCP with relevant bodies and instead organise public consultations on their content with other stakeholders. See the evaluation in criterion 5.11.
14. The NACP should avoid the practice of non-submission of the documents to the Commission as required by the LCP. See the evaluation in criterion 5.11.
15. The NACP should consider developing unified internal rules for considering received petitions, in particular, unified criteria by which the information provided in the application is evaluated for the sufficiency of the grounds for starting a full verification of the declaration or lifestyle monitoring. See the evaluation in criterion 5.16.
16. The NACP should avoid unreasonable delays in informing the HCJ or the Head of CCU about the beginning of the full verification of the judge's or CCU judge's AD. See the evaluation in criterion 5.19.
17. The NACP should consider establishing a separate system for tracking the statute of limitations, which is used in the implementation of financial control processes to avoid the termination of cases due to delays. See the evaluation in criterion 5.19.
18. The NACP should expand its cooperation with state and private institutions that conduct forensic examinations or whose employees can provide opinions on the value of assets as experts and specialists (taking into account the limitations that exist for NACP in financial control procedures or other types of inspections). See the evaluation in criterion 5.20.
19. The NACP should avoid inconsistency when sending a relevant reasoned opinion to NABU and the Office of the Prosecutor General about signs of a criminal offence committed by MPs. See the evaluation in criterion 5.22.
20. The NACP should avoid excessive and cumbersome information requests sent to the declarants during the full verification procedure. See the evaluation in criterion 5.24.
21. The NACP unit heads should better control the authorized persons' performance in the financial control area, identify the causes of their mistakes, and disciplinary measures for gross irregularities should be applied. See the evaluation in criterion 5.26.
22. The NACP should publish the disclaimer of presumption of innocence when publishing the findings of lifestyle monitoring and the full verification of ADs. See the evaluation in criterion 5.37.

Detailed Assessment

EVALUATION OBJECT 5: Control and Verification of Declarations of Persons Authorised to Perform Functions of the State or Local Self-Government, Lifestyle Monitoring of Declarants	
Assessment	Explanation
5.1. Determining the form of the declaration of the person authorised to perform functions of the state or local self-government (“declaration”), the form of notification of significant changes in assets, the form of notification of a foreign currency account opened at a branch of a non-resident bank, all of which are relevant and draw no reasonable material objections	
Met	<p>1. The NACP determined the data and declaration objects that should be included in the declaration form to identify a natural or legal person, including foreigners, stateless persons, and foreign legal entities. Article 46 of the LCP specifies the mandatory elements and complements other provisions. The Parliament authorized the NACP to add details in the form to identify persons or assets. So, the NACP implemented this provision and determined what information should be disclosed in the form to identify persons, entities, or declaration items. The resulting template is found to be relevant and drew no reasonable material objections. It complied with the legislation and reached the objectives of its adoption.</p> <p>2. There were no open and meaningful stakeholder consultations (except for under the auspices of the NACP’s Public Council) during the development of these forms and their amendment. The NACP did not publish draft forms (changes) with a public invitation to stakeholders to comment, contrary to the requirements of part 4 of Art. 15 of the Law of Ukraine "On Access to Public Information" and clause 12 of the Procedure for Conducting Consultations with the Public on Issues of Formation and Implementation of State Policy. It should be recalled that the disclosure of information about assets, income, and interests of public officials and their family members directly impacts on the rights and freedoms guaranteed by Art. 8 of the European Convention on Human Rights and Art. 32 of the Constitution of Ukraine which protect the right to privacy. The NACP did not even conduct a restricted consultation on the drafts of these acts even with a limited circle of public organisations, international technical assistance projects and experts, which the National Agency conducted in some other cases. Such drafts were sent to some public organisations by members of the Public Council at the NACP with a deadline for providing comments of two working days, which was not enough time for the analysis of more than 40 pages of information. After receiving comments and reservations from some stakeholders in July 2021, the NACP organised an online discussion where only key issues were discussed due to the limited time. The Commission was informed that the positions of the NACP and that of stakeholders were too different to find a common ground. The Commission recommends to the NACP to provide a sufficient timeframe (for example, ten working days) for stakeholders to analyse public drafts of such documents and prepare their comments and reservations. Such drafts should be published on the official NACP website in advance.</p>
5.2. Obtaining a direct automated access to all state registers and databases required for the verification of declarations	
Met	<p>1. The NACP provided the Commission with a list of information, telecommunication and reference systems, registers, databases, including those containing information with limited access, to which the NACP has direct automated access, and information from them is necessary to verify declarations. The register of seized assets held by ARMA does not offer such access to the NACP.</p> <p>2. Based on the restrictions imposed by international standards, the Commission believes that the Register of financial operations held by FIU or other FIU data should not be available to the NACP in an unrestricted manner. The NACP did not initiate MoUs or other steps to gain such access from FIU.</p> <p>3. The NACP should not have unrestricted access to pre-trial investigations data. The NACP informed the Commission of ongoing negotiations with the Office of the Prosecutor General.</p>

5.3. Using state registers and databases to which the National Agency has a direct automated access for conducting control and verification of declarations

Met

1. The Commission cannot conclude that the NACP systemically has not used any register to which it has direct automated access for conducting control and verification of declarations, despite the signs of non-usage of all registers and databases in all cases of control and verification of declarations.

2. The NACP mentioned that the main problem of working with state registers and databases is their content and quality of information, and proposed, as an appropriate measure at the legislative level, to provide for the obligation to verify its relevance by the holders of registers and databases. The provided example concerned state register of rights to immovable property that does not display information on the affiliation of the subject of declaring rights to objects located outside the territory of Ukraine. The NACP claims that, in view of the absence of such information in state registers and databases, the automatic verification does not reveal any relevant shortcomings in the declaration.

3. Some NGOs criticized the NACP for spending a significant amount of resources on checking minor discrepancies in state registers and databases during the full verification of declarations. In particular, this concerns the verification of discrepancies regarding the identification of information about the declared objects (cadastral numbers, registration numbers), some characteristics of such objects (minor discrepancies in the area), minor inaccuracies regarding the date of acquisition of the right to the object, minor discrepancies in the size income or available monetary assets that do not entail legal liability. Authorized persons of the NACP could reasonably spend their time and resources during the full verification of the declaration, not paying attention to insignificant discrepancies that do not affect the establishment of the presence or absence of signs of offences.

4. It would be useful to provide the NACP with DWH / DM (Data Warehouse / Data mining) system for data analysis.

5. As the speed of the logical and arithmetic control of declarations had the potential to increase during the evaluation period, and the LAC module was used not only for logical and arithmetic control, the sustainable technical solutions for separate access by authorized persons of the NACP (outside of the use of the LAC module) for analysis of the Information contained in the state registers and databases should be introduced. The NACP admitted some level of impact of using the LAC module for purposes other than logical and arithmetical control on the speed of such LAC module.

5.4. Ensuring operation of an automated system of logical and arithmetic control that applies to all declarations

Not met

1. The NACP informed the Commission that an automated system of logical and arithmetic control was not applied to the declarations submitted under Art. 52-1 of LCP during the entire evaluation period. The NACP stated that it was applied in 2021 but did not provide relevant legal acts to the Commission after several requests. Some state bodies confirmed the absence of an automated system of logical and arithmetic control in 2020-2021 for their staff's paper declarations submitted under Art. 52-1 of LCP and proposed to create the relevant electronic form of the declaration and introduced an automated system of logical and arithmetic control.

2. Also, the NACP informed the Commission that an automated system of logical and arithmetic control was not applied to the declarations of the candidates for civil service positions.

3. The updated edition rules for logical and arithmetic control that applied to all other declarations entered into force in September 2020, and the second updated edition – in June 2021 (after the restoration of the NACP mandate on December 30, 2020). The Commission supports the idea that the logical and arithmetical control of the declaration should take place immediately after its submission and passing deadline for making changes. This concerns both the comparison with the previously submitted declarations and the comparison of the information of the declaration with information from other state registers or databases.

5.5. Determining the rules of logical and arithmetic control that are effective, draw no reasonable material objections, and are revised if necessary

Not met

1. The NACP determined and revised the rules of logical and arithmetic control twice – in 2020 and in 2021, with no clear public justification for why it was required. The published 2020 edition of the LAC rules drew reasonable material objections from some stakeholders after its adoption, which the NACP did not carefully review. Also, the draft LAC rules were not published in advance. Some state bodies also stated that their comments were partially taken into account by the NACP.

2. In 2021, the revision of the LAC rules did not start with a publication of the draft despite the calls for transparency launched by public NGOs and the Public Council at the NACP. The nature of the rules was artificially changed to recommendations, and this has restricted public access to the newly enacted provisions which obviously have a normative character. No inclusive public discussion was organised by the NACP on these rules. This approach is questionable, as it blocks the participation of civil society which contributes to the transparency of the process of developing the rules for the automated verification of declarations. It is worth mentioning that the NACP originally refused to provide this revised edition to the Commission electronically. Only after repeated Commission's requests, the NACP provided access to this document. The Commission was also informed of the NACP's refusal to provide LAC rules on the public information request. The Commission did not find a proper legal basis for restricting access to LAC rules in 2021. The NACP confirmed to the Commission that the appropriate document did not contain the mark 'For official use'. The Commission believes that this information can not be under restricted access or classified as "official information" as it does not fall under the respective grounds in the Law on Access to Public Information and calls on the NACP to make the LAC rules public. Although the NACP refers to some international experts' recommendations on the undesirability of disclosure of the LAC rules, such an access restriction must adhere to the Ukrainian legislation.

3. The NACP informed the Commission that no reservations were received from any stakeholders concerning the content or application of LAC. At the same time, the Commission was informed about the public reservations made by some stakeholders about changing the content and application of LAC caused by the introduction of a new procedure – control of complete filling-in of declarations, and these reservations were presented to the NACP which did not take them into account. LAC became the instrument that did not include a comparison with other state databases and registers in 2021, contrary to the practice in 2020.

5.6. Determining and applying the procedure for selecting declarations for mandatory full verification and the sequence of such a verification based on a risk assessment

Not met

1. The procedure was determined but became a recommendation in August 2020, despite the fact that the LCP provisions did not change and did not authorize the NACP to transform this procedure into a recommendation. This approach continued throughout 2021. This, in particular in the absence of convincing justifications offered by the NACP, creates risks of deviation from the prescribed provisions and raises concerns of potential hand-picking of declarations for full verification. The Commission stresses that according to the law this should be a legally binding procedure, not a loose recommendation. The criterion under review aimed to limit the NACP's discretion in this sphere. Another issue concerned the failure to conduct public consultations and publish the drafts in advance. Several NGOs informed the Commission about other gaps and deficiencies during selecting declarations which should be carefully reviewed by the NACP. Several state bodies informed the Commission that their comments were partially taken into account.

2. The NACP informed the Commission that, during the development of the procedure for selecting declarations for mandatory full verification, no separate documentation of the identified risks was carried out. So the Commission cannot state that the risk assessment was taken sufficiently into account when selecting declarations for verification or determining their sequence in the verification queue.

3. The approval of separate procedures for two categories of declarants – NACP employees and persons who submitted ADs under Art. 52-1 of the LCP does not contribute to the achievement of the goals of the introduction of the procedure for selecting declarations for mandatory full verification and should be discussed. There was also no public discussion of the NACP's idea that there would be two separate procedures for the selection of declarations and for the full verification of declarations.

5.7. Determining the procedure for full verification of declarations that is relevant and draws no reasonable material objections

Met	<p>1. The NACP determined this procedure in March 2020, although it did not limit the verification to significant discrepancies. The procedure was widely discussed with the participation of the NACP Head (although it was not published in advance as required by the law, which should be fixed in the future) and a careful review of the stakeholders' observations. The 2020 edition of the procedure caused no substantive reservations. The Commission welcomes such an approach and calls for its use in the other spheres of the NACP mandate.</p> <p>2. At the beginning of 2021, after the CCU decision, this procedure was revised. A draft of the revision was not published either. The NACP organised a number of non-inclusive discussions of the draft and did not take into account all experts' reservations. The revision went beyond the scope of the CCU decision and modified unrelated procedural provisions, which shifted the focus to minor technical inconsistencies instead of a more judicious use of the limited available resources of the NACP to identify undeclared assets, signs of illegal enrichment or unreasonableness of assets. Also, the 2021 revision allowed a parallel procedure of control of complete filling-in of declarations, which is questionable under the current legal mandate. The NACP should avoid making the procedure for full verification overly cumbersome and thereby justify the creation of a "simpler" procedure like the procedure of control of complete filling-in of declarations. With such a decision, the NACP created a gap in the legal regulation of methods of carrying out at least two types of financial control: control of correct and complete filling-in of declarations and logical and arithmetic control. The Commission believes that the procedure of full verification of the declaration should be the main one among the other financial control mechanisms. During its implementation, signs of offences could be identified.</p> <p>3. The NACP informed the Commission that the issue of the possibility of conducting full verification in an automated mode using the software tools of the Register is being studied. The Commission would like to express doubts that the full verification of the AD could be automated, as under the current mandate of the NACP the procedure was designed for manual checking by authorized persons of the National Agency.</p> <p>4. There are no determined special procedures for full verification of declarations that apply to judges and judges of the Constitutional Court of Ukraine. The Commission welcomed that the NACP started those verifications based on the LCP despite the initial concerns expressed by the Public Council of the NACP regarding the potential blockage of the verifications. But the NACP should take steps forward to elaborate such procedures in the future with a collaboration with the HCJ, the CCU, and other stakeholders.</p>
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5.8. Determining the procedure for control of timely submission of declarations that is relevant and draws no reasonable material objections

Insufficient information to reach a conclusion on the compliance	<p>1. The NACP did not provide to the Commission, despite several requests the procedures for control of timely submission of declarations submitted under Art. 52-1 of LCP. Instead, the National Agency invited members of the Commission to read the procedures in the NACP's special premises in Kyiv, which was not possible for the members under the current security situation. As a result, the Commission lacked sufficient information to decide whether such procedures were relevant and drew no reasonable material objections.</p> <p>Draft changes and the procedures themselves were not made public and public discussions on such procedures were not organised, as the procedures were given the stamp of restriction of access "For official use."</p> <p>2. The general relevant procedure for control of timely submission of declarations was determined and revised in 2021. Draft changes were not made public and public discussions on such procedures were not organised. The important remark to improve the efficiency of the revised procedure is that it should provide the possibility of the submission of notifications by authorized units (persons) about discovered facts of non-submission of declarations in electronic form instead of by postal service.</p> <p>3. The Commission supports the gradual introduction of automated verification by the NACP. For automatic verification to work well, each public entity should compile a list of declarants and share it with NACP which should merge the lists into a unique database of declarants. The resulting database of declarants should be used as a basis for the NACP's automatic verification</p>
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	<p>of the submission of declarations and of compliance with the legal timeframe for submission. Also, the software of the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government should have the technical capacity to detect the submission of a declaration of the appropriate type (except the corrected one) after the deadline (that is later than 31 March of the corresponding year). So, the system could then identify such cases and transfer them to the authorized persons of the NACP, who would then conduct a check on the presence or absence of good reasons for the late submission of the declaration.</p> <p>4. At the legislative level, the provisions of Art. 51-2 of the LCP should be changed to impose an obligation on the NACP to inform specially authorized entities in the field of anti-corruption and the head of the relevant body about the fact of the non-submission of the declaration only after the person did not submit the declaration again within a ten-day period after receiving a notification from the NACP. This would be more logical, taking into account the fact that bringing a person to criminal liability for failure to submit a declaration begins only after the person ignored a notification from the NACP.</p>
<p>5.9. Determining the procedure for control of correct and complete filling-in of declarations that is relevant and draws no reasonable material objections</p>	
<p>Not met</p>	<p>1. For a long time (over five months), the procedure for control of correct and complete filling-in of declarations was not determined due to the NACP inactions. The relevant provisions from the general procedure of the full verification of declarations were removed with the new edition of this document in January 2021. Only in July and August 2021, the new provisions concerning the procedure mentioned in the criterion were adopted by the NACP in other documents. Before the changes of 2021, the procedure for control of correct and complete filling-in of declarations caused no significant objections.</p> <p>2. The NACP informed the Commission that there were no determined special procedures for control of correct and complete filling-in of declarations that apply to judges and judges of the Constitutional Court of Ukraine.</p> <p>3. The Commission established that the NACP artificially split the united (as stated in the LCP and this criterion) procedure into two separate procedures – control of correct and control of complete filling-in of declarations. This unjustified multiplication of procedures creates ambiguity contrary to the legal certainty principle, overlaps with the general procedure of the full verification of declarations, and contradicts the LCP. Also, this approach of the National Agency is in contradiction with its own procedure followed since 2016 when the relevant provision of LCP remained the same. There was one NACP bylaw left in force until December 2021 that considered such control as a unified type of control which contradicted the new NACP’s vision approved in a series of documents in January, July, and August 2021. This approach drew reasonable material objections from NGOs.</p> <p>4. The NACP initiated the above-mentioned separation without proper consultations with the public and stakeholders. The drafts of new rules were not published, and discussions with stakeholders were not inclusive.</p>
<p>5.10. Determining the procedure for monitoring lifestyle of declarants that is relevant and draws no reasonable material objections</p>	
<p>Not met</p>	<p>1. The NACP did not determine the procedure for monitoring the lifestyle of declarants as required by the LCP. In Ukraine, this provision is generally interpreted as a requirement for the relevant body to approve a subordinate regulatory act. In relation to the procedure for lifestyle monitoring, the LCP only provides the general framework, with a limited scope. The procedure involves interference in the realization of human and citizen rights and freedoms guaranteed by the Constitution of Ukraine and the ECHR.</p> <p>2. The NACP issued methodological recommendations with a resolution for use applied by the Head of the NACP without publishing them. The recommendations cannot be considered as a relevant binding bylaw because the LCP and this criterion requires ‘procedure’ which also means its state registration at the Ministry of Justice.</p> <p>3. Drafts of such methodological recommendations were not published. The NACP did not organise inclusive discussions with stakeholders. Also, the NACP did not carefully review the reservations communicated publicly by one stakeholder.</p>

	<p>4. There were no determined special procedures for monitoring the lifestyle of judges and CCU judges.</p> <p>5. The question arises whether it is relevant to maintain lifestyle monitoring as a separate procedure, taking into account (1) inadequate legal regulation of lifestyle monitoring by the NACP; (2) application of the same methods of office analysis when conducting lifestyle monitoring and full verification of the declaration; (3) lack of understanding in the NACP regarding the distinction between lifestyle monitoring procedures and full verification of declarations (especially the lack of a clear subject distinction).</p>
<p>5.11. Determining the procedure for conducting financial control measures in respect of persons referred to in Article 52-1 of the Law on Corruption Prevention that is relevant and draws no reasonable material objections</p>	
<p>Insufficient information to reach a conclusion on the compliance</p>	<p>1. The NACP, despite several requests, did not provide to the Commission the procedures for conducting financial control measures in respect of persons referred to in Article 52-1 of the LCP. Instead, the NACP suggested to the members of the Commission to read them in the National Agency's special premises, which was not possible due to the current security circumstances. As a result, the Commission lacked sufficient information to decide whether this criterion was met.</p> <p>2. The NACP informed the Commission that the draft procedures, their final versions, and changes to them were not made public, and public discussions were not organised, as the procedures were given the stamp of restriction of access "For official use." The Commission sees the contradiction with the Law on the Access to Public Information here. The NACP informed the Commission that it had sought the approval of the drafts from the relevant state bodies. It must be noted in this regard that the approval of these acts with the subjects of Art. 52-1 of the LCP could reduce their effectiveness. Additionally, no such approval was required by the LCP. The legal role of the NACP concerning the application of the Art. 52-1 of the LCP should not be weakened.</p> <p>3. Some stakeholders informed the Commission that the LAC algorithm that was developed and approved by the NACP decision is difficult for practical implementation and lacks applicable automated mechanisms. Some state stakeholders also claimed that their reservations were taken into account by the NACP partially. These stakeholders alleged that the procedure for conducting financial control measures in respect of persons referred to in Art. 52-1 of the LCP was not effective and did not reach its objectives.</p> <p>4. Some stakeholders expressed their concerns that the NACP failed to react properly to the situation where some declarants, for example those who work in the support structural units of the intelligence service do not fall under the intelligence officer category, as prescribed under the Art. 52-1 of the LCP. Despite this, these officials still benefit from the special mechanisms of financial control for intelligence officers, despite numerous journalists' investigations about the possible contradiction between the declarant's lifestyle and their assets. There are concerns that the NACP failed to address the problem that non-intelligence employees benefit from the mechanisms designed for intelligence officers. For example, they are allowed to submit their ADs in the closed paper system for intelligence officers, instead of the general open electronic system for all officials. NACP stated that during the assessment period, it revealed the facts of submission to the closed information system of the Security Service of Ukraine by its employees, who are required to submit declarations in electronic form to the Unified State Register of Declarations. As a result, the protocols were drawn up for such persons on the commission of administrative offences under part 1 of Article 172-6 of the CAO.</p> <p>5. The NACP also developed a separate procedure for selecting declarations for full verification and the sequence of its execution for declarations submitted in accordance with Art. 52-1 of the LCP. This also does not correspond to Art. 51-3, 52-1 of the LCP.</p> <p>6. The NACP assigned the authority to carry out such financial control measures to its Internal Control Unit, which, according to the LCP, should not be engaged in these tasks. This significantly increases the risks of a legal challenge to the results of the control measures implemented.</p> <p>7. The OECD monitoring team also reiterated the concern about the lack of transparency around the intelligence officers' declarations and their verification.</p>

5.12. Ensuring development, dissemination, and relevance guidelines, information, and explanatory materials for authorized persons of the National Agency on application of financial control measures	
Met	<p>1. The NACP provided to the Commission detailed guidelines, information, and explanatory materials for authorized persons of the NACP on the application of financial control measures that were developed, disseminated, or updated.</p> <p>2. At the same time, the NACP refused to provide relevant methodological recommendations, for example on the request for public information and also on requests for information submitted by MPs. This constitutes a violation of the applicable legal framework and should be avoided in the future.</p>
5.13. Ensuring development, dissemination, and relevance guidelines, information, and explanatory materials for declarants on filling out and submitting declarations	
Met	<p>1. The Commission did not hear complaints from most of the state stakeholders regarding the content of the guidelines, information, and explanatory materials for declarants on filling out and submitting declarations developed and disseminated by the NACP. But some stakeholders still question some clarifications, for example, for the currency exchange operations.</p> <p>2. Although the NACP failed to provide a timely clarification in all cases or provided inconsistent clarifications, for example, in the case of the submission of the declarations by the head of the secretariats of the deputy fractions or barristers. The general clarifications/guidelines were not developed openly, and no public consultations with stakeholders were organised, except for the beginning of 2020, when limited, non-inclusive consultations with few engaged experts were conducted.</p>
5.14. Ensuring development, dissemination, and relevance of training materials on the completion and submission of declarations	
Met	<p>1. The NACP provided to the Commission a wide range of training materials on the completion and submission of declarations.</p> <p>2. All state stakeholders noted the relevance of the training materials. Relevant state officials were able to participate in the NACP-developed training courses on the said topic. The training provided useful skills and knowledge for applying relevant regulations.</p>
5.15. Ensuring operation of communication channels for providing clarifications, advice, and support to declarants	
Met	<p>1. The NACP ensured the operation of the various communication channels for providing clarifications, advice, and support to declarants.</p> <p>2. Almost all state stakeholders communicated to the Commission their satisfaction with the quality of the services provided. The communication channels are considered accessible and effective. Just a few state stakeholders noted that the call centre is not always accessible during the period of submission of annual declarations and cannot always provide a complete answer to problematic questions.</p>
5.16. Ensuring review of petitions and notifications of natural and legal persons on alleged offences within time limits and according to the procedure established by legislation	
Met	<p>1. The Commission is not aware of cases when the NACP did not review petitions and notifications of natural and legal persons on alleged offences under this Evaluation Object within the time limits and according to the procedure established in the legislation.</p> <p>2. The NACP informed the Commission that it did not retain the 2020 statistics for a number of NACP proceedings opened into financial control measures violations as a result of such petitions and notifications and subsequent follow-up actions by the NACP, such as administrative protocols and referrals to the law enforcement agencies for investigations of possible crimes. The NACP did not consider such statistics relevant. However, the Commission believes that they could prove useful for data collection and analysis purposes leading to further improvement of the NACP performance in this area.</p> <p>3. Another issue is the decision-making process regarding the initiation of full verification when a petition is received regarding a declaration and the elements that make a declaration subject to</p>

	<p>a full verification. The Commission was informed that, in some cases, the NACP started a full verification on the basis of a corresponding petition (and this approach is correct), while, in other cases, it did not start a full verification, stating that the information from the petition will be taken into account during the full verification, which will begin in accordance with the established the list of the sequence of full verification of declarations.</p> <p>4. The most important rules for assessing the petitions and notifications of natural and legal persons on alleged offences should be established at the level of the procedure for selecting declarations for mandatory full verification and the sequence of such verification based on risk assessment. For example, stakeholders informed the Commission that, in some cases, the NACP conducts a so-called "preliminary check" of the facts stated in the notification, e.g. regarding the value of undeclared assets. This issue requires an additional discussion with stakeholders.</p> <p>5. The approach to determining the need for a full verification of the declaration as a result of the consideration of petition should be clearly regulated. Currently, it seems that these approaches are still not clearly defined and remain unambiguously separated.</p> <p>6. The NACP informed the Commission that, in 2020, for example, the statistical records of full verifications of declarations initiated at the request of citizens were not kept. Also, there is no separate record in the NACP for the initiated full verifications based on whistleblower reports.</p>
<p>5.17. Effective own detection of information on possible violations in the area of financial control, inter alia, on the basis of information obtained from the media, internet</p>	
<p>Met</p>	<p>1. Despite the information from some stakeholders about the lack or delayed NACP reaction to the possible violations in the area of financial control, the Commission did not establish systematic ineffectiveness of the NACP in this area. In state stakeholders' opinion, the NACP was effective in its own detection of information on possible violations in the area of financial control, inter alia, on the basis of information obtained from the media and the Internet.</p>
<p>5.18. Recording offences in this area is carried out within time limits according to the procedure established in legislation</p>	
<p>Met</p>	<p>1. The Commission did not find systemic non-compliance with the requirements applicable to the recording of the said violations.</p>
<p>5.19. There are no unreasonable delays caused by decisions, actions of inaction of the National Agency employees during the control, verification, or monitoring of lifestyle of declarants</p>	
<p>Met</p>	<p>1. The Commission did not find unreasonable systemic delays caused by decisions, actions or inaction of the NACP employees during the control, verification, or monitoring of the lifestyle of declarants.</p> <p>2. The NACP informed the Commission about 2 cases of unreasonable delay in informing the HCJ about the start of full verification of the judge's AD. The Commission analysed the list with dates of such information and found three such cases. The NACP should avoid unreasonable delays in the future in informing the HCJ or the Head of CCU about the beginning of the full verification of the judge's or CCU judge's AD.</p> <p>3. The NACP informed the Commission that there is no separate system for tracking the statute of limitations. This would help in the implementation of financial control processes and avoid the termination of cases due to delays.</p>
<p>5.20. When conducting a full verification of declarations, the authorized persons of the National Agency duly take measures in accordance with legislation necessary to detect false information in declarations, inaccurate valuation of declared assets, the existence of a conflict of interest, signs of illicit enrichment or unjustified assets, in particular by:</p> <ul style="list-style-type: none"> - exchanging information with other state authorities; - using open source information; - sending information requests to foreign competent authorities; 	

- obtaining information that constitutes bank secret;

- obtaining information from natural and legal persons

Met

1. The Commission did not find the systemic (1) non-taking measures by the authorized persons of the NACP in accordance with legislation necessary to detect false information in declarations, inaccurate valuation of declared assets, the existence of a conflict of interest, signs of illicit enrichment or unjustified assets; (2) non-using powers mentioned in the criterion; (3) non-appropriate measures that were taken out of the legislation.

2. However, the NACP informed the Commission of the obstacles in using these measures in the full verification proceedings, such as unjustified delays in the process of responding to NACP inquiries, providing incomplete information, and providing inaccurate or even contradictory information (concerning information that constitutes bank secret). Individual measures were taken by the NACP to eliminate these obstacles: individual letters were sent to assist in the activities of the NACP, and joint meetings were held with government officials to cooperate with the NACP in the process of full verification of the declaration. The NACP should systematically use its right of access to banking classified information (a bank secret). This information is important for each full verification of the declaration for its comprehensiveness and completeness. Obtaining information that constitutes a bank secret could be facilitated and accelerated if a unified register of bank accounts and individual bank safes was created in Ukraine in accordance with best practices and the requirements of the EU Directive.

3. Obtaining information from the competent authorities of foreign countries is problematic. See also the evaluation in criteria 8.8-8.10 under Evaluation Object 8.

4. It is advisable to expand the circle of expert institutions for obtaining information on the value of assets. Currently, only the Kyiv Research Institute of Forensic Examinations is such an institution. See also the evaluation in criterion 8.4 under Evaluation Object 8.

5.21. When detecting signs of a corruption-related administrative offence, the authorized persons of the National Agency draw up, without unreasonable delays, a protocol on each such offence (within their relevant competence) or forward the administrative casefile to specially authorised entities combating corruption

Met

1. The Commission did not find unreasonable delays made by the authorized persons of the NACP in this area.

2. Since September 2021, the procedure for drawing up administrative protocols on the said offences or referring cases of such offences has not been regulated by the NACP as prescribed by the LCP but instead relied directly on CAO. The NACP should avoid regulating such issues by the ‘methodological recommendations’, as it did with lifestyle monitoring, for example.

5.22. In case a full verification of declaration reveals signs of a criminal offence or grounds for filing a lawsuit to recognize assets unjustified, relevant reasoned opinion is sent to specially authorized entities on combating corruption within the time limits set by legislation

Met

1. The Commission did not find systemic cases when, based on the full verification of declarations, the NACP sent its reasoned opinion on the detected signs of a criminal offence or grounds for bringing an unjustified assets lawsuit in violation of the time limits set by legislation.

2. The NACP should avoid inconsistency when sending a relevant reasoned opinion to the NABU and the Office of the Prosecutor General about signs of a criminal offence committed by MPs. The most appropriate option seems to be the sending of a reasoned opinion simultaneously to the Office of the Prosecutor General to enter information into the Unified Register of the Pre-Trial Investigations and to initiate criminal proceedings against the MP and, at the same time, to send it to the NABU in order to inform it that, in accordance with the CPC, it must conduct a pre-trial investigation in the relevant criminal proceedings.

5.23. Other public authorities are informed of all other offences without unreasonable delays (among other things, of alleged tax evasion or laundering of criminal proceeds)

Met

1. The Commission did not find systemic cases when the NACP failed to inform other public authorities about other offences covered by this Evaluation Object.

	<p>2. Some stakeholders stated that the text of the official NACP grounded opinions on the full verification do not always include findings of possible tax evasion or money laundering, although such potential signs have been identified during full verification. The NACP should make referrals to the State Financial Monitoring Service about possible money laundering of criminal proceeds.</p>
<p>5.24. There are no material mistakes or violations that affected the effectiveness of control, verification of declarations, lifestyle monitoring during inspection measures taken by the National Agency employees</p>	
<p>Not met</p>	<p>1. Material mistakes/violations that affected the effectiveness of the lifestyle monitoring procedure were identified. See the evaluation in criterion 5.10.</p> <p>2. Material mistakes/violations that affected the effectiveness of the control of correct and complete filling-in of declarations, and logical and arithmetical control were identified. See the evaluation in criteria 5.5, 5.7, 5.9.</p> <p>3. Some stakeholders also expressed their concerns to the Commission regarding the effectiveness of the full verification of declarations during inspection measures taken by the NACP employees, particularly about excessively onerous NACP requests and demands, when a large number of them concerns insignificant differences, which either do not have a monetary expression at all or concern such minor violations that do not entail criminal or administrative liability. NACP could apply more proportionately and rationally its right to receive certain explanations or documents. The NACP should also pay more attention to the collection of evidence the intention of the declarants to depart from the legal requirements.</p> <p>4. The NACP stated to the Commission that based on the results of a joint meeting with NACP, NABU, and SAPO representatives, general rules were agreed upon to determine the signs of a corruption offence or an offence related to corruption. It would be appropriate to discuss such rules with stakeholders and also to involve scientists and experts in the discussions to avoid any material mistakes or violations that could affect the effectiveness of the financial control measures.</p>
<p>5.25. Implementing a system of measures to prevent unauthorized disclosure (leaks) of restricted information related to control, verification of declarations, or lifestyle monitoring</p>	
<p>Met</p>	<p>1. The Commission is not aware of any cases of unauthorized disclosure (leaks) in the NACP of restricted information related to the control, verification of declarations, or lifestyle monitoring. The NACP described to the Commission the measures implemented in the NACP to prevent unauthorized disclosure (leaks) of restricted information related to the control, verification of declarations, or lifestyle monitoring.</p>
<p>5.26. Financial control activities are performed in a full, objective, and impartial manner, in particular, by following the principle of political impartiality</p>	
<p>Met</p>	<p>1. The Commission is not aware of the systemic cases when the NACP did not ensure full, objective, and impartial financial control measures.</p> <p>2. The Commission is aware of some stakeholders' assessments about the general improvement of the NACP performance in the financial control area, stating that full verifications in some cases now contain more effective approaches to finding illicit enrichment or unjustified assets in practice. Also, there were allegations regarding the superficiality of the NACP control as irregularities were already reported in open sources. It was beneficial that the NACP made steps towards the unification of the business processes for implementing financial control measures. However, despite the introduction of a complex and multi-level system of approval of reasoned opinions based on the results of full verifications, the system did not fully prevent such errors or different assessments of the same circumstances within the limits of full verifications of declarations.</p>
<p>5.27. Conducting annually at least 1,000 full verifications of declarations by selecting declarations for mandatory full verification and determining the sequence of such verifications based on risk assessment (using the system of logical and arithmetic control), making appropriate decisions based on the findings of such verifications</p>	
<p>Not met due to an</p>	<p>1. The CCU decision #13-r/2020 interrupted the NACP performance in this area in 2020.</p>

external factor	
5.28. Conducting annually at least 600 full verifications of declarations of officials holding responsible and especially responsible positions	
Not met due to an external factor	1. The CCU decision #13-r/2020 interrupted the NACP performance in this area in 2020.
5.29. Concluding annually at least 5 percent of full verifications of declarations where signs of illicit enrichment, unjustified assets, or failure to comply with the requirements and restrictions established by anti-corruption legislation are detected	
Not met due to an external factor	1. The CCU decision #13-r/2020 interrupted the NACP performance in this area in 2020.
5.30. Concluding annually at least 10 percent of full verifications of declarations where intentional false information was detected concerning property or other declarable item, if the discrepancy between declared information and accurate information ranges from 100 to 250 times the subsistence level for able-bodied persons	
Not met due to an external factor	1. The CCU decision #13-r/2020 interrupted the NACP performance in this area in 2020.
5.31. Concluding annually at least 10 percent of full verifications of declarations where intentional false information was detected concerning property or other declarable item, if the discrepancy between declared information and accurate information is above 250 times the subsistence level for able-bodied persons	
Not met due to an external factor	1. The CCU decision #13-r/2020 interrupted the NACP performance in this area in 2020.
5.32. Courts closed not more than 10 percent of cases of violation of financial control requirements which the National Agency sent to courts due to the expiration of the statute of limitations because of unreasonable delays by the National Agency	
Insufficient information to reach a conclusion on the compliance	1. The Commission was not able to establish compliance with this criterion due to the partial closing of the Unified Register of the Court Decisions. Also, the Commission, after receiving partial statistics from the NACP, was not able to assess whether the reason was the unreasonable delays caused by the NACP.
5.33. The full verification of at least 80 percent of declarations is completed within time limits set by the National Agency	
Met	1. The Commission did not find cases when more than 20 percent of the full verification of declarations was not completed within the time limits set by the NACP.
5.34. The number of cases of illicit enrichment or unjustified assets detected by the full verification of declarations with the average amount exceeding 700 times the subsistence level for able-bodied persons is at least 25 percent	
Met	1. The Commission did not find cases when more than 75 percent of the number of cases of illicit enrichment or unjustified assets detected by the full verification of declarations was not exceeding 700 times the subsistence level for able-bodied persons.

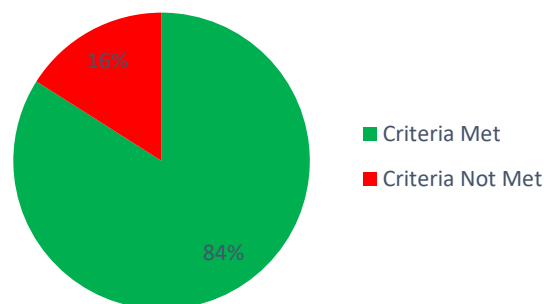
5.35. Creating and ensuring operation of a separate autonomous structural unit at the National Agency to perform financial control with the sufficient staff	
Met	<p>1. The NACP generally created and ensured the operation of separate autonomous structural units at the NACP to perform financial control with sufficient staff, although those mandates are overlapping, and the separation of tasks among them is unclear (see the evaluation in criterion 9.1 under Evaluation Object 9.)</p> <p>2. A number of issues described under Evaluation Object 5 in the implementation of financial control measures and the application of regulatory legal acts (or the implementation of measures without their proper legal regulation) makes it necessary to pay further significant attention to improving the qualifications of employees of the relevant departments and improving skills both in terms of searching for undeclared assets and regarding the ability to apply legal norms.</p> <p>3. Also, the problem persisted when the Internal Control Unit was assigned to perform financial control measures for intelligence officers and other persons who submitted their declarations under Art. 52-1 of the LCP. See the evaluation in criterion 5.11 under Evaluation Object 5 and the evaluation in criteria 9.1, 9.26, and 9.38 under Evaluation Object 9.</p>
5.36. Conducting a regular analysis and revision of procedures for control, verification of declarations, and lifestyle monitoring to improve their effectiveness	
Met	<p>1. The NACP revised the procedures for control, verification of declarations, and lifestyle monitoring several times, but not always in the right direction as described above (see the evaluation in criteria 5.5 – 5.11).</p>
5.37. The findings of the full verification of declarations and lifestyle monitoring of declarants are published in compliance with personal data protection legislation	
Met	<p>1. The findings of the full verification of declarations were published.</p> <p>2. The findings of lifestyle monitoring were not always published. The NACP should ensure that they are always published in the future.</p> <p>3. When such findings are published, the General Data Protection Regulation requirements should be followed. A disclaimer "of presumption of innocence" should also be published by the NACP.</p>
5.38. Non-governmental, international organisations, donors conducting activity in the area of preventing and/or combating corruption recognize the National Agency as an effective and unbiased institution in the area of financial control	
Insufficient information to reach a conclusion on the compliance	<p>1. The non-governmental organisations informed the Commission that due to the not published documents and the practices of their implementation, described above, it is impossible to say whether the NACP can be recognized by them as an effective and unbiased institution in the area of financial control. Therefore, the Commission lacked sufficient information to decide whether this criterion was met.</p>

Object 6. Ensuring by the NACP of the legality and transparency of financing of political parties, submission of their financial statements, control over timely submission of complete and accurate reports on election funds raised and used in national and local elections

Summary of Findings

The NACP met 21 of the 25 Object 6 criteria that were considered, a ratio of 84%.

Total criteria	31	
Criteria not met because of factors external to the NACP	4	
Criteria for which the Commission did not have sufficient information to reach a conclusion	2	
Criteria under consideration	25	
Criteria met	21	84%
Criteria not met	4	16%



In assessing the performance of the NACP against the 31 criteria defined in the assessment methodology, the Commission found that in 21 criteria the performance of the NACP met the defined goal (6.3 – 6.8, 6.12, 6.14 – 6.20, 6.23, and 6.26 - 6.31), in four criteria there was evidence that the NACP did not meet the criteria (6.1, 6.2, 6.13, and 6.22). For two criteria, the Commission did not have sufficient information to be able to make an assessment (6.21 and 6.25). Four criteria were not met due to actions, inaction, or decisions of other entities (6.9 – 6.11, and 6.24).

The Commission commends the NACP for the progress made in controlling the financing of political parties during the assessment period and notes that, overall, the NACP, within its competence, objectively verified the compliance of activities of political parties with the legal requirements. The rule of law in the financing of political parties is a prerequisite not only for reducing corruption, but also for reducing the risks of state capture, especially when politicians financed from foreign sources seek to gain power in the country. The apolitical and scrupulous work undertaken by the NACP to control the financing of political parties is therefore generally to be welcomed and the country should look for ways to make this work even more effective.

Taking into account the objectives of the strategies in force at the time of the NACP assessment, it can be concluded that effective control of financing of political parties are those activities that achieve the objective of preventing political corruption and ensuring the integrity of political parties' activities and electoral campaigns by increasing the transparency, openness and accountability of political party

activities. It is regrettable that the decision of the Ukrainian Parliament to suspend the submission of reports on property, income, expenses, and financial liabilities of political parties has led to the situation whereby political parties have not been obliged to submit reports to the NACP since 2 April 2020. It seriously undermined the transparency and accountability of financing of most political parties.

Key Achievements

1. The NACP's performance in the preparation of special procedures and methodologies is considered sufficient in two areas: the procedure for verifying political party's statements of assets, income, expenses, and financial liabilities and the methodology for calculating the amount (sum) of donation in the form of works, goods, or services. Until 11 May 2021, the NACP had continued to apply the procedure for verifying political party's statements of assets, income, expenses, and financial liabilities in line with relevant legal provisions approved in 2016. In May 2021, the NACP adopted a new procedure, in the form which did not raise material objections. In May 2021, the NACP also adopted the methodology for calculating the amount (sum) of donation in the form of works, goods, or services that is relevant and draws no material reasonable objections. The new procedures adopted by the NACP were of higher quality and addressed the shortcomings in the previous documents.
2. During the evaluation period, the NACP provided methodological and consulting assistance on the application of the Law "On Political Parties in Ukraine" and regulations adopted for its implementation, including the development and dissemination of information and explanatory materials on compliance with the rules of state and private financing of political parties and the submission of their financial statements. The NACP conducted training for political party representatives on compliance with the aforementioned rules. The NACP provided replies to petitions of political party representatives, other natural or legal persons. The Commission did not receive any claims that the NACP had not provided replies, as required by the procedure and within the time limits established by the legislation.
3. The NACP performed effective state control over compliance with the legal requirements and targeted use by political parties of funds allocated from the state budget to finance their statutory activities. The NACP also distributed funds in accordance with the law.
4. The NACP ensured effective state control of timely submission, completeness, due formalization, and accuracy of information included in external independent financial assessment reports on the party activities. According to the information available to the Assessment Commission, in the process of the verification of financial statements of political parties, the NACP took all necessary measures stipulated in the law.
5. The assessment did not disclose any facts indicating that the NACP was not fulfilling its responsibilities in a full, objective, and unbiased manner.
6. The NACP provided software tools to detect irregularities in the public or private funding of political parties or their financial reporting (including automated verification of political parties' reporting of property, income, expenses, and financial liabilities).
7. The assessment did not entail a physical check on data protection at the NACP. However, the Commission examined whether the internal information protection procedures in place were sufficient. In our opinion, the procedures listed in the report demonstrate that the NACP had measures in place to prevent unauthorized access to sensitive information held by the National Agency.
8. The NACP ensured the publishing of all findings arising from the verification of financial statements of political parties on its official website and within the time limits established by the legislation.

9. Based on the facts available in the framework of the assessment, the NACP carried out checks on the facts contained in petitions and notifications without unreasonable delays.
10. According to the information provided by the NACP, in 2020, as a result of the inspections, the National Agency detected signs of criminal offences in 22 instances. Following that, the NACP submitted reports and relevant materials on those 22 cases to the National Police. This means that the NACP fulfilled its statutory obligation to inform law enforcement authorities about signs of violations that may incur criminal or other types of liability under the law.
11. The NACP ensured both the suspension of the financing of statutory activities of a political party in case of detecting facts that serve as a ground for such a suspension, including upon receipt of an application from a political party requesting the suspension of public funding and the terminating the financing of statutory activities of a political party in case of detecting facts that serve as a ground for termination.
12. Although the NACP produced no comprehensive statistical overview of compliance with the rules of financing of political parties and the submission of their financial statements, limited statistical information on this issue was included in the NACP's activity reports for 2020 and 2021, as well as the reports on the implementation of the NACP's work plans for 2020 and 2021.
13. The NACP conducted surveys of political party representatives and the public concerning the effectiveness of the National Agency's work in preventing violations of the rules of private or state funding of political parties. At the same time, the Commission points out that the sample of respondents to the two surveys was very small - 26 and 29 - and that a large proportion of them were from political parties. These surveys did not really achieve the objective of surveying the public. Given the large number of political parties in Ukraine, the sample size and representativeness of the survey might not be sufficiently representative.
14. The NACP has been recognized as an effective and impartial institution in matters of compliance with the rules of public and private financing of political parties, as well as their submission of financial statements.

Challenges and Weaknesses

1. The NACP failed to comply with the legal requirement to ensure the development and functioning of the electronic system for submission and publication of reports of political parties on assets, income, expenses, and financial liabilities in accordance with the requirements of Article 17 of the Law of Ukraine "On Political Parties in Ukraine" (LPP) until 16 June 2020 as was required by the law. As a result, the NACP was not able to approve a form and procedure which would be relevant and would draw no material reasonable objections. The NACP approved the procedure for submitting a political party's statement of assets, income, expenses, and financial liabilities but with a substantial delay.
2. The NACP did not take appropriate measures without unreasonable delays to bring to justice the persons guilty of violating the deadlines for submitting such reports.
3. The NACP has carried out a significant amount of work on the financial statements of political parties, but the assessment's sample testing has identified discrepancies that prevent it from making a judgement that if a verification of financial statements of political parties or of information on violations of laws on the financing of political parties revealed signs of violations that served as grounds for administrative liability, necessary measures were taken to bring to liability those guilty.
4. The assessment carried out a sample check to ascertain the situation regarding the application of administrative liability for infringements in control of political party funding. Although the

statistical summary provided by the NACP shows a high volume of NACP work (253 administrative offence reports were issued in 2020 and 296 in 2021), a court ruling was identified which detected a delay in bringing persons to administrative liability. Given that the court found that the deadline for bringing a person to administrative responsibility had expired under Art. 212-15 of the Code of Administrative Offences (CAO) because the NACP sent the protocol materials to the court 6 months and 18 days after the discovery of the violation, the Assessment Commission is forced to conclude that the NACP did not meet this criterion. We do not know whether this was the only case or whether there were more, but the fact that the delay was significant justifies this assessment. In addition, for Q4 2019, 79 political parties were identified that did not submit their accounts. However, administrative offence reports for breach of reporting deadlines (Articles 212-21 of the CAO) were issued only to 30 leaders of such political parties.

High Priority Recommendations

1. The Assessment Commission calls for the immediate withdrawal of the authorization for political parties not to comply with the requirements of the LPP and restore the obligation of political parties to submit reports on assets, income, expenses, and financial liabilities and to comply with other provisions of the law.

During the assessment period, the Verkhovna Rada of Ukraine, the Parliament of Ukraine, adopted a decision that had a negative impact on the process of control of political parties. The Commission is not aware of the Parliament's observations on how exactly the occurrence and spread of coronavirus disease (COVID-19) affected the ability of political parties to file reports, but the continued exemption specifically for political parties raises concerns that control over the legality of political party funding has been paralyzed for a disproportionately long period.

In such a situation, the NACP is prevented from fully discharging its authority. Consequently, we are forced to acknowledge that as long as the provision of the law abolishing the mandatory reporting obligation of political parties is in force, the NACP has limited powers to ensure effective state control of compliance with statutory restrictions on the financing of political parties.

Due to the legislative changes allowing optional reporting by political parties in 2020-2021, the NACP received very few reports from political parties, particularly those submitted through the electronic system for submitting and publishing reports of political parties (POLITDATA) launched in May 2021. In addition, the submitted reports were reports of political parties that mostly did not conduct any activities. During 2021, 89 reports were submitted through the electronic system for submitting and publishing reports of political parties (POLITDATA), of which: 24 for the 1st quarter; 38 for the 2nd quarter; and 27 for the 3rd quarter.

2. Given the importance of the Ukrainian Parliament and public authorities operating free from the shadow of vested interests, the Commission calls for consideration to be given to restoring the openness and public accessibility of the database on political party funding POLITDATA, at least for citizens of the country.

Although the observation of the public unavailability of this database is outside the assessment period, we consider this problem to be extremely important and an absolute prerequisite for the transparency, openness, and accountability of political party activities. According to the Order 02.19.2021 No. 102/21, all reports submitted by political parties to the Register are automatically published (except for information with limited access) in the public part of the Register. The Assessment Commission could not verify the public accessibility of the register as it was not publicly accessible at the time of the assessment. At the Commission's request, the NACP provided screenshots of the current version of POLITDATA, confirming that the public availability of the information could be technically restored with the end of martial law in Ukraine.

3. The NACP has several perhaps objective problems emanating from the Ukrainian legal system in proving the facts of violations and bringing perpetrators to justice which may have contributed in some respects to a negative assessment rating under one of the criteria.

- In Ukraine, the time limits for applying administrative penalties for offences in the financing of political parties are very short. Verifying funding flows, especially where legal persons or foreign entities are involved, is a time-consuming process that requires obtaining information from other information holders. It is therefore recommended to revise the timeframe currently set, which should be extended, possibly even doubled.
- Information on the head of a political party – a natural person – is available, often only through a time-consuming bureaucratic procedure and administrative liability cannot be applied to a legal person – a political party. These are elementary prerequisites for the application of liability, where an appropriate legal solution should be found as a matter of urgency.
- The establishment of an administrative offence (administrative offence report) and the application of an administrative penalty (administrative offence decision) are separated between the two branches of power. This prolongs the process and places a heavy burden on the courts to deal with minor cases.

4. The Commission draws attention to the fact that the NACP should endeavour to establish and, where necessary, propose to Parliament amendments to the political party reporting procedure to make it as effective as possible. This means that parties should provide the information that is really needed, for example, instead of asking for reports with the same content four times a year, only for supplementary information and a summary annual report once a year.

Detailed Assessment

EVALUATION OBJECT 6: Ensuring the Legality and Transparency of Political Party Financing, Submission of their Financial Reports, Controlling Timely Submission of Reports about Receiving and Using Electoral Funds at the National and Local Elections, Completeness of Such Reports, and their Accuracy	
Assessment	Explanation
6.1. Adopting the form of a political party’s statement of assets, income, expenses, and financial liabilities that is relevant and draws no material reasonable objections	
Not met	<p>The NACP failed to comply with the legal requirement to ensure the development and functioning of the electronic system for submission and publication of reports of political parties on assets, income, expenses and financial liabilities in accordance with the requirements of Article 17 of the Law of Ukraine "On Political Parties in Ukraine" (LPP) until June 16, 2020, with the consequence that NACP was not able to approve a form and procedure which would be relevant and would draw no material reasonable objections.</p> <p>To comply with the transitory provisions of the Law No. 410-IX (see the reference below), the NACP adopted the form of a political party’s statement of assets, income, expenses, and financial liabilities within three months after enactment of the said law, namely on 13 March 2020 (registered in the Ministry of Justice of Ukraine on 27 March 2020). However, the form was not put into operation until May 2021 when the NACP adopted the new form and procedure for its submission. On 13 March 2020, the procedure and form did not enter into force as the new electronic database was not launched. Consequently, the NACP was not able to comply with the legal requirement to launch the database on political party financing within the timeframe set by the law. This also resulted in a legal gap, as the new improved form and procedure, compared to the one adopted in 2016, could not enter into force.</p>

The NACP explained that the delay was due to technical complexities in the development process, which made it impossible to meet the deadline established by the law. However, this explanation is insufficient and does not allow to establish that the form was relevant and drew no material reasonable objections.

The latest order issued by the NACP in May 2021 approved a procedure and form which is of higher quality and addressed the shortcomings identifiable in the previous documents in force in the beginning of 2020. At the same time, opportunities for minor improvements have been identified below.

The indicator requires that the form is relevant and draws no material objections. According to general definitions in the Criteria, a legal act is relevant if it conforms with the legislation and if the National Agency, during the entire period under assessment, took measures within reasonable time to harmonize its normative legal acts with the legislation. It follows that the NACP did not have time until the end of the evaluation period to enact the form. It had to do it within reasonable time.

Table 1. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions	
The Law of Ukraine "About Political Parties in Ukraine" (hereinafter – LPP)	In the version on December 16, 2021	Article 17, part 10:	The form and procedure for submitting a political party's report on assets, incomes, expenses and financial liabilities shall be subject to approval by the National Agency on Corruption Prevention.	<i>Compliant</i>
The Law of Ukraine "On Amendments to Certain Laws of Ukraine on the Prevention and Counteraction of Political Corruption"	January 16, 2020	Section II Art. 4 part 1 and 2	To the National Agency for the Prevention of Corruption: within a six-month period from the date of entry into force of this Law, ensure the development and functioning of the electronic system for submission and publication of reports of political parties on assets, income, expenses and financial liabilities in accordance with the requirements of Article 17 of the Law of Ukraine "On Political Parties in Ukraine";	<i>Non-compliant</i> NACP order of 05/07/2021 No. 252/21 (in fact in operation since May 11, 2021)
		Section II Art. 4 part 3	to approve the form and procedure for submitting a report of a political party on assets, income, expenses and financial liabilities in accordance with the requirements of Article 17 of the Law of Ukraine "On Political Parties in Ukraine";	<i>Compliant</i>
LPP	In the version on December 16, 2021	Article 17, part 11-15	The report of a political party on assets, income, expenses and financial liabilities must include the following sections: 1) "Property and intangible assets" (..) 2) "Contributions and other income" (..) 3) "Payments and other expenses" (..) 4) "Financial liabilities" (..)	<i>Compliant</i>
LPP	In the version on December 16, 2021	Article 17 part 18, 20, 21	The National Agency for the Prevention of Corruption provides open 24-hour access to the Unified State Register of reporting of political parties on assets, income, expenses and financial liabilities on the official website of the National Agency for the Prevention of Corruption. Access to the Politdata Register was limited on February 24, 2022, that is after	<i>Compliant</i>

the assessment period. However, there are no restrictions that would be established by law.

Given that the Law of Ukraine "On Political Parties in Ukraine" regulates the issue of the form and procedure in a single provision (Article 17(10)), and this principle is respected in the legislation issued by the NACP, the following analysis covers both criterion 6.1 and criterion 6.2 simultaneously.

In order to fulfil the legal requirements, the following orders of the Director of the NACP were in force during the assessment period:

Table 2.

NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date
May 7, 2021 No. 252/21	No reference to registration	On the acceptance into permanent (industrial) operation of the information and telecommunications system "Unified state register of reporting of political parties on assets, income, expenses and financial liabilities"	May 7, 2021 (in fact in operation since May 11, 2021)	
February 19, 2021 No. 102/21	April 15, 2021 No. 507/36129	About some issues of reporting of political parties on assets, income, expenses and financial liabilities	May 11, 2021	In force
Annex I to order February 19, 2021 No. 102/21	April 15, 2021 No. 507/36129	Procedure for submitting the report of a political party on assets, income, expenses and financial liabilities	May 11, 2021	In force
Annex II to order February 19, 2021 No. 102/21	April 15, 2021 No. 508/36130	Procedure for the formation and maintenance of the Unified State Register of Reporting of Political Parties on Assets, Income, Expenses and Financial Liabilities	May 11, 2021	In force
Annex III to order February 19, 2021 No. 102/21	N/a	Form of the report of a political party on assets, income, expenses and financial liabilities	May 11, 2021	In force
March 13, 2020 No. 96/20	March 27, 2020 No. 309/34592	"On some issues of submitting the Report of a political party on assets, income, expenses and financial liabilities" Annex I: Procedure for submitting the report of a political party on assets, income, expenses and financial liabilities Annex II: [Form of the] report of a political party on assets, income, expenses and financial liabilities (https://zakon.rada.gov.ua/laws/show/z0309-20#Text)	Did not enter into force	May 11, 2021

June 9, 2016 No. 3	June 30, 2016 No. 904/29034	"On approval of the form of the Report of a political party on assets, income, expenses and financial liabilities"	June 30, 2016	May 11, 2021 recognized as invalid by both NACP order 13.03.2020 No. 96/20 and 02/19/2021 No. 102/21
Annex to June 9, 2016 No. 3	N/a	[Form of the] report of a political party on assets, income, expenses and financial liabilities	June 30, 2016	May 11, 2021
July 28, 2016 No. 2	August 25, 2016 under No. 1185/29315	"On the approval of the Regulation on the procedure for submitting a report of a political party on assets, income, expenses and financial liabilities"	August 25, 2016	May 11, 2021 recognized as invalid by both NACP order 13.03.2020 No. 96/20 and 02/19/2021 No. 102/21

The NACP has applied three forms during the assessment period, the last of which is an electronic form that entered in force on May 11, 2021, when a new electronic information system for political party declarations, Politdata, became operational.

Reservation of the Commission: Although according to 1st para of part VI of the Order 02.19.2021 No. 102/21, all reports submitted by political parties to the Register are automatically published (with the exception of information with limited access) in the public part of the Register, the Commission could not verify the public accessibility of the register as it was not publicly accessible at the time of the assessment. At the Commission's request, the NACP provided screenshots of the current version of POLITDATA, confirming that the public availability of the information could be technically restored with the end of martial law in Ukraine.

The right of ministries and central state authorities to stop and limit the operation of information, information and communication and electronic communication systems, as well as public electronic registers, is defined in the Resolution of the Cabinet of Ministers of Ukraine No. 263 "Some issues of ensuring the functioning of information and communication systems, electronic communication systems, public electronic registers under martial law" dated March 12, 2022 (about three weeks after the NACP suspended the database) (<https://zakon.rada.gov.ua/laws/show/263-2022-%D0%BF#Text>).

However, in many cases, including regarding the disclosure of political parties' financial statements, such a resolution of the Government does not comply with explicit provisions of primary laws that require publication of certain information.

Outstanding issue outside of the NACP mandate: Since April 2, 2020 and during all the assessment period, Art. 5 of LPP on transitional provisions provides the following, "to establish that the report on assets, income, expenses and financial liabilities of political parties, provided for in Article 17 of this Law, is submitted no later than on the fortieth day after the end of the implementation of measures to prevent the emergence and spread of the coronavirus disease (COVID-19), provided for by the quarantine established by the Cabinet of Ministers of Ukraine", permitting to political parties not to submit quarterly reports stipulated by Art 17. The Commission is concerned that the exemption granted by the legislator from reporting on contributions received is disproportionate to the impact of the COVID-19 pandemic and creates opportunities for political parties to evade accountability and transparency for unreasonably long periods and restricts the public's right to be informed about the activities of a political party.

Minor findings

The Commission has noted that the deficiencies identified in the form approved by Order No. 3 of June 9, 2016, have been remedied in the documents approved by Order No. 96/20 of March 13, 2020 and later by Order No. 102/21 of February 19, 2021 which no longer include the problems identified below:

According to the form approved by the NACP Order № 3 dated 09.06.2016 on the aspect of participation of political party representatives in elections, the NACP went beyond the statutory mandate of the NACP by instructing political parties to include information that is not related to the property, income, expenses and financial liabilities of the political party. Namely, the request to political party to provide general information about the political party on “its candidates who participated in the most recent elections (ordinary, extraordinary, repeated, etc.), including parliamentary elections, presidential elections, elections to local self-government bodies, including regional, district, urban, district councils in cities where district councils have been formed in the city, rural and townships, as well as all successfully elected candidates, including MPs, and deputies of local councils, city, village, village heads, and elders.

Even if the above-mentioned information was needed to control the finances of political parties, it was publicly available information already held by the State. Repeated requests for information that is publicly available impose an unnecessary administrative burden on the provider of the information, which the public authorities should do their utmost to avoid.

For legal clarity it is worth mentioning another additional minor issue. The following paragraphs of the form (the first table of the sub-paragraph 2.2.1., 2.2.2. and 2.3.) lacked an indication that they apply to situations where a political party has use or possession of property belonging to a natural person in a similar way as it is stipulated in paragraph 2.: “which is under the right of use of a political party”. Otherwise, misunderstandings may occur, for example, concerning about which intangible assets are being referred to.

Regarding NACP Order No. 102/21 dated February 19, 2021, the representatives of political parties in the stakeholder’s questionnaire noted that, in general, the form of the report of the political party on assets, income, expenses and financial liabilities, which was approved by the National Agency, was relevant. At the same time, in practice, filling out this form required certain clarifications and consultations. Due to the difficulty of unambiguously interpreting the form of the report, the NACP was forced to provide written explanations to representatives of political parties, as well as conduct training and meetings. The Commission’s review of the NACP-approved document package has led to the conclusion that there are some weaknesses in the legal presentation of the form and procedure.

The NACP Order No. 102/21 dated February 19, 2021, among other documents approved the *Procedure for the formation and maintenance of the Unified state register of reporting of political parties on assets, income, expenses, and financial liabilities* (hereafter – Procedure) for which the assessment identifies the following issues:

The Law on Political Parties (Art. 17, part 10) stipulates that the form and procedure for submitting a political party’s report on assets, incomes, expenses, and financial liabilities shall be subject to approval by the National Agency on Corruption Prevention. The law provides no mandate for the NACP to lay down rules on the procedure for the formation and maintenance of the Unified state register. Despite this, the NACP issued such specific rules and also laid down obligations both for the political party and the developer of the information system. While the Unified State Register is an integral part of political party reporting, the NACP’s approach of adopting by the same order three separate documents adds unnecessary regulatory complexity. Consequently, the document contains a lot of redundant information that is not in line with the legal mandate.

The Procedure includes a series of general technical requirements of information systems, which were to be followed rather by the developer of the technical solution, but which are not binding either on the user of the information system or on the subject of the law who is obliged to submit the declaration, therefore there is no legal justification for their inclusion in the regulations. Such stipulations are provided in articles 4, 5 and 6, part II, articles V.3., V.6., and V.7., “The data of the Reports submitted to the Register are stored in an orderly form, as well as in a form convenient for visual perception. Maintenance of the Register during working hours should not last

	<p>more than 12 hours during the period of submission of Reports by political parties and more than a day at other times. Emergency and recovery works are carried out immediately” etc.</p> <p>An analysis of the content of the Form No. 102/21 dated 02.12.2021 shows again that unnecessary technical descriptions are used. For example, the Form instead of specifying what data is to be entered in each field, for which period, which items etc., describes the technical structure of the register: “Constituent structural elements of the Report form in the Register are blocks/sections that are logically connected to each other”, “All fields of each separate block (section) of the Report form are divided into three groups: 1) fields, the value of which cannot be edited, and the corresponding data are entered automatically from the relevant directories of the Register; 2) fields in which relevant data must be entered; 3) fields to which data are entered only if there is relevant information about assets, income, expenses and financial liabilities.”</p> <p>Other unnecessary requests for information mentioned in the Order, the submission of which to the NACP is only desirable but cannot be mandatory (requesting such data imposes an unnecessary administrative burden on the applicant):</p> <p>the full name and surname of the employee who prepared the application letter and his office phone number - information may only be entered by a person who has been granted user rights by the NACP in accordance with an application by a political party. If such a person has logged into the Register, he/she shall be identifiable through the authentication records.</p> <p>duly certified copies of the statutes of the political party is superfluous information as the party statute as well as of its regional, city and rayon organisations, other party structural units are already provided to the state, the NACP can obtain all necessary documents from public sources.</p> <p>It is therefore appropriate to merge the two documents (Annex I and Annex II to order No. 102/21 dated February 19, 2021), which specify the procedure, into a single document eliminating redundant information.</p>
<p>6.2. Adopting the procedure for submitting a political party’s statement of assets, income, expenses, and financial liabilities that is relevant and draws no reasonable material objections</p>	
<p>Not met</p>	<p>The NACP has approved a procedure for submitting a political party’s statement of assets, income, expenses, and financial liabilities but with substantial delay. A more detailed analysis is provided in the previous assessment of the criterion's relevance.</p> <p>The launch of the e-register was delayed. Before it was launched in May 2021, the NACP decided to revise the 2020 form and procedure which were never enforced. This action of the NACP implicitly acknowledged that the document it passed in 2020 was drawing reasonable material objections.</p> <p>The latest order issued by the NACP approves a procedure and form which is of higher quality and addresses the shortcomings identifiable in the previous document.</p> <p>At the same time, opportunities for minor improvements remain to be seized. Given that the Law of Ukraine "On Political Parties in Ukraine" regulates the issue of the form and procedure in a single provision (Article 17(10)) and that this principle is respected in the legislation issued by the NACP, the analysis in the previous chapter covers both criterion 6.1 and criterion 6.2 simultaneously.</p> <p>Representatives of political parties note that the procedure for submitting a political party's report on assets, income, expenses, and financial liabilities, approved by the National Agency, was generally relevant. However, individual procedures were not clear enough, which required an appeal to the National Agency for clarification. As an example, is the issue of submitting a report for the 4th quarter of the year and an annual report. The NACP was forced to provide a separate written explanation on this matter.</p>
<p>6.3. Adopting the procedure and the form of the verification conclusion drawn up as a result</p>	
<p>Met</p>	<p>The NACP, during the assessment period, continued to apply the procedure for verifying political party's statements of assets, income, expenses, and financial liabilities in line with relevant legal provisions approved on 2016 until May 11, 2021, when the National Agency finally adopted the new procedure and the form of the verification conclusion drawn up as a result. The latest order</p>

issued by the NACP approved a procedure which is of higher quality and addressed the shortcomings identifiable in the previous document.

Table 3. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions	From 2020 until May 11, 2021	From May 11, 2021
LPP	In the version on November 24, 2021	Article 17, Paragraph 28	The procedure for checking the reporting of political parties on assets, income, expenses and financial liabilities, as well as the form of the conclusion drawn up based on the results of such a check, are approved by the National Agency for the Prevention of Corruption.	<i>Compliant</i>	<i>Compliant</i>
LPP	In the version on November 24, 2021	Article 17, Paragraph 26	Verification of reports of political parties on assets, income, expenses and financial liabilities includes the analysis of: 1) the timeliness of submitting a report of a political party on assets, income, expenses and financial liabilities;	<i>Compliant</i>	<i>Compliant</i>
			2) the completeness of the information provided in the report of the political party on assets, income, expenses and financial liabilities;	<i>Compliant</i>	<i>Compliant</i>
			3) the reliability of the information provided in the report of the political party on assets, income, expenses and financial liabilities;	<i>Compliant</i>	<i>Compliant</i>
			4) compliance by the political party with the requirements regarding the use of funds exclusively in non-cash form;	<i>Non-compliant</i>	<i>Compliant</i>
			5) the legality of making contributions to a political party by individuals and legal entities;	<i>Compliant</i>	<i>Compliant</i>
			6) compliance by the political party with the requirements of the law in terms of responding to cases of receipt of contributions made by an individual or legal entity in violation of the requirements of the law;	<i>Compliant</i>	<i>Compliant</i>
			7) compliance by the political party with the requirements of the legislation regarding the annual intra-party financial assessment and the passing of an external	<i>Compliant</i>	<i>Compliant</i>

independent assessment of financial statements.

In order to fulfil the legal requirements, the following orders of the Director of the NACP were in force during the assessment period:

Table 4

NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date
January 14, 2021 No. 6/21	January 29, 2021 under No. 117/35739	About some issues of checking the reporting of political parties on assets, income, expenses and financial liabilities	May 11, 2021	In force
January 14, 2021 No. 6/21	January 29, 2021 under No. 117/35739	Procedure for checking the reporting of political parties on assets, income, expenses and financial liabilities	May 11, 2021	In force
January 14, 2021 No. 6/21	January 29, 2021 under No. 117/35739	Conclusion on the results of the inspection of the Report of the political party on assets, income, expenses and financial liabilities	May 11, 2021	In force
September 8, 2016, № 26 Edition dated January 24, 2020	September 19, 2016 No. 1264/29394	On the approval of the Regulation on the analysis of the Report of the political party on assets, income, expenses and financial liabilities	September 19, 2016	January 29, 2021
September 8, 2016, № 26	September 19, 2016 No. 1264/29394	Provisions on the analysis of the Report of the political party on assets, income, expenses and financial liabilities (here in afterwards – Provisions)	September 19, 2016	January 29, 2021
December 24, 2019, № 178/19	January 15, 2020 No. 44/34327	On the approval of the Amendments to the Regulation on the analysis of the report of the political party on assets, income, expenses and financial liabilities	January 15, 2020	January 29, 2021

Representatives of political parties noted that this document (the order No. 6/21 dated January 14, 2021) had been developed with the involvement of and commentary by political parties.

Issues:

Minor issue in the period from 2020 until May 11, 2021: Section II, Art. 3 refers to a regulation that has been out of force for several years - NACP decision No. 2 of July 28, 2016. The provisions do not contain any regulation with regard to compliance by the political party with the requirements regarding the use of funds exclusively in a non-cash form, as it is provided by the LPP.

The NACP claims that it currently has insufficient information on the need to improve order No. 6/21 dated 01/14/2021 and the ways of its application.

6.4. Adopting the methodology for calculating the amount (sum) of donation in the form of works, goods, or services that is relevant and draws no material reasonable objections

Met

The NACP adopted the methodology for calculating the amount (sum) of donation in the form of works, goods, or services that is relevant and draws no material reasonable objections. The latest order issued by the NACP approves a methodology which is of higher quality and addresses the shortcomings identifiable in the previous document issued in 2018.

The methodology must be issued in agreement with the central executive body, which ensures formation of state financial policy, that is the Ministry of Finance of Ukraine as the central body of executive power that ensures the formation of state financial policy. There is no such reference on agreement of the Ministry of Finance of Ukraine in the publicly available document, but the assessment relies on the fact that, if the NACP had not received the approval of the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine would have refused to register this Order.

Table 5. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions	Compliance
LPP	In the version on November 24, 2021	Article 15, Paragraph 6	The size (amount) of the contribution in the form of works, goods or services is determined on the basis of the market value of identical or similar works, goods and services on the relevant market according to the methodology developed and approved by the National Agency for the Prevention of Corruption in agreement with the central executive body, which ensures formation of state financial policy.	<i>Compliant</i>

To fulfil the legal requirement, the following orders of the Director of the NACP were in force during the assessment period:

Table 6.

NACP Approval date and number	Registered with the Ministry of Justice of Ukraine	Title	Entry in force	Cancellation date
16.11.2018 № 2596	December 10, 2018 No. 1397/32849	The methodology for determining the size (amount) of the contribution to support a political party in the form of works, goods or services (https://zakon.rada.gov.ua/laws/show/z1397-18#Text)	December 10, 2018	22.06.2021
May 18, 2021 № 263/21	June 9, 2021 No. 773/36395	On the approval of the Methodology for determining the size (amount) of a contribution to support a political party in the form of works, goods or services ("Methodology") https://zakon.rada.gov.ua/laws/show/z0773-21#n14)	June 22 2021	<i>In force</i>

The latest NACP- issued Methodology addresses the shortcomings identifiable in the previous document e.g., the optional provision has been replaced by a mandatory obligation in procedures where the law requires the use of an evaluation specialist.

Minor issues:

1. It should be noted that market pricing methods vary widely, where other factors, such as the demand for a good or service, competition, sales opportunities, and other market factors may also play an important role. It would therefore be advisable to consider allowing the subjects of the methodology to choose other methods of determining the market price (value) of the good or service (transaction), provided that these subjects can

	<p>demonstrate the rational justification for using these methods, e.g., a description of the method chosen to determine the consistency of the market price (value) with the market price (value), the motivation for the choice of the method and a comparison with the method provided in the Methodology, materials justifying the rationality of the methodology chosen to determine the market price (value) of the transaction.</p> <ol style="list-style-type: none"> 2. It is recommended that, as there is an increasing move away from paper-based document storage, the Methodology should envisage the possibility to attach the information referred to in Section IV of the Methodology in electronic form. Hence, the Methodology should specify that documents may be prepared and signed electronically by attaching scanned proofs of transaction, if any. 3. The questionnaire submitted by the NACP contains information that contradicts the information on participation provided by the initiative of the International Foundation for Electoral Systems (IFES). Although the NACP stated that IFES took part in a discussion of the draft Methodology, IFES claimed that it was not involved in the development of the Methodology. 4. The LPP in Article 14 defines that “a contribution to the support of a political party is (..) goods, works, services provided or received free of charge or on preferential terms (at a price lower than the market value of identical or similar works, goods and services on the relevant market) received by a political party (..)”. Article 15, Paragraph 6 delegates to NACP develop a Methodology for assessing the market value of identical or similar works, goods, and services. However, a Political Party may receive a donation that is not only identical or similar, but also unique or substantially different from what is available on the market. We therefore invite the NACP to consider proposing to the legislator amendments to the legal framework to add a third option - unique or substantially different - to the identical and similar options listed in the law.
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6.5. Ensuring the development, dissemination, and relevance guidelines, information, and explanatory materials on compliance with the rules of state and private financing of political parties and the submission of their financial statements

Met	<p>During the evaluation period, the NACP provided explanations, methodological and consulting assistance on application of other provisions of this Law and regulations adopted for its implementation, including the development and dissemination of information, and explanatory materials on compliance with the rules of state and private financing of political parties and the submission of their financial statements.</p> <p><i>Table 7. Relevant legal provisions</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">Statutory document</th> <th style="width: 15%;">Entry in force</th> <th style="width: 20%;">Reference</th> <th style="width: 45%;">Relevant legal provisions</th> </tr> </thead> <tbody> <tr> <td>The Law of Ukraine on prevention of corruption</td> <td>In the version on December 9, 2021</td> <td>Article 11, part 1, paragraph 15</td> <td>providing explanations, methodological and consulting assistance on the application of acts of legislation on ethical behaviour, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them, application of other provisions of this Law and regulations adopted for its implementation, protection of whistleblowers.</td> </tr> </tbody> </table> <p>The NACP website offers explanatory information, organised by topic, as well as answers to frequently asked questions and other explanations and guidance on issues, which can be useful for interested parties and members of the public. A separate page "NACP Knowledge Base" (https://wiki.nazk.gov.ua/) has been created on the NACP website, which contains explanations on the application and compliance with certain provisions of the Law of Ukraine "On Political Parties in Ukraine" regarding financing and submission of reports by political parties. Other examples provided by the NACP (selected):</p>	Statutory document	Entry in force	Reference	Relevant legal provisions	The Law of Ukraine on prevention of corruption	In the version on December 9, 2021	Article 11, part 1, paragraph 15	providing explanations, methodological and consulting assistance on the application of acts of legislation on ethical behaviour, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them, application of other provisions of this Law and regulations adopted for its implementation, protection of whistleblowers.
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The Law of Ukraine on prevention of corruption	In the version on December 9, 2021	Article 11, part 1, paragraph 15	providing explanations, methodological and consulting assistance on the application of acts of legislation on ethical behaviour, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them, application of other provisions of this Law and regulations adopted for its implementation, protection of whistleblowers.						

1. Comprehensive clarifications of June 29, 2021 on the application and compliance with certain provisions of the Law of Ukraine "On Political Parties in Ukraine" regarding the financing and reporting of political parties, available at <https://wiki.nazk.gov.ua/?cat=186>

2. Clarification on the deadlines for submitting reports of political parties on property, income, expenses and liabilities of a financial nature for 2020 and 2021, available at <https://wiki.nazk.gov.ua/?sl=3420>

Minor issue: Some articles published on the NACP website (according to links provided by NACP itself in the questionnaire) are not up-to-date and refer to regulations that are not in force, even though the icon used and the date of publication may indicate that they are "current publications" (See Figure 1).

Figure 1. Example of an outdated list of abbreviations on the NACP website referring to the NACP regulation, which is no longer in force Available at: <https://wiki.nazk.gov.ua/?cat=186> [Accessed: January 5, 2023]

3. On introduction of the electronic system for submission and publication of reports of political parties (POLITDATA), which was put into commercial operation on May 11, 2021, the NACP prepared answers to the most common questions about the register POLITDATA.

Available at: <https://wiki.nazk.gov.ua/?sl=1119>

6.6. Conducting training for political party representatives on compliance with the rules of state and private financing of political parties and the submission of their financial statements

Met

During the evaluation period, the NACP conducted training for political party representatives on compliance with the rules of state and private financing of political parties and the submission of their financial statements.

Table 8. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
The Law of Ukraine On prevention of corruption	In the version on December 9, 2021	Article 11, part 1, paragraph 15	providing explanations, methodological and consulting assistance on the application of acts of legislation on ethical behaviour, prevention, and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them, application of other provisions of this Law and regulations adopted for its implementation, protection of whistleblowers.

Unlike other areas of the NACP's activities, the Law of Ukraine on Corruption Prevention (herein afterwards – LCP) does not specifically require the NACP to organise training for representatives of political parties, but the NACP does so on the basis of general obligations. More likely due to the historical reasons, the LCP contains a dual regulation: certain functional areas of the NACP, such as the whistleblower protection function, are casuistically regulated by listing specific tasks of the NACP, including training, while the NACP's functions in the area of political party financing are listed in general terms. While the general regulation of the NACP's competences is more in line with the principle of good law-making, the precise listing of duties in other areas gives the impression that, for example, the provision of training in the area of political party financing was not considered necessary by the legislator. At the same time, the Commission rates the NACP highly in the area of providing training.

Although the NACP does not have a regular education programme on political party financing, the NACP training is available, training materials contain detailed information and training videos are constantly available online. The NACP is seeking to expand the variety of training materials, including the development of an online training (<https://bit.ly/3v7HvzT>).

In 2021, the NACP conducted two trainings on "Reporting of political parties" and "External assessment of financial activities of political parties." 122 people took part.

On April 7, 2021, an online training was held on the topic: "Reporting of political parties" (95 representatives from 5 parliamentary political parties took part in the training)

On July 20, 2021, an offline training was held on the topic: "External assessment of the financial activities of political parties" with the participation of members of the Chamber of Auditors of Ukraine (27 representatives from 5 parliamentary political parties participated in the training).

6.7. Providing replies to petitions of political party representatives, other natural or legal persons according to the procedure and within time limits established by legislation

Met

During the evaluation period, the NACP provided replies to petitions of political party representatives, other natural or legal persons. The evaluation commission did not receive claims that the NACP failed to provide respective replies according to the procedure and within the time limits established by legislation.

Table 9. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
The Law of Ukraine on Appeals of Citizens	In the version on January 1, 2020	Article 3 , part 1; Article 14, part 1; Article 20, part 1	<p>Citizen appeals should be understood as written or oral proposals (remarks), statements (requests) and complaints.</p> <p>Bodies of state power and local self-government, enterprises, institutions, organisations regardless of the form of ownership, associations of citizens, officials are obliged to consider proposals (comments) and inform the citizen about the results of the consideration.</p> <p>Appeals are reviewed and resolved within a period of no more than one month from the day of their receipt, and those that do not require additional study - immediately, but no later than fifteen days from the day of their receipt. If it is impossible to resolve the issues raised in the appeal within a month, the head of the relevant body, enterprise, institution, organisation or his deputy shall set the necessary deadline for its consideration, which shall be notified to the person who submitted the appeal. At the same time, the total term for solving the issues raised in the appeal cannot exceed forty-five days.</p>
The Law of Ukraine On Access to Public Information	In the version on October 1, 2020	Article 19, part 1-3; Article 20, part 1,4;	<p>Request for information is a person's request to the manager of information to provide public information in his possession.</p> <p>The requester has the right to contact the manager of information with a request for information, regardless of whether this information concerns him personally or not, without explaining the reason for submitting the request.</p> <p>The request for information can be individual or collective. Requests can be submitted orally, in writing or in another form (by mail, fax, phone, e-mail) at the requester's choice.</p> <p>The manager of information must provide a response to a request for information no later than five working days from the date of receipt of the request.</p> <p>If the request relates to the provision of a large amount of information or requires searching for information among a large amount of data, the information administrator may extend the period</p>

				<p>for considering the request up to 20 working days with justification for such extension. The information administrator shall notify the requester in writing of the extension of the deadline no later than five working days from the date of receipt of the request.</p>																
<p>The NACP stated that, in 2020, 148 responses were provided to petitions of political party representatives and other natural or legal persons. Sixty-seven of them are responses to requests for access to public information. In 2021, 92 responses were provided to representatives of political parties and other individuals and legal entities, including: legal entities - 3; representatives of political parties - 70; individuals - 12; deputies - 7. Given the NACP's wide range of subjects for controlling the financing of political parties, the workload in responding to official submissions and requests for information was very low.</p>																				
<p>6.8. Distributing funds allocated in the state budget for financing of statutory activities of political parties as required by the Law of Ukraine on Political Parties. A decision to deny state financing to a political party is made only on grounds stipulated in the legislation</p>																				
<p>Met</p>	<p>The NACP performs state control over compliance with the legal and targeted use by political parties of funds allocated from the state budget to finance their statutory activities, distributes funds in accordance with the law.</p>																			
<p><i>Table 10. Relevant legal provisions</i></p>																				
<table border="1"> <thead> <tr> <th data-bbox="375 869 523 943">Statutory document</th> <th data-bbox="523 869 687 943">Entry in force</th> <th data-bbox="687 869 842 943">Reference</th> <th data-bbox="842 869 1439 943">Relevant legal provisions</th> </tr> </thead> <tbody> <tr> <td data-bbox="375 943 523 1196">LCP</td> <td data-bbox="523 943 687 1196">In the version on December 9, 2021</td> <td data-bbox="687 943 842 1196">Article 11, part 1, para 8^{1), 2)}</td> <td data-bbox="842 943 1439 1196"> <p>carrying out, in the manner and within the limits established by law, state control over compliance with (...) the legal and targeted use by political parties of funds allocated from the state budget to finance their statutory activities</p> <p>approval of the allocation of funds allocated from the state budget for financing the statutory activities of political parties, in accordance with the law;</p> </td> </tr> <tr> <td data-bbox="375 1196 523 1458">LPP</td> <td data-bbox="523 1196 687 1458">In the version on November 24, 2021</td> <td data-bbox="687 1196 842 1458">Article 17², Paragraph 28</td> <td data-bbox="842 1196 1439 1458"> <p>The annual volume of state financing of the statutory activities of political parties, which are entitled to such financing in accordance with this Law, is one hundredth of the amount of the minimum wage established on January 1 of the year preceding the year of allocation of state budget funds, multiplied by the total number of voters who took participation in voting in the state-wide multi-mandate electoral district in the last regular or special elections of People's Deputies of Ukraine.</p> </td> </tr> <tr> <td data-bbox="375 1458 523 1727">LPP</td> <td data-bbox="523 1458 687 1727">In the version on November 24, 2021</td> <td data-bbox="687 1458 842 1727">Article 17³, Paragraph 28</td> <td data-bbox="842 1458 1439 1727"> <p>A political party has the right to receive state financing of its statutory activities, if at the last regular or special elections of People's Deputies of Ukraine, its electoral list of candidates for People's Deputies of Ukraine in the state-wide multi-mandate electoral district received at least 5 percent of the voters' votes from the total number of votes cast for all election lists of candidates for People's Deputies of Ukraine in the nationwide multi-mandate electoral district.</p> </td> </tr> </tbody> </table>					Statutory document	Entry in force	Reference	Relevant legal provisions	LCP	In the version on December 9, 2021	Article 11, part 1, para 8 ^{1), 2)}	<p>carrying out, in the manner and within the limits established by law, state control over compliance with (...) the legal and targeted use by political parties of funds allocated from the state budget to finance their statutory activities</p> <p>approval of the allocation of funds allocated from the state budget for financing the statutory activities of political parties, in accordance with the law;</p>	LPP	In the version on November 24, 2021	Article 17 ² , Paragraph 28	<p>The annual volume of state financing of the statutory activities of political parties, which are entitled to such financing in accordance with this Law, is one hundredth of the amount of the minimum wage established on January 1 of the year preceding the year of allocation of state budget funds, multiplied by the total number of voters who took participation in voting in the state-wide multi-mandate electoral district in the last regular or special elections of People's Deputies of Ukraine.</p>	LPP	In the version on November 24, 2021	Article 17 ³ , Paragraph 28	<p>A political party has the right to receive state financing of its statutory activities, if at the last regular or special elections of People's Deputies of Ukraine, its electoral list of candidates for People's Deputies of Ukraine in the state-wide multi-mandate electoral district received at least 5 percent of the voters' votes from the total number of votes cast for all election lists of candidates for People's Deputies of Ukraine in the nationwide multi-mandate electoral district.</p>
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<p>Facts about the distribution of funds:</p>																				
<p><i>Table 11.</i></p>																				
<table border="1"> <thead> <tr> <th data-bbox="375 1861 464 2024">Year</th> <th data-bbox="464 1861 671 2024">Minimum wage on January 1 of the year preceding the year of allocation</th> <th data-bbox="671 1861 1102 2024">Total number of voters who participated in voting in the state-wide multi-mandate electoral district in the last regular or special elections of People's Deputies of Ukraine</th> <th data-bbox="1102 1861 1286 2024">Approved in the State Budget of Ukraine (in UAH)</th> <th data-bbox="1286 1861 1439 2024">Actually paid (in UAH)</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Year	Minimum wage on January 1 of the year preceding the year of allocation	Total number of voters who participated in voting in the state-wide multi-mandate electoral district in the last regular or special elections of People's Deputies of Ukraine	Approved in the State Budget of Ukraine (in UAH)	Actually paid (in UAH)											
Year	Minimum wage on January 1 of the year preceding the year of allocation	Total number of voters who participated in voting in the state-wide multi-mandate electoral district in the last regular or special elections of People's Deputies of Ukraine	Approved in the State Budget of Ukraine (in UAH)	Actually paid (in UAH)																

2020	4 173.0	14 759 548.0	283 530.9	206 575,625
2021	4723.0	14 759 548.0	697,093.5	676 710,475

The NACP provided the following information on the calculated amount to be distributed to political parties and actually paid (see the table below; numbers in thousands UAH):

Table 12.

Political party	Calculated amount to be paid	Amount actually paid	Difference between calculated and paid amount	Reason	Calculated amount to be paid	Amount actually paid	Difference between calculated and paid amount	Reason
/ Year	2020	2020			2021	2021		
"Servant of the People"	140577.5	70288.8	70288.7	Application	345,626	345,626.00	0.00	
Opposition platform "For Life"	42,538.10	42,538.10	0		104,584.90	104,584.90	0.00	
Batkivshchyna All-Ukrainian Union	26,666.10	19,999.60	6666.5	NACP decision	65,561.60	65,561.60	0.00	
"European Solidarity"	40,587.50	40,587.50	0		99,788.90	99,788.90	0.00	
"Voice"	33,161.70	33,161.70	0		81,532.10	61,149.10	20,383.00	NACP decision
TOTAL of calculated amount to be paid	283530.9				697093.50			
TOTAL of the amount actually paid		206575.70	76955.20			678731.5	18362.00	

Clarifications provided by the NACP:

a) Disbursement of funding to political parties in 2020

The Law of Ukraine "On the State Budget of Ukraine for 2020" under the budget program KPKVK 6331020 "Financing the statutory activities of political parties" approved expenditures in the amount of UAH 283,530,900 for the National Agency.

The Order of the National Agency of 03.02.2020 № 26/20 "On the distribution of budget funds" provided the distribution of funds in the total amount of UAH 283,530.9 thousand allocated from the state budget to finance the statutory activities of political parties in 2020.

At the same time, in accordance with part five of Article 28 of the Law of Ukraine "On the State Budget of Ukraine for 2020", it is established that the Cabinet of Ministers of Ukraine can make decisions in agreement with the Committee of the Verkhovna Rada of Ukraine on budget issues regarding the reduction of state budget expenditures and the provision of loans from the state budget

and directing them to the fund to fight against COVID-19 and its consequences. On the basis of this norm, the Cabinet of Ministers of Ukraine adopted Order No. 1563-r dated December 14, 2020 "On the redistribution of some state budget expenditures, provided for the main managers of budget funds for 2020" and reduced the amount of consumption expenditures from the general fund of the state budget under program 6331020 "Financing of statutory activities of political parties" for UAH 76,955,200. In this regard, the amount of state financing of the statutory activities of political parties in 2020 amounted to UAH 206,575,700.

In 2020, the National Agency actually implemented the requirements of the Law of Ukraine "On Political Parties in Ukraine" to provide state funding for the statutory activities of political parties in the amount of UAH 206,575,700. 5 political parties received state funding.

b) Disbursement of funding to political parties in 2021

The Law of Ukraine "On the State Budget of Ukraine for 2021" under the budget program KPKVK 6331020 "Financing the statutory activities of political parties" approved the National Agency expenditures in the amount of UAH 697,093,500.

The Order of the National Agency № 66/21 of 15.02.2021 "On the distribution of budget funds" provided the distribution of funds in the total amount of UAH 697,093,500 allocated from the state budget to finance the statutory activities of political parties in 2021, between political parties, on support for the voter lists of which during the last snap elections of people's deputies of Ukraine in 2019 in a single multi-member constituency was given at least five percent of valid votes, in accordance with the Law of Ukraine "On Political Parties in Ukraine".

In 2021, the National Agency actually implemented the requirements of the Law of Ukraine "On Political Parties in Ukraine" to provide state funding for the statutory activities of political parties in the amount of UAH 676,710,500.

Five political parties received state funding. <https://cutt.ly/sF9WUEu>

In accordance with Article 17-5 of the Law of Ukraine "On Political Parties in Ukraine", the funds allocated from the state budget for financing the statutory activities of political parties are transferred to the indicated accounts of political parties in the amount of 25% of the total amount of annual state funding for each political party at the beginning of each quarter. However, there is information from stakeholders about the delay in the allocation of state financing of statutory activities (allocated not at the beginning of the quarter, but in the middle or at the end, which did not allow political parties to effectively use such funds and plan their activities). During interviews with NACP representatives, they noted that the NACP prepares documents for the State Treasury Service of Ukraine on the allocation of funds on time, that is, at the beginning of each quarter, and delays in the transfer of funds are not caused by the NACP.

However, the representatives of the NACP did not specify the exact dates of preparation and sending of such documents to the State Treasury Service of Ukraine. In the future, the NACP is invited to ensure that cost claims to the Treasury are prepared and sent on time.

Decisions to deny state financing to a political party

In 2020-2021, the National Agency did not take any decisions to refuse to provide a political party with state funding for its statutory activities in accordance with part three of Article 17-3 of the Law of Ukraine "On Political Parties in Ukraine".

Note: Such decisions are made on the basis of the results of the last regular or extraordinary elections of people's deputies of Ukraine in the national multi-member constituency. In 2020-2021, the above-mentioned elections were not held in Ukraine. The ACP did not pay budget funds in the amount of UAH 70,288.7 thousand to the Servant of the People political party on the basis of their application for a partial refusal of state funding of the statutory activities of the Servant of the People political party for the III and IV quarters of 2020 (in accordance with the fifth part of Article 17 -3 of the Law on Political Parties in Ukraine).

In accordance with the fifth part of Article 28 of the Law of Ukraine "On the State Budget of Ukraine for 2020", it is established that the Cabinet of Ministers of Ukraine can make decisions in agreement with the Budget Committee of the Verkhovna Rada of Ukraine regarding the reduction of state budget expenditures and the provision of loans from the state budget and their direction to

the fund for the fight against the acute respiratory disease COVID-19, caused by the SARS-CoV-2 coronavirus, and its consequences.

On the basis of this norm, the Cabinet of Ministers of Ukraine adopted the order No. 1563-r of December 14, 2020 "On redistribution of some state budget expenditures, provided for the main managers of budget funds for 2020". In which he reduced the amount of consumption expenditures from the general fund of the state budget under program 6331020 "Financing of statutory activities of political parties" by 76,955.2 thousand hryvnias.

The NACP had no choice but to fulfil these requirements and accordingly reduce the amount of state financing of statutory activities of political parties.

6.9. Ensuring an effective state control of compliance with statutory restrictions on the financing of political parties

Not met due to an external factor

This criterion refers to the control of the NACP on the legality of contributions made by individuals and legal entities in support of political parties, compliance with the limitations established by law regarding such contributions. The criterion was not implemented due to actions, inaction or decisions of the parliament. In particular, the decision of the Ukrainian Parliament to repeal the law on the submission of reports on property, income, expenses, and obligations of a financial nature of political parties has led to the fact that since 2 April 2020 political parties are not obliged to submit reports to the NACP, and transparency and accountability of financing majority of political parties have effectively been suspended.

Table 13. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 11, part 1, para 8 ^{1), 2)}	carrying out, in the manner and within the limits established by law, state control over compliance with the limitations established by law regarding the financing of political parties.
LPP	In the version on November 24, 2021	Article 15	<p>Restrictions on making contributions to support political parties.</p> <p>It is not allowed to make contributions to support political parties:</p> <ol style="list-style-type: none"> 1) state authorities and local self-government bodies; 2) state and communal enterprises, institutions and organisations; 3) legal entities in which at least 10 percent of the authorized capital or voting rights directly or indirectly belong to the state, local self-government bodies; 4) legal entities whose ultimate beneficial owners (controllers) are the persons specified in subparagraphs "a", "c"-;" of paragraph 1 and subparagraph "a" of paragraph 2 of part one of article 3 of the LPC"; 5) foreign states, foreign legal entities, legal entities in which at least 10 percent of the authorized capital or voting rights are directly or indirectly owned by non-residents, as well as legal entities whose ultimate beneficial owners (controllers) are foreigners or stateless persons; 6) unregistered public associations, charitable or religious organisations, as well as other political parties; 7) natural persons who are not citizens of Ukraine (foreigners and stateless persons), as well as anonymous or pseudonymous persons;

				<p>8) citizens of Ukraine who have not reached the age of 18 or who have been recognized as incompetent in accordance with the procedure established by law;</p> <p>9) natural persons with whom a contract has been concluded on the purchase of works, goods or services to meet the needs of the state or territorial community for a total amount of more than fifty amounts of the subsistence minimum for able-bodied persons established on January 1 of the year in which the contribution is made, as well as by legal entities with whom such an agreement has been concluded for a total amount of more than one hundred amounts of the subsistence minimum for able-bodied persons, established on January 1 of the year in which the contribution is made - during the term of such an agreement and within one year after its termination.</p> <p>...</p> <p>The total amount (amount) of contribution(s) for the support of a political party from a citizen of Ukraine during one year may not exceed four hundred amounts of the minimum wage established on January 1 of the year in which the contributions were made.</p> <p>The total amount (amount) of contribution(s) for the support of a political party from a legal entity during the year may not exceed eight hundred amounts of the minimum wage established on January 1 of the year in which the contributions were made.</p>
	LPP	In the version on November 24, 2021	Article 17, part 22, para 4-6	<p>Verification of reports of political parties on asset, income, expenses and financial liabilities includes the analysis of:</p> <p>4) compliance by the political party with the requirements regarding the use of funds exclusively in non-cash form;</p> <p>5) the legality of making contributions to a political party by individuals and legal entities;</p> <p>6) compliance by the political party with the requirements of the law in terms of responding to cases of receipt of contributions made by an individual or legal entity in violation of the requirements of the law;</p>
	Order of NACP	January 14, 2021 No. 6/21	Item 7, para 4-6	<p>Verification of reports of political parties on assets, income, expenses and financial liabilities includes the analysis of:</p> <p>4) compliance by the political party with the requirements regarding the use of funds exclusively in non-cash form (for the purpose of transferring funds from the accounts opened by the political party (its local organisation, which has the status of a legal entity) in the institutions of Ukrainian banks in the national currency of Ukraine, to the accounts of the recipients of the funds , as well as the transfer by banks on behalf of enterprises, institutions, organisations and individuals of the funds deposited by them in cash into the bank's cash register for their further transfer to the accounts of the recipients of the funds - political parties (their local organisations that have the status of a legal entity), as well as the bank's such calculations on the basis of settlement documents on paper or in electronic form);</p> <p>5) legality of physical and legal entities making contributions to a political party (subject to compliance</p>

with the restrictions and requirements stipulated by the Law);

6) compliance by the political party with the requirements of the law in terms of responding to cases of receipt of contributions made by an individual or legal entity in violation of the requirements of the law (subject to compliance with the statutory term and the obligation to refuse a monetary contribution (or its part that exceeds the established amount), if the amount of contribution (the total amount of contributions) of a person (group of persons) exceeds the amount established by Law);

To assess effectiveness of the state control of compliance, it is necessary to determine the extent to which the results of a plan have been achieved and are mainly concerned with comparing actual results with desired results or targets.

Table 14. Strategic objectives and targets of NACP in control of financing of political parties.

Strategy	Overall objective (strategic goals)	Objective / Target	Result	
Development Strategy of the NACP for 2017 - 2020	The objective 4.5.2.1. Prevention of political corruption	political parties and election candidates comply with legal requirements for political party financing and financial reporting.	<p>Result 1: Political parties and election candidates, as well as the public and legal entities, are aware of the principles and legal requirements for the financing of political parties</p> <p>Result 2: political parties and election candidates submit timely and quality financial reports in electronic form; the NACP verifies such reports, applies fair sanctions for violations and makes the reports available to the public.</p> <p>Result 3: Implementation of the legislation on political party financing, assess proposals for amendments to eliminate legislative gaps formulated</p>	<p>Both documents contain the same wording on the role of the Department for Prevention of Political Corruption:</p> <p>to increase transparency and openness of political parties by ensuring their accountability and public funding.</p>
A Strategy for the Development of the National Agency for 2021	4.5. Ensuring the integrity of political parties and election campaigns	4.5.1. Objective: to ensure the integrity of political parties and prevent political corruption through an effective and transparent system of reporting and control over their activities.	Not addressed	

Taking into account the objectives of the strategies in force at the time of the NACP assessment, it can be concluded that effective control actions are those that achieve the objective of preventing political corruption (2020) or ensuring the integrity of political parties' activities and electoral

campaigns (2021) by increasing the transparency, openness and accountability of political party activities.

Article 5 of the Final provisions of LPP since it was supplemented by Law No. 540-IX dated 03.30.2020 establish “that the report on property, income, expenses and obligations of a financial nature of political parties, provided for in Article 17 of this Law, is submitted no later than the fortieth day after the end of the implementation of measures to prevent the emergence and spread of the coronavirus disease (COVID-19) , provided for by the quarantine established by the Cabinet of Ministers of Ukraine.” This means that virtually all political parties have only had to submit statutory declarations on one out of eight occasions during the assessment period.

When the mechanism of reporting of political parties on property, income, expenditures and financial liabilities was implemented for the first quarter of 2016, 195 reports were received from political parties, 200, reports for the second quarter of 2016, 254 reports for the third quarter of 2016 and 262 reports, for the fourth quarter of 2016, for the first quarter of 2017, 271 reports were received from political parties. They were analysed and published on the official website of the NACP.

According to the NACP, it has carried out the verification of 774 submitted party reports in all four quarters for a total of 2020 and just of 403 submitted party reports per all four quarters of 2021 instead of approximately 1000 reports.

The assessors are not aware of Parliament's observations on how exactly the occurrence and spread of coronavirus disease (COVID-19) affected the ability of political parties to file reports, but the continued exemption specifically for political parties raises concerns that control over the legality of political party funding has been paralyzed for a disproportionately long period.

In such a situation, the NACP is prevented from fully discharging its authority duties. Consequently, we are forced to acknowledge that as long as the provision of the law abolishing the mandatory reporting obligation of political parties is in force, the NACP has limited powers to ensure effective state control of compliance with statutory restrictions on the financing of political parties.

6.10. Ensuring an effective state control over lawful and according to established purposes use by political parties of funds allocated in the state budget to finance their statutory activities

Not met due to an external factor

The NACP is prevented from fully discharging its authority in ensuring an effective state control over lawful and according to established purposes use by political parties of funds allocated in the state budget to finance their statutory activities duties due to the suspension of the relevant provisions of the law by Parliament until the end of the COVID pandemic.

To assess effectiveness of the state control over lawful and according to established purposes use by political parties of funds allocated it is necessary to determine the extent to which the results of a plan have been achieved and are mainly concerned with comparing actual results with desired results or targets. NACP control activities are limited by law.

Table 15. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 11, part 1, para 8 ^{1), 2)}	<p>carrying out, in the manner and within the limits established by law, state control over compliance with (..) the legal and targeted use by political parties of funds allocated from the state budget to finance their statutory activities;</p> <p>approval of the allocation of funds allocated from the state budget for financing the statutory activities of political parties, in accordance with the law;</p>
LPP	In the version on November 24, 2021	Article 17-9	<p>State control over the legal and targeted use by political parties of funds allocated from the state budget to finance their statutory activities is carried out by the Accounting Chamber and the NACP.</p> <p>In the event that the Accounting Chamber or the NACP discovers facts that indicate that the funds</p>

				<p>allocated from the state budget for financing the statutory activities of a political party were used by it to finance participation in the elections of People's Deputies of Ukraine, the elections of the President of Ukraine, local elections or for purposes not related to statutory activities, the Accounting Chamber or the NACP shall immediately apply to the court with a claim to establish the relevant facts.</p>
	<p>As of February 18, 2022, an analysis of the Reports submitted to the NACP by political parties receiving state funding was conducted:</p> <p>"Holos", "Opposition Platform - For Life", "European Solidarity", "VO "Batkivschina", "Servant of the People" (for the fourth quarter of 2019);</p> <p>"Holos", "Opposition Platform - For Life", "European Solidarity", "VO "Batkivschina", "Servant of the People" (for the first quarter of 2020);</p> <p>"Holos" and "Servant of the People" (for the second quarter of 2020).</p> <p>Based on the results of the analysis of the reports, the NACP approved and published on its website respective conclusions. The NACP did not establish any facts of illegal use or misuse of funds allocated from the state budget to finance the statutory activities of political parties.</p> <p>At the same time, the Assessment Chamber conducted assessments of the effectiveness of the use of state budget funds allocated by the NACP for financing statutory activities in the political parties "Holos", "Opposition Platform - For Life", "European Solidarity", "VO "Batkivschina", "Servant of the People" in 2020 and the first half of 2021.</p> <p>The results of the assessment proved that during 2020 - the first half of 2021, the state budget funds allocated to political parties to finance statutory activities were actually spent without legally defined restrictions (bans) on their use.</p> <p>As a result of the non-establishment in the Law "On Political Parties in Ukraine" of the obligation to use state budget funds to finance the statutory activities of political parties through the application of the norms "On Public Procurement", political parties used state funding funds in the total amount of UAH 170 449 200 without applying such norms.</p> <p>Under conditions of non-definition in the Law "On Political Parties in Ukraine" of the concept of "statutory activity of the party", the implementation by political parties of any expenses provided for in the statute of the party is considered the use of funds for statutory activity. This creates risks of spending state funding for purposes unrelated to the needs of parties as socio-political organisations.</p>			
<p>6.11. Ensuring an effective state control over timely submission, completeness, properly formalized, and accurate information included in parties' quarterly statements of assets, income, expenses, and financial liabilities</p>				
<p>Not met due to an external factor</p>	<p>The NACP is prevented from fully discharging its authority in ensuring an effective state control over timely submission, completeness, properly formalized, and accurate information included in parties' quarterly statements of assets, income, expenses, and financial liabilities due to the suspension of the relevant provisions of the law by Parliament until the end of the COVID pandemic.</p> <p>Due to legislative changes allowing optional reporting by political parties in 2020-2021, the NACP received very few reports from political parties, particularly those submitted through the electronic system for submitting and publishing reports of political parties (POLITDATA) launched in May 2021. In addition, the submitted reports are reports of political parties that mostly did not conduct any activities. During 2021, 89 reports were submitted through the electronic system for submitting and publishing reports of political parties (POLITDATA) as of 12/31/2021, of which: 24 for the 1st quarter; for the 2nd quarter - 38; for the 3rd quarter - 27.</p> <p>The political parties, which have the right to receive state funding of statutory activities, submitted reports on property, income, expenses and financial liabilities for the following periods: PP "Servant of the People" for the 1st - 3rd quarters of 2020; PP "Holos" for the 1st-2nd quarters</p>			

of 2020; PP "VO "Batkivschina", PP "Opposition Platform - For Life", "European Solidarity" for the 1st quarter of 2020.

And such reports were submitted by the parliamentary parties in paper form and electronically on a flash drive.

Table 16. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 11, part 1, para 8 ¹⁾	carrying out, in the manner and within the limits established by law, state control over compliance with (...) the timeliness of party reports on property, income, expenses and obligations of a financial nature, reports on the receipt and use of funds of election funds in national and local elections, reports on the receipt and use of funds of the campaign fund regarding the initiative of holding an all-Ukrainian referendum, reports on the receipt and use of funds of the All-Ukrainian referendum fund, reports on the receipt and the use of funds of the initiative group fund, the completeness of such reports
LPP	In the version on November 24, 2021	Article 18, part 1	State control over the activities of political parties is carried out by ... the NACP ... according to the timeliness of submission of party reports on assets, income, expenses, and financial liabilities, ... the completeness of such reports, the compliance of their design with the established requirements, the reliability of the information included in them.
LPP	In the version on November 24, 2021	Article 17, part 22, para 1-3	Verification of reports of political parties on assets, income, expenses, and financial liabilities includes the analysis of: <ul style="list-style-type: none"> 1) the timeliness of submitting a political party's report on assets, income, expenses, and financial liabilities; 2) the completeness of the information provided in the report of the political party on assets, income, expenses, and financial liabilities; 3) the reliability of the information provided in the report of the political party on assets, income, expenses, and financial liabilities.
Order of NACP PROCEDURE for checking the reporting of political parties on property, income, expenses and obligations of a financial nature	January 14, 2021 No. 6/21	Item 7, para 1-3	7. Review of the report includes analysis of: <ul style="list-style-type: none"> 1) the timeliness of the political party's submission of the report to the National Agency (regarding compliance with the deadlines for its submission established by the Law); 2) the completeness of the information provided in the report (for compliance with the requirements established for submitting the report and/or displaying information in it that is not complete); 3) the reliability of the information specified in the report (for compliance of the information specified in the report with the information contained in documents, registers, data banks, other information and telecommunications and reference systems, including those containing information with limited access, the holder (administrator) of which are state bodies, local self-government bodies, open databases, registers of foreign states, other sources of information).

6.12. Ensuring an effective state control of timely submission, completeness, duly formalized, and accurate information included in external independent financial assessment reports on the party activities

Met The NACP ensures an effective state control of timely submission, completeness, duly formalized, and accurate information included in external independent financial assessment reports on the party activities.

Table 17. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 11, part 1, para 8 ¹⁾	carrying out, in the manner and within the limits established by law, state control over compliance with (...) the report of the external independent financial assessment of the parties' activities, the compliance of their registration with the established requirements, the reliability of the information included in them;
LPP	In the version on November 24, 2021	Article 17, part 3-5, 8	<p>A political party, a party that received state funding, is required to undergo an external independent assessment of its financial statements in the year following the year of receiving state funding.</p> <p>An external independent assessment of the financial statements of a political party can be conducted only by assessment firms that, according to the Law of Ukraine "On the Assessment of Financial Statements and Activities", have the right to conduct a mandatory assessment of financial statements.</p> <p>When conducting an external independent assessment of the financial statements of a political party, the indicators contained in the statement of assets, income, expenses and financial liabilities are checked (from the point of view of completeness, reliability of the information included in the report and compliance of the statement with the requirements established by law).</p> <p>The procedure for engaging an evaluation firm to conduct an external independent evaluation of financial statements is determined in accordance with the statute of the political party.</p>
LPP	In the version on November 24, 2021	Article 17, part 14	To the report of the political party on assets, income, expenses and financial liabilities for the fourth quarter of the reporting year are attached (by uploading photocopies to the system) ... an independent external assessment of the financial reporting of the political party (if its conduct is mandatory in accordance with this Law language) by uploading their photocopies to the system.
LPP	In the version on November 24, 2021	Article 17, part 22, para 7	<p>Verification of reports of political parties on assets, income, expenses and financial liabilities includes the analysis of:</p> <p>7) compliance by the political party with the requirements of legislation regarding ... passing an external independent assessment of financial statements.</p>
Order of NACP Procedure for checking the reporting of political parties on property, income,	January 14, 2021 No. 6/21	Item 7, para 7	<p>7. Review of the report includes analysis of:</p> <p>7) compliance by the political party with the requirements of the legislation regarding the annual internal party financial assessment and the passing of an external independent assessment of the financial statements (in order to comply with the obligation to add to the report for the IV quarter copies of the reports</p>

	expenses and obligations of a financial nature/			on the annual internal party financial assessment and the independent external assessment of the financial statements of the political party (if their conduct is mandatory)).
	<p>In accordance with the requirements of the Law of Ukraine "On Political Parties in Ukraine", in 2020, six political parties, which received state funding for their statutory activities in 2019, submitted reports of their external independent financial assessment:</p> <ol style="list-style-type: none"> 1. PP "Popular Front", 2. PP "Petro Poroshenko Bloc", 3. PP "Samopomich", 4. PP "Opposition Bloc", 5. PP "Radical Party of Oleg Lyashko", 6. PP "VO" Batkivshchyna". <p>The National Agency did not find any violations concerning the timeliness of submission, completeness, compliance with the requirements established by law, as well as the accuracy of the information included in the reports.</p> <p>In accordance with the requirements of the Law of Ukraine "On Political Parties in Ukraine", 5 political parties that received state funding for their statutory activities in 2020 and 2021 did not submit reports of an external independent financial assessment of the party's activities to the National Agency due to the failure of the deadline for submitting such a report due to the effect of restrictions adopted in accordance with the resolution of the Cabinet of Ministers of Ukraine dated 11.03.2020 No. 211 "On the prevention of the spread of the acute respiratory disease COVID-19 caused by the SARS-CoV-2 coronavirus on the territory of Ukraine" (with changes and additions).</p>			
<p>6.13. The list of political parties that failed to submit their statements by the dates established in legislation is published on the official website of the National Agency within 10 calendar days after deadline for submitting by political parties of their statements of assets, income, expenses, and financial liabilities. The National Agency has taken, without unreasonable delays, all necessary measures to bring to liability persons guilty of missing due dates for submitting such statements</p>				
Not met	<p>The NACP did not fulfil the specified criterion, as it did not ensure that appropriate measures were taken without unreasonable delays to bring to justice the persons guilty of violating the deadlines for submitting such reports.</p> <p>During the 1st quarter of 2020, as a result of the submission of Reports by political parties for the 4th quarter of 2019, 79 political parties that did not submit reports were identified. The list of such political parties was published on the official website of the National Agency (was available until February 24, 2022, that is, until access to certain information on the NACP website was restricted due to martial law): https://nazk.gov.ua/uk/zvity-politychnyh-partij-2/</p> <p>Further, the list of political parties that did not submit their reports within the period specified by this Law for the 1st-4th quarters of 2020 and 2021 was not made public. Since the legislative changes that entered into force on April 2, 2020 and were in effect during the entire period of time that is the object of the assessment, allowed political parties at their own discretion to submit or not to submit to NACP reports of political parties on assets, income, expenses and financial liabilities, made it impossible for NACP to implement this requirement of the Law.</p> <p>The NACP's compliance with the requirement to take all appropriate measures «without unreasonable delays» to prosecute persons guilty of violating the deadlines for submitting such reports can be assessed on the basis of how the prosecution of authorized persons (the leaders) of 79 political parties that violated the deadlines for submitting reports for the IV quarter of 2019.</p> <p>The NACP declared that in order to ensure the prosecution of authorized persons of political parties, relevant requests were sent to the registration addresses of 79 political parties. However, protocols on administrative offences for violation of reporting deadlines (Articles 212-21 of the</p>			

CAO) were drawn up only for 30 leaders of such political parties. That is, no protocols were drawn up for the remaining 49 leaders.

The NACP reported on the reasons for not drawing up protocols regarding 13 leaders of political parties: 4 party leaders died; 1 manager resigned; Since 2014, 6 parties have been in the territory temporarily occupied by the troops of the Russian Federation; 1 manager was in the combat zone of the anti-terrorist operation; According to "ARKAN" information, 1 party leader was outside Ukraine.

With regard to the rest of the heads, the NACP, it was noted that they did not have personal data that would allow the preparation of protocols without their presence (in absentia). In connection with this, the NACP sent requests to the Ministry of Justice of Ukraine, however, after receiving the requested information, the 3-month period for imposing an administrative penalty for the commission of this offence expired.

At the same time, the analysis of the documents additionally provided by the NACP showed that requests were sent to the Ministry of Justice of Ukraine to provide personal information of authorized persons regarding 52 out of 79 parties. However, it is worth noting that such requests were sent by the NACP to the Ministry of Justice after a significant period of time from the date of discovery (date of discovery - 20.02.2020) of the specified offences by the NACP - the vast majority almost 2 months later (second half of April 2020). And some requests were sent almost 3 months later - PP "New action" (May 15, 2020), PP "Conscience of Ukraine" (May 27, 2020), 4 months - PP "Future of Ukraine" (June 22, 2020).

There is no information on the date of the Ministry of Justice's response to the requests of the NACP. However, in accordance with Part 8 of Art. 12 of the LPC, "The Ministry of Justice of Ukraine must provide the requested documents or information within ten working days from the date of receipt of the request from the NACP."

At the same time, it is worth paying attention to the fact that some protocols on administrative offences were drawn up by authorized persons of the NACP after a considerable period of time since the request was sent to the Ministry of Justice in order to obtain information for drawing up such a protocol in absentia. In particular, after 2 months, a report on an administrative offence was drawn up regarding the PP "Nasha Ukraine", the PP "Vadim Chornoy's People's Program", PP "Cossack Ukrainian Party" and others, almost 3 months later - in relation to PP "Rusychy".

In addition, there are a number of political parties for which requests for the provision of personal data of authorized persons of political parties were not sent to the Ministry of Justice, but protocols on administrative offences were drawn up 3-5 months after the day of detection of the violation for unknown reasons. These are, in particular, protocols on administrative offences against the leaders (authorized persons) of the following political parties: PP "Razom sila", PP "Christian Democratic Union", PP "Women of Ukraine", PP "Party of Poles of Ukraine", and many others.

It is clear that court cases opened according to such administrative offence protocols were subject to further closure in connection with the expiration of the 3-month period at the time of consideration of the administrative offence case (Article 38, 247 of the CAO as amended until 19.04.2020).

In addition, when sending such materials to the court, the NACP did not comply with the requirements of Part 26 of Art. 17 of the Law of Ukraine "On Political Parties in Ukraine" regarding sending, within a five-day period, to the authorized bodies (officials) who ensure that violators are brought to justice, notifications and materials confirming the fact of committing the relevant offence. There are many cases when NACP sent a cover letter and materials of a protocol on an administrative offence not within 5 days, but after 10-20 days from the date of drawing up such a protocol.

Therefore, taking into account the above, the NACP did not fulfil the specified criterion, as it did not ensure that appropriate measures were taken without unreasonable delays to bring to justice the persons guilty of violating the deadlines for submitting such reports.

Thus, of the 79 political parties that did not submit a report, measures were taken (but with unreasonable delays) to prosecute only 30 leaders (authorized persons) of the parties.

At the same time, according to the information provided by the NACP, the courts issued decisions on 28 cases out of these 30 cases, of which: only 4 were found guilty and a fine was imposed; 20 –

the proceedings were closed in connection with the expiry of the period for imposing an administrative fine at the time of the case review; 4 – the proceedings are closed due to the absence of the event and composition of the administrative offence.

6.14. Conducting verification of political parties’ statements of assets, income, expenses, and financial liabilities within 60 days of their receipt. The number of cases where the National Agency drew up an opinion with findings of its analysis and a detailed account of all violations with a reference to response measures taken (if any a violation was uncovered) is 100%

Met

The requirement is a very high standard. This criterion will be considered fulfilled if 100% (i.e. all) of the approved conclusions of the NACP will meet the requirements of the law. The assessment has identified a case of non-compliance, so as the result of the analysis reflects the assessment cannot conclude that the NACP drew up an opinion with findings of its analysis and a detailed account of all violations.

The following situation was identified during the assessment. Based on the results of the analysis of one report of a political party, a risk was identified that could probably lead to a violation of the completeness and reliability of the information reflected in the report, which was specified in the Act. At the same time, during this period, based on the decision of the Constitutional Court of Ukraine dated 27.10.2020 No. 13-p/2020, the NACP was deprived of the opportunity to properly verify this information by sending appropriate written requests. In this regard, the NACP had no grounds for issuing a Conclusion on the party's admission of a violation of the completeness and reliability of the information reflected in the report.

The Commission did not find any other facts that would indicate the failure of NACP to fulfil this criterion.

Table 18. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LPP	In the version on October 18, 2019 The editorial office, which operated before the start of the Politdata electronic system	Article 17, part 13;	The analysis of the report of the political party on assets, income, expenses and financial liabilities, preparation and approval of the conclusion based on the results of such analysis are carried out by the National Agency for the Prevention of Corruption within a period not exceeding two months from the date of its receipt. The results of such an analysis are published on the official website of the National Agency for the Prevention of Corruption no later than on the fifth day from the day of approval of the conclusion based on the results of the analysis of the report. The analysis of the report of the political party on the assets, income, expenses and financial liabilities nature involves establishing the compliance of the design of the report, the reporting data included in it with the requirements of the law, the timeliness of the submission of the report, the completeness and reliability of the information reflected in the report,

			the establishment of the presence or absence of violations of the legislation on financing political parties or election campaigning.
LPP	In the version on January 16, 2020 The editorial office, which operated after the start of the Politdata electronic system	Article 17, part 21, 23;	Reports of political parties on assets, income, expenses and financial liabilities (including those submitted in violation of the deadline established by this Law) are checked by the National Agency for the Prevention of Corruption within a period not exceeding 60 days from the date of their receipt. Based on the results of checking the reports of political parties on assets, income, expenses and financial liabilities, the authorized person of the National Agency for the Prevention of Corruption draws up a conclusion, which reflects the results of the conducted analysis, as well as a detailed statement of the content of all violations with an indication of the response measures taken (in in case of detection of violations).

The case of the political party “Novi” was examined to verify whether the criterion had been fully met.

The political party “Novi” submitted to the NACP its report on property, revenue, expenditure, and financial commitments for the second quarter of 2020 on October 12, 2020. On December 14, 2020 the NACP approved the conclusion based on the results of the analysis of the report.

This report was submitted before the launch of the POLITDATA electronic system. Therefore, the submission of the reports and their verification by the NACP was carried out in accordance with the procedure and method established by the LPP as of 15 January 2020. In accordance with Article 13, paragraph 13 of Art. 17 of the LPP (as amended as of January 15, 2020), the analysis of a political party's report on assets, income, expenses and financial liabilities, the preparation and approval of an opinion based on the results of this analysis shall be carried out by the State Agency for Prevention of Corruption no later than within two months from the date of its receipt.

Pursuant to paragraph 254 of Article 3(3) of the Law of Corruption Prevention, (which, in particular, lays down general rules for the determination and calculation of deadlines) "a time limit fixed in months shall expire on the relevant date of the last month of the period". This means that in this case the deadline for the approval of the conclusion expired on December 12, 2020. At the same time, according to part 5 of Art. 254 of the Civil Code of Ukraine "if the last day of the period falls on a weekend, public holiday or other non-working day fixed by law in the place where the act in question is to be performed, the day of expiry shall be the first working day thereafter". December 12, 2020 was a weekend (Saturday), accordingly the first working day thereafter was Monday December 14, 2020. Thus, in this case, the NACP acted within the prescribed limits and in accordance with the law.

There were no cases where the NACP did not draw conclusions based on the results of the verification/analysis of the political parties' statements on assets, income, expenditure and financial commitments.

At the same time, the conclusions should reflect the results of the analysis carried out, as well as describe in detail the content of any irregularities, indicating the response measures taken.

In addition, with regard to the reports of political parties on property, income, expenses and financial liabilities submitted before the launch of the POLITDATA electronic system (until May 11, 2021), the analysis was carried out in accordance with the Regulations on the analysis of the report of a political party on assets, income, expenses and financial liabilities, approved by the NACP Decision No. 26 of September 8, 2016 (thereinafter – Regulation).

In accordance with this Regulation, based on the results of the analysis of the political party's report on assets, income, expenses and financial liabilities, an act on the analysis of that report is drawn up. Further, based on that act, the conclusion on the results of the analysis is drafted.

	<p>Analysing the act on the analysis of the 2nd Quarter 2020 report of the political party "Novi" and the conclusion of December 14, 2020 drawn up by the NACP, the following should be noted.</p> <p>In the act on the analysis of the 2nd quarterly report of the political party "Novi" for 2020, it was established that: "The non-residential premises at the indicated address with an area of 16.2 sq.m. are located with the Party on a leasehold basis, pursuant to the non-residential premises sublease agreement of 01.09.2020 concluded with JC "Lex Consensus" Ltd (hereinafter referred to as the "Agreement"). The payable rent was UAH 3500,00 per year. Taking into account the amount of the rent, there was a risk that the Party was leasing the property at a price below the market price. Pursuant to Part 4 of Art. 14 of the Law, the provision of services to a political party at a price below the market price constitutes a contribution to the support of the political party. However, at the time of drawing up the act, it was not possible to determine the market value of the lease of the premises, as no up-to-date information was available at the date of conclusion of the Agreement.</p> <p>At the same time, according to Part 4 of Art. 14 and provisions of Art. 17 of the LPP, the provision of services to a political party at a price lower than the market price is a contribution to support the political party. Additionally, the date, amount (amount of the contribution), name, location/place of residence of the person who provided such a contribution must be reflected in the report of the political party. Failure to display that information is a violation of the completeness and reliability of the information displayed in the report.</p> <p>In accordance with Clause 2 of Chapter III of the specified Regulation, the act states the facts established during the analysis of the report about the presence or absence of violations, the measures taken to check them (in particular, correspondence, formal requests and the result of the analysis). In the specified Act, it was stated that, taking into account the decision of the Constitutional Court of Ukraine dated 27.10.2020 No. 13-r/2020, the National Agency did not have the authority to obtain additional information from the owner of the premises regarding the rental price.</p> <p>According to the decision of the Constitutional Court of Ukraine dated 10/27/2020 No. 13-p/2020, the ability to exercise some of the powers of the NACP was blocked from 27.10.2020 to 30.12.2020. Thus, NACP was deprived, in particular, of the opportunity to receive, upon its written requests, from state bodies, local self-government bodies, economic entities regardless of the form of ownership and their officials, citizens and their associations, including information with limited access, necessary for the performance of the tasks assigned to him, to receive statements from individuals and legal entities about violations of the requirements of the Law of Ukraine "On Prevention of Corruption", to carry out on his own initiative an inspection of possible facts of violations of the requirements of the Law of Ukraine "On Prevention of Corruption", to draw up protocols on administrative offences referred to by law within the competence of the NACP, including, according to articles 188-46, 212-15, 212-21 of the Code of Administrative Offences, etc. This problem was subsequently corrected by the Law of Ukraine "On Amendments to the Law of Ukraine "On Prevention of Corruption" regarding the restoration of the institutional mechanism for the prevention of corruption dated December 15, 2020 No. 1079-IX, which entered into force on December 30, 2020.</p> <p>Thus, at the time of the inspection, the NACP official had no legal grounds for making requests to clarify the fact of "renting property to the Party at a reduced price", and accordingly could not confirm or deny the existence of a violation based on the specified fact.</p> <p>The Commission did not find any other conclusions drawn up by the National Agency, which did not reflect the results of the conducted analysis, as well as a detailed statement of the content of all violations with an indication of the response measures taken (if violations were detected).</p>
	<p>6.15. Ensuring the use of software tools to detect violations of state or private financing of political parties or for submitting their financial statements (including an automated verification of political party statements of assets, income, expenses, and financial liabilities)</p>
<p>Met</p>	<p>The NACP provides software tools to detect irregularities in the public or private funding of political parties or their financial reporting (including automated verification of political parties' reporting of assets, income, expenses, and financial liabilities).</p>

The information and telecommunications system "Unified State Register of Reporting of Political Parties on Assets, Income, Expenses and Financial Liabilities" (hereinafter - POLITDATA) was put into permanent (industrial) operation on 11 May 2021 (NACP order No.252/21 of 05/07/2021).

The POLITDATA Registry provides:

- the possibility of creating personal accounts for those authorized to fill in the reports of persons involved in the preparation of reports;
- digitalization and automation of processes of preparation, sending and verification of data on Reports;
- verification of information on the Reports;
- opportunities to interact with external registers during the assessment of Reports;
- observance of the principle of transparency during the publication of depersonalized data of the Reports.

As of December 31, 2021, the following personal accounts were created in the POLITDATA Registry:

- 145 – central offices of PP;
- 3834 - regional offices of PP.

As of 12.31.2021, 89 reports of political parties were submitted (not including reports of local organisations, which are added as appendices to the report of a political party).

The POLITDATA registry analytics module made it possible to compare information from political party reports as of 31 December 2021 with 11 state registries and databases, namely:

- Database of the State-owned enterprise “National Information Systems” subsystem "Unified State Register of the Ministry of Internal Affairs";
- Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations;
- State register of property rights to immovable property;
- State register of movable property encumbrances;
- State register of acts of civil status of citizens
- State; register of civil aircraft of Ukraine;
- State ship book;
- State ship register;
- State register of natural persons - taxpayers;
- State Land Cadastre;
- Information and telecommunication system "PROZORRO”.

The POLITDATA registry began functioning on May 11, 2021. During the period from 11.05.2021 to 31.12.2021, political parties submitted 89 reports on assets, income, expenses and financial liabilities.

The logic of the analytics module of the POLITDATA Register is based on a comparative analysis of information displayed in the reports of political parties for several periods and identified signs of possible violations.

However, according to the NACP, the reports submitted by the political parties do not contain sufficient information to be verified by the analytics module. An obstacle to the operation of the analytics module of the Register in 2021 specifically for the detection of signs of irregularities and risks was its insufficient filling with party reports, i.e. the system did not contain sufficient data for processing.

The low level of reporting by the political parties was due to the quarantine restrictions imposed to prevent the spread of COVID-19.

6.16. When conducting a verification of financial statements of political parties and information on possible violations of the rules of state or private financing of political parties or violations of submission of their financial statements, authorized persons of the National Agency have taken all necessary measures stipulated in the law, including by:

- exchanging information with other state authorities;
- using open source information;
- sending information requests to foreign competent authorities;
- obtaining information that constitutes bank secret;
- obtaining information from natural and legal persons.

Met

According to the information available to the Assessment Commission, the NACP ensures that all necessary measures stipulated in the law in the process of verification of financial statements of political parties.

Table 19. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 12, part 1, paragraph 1-1, 1-2, 2-1.	<p>1. The National agency has the following rights in order to fulfil the powers assigned to it:</p> <p>1-1) to receive, in accordance with the procedure established by law, upon written requests from state bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies, economic entities regardless of the form of ownership and their officials, citizens and their associations, information, including with limited access, necessary to perform the tasks assigned to him.</p> <p>1-2) to have direct automated access to information, telecommunications and reference systems, registers, data banks, including those containing information with limited access, the holder (administrator) of which is state bodies or local self-government bodies, to use state, in including government, means of communication and communications, special communication networks and other technical means. Obtaining information from the Unified Register of Pretrial Investigations is carried out in the order and scope determined by a joint order of the National Agency and the Prosecutor General.</p> <p>2-1) to receive information from open databases, registers of foreign states, including after payment of a fee for obtaining the relevant information, if such a fee is required for access to the information.</p>

In order to fulfil the powers entrusted to it, the NACP, among other things, conducts the following:

Exchanges information with other state bodies, in particular, during the verification of financial statements of political parties, the NACP receives information from registers held by the Ministry of Justice of Ukraine and the State Executive Service of Ukraine (the Unified Register of Powers of Attorney, the State Register of Encumbrances of Movable Property, the Unified Register of Public formations, the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations, the Register of Public Associations, the State Register of Printed Mass Media and Information Agencies as Subjects of Information Activity, the Unified Register of Public Formations, the State Register of Civil Status Acts of Citizens, State Register of Real Property Rights; Unified State Register of Executive Proceedings, etc.).

	<p>In addition, according to the information provided by NACP, the Agency has direct automated access to the integrated interdepartmental information and telecommunication system "Arkan" for the control of persons, vehicles and goods crossing the state border.</p> <p>For example, during the analysis of the report of the political party "Block of Kernes - Successful Kharkiv" for the 2nd quarter of 2020, the NACP obtained an extract from the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations to obtain information about the political party from 18.01.2021 under code №421195365075, Information from the State Register of Real Property Rights and the Register of Property Rights , of the State Register of Mortgages, of the Unified Register of Prohibitions on Alienation of Immovable Property for immovable property rented by a political party (numbers of the information certificates: №240881370 dated 18.01.2021, №244616568 dated 16.02.2021, №246379211 dated 01.03.2021, 240881242 dated 18.01.2021), full extract from the State Register of Civil Status Acts of Citizens dated 03.04.2021 №00029813511, information was received from the State Register of Individual Taxpayers on the amounts of income accrued to an individual by a tax agent and/or the amount of income received by self-employed persons, as well as the amount of annual income declared by an individual in the tax declaration on assets and income and regarding the income of contributors, information from the State Register of print mass media and information agencies as subjects of information activity regarding the registration of print mass media by a political party.</p> <p>In order to bring to liability the leaders/authorized persons of political parties who did not submit reports of political parties for the 4th quarter of 2019, the NACP sent written requests to the Ministry of Justice of Ukraine (regarding obtaining copies of registration files of political parties).</p> <p>The NACP uses information from open sources. In particular, the Department for the Prevention of Political Corruption conducts monthly monitoring of risky operations of political parties by studying information from open sources (social networks, print and Internet media, outdoor and TV advertising, mass events held at the expense and for participation of political parties, information received from public organisations and citizens, etc.), after which it summarizes such information and passes it on to other structural units for use and further analysis when checking the financial statements of political parties.</p> <p>The NACP sends requests for receiving information from competent authorities of foreign countries. However, during 2020-2021, such requests were not sent due to lack of need.</p> <p>The NACP receives information that constitutes bank secrecy, in particular, in 2021, the NACP was included in the list of bodies that have the right to receive bank secrecy upon request. During 2021, the NACP sent 2 requests to banking institutions, the rest of the requests were sent directly to political parties to obtain information on the movement of funds in the bank account.</p> <p>At the same time, according to the information provided by the NACP, it continued working on the implementation of the NBU software product - "Automated workplace for exchange of non-payment information" in the NACP in 2022. In addition, banking institutions, in accordance with the procedure established by law, independently notify the NACP about the opening and closing of bank accounts of political parties, local organisations of political parties that have acquired the status of a legal entity in accordance with the established procedure.</p> <p>The NACP receives information from individuals and legal entities, in particular, the NACP sends written requests to individuals and legal entities to obtain information about activities carried out by a political party or for the benefit of a political party.</p> <p>For example, during the analysis of the report of the political party "Block of Kernes - Successful Kharkiv" for the 2nd quarter of 2020, NACP sent requests to individuals - contributors to provide information on contributions made by them to the benefit of the political party, to owners of non-residential premises to confirm the fact of concluding a lease agreement, as well as to provide copies of the specified agreement and other documents (invoices, payment orders, documents confirming the transfer of non-residential premises, etc.).</p>
<p>6.17. Implementing a system of measures to prevent unauthorized disclosure (leaks) of restricted information related to the exercise by the National Agency of state control according to legislation on political parties and the Law on Corruption Prevention</p>	
<p>Met</p>	<p>The assessment did not carry out a physical check on data protection at the NACP but examined whether the internal information protection procedures in place were sufficient. In our opinion, the</p>

procedures listed below demonstrate that the NACP has measures in place to prevent unauthorized access to sensitive information held by the NACP.

The system of measures introduced by the National Agency to prevent unauthorized disclosure (leaks) of information with limited access includes:

- development of a comprehensive system of information protection in the information and telecommunication system for which a registered positive expert opinion and certificate of compliance was received.
- personal obligation of NACP employees not to disclose information with limited access.
- personal authentication of NACP employees and logging of their actions when working with the registers of the National Agency and other systems where information with limited access is processed.
- separate categorized premises for work with information with limited access.
- use of access control and video surveillance systems when accessing the NACP premises.
- restrictions on the use of private mailboxes and other private services on official computers.
- measures carried out by the Internal Control Department and aimed at preventing the leakage of information with limited access.

Cases and any information that would indicate the disclosure (leaks) of restricted information related to the implementation of state control by the National Agency, in accordance with the legislation on political parties and the LCP have not been found.

6.18. Performing the state control over compliance with the rules of state and private financing of political parties and the submission of their financial statements in a full, objective, and unbiased manner, in particular, by following the principle of political impartiality

Met

The assessment did not disclose any facts indicating that the NACP was not fulfilling its responsibilities in a full, objective, and unbiased manner.

Table 20. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 5, part 3, paragraph 5	Person who cannot hold the office of NACP Director: is person who 1) within two years prior to submitting an application for participation in the competition for this position, was a member of the governing bodies of a political party or was in labour or other contractual relations with a political party;
LCP		Article 9.	Article 9. Guarantees of independence of the National Agency (..)The use of the National Agency in party, group or private interests is not allowed. The activity of political parties in the National Agency is prohibited.

The assessment found that information was submitted by the parliamentary political party "Holos" in the questionnaire that stated that in the case of "Holos", the actions and decisions of the NACP regarding the suspension of state funding of the political party were not only illegal, but also biased and unprofessional in nature. In particular, this approach manifested in numerous interviews and public comments of the Chairman of the NACP, as well as in non-compliance with /failure to take into account court decisions that were passed in favour of "Holos". The National Agency refused to take into account the written explanations and justifications provided by "Holos".

At the same time, this case is contested in court. On January 25, 2021, the District Administrative Court of Kyiv (DACK) opened proceedings in administrative case No.640/1437/21 on the claim of the "Holos" regarding:

	<p>-recognizing as illegal the actions of the NACP regarding the preparation of the act on the analysis of the Report of the political party on assets, income, expenses and financial liabilities dated December 21, 2020.</p> <p>- recognizing as illegal the actions of the NACP regarding drawing up a conclusion on the results of the analysis of the political party's report on assets, income, expenses and financial liabilities dated December 21, 2020 No.446;</p> <p>- recognition as illegal and annulment of the order of the NACP dated December 23, 2020 No. 592/20 "On the suspension of state financing of the statutory activities of the political party "Holos".</p> <p>The key issue of this dispute revolved around the clarification of the legal norms that determine the limits and the manner of exercise of the powers of the NACP regarding the verification of the reliability of the information submitted in the quarterly report of a political party.</p> <p>On September 4, 2021, the DACK partially satisfied the administrative lawsuit of the "Holos" and recognized as illegal and cancelled the order of the NACP December 23, 2020 No. 592/20 "On the suspension of state funding of the statutory activities of the PP "Holos". Another part of the claim was denied.</p> <p>Both the NACP and the political party "Holos" filed appeals against this decision. On June 30, 2021, the Sixth Administrative Court of Appeal dismissed the appeals of the political party "Holos" and the NACP, and the decision of the DACK of April 9, 2021 remained unchanged.</p> <p>The NACP filed a cassation challenged with the Supreme Court with a request to cancel the decision of the DACK dated September 4, 2021 and the decision of the Sixth Administrative Court of Appeal dated June 30, 2021 regarding the satisfaction of the claims and to adopt a new decision in this part, which should refuse to satisfy the claim.</p> <p>On December 14, 2021, the Supreme Court partially satisfied the cassation appeal of the NACP. The Supreme Court annulled the decisions of the DACK dated September 4, 2021 and the Sixth Administrative Court of Appeals dated June 30, 2021 in terms of the satisfaction of the claim for recognition as illegal and the cancellation of the order of the NACP o. 592/20 dated December 23, 2020 N. In relation to that claim, the case was returned to the DACK for a new hearing. In relation to other conclusions, the decision of the DACK dated September 4, 2021 and the decision of the Sixth Administrative Court of Appeal dated June 30, 2021 remained unchanged. DACK accepted the case for consideration in January 2022.</p> <p>In accordance with the Decision of the District Administrative Court of the city of Kyiv dated 18.10.2022 on closing the proceedings in case No. 640/1437/21, the political party "Holos" refused the lawsuit.</p> <p>At the same time, based on the results of the above, it can be concluded that the NACP acted impartially and did not exceed its powers during the verification of the report of the political party "Holos" and the suspension of state funding of its statutory activities. Moreover, according to other stakeholders, NACP demonstrated its impartiality during the exercise of state control. This is precisely evidenced by the decision of the NACP to stop state funding of three parliamentary parties.</p> <p>The Commission did not receive information about other facts of incomplete or biased implementation of measures of state control over compliance with the rules of state and non-state financing of political parties, as well as submission of financial statements by political parties for the reporting period.</p>
<p>6.19. Publishing on the official website of the National Agency within time limits established by the legislation of all findings based on the verification of financial statements of political parties</p>	
<p>Met</p>	<p>The NACP ensures the publishing on the official website of the National Agency within time limits established by the legislation of all findings based on the verification of financial statements of political parties.</p> <p>During 2020, the National Agency issued 774 conclusions. All conclusions prepared as a result of assessments of financial statements of political parties were published on the website of the</p>

	<p>National Agency within the statutory period in the section "Prevention of political corruption / Analysis of reports of political parties" (https://cutt.ly/VF93Njg)</p> <p>During 2021, the National Agency issued 403 conclusions. All conclusions prepared as a result of assessments of financial statements of political parties were published on the website of the National Agency within the statutory period in the section "Prevention of political corruption / Analysis of reports of political parties" (https://nazk.gov.ua/uk/analiz-zvitiv-politychnyh-partij-2021-rik-)</p> <p>At the time of the assessment, it was difficult to verify this information, since from February 24, 2022, access to certain information on the official website of the NACP is limited due to the martial law, including the conclusions prepared as a result of the assessment of the financial statements of political parties.</p> <p>At the same time, the Commission did not receive any comments from other stakeholders regarding the NACP's violation of the deadlines for publishing the conclusions prepared based on the results of the assessment of the financial statements of political parties.</p>
<p>6.20. Reviewing, according to the procedure established in legislation and without unreasonable delays, petitions and notifications of natural and legal persons on potential violations of the rules of state or private financing of political parties, or the submission of their financial statements</p>	
<p>Met</p>	<p>On the basis of the facts available in the framework of the assessment, the NACP has carried out checks on the facts contained in the petitions and notifications received without unreasonable delays.</p> <p>According to the information provided by the NACP, during 2020, it received four reports about potential violations of the rules of state or private financing of political parties or their submission of financial statements. This seemingly very low number of reports received indicates either that there are informal channels of information, such as e-mails or other electronic messages, which are not recorded, or that there is indeed very low public interest and data availability on these issues. The Assessment Commission therefore recommends that the NACP should do more to promote the opportunities for providing information and also to record messages received outside official correspondence.</p> <ol style="list-style-type: none"> 1. Application dated 05.10.2020 regarding alleged campaigning not from the election fund, 2. Application dated 07.10.2020 regarding probable campaigning not from the election fund, 3. Application dated 13.10.2020 regarding alleged non-compliance with the requirements of the law on party financing and 4. Application dated 28.10.2020 regarding the verification of the origin of funds of the candidate's election fund for the position of mayor. <p>The NACP took into account the information from the three reports, but due to the decision of the Constitutional Court of Ukraine No 13-p/2020 of 27.10.2020, which declared several powers of the National Agency to be unconstitutional in the view of the Court, this information could not be used further.</p> <p>The information specified in the first notification did not belong to the competence of the NACP, and the applicant (the person who provided the information) was informed accordingly. The facts of delays in providing answers to such reports have not been established.</p> <p>During 2021, the NACP received two reports about potential violations of the rules of state or private financing of political parties or their submission of financial statements.</p> <p>The notice dated 04/15/2021 regarding alleged non-representation of advertising expenses in full in the report of a candidate for People's Deputies and the application dated 31.05.2021 regarding alleged non-compliance with the requirements of the law regarding party financing. The NACP noted that, based on the results of their review, the allegations of violations were not confirmed.</p> <p>The facts of delays in providing answers to such messages have not been revealed.</p> <p>There have been no court cases on lawsuits regarding the violation of deadlines or other provisions of the legislation that regulates the consideration of appeals and reports on the facts of</p>

	violations of the rules of state or private financing of political parties or their submission of financial statements
6.21. At least 50 percent of the violations detected by verification of financial statements of political parties are related to the accuracy of information disclosed in financial statements of political parties or unlawful financing	
Insufficient information to reach a conclusion on the compliance	<p>The Assessment Commission expresses its doubts about the applicability of a criterion based on the requirement for the NACP to ensure that at least 50% of the irregularities detected are committed in a specified manner. The supervisory authorities can only detect the infringements that are committed. If the State considers that certain types of infringements are minor, then in such cases either a weaker sanction or an exemption from the application of liability is envisaged. The NACP has no legal right to refuse to examine or detect any violation found. This criterion in the methodology is not derived from the law, but is based on a false assumption, so we consider it necessary to point out that such an assessment may lead to incorrect results.</p> <p><u>Minor issues:</u></p> <p>The NACP indicated in the Questionnaire that "in 2020, 115 violations were detected, of which 82 violations or more than 71% related to the reliability (accuracy) of information or illegal financing. And in 2021, violations were found in 125 reports related to the reliability of information provided in financial reports or illegal financing, which is 83.89% of the total number of violations detected in such reports. And that it is not possible to single out violations related to accuracy or illegal financing separately."</p> <p>However, it seems that this information may be questioned. Since according to the information specified in the Report on the Implementation of the Work Plan of the National Agency for the Prevention of Corruption for 2020, approved by the Order of the NACP No. 160/21 dated 10.03.2021 (clause 7.3, link: https://nazk.gov.ua/wp-content/uploads/2021/03/Zvit-pro-vykonannya-Planu-roboty-za-2020-rik.pdf), during 2020, the following number of protocols on administrative offences were drawn up:</p> <ul style="list-style-type: none"> - three protocols under Art. 212-15 of the Code of Administrative Offences; - 250 protocols under Art. 212-21 of the Code of Administrative Offences. <p>Furthermore, the materials relating to 22 allegations of violations of the legislation, which are the basis for bringing to criminal responsibility, were sent to the National Police.</p> <p>Further, in accordance with the information specified in Appendix 1 to the Report on the activities of the NACP for 2021 (paragraph 5.24-5.25, https://nazk.gov.ua/wp-content/uploads/2022/06/Dodatok_1_Stan_vykonannya_KPI_NAZK.pdf), it is indicated that as a result of checking the reports, 296 protocols on administrative offences were drawn up, of which:</p> <ul style="list-style-type: none"> 113 under Art. 212-15 CAO; 171 under Art. 212-21 CAO. <p>Thirty-two reports on detection of signs of a criminal offence were submitted to the National Police.</p> <p>Article 212-15 of the CAO provides for liability for violation of the procedure established by law for providing or receiving a contribution to support a political party (or support for pre-election campaigning or referendum campaigning). Therefore, all protocols drawn up for violations provided for in this article can be considered as related to illegal financing.</p> <p>And Article 212-21 of the CAO provides for liability for violation of the established procedure or deadlines for submitting a financial report on the receipt and use of election fund funds, a report of a political party on assets, income, expenses and financial liabilities or submitting a financial report issued in violation of the established requirements. And precisely one of the violations of the established procedure for submitting a financial report is the submission of a report with inaccurate information (clause 5 of the Regulation on the procedure for submitting the Report of a political party on assets, income, expenses, and financial liabilities, approved by the decision of the NACP No. 2 dated 07.28.2016: "The information contained in the Report must be accurate").</p>

	<p>Hence, it is necessary to analyse the protocols under Article 212-21 of the CAO to understand whether they relate to the issue of the reliability of the information provided in the financial reports of political parties.</p> <p>All materials sent to the National Police on the detection of signs of a criminal offence provided for in Art. 159-1 of the Criminal Code of Ukraine, related to the issues defined by this criterion (accuracy of information disclosed in financial statements of political parties or illegal financing).</p>
<p>6.22. If a verification of financial statements of political parties or of information on violations of laws on the financing of political parties reveals signs of violations that serve as grounds for administrative liability, necessary measures are taken to bring to liability those guilty</p>	
<p>Not met</p>	<p>The NACP has carried out a significant amount of work on the financial statements of political parties, but the assessment's sample testing has identified discrepancies that prevent it from making a judgement that if a verification of financial statements of political parties or of information on violations of laws on the financing of political parties reveals signs of violations that serve as grounds for administrative liability, necessary measures are taken to bring to liability those guilty.</p> <p>The assessment carried out a sample check to ascertain the situation regarding the application of administrative liability for infringements in the area of control of political party funding. Although the statistical summary provided by the NACP shows a high volume of NACP work (253 administrative offence reports were issued in 2020 and 296 in 2021), a court ruling was identified which detected a delay in bringing persons to administrative liability. Given that the court found the deadline for bringing a person to administrative responsibility has expired under Art. 212-15 of the CAO since the NACP sent the protocol materials to the court 6 months and 18 days after the discovery of the violation, we are forced to find that the NACP does not meet this criterion. We do not know whether this is the only case or whether there are several such cases, but the fact that the delay was significant justifies this assessment. In addition, as indicated above for Q4 2019, 79 political parties were identified that did not submit their accounts. However, administrative offence reports for breach of reporting deadlines (Articles 212-21 of the Code of Administrative Offences) were issued to only 30 leaders of such political parties.</p> <p>According to the information provided by NACP:</p> <p>In 2020, the verification of 774 submitted reports of political parties was ensured, and based on the results of the verification, 253 protocols on administrative offences were drawn up, of which:</p> <ul style="list-style-type: none"> - according to Art. 212-15 of the CAO - 3 for violation of the procedure established by law for providing or receiving a contribution to support a political party, - according to Art. 212-21 of the CAO – 250, of which: <ul style="list-style-type: none"> - 12 protocols for violating the established procedure or deadlines for submitting a financial report on the receipt and use of election funds; - 238 protocols for violation of the established procedure for drawing up a report of a political party on assets, income, expenses, and financial liabilities or submitting a financial report drawn up in violation of the established requirements. <p>In 2021, the verification of 403 submitted reports of political parties was ensured, and based on the results of the verification, 296 protocols on administrative offences were drawn up, of which:</p> <ul style="list-style-type: none"> - according to Art. 212-15 of the CAO - 113 protocols for violation of the procedure established by law for providing or receiving a contribution to support a political party; - according to Art. 212-21 of the CAO – 171 protocols for violation of the established procedure for drawing up a report of a political party on assets, income, expenses, and financial liabilities or submitting a financial report drawn up in violation of the established requirements of the law; <p>Materials on administrative offences were not transferred to other authorized state bodies. According to the available information of the NACP as of 30.11.2022, all administrative protocols were sent to the court within the time limits provided by law.</p> <p>At the same time, a selective analysis of individual cases was conducted, and the following was found out.</p>

According to the results of the analysis of the report of the political party for the II quarter of 2020, submitted by the political party "BLOCK OF KERNES - SUCCESSFUL KHARKIV!" on January 15, 2021, a number of violations were discovered, which are the basis for drawing up protocols on an administrative offence, provided for in Art. 212-15 of the CAO. Namely, "Akvaizol" LLC and "VEGA-BUD" LLC violated Clause 9, Part 1, Art. 15 of the LPP. The specified violations were detected and recorded on 11.03.2021 in the Act on the analysis of this party Report and in the conclusion on the results of the analysis dated 11.03.2021 No. 552, approved by the order of the National Agency dated 12.03.2021 No. 164/21.

On May 7, 2021, protocols were drawn up on administrative offence No. 53-15/93 against the head of Akvaizol LLC, and No. 53-15/94 against the head of VEGA-BUD LLC.

However, in the Decision of the Dergachiv District Court of the Kharkiv Region dated December 15, 2021, in the case of an administrative offence based on the materials of protocol No. 53-15/93 (regarding the head of Akvaizol LLC), it is noted: "as can be seen from the administrative offence protocol, PERSON_1 is subject to administrative responsibility under Art. 212-15 of the CAO, which was discovered on 11.03.2021, the case materials were received by the court on 29.09.2021, i.e. as of 29.09.2021, 6 months and 18 days have passed since the discovery of the offence, i.e. the deadline for bringing PERSON_1 to administrative responsibility has expired under Art. 212-15 of the CAO. In addition, the court considers that "NACP did not fulfil the requirements of the law regarding the proper registration of materials about an administrative offence, which deprives them of their evidentiary value and indicates the lack of evidence and the absence of the event and composition of the administrative offence against PERSON_1 under Art. 212-15 of the CAO".

This does not indicate that appropriate measures have been taken to bring the culprits to justice.

6.23. If a verification of financial statements of political parties or of information on violations of laws on the financing of political parties reveals signs of violations that serve as grounds for criminal or other types of liability under the law, the National Agency, within five days of becoming aware of such signs, notifies agencies (officials) authorized under the law to bring to liability persons committing such violations and forwards materials confirming the offence concerned to respective agencies (officials)

Met

According to the information provided by the NACP, in 2020, as a result of the inspections, signs of 22 criminal offences were detected, and 22 reports were sent to the National Police about the detection of signs of a criminal offence with the addition of relevant materials. This means that the NACP fulfils its statutory obligation to inform law enforcement authorities about signs of violations that serve as grounds for criminal or other types of liability under the law.

Table 22. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LPP	In the version on November 24, 2021	Article 17, part 26	In the event that during the inspection of the report of the political party on assets, income, expenses and financial liabilities or during the inspection of information on violations of the legislation in the field of financing of political parties, signs of violation of the requirements of the legislation are found, which are grounds for bringing to administrative, criminal or other the responsibility provided for by law, the National Agency for the Prevention of Corruption within five days from the date of detection of the relevant signs shall notify the bodies (officials) authorized to ensure the prosecution of persons who have violated the requirements of the law to the responsibility provided for by law, and shall send to the relevant authorities (officials) materials confirming the fact of committing the corresponding offence, or ensures that relevant persons are held accountable within the limits of their powers.

According to the information provided by the NACP, in 2020, as a result of the inspections, signs of 22 criminal offences were detected, and 22 reports were sent to the National Police about the detection of signs of a criminal offence with the addition of relevant materials, from which:

- 15 reports on violations of the procedure for financing a political party;
- 6 reports on the submission of notoriously inaccurate data;
- 1 notice of obstruction of the right to vote.

Authorities of the National Police of Ukraine opened 6 criminal proceedings based on 10 reports; 5 messages are being checked; 2 proceedings were closed based on 3 reports; according to 4 reports, no grounds were found for inclusion in the Unified Register of Pretrial Investigations.

The adoption of decisions by the National Police regarding the closure of criminal proceedings is justified by Clause 2, Part 1, Art. 284 of the Criminal Procedure Code of Ukraine, namely: "establishment of the absence in the act of the composition of a criminal offence."

In 2021, the NACP identified signs of criminal offences in 35 cases and sent 35 reports to the National Police on the detection of signs of criminal offences with the addition of relevant materials, including:

- 25 reports on violations of the procedure for financing a political party;
- 9 reports on the submission of notoriously inaccurate data;
- 1 notice of obstruction to the exercise of the right to vote.

The materials were not forwarded to other bodies authorized to ensure the imposition of other types of responsibility.

Authorities of the National Police of Ukraine opened criminal proceedings on 23 reports; verification of 3 messages is in progress; according to 2 reports, the opening of criminal proceedings and the entry of information into the Unified Register of Pretrial Investigations were refused; criminal proceedings were closed on 7 reports.

The adoption of decisions by the National Police regarding the closure of criminal proceedings is justified by Clause 2, Part 1, Art. 284 of the Criminal Procedure Code of Ukraine, namely: "establishment of the absence in the act of the composition of a criminal offence."

At the same time, a selective analysis of individual cases was conducted, and the following was found out.

According to the results of the analysis of the report of the political party for the II quarter of 2020, submitted on January 15, 2021 by the political party "BLOCK OF KERNES - SUCCESSFUL KHARKIV!", signs of criminal offences provided for in Art. 191, Part 1 of Art. 159-1, Part 1 of Art. 366 of the Criminal Code of Ukraine were detected.

The specified violations were detected and recorded on 11.03.2021 in the Act on the analysis of the Party Report and in the Conclusion on the results of the analysis of the Party Report dated 11.03.2021 No. 552, approved by the order of the National Agency dated 12.03.2021 No. 164/21. The notification of the detection of the specified signs of criminal offences was sent by the National Police of Ukraine to the National Police of Ukraine within five days from the date of detection of the relevant signs, as required by Part 26 of Article 17 of the Law (letter No. 52-03/14728/21 dated March 16, 2021).

According to the results of the analysis of the report of the political party for the 1st quarter of 2020, submitted on September 10, 2020 by the political party "All-Ukrainian Association "Batkivshchyna", signs of criminal offences provided for in part 1 and 5 of Article 191, part 1 and 2 of Art. 159-1, Part 1 of Art. 366 of the Criminal Code of Ukraine were detected.

The specified violations were detected and recorded on 05.11.2020 in the Act on the analysis of the Party Report and in the Conclusion on the results of the analysis of the Party Report dated 05.11.2020 No. 390, approved by the order of the National Agency of 06.11.2020 No.510/20.

The notification of the detection of the specified signs of criminal offences was sent by the National Police of Ukraine to the National Police of Ukraine within five days from the date of detection of the relevant signs, as required by Part 26 of Article 17 of the Law (letter No.52-05/60562/20 dated November 9, 2020).

6.24. If the National Agency detects facts suggesting that funds allocated in the state budget to finance statutory activities of a political party were used by the party to finance its participation in the elections of

people's deputies of Ukraine, elections of the President of Ukraine, local elections, or for purposes not related to statutory activities, a claim is promptly filed with a court to establish such facts

Not met due to an external factor

According to the results of the NACP's control activities on compliance with the rules on the use of state funding by political parties, as well as on the submission of financial statements by political parties in 2020-2021, no such facts were found.

The assessment found that, to the best of its knowledge, the relevant legal framework is currently not fully applicable.

Changes to the law are needed, especially a procedure for establishing facts for natural persons, which we recommend the NACP develop and take to the legislature.

6.25. Not more than 10 percent of cases of violation of legislation on parties referred by the National Agency to law enforcement authorities or courts are closed due to the expiration of the statute of limitations because of unreasonable delays by the National Agency

Insufficient information to reach a conclusion on the compliance

The proportion of administrative offence cases that have been dismissed by the courts due to the expiration of the statute of limitations exceeds 10% of all cases handled by the NACP. The total number of cases in this category handled by the NACP was 585, while the total number of cases dismissed by the Court identified by the assessment was 112, which is well above the 10%. At the same time, the assessment cannot establish that the delays were unreasonable. Consequently, the assessment has decided not to conclude on this criterion, given that the assessment has no information on whether cases have been closed due to the expiration of the statute of limitations because of unreasonable delays by the National Agency

During 2020, NACP drew up and sent to court 253 protocols on administrative offences related to violations of the rules of political financing.

Table 23.

	2020	2021
Art. 212-15 of the CAO (violation of the procedure established by law for providing or receiving a contribution to support a political party)	3	
Art. 212-21 of the CAO	250	
Total number of cases per year	253	332
Number of cases reviewed by the assessment or for which information is available	156	261
Number of cases the courts made a decision to close the proceedings as a result of the expiration of the term of administrative liability in accordance with Art. 38 of the CAO.	81	31
10% of all cases of violation of legislation on parties referred to courts	25	33

250 protocols under Art. 212-21 of the CAO (of which: 12 protocols for violation of the established procedure or deadlines for submitting a financial report on the receipt and use of election fund funds, and 238 protocols for violation of the established procedure for drawing up a report of a political party).

According to the information provided by the NACP in the Questionnaire (paragraph 6.25.1), during 2021, the NACP compiled and sent to court 332 protocols on administrative offences related to violations of the requirements of the legislation on political parties. Out of 261 reviewed cases (for which there is information about the outcome of the review), in 31 cases the courts made a decision to close the proceedings as a result of the expiration of the term of administrative liability in accordance with Art. 38 of the CAO.

In Appendix 1 to the Report on the activities of NACP for 2021 (paragraph 5.27, link: https://nazk.gov.ua/wp-content/uploads/2022/06/Dodatok_1_Stan_vykonannya_KPI_NAZK.pdf) the same information is indicated.

Other issues not covered by the indicator.

	<p>However, information is also noted that in 79 cases (according to these protocols), the courts made decisions to close the proceedings due to the lack of an administrative offence (namely, the absence of a clearly defined subject in the provisions of Article 212-21 of the CAO).</p> <p>At the same time, according to the information provided by NACP in paragraph 6.22.1. Questionnaires, during 2021, 296 protocols on administrative offences were drawn up by NACP, of which:</p> <p>according to Art. 212-15 of the CAO - 113 protocols;</p> <p>according to Art. 212-21 of the CAO - 171 protocols.</p> <p>And according to the information specified by the NACP in clause 6.22.1. Questionnaires in 2021 according to Art. 212-15 of the CAO (violation of the procedure for providing or receiving a contribution to support a political party) 119 protocols were drawn up by the NACP, of which, according to the results of the analysis of the reports of the political party - 113, violation of the procedure for receiving financial (material) support for the implementation of the election campaign - 6 protocols. Results of consideration of administrative cases by courts as of February 11, 2022:</p> <p>70 - found guilty;</p> <p>17 - closed due to lack of offence;</p> <p>13 - the proceedings were closed due to the expiration of the terms of prosecution;</p> <p>19 - are under consideration in courts.</p> <p>Thus, the Commission does not have clear and reliable data based on the results of analysis of which the activity of NACP can be evaluated according to this criterion.</p> <p>In addition, you should pay attention to the following.</p> <p>According to the results of the analysis of the materials for evaluating the activity of the NACP regarding the achievement of criterion 6.13. (taking by the NACP without unreasonable delays all appropriate measures to prosecute persons guilty of violating the deadlines for submitting such reports) it was found that in order to obtain information for drawing up protocols on violators for non-submission of reports by political parties, NACP took the necessary measures with unjustified delays. For example, the necessary requests to the Ministry of Justice were sent by the NACP after a significant period of time from the day of detection of offences (the vast majority after almost 2 months), some requests were sent after almost 3 - 4 months.</p> <p>There are also many cases when the NACP sent a cover letter and materials of the protocol on an administrative offence not within 5 days (as required by Part 26 of Article 17 of the LPP), but after 10-20 days from the date of drafting such a protocol.</p> <p>It is clear that court cases opened under such administrative offence protocols will most likely be closed in the future due to the expiration of the penalty period at the time of hearing the case (3 months in accordance with Article 38, 247 of the Code of Administrative Offences as amended until 04.19. 2020).</p>
<p>6.26. The number of cases where the National Agency issued directions to eliminate violations committed by political parties is at least 70 percent of cases of detection of offences that do not involve any other type of liability</p>	
<p>Met</p>	<p>In 2020, the National Agency did not identify any cases of infringements which are subject to other types of liability or to the issuance of orders to remedy infringements committed by political parties.</p> <p>In 2021, the National Agency identified 2 cases of infringements of legislation committed by political parties which do not involve any form of liability other than criminal or administrative. As a result, 2 orders were issued to remedy such infringements.</p>
<p>6.27. In case of detecting facts that serve as a ground for suspending the financing of statutory activities of a political party, the National Agency decides to suspend the financing of the statutory activities of the party concerned</p>	

Met

The NACP ensured the suspension of the financing of statutory activities of a political party in case of detecting facts that served as a ground for such a suspension, including upon receipt of an application from a political party requesting the suspension of public funding.

During the reporting period, the NACP suspended state financing of the statutory activities of three political parties: "Servant of the People", "VO "Batkivshchyna", and "Holos".

Based on the conclusion No. 542 on the results of the analysis of the report submitted by the "Servant of the People" political party for the first quarter of 2020, dated 26.02.2021, and the conclusion No. 543 on the results of the analysis of the Report submitted by the "Servant of the People" political party for the second quarter of 2020, dated 26.02. 2021., approved by the NACP Order No. 133/21 dated 26.02.2021, the state funding of the statutory activities of this political party was stopped until the causes that led to the suspension of state funding of its statutory activities are eliminated in accordance with the provisions of the Law of Ukraine "On Political Parties in Ukraine" (the NACP Order No. 134/21 dated March 1, 2021 "On the suspension of state funding of the statutory activities of the political party "Servant of the People").

After the submission on 22.03.2021 of clarifying reports on the elimination of the causes that led to the suspension of state funding of the political party "Servant of the People", state funding was restored (the NACP Order No. 190/21 dated 26.03.2021 "On the restoration of state funding of the statutory activities of the political party "Servant of the People" people").

2) The NACP found violations in the report of the political party VO "Batkivshchyna" for the first quarter of 2020. In particular, regarding the reporting of regional organisations of the party and its central office, namely: the absence of a report of the city organisation of the party in the city of Ukrainka; lack of information on the existence of financial obligations to "Fineit" LLC for 45 thousand hryvnias; contracts with a number of companies for a total amount of more than 14 million hryvnias were dated before the bank accounts specified in them were opened, in which the NACP sees signs of a violation of Article 203 of the Civil Code of Ukraine (it concerns the expenditure of funds that the party received from the state budget as compensation for expenses for the parliamentary election campaign).

In this regard, on the basis of the conclusion on the results of the analysis of the report of the political party on the property, income, expenses and financial obligations of the PP "VO "Batkivshchyna" for the first quarter of 2020, approved by the NACP Order No. 510/20 dated 06.11.2020, the state funding of the statutory activities of the party was stopped for the fourth quarter of 2020 (the NACP Order No. 513/20 dated 09.11.2020 "On the suspension of state funding of the statutory activities of the political party VO "Batkivshchyna").

PP "VO "Batkivshchyna" submitted a clarifying report, in which it eliminated the violations, as a result of which the NACP resumed state funding of this political force (NACP Order No. 612/20 dated 31.12.2020 "On the restoration of state funding of statutory activities of the political party "VO "Batkivshchyna").

3) The NACP established that the "Holos" party executed a number of contracts with private individuals-entrepreneurs in the amount of about UAH 1.1 million regarding services, the performance of which was not properly documented. Such services include media monitoring, information search, sociological research, etc.

In this regard, the state financing of the statutory activities of the political party "Holos" was stopped in accordance with the NACP Order No. 592/20 dated 23.12.2020, adopted on the basis of the Conclusion approved by the NACP Order No. 584/20 dated 21.12.2020 "On the results of the analysis Report of the political party on the property, income, expenses and financial obligations of the "Holos" political party for the 2nd quarter of 2020."

The party appealed this decision in court.

On 01.25.2021, the District Administrative Court of Kyiv (DACK) opened proceedings in administrative case No.640/1437/21 on the claim of the PP "Holos" to the NACP regarding:

-recognizing as illegal the actions of the NACP regarding the preparation of the act on the analysis of the Report of the political party on property, income, expenses and obligations of a financial nature dated December 21, 2020;

- recognizing as illegal the actions of the NACP regarding drawing up a conclusion on the results of the analysis of the political party's report on property, income, expenses, and financial liabilities dated 12.21.2020 No.446, approved by the order of the NACP dated 12.21.2020 No. 584/20;

- recognition as illegal and annulment of the order of the NACP dated 23.12.2020 No. 592/20 "On the suspension of state financing of the statutory activities of the political party "Holos".

The key issue of this dispute was the clarification of the legal norms that determine the limits and the manner of exercise of the powers of the NACP regarding the verification of the reliability of the information submitted in the quarterly report of a political party.

On 04.09.2021, by the decision of the DACK, the administrative lawsuit of the PP "Holos" was partially satisfied, recognized as illegal and canceled the order of the NACP dated 12/23/2020 No. 592/20 "On the suspension of state funding of the statutory activities of the PP "Holos". Another part of the claim is denied.

Both NACP and the political party "Holos" filed appeals against this decision.

On June 30, 2021, the Sixth Appeals Administrative Court dismissed the appeals of the political party "Holos" and NACP, and the decision of the DACK of April 9, 2021 remained unchanged.

NACP filed a cassation appeal with the Supreme Court with a request to cancel the decision of the DACK dated 04.09.2021 and the decision of the Sixth Administrative Court of Appeal dated 06/30/2021 regarding the satisfaction of the claims and to adopt a new decision in this part, which should refuse to satisfy the claim.

By the decision of the Supreme Court dated 14.12.2021, the cassation appeal of the NACP has been partially satisfied - the decision of the DACK dated 09.04.2021 and the decision of the Sixth Administrative Court of Appeals dated 30.06.2021 have been canceled in terms of the satisfaction of the claim for recognition as illegal and the cancellation of the order of the NACP dated 23.12.2020 year No. 592/20. In this part, the case was referred to the DACK for a new consideration. In the other part, the decision of the DACK dated 04/09/2021 and the decision of the Sixth Administrative Court of Appeal dated 06/30/2021 were left unchanged.

It should be noted that the Supreme Court in this decision indicated that "the courts of previous instances incorrectly applied the norms of substantive law and made an erroneous conclusion that the NACP exceeded its powers." And "courts of previous instances did not examine the set of evidence necessary to confirm or refute the realism and veracity of the disputed expenses of the PP "Holos", did not fully establish the circumstances essential to the case, thereby violating the requirements of the procedural law regarding a direct, comprehensive and complete examination of the evidence."

DACK accepted the case for consideration in January 2022.

The decision of the DACK dated October 18, 2022 closed the proceedings in case No. 640/1437/21 in connection with the refusal of the political party "Holos" from the lawsuit.

6.28. In case of detecting facts that serve as a ground for terminating the financing of statutory activities of a political party, the National Agency decides to terminate the financing of the statutory activities of the party concerned

Met The NACP terminates the financing of statutory activities of a political party in case of detecting facts that serve as a ground for this.

Table 24. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LPP	In the version on November 24, 2021	Article 17-8, part 1	<p>Grounds for termination of state funding of the statutory activity of a political party are:</p> <p>1) the application to the political party of measures of a criminal legal nature, provided for by the Criminal Code of Ukraine, in accordance with the procedure established by law;</p> <p>2) repeated commission of any of the following violations within a year: failure by a political party to</p>

				<p>submit to the National Agency for the Prevention of Corruption within the period established by this Law the report of the political party on property, income, expenses and obligations of a financial nature; submission by a political party to the National Agency for the Prevention of Corruption of a report of a political party on property, income, expenses and obligations of a financial nature, drawn up in gross violation of established requirements, or a report that contains inaccurate information about the property of a political party or funds or expenses of a political party in the amount of more than twenty amounts of the minimum wage established on January 1 of the corresponding calendar year; intentional receipt by a political party of a contribution received from a person who did not have the right to make such a contribution, or in an amount exceeding the amount established by this Law;</p> <p>3) reorganisation (except merger and joining other political parties), liquidation (self-dissolution) of a political party;</p> <p>4) prohibition of the activity of a political party, annulment of the registration certificate of a political party in accordance with the procedure established by law;</p> <p>5) establishment by the court, at the request of the National Agency for the Prevention of Corruption or the Accounting Chamber, of facts that indicate that the funds allocated from the state budget to finance the statutory activities of a political party were used by the political party to finance its participation in the elections of People's Deputies of Ukraine, elections of the President of Ukraine, local elections or for purposes not related to the implementation of its statutory activities;</p> <p>6) non-use of funds received for financing the statutory activities of a political party within one year from the day when such funds were first credited to a separate account of the political party in a bank institution;</p> <p>7) repeated crediting during the year to a separate account of a political party, opened in an institution of the Bank of Ukraine for the crediting of state budget funds for financing the statutory activities of a political party, funds that are prohibited to be credited to such an account in accordance with this Law;</p> <p>8) submission by a political party to the National Agency for Prevention of Corruption of an application to refuse state funding</p>
<p>According to the information provided by the NACP for 2020-2021, based on the results of state control measures carried out by the National Agency on compliance with the rules of state and non-state funding of political parties (including the verification of financial reports submitted by political parties on the state of assets, income, expenses and financial liabilities), grounds for decision-making on the termination of financing of the statutory activity of a political party were not identified.</p> <p>Other grounds for termination of funding of the statutory activity of a political party, provided for in Part 1 of Article 17-8 of the LPP, which would have been established by other bodies during 2020-2021, did not exist.</p>				
<p>6.29. Publishing statistics on the situation with compliance in Ukraine with the rules of financing of political parties and the submission of their financial statements</p>				
<p>Met</p>	<p>Although there is no comprehensive statistical overview of the situation with compliance in Ukraine with the rules of financing of political parties and the submission of their financial statements, limited statistical information on compliance with political party financing rules and</p>			

financial reporting in Ukraine was found in the reports on the activities of the National Agency in 2020 and 2021, and the reports on the implementation of the work plan of the National Agency in 2020 and 2021.

Table 25. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 11, part 1, paragraph 1	1. The powers of the National Agency include: 1) analysis: statistical data, research results and other information regarding the corruption situation;

According to the information provided in the NACP questionnaire, the Department for the Prevention of Political Corruption regularly provided the Department for Communications and Information Policy with statistical data on compliance with the rules on financing political parties in Ukraine and their financial reporting for publication on the official website of the National Agency (<https://nazk.gov.ua/uk/novyny>) and social media pages.

The page "Monitoring of the NACP activity" was developed, which provided information in accordance with the Regulation on information content and technical support of the NACP official website, approved by the NACP Order No 605/20 of 12.29.2020 (hereinafter - the Regulation on information content). Link to the website:

<https://nazk.gov.ua/uk/monitoryng-diyalnosti-natsionalnogo-agenstva/>.

Although this fact relates to the post-assessment period, we note that since 24 February 2022, access to this information on the NACP's official website has been restricted due to martial law. It is not clear how this statistical information is related to the interests of national security, territorial integrity, the protection of information or public order, the prevention of disorder or crime, the protection of public health, the protection of the reputation or rights of others, or the prevention of disclosure of information obtained in confidence or the maintenance of the authority and impartiality of the rule of law. The Commission is not convinced that the disclosure of this information is likely to cause substantial harm to those interests and that the harm from disclosure outweighs the public interest in obtaining it. In particular, the existence of the above requirements may be a reason for restricting access to information.

In accordance with the NACP Regulation on the Provision of Information by the Units of the NACP Apparatus, the Department for the Prevention of Political Corruption provides the Department of Communications and Information Policy with information on compliance with the rules on financing and financial reporting of political parties in Ukraine, in particular the following information for the units:

- public calls for clarifications - every Friday by 13.00;
- reports drawn up within the competence of the NACP and court decisions taken on the basis of the reports drawn up - every Friday before 13.00;
- preliminary rulings within the competence of the NACP - every Friday before 13.00;
- public funding of political parties - on the next working day following the transfer of funds;
- verification of political parties' accounts - every Friday before 13.00.

However, it was difficult to consider such information as statistical data (a set of data quantifying the characteristics of certain objects and phenomena of interest to us); rather, it is descriptive information on current activities. This was also noted by other interested parties in their respective questionnaires. For example, the official website of the NACP does not contain information on the amount of state funding received by political parties for statutory activities in 2020 or 2021. Moreover, the website contains only isolated publications informing about the allocation of funds within a given quarter. There is also no statistical information on the amount of private donations, the number of donors, the average amount of donations, the number of reports drawn up on breaches of the rules on political funding and the results of their consideration by courts, etc.

Limited statistical information on compliance with political party financing rules and financial reporting in Ukraine was found in the reports on the activities of the NACP in 2020 and 2021, the reports on the implementation of the work plan of the NACP in 2020 and 2021, as well as in the "News" section of the official website of the NACP (link: [З початку року НАЗК направило до суду 110 адмінпротоколів стосовно порушень з боку політичних партій | НАЗК \(nazk.gov.ua\), https://nazk.gov.ua/uk/zvity/](https://nazk.gov.ua/uk/zvity/)) This is in particular the number of reports submitted and verified by political parties and the number of protocols drawn up on violations of the rules on financing political parties, on allocation of public funds for financing activities defined in the statutes of political parties, etc. However, the enumerated information is difficult to find and not easy to process and use in the state control of the NACP's activities. Also, the methodology for collecting such information is not always clear.

6.30. Conducting regular surveys of political party representatives and the public concerning the effectiveness of the National Agency work in preventing violations of the rules of private or state funding of political parties or the submission of their financial statements

Met

The NACP organised surveys of political party representatives and the public concerning the effectiveness of the National Agency work in preventing violations of the rules of private or state funding of political parties. At the same time, the Commission points out that the sample of respondents to the surveys is very small - 26 or 29 - and that a large proportion of them are from the political parties being assessed. These surveys did not achieve the objective of surveying the public. Given the large number of political parties in Ukraine, the sample size and representativeness of the survey may not be sufficiently representative.

Table 26. Relevant legal provisions

Statutory document	Entry in force	Reference	Relevant legal provisions
LCP	In the version on December 9, 2021	Article 11, part 1, paragraph 15	

In the framework of the Memorandum of 19.05.2020 on cooperation in the provision of technical assistance between the NACP and the International Foundation for Electoral Systems (IFES), two surveys of representatives of political parties and public organisations were conducted in December 2020 and December 2021 on the effectiveness of the NACP in combating irregularities in the private or public funding of political parties or in the submission of their financial statements.

Based on the results of the surveys, the NACP received from IFES the reports on the results of the surveys on the effectiveness of the NACP in combating infringements of the rules on private or public funding of political parties or their financial reporting in 2020 and 2021.

In 2020 and 2021 respectively, 26 and 29 representatives of political parties and public organisations took part in the survey. In accordance with the specified Reports prepared by IFES, the respondents gave mostly favourable feedback on the performance of the NACP's main functions of monitoring compliance with the rules of private and state financing of political parties and their submission of financial statements:

Thirteen interviewees in 2020 and 17 in 2021 believed that the NACP effectively implemented the functions of developing and approving by-laws, as well as improving the legislation on the financing of political parties. Ten people in 2020 and eight people in 2021 expressed the opposite opinion. Seventeen respondents favourably assessed how the NACP carried out control over compliance with restrictions on financing political parties and election campaigns in 2020 and 2021, and eight assessed the implementation of this function negatively.

According to 21 survey participants in both 2020 and 2021, the NACP successfully analysed the reports of political parties on property, income, expenses, and financial liabilities, while five respondents in 2020 and seven respondents in 2021 disagreed with this statement.

Evaluations of the effectiveness of control over the legal and targeted use of state funding were also mostly positive, confirmed by the answers of 15 respondents in 2020 and 2021. Seven people in 2020 and eight respondents in 2021 evaluated the performance of this function negatively.

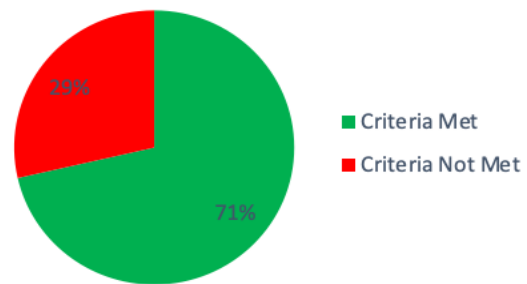
	<p>Eleven respondents in 2020 and 17 respondents in 2021 gave a favourable assessment to the actions of the NACP regarding its role in accountability for perpetrators and interaction with other state bodies. While according to eleven respondents in 2020 and eight respondents in 2021, such actions were ineffective.</p> <p>Most of the survey participants (24 people in 2020 and 21 people in 2021) positively assessed the efforts of NACP in publishing statistical data, as well as preparing and publishing explanations, methodological recommendations and other materials. At the same time, two people in 2020 did not completely agree with this statement.</p> <p>Thus, representatives of political parties and non-governmental organisations mostly favourably assessed the results of the NACP's work in the field of state control over compliance with the rules of political financing in 2020-2021.</p>
<p>6.31. Non-governmental, international organisations, donors conducting activities in the area of ensuring the legality and transparency of the political party financing and the submission of their financial statements recognize the National Agency as an effective and unbiased institution in the area of compliance with the rules of state and private financing of political parties and the submission of their financial statements</p>	
<p>Met</p>	<p>According to the information provided by the NACP in the questionnaire on May 03-07, 2020, as part of the BRIDGE (Building Resources for Democracy, Power and Elections) project, which was supported by the International Institute for Democracy and Electoral Assistance (IDEA), the Australian Electoral Commission (AEC), The United Nations Office for Electoral Assistance (UNEAD), the United Nations Development Program (UNDP) and the International Foundation for Electoral Systems (IFES), NACP has been recognized as an effective and impartial institution in matters of compliance with the rules of public and private financing of political parties, as well as their submission of financial statements. Link: https://www.facebook.com/ifesukraine/posts/1671786332973383/</p> <p>However, the reference provided by the NACP is not a conclusion that indicates the recognition of the NACP "as an effective and impartial institution in matters of compliance with the rules of state and private financing of political parties, as well as their submission of financial statements." This is only information about the BRIDGE training conducted for the employees of the NACP and Central Election Commission in order to promote closer cooperation and coordination of actions in the fight against political corruption between key stakeholders in the field of political financing. The participants of this seminar were able to improve their knowledge of key aspects of political financing, in particular, regarding limits on contributions and expenses, reporting, effective application of sanctions, and also familiarized themselves with international standards and best practices in the field of political finance regulation.</p> <p>Stakeholders, such as IFES and NGO "Rukh Chesno", indicated in the completed questionnaires that in general they consider the NACP to be an effective and impartial institution. While one political party, which was surveyed about the effectiveness of the NACP, indicated that "the National Agency during the research period did not play the role of an effective and impartial institution in matters of compliance with the rules of state and private financing of political parties, but was an instrument of political pressure on the political strength of the opposition."</p>

Object 7. The NACP’s activity in the area of protection of corruption whistleblowers

Summary of Findings

The NACP met 10 of the 14 Object 7 criteria that were considered, a ratio of 71%.

Total criteria	14	
Criteria not met because of factors external to the NACP	0	
Criteria for which the Commission did not have sufficient information to reach a conclusion	0	
Criteria under consideration	14	
Criteria met	10	71%
Criteria not met	4	29%



Object 7 of the assessment methodology defines 14 criteria for assessing the performance of the NACP relating to the activity in the area of corruption whistleblower protection. The Assessment Commission considered all criteria and determined that the NACP met the requirements for ten criteria but did not meet the requirements for four (7.2, 7.4, 7.11, and 7.13).

The NACP made significant strides in implementing Article 53 of the Law on Corruption Prevention, which delineates the rights of whistleblowers, the requirements for providing confidentiality, and the process for reporting corruption offences. Overall, the Commission concluded that the NACP’s effectiveness in protecting whistleblowers was mixed and that the NACP could have used information from whistleblowers more effectively. The Commission stresses the need for the NACP to raise awareness about the essential role whistleblowers play in preventing and detecting corruption, as well as about channels for reporting and the extent of pertinent protections. Further, the Commission recognizes the need for the NACP to improve cooperative relationships with state authorities to prevent retaliation against whistleblowers in the first instance and to timely take corrective actions when required.

Key Achievements

1. The NACP provided state authorities with comprehensive guidance on whistleblower protection and informed whistleblowers of their rights and protection options. Relevant information was posted to the NACP’s website.
2. Overall, the NACP took appropriate measures to represent whistleblowers in court as required by legislation.
3. The NACP thoroughly monitored the drafting and implementation of whistleblower legislation and developed recommendations for improvements. Notably, the NACP established the Interdepartmental Working Group on the Protection of Whistleblowers to conduct relevant consultations and to prepare proposals.

4. The NACP collaborated closely with Ukrainian and international non-government organisations to develop processes, procedures, and draft legislation aligned with international whistleblower protection standards. The NACP also developed and maintained cooperative relationships with government whistleblower protection institutions around the world.

Challenges and Weaknesses

1. Many potential whistleblowers were not fully aware of their rights as whistleblowers and the protections available to them under the law. Channels for reporting were not well understood.

2. Some organisational stakeholders and members of the public characterize whistleblowers in negative terms and perceive whistleblowers as “troublemakers.” This social attitude discouraged whistleblower reporting, fostered a culture of retaliation, undermined cooperation with the NACP, and contributed to the lack of timely, appropriate follow-up for implementing corrective actions.

3. The NACP’s focus on the relevance of whistleblower reported information was almost exclusively on detecting, investigating, and resolving discrete allegations against identified individuals. As a result, the NACP neglected the opportunity to mitigate the negative impact of corrupt acts and to prevent future violations more effectively. The NACP did not fully take account of the extent to which whistleblowers may report real-time information that exposes vulnerabilities, suggests potential detection measures, and reveals other systemic issues that do not focus on allegations against a specific individual.

4. The NACP could have more effectively fulfilled its responsibility to prevent corruption by promptly sharing with state agencies, to the greatest practicable extent, real-time information about the types of allegations it received and the emerging vulnerabilities it identified from whistleblower reports.

Overview

As required by law and underscored by the evaluation criteria, the focus of the NACP’s work in this area was to encourage and protect whistleblowers, providing a powerful tool for the detection of specific instances of corruption. A complementary benefit of encouraging whistleblowers is deterrence of violations of anti-corruption laws because potential violators recognize the increased likelihood that corrupt acts will be reported. The Commission notes that the evaluation criteria emphasize the NACP’s comprehensive responsibilities to detect and resolve allegations against specific individuals, protect whistleblowers, and hold individual violators accountable for retaliation. At the same time, important whistleblower information may also include exposure of vulnerabilities, potential measures for detection of violations, and other systemic issues that do not focus on allegations against a specific individual.

While recognizing that the NACP took substantial action in areas separate from administering the whistleblower framework to address systemic challenges, the Commission emphasizes the potential for the NACP to make better use of information provided by whistleblowers by modifying the timing and expanding the scope of information shared with stakeholders. The evaluation criteria underscore the potential of the whistleblower framework to develop and disseminate information that could significantly enhance prevention objectives. Significantly, criterion 7.8 reflects the NACP’s responsibility to inform “relevant competent authorities” when there are signs of corruption. Although the NACP met this requirement in terms of follow-up on individual cases with the agency where pertinent allegations occurred, the Commission notes that using whistleblower information more broadly would be a more effective approach to prevention.

Focusing on resolving specific allegations against identified individuals, rather than also on the comprehensive significance of underlying issues, may result in delays in sharing information that could otherwise help detect ongoing violations and prevent future ones. The NACP should take into account the potential benefits of this expanded perspective in setting standards for dissemination of information. Preventing corruption is essential, as evidenced by the lack of instances of corruption

offences detected based on whistleblower reports that resulted in guilty persons being held accountable. (7.13). In brief, the NACP could better fulfil its overarching responsibilities to prevent corruption and build public trust by avoiding over reliance on detection and taking a more robust approach to prevention, creating a more corruption-resistant environment.

Whistleblowers are uniquely well positioned to provide real-time insights into corruption vulnerabilities, as well as the specific types of corrupt acts that are most likely to occur. Whistleblower allegations can provide insights into trends, patterns, networks, and practices that facilitate corruption. Likewise, whistleblower allegations may suggest methods of refining corruption detection measures. It is essential that the NACP timely provides pertinent information about agency-specific and cross-cutting systemic vulnerabilities to corruption not only to the institution where corruption allegedly occurred, but also to other relevant state authorities. The Commission emphasizes that even before a particular allegation is assessed, investigated, or resolved, whistleblower reports and related follow-up may disclose valuable information to efficiently identify and resolve systemic issues. The NACP could appropriately tailor disseminated information to avoid compromising the identity of a whistleblower or adversely affecting an investigation.

With respect to the organisation where a whistleblower reports alleged corruption on the part of an identified individual or other concerning information, timely communications to the organisation, even before resolution of a specific allegation or absent an allegation against a specific individual, allows the organisation to identify and address corruption risks before they escalate, reducing the impact of alleged corruption, protecting the organisation's reputation, and maintaining public trust. Broadly sharing information about vulnerabilities that may have led to corruption in one organisation could significantly enhance preventive measures throughout state authorities by revealing cross-cutting patterns and trends, expediting review of agency-specific systems and processes in other organisations. Weaknesses in internal controls could be more rapidly identified, resulting in effective refinements to risk management strategies, including implementation of more effective detection measures in priority areas. The information may also provide valuable insights to better target agency-specific training and awareness programmes.

Demonstrating the NACP's commitment to using real-time information to create a nimbler foundation for adapting to continually evolving corruption threats would highlight the vital role of whistleblowers in fighting corruption, deter potential wrongdoers, and foster greater collaboration among state authorities, and improve cooperation with the NACP. Lastly, the Commission notes that broader, real-time sharing of whistle blower information by the NACP would reflect closer adherence to international standards and best practices. International standards emphasize the value of whistleblower information in identifying systemic weaknesses and vulnerabilities, even when the information is not focused on whether a particular individual has committed an offence.

Criteria Met

The Commission commends the NACP for providing state authorities with comprehensive guidance on whistleblower protection and for providing whistleblowers with relevant information about their rights and options for protection (7.1). Together with a wide range of government and nongovernment stakeholders, the NACP developed and posted to its website comprehensive guidance and information to promote uniform and effective application of the Law on Prevention of Corruption in the Protection of Whistleblowers. At the same time, the Commission notes, and the NACP acknowledges, that significant challenges remain in effectively implementing whistleblower protections at the institutional level, despite the provision of guidelines, comprehensive information, and ongoing support to state authorities.

Challenges include the tendency of some stakeholders to characterize whistleblowers in negative terms and to view whistleblowers as "troublemakers." To overcome these challenges, it is critical that the NACP engages state authorities, potential whistleblowers, and the public on a level that reaches

beyond just articulating and supporting the technical aspects of an effective whistleblower mechanism. To the greatest practicable extent, the NACP should work with stakeholders to promote overall understanding of and commitment to the crucial role of whistleblowers in ensuring the transparency and accountability necessary to effectively fight corruption.

The Commission also determines that the NACP timely “adopted” requirements for security of communication channels for anonymous whistleblowers according to Article 53 of the Law on Corruption Prevention (7.3). As noted below with reference to criterion 7.2, however, the NACP did not provide concrete evidence that adequate security measures for its own communication channels were implemented for the relevant period. Overall, the Commission finds that the NACP timely addressed requests for whistleblower protection in compliance with legislative requirements (7.5) with no unreasonable delays (7.6). The NACP also effectively protected whistleblowers by protecting their anonymity to the extent possible, issuing directives to eliminate violations of labour laws, and taking appropriate actions to otherwise protect the rights of whistleblowers (7.7). Still, the Commission notes that the effectiveness of the NACP’s work was hindered by delays beyond the NACP’s control, significantly by the lack of commitment from other state authorities to take timely corrective actions as directed by the NACP.

The Commission notes that, because allegations are often based on information of limited availability and for other reasons, whistleblowers often do not remain anonymous. Retaliation against whistleblowers and the lack of prompt corrective action seriously undermines the ability of the NACP to detect corruption and related systemic vulnerabilities. In these matters, protective follow through by relevant state authorities is particularly critical to the success of the whistleblower mechanism. In this regard, the Commission again emphasizes the importance of comprehensive commitment by all stakeholders to the encouragement and protection of whistleblowers. Generally, where the identity of the whistleblower was known, the NACP took appropriate measures to represent the whistleblower in court in situations provided for in legislation (7.9). Several cases demonstrated the NACP’s effectiveness in protecting whistleblowers as envisioned by law. While the Commission concludes that the requirement for court action by the NACP was met, the Commission notes some objections by representatives of civil society regarding the NACP’s handling of certain matters.

The NACP also met requirements to hold persons accountable where it found signs of violations of whistleblower protection laws (7.10). As indicated above, the NACP met the requirement to promptly notify competent authorities where information reported by a whistleblower revealed signs of corruption or corruption-related offences or other violations (7.8). The NACP’s compliance with this requirement focused on reporting information concerning allegations made against specifically identified individuals, and the overall effectiveness of the NACP could be enhanced by adopting an approach that accelerates the sharing of whistleblower information and disseminates the information more widely.

The Commission commends the NACP for continually monitoring implementation of whistleblower legislation and for developing recommendations for improvements during the review period (7.12). Notably, the NACP established the Interdepartmental Working Group on the Protection of Whistleblowers to conduct relevant consultations and to prepare proposals for the formation and implementation of state policy.

The Commission is pleased to observe that the effectiveness of the NACP in the area of whistleblower protection has been recognized explicitly and implicitly by non-government, international organisations, and donors; further, no evidence was presented to the Commission indicating bias on the part of NACP in administering its related responsibilities (7.14). Many of the NACP’s processes and procedures, as well as draft legislation, in the area of whistleblower protection were developed in close cooperation with Ukrainian and international non-government organisations. Further, the NACP developed cooperative relationships with government whistleblower protection institutions around the world. The Commission suggests that recognition of the effectiveness of the NACP’s

administration of its whistleblower responsibilities could be enhanced. These organisations often emphasize the strategic value of timely using whistleblower information to identify cross-cutting systemic weaknesses and vulnerabilities, without regard to the resolution of specific allegations against individuals. In particular, organisations including Transparency International, the Organization for Economic Co-operation and Development (OECD), the Council of Europe's Group of States Against Corruption (GRECO), and the United Nations Office on Drugs and Crime (UNODC) routinely stress that anti-corruption strategy must include developing a refined understanding of systemic factors that allow corruption to occur and go undetected in the first place.

Criteria Not Met

The Commission determines that the NACP did not meet the requirement to create its own secure channels to ensure the confidentiality of anonymous whistleblowers (7.2). Implementation of a broad array of well-designed secure communications channels and wide dissemination of specific information about their availability is essential. Notably, in addition to encouraging anonymous reporting, creating secure channels promotes public confidence and support of the NACP's work by demonstrating the NACP's commitment to expose corruption efficiently and effectively. While the NACP indicated that progress was made after the review period to implement appropriate communication channels in the future, adequate online, telephone hotline, and email boxes were not timely implemented during the review period. In fact, the NACP cited relatively few anonymous reports of corruption that were received during the period. The Commission also notes that the NACP apparently focused on reports of corruption on the part of NACP employees in terms of resolving specific allegations against specific individuals, rather than focusing on the relevance of allegations as they related more broadly to issues within the full scope of its responsibilities.

As a practical matter, given the NACP's lack of full implementation of the secure communications channels envisioned by the methodology according to Article 53 of the Law, there was not a meaningful basis for the Commission to reach a conclusion that the NACP ensured comprehensive identification and documentation of operational shortcomings (7.4). The NACP noted its efforts, made after the review period, to develop and partially implement the United Portal of Whistleblower Reports. Because the NACP did not provide concrete evidence that adequate security measures for secure communication channels were evaluated during the relevant period, however, the Commission determines that the NACP did not meet this criterion. Likewise, while the NACP did not report instances of unauthorized disclosures (leaks) of restricted information about whistleblowers, it did not provide concrete evidence that it implemented a system of measures to prevent disclosures (7.11). Finally, while the NACP took significant positive steps to effectively provide pertinent guidance to stakeholders and to protect whistleblowers, the NACP did not provide the Commission with evidence of specific instances where cases of corruption or corruption-related offences detected by whistleblower reports resulted in liability of persons guilty of corruption offences (7.13).

High Priority Recommendations

1. The NACP should fully implement all requirements of the law for creating and maintaining secure reporting channels to ensure the anonymity and confidentiality of persons who report information about corruption. Security measures should include well-defined processes for restricting and documenting access to sensitive information. Measures should take advantage of technological developments, including the use of encryption.

2. In order to promote commitment by state authorities to the protection of whistleblowers and to encourage potential whistleblowers to timely report relevant information, the NACP should engage state authorities, potential whistleblowers, and the public to the greatest practicable extent to promote awareness of the vital role of whistleblowers in ensuring the transparency and accountability necessary to effectively fight corruption. Important objectives of this engagement should include

ensuring support of organisational leaders, mitigating the stigma associated with reporting corrupt activities, identifying channels for reporting, and raising awareness of the rights of whistleblowers.

3. The NACP should adopt a more comprehensive approach to analysing and disseminating whistleblower information to improve its real-time responsiveness to corruption threats, enhancing its ability to prevent and detect corruption. In addition to focusing on the detection and resolution of individual allegations, the NACP should develop processes and practices to systematically improve its ability to timely use whistleblower information to identify cross-cutting weaknesses in internal controls, detect trends and patterns, establish action plans for priority areas, improve detection measures, and target training programmes.

4. Where appropriate, to mitigate the impact of corrupt acts and rapidly address emerging vulnerabilities, the NACP should provide to state authorities where acts of corruption are alleged or vulnerabilities to corruption are otherwise identified with relevant information at the earliest possible time, even if no specific wrongdoer is alleged, or an allegation has not been fully assessed, investigated, or resolved. Information should be tailored to avoid compromising the identity of a whistleblower or adversely affecting an investigation.

5. The NACP should promote collaboration and cooperation among state authorities by adopting a more comprehensive approach to broadly sharing and transparently analysing whistleblower information. In particular, the NACP should share with state agencies, to the greatest practicable extent, real-time information about the types of allegations it receives and emerging systemic vulnerabilities it identifies as a result of whistleblower reports. Standards for timely notification should ensure that information is shared without unnecessary delays. The NACP should take specific steps to facilitate cross-agency development and sharing of analysis, studies, and best practices to improve agency-specific prevention measures.

Other Recommendations

1. The NACP should launch a public awareness campaign to educate citizens about the essential role of whistleblowers in the fight against corruption, as well the rights of whistleblowers and the protections available to them under the law. This can be achieved through media channels, workshops, and training programmes for both public officials and the public.

2. The NACP should use agency-specific insights from whistleblower reports to develop targeted training and awareness programmes, helping organisations to better understand and address corruption risks.

Detailed Assessment

EVALUATION OBJECT 7: Activity in the Area of Corruption Whistleblower Protection	
Assessment	Explanation
7.1. State authorities are provided with comprehensive guidelines on whistleblower protection, and whistleblowers – on their rights and options of protection	
Met	<p>The NACP developed a series of comprehensive guidelines on whistleblower protection, and on whistleblowers' rights and options of protection:</p> <ol style="list-style-type: none"> 1. https://acrec.org.ua/wp-content/uploads/2021/11/comments_upd.pdf 2. https://acrec.org.ua/wp-content/uploads/2022/09/v-gude_N07072022-1.pdf 3. https://acrec.org.ua/wp-content/uploads/2021/07/Untitled-1-NN-1-2.pdf

4. In order to ensure uniform application of the provisions of the Law of Ukraine "On Prevention of Corruption in the Protection of Whistleblowers", the NACP developed and published on the official website the following clarifications: № 5 "On the legal status of whistleblowers" dated 23.06.2020 ; № 6 "Regarding the provision of free secondary legal aid to whistleblowers" dated 09.07.2020; - № 7 "Regarding the peculiarities of verification of reports on possible facts of corruption or corruption-related offences, other violations of the Law of Ukraine" On Prevention of Corruption " dated 14.07.2020 ; № 10 "On the legal status of the whistleblower in criminal proceedings" dated 26.10.2020 ; 11 "Regarding the legal status of the whistleblower in proceedings on administrative offences related to corruption" dated 09.12.2020 №; № 3 "Regarding mechanisms to encourage and form a culture of reporting on possible facts of corruption or corruption-related offences, other violations of the Law of Ukraine" On Prevention of Corruption" dated 24.02.2021 ; № 4 "On ensuring the right of the whistleblower to confidentiality and anonymity" dated 24.02.2021 ; and № 6 "On ensuring the right of the whistleblower to receive information" dated 18.06.2021 .

5. The NACP, together with the Ukrainian School of Government, has developed a general short-term training program "Organization of work with whistleblowers in public authorities". The program trained 340 employees of authorized units (authorized persons) to prevent and detect corruption in public authorities and local municipalities.

6. The National Agency, together with the International Renaissance Foundation and Anti-corruption Research and Education Centre (ACREC), has developed a Practical Guide to Detectors for Authorized Units (Commissioners) on the Prevention and Detection of Corruption.

7. The NACP, together with the EU Advisory Mission to Ukraine, has developed a Practical Guide Regarding Work with Whistleblowers: Guide for Authorized Units (Commissioners) on the Prevention and Detection of Corruption of the National Police.

8. The NACP has developed and posted on its website an infographic on how to organise the process of review (verification/investigation) reports and anonymous reports of corruption or corruption-related offences.

9. The NACP, in cooperation with the Ministry of Digital Transformation of Ukraine and with the support of the Project "Support to Leaders in Combating Corruption in Ukraine Interaction" (SACCI), implemented with the financial support of the United States Agency for International Development (USAID), developed and presented a training course "The whistleblower is in the law." The training course helped viewers learn:

- who is the whistleblower, what are his rights and guarantees of protection in accordance with the law;
- what is corruption, how it affects the life of every citizen in particular and the state and society in general;
- what should be stated in the report on possible facts of corruption submitted by the whistleblower;
- to which government agencies you need to report corruption;
- how to report corruption through government websites.

10. The NACP together with the online education studio EdEra launched a free online course for all who are willing to join the fight against corruption, regardless of education, profession and employment. The training was developed with the support of the International Renaissance Foundation. The course allowed to learn:

- what is corruption and exposure;
- who is a whistleblower;
- how report corruption properly and to whom;
- how corruption reports are handled;
- successful whistleblower cases.

7.2. Creating own secure communication channels for anonymous whistleblowers, including online communication channels, telephone hot lines, and email boxes	
Not met	While the NACP indicated that progress was made after the review period to implement appropriate communication channels in the future, adequate online, telephone hotline, and email boxes were not timely implemented during the review period. The NACP has not provided enough evidence to prove that the existing channels meet with all requirements of secure communications for anonymous whistleblowers.
7.3. Adopting requirements for security of communication channels for anonymous whistleblowers according to Article 53 of the Law on Corruption Prevention. Such requirements are relevant and draw no reasonable material objections	
Met	The Commission also determines that the NACP timely “adopted” requirements for the security of communication channels for anonymous whistleblowers according to Article 53 of the Law on Corruption Prevention. However, the NACP did not provide concrete evidence that adequate security measures for communication channels were actually implemented for the relevant period.
7.4. Ensuring comprehensive identification and documenting of shortcomings during the creation and operation of secure and regular channels for reporting alleged non-compliance with the Law on Corruption Prevention as a part of whistleblower protection	
Not met	As a practical matter, given the NACP’s lack of full implementation of the secure communications channels envisioned by the methodology according to Article 53 of the Law on Corruption Prevention, there was not a meaningful basis for the Commission to reach a conclusion that the NACP ensured comprehensive identification and documentation of operational shortcomings
7.5. All requests for whistleblower protection are addressed on time in compliance with legislative requirements	
Met	The NACP responded to all requests for the protection of whistleblowers in a timely manner and in compliance with the law. Employees of the relevant structural subdivision of the National Agency, on a permanent basis and within their powers, review and verify applications of whistleblowers for protection. In case of confirmation of a violation of the legislation, measures are taken to issue instructions on elimination of violations, conduct an official investigation and bring the perpetrators to justice.
7.6. There are no unreasonable delays in ensuring whistleblower protection	
Met	<p>The collected information indicated that requests for whistleblower protection are addressed on time in compliance with legislative requirements.</p> <p>No public charges were filed against the NACP for failing to provide whistleblowers in a timely manner.</p> <p>The NACP's responsibilities include cooperating with whistleblowers, ensuring their legal and other protection. Thus, the NACP does not directly protect whistleblowers, but cooperates with them, provides clarifications, consultations, and methodological assistance on the implementation of the rights of whistleblowers. The NACP also intervenes as a third party in litigation involving whistleblowers. During 2020-2021, NACP was involved in 98 court cases with the participation of whistleblowers. The NACP also filed five applications to intervene in cases in which the proceedings were opened on the statements of whistleblowers and timely prepared all procedural documents after the court decisions. Finally, the NACP conducts inspections of possible violations of whistleblowers' rights and takes measures to restore these rights.</p>
7.7. Taking necessary measures to effectively protect whistleblowers and their close persons, including by protecting the anonymity of the whistleblower, issuing directions to eliminate violations of labour and other rights of whistleblowers	

Met	<p>According to the verified NACP's answers, the National Agency has taken necessary measures to effectively protect whistleblowers and their close persons, including by protecting the anonymity of the whistleblower and issuing directions to eliminate violations of labour and other rights of whistleblowers. Particularly, the NACP conducts inspections of compliance with the legislation on the protection of whistleblowers. In case of establishing a violation of the rights of the whistleblower, the NACP issues an order instructing to eliminate the violations and restore the rights of the whistleblower and bring the perpetrators to justice.</p> <p>During 2020-2021, the NACP issued seven instructions (two on violating the right to confidentiality and five on eliminating violations and restoring the rights of whistleblowers) to the heads of the Luhansk Regional State Administration, the Oktyabrsky District Court of Poltava, the Odesa Customs Service, the Higher Disciplinary and Qualification Advocacy Commission, the Slovyansk District Council of Donetsk Region, NNEGC Energoatom, and the Prime Minister of Ukraine. In accordance with five instructions, official investigations were conducted, and the violated rights of whistleblowers were restored.</p>
7.8. Ensuring prompt notification of the relevant competent authorities if the checks of information reported by whistleblower revealed signs of corruption or corruption-related offences or other violations of the Law on Corruption Prevention	
Met	<p>The collected information indicated that requests for whistleblower protection are addressed on time and in compliance with the legislative requirements.</p>
7.9. Taking appropriate measures to represent a whistleblower in court in situations provided for in legislation	
Met	<p>The NACP has appropriated measures to represent a whistleblower in court. In particular, the following cases on whistleblower protection demonstrate that NACP has taken necessary measures to effectively protect whistleblowers and their close persons, including by protecting the anonymity of the whistleblower and issuing directions to eliminate violations of labour and other rights of whistleblowers:</p> <ol style="list-style-type: none"> 1. the Odesa Custom Case; 2. the Case on Prosecution the Judge of the Poltava District Court (Larysa Golnik); 3. the Case of a Kharkiv Lawyer; 4. the Case of retaliation in workplace whistleblower in Energoatom (Oleksandr Polishuk case); 5. the Case of the deputy chief physician of the Primary Health Care Centre. <p>The cases demonstrated the NACP's effectiveness in protecting whistleblowers as envisioned by law. While the Commission concludes that the requirement for court action by the NACP was met, the Commission notes some objections by representatives of civil society regarding the NACP's handling of certain matters.</p>
7.10. Initiating the procedure to hold a person liable if the National Agency found signs of violations of whistleblowers protection laws	
Met	<p>In accordance with paragraph 13 of Part 1 of Art. 11 and item 53 part 1 of Art. 12 of the Law of Ukraine "On Prevention of Corruption", the NACP has the authority to issue instructions requiring the prosecution of persons guilty of violating the rights of whistleblowers. Among other things, the instructions issued by the NACP required measures to be taken to bring to justice those guilty of violating the rights of whistleblowers. At the same time, these persons were not brought in connection with the release of persons or from the expiration of the term of disciplinary action.</p> <p>In addition, in accordance with paragraph 11¹ part 1 of Art. 12 of the Law of Ukraine "On Prevention of Corruption", the NACP has the right to initiate an official investigation, take measures to bring to justice those guilty of corruption or corruption-related offences, and send materials, with factual allegations of offences, to other specially authorized anti-corruption entities. In this regard, the NACP sent letters to the National Police for two investigations of possible violations of the whistleblower's right to confidentiality and anonymity.</p> <p>The NACP also filed two lawsuits with law enforcement agencies under Art. 172 of the Criminal Code of Ukraine, for the purpose of taking accountability measures against the persons guilty of</p>

	violation of labour rights of whistleblowers. There is information that a criminal case has been opened in relation to one NACP filing.
7.11. Implementing a system of measures to prevent unauthorized disclosure (leaks) of restricted information about whistleblowers	
Not met	While, the NACP noted its efforts, made after the review period, to develop and partially implement the United Portal of Whistleblower Reports. The NACP did not provide concrete evidence that adequate security measures for secure communication channels were evaluated during the relevant period therefore, the Commission determined that the NACP did not meet this criterion. Likewise, while the NACP did not report instances of unauthorized disclosures (leaks) of restricted information about whistleblowers, it did not provide concrete evidence that it implemented a system of measures to prevent disclosures. It follows that the NACP has not met this criterion. The Commission remains ready to reconsider its conclusion in the event that the NACP provides the necessary evidence.
7.12. Conducting a constant monitoring of implementation of whistleblower protection legislation, and participation in developing recommendations for its improvement	
Met	The NACP Order № 63/20 of 19.02.2020 established the Interdepartmental Working Group on the Protection of Whistleblowers, which is a temporary advisory body of the NACP, created to conduct professional consultations to prepare proposals for the formation and implementation of state policy in the field of whistleblower protection. The constant monitoring of the implementation of the law in the field of protection of whistleblowers is one of the goals of the Working Group on the Protection of Whistleblowers. The NACP has developed a few draft laws in the field, for example the Law #1502-IX “On amendments to the Law of Ukraine "On Prevention of Corruption" regarding regulation of certain issues of protection of whistleblowers.”
7.13. There are positive outcomes of the National Agency's activities as demonstrated by instances of corruption or corruption-related offences detected based on whistleblower reports, where guilty persons were brought to liability established by law	
Not met	The NACP took positive steps to effectively provide pertinent guidance to stakeholders and to protect whistleblowers. However, the NACP did not provide the Commission with evidence of specific instances where cases of corruption or corruption-related offences detected by whistleblower reports resulted in liability of persons guilty of corruption offences. So, the Commission does not possess t relevant evidence indicating that the NACP has met this criterion. The commission will change the decision if NACP provides evidence.
7.14. Non-governmental, international organisations, donors conducting activities in the area of preventing and/or combating corruption recognize the National Agency as an effective and unbiased institution in the area of whistleblower protection	
Met	The national and international partners recognize that the NACP is an effective and unbiased institution in the area of whistleblower protection. The NACP has implemented many relevant activities in cooperation with Ukrainian and international non-government organisation (WIN, ACREC, TI of Ukraine, Government Accountability Project, Blueprint for Free Speech, etc.), donors (SACCI, International Renaissance Foundation, EUACI, UNDP, etc.). The NACP established connections and cooperation with government whistleblower protection institutions around the world. For instance, on December 28, 2020, the National Agency and experts of Anti-Corruption Research and Education Centre presented the results of the implementation of anti-corruption state policy in the field of whistleblower protection during a press conference at the Ukrainian Crisis Media Centre. Representatives of the National Agency noted the results of their work in the field of whistleblower protection, in particular the number of lawsuits supported by the National Agency and successful cases of whistleblower protection. In early 2020, a number of anti-corruption NGOs prepared recommendations for organising the work of a national agency for the protection of

whistleblowers. During the conference, the Administrative Director of ACREC, who is also a member of the Public Council at the National Agency, said that the National Agency has done much more to protect whistleblowers than the National Agency under the previous leadership. The National Agency implemented recommendations for the protection of whistleblowers provided by the public gradually.

The National Agency continues to actively cooperate with civil society. In particular, together with ACREC, it conducted a study on the results of the analysis of compliance with the requirements of the legislation on the protection of whistleblowers (<https://acrec.org.ua/wp-content/uploads/2021/08/poicy-paper-ukr-NN-1-1.pdf> and <https://acrec.org.ua/wp-content/uploads/2021/09/info-nazk-v-NN.pdf>). On December 2, 2021, the NACP and ACREC, with the support of the International Renaissance Foundation, held a public event "Whistleblowers: Tools for Anti-Corruption Commissioners."

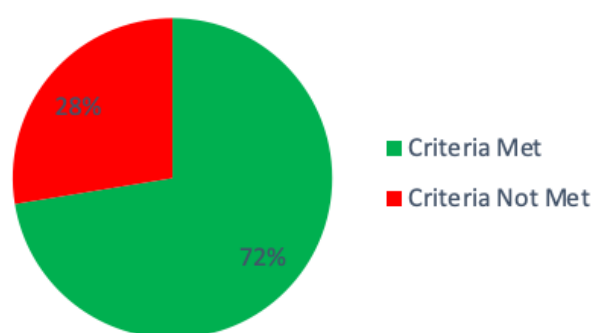
In 2021, the NACP organised a conference dedicated to whistleblower protection with the participation of the main stakeholders in the field of whistleblower protection. During the conference, the Executive Director of the International Renaissance Foundation emphasized the important role of the NACP and CSOs in implementing the whistleblower protection in Ukraine.

Object 8. The NACP’s interaction with other state authorities, local self-government bodies, foreign authorities, international organisations, and the public

Summary of Findings

The NACP met 21 of the 29 Object 8 criteria that were considered, a ratio of 72%.

Total criteria	32	
Criteria not met because of factors external to the NACP	3	
Criteria for which the Commission did not have sufficient information to reach a conclusion	0	
Criteria under consideration	29	
Criteria met	21	72%
Criteria not met	8	28%



Based on the information from the NACP and other stakeholders, the Commission found that 3 criteria out of 32 the NACP were not met due to actions, inaction, or decisions taken by other entities (8.1, 8.11, and 8.21).

Out of the remaining 29 criteria, 21 criteria were met (8.2 – 8.7, 8.10, 8.13 – 8.20, 8.22, 8.23, 8.27, 8.28, 8.31, and 8.32), and eight criteria were not met (8.8, 8.9, 8.12, 8.24, 8.25, 8.26, 8.29, and 8.30).

Background

The subject matter covered by Object 8 is regulated by various legal provisions of the Law of Ukraine on Corruption Prevention. Article 14 states that the NACP's annual report should include, amongst other things, information on the interaction between the NACP and other state agencies, local self-government bodies, enterprises, institutions, and organisations (see the evaluation in criterion 8.30). The same article sets the mechanism of civic oversight over the activities of the NACP: the competent body is the Public Council of the NACP which is composed of 15 members selected through an open and transparent competition (see the evaluation in criteria 8.18 – 8.23).

Article 11 sets within the mandate of the NACP the coordination of performance of international obligations in the area of development and implementation of the anti-corruption policy, the cooperation with the state agencies, foreign non-governmental organisations and international organisations, as well as the exchange of information with other foreign competent authorities and international organisations. The NACP is also tasked with information and awareness-raising activities and has a central role in anti-corruption public policy design, civic engagement, implementation, and monitoring. The NACP also coordinated research and analysis of the performance in the area of

prevention and combating of corruption in Ukraine, including through the work of other state agencies, authorities of the Autonomous Republic of Crimea, and local self-government bodies. To this end, the NACP collects statistical data and other relevant information to produce analysis and formulate research findings independently or in collaboration with other entities. See the evaluation in criteria 8.24 – 8.30.

Key Achievements

1. The inclusive and participatory process of developing the draft Anti-Corruption Strategy (see the evaluation in criterion 8.2).
2. The effective management of the process related to the pilot 5th round monitoring of the implementation of the Istanbul Anti-Corruption Action Plan in Ukraine (OECD Anti-Corruption Network for Eastern Europe and Central Asia) (see the evaluation in criterion 8.7)
3. The publication of a "research library" on NACP's official website which also incorporates links to anti-corruption research done by non-governmental organisations, including analytical papers in which the findings were different than those of the NACP (see the evaluation in criterion 8.13).
4. The development of a sound methodology for the standard survey on the corruption level in Ukraine with the involvement of NGOs (see the evaluation in criterion 8.14).
5. The establishment of and effective operation of a separate structural unit for external communication and collaboration with the public (Office of Educational Work and Training Programmes) (see the evaluation in criteria 8.15 and 8.17).
6. The set-up of a specific section on the NACP website focusing on "Monitoring of the NACP activities". It included information about the financial control results, the NACP's protocols in administrative cases, the NACP's instructions (prypysy), the main findings on conflicts of interests issues, state financing of the political parties, the anti-corruption programmes and status of its approval, the anti-corruption examinations (proofing), the verification of state bodies' compliance with anti-corruption legal requirements, the whistleblower protection, the statistical data about the 'register of corrupt persons', etc. This section on the website offered consolidated information about the performance of the NACP in various aspects of its mandate. Also, the NACP clearly indicated in this section what work in 2020 was cancelled after the CCU decision even though the NACP powers were reinstated (see the evaluation in criterion 8.16).
7. The open and transparent selection of the members of the Public Council of the NACP (see the evaluation in criterion 8.18).

Challenges and Weaknesses

1. The NACP failed to publish and organise consultations on draft bylaws and their concepts. In a particular instance, NACP failed to provide meaningful feedback to comments received from NGOs (see the evaluation in criterion 8.12).
2. In several instances, the NACP failed to comply with the Law on Access to Public Information (see the evaluation in criterion 8.26).
3. The communication between the NACP and the Public Council was suboptimal at times. Not all Public Council's conclusions were published on the NACP website (see the evaluation in criteria 8.19 and 8.22).
4. During the period under review, the NACP did not conclude MoUs with foreign competent authorities, in particular, concerning information exchange (see the evaluation in criterion

8.9). No progress was made in the cooperation between NACP and NGOs in foreign countries (see the evaluation in criterion 8.8).

5. The annual reports of the NACP did not include all the elements prescribed by law and were not comprehensive enough regarding some areas (see the evaluation in criterion 8.30).

External Factors That Affected the NACP's Performance

1. The national anti-corruption strategy and the relevant state program (action plan) were not adopted and, therefore, not enforced during the evaluation period (see the evaluation in criteria 8.1, 8.11, 8.21).
2. The Constitutional Court adopted decision #13-r/2020, which had a significant impact on the mandate and operations of the NACP. It abolished a crucial part of the NACP's legal mandate in the LCP, leaving only the functions of corruption research, as well as awareness-raising campaigns, conferences, seminars, and meetings on corruption prevention and combating, etc (see the evaluation in criterion 8.2).
3. The COVID-19 pandemic limited opportunities for NACP staff to travel abroad for international cooperation meetings due to the closing of external borders and additional security measures (see the evaluation in criterion 8.9).

High Priority Recommendations

1. The NACP should more actively advocate with the responsible bodies at the national level for the implementation of the recommendations made by international monitoring mechanisms. The NACP should constantly monitor the implementation of Ukraine's international commitments and recommendations and, to this end, should regularly collect and analyse information from other state institutions and make public its findings (see the evaluation in criterion 8.7).
2. The NACP's cooperation with the competent bodies of other countries should be intensified, in particular in the area of exchange of data for the purposes of administrative verifications within the NACP's mandate, for example, on the basis of Art. 43 of the UN Convention against Corruption or on the basis of other provisions of existing international treaties). The NACP should increase its interaction with international organisations and non-governmental organisations from foreign countries (see the evaluation in criterion 8.8).
3. The NACP should conclude memorandums of cooperation with foreign competent authorities, in particular regarding information exchange (see the evaluation in criterion 8.9).
4. The Verkhovna Rada should consider legislative changes to clearly establish that the NACP has the authority to act as a competent body for the purposes of Art. 43 of the UN Convention against Corruption. This could be achieved by introducing amendments to the Law of Ukraine "On the Ratification of the Convention of the United Nations Organization against Corruption" and the LCP (see the evaluation in criterion 8.10).
5. The NACP should restore the "Monitoring of the NACP activities" section of its official website and use it also to reflect the findings of courts regarding acts of the NACP, in particular administrative protocols (see the evaluation in criterion 8.16).
6. In consultations with stakeholders, the National Agency should define the methodology and conduct surveys of the respective target audiences and experts on the quality, accessibility, and user-friendliness of the NACP's guidelines, other information, and explanatory materials. The survey findings should be published and serve as a basis for the improvement of NACP's explanatory materials and guidelines (see the evaluation in criterion 8.24).

7. The NACP should carefully review individual recommendations provided by experts of non-governmental organisations in their analytical reports and provide feedback publicly on why some recommendations will be taken into account while others will not (see the evaluation in criterion 8.25).

Other Recommendations

1. When preparing a position on draft legal acts, including draft laws, the NACP should conduct extensive internal and external consultations to ensure that the NACP's opinion is reasoned and evidence based. The NACP should strive to ensure the consistency of its positions (see the evaluation in criterion 8.2).
2. The NACP should conduct regular assessments of its concluded MoUs and initiate amendments where needed to ensure they remain relevant through time. Such assessments should also look into the practice of interaction with the relevant agencies and whether MoUs provided a solid basis for the cooperation (see the evaluation in criterion 8.3).
3. The NACP should regularly assess the effectiveness of its cooperation with state authorities and local self-government bodies (see the evaluation in criterion 8.3).
4. The NACP should provide the NABU with wider access to the register of asset declarations enabling automated processing of data (including personal data) using data analytics tools for more effective detection of alleged violations by the NABU (see the evaluation in criterion 8.5).
5. In preparation for relevant compliance reports, the NACP should proactively seek input from NGOs regarding their views on the status of implementation of individual international recommendations (see the evaluation in criterion 8.7).
6. The NACP should evaluate the effectiveness of public engagement in formulating, implementing, and monitoring the state anti-corruption policy and prepare recommendations for improvement (see the evaluation in criterion 8.11).
7. The NACP should publish and present full findings of an annual assessment of the corruption level in Ukraine, the perception of and trust in anti-corruption and other institutions, including all the research results and methodological explanations (see the evaluation in criterion 8.13).
8. The NACP should systemically conduct a needs assessment for the purposes of policy formulation or implementation – understanding such needs and their prioritization will be useful for the proper planning of NGOs and donor involvement (see the evaluation in criterion 8.14).
9. The NACP should evaluate the effectiveness of its efforts in the area of awareness raising and public information about corruption prevention measures and, on the basis of this evaluation, implement the necessary adjustments. The relevance of NACP's periodical newsletters should also be improved (see the evaluation in criterion 8.16).
10. The NACP should develop and follow a policy of external communication to ensure consistency of messages, focus on key objectives of the NACP, avoid redundancy in communication, and coordinate NACP messages with other stakeholders (see the evaluation in criterion 8.16).
11. The NACP should define the methodology through a consultative process and conduct regular surveys on the effectiveness of its work in different areas. The results of such surveys should be taken into account in the institutional and individual system of performance evaluation of the NACP, and improvement measures should be taken based on the findings (see the evaluation in criterion 8.25).

12. The NACP should commission an external expert assessment of its bylaws and practices regarding access to public information and petitions and, on the basis of the findings, design improvement measures to ensure full compliance with the applicable legislation and best international practices (see the evaluation in criterion 8.26).
13. The NACP should prepare annual reports on its activities that would include all information required in Article 14 of the Law on Corruption Prevention (see the evaluation in criterion 8.30).

Detailed Assessment

EVALUATION OBJECT 8: NACP Interaction with Other State Authorities, Local Self-Government Bodies, Foreign State Agencies, International Organisations, and the Public	
Assessment	Explanation
8.1. Ensuring coordination of activities implemented by other state authorities and local self-government bodies provided for by the anti-corruption strategy and the government program (action plan) for its implementation	
Not met due to an external factor	<p>1. The NACP did not meet this criterion because of external factors, namely because the anti-corruption strategy and the government program (action plan) for its implementation were not adopted and were not in force in 2020-2021. Under these circumstances, the NACP could not ensure the coordination of activities implemented by other state authorities and local self-government bodies provided for by the anti-corruption strategy and the government program (action plan) for its implementation. According to the Methodology of evaluation, the Assessment Commission should determine the criteria that were not met due to actions, inaction, or decisions of other entities. Such criteria are disregarded when calculating the proportion of the criteria that the NACP met or did not meet.</p>
8.2. Collaboration with the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, ministries, and other central executive bodies in developing, discussing, and refining draft laws and other draft legal acts that can have impact on the state anti-corruption policy	
Met	<p>1. The NACP stated that, since its reboot, effective cooperation had been established with the Parliament and the Government on the design of Ukraine's anti-corruption policy. However, information received by the Commission from different stakeholders showed that the level of such cooperation was uneven.</p> <p>2. The NACP proved a good track record of effective cooperation when the anti-corruption strategy was being developed. The representatives of the NACP were always present and expressed their well-founded position on most issues that were discussed both in the meetings of the working group and later at the Anti-Corruption Committee of Verkhovna Rada. The NACP has successfully advocated with the Government for improvements of several draft acts, including the draft Anti-corruption Strategy. At the end of 2020, the NACP succeeded in advocating for amendments to the Regulations of the Cabinet of Ministers, compelling the Cabinet of Ministers to send its draft acts to the NACP for anti-corruption expertise.</p> <p>3. As for the collaboration during the drafting of other relevant draft laws, the position of the NACP was reportedly not always consistent and constructive. Below are several examples provided by anti-corruption NGOs and from the meetings of Anti-Corruption Committee of the Verkhovna Rada:</p> <ul style="list-style-type: none"> - During the consideration of draft laws 4470 and 4471 regarding the restoration of anti-corruption legislation after the Decision of the Constitutional Court of Ukraine 13-r/2020, the NACP and its Head objected against several provisions of the draft laws without proper justification. Later, the NACP did not insist on its objections. The objections concerned provisions that did not hinder the activity of the NACP.

	<p>Reportedly, such objections could undermine the adoption of the crucial amendments required to restore main NACP functions following the CCU decision, and they affected the interaction between the NACP and the Parliament. The Anti-Corruption Committee representatives noted that the NACP reacted sharply to the provisions regarding the need to inform the judicial governance bodies about the start of the lifestyle monitoring of a judge, while not providing convincing arguments about any negative impact of this provision. Later, the NACP never reported about any specific practical difficulties in complying with it. Furthermore, the NACP's insistence to promote a draft law produced internally, which did not address the concerns raised by the Decision of the Constitutional Court of Ukraine, could have derailed the consideration of other draft laws which were ultimately adopted.</p> <ul style="list-style-type: none"> - During the second reading of draft law 3450 concerning whistleblower protection in February 2021, several amendments were approved at the plenary session, undermining the draft prepared by the Anti-Corruption Committee. This spurred public outcry and demand of non-governmental organisations to the President to veto the adopted law in order to eliminate shortcomings. However, the NACP Head expressed the position that the amendments did not harm the law "critically". He stated at the time that the NACP "does not see any great risks here." - The NACP participated in preparation for the second reading of draft law 5173 (on improving certain aspects of the asset declaration system), and for the most part, the NACP's proposals to improve the draft were upheld. However, the NACP requested a veto of the President of Ukraine for the adopted Law, in particular, referring to those provisions which were included based on the proposals made by the NACP itself. - When considering draft law 3602 (concerning asset disclosure requirements for members of professional self-governance bodies of advocates) before the second reading, the NACP expressed its reservations. A comprehensive revision of the draft law would have been necessary to address those reservations. As it occurred during the preparation of the draft law for the second reading, it was impossible to accommodate such proposals even if they were justified. <p>4. Stakeholders from ministries and other central executive bodies generally expressed their satisfaction with regard to their cooperation with the NACP. Their recommendation was to increase the number of joint activities in order to improve the effectiveness of the implementation of the state anti-corruption policy, and the exchange of information, including by setting up joint working groups and conducting joint training to share experience and spread best practices and also ensure that the NACP's opinion is grounded and evidenced-based, etc.</p>
<p>8.3. Concluding and, if necessary, initiating changes in memorandums of cooperation with state authorities, collaboration with which is essential for successful exercise of the NACP powers (National Anti-Corruption Bureau of Ukraine, State Bureau of Investigation, National Agency of Ukraine for Finding, Tracing and Managing Assets Derived from Corruption and Other Crimes, etc.)</p>	
<p>Met</p>	<ol style="list-style-type: none"> 1. In 2020-2021, the NACP concluded a number of MoUs with various state authorities. The State Bureau of Investigation was not among those, but as this was the only case, the Commission assessed this criterion as met. 2. Also, a number of MoUs, which were concluded in previous years, continued to operate, for example, between the NACP and the NABU, as well as the NACP, and ARMA. Stakeholders did not express their dissatisfaction with the content of the MoUs, but the Commission recommends the NACP conduct regular assessments of its MoUs and initiate amendments to ensure that they remain relevant through time. Such assessments should also look into the practice of interaction with the relevant agencies and whether MoUs provided a solid basis for the cooperation.
<p>8.4. Establishing cooperation with other state authorities and local self-government bodies to successfully exercise its powers (in particular, for the information exchange)</p>	

Met	<p>1. The NACP established such cooperation, in particular, for information exchange purposes. The NACP could expand its cooperation with state and private institutions that conduct forensic examinations and can provide opinions on the value of assets as experts and specialists (taking into account the limitations that exist for the NACP in financial control procedures or other types of inspections).</p> <p>As of April 2023, the Commission is aware that the NACP receives such assistance only from the Kyiv Scientific Research Institute of Forensic Expertise.</p>
8.5. The National Anti-Corruption Bureau is provided with a direct automated access to information, telecommunication, and reference systems, registers, databases, including those with restricted information, of which the National Agency is an owner (administrator)	
Met	<p>1. The NABU stated that the NACP provides direct automated access to all information, telecommunication, and reference systems, registers, and databases, including those with restricted information, of which the NACP is an owner (administrator) and which are needed by the NABU in its operation. The NABU stated that it faces no obstacles to effectively using access to databases, registers, and IT systems held by the NACP.</p> <p>2. The NACP stated that the NABU has direct automated access to the Unified State Register of Declarations of Persons Authorized to Perform State or Local Self-Government Functions. The NACP stated that the National Anti-Corruption Bureau did not apply for access to other registers maintained by the NACP. The Commission recommends to the NABU to consider applying for access to other registers maintained by the NACP and to the NACP to provide such access.</p> <p>3. The NACP stated that access to the Unified State Register of Declarations of Persons Authorized to Perform State or Local Self-Government Functions allows NABU to access upon request the information in electronic form. Even if the NABU is satisfied with such an approach, the Commission recommends that the NACP consider the possibility of introducing wider NABU access to existing declarations and information in the Register. The existing approach, when NABU detectives have to submit in the electronic form a request mentioning the name and other personal data of the declarant, as well as a legal ground for obtaining a request, ensures NABU's access at a minimal level. The NABU could be provided with wider access to the register of asset declarations enabling automated processing of data (including personal data) using data analytics tools for more effective detection of alleged violations by the NABU. Such a solution seems to be, in principle, compatible with the "Convention 108" (CETS No. 108) and European Court of Human Rights case law provided that there is a clear legal basis for the access, clear procedures for processing data and ensuring safeguards against the abuse (including logging and regular checks of NABU actions in the e-declarations register).</p>
8.6. Ensuring prompt notification of the law enforcement authorities within their competence, without unreasonable delays, of possible facts of corruption or corruption-related offences or other violations of the Law on Corruption Prevention reported by whistleblowers	
Met	<p>1. The Commission did not find cases of unreasonable delays of the prompt notification of the law enforcement authorities within their competence of possible facts of corruption or corruption-related offences or other violations of the Law on Corruption Prevention reported by whistleblowers.</p>
8.7. Ensuring coordination of the fulfilment of international commitments in the area of formulation and implementation of the state anti-corruption policy	
Met	<p>1. In the Commission's opinion, the NACP took sufficient measures to coordinate the implementation of international obligations in the field of formation and implementation of anti-corruption policy. To this end, the NACP interacted with the Organization for Economic Cooperation and Development (OECD Anti-Corruption Network for Eastern Europe and Central Asia), the Council of Europe's Group of States against Corruption (GRECO), the Conference of the States Parties to the UN Convention against Corruption, and others.</p> <p>2. The NACP effectively organised the process of the Pilot 5th round of monitoring the implementation of the Istanbul Anti-Corruption Action Plan in Ukraine. In 2020, the NACP</p>

	<p>provided comments and suggestions regarding specific evaluation indicators. With the start of the pilot monitoring in 2021, the NACP properly managed the process at the national level and performed the role of the national coordinator for the process.</p> <p>3. In 2021, the President of Ukraine appointed the NACP Head as the head of Ukraine's delegation to GRECO. The NACP provided GRECO with information on the status of Ukraine's implementation of previously provided recommendations for the 4th round of evaluation. The Commission also regrets that NGOs did not have the opportunity to provide information in advance on the status of implementation of individual GRECO recommendations that could be included by the NACP in its compliance report to GRECO, and that the NACP did not proactively seek to obtain such input from NGOs.</p> <p>4. The NACP informed the Commission that it had provided information on the state of implementation of the provisions of the UN Convention against Corruption. The Ukrainian delegation, with the participation of NACP representatives, took part in the Conference of UNCAC member states. Also, together with the non-governmental organisation "Institute of Legislative Ideas," the NACP created a joint online platform to monitor Ukraine's implementation of the UN Convention against Corruption. The Commission welcomes that step and calls for an inclusive approach to monitoring. The NACP should invite a wider pool of NGOs to conduct such monitoring and share their views for consideration by the National Agency.</p> <p>5. Despite such positive developments, the NACP should more actively advocate with the responsible bodies at the national level for the implementation of the recommendations made by international monitoring mechanisms. The NACP should constantly monitor the implementation of Ukraine's international commitments and recommendations and, to this end, should regularly collect and analyse information from other state institutions and make public its findings. In particular, the NACP should step up efforts to include measures for the implementation of these recommendations in policy documents – both those developed by the NACP and those prepared by other bodies. As for the first, the NACP was partially successful in this due to the inclusion of a number of measures in the draft Anti-Corruption Strategy.</p> <p>6. To strengthen its coordination role, the NACP could send periodic requests to the authorized bodies whose competence includes the implementation of international recommendations to obtain information on the progress of their implementation. Such information could be requested approximately every six months. The NACP could then collect and analyse this information and report it publicly. In case of a lack of progress in the implementation of certain recommendations, the NACP could initiate consultations with the relevant authorities.</p>
<p>8.8. Ensuring, within its competence, cooperation with state authorities, non-governmental organisations of other countries, and international organisations</p>	
<p>Not met</p>	<p>1. During 2020-2021, the NACP did not take sufficient measures to ensure international cooperation. The NACP did not provide the Commission with information on any cooperation with foreign entities outside of Ukraine, e.g., AC agencies of foreign states, regional AC networks (e.g., Regional Anti-Corruption Initiative), etc. Also, no information was provided on cooperation with non-governmental organisations of other countries. The NACP provided information only on cooperation with donor organisations and international technical assistance projects within Ukraine. NACP's cooperation with the competent bodies of other countries should be intensified, in particular in the area of exchange of data for the purposes of administrative verifications within the NACP's mandate, for example, on the basis of Art. 43 of the UN Convention against Corruption or on the basis of other provisions of existing international treaties). The NACP should increase the interaction with international organisations and non-governmental organisations from foreign countries.</p> <p>2. The Commission welcomes the fact that the NACP held meetings to share experiences and spread successful Ukrainian practices, but they are not sufficient to expand NACP's capabilities for effective cooperation with foreign countries.</p>
<p>8.9. Concluding memorandums of cooperation with foreign competent authorities (in particular, concerning information exchange)</p>	

Not met	<p>1. The NACP informed the Commission that, due to the COVID-19 pandemic, MoUs on cooperation with anti-corruption bodies of other countries in the context of the NACP's powers were not concluded. This situation cannot be considered as meeting the criteria, especially taking into account all the difficulties that arise during international cooperation in specific administrative cases conducted by the NACP. International studies recommend bilateral or multilateral MoUs as useful tools for establishing the exchange of information for the purpose of, for example, verifying asset declarations.</p>
8.10. Ensuring information exchange with foreign competent authorities and international organisations	
Met	<p>1. The NACP informed the Commission that 137 NACP's requests were sent to the competent authorities of foreign states and international organisations, and only in 25 cases received meaningful answers (18%). Despite such a low number, the Commission considers this criterion to be met because at least some data exchange happened.</p> <p>2. Unfortunately, the instruments derived from universal international treaties are not sufficiently effective. The Commission recommends considering legislative changes to clearly establish that the NACP has the authority to act as a competent body for the purposes of Art. 43 of the UN Convention against Corruption in administrative cases. This could be achieved by introducing amendments to the Law of Ukraine "On the Ratification of the Convention of the United Nations Organization against Corruption," and the LCP.</p> <p>3. The NACP should also consider the expansion of information exchange opportunities. For example, the NACP has not yet taken steps to join the International Treaty on Exchange of Data for the Verification of Asset Declarations, although it was previously recommended by international experts.</p>
8.11. Engaging the public in formulating, implementing, and monitoring the state anti-corruption policy	
Not met due to an external factor	<p>1. The NACP did not meet this criterion because the anti-corruption strategy and the government program (action plan) for its implementation were not adopted and were not in force in 2020-2021. Therefore, implementation and monitoring of the state anti-corruption policy was not possible. According to the Methodology of evaluation, the Assessment Commission determines criteria that were not met due to actions, inaction, or decisions of other entities. Such criteria are disregarded when calculating the proportion of the criteria that NACP met and did not meet.</p> <p>2. The Commission notes that it received positive feedback from NGOs about the NACP efforts to engage civil society organisations in the formulation of anti-corruption policy through the participatory and inclusive process of development of the draft national anti-corruption strategy.</p>
8.12. Conducting open public discussions or electronic consultations with the public on draft normative legal acts developed by the National Agency as required by legislation. Following such discussions (consultations), the National Agency has published information on proposals taken into account or offered reasoned explanation why submitted proposals were not taken into account	
Not met	<p>1. There were shortcomings in the publication and consultation on draft bylaws and their concepts by the NACP. For example, the NACP failed to ensure an open and participatory process of development of its regulations and other documents related to the financial control mandate. In several cases, the NACP did not publish draft documents with a public invitation to stakeholders to comment, contrary to the requirements of part 4 of Art. 15 of the Law of Ukraine "On Access to Public Information" and clause 12 of the Procedure for Conducting Consultations with the Public on Issues of Formation and Implementation of State Policy. In some cases, the NACP did not provide sufficient time for stakeholders to provide feedback or did not engage in a meaningful discussion of draft documents – no information was published regarding the reason for which some proposals were accepted, while others were rejected (see the evaluation in criteria 5.1, 5.5, 5.6, 5.7, 5.9, 5.10, 5.11).</p>
8.13. Publishing and presenting the findings of an annual assessment of corruption level in Ukraine, the perception of and trust in anti-corruption and other institutions	
Met	<p>1. In 2020, the findings of a survey, "Corruption in Ukraine 2020: understanding, perception, prevalence" (but only in the form of a PowerPoint presentation), were published in a timely manner on the official website of the NACP. In the Commission's opinion, in</p>

	<p>addition to the presentation of the main findings, a detailed report with all the research findings and methodological explanations should also be made public.</p> <p>2. In 2021, the findings of a survey "Corruption in Ukraine 2021: understanding, perception, prevalence" were not published. However, in the summer of 2022 (after the end of the evaluation period), the NACP conducted an online presentation of these findings and made public the presentation itself and the report, which was welcomed by the Commission.</p> <p>3. The Commission additionally notes that the</p> <p>NACP published a "research library" on its official website, which, in particular, contained links to anti-corruption research by non-governmental organisations, including those where the assessment of the NACP and the assessment of non-governmental organisations, experts, etc. on the same issue were different. This is an example of a good practice that should be continued.</p>
<p>8.14. Cooperating with non-governmental organisations concerning conducting research</p>	
<p>Met</p>	<p>1. The NACP cooperated in conducting research with NGOs in certain areas of its activity: protection of whistleblowers, analysis of corruption risks, authorized persons activity, etc. That cooperation had a positive effect and should be expanded in the future to all areas of NACP's activity. For example, the NACP, in cooperation with non-governmental organisations, could develop joint analytical studies on judicial practice in the areas of financial control, prevention of political corruption, prevention and settlement of conflicts of interest, etc. The Commission recommends that the NACP researches the systemic needs for the purposes of policy formulation or implementation. Understanding such needs and their prioritization is important for the proper planning of NGOs and donor involvement.</p> <p>2. In addition, the Commission welcomes the fact that, in 2021, the NACP held public consultations with non-governmental organisations before introducing a new approach to conducting a standard survey on the corruption level in Ukraine.</p>
<p>8.15. Creating and ensuring operation of a separate structural unit of the National Agency for external communication and collaboration with the public</p>	
<p>Met</p>	<p>1. The NACP informed the Commission that it created and ensured the operation of a separate structural unit for external communication and collaboration with the public – the Office of Educational Work and Training Programmes.</p>
<p>8.16. Ensuring systematic informing of the public about measures for preventing corruption</p>	
<p>Met</p>	<p>1. The NACP took measures to inform the public about corruption prevention activities regularly. The Commission recommends to the NACP to evaluate the effectiveness of its work in the area of awareness raising and informing the public about corruption prevention measures and make necessary adjustments.</p> <p>2. The Commission welcomes the introduction of the "Monitoring of the NACP activities" section on its official website, which was taken down after February 24, 2022. The NACP should restore the "Monitoring of the NACP activities" section of its official website and extend it to add information on the results of consideration in the courts of at least the administrative protocols made by the NACP. The NACP should focus its external communication on the effectiveness of its work – this means not only informing about the results of verifications or inspections but also, for example, about the outcomes of reviewing protocols or substantiated conclusions prepared by the NACP.</p> <p>3. Also, the Commission recommends to the NACP to coordinate its positions with stakeholders to avoid, where possible, inconsistency of positions, focusing on minor issues, redundant communication, etc. Sometimes during the evaluation period, the communication of the NACP or its officials created unrealistic expectations, and communication messages did not correspond to reality. As an example, the Commission received information about the NACP's public statements regarding the time frame for the development and implementation of the Unified Portal for Whistleblowers Reports: initially, the NACP committed to developing it by the end of summer 2021; then postponed it till the end of 2021; despite these statements, the unified portal has not been put into operation until April 2023.</p>

	<p>4. The Commission also received comments from NGOs indicating that the NACP's communication with stakeholders would benefit from periodical newsletters that are informative and contain actionable information. During the evaluation period, the content of newsletters did not fully meet the expectations of experts. Newsletters did not include information of interest to the expert community and civil society organisations. For example, the NACP could inform not only of its new projects but also about new bylaws, clarifications, drafts of such documents, etc.</p>
<p>8.17. Conducting activities to have the public develop a negative attitude to corruption, among other things by participating in public education campaigns</p>	
<p>Met</p>	<p>1. The NACP informed the Commission of its activities to develop zero tolerance and negative attitude to corruption among the public, including through public education campaigns. The NACP's Office of Educational Work and Training Programmes launched its own website, which contained various materials on the phenomenon of corruption and anti-corruption policies. These publications were meaningful and used a wide range of sources of information. In 2020-2021, the special emphasis in this aspect of the NACP activity was integrity in education.</p> <p>2. The NACP's Office of Educational Work and Training Programmes presented in December 2021 the Strategy for the formation of zero tolerance for corruption, which defined the vision, approaches, and tools of the NACP for Educational Activities to form a zero-tolerance attitude toward corruption among citizens. NACP informed the Commission that future thematic information and educational campaigns would be based on the Strategy for the formation of zero tolerance for corruption. It should be noted that, before such a presentation, organising proper consultations and discussions with the public and stakeholders taking into account their comments, would have been useful.</p>
<p>8.18. Taking measures to set up a Public Council at the National Agency ("Public Council"), whose members are selected through an open and transparent competition</p>	
<p>Met</p>	<p>1. The Public Council at the NACP was selected through an open and transparent competition. This was facilitated, in particular, by the steps taken by the NACP in the first half of 2020 to improve the legal acts that regulated the process of selecting members of the Public Council at the NACP.</p>
<p>8.19. Providing (submitting) to the Public Council, on its own or on the Council's request, information on the activities of the National Agency (except for restricted information)</p>	
<p>Met</p>	<p>1. The Public Council at the NACP did not share with the Commission any cases when NACP was not open in its communication with the Public Council or did not provide the Council with necessary information about the NACP activities, including when the Council requested such information. The Commission, however, is familiar with a case where the NACP did not respond to the Public Council's request to provide the rules of logical and arithmetical control of asset declarations. Despite this incident, the Commission considers that the NACP met this criterion.</p>
<p>8.20. Submitting to the Public Council the draft national report on the implementation of public anti-corruption policy principles</p>	
<p>Met</p>	<p>1. The NACP submitted a draft national report on the implementation of public anti-corruption policy to the Public Council at the NACP. The Public Council at the NACP did not inform the Commission about the potentially insufficient time to provide their feedback.</p>
<p>8.21. Involving the Public Council members in developing the anti-corruption strategy and the government program for its implementation</p>	
<p>Not met due to an external factor</p>	<p>1. The NACP involved in a meaningful way the Public Council members in developing the draft national anti-corruption strategy, and the Public Council members' involvement had a tangible impact on the draft anti-corruption strategy's content. As to the state programme for the strategy's implementation, it could not be achieved as the anti-corruption strategy was not adopted during the evaluation period. Therefore, the Commission concludes that the NACP did not meet this criterion because of actions, inaction or decisions</p>

	of other entities and this criterion will be disregarded in the calculation of the criteria which the NACP met or did not meet under this Evaluation Object.
8.22. Involving the Public Council members in developing the draft normative legal acts of the National Agency	
Met	1. The Public Council did not inform the Commission on the cases when there was no involvement in a meaningful way the Public Council members in developing the draft normative legal acts of the NACP. Nevertheless, no awareness raising effort was undertaken with regard to the Public Council's conclusions published on the NACP website.
8.23. Involving the Public Council members in the conduct of the anti-corruption expert examination (proofing)	
Met	1. The NACP informed the Commission that its Public Council was involved in the consideration of all projects of regulatory legal acts, in respect of which the NACP decided to conduct an anti-corruption expert examination. The NACP informed the Commission that the Public Council made no relevant proposals during the evaluation period. The Public Council members did not report to the Commission any problems with their involvement in a meaningful way in the conduct of the anti-corruption expert examination (proofing).
8.24. Conducting surveys of the respective target audiences and experts on the quality, accessibility, and user-friendliness of the National Agency's guidelines, other information and explanatory materials on: financial control measures; the prevention and resolution of conflicts of interest and compliance with other requirements and restrictions laid down in anti-corruption legislation; corruption prevention and detection by authorized units (authorized persons); compliance with laws on political parties, etc.	
Not met	<p>1. The NACP informed the Commission that respondents of the general survey "Anti-Corruption Integrity 2020" were asked: "What is your opinion on the NACP's explanation of anti-corruption legislation?". No such surveys were conducted in 2021.</p> <p>2. The question in the mentioned 2020 survey did not cover the quality, accessibility, and user-friendliness of the NACP's guidelines, other information, and explanatory materials in different areas separately. Also, the survey did not cover experts.</p> <p>3. The NACP conducted a survey on the quality of services for declarants as a target audience (not experts), but no results were published.</p> <p>4. On the web page "Knowledge base of the NACP", one can also evaluate whether the clarification of the NACP on a certain issue was useful (there are answer options "yes" or "no"), but this did not fully address the criterion's requirements, as information on feedback mechanisms is also included (was it used and with what results).</p> <p>5. The Commission is not aware of any concrete examples of how the above-mentioned surveys influenced the NACP guidelines, other information, and explanatory materials in different areas mentioned in the criterion.</p>
8.25. Conducting and taking into account results of surveys on the effectiveness of the National Agency's activities in the area of formulation of anti-corruption policy, financial control compliance and implementation of related activities, the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation, corruption prevention and identification by authorized units (authorized persons), compliance with laws on political parties, etc.	
Not met	1. The Commission found that during the evaluation period, the NACP did not conduct the relevant surveys in all work areas mentioned in the criterion. Some of them covered only target audiences and not experts at all. The NACP informed the Commission that it planned the expert surveys for the following years and will determine the respondents' assessment of the effectiveness of the NACP's activities in specific work areas. The results of such surveys should be taken into account in the institutional and individual system of performance evaluation of the NACP, and improvement measures should be taken based on the findings.

	<p>2. According to NGOs, the NACP did not carefully review the individual recommendations provided by experts of non-governmental organisations in their analytical reports. The NACP did not provide public feedback on the acceptance or non-acceptance of the recommendations in all cases. In the Commission's opinion, the NACP should organise more effectively its collaboration with NGO experts to ensure meaningful discussion of issues raised by the experts.</p>
<p>8.26. Providing full and prompt responses to information requests and petitions of natural and legal persons related to any area of the National Agency's activities</p>	
Not met	<p>1. Stakeholders informed the Commission about the cases when the NACP did not provide full and prompt responses to information requests and petitions. Such examples included the area of financial control and the prevention and resolution of conflicts of interest, compliance with other requirements and restrictions laid down in anti-corruption legislation. In particular, the NACP denied access or did not provide complete information concerning LAC rules, methodological recommendations for authorized persons on financial control issues, methodological recommendations for authorized persons on issues of control over compliance with requirements on conflicts of interest and related anti-corruption restrictions, procedures for carrying out financial control measures for certain categories of persons, which are approved in accordance with Art. 52-1 of the Law of Ukraine "On Prevention of Corruption", etc.. The Commission reviewed NACP replies in these cases and did not find that NACP's replies provided a reasonable justification for the refusal of access to information, in particular, they lacked justification using the public interest and harm tests as required in the Access to Public Information Law. Some replies also lacked reference to the appeal procedure as required in the said Law.</p>
<p>8.27. Ensuring operation of communication channels for providing clarifications, advice, and support to declarants</p>	
Met	<p>See the evaluation in criterion 5.15 under Evaluation Object 5.</p>
<p>8.28. Reviewing petitions and notifications of natural and legal persons on alleged violations of anti-corruption legislation or legislation on political parties within the time limits and according to the procedure stipulated in the legislation</p>	
Met	<p>1. The NACP provided the Commission with the cases of reviewing petitions and notifications of natural and legal persons on alleged violations of anti-corruption legislation or legislation on political parties within the time limits and according to the procedure stipulated in the legislation. The NACP informed that there were no cases of complaints against the NACP about inaction or lack of prompt action in response to the notifications of alleged violations of anti-corruption legislation or legislation on political parties.</p>
<p>8.29. Setting up its own secure communication channels for anonymous whistleblowers, including online communication channels, telephone hot lines, and email boxes</p>	
Not met	<p>See the evaluation in criterion 7.2 under Evaluation Object 7.</p>
<p>8.30. Preparing annual reports on its activities including objective information referred to in Article 14 of the Law on Corruption Prevention</p>	
Not met	<p>1. The Commission found that the NACP's annual reports did not include all the elements prescribed by law and were not comprehensive enough with regard to some areas.</p> <p>2. The 2020 NACP report was incomplete and did not contain information on the results of consideration of instructions, protocols, cases sent to law enforcement agencies, court cases, etc. This omission significantly impaired the ability to assess the effectiveness of the NACP and contradicted the requirements of Art. 14 of the Law on Corruption Prevention. The report also lacked information on the staff experience.</p> <p>3. The 2021 annual report contained information on the number of protocols for administrative offences drawn up and reviewed by the courts but did not contain information on the specific outcomes of the cases. Additionally, information provided on the substantiated conclusions drawn up by the NACP on the detection of signs of violations was incomplete. No information on the results of the consideration of claims filed by the NACP</p>

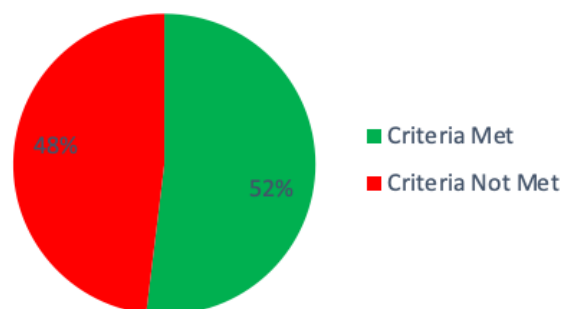
	<p>or the state of implementation of the NACP's instructions (prypysy) submitted by the NACP was provided.</p> <p>4. The NACP objectively needs to understand what the follow-up and outcomes of their protocols in courts is, in order to be able to conduct the necessary analysis of its own activities, identify its own mistakes and adapt its practice – it is recommended to consider the need to gather this information systematically.</p>
8.31. Submitting annual reports of the National Agency to the Public Council for an opinion	
Met	<p>1. The NACP submitted its annual reports in 2021 to the Public Council for an opinion as required by the Law. There was no such submission in 2020 because the Public Council had not been set up.</p> <p>2. The Public Council did not mention to the Commission that time for its feedback defined by the NACP was potentially insufficient.</p>
8.32. Publishing annual reports not later than on April 15 on its official website together with the opinion of the Public Council (if the opinion is approved by the due date)	
Met	<p>1. The NACP published annual reports on its official website on time.</p> <p>2. The Public Council's opinion in 2021 was published on time together with the annual report. As for 2020, there was no publication of the Public Council's opinion because the Public Council had not yet been formed at the time.</p>

Object 9. Management and organisational capacity of the NACP

Summary of Findings

The NACP met 27 of the 52 Object 9 criteria that were considered, a ratio of 52%.

Total criteria	57	
Criteria not met because of factors external to the NACP	0	
Criteria for which the Commission did not have sufficient information to reach a conclusion	5	
Criteria under consideration	52	
Criteria met	27	52%
Criteria not met	25	48%



Based on the information from the NACP and other stakeholders, the Commission was not able to assess five criteria out of 57 under Object 9 – the Commission lacked sufficient information to decide whether they were met (9.27, 9.28, 9.29, 9.31, and 9.37).

Out of the remaining 52 criteria, 27 criteria (52%) were met (9.2, 9.3, 9.6, 9.7, 9.10, 9.15, 9.17, 9.18, 9.21 – 9.24, 9.34, 9.35, 9.36, 9.39 – 9.42, and 9.46 – 9.53), and 25 criteria were not met (9.1, 9.4, 9.5, 9.8, 9.9, 9.11 – 9.14, 9.16, 9.19, 9.20, 9.25, 9.26, 9.30, 9.31, 9.32, 9.38, 9.43, 9.44, 9.45, and 9.54 – 9.57).

Background

The NACP was established by the Cabinet of Ministers of Ukraine in accordance with the Constitution of Ukraine, the LCP, and other laws of Ukraine. The Law on the Central Bodies of Executive Power and other legal acts regulating the activities of executive bodies, as well as the Law on State Service, apply to the NACP, its employees and staff, as well as to NACP powers in relation to authorized subdivisions (authorized persons) on issues of prevention and detection of corruption in the part that does not contradict the LCP (see the evaluation in criterion 9.1).

Article 5 of the LCP establishes that the Head of the NACP may have three deputies whom he appoints and dismisses. Under Article 7 of the LCP, Deputy Heads of the NACP exercise their powers in accordance with the division of duties approved by the Head of the NACP, and when the Head is absent, they perform his duties in accordance with the order approved by the Head of the NACP (see the evaluation in criterion 9.2).

The apparatus (secretariat) of NACP performs organisational, informational, reference and other types of support for the NACP's activities. Regulations on the apparatus of the NACP and its structure, as well as regulations on independent structural units of the apparatus, are approved by the Head of the NACP.

The maximum number of employees of the NACP staff is approved by the CMU at the request of the Head of the NACP.

Initially, the CMU determined the maximum number at the level of 311 people. As of January 1, 2019, the Government increased the maximum number of NACP staff from 311 to 408 people. Since 2020, the permanent structure of the NACP provides for the operation of 20 structural units (see the evaluation in criteria 9.1, 9.19, 9.20).

The head of the apparatus and his or her deputies are appointed and dismissed by the Head of the NACP. The employees of the apparatus (except for employees who perform maintenance functions or hold patronage service positions) are appointed based on the results of an open competition, except when they are transferred in accordance with the procedure specified by the Law on Civil Service. The regulation on open competition in the NACP is approved by the Head of the NACP (see the evaluation in criterion 9.1).

By the decision of the Head of the NACP, up to six territorial units of the NACP may be created, the geographic mandate of which may not coincide with the administrative-territorial division. Heads of the territorial units of the NACP are appointed and dismissed by the Head of the NACP (see the evaluation in criteria 9.54 – 9.55). No territorial units of the NACP have been set up during the evaluation period.

The first NACP Development Strategy applied during 2017–2020. It included an implementation plan and was published on the National Agency's website. The NACP developed it with experts from the Danish Agency for International Development and the Ministry of Foreign Affairs of Denmark within the framework of the EU Anti-corruption Initiative project in Ukraine. In 2021, the NACP adopted a new Development Strategy. The Strategy covers long-term vision and goals, short-term goals, allocation of resources to achieve them, mission, values, priorities, areas of management responsibility, main functions and products of the NACP, etc. (see the evaluation in criterion 9.4).

The LCP regulates the conditions of financial support for the management and employees of the NACP. In accordance with Article 17 of the LCP, the salary of the Head, Deputy Head of the NACP, and employees of the apparatus must provide sufficient material conditions for the proper performance of their official duties, taking into account the nature, intensity, and danger of the work, ensure recruitment and retention of qualified personnel in the NACP apparatus, to stimulate the achievement of high results in official activities, as well as to compensate the intellectual costs of employees. The salary of the Head, Deputy Head of the NACP, and staff employees consist of the base salary, allowance for seniority, additional pay for rank, bonus, and other allowances established by the Law on Civil Service. The LCP establishes the salaries of employees of the NACP in accordance with the amount of the subsistence minimum for able-bodied persons, established on January 1 of the calendar year (see the evaluation in criterion 9.20).

Expenditures for the activities of the NACP include funds for conducting research on the study of the situation regarding corruption, information campaigns, and training on the prevention and countering of corruption (see the evaluation in criterion 9.21).

The 2019 amendments in the LCP, which rebooted the NACP by changing its governance model, also provided for a new model of internal control and corruption prevention within the National Agency. The NACP became the first state agency where the control function was separated from the integrity advice and risk assessment to avoid the inherent conflict of interest when the two functions are combined in one unit. To this end, the amendment stipulated that the NACP should have two separate units: 1) the Internal Control Unit with the tasks of ensuring compliance with the LCP by the NACP employees and their integrity and 2) the Corruption Prevention Unit responsible for the internal risk assessment, implementation of corruption prevention measures, and providing consultations to the NACP staff. Despite these provisions, the NACP included the prevention unit within the control unit, thus not fully implementing the 2019 reform.

The procedure of operations and powers of the Internal Control Unit and the Corruption Prevention Unit are determined by the regulations approved by the Head of the NACP. The Head of the NACP appoints and dismisses the head and employees of these units. The Internal Control Unit reports directly to the Head of the NACP (see the evaluation in criteria 9.26 – 9.28).

The mandate of the Internal Control Unit of the NACP is specified in Article 17-1 of the LCP (see the evaluation in criterion 9.26). The mandate of the Corruption Prevention Unit of the NACP is specified in Article 17-1 of the LCP (see the evaluation in criterion 9.38).

In addition to the General Rules of Ethical Behaviour of Civil Servants, the NACP employees also have a separate code of conduct approved on May 19, 2019. The code consists of nine principles of ethical behaviour of the employees of the NACP, which they are obliged to follow during the performance of their official duties (see the evaluation in criterion 9.39).

In accordance with the LCP, the NACP ensures the maintenance of the Unified Portal of Whistleblower Reports, the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government, and the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences.

The declarations submitted are included in the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government, which is set-up and maintained by the NACP. The official website of the NACP provides open 24-hour access to the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government offering the possibility of viewing, copying, and printing information, as well as downloading information in the form of a data set (electronic document), which allows its automated processing by electronic means (machine reading) for the purpose of reuse (see the evaluation in criterion 9.46).

The distribution of duties for verification of declarations between authorized persons of the NACP is carried out automatically in accordance with the procedure determined by the Head of the NACP (see the evaluation in criteria 9.56 and 9.57).

Information about persons who have been held criminally, administratively, disciplinary, or civilly liable for committing corruption or corruption-related offences, as well as about legal entities to whom criminal-legal measures have been applied in connection with the commission of a corruption offence, is entered into the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences, which is set-up and maintained by the NACP. Information about persons who are part of the staff of bodies that conduct operative search or intelligence or counterintelligence activities, whose membership in the specified bodies constitutes a state secret, and who have been prosecuted for committing corruption offences, is entered in the section with limited access of the said register. The NACP approves regulations on the Unified State Register of Persons Who Committed Corruption or Corruption-related Offences and the procedure for its formation and maintenance are approved (see the evaluation in criterion 9.45).

Key Achievements

1. The institutional capacity of the NACP was improved (see the evaluation in criterion 9.3).
2. The e-case management system and an e-document management system were implemented (see the evaluation in criterion 9.6).
3. The interaction and information exchange among structural units of the NACP were improved (see the evaluation in criterion 9.7).
4. The NACP ensured the active participation of the Public Council members in the NACP staff selection procedures (see the evaluation in criterion 9.15).

5. The NACP became the owner of the hardware and software of the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Government (see the evaluation in criterion 9.46).
6. The NACP launched the Unified State Register of Political Parties' Statements of Assets, Income, Expenses, and Financial Liabilities (see the evaluation in criterion 9.47).

Challenges and Weaknesses

1. The NACP's organisational structure caused relevant material objections, with some acting heads performing their duties for an unreasonably long term (see the evaluation in criterion 9.1, 9.26, 9.38).
2. The institutional development strategy's measures did not match its objectives and did not include measurable indicators (see the evaluation in criterion 9.4).
3. The implementation action plan of the NACP communication strategy did not exist as of April 2023. The NACP did not analyse the communication strategy's effectiveness and implementation during the evaluation period (see the evaluation in criterion 9.5).
4. During the assessment period, the Head of the NACP had not reached the standard of demonstrating a high degree of expertise and professionalism (see the evaluation in criterion 9.8).
5. Some normative legal acts of the NACP had serious deficiencies in terms of their quality and consistency with laws. In several cases, the NACP leadership chose to avoid adopting binding legal acts and replaced them with "methodological recommendations" or similar non-binding documents that were not subject to registration at the MoJ. The adoption of such documents was often not based on public consultations, and in some cases, the documents were not available for public scrutiny even after their approval. Some required legal acts that existed before were cancelled (and not replaced with new ones) or not adopted at all (see the evaluation in criterion 9.11).
6. The NACP regulation on the open competitive selection of its staff drew reasonable material objections (see the evaluation in criterion 9.12).
7. Competitive selection of the NACP staff lacked openness, transparency, and impartiality (see the evaluation in criteria 9.13, 9.14, 9.16).
8. There was no external assessment of the corruption risks at the NACP (see the evaluation in criterion 9.25).
9. The system of the automated allocation of inspections to authorized persons of the NACP did not cover all NACP inspections according to the NACP mandate, which contradicted the LCP (see the evaluation in criteria 9.56).
10. There were deficiencies in the procedure for the automated allocation of inspections to authorized persons of the NACP, allowing potential interference in the automated allocation (see the evaluation in criteria 9.56 – 9.57).

External Factors That Affected the NACP's Performance

1. COVID-19 pandemic. One of the most urgent things after the "reboot" of the NACP in 2019 was recruiting new staff via an open and transparent competition. Although regulations for such competitions were approved in March 2020, full-scale competitions were not held due to COVID-19 quarantine restrictions, which were only lifted in March 2021, forcing NACP to use the transfer procedure and sign temporary contracts more often than advisable. According to the NACP, the COVID-19 pandemic limitations negatively impacted the

consideration of the creation of the regional bodies of the NACP (see the evaluation in criteria 9.12 – 9.13, 9.54 – 9.55).

2. The Constitutional Court decision #13-r/2020 suspended the financial control measures of the NACP staff (see the evaluation in criterion 9.32).

High Priority Recommendations

1. Update its institutional strategy, following proper consultations with stakeholders and analysis of the NACP performance and impact of the previous strategy; measurable indicators tracking progress and impact should be used for monitoring the strategy's implementation (see the evaluation in criteria 9.3, 9.4).
2. Urgently revise its approach to drafting and adopting secondary legislation regulating its activities. This should include the following: regulating internal proceedings of the NACP only through binding legal acts developed based on extensive and meaningful public consultations, subject to Ministry of Justice registration and online publication; avoiding unnecessary splitting of regulations into several documents that complicate their understanding and control of implementation; ensuring that all staff actions performing NACP's functional mandate are based on the adopted binding regulations that are aligned with the LCP and other primary laws (see the evaluation in criterion 9.11).
3. Eliminate deficiencies in the NACP regulations on the open competitive selection of its staff (see the evaluation in criterion 9.12).
4. Improve the openness and transparency of competitions for civil service positions, in particular by publishing all necessary information (see the evaluation in criterion 9.13).
5. Provide training to the NACP Selection Commission members to ensure their impartiality during open competitions and a thorough assessment of the professionalism, competence, and integrity of candidates (see the evaluation in criteria 9.14, 9.16).
6. Align the functions of the NACP Internal Control Unit with the tasks it should have according to the LCP, in particular by removing from its mandate verification of asset declarations of special categories of declarants (for example, intelligence officers) (see the evaluation in criteria 9.26).
7. Revise the procedures for integrity checks and lifestyle monitoring of the NACP staff to address the stakeholder comments (see the evaluation in criteria 9.29, 9.30).
8. Set up a separate unit for corruption prevention of the NACP as required by the LCP (see the evaluation in criteria 9.38).
9. The NACP should create effective internal channels for the authorized persons of the NACP to report cases of internal (within the NACP) or external interference in their activities and a special procedure for managing with such reports (see the evaluation in criteria 9.44).
10. Bring the operation of the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences in line with the law (see the evaluation in criteria 9.45).
11. Develop, conduct public discussions with stakeholders, and propose legislative changes to improve the model of the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences (see the evaluation in criteria 9.45).
12. Ensure that the procedure of the automated allocation of inspections to authorized persons of the NACP covers all NACP inspections according to the NACP mandate (see the evaluation in criteria 9.56).

13. Following open public consultations with stakeholders, remove deficiencies in the procedure for the automated allocation of inspections to authorized persons of the NACP to prevent undue interference with the automated allocation (see the evaluation in criteria 9.56 – 9.57).

Other Recommendations

1. The regulations on the structural divisions of the NACP should clearly demarcate the boundaries of the powers and functions of each NACP division (see the evaluation in criterion 9.1).
2. Increase the number of employees of the Department of Anti-corruption Policy to match its workload (see the evaluation in criterion 9.1).
3. Avoid situations when persons hold management positions as acting heads of units for more than three months (see the evaluation in criterion 9.1).
4. Review allocation of responsibilities among the Head and Deputy Heads of the NACP to ensure a more balanced approach (see the evaluation in criterion 9.2).
5. Develop an implementation action plan for the NACP's communication strategy; conduct an analysis of the effectiveness of the communication strategy's implementation (see the evaluation in criterion 9.5).
6. Further improve the interaction and information exchange among structural units of the NACP, in particular by making them as horizontal as possible (see the evaluation in criterion 9.7).
7. Develop annual training plans for the NACP staff based on the performance evaluation and individual needs of employees; improve the efficiency of training (see the evaluation in criterion 9.22).
8. Develop a separate procedure for verifying asset declarations of the NACP staff, taking into account the specifics of their position, and establishing additional safeguards (see the evaluation in criterion 9.31).
9. Strengthen accountability of the NACP staff through the full use of disciplinary proceedings to address gross errors or other significant shortcomings in the work of NACP staff (see the evaluation in criterion 9.34).
10. The parliament should consider amending the LCP to ensure that the public has a substantial representation in the composition of the NACP disciplinary commission (see the evaluation in criterion 9.35).
11. Extend the internal standards of ethical conduct to cover all NACP staff, including those who are not civil servants (see the evaluation in criterion 9.35).
12. Strengthen analytical capacity of the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences (see the evaluation in criterion 9.45).
13. Ensure efficient software and technical support for the Unified State Register of Declarations of Persons Authorised to Perform the Functions of the State or Local Government, if needed, by choosing a different independent service provider or ensuring such a support in-house (see the evaluation in criterion 9.46).
14. Create regional bodies of the NACP that will be fully operational and have sufficient staff (see the evaluation in criteria 9.54 – 9.55).

Detailed Assessment

EVALUATION OBJECT 9: NACP Management and Organisational Capacity	
Assessment	Explanation
9.1. There are no reasonable material objections regarding the structure and staffing of the National Agency	
Not met	<p>1. The NACP changed its organisational structure 15 times during the evaluation period. From the information the NACP provided, it is not evident that each change in the structure was justified by objective reasons and led to a better functioning institution. The numerous changes did not align the NACP structure with the LCP requirements, in particular, concerning the mandate of the Internal Control Unit and placement of the Corruption Prevention Unit. The Internal Control Unit (ICU) was assigned the function of verification of asset declarations of special categories of declarants who are not NACP staff members contrary to the LCP express requirement that the ICU is set up for pursuing only two objectives – to ensure integrity of the NACP staff and ensure that the NACP staff complies with the LCP requirements. The LCP clearly defined the role of the ICU as inward looking and did not intend to assign it any external mandate. Assigning additional functions to the unit cannot be seen as a legitimate managerial decision, as it violated the law and had no other justification. The decision may have actually weakened the ICU and the task of internal integrity control within the NACP, as the ICU had to allocate significant resources to the function of verifying asset declarations of hundreds of officials of the Security Service and other agencies. The head of the ICU was also hired from among former Security Service officials which, in the context of the functions assigned to the ICU, may raise an issue of impartiality and independence of the unit. The LCP required that the Corruption Prevention Unit be set up as a separate unit for the very reason that the function of control should not be mixed with the prevention and advice on integrity issues. That was the gist of the 2019 rehaul of the NACP, which included the separation of two functions between different units. That was the first such arrangement in any public authority of Ukraine, where, since 2014, the authorized anti-corruption units (authorized persons) deal with both control and preventive functions. Despite this, the NACP leadership chose to include the Corruption Prevention Unit within the ICU contrary to the LCP’s logic (see the evaluation in criteria 5.11, 9.26, 9.38).</p> <p>2. The quality of the regulations on the structural divisions of the NACP, approved by the NACP Head, was questionable. These regulations did not clearly delineate the powers and functions of each independent structural unit of the NACP. For instance, instead of one department dealing with the verification of asset declaration, the NACP Head created two departments with very similar names – the Office of Mandatory Full Verifications of Declarations and the Office of Full Verifications of Declarations – without offering clear and objective justifications for this decision. Both departments perform in substance the same function. However, the LCP provides only one procedure called the “full verification.”</p> <p>3. The Department of Anti-corruption Policy was understaffed. It consisted of 21 persons, seven of whom were responsible for the developing, coordination, and monitoring of anti-corruption policy. It is necessary to increase the number of staff of this unit, taking into account the volume of work that this department will have to perform in connection with the entry into force of the Anti-Corruption Strategy and State Anti-Corruption Programme.</p> <p>4. During 2020-2021, several heads of the NACP key units held their positions ad interim beyond a three-month period allowed by Article 30 of the Law on Civil Service (for example, Mr. Oleksandr Amplieiev, acting head of the Office of Special Inspections and Lifestyle Monitoring, and Mr. Oleksandr Shulha, acting head of the Department for Conflict of Interests and Restrictions on Corruption Prevention which was directly subordinated to the NACP Head). Not only was it contrary to the legislative limit of three months, but also raised questions as to the quality of management decisions in the NACP. The National Agency explained to the Commission that the long-term acting status of the heads of those units was related to the verification of professional competencies, determination of the level of professionalism, knowledge, and experience necessary for the performance of the duties of the corresponding managerial positions. The NACP referred to it as a type of a trial period for those employees. However, in the Commission’s opinion, three months should be a sufficient period to test the professional skills of the person in a managerial</p>

	position and there were no objective reasons to extend the trial period up to one year or even longer in some cases.
9.2. Introducing an allocation of responsibilities among the Head and Deputy Heads of the National Agency, heads of the structural units of the National Agency of various levels that draws no reasonable material objections	
Met	<p>1. The allocation of responsibilities among the Head and Deputy Heads of the NACP was introduced, and the Commission acknowledges the right of the NACP Head to make managerial decisions on the substance of such allocation.</p> <p>2. Nevertheless, some stakeholders raised concerns about the unbalanced allocation of responsibilities among different Deputy Heads of the NACP when one Deputy Head did not coordinate the activities of any "functional" structural division (i.e., which is responsible for the main areas of activity of the NACP), while two other Deputy Heads each coordinated two or three full-fledged areas of activity. During the interview, NACP representatives stated that it was a conscious decision that was prompted by the high priority of digital transformation activities within the NACP.</p> <p>3. Another example of seemingly uneven distribution of responsibilities was the situation when a Deputy Head coordinated the activities of the structural units that carried out measures of financial control and prevention of political corruption, but the activities to ensure compliance with the requirements on conflict of interests and other related restrictions were personally coordinated by the NACP Head. The Commission is not aware of any objective reason why the department on the conflict of interest had to be subordinated directly to the NACP Head, while all other functional departments were coordinated by the Deputy Heads. Moreover, in that case, the person in charge of the department directly subordinated to the NACP head also held its position ad interim for an extended period of time (see the previous criterion).</p>
9.3. The institutional capacity of the National Agency enables it to be independent in practice	
Met	<p>1. The Commission acknowledges the undeniable progress in this sphere NACP achieved during the evaluation period. Efforts to further the institutional development of NACP should be continued and should be one of the main priorities for the leadership of NACP. At the same time, the NACP still had to rely on donors for performance of its certain tasks due to lack of resources. This was partly explained by the fact that the NACP internal processes needed further optimization to achieve better effectiveness in a number of aspects. The NACP also remained understaffed during the evaluation period and faced difficulties in obtaining the budgetary allocations it had requested to cover the institutional needs.</p> <p>2. Building the institutional capacity of NACP for reaching independence in practice should include the involvement of stakeholders at various stages in discussions, consultations, work on joint projects, etc.</p>
9.4. Approving the institutional development strategy that was developed following a proper analysis of previous performance and provides for the monitoring of its implementation based on measurable indicators	
Not met	<p>1. The 2017-2020 strategy covered the year 2020 under review. The strategy was outdated as it was adopted in 2016 and referred to the institutional model in existence before 2019 (the NACP was managed by a collegial body composed of 5 persons). After the change of the governance set-up of the NACP, the NACP did not review its strategy to align it with the new legal framework. The Commission concludes that the strategy was not relevant and did not reach its objectives in 2020.</p> <p>2. In May 2021 (almost one year and half after the appointment of the NACP Head), a new strategy was adopted with the implementation term until 2024. This strategy defined the roles of various structural subdivisions of NACP. However, this programmatic document was adopted without proper consultations with stakeholders and without a proper analysis of the performance and impact of the previous strategy. Some parts of the new strategy repeated the work plan of NACP for 2021. In addition, the strategy extensively cited provisions of the UN Convention against Corruption and other legal norms which is not required for in the institutional strategic document. The measures to develop the institutional capacity of NACP did not match the significant ambitions included in the strategy (for example, the NACP as "the leader of the anti-corruption movement,"</p>

	<p>an "architect and guardian of integrity," etc.). The indicators of the new strategy were not always measurable making the proper monitoring of their implementation difficult.</p> <p>3. The NACP could use as an example the NABU Development Strategy for 2021-2023, as this is a good document with a proper assessment of the current context and state of affairs, measurable expected outcomes, the mechanism for implementation and monitoring.</p>
<p>9.5. Approving and implementing a communication strategy that is appropriate, coordinated with other stakeholders. The National Agency regularly analyses the effectiveness of its communication strategy and, if necessary, modifies it</p>	
<p>Not met</p>	<p>1. The NACP approved a communication strategy for 2021-2023, however the implementation action plan for this strategy did not exist. The NACP did not conduct an analysis of the communication strategy's effectiveness during the evaluation period. As for the coordination with other stakeholders, it concerned only representatives of the international technical assistance projects.</p> <p>2. The Commission is not aware of the existence of the implementation reports on the Communication Strategy in 2020. In 2018, the NACP adopted a communication strategy for 2018-2020 that covered the year 2020 under review. The strategy was outdated, and it referred to the institutional model in existence before 2019 (the NACP was managed by a collegial body composed of 5 persons). After the change of the governance set-up of the NACP, the NACP did not review its strategy to align it with the new legal framework. The Commission concludes that the strategy was not relevant and could not reach its objectives in 2020.</p>
<p>9.6. Implementing and proper functioning of the e-case management system and an e-document management system (either as a stand-alone system or as a component of the case management system)</p>	
<p>Met</p>	<p>1. The NACP informed the Commission that the e-case management system and an e-document management system were implemented at the end of 2021. During the interviews with NACP representatives, no complaints were provided about the functioning of the systems.</p>
<p>9.7. Ensuring proper interaction and information exchange among structural units of the National Agency, in particular concerning detected signs of violations or for the purposes of control, inspection, and monitoring activities</p>	
<p>Met</p>	<p>1. The Commission recognizes that the level of interaction between various structural NACP units has significantly improved over the past two years, primarily due to legislative changes regarding the NACP's governance model in 2019. Previously the various NACP units were subordinated to individual NACP members. During the interviews, the NACP representatives reveal shortcomings in the communication and constructive cooperation between structural NACP units.</p> <p>2. The Commission underlines the importance of direct, horizontal exchange of information regarding potential offences among NACP structural units. Ensuring a proper interaction and communication between NACP units with different functions especially in the cases where a decision taken by one unit may impact on the workflow and performance of another unit. For example, for the unit that is charged with the formation and implementation of anti-corruption policy, it is essential to fully comprehend the challenges other units face with regard to the verification of asset declaration, political finance, control of conflicts of interests and implementation of anti-corruption measures in public authorities, etc.</p>
<p>9.8. The Head of the National Agency demonstrates a high degree of expertise, professionalism, leadership, and commitment to work, motivating subordinates and serving as a model of integrity</p>	
<p>Not met</p>	<p>1. The NACP Head showed a proactive approach to public communication, a strong commitment to work, and leadership in attracting talent to work in the agency. There were no allegations of corruption with regard to the NACP Head. However, the Commission noted significant deficiencies outlined in this Object concerning the management and organisational capacity of the NACP and the failure to meet some of the criteria under other assessment objects, which fall within the mandate of the NACP Head. The notable examples were the practice of substituting mandatory regulations with non-binding documents, limiting public access to draft or approved regulations of the NACP, failure to conduct meaningful public consultations on certain NACP documents, and failure to act in line with the Law on Corruption Prevention in certain cases (organisation of the</p>

	internal control and corruption prevention units, determining the scope of the automated allocation of cases, etc.). Such practices undermined the legal certainty and institutional accountability of the NACP. Considering all the above achievements and shortcomings, the Commission could not conclude that, during the assessment period, the Head of the NACP had reached the standard of demonstrating a high degree of expertise and professionalism.
9.9. Deputy Heads of the National Agency and heads of the structural units of the National Agency demonstrate a high degree of expertise, professionalism, leadership, and commitment to work, motivating their subordinates and serving as a model of integrity	
Not met	1. Most Deputy Heads of the NACP and heads of the structural units, during the assessment period, demonstrated a high degree of qualities required by this criterion. However, the Commission is aware of concerns regarding the “model of integrity” element in connection with one head of the structural unit of the NACP. These concerns were raised by some of the stakeholders and to a certain extent highlighted in the media investigation findings. Given the complexity of this criterion and its high standard, the Commission cannot consider it as ‘met’.
9.10. The Head and Deputy Heads of the National Agency undertake effective measures to react to cases of undue interference in the activities of the National Agency	
Met	1. In the self-assessment report, the NACP reported the absence of cases of undue interference in the activities of the NACP. 2. In the questionnaire replies, the NACP mentioned cases that were considered as undue interference with explanation of measures undertaken.
9.11. The normative legal acts of the National Agency are of high quality and consistent with laws	
Not met	1. The Commission notes that a number of NACP normative legal acts adopted or amended during the evaluation period were not of high quality and/or were inconsistent with laws. The specific examples are described in the previous Evaluation Objects. One of the most problematic practices was when the NACP Head substituted adoption of binding bylaws with the so-called methodological recommendations or other non-binding documents when proper administrative normative acts were in fact required. Methodological recommendations, as opposed to normative administrative acts, were not registered with the MoJ. That practice violated provisions of the LCP, the constitutional principle of legality and other principles of the rule of law, including legal certainty and predictability. It also allowed the NACP to avoid holding public consultations on the draft documents and publishing adopted documents. The fact that the practice was systemic and concerned different areas of activity, including such key functions as the financial control of public officials and control over compliance with the conflict of interest and other anti-corruption restrictions, raises serious concern. The Commission urges the NACP to revise its approach, review all documents (regardless of the formal designation) regulating/guiding different areas of work and regulate all internal procedures through mandatory bylaws that have been developed through an open and participatory process with different stakeholders, were subject to the MoJ review and published for public scrutiny. The NACP also used the practice of artificially splitting regulations into several documents, some of which were not binding, though they covered important aspects of the overall procedure. Some were restricted in terms of public access without proper legal basis for such a restriction. The multiple revisions of particular regulations during the period under assessment also raises quality-related concerns regarding the initially adopted documents, as well as concerns regarding the legal stability. Finally, the Commission found questionable managerial decisions – for example, the decision not to extend the randomized automated allocation of cases to the verification of conflicts of interest and other related violations.
9.12. The Head of the National Agency adopted a regulation on open competitive selection at the National Agency that draws no reasonable material objections	
Not met	1. The regulation on open competitive selection for the NACP was adopted in March 2020 but drew reasonable material objections with regard to ad hoc competitions, the composition of the commission, interviews on integrity, and psychological tests. 2. Unfortunately, before the start of the competitions in 2021 when COVID-19 restrictions were lifted, some gaps in the regulation were not corrected when making changes to it in March 2021. For example, psychological examination and testing of candidates for general abilities should become mandatory in the regulation (a potential exception for certain positions in units that support

	<p>the NACP work could be included if justified). In addition, neither the results of tests for general abilities and legal knowledge, nor the list of candidates admitted to the next stage of the competition were published on the website of the NACP. The regulation required the selection commission to recommend three candidates for each vacant position. The candidates are either considered by the NACP Head immediately or undergo psychological testing before that. A better solution to ensure objectivity in the selection process would be for the selection commission to recommend only one candidate for appointment, and only if the appointment does not materialize (due to the candidate's refusal or for other clearly defined reasons), the selection commission should recommend the next in ranking.</p> <p>3. The number of members and composition of the competition commission remained unclear, raising concerns regarding excessive discretion. On the one hand, it created risks of changing the personal composition or the number of commissions for each specific competition – in this way the influence of the representatives of the NACP's Public Council in the competition commission could be decreased in particular cases. On the other hand, this practice potentially allowed the set-up of ad-hoc selection commissions for specific competitions, which is a practice that should not be encouraged. A solution to these challenges might be for NACP to clearly define in its bylaw: (1) the number of members of the selection commission; (2) the number of selection commissions to be set-up; (3) the principles, approaches, and the procedure for the distribution of responsibilities between different commissions (if several are formed). The regulation did not specify the list of persons who must be part of the selection commission – instead, it is only noted that representatives of the HR unit, internal control unit, etc. "may be included" in the commission. The Commission believes that it would be advisable that representatives of these units sit in all the selection commissions.</p> <p>4. The regulation stipulates that the meeting of the selection commission is valid if "at least half of its members" participate in it. Another provision indicates that "the selection commission makes a decision by the majority of votes of the members of such commission who participate in the meeting." This means that less than half of the approved composition of the selection commission can potentially decide on any issue. These rules require significant revision: not only the quorum but also the decision-making process should require the support of more than half of the appointed members of the commission.</p> <p>5. The Commission notes that no requirements regarding the integrity of candidates or their previous work experience were included in the announcements for positions of civil servants of category "B". The NACP regulations also failed to clearly articulate the need to assess candidates in terms of compliance with the criteria of integrity and professional ethics. The regulation did not disclose in any way how the members of the selection commission should evaluate the candidate's compliance with the integrity criteria. It seems that here the commission should be given the right to refuse recommendations for appointment due to non-compliance with the criteria of integrity and professional ethics. The evaluation criteria should be determined by the NACP Head, and they should be unified for all NACP vacant positions, taking into account the high expectations for the integrity and ethics of the NACP staff and the need to ensure high public trust in the body.</p>
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9.13. The National Agency staff are recruited according to the legislative requirements. Competitions for civil service positions are open and transparent

Not met	<p>1. The NACP informed the Commission that according to Clause 2, Part 1, Art. 41 of the Law of Ukraine "On Civil Service", in 2020, 45 people were appointed to the NACP by transfer, with no competition for civil service positions, and, in 2021, 20 people were transferred to the NACP. The NACP should avoid overusing the transfer procedures instead of open competitions. In accordance with the procedure stipulated by the Resolution of the Cabinet of Ministers of Ukraine dated 04/22/2020 No. 290, "Some issues of appointment to civil service positions during the period of quarantine established to prevent the spread of the acute respiratory disease COVID-19 caused by the SARS-CoV-2 coronavirus on the territory of Ukraine" in 2020, 26 people were appointed to the NACP as contractors, with no competitions for civil service positions, and in 2021 – 32 people were appointed as contractors. NACP also stated that following the reinstatement of competitions in April 2021, only 11 individuals were appointed to the NACP through transfer, whereas 90 individuals were appointed through open competitions by the end of the year. In 2021, a total of 36 individuals in category B positions were appointed through open competitions, which accounted for nearly 100% of the vacant category B positions as of April 1, 2021. Among these appointments were 15 individuals for the positions of heads and deputy heads of independent structural units,</p>
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	<p>along with 54 individuals in category C positions. Consequently, the proportion of announced competitions for managerial positions in the NACP in 2021 exceeded 50% of the total number of competitions conducted.</p> <p>2. Some stakeholders in the questionnaire replies and during interviews noted that, in general, no open competitions for the positions of heads of independent structural NACP units were held (for example, not all vacancies were published properly in a way that could attract the attention of the candidates), when competitions for civil service positions began to be held by the NACP in 2021. Announced competitions mostly concerned the positions of ordinary specialists and mid-level managers.</p> <p>3. The NACP confirmed to the Commission that the relevant information for the competitions for civil service was not made public on the NACP website because of concerns regarding personal data protection with regard to the following documents:</p> <ul style="list-style-type: none"> - lists of candidates admitted to participating in the competition and admitted to each stage of the competition; - information on the results of testing for knowledge of legislation and testing of general abilities; - information about the results of the interviews; - general rating of candidates; - a summary of average scores; - list of candidates who were admitted to the next stage of the competition; - information about the composition of the Selection Commission. <p>The publication of the specified information would strengthen the transparency of selection procedures and trust in them. This problem could be assessed as systemic. It is also mentioned in the shadow report prepared by NGOs.</p> <p>4. The Public Council sometimes published information about the work of selection commissions on its Facebook page. That information concerned at least a number of candidates at various stages of the competitions. This practice should only be encouraged in the future and be systematic, if the Public Council of the NACP has the necessary resources.</p>
9.14. There are no circumstances showing inadequate impartiality of the selection commission members during open competitions	
Not met	<p>1. The Commission received a confidential testimony about examples showing the lack of impartiality of the selection commission members during certain open competitions.</p> <p>2. NACP stated that from May to December 2021, during the competitive selections to the NACP, a total of 121 competitions were conducted through the Unified Civil Service Vacancies Portal, receiving 7564 requests from candidates to participate in the competition. Out of these, 6652 candidates were admitted to participate, while 912 candidates were rejected due to non-compliance with the competition conditions.</p>
9.15. The Public Council members are included in competitive selection commissions	
Met	<p>1. Three Public Council members were included in the Selection Commission. The Public Council members did not raise with the Commission any concerns about concrete selection processes in which the Public Council members were not included.</p>
9.16. The competitive selection commission duly assesses the professionalism, competence, and integrity of candidates during open competitive selection	
Not met	<p>1. Some stakeholders alleged that the commission approved some candidates that did not have appropriate work experience in the anti-corruption field and, accordingly, had no appropriate level of knowledge (this was embedded in some recruitment announcements which did not include clear requirements for previous experience). Other stakeholders raised doubts regarding the fact that the integrity of some successful candidates was not properly assessed.</p>

	2. A person interviewed confidentially by the Commission provided examples showing that the selection commission did not assess the professionalism, competence, and integrity of candidates properly in certain cases.
9.17. The Head of the National Agency appointed Deputy Heads of the Agency, Head of the NACP Secretariat and Deputy Head of the NACP Secretariat without any external interference	
Met	<p>1. The Commission is not aware of any external interference in the appointment of the Deputy Heads of the NACP, Head of the NACP Secretariat, and Deputy Head of the NACP Secretariat.</p> <p>2. Given the information received, the Commission established that Deputy Heads of the NACP, Head of the NACP Secretariat, and Deputy Head of the NACP Secretariat were not selected in an open and competitive way, which was confirmed by the NACP. However, the LCP allows this practice.</p>
9.18. There is no data of external interference in the appointment or dismissal of the National Agency staff	
Met	1. Some allegations came from reputable sources about external interference in the appointment of the NACP staff, but the Commission is not able to independently confirm and verify them.
9.19. The average number of vacancies during the period under assessment does not exceed 20 percent of the approved staff number	
Not met	1. The NACP provided the statistics to the Commission that the average number of vacancies in 2020 was 29.6 percent, and in 2021 – 22.2 percent. Both figures exceed 20 percent of the approved staff number.
9.20. Remuneration of the National Agency staff is determined in accordance with legislation, and bonuses, allowances, and other extra payments are allocated based on objective criteria	
Not met	1. Given the information provided, the Commission cannot state that in all cases remuneration of the NACP staff was predictable and based on the objective criteria and good governance principles (see the evaluation under Evaluation Object 1).
9.21. The needs for professional training (continuous training) of staff are regularly assessed	
Met	1. The NACP provided information to the Commission showing that the needs for professional training (continuous training) of staff were regularly assessed.
9.22. The National Agency staff take regular, at least biennial, continuous training and refine their knowledge and skills based on personal development plans and an assessment of training (continuous training) needs	
Met	1. The NACP provided information to the Commission showing that the NACP staff took regular, continuous training to refine their knowledge and skills. The Commission recommends developing and approving the annual plans for the training of the NACP staff to improve the efficiency of such trainings.
9.23. The National Agency staff are provided with clear instructions on how to fulfil their assignments	
Met	<p>1. NACP staff did not mention during the interviews any shortcomings with regard to the guidance they receive for their assignments.</p> <p>2. The Commission evaluated written instructions and found them detailed and clear, as they also include necessary examples. However, in the future, NACP should avoid including in these instructions for the staff the open information sources which do not meet standards of impartiality (for example, some Telegram channels were mentioned in the instructions). The NACP should also not include in the guidelines/recommendations for its staff rules that have normative nature (see the introduction to this Object and also the assessment under Objects 4 and 5).</p>
9.24. There are no instances of a material breach by the National Agency of public procurement or budgetary legislation that have caused or may cause significant losses	
Met	

	<p>1. The Commission is not aware of instances of a material breach by the NACP of public procurement or budgetary legislation that have caused or may cause significant losses.</p>
<p>9.25. Conducting a proper assessment of corruption risks and taking its findings fully into account when developing and adopting its own anti-corruption program</p>	
Not met	<p>1. The Commission did not establish that a proper assessment of corruption risks was conducted by NACP when developing and adopting its own anti-corruption program. The NACP confirmed the absence of an external assessment of corruption risks. The process of inviting external stakeholders for developing the program was limited and non-inclusive. It remains unclear what criteria the NACP used when designating participants to this process. Also, some stakeholders indicated that their reservations were not carefully reviewed by the NACP in the discussions of the anti-corruption program.</p>
<p>9.26. Setting up and ensuring operation of the internal control unit that has sufficient staff</p>	
Not met	<p>1. At the time of its creation, the Internal Control Unit was merged with the Corruption Prevention Unit (see the evaluation in criteria 9.1, 9.38, 5.11), so initially no stand-alone internal control unit existed.</p> <p>2. The Internal Control Unit carries out a mandate that goes beyond the limits set by the LCP. For example, it verifies ADs of the intelligence officers, submitted under Art. 52-1 LCP.</p> <p>The mandate of the Internal Control Unit is specified in the LCP:</p> <ol style="list-style-type: none"> 1) monitors and controls the implementation by employees of the NACP of acts of legislation on ethical behaviour, prevention and settlement of conflicts of interest, and other requirements, restrictions, and prohibitions provided for by the LCP; 2) conducts control of the timeliness of submission and full verification of declarations of persons authorized to perform the functions of the state or local self-government, submitted by employees of the NACP, in the order determined by the Head of the NACP; 3) conducts integrity checks of employees of the NACP and monitors their lifestyle in the manner determined by the Head of the NACP; 4) verifies the information contained in the appeals of individuals or legal entities, mass media, and other sources, including received through a special telephone line, a page on the Internet, or electronic means of communication of the NACP, regarding the involvement of employees of the NACP in committing offences; 5) conducts an official investigation regarding the employees of the NACP; 6) conducts a special inspection of persons applying for appointment to positions in the NACP; 7) takes measures to protect the employees of the NACP who report on the commission of illegal actions or inactivity of other employees of the NACP; 8) performs other powers specified by the Regulation on the internal control unit of the NACP. <p>While the last point is open-ended, it may not extend the unit's mandate beyond the purposes for which the Internal Control Unit was set up, namely to ensure integrity of the NACP staff and ensure compliance with the LCP within the NACP's secretariat (Art.17-1 LCP, part 1).</p> <p>3. The selection of the unit staff did not take place in a transparent manner (see the evaluation in criterion 9.13).</p>
<p>9.27. The effectiveness and impartiality of the internal control unit of the National Agency to maintain the integrity and compliance of the National Agency staff with the legislative requirements</p>	
Insufficient information to reach a conclusion	<p>1. The Commission did not receive from the NACP sufficient relevant information allowing a proper assessment of the effectiveness and the impartiality of the internal control unit of the NACP with a view to maintain the integrity and compliance of the NACP staff with the legislative requirements.</p>

about the compliance	
9.28. The internal control unit of the National Agency properly responds to notifications, petitions, or reports related to offences by the National Agency staff	
Insufficient information to reach a conclusion about the compliance	<p>1. The Commission did not receive from the NACP sufficient relevant information allowing a proper assessment of this criterion.</p>
9.29. The Head of the National Agency approved the procedure for integrity checks of the National Agency staff that is applied effectively	
Insufficient information to reach a conclusion about the compliance	<p>1. The procedure for integrity checks of the NACP staff was approved. However, the Commission did not receive from NACP sufficient relevant information allowing a proper assessment whether it was applied effectively.</p> <p>2. The NACP confirmed that there were no public consultations before the approval of the procedure. Stakeholders reported the deficiencies in the procedure for integrity checks of the NACP staff. It is not clear from the content of the procedure what is the decision-making process in conducting an integrity check – who makes the decision on the need to conduct such a check and whether there are grounds for this. It is also not clear what an integrity check consists of and what actions may be taken as a result of the integrity check.</p>
9.30. The Head of the National Agency approved the procedure for lifestyle monitoring of the National Agency staff that is applied effectively	
Not met	<p>1. No separate procedure for lifestyle monitoring of the NACP staff was approved, however it was incorporated in the procedure for integrity checks of the NACP staff.</p> <p>2. The lifestyle monitoring provisions in the integrity checks procedure for the NACP staff contain similar gaps as those which were identified by stakeholders with regard to general ‘methodological recommendations’ of the lifestyle monitoring of the public officials that did not allow the effective application of the lifestyle monitoring of the NACP staff (see the evaluation in criterion 5.10).</p> <p>3. The NACP confirmed that no public consultations had been conducted before the approval of the procedure on lifestyle monitoring and integrity checks of its own staff.</p>
9.31. The Head of the National Agency approved the procedure for full verification of declarations of the National Agency staff that is applied effectively	
Not met	<p>1. No separate procedure for full verification of declarations of the NACP staff was approved. Such procedure was also not described in a separate chapter of the general procedure for full verification of declarations. As such there are no additional safeguards to the mechanism of checking declarations of assets of NACP staff preventing the conflict-of-interest issues. For example, verification of the NACP Head’s declaration should contain additional safeguards rather than using the general procedure of verification for this purpose as decided by the NACP.</p> <p>2. In 2017, international experts recommended a separate procedure.</p>
9.32. The internal control unit of the National Agency carries out an effective verification of declarations and lifestyle monitoring of the NACP staff	
Not met	<p>1. The existing procedures (see the evaluation in criteria 9.30 and 9.31) did not allow an effective verification of declarations and lifestyle monitoring of the NACP staff. Many provisions of the general procedure are not fit to be applied to the checking of declarations of NACP staff (see the evaluation in criterion 5.7).</p>
9.33. The internal control unit of the National Agency carries out effective integrity checks of the National Agency staff	

Insufficient information to reach a conclusion about the compliance	1. The Commission did not receive from NACP sufficient relevant information allowing a proper assessment of whether the internal control unit of the NACP carried out effective integrity checks of the NACP staff.
9.34. Disciplinary proceedings are carried out fully and objectively	
Met	1. The Commission is not aware of cases when disciplinary proceedings were not carried out fully and objectively. However, there were very few disciplinary cases overall. During the interviews the NACP representatives informed that disciplinary proceedings in the NACP have been rarely used in exceptional cases. The Commission believes that the NACP should resort to this procedure more often, at least when there are questions of gross errors or other significant shortcomings in the activity of NACP staff.
9.35. Creating a disciplinary commission that performs its duties professionally, objectively, and impartially	
Met	<p>1. The NACP created a disciplinary commission during the evaluation period, and the Commission is not aware of any shortcomings in the work of this commission.</p> <p>2. However, the practice of creating a different disciplinary commission for each disciplinary proceeding, as indicated in the explanation of the National Agency for Civil Service, is not optimal. The absence of a clearly defined number of disciplinary commissions in the Procedure for Conducting Disciplinary Proceedings approved by the Cabinet of Ministers of Ukraine also has a negative impact. Collectively, this creates a risk of decreasing the role of the public in the disciplinary commissions, and therefore it would be desirable to set in the LCP the permanent number of the NACP disciplinary commission members, so that the role of the public in the work of this commission remains significant and there are no risks of its reduction depending on the specific disciplinary proceedings.</p>
9.36. The Public Council members are included in the disciplinary commission set up at the National Agency	
Met	1. Three Public Council members were included in the disciplinary commission set up at the NACP.
9.37. Taking effective measures within the legislation concerning the National Agency employees who failed the integrity check or had significant discrepancies between their lifestyle and lawful income	
Insufficient information to reach a conclusion about the compliance	1. The Commission did not receive from NACP sufficient relevant information allowing a proper assessment of whether the NACP took effective measures according to the legislation concerning its employees who failed the integrity check.
9.38. The proper operation of the corruption prevention unit that has sufficient staff	
Not met	<p>1. The Corruption Prevention Unit was incorporated into the Internal Control Unit contrary to the requirement of the LCP. That approach could not ensure the proper operation of the corruption prevention unit that had to function separately from the unit that has the mandate to detect violations and apply sanctions. The LCP was amended in 2019 to reform the NACP governance and internal accountability mechanisms. One of the reforms was the separation of the control function from the prevention and advice on integrity issues to avoid an inherent conflict of interest. By merging the Corruption Prevention Unit with the Internal Control Unit, the NACP failed to implement the law's provision and undermined the proper performance of both functions (internal control and corruption prevention).</p> <p>The mandate of the Corruption Prevention Unit defined in the LCP is as follows:</p> <p>1) advise employees of the NACP on compliance with the requirements of legislative acts on ethical behaviour, prevention and settlement of conflicts of interest, and other requirements, restrictions, and prohibitions provided for by the LCP;</p>

	<p>2) organise work on assessing corruption risks in the activities of the NACP, preparing measures to eliminate them, and taking other measures aimed at preventing corruption and corruption-related offences by employees of the NACP;</p> <p>3) develop and ensure the implementation of the anti-corruption program of the NACP;</p> <p>4) perform other powers specified by the Regulation on the unit on the prevention of corruption of the NACP.</p> <p>2. The Corruption Prevention Unit should take the lead in developing the NACP's anti-corruption program and corruption risks assessment. As no external corruption risks assessment was performed (see the evaluation in criterion 9.25), it cannot be concluded that the unit operated properly.</p>
9.39. Determining standards of integrity and ethical conduct and making them known to all National Agency staff members	
Met	<p>1. The large majority of the NACP staff are civil servants and are covered by the general code of conduct, except for the high-level management.</p> <p>2. The Internal Code of Ethical Conduct that applied to all NACP staff, even those who are not civil servants, was approved in 2019, but this document is outdated and of poor quality. The NACP made a step to determine the new standards of integrity and ethical conduct of the NACP staff. That step demonstrated the acknowledgment of the need to update the 2019 standards. However, the new code was not approved in the end.</p> <p>3. Given the crucial role of the NACP in building integrity (which is recognized by the NACP itself, given its mission, vision, and values, which are outlined, for example, in the NACP Development Strategy for 2021), certain features and higher integrity and ethical standards could be introduced in the updated internal code of ethical conduct in comparison with the general regulation for civil service (this is also possible taking into account Part 2 of Article 37 of the LCP).</p> <p>4. NACP staff members who prepared and approved the NACP 2021 self-assessment report did not mention its internal Code, which was valid according to the legislation. It could indicate that the internal ethical code is unknown to all NACP staff.</p>
9.40. The National Agency staff receive consultations on integrity, compliance with anti-corruption legislation and standards of ethical conduct	
Met	<p>1. During the interviews with NACP staff, the Commission was not informed about any shortcomings with regard to such consultations with NACP staff.</p>
9.41. The National Agency staff take regular training on integrity, compliance with anti-corruption legislation and standards of ethical conduct	
Met	<p>1. The NACP provided information confirming that its staff took regular training on integrity, compliance with anti-corruption legislation, and standards of ethical conduct.</p>
9.42. The Head and Deputy Heads of the National Agency are engaged in developing and implementing measures to ensure compliance with standards of integrity and ethical conduct by the National Agency staff	
Met	<p>1. The NACP provided information confirming that the Head and Deputy Heads of the NACP were engaged in developing and implementing measures to ensure compliance with standards of integrity and ethical conduct by the NACP staff.</p> <p>2. It will be useful to provide the comments or guidelines for the 2019 ethical code to give NACP staff additional understanding on how to implement measures in it as the NABU did.</p>
9.43. There are no instances of unlawful orders, directives, or instructions issued by the Head and Deputy Heads of the National Agency	
Not met	<p>1. In the previous evaluation objects (for example, see the evaluation in criteria 4.9., 5.9, 5.10, etc.), the Commission provided examples of acts issued by the NACP Head which could be considered to have violated the law.</p>
9.44. There are effective internal channels for the authorized persons of the National Agency to report cases of internal (within the National Agency) or external interference in their activities	

Not met	<p>1. The NACP did not provide information to the Commission regarding a separate internal channel for the authorized persons of the NACP to report cases of internal or external interference in their activities of NACP that do not amount to corruption. The NACP confirmed that, during the evaluation period, no such reports were received. Also, the Commission is not aware of a special procedure for processing these reports.</p> <p>2. There is no mention of the need to have channels to report interference in the response to questionnaire provided by NACP to the Commission.</p>
9.45. Ensuring the maintenance and operation of the Unified State Register of Persons who Committed Corruption or Corruption-Related Offences	
Not met	<p>1. The NACP ensured the maintenance of the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences.</p> <p>2. However, the register operated in a way that violated the LCP. In some instances, the NACP included in the register, without a legal basis, persons that were parties in cases under Art. 188-46 of the CAO (Failure to comply with the NACP instructions). This article does not regulate a corruption-related administrative offence.</p> <p>3. There were issues with the register's model. Individuals may be included in this register for even minor misdemeanours and be kept there for a long time (even forever, regardless of the type of offence committed and the type of legal liability) as the legal grounds for requesting to be erased from the register are limited. This practice may raise concerns regarding the compliance with Art. 8 of ECHR as it may amount to a disproportionate interference with the person's right to private life. NACP did not take any proactive actions to address this problem, for example, by developing and advocating the relevant changes to the LCP or changing its own bylaws.</p> <p>4. The user experience of this register has improved, but there was still a lack of analytical modules for public users, which could be useful for conducting further research. The improved analytical component could be useful to identify sectors or positions with higher risks of corruption or, on the contrary, to identify those sectors where there is no prosecution for corruption (despite the high corruption experience of the population or, in some cases, high indicators of corruption perception). The reports which the register can produce are partial, covering just some regions, some types of liability or types of offences. The criteria for analysis and comparisons should be broader, and cover at least the applied sanctions, allow to filter by place of work and, preferably, the category of the person's position, and allow the use of several criteria for selection at the same time at the user's choice.</p>
9.46. Ensuring the maintenance and operation of the Unified State Register of Declarations of Persons Authorised to Perform the Functions of the State or Local Government	
Met	<p>1. The NACP ensured the maintenance and operation of the Unified State Register of Declarations of Persons Authorised to Perform the Functions of the State or Local Government.</p> <p>2. The Commission commends the NACP for transferring the equipment necessary for the operation of this register to the data centre created at the NACP. In the future, the NACP should develop its independent capacity to provide software and technical support for the registry or involve an organisation with an impeccable reputation for this, not with the assistance of the state enterprise "Ukrainian Special Systems".</p>
9.47. Ensuring the maintenance and operation of the Unified State Register of Political Parties' Statements of Assets, Income, Expenses, and Financial Liabilities	
Met	<p>1. The maintenance and operation of the Unified State Register of Political Parties' Statements of Assets, Income, Expenses, and Financial Liabilities were insured by the NACP.</p> <p>2. The register was launched with a significant delay in May 2021. In January 2020, the Law On Amendments to Certain Laws of Ukraine Regarding the Prevention and Counteraction of Political Corruption entered into force, instructing the NACP to develop an appropriate electronic register within six months from the date of entry into force of the law. Therefore, it had been expected that the register would have been launched in July 2020.</p>

9.48. Publishing information from registers (except for restricted information) owned by the National Agency in the open data format on the Unified State Web-Portal of Open Data	
Met	1. The NACP published all mandatory information from registers (except for restricted information) in the open data format on the Unified State Web-Portal of Open Data.
9.49. Ensuring setting up and certifying integrated information security systems for registers and other information and telecommunication systems of the National Agency, and ensuring proper operation of the information security service	
Met	1. The NACP ensured setting up and certifying integrated information security systems for registers and other information and its telecommunication systems and ensured proper operation of the information security service.
9.50. Development of functional structural units with professional and honest staff	
Met	1. In general, the NACP developed the required functional structural units with some isolated examples of shortcomings presented in the previous criteria (see the evaluation in criteria 9.1, 9.13, 9.16)
9.51. Development of support structural units with professional and honest staff	
Met	1. In general, the NACP developed these support structural units with some isolated examples of shortcomings presented in the previous sub-criteria.
9.52. Determining the individual to conduct an internal audit	
Met	1. The auditor to conduct an internal audit was determined. 2. But the audit itself could be, in some spheres, more detailed and comprehensive to highlight all possible issues.
9.53. The Head of the National Agency promptly responded to shortcomings revealed by internal audit and implemented measures to address them	
Met	1. The NACP provided the Commission with information showing the response by the NACP Head to shortcomings revealed by the internal audit. 2. Not all measures to address them were implemented during the evaluation period due to deadlines set by the individual which conducted an internal audit.
9.54. Matters related to the creation of regional bodies of the National Agency are considered and, following analysis, a reasoned decision is made whether they should be created	
Not met	1. According to the NACP self-assessment report prepared at the end of 2021, such matters will be considered after filling vacant positions in the NACP apparatus. The NACP provided the identical answer to the Commission in its first questionnaire. 2. Nevertheless, in the second submitted NACP questionnaire and during the interviews, the NACP changed its position and informed the Commission that, during the summer of 2021, the leadership of the NACP, together with the heads of independent structural units, discussed the creation of regional bodies, with no decision made during the evaluation period.
9.55. Creating, if necessary, regional bodies of the National Agency that are fully operational and have sufficient staff	
Not met	1. According to the information provided by the NACP in the second questionnaire, creating regional bodies of the NACP seemed necessary to the NACP. Nevertheless, they have not been created during the evaluation period. 2. The Commission believes that the lack of the NACP regional bodies negatively affects its operation, especially in the spheres covered by Evaluation Objects 4, 5, 6, and 7. The regional bodies of the NACP would increase the capacity and efficiency of the NACP in light of the decentralization reform. However, this can realistically be achieved in a medium-term perspective because NACP still lacks resources (human and financial) to move on to the development of

	<p>regional bodies. Even the central apparatus of the NACP is far from having an adequate institutional capacity. Under these circumstances, there is an extremely high risk of the formation of regional bodies of the NACP with weak and insufficient staff. There should also be a clear, understandable, and justified strategy for the development of the regional bodies, which is prepared taking into account the positions of the stakeholders during open public consultations. It is probably worth approaching the development of each regional body in an individualized manner in order to pay due attention to this process. In the beginning, it might be sufficient to create two or three regional bodies.</p>
<p>9.56. Approving the procedure for the automated allocation of inspections to authorized persons of the National Agency that enables their random allocation</p>	
<p>Not met</p>	<ol style="list-style-type: none"> 1. The procedure for the automated allocation of inspections to authorized persons of the NACP was approved, but it did not cover all inspections as required by the LCP (for example, CoI inspections, lifestyle monitoring, and some financial control procedures). 2. Some stakeholders also pointed out the risks in the procedure that can allow undue interference with the random allocation. For example, the manual regime can be set uniquely upon the discretionary decision of the NACP Deputy Heads and Internal Control Unit Head. This decision can even be communicated orally when cases are entered into the system. In such cases, the procedure does not ensure a random allocation. This makes it impossible to effectively control the implementation of random allocation and analyse the presence or absence of interventions, it will also be impossible to confirm or deny the existence of grounds for changing certain indicators, because there will always be an opportunity to refer to the provision of a verbal mandate. 3. The NACP stated to the Commission that the management of the NACP, on an ongoing basis, analyses the application of the procedure for the automated allocation of inspections among the authorized persons of the NACP, but this statement is not supported by any evidentiary documents. 4. The procedure does not regulate the issue of how the inspections are allocated when the system for automated random allocation is not functional for certain reasons. At the very least, this should be determined for those types of inspections for which the law defines a clear deadline for their implementation when technical problems in the system last for a long period of time. Currently, if the provisions of this procedure are followed literally, these inspections will not be allocated until the random allocation automated system is restored. 5. The NACP failed to conduct public consultations with stakeholders and publish the draft of the procedure.
<p>9.57. The system of the automated allocation of inspections to authorized persons of the National Agency properly operates without unauthorized interference</p>	
<p>Not met</p>	<ol style="list-style-type: none"> 1. The possibilities and gaps in the procedure for the automated random allocation of inspections to authorized persons of the NACP covered in the previous criterion could not ensure the proper operation of the system without unauthorized interference, even if the Commission could not find examples of such interference in practice. The approach with the possibility of changing the workload criteria "in manual mode" completely defeats the purpose of introducing an automated allocation of inspections.

Annexes

1. List of stakeholders who received the evaluation questionnaire and who provided replies

#	Name
1	The National Agency on Corruption Prevention
2	High Council of Justice
3	Constitutional Court of Ukraine
4	Verkhovna Rada Committee on Anti-Corruption Policy
5	National Anti-Corruption Bureau of Ukraine
6	Ministry of Justice of Ukraine
7	Secretariat of the Cabinet of Ministers of Ukraine
8	National Police of Ukraine
9	Antimonopoly Committee of Ukraine
10	State Migration Service of Ukraine
11	Ministry of Economic Development, Trade and Agriculture of Ukraine
12	General Prosecutor's Office of Ukraine
13	State Regulatory Service of Ukraine
14	National Securities and Stock Market Commission
15	National Council on Television and Radio Broadcasting
16	National Agency of Ukraine for Civil Service
17	National Bank of Ukraine
18	National Commission for the State Regulation of Electronic Communications, Radiofrequency Spectrum and the Provision of Postal Services
19	State Service of Ukraine for Geodesy, Cartography and Cadastre
20	State Customs Service of Ukraine
21	State Service of Special Communications and Information Protection of Ukraine
22	Administration of State Guard of Ukraine

23	State Financial Monitoring Service of Ukraine
24	State Property Fund of Ukraine
25	State Service of Maritime and River Transport of Ukraine
26	National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes (Asset Recovery and Management Agency – ARMA)
27	State Bureau of Investigation
28	Legal Assistance Coordination Centre
29	Ministry for Communities and Territories Development of Ukraine
30	State Aviation Administration Of Ukraine
31	Fraction of the Voice (Golos) political party
32	Public organisation "EdCamp Ukraine"
33	Transparency International Ukraine
34	Anti-Corruption Action Centre
35	Ukrainian Network of Integrity and Compliance (UNIC)
36	JSC "Artzinger"
37	JSC "Ukreximbank"
38	JSC CB PrivatBank
39	Igor Feschenko, member of the NACP Public Council, party funding analyst of the CHESNO Movement
40	Independent expert Andriy Smaga

2. List of interviews with stakeholders

#	Name
1	The National Agency on Corruption Prevention
2	The Constitutional Court of Ukraine
3	High Council of Justice
4	Parliament's Committee on Anti-Corruption Policy
5	National Anti-Corruption Bureau of Ukraine
6	National Police of Ukraine
7	State Tax Service of Ukraine
8	NACP Public Council
9	Anti-corruption NGOs and media outlets: Transparency International Ukraine; AntAC; Bihus.Info; Statewatch; Centre for Political and Legal Reforms; Nashi Groshi.
10	International partners: EU Delegation, USAID, US Embassy INL Section, EUACI, SACCI, IFES, International Renaissance Foundation.
11	Ukrainian Network of Integrity and Compliance (UNIC)
12	Business Ombudsman Office
13	Confidential respondents