

NAKO

# TERMS OF REFERENCE

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**Independent Defence Anti-Corruption  
Committee / *Nezalezhny Antikorrupciynii*  
*Komitet z pytan oborony***

## Independent Defence Anti-Corruption Committee / *Nezalezhny Antikorrupciynii Komitet z pytan oborony* (NAKO)

### Terms of Reference

#### 1. Mandate

1. **Monitoring and evaluating** efforts to reduce corruption and corruption risks within the defence sector of Ukraine, to include risks in the provision of international security assistance and military aid.
2. **Developing anti-corruption recommendations** for the defence sector, and advocating for and monitoring their implementation. Supporting reform efforts with technical advice where possible and where this does not present a conflict of interest with the NAKO's monitoring role.
3. **Providing open, regular analysis and reporting** to the President, Government, Parliament, Ukrainian people, and the international community, about the state of the fight against corruption in the defence sector. This involves analysing defence sector corruption and identifying structures of corrupt networks.
4. **Promoting transparency** of defence sector establishments and, in conjunction with international partners, facilitating communication and openness between the Ministry of Defence, civil society and the public.
5. **Contributing to policy** through input and evaluation of the Strategic Defence Bulletin, National Security Strategy, and other policies as it relates to anti-corruption in the defence and security sector.
6. **Strengthening international and national accountability structures** as they relate to anti-corruption in defence, particularly the Rada.
7. **Enabling citizen feedback** through the creation, resourcing, and maintenance of a feedback reporting mechanism to receive complaints related to corruption in the defence sector and to provide advice regarding possible legal proceedings. Grounded suspicions of corruption will be forwarded to relevant law enforcement agencies.

#### 2. Independence

The NAKO will operate independently and will not receive funding from the Ukrainian government. Decisions on committee membership and staffing, the selection of topics to assess, will be made by the NAKO, following consultation with the MOD, Rada committees, and other stakeholders in the defence sector if appropriate. The NAKO will work closely with, but will not report to or require approval by, the Defence Ministry or other government bodies.

**Collaboration with the MoD & other government bodies.** The cooperation between the NAKO and MOD be formalised through a Memorandum of Understanding. Since the NAKO is not a legal entity, TI will sign on behalf of the NAKO. This MOU should establish mechanisms for sharing information, presenting recommendations, and maintaining confidentiality of information and material provided to

NAKO, and mechanisms for monitoring the implementation of the recommendations made by the NAKO.

Cooperation between the NAKO and the Rada Committees on Anti-Corruption and Defence will be formalised through a similar MOU. It will establish mechanisms for supporting the Rada through information-sharing and advice.

The NAKO will assign representatives from the Secretariat to attend relevant meetings of the MOD, Rada, and other Ukrainian authorities, and seek input from them on reports and recommendations prior to publication if appropriate.

Additional MOU with relevant authorities may be negotiated by the NAKO.

### 3. Legal registration

The NAKO is an initiative of Transparency International Ukraine and Transparency International Defence & Security. As TI-Ukraine is already legally registered, there is no requirement to register it as a separate, new entity under Ukrainian law.

There will be an annual review of the organisation's legal status and registration. Any change to the legal status will need to be agreed by unanimous vote.

### 4. Strategy & Objectives

**Strategy.** The NAKO will produce a 2-year strategy to guide its future priorities and operations (2017-2018), including clear objectives.

*The strategy may consider:*

- Monitoring of the implementation of: the MOD anti-corruption action plan, committee recommendations, and other anti-corruption activities in the defence sector.
- Producing regular reports that may cover/include but are not limited to:
  - Progress on anti-corruption in the defence sector;
  - In-depth systemic corruption vulnerabilities in key risk areas;
  - Assessment/tracking of progress on relevant cases in media / court system, and/or reported through hotline;
  - Implementation of recommendations.
- Formulation of benchmarks and recommendations that may cover:
  - Preventative measures
  - Transparency & openness
  - Legal framework and enforcement
- Providing in-depth inquiry or special thematic reports as and when appropriate
- Providing a channel for citizen feedback and for raising corruption cases
- Feeding information to investigative bodies
- Communicating with donors and the broader public on defence reform progress and corruption risks in the defence sector
- Advocating for anti-corruption measures and transparency in the defence sector of Ukraine, including mitigation of risks related to security assistance provided by international donors
- Closely coordinate with other organisations and groups working in this sector



- Reporting on NAKO activities

## 5. Structure & Composition

The NAKO is a joint independent international and national anti-corruption committee supported by a secretariat.

**Committee.** There are six members of the NAKO, three nationals and three internationals.

The NAKO will aim to select committee members with significant experience in the following areas:

- defence;
- anti-corruption;
- investigative journalism;
- civil society activism and policy development;
- public administration.

**Decision-making and Voting Procedure of Committee.** The committee votes on the NAKO strategy, to approve recommendations and reports issued by the NAKO, new institutional partnerships and/or engagements; public communications by the NAKO; and other issues as decided by the NAKO. The NAKO will also provide strategic direction for the Secretariat. In all cases, a majority of four votes is required. No abstention is possible. The chair is responsible for determining the wording of a vote. In case of a tie, the motion does not carry.

The TI-DSP and TI Ukraine boards jointly retain the right to dismiss a committee member; parameters and causes for potential dismissal will be set in advance through a Human Resource and Appointment Policy (e.g. violations of code of conduct, poor performance etc.). Should the individual not agree with decision-making, he/she will have the right to appeal the TI-DSP and TI-Ukraine boards, who may choose to bring in an arbitration system.

The NAKO has the right to dismiss individual members of the secretariat for non-performance or misconduct of the secretariat.

**Chairmanship of the committee.** The chair is elected every year and will be decided by a majority vote.

In addition to chairing meetings and overseeing the Secretary General of the Secretariat, the chair is the primary representative that represents the body in front of authorities.

**Nominations and Vetting Process.** The NAKO will put out a public call for nominations for new NAKO members. The NAKO, in consultation with TI-Ukraine and TI-DSP, reviews nominations and make a final decision on membership. This decision is made by consensus.

If candidates are selected, they are asked to provide:

- A full CV describing all employment and education history.
- Their asset declarations for the two preceding financial years (signed by the candidate, scanned).
- Disclosure of affiliation to political parties (current and historical memberships), financing received from political parties;
- Disclosure of affiliation for major businesses or business groups and the nature of such affiliation;
- Disclosure of any relevant conflict of interest. This should include employment, work or connections within Security Sector (MoD, MIA, SBU, Prosecution), or donor community --

employment of close relatives in Security Sector, involvement in procurement for Security Sector, etc.;

- Approval to permit NAKO to publish his/her asset declarations for year 2014, 2015, on NAKO-s web-site.

**Terms of Service.** NAKO committee members are provided with a stipend, and travel & accommodation costs in relation to Board Members' duties. Members are required to partake in the following activities:

- Contribute to the development of the NAKO's strategy, mandate, work plan, terms of reference and activities;
- Engage at senior levels of the Ukrainian government and defence establishment to advocate for proposed reforms;
- Take part in monitoring efforts of the MOD's anti-corruption plans by reviewing and approving research;
- Work with staff to develop policy recommendations and monitor progress on commitments;
- Represent the NAKO to stakeholders and act as an ambassador for the organization;
- Take part in a minimum of four NAKO meetings throughout the year; which could include up to one week in Kyiv, and preparation time;
- Participate in monthly update calls with the secretariat.

Committee members serve for 2 years. They can serve for a maximum of two terms.

**Membership Standards.** The members and staff of the NAKO are subject to term limits and the NAKO Code of Conduct. Members who run for political office or are elected will be required to step down. NAKO members should not have worked for the MOD or other bodies subject to monitoring by the NAKO in the past year.

**Secretariat.** The secretariat provides support for the Committee. It could be comprised of international and national staff who conduct research, interviews and inquiries, and draft reports. The Secretariat also acts as the permanent presence of the NAKO, and conducts stakeholder engagement. Oversight for the secretariat and its Secretary General will be held by the NAKO. Direction is provided by the chair.

**Recruitment of Secretariat.** Recruitment for secretariat staff is conducted using open competition. Job ads must be advertised publicly for a minimum of 2 weeks. New staff members should disclose:

- A full CV describing all employment and education history;
- Disclosure of affiliation to political parties (current and historical memberships), financing received from political parties;
- Disclosure of affiliation for major businesses or business groups and the nature of such affiliation;
- Disclosure of any relevant conflict of interest. This should include employment, work or connections within Security Sector (MoD, MIA, SBU, Prosecution), or donor community -- employment of close relatives in Security Sector, involvement in procurement for Security Sector, etc.

**Group of Friends.** To supplement the knowledge base of the NAKO and provide perspective and advice on specific issues, the NAKO may convene a "group of friends", and host meetings with stakeholders that may include representatives from government authorities, the private sector, media, civil society and the donor community.

**Press and Public Transparency.** The NAKO hosts press conferences that are public events and therefore open to all stakeholders. The NAKO also hosts a website that will detail latest reports and activities of the NAKO.

## **6. Financing & Oversight**

In year one of the project, financing for the NAKO project is administered by the grant holder, Transparency International Defence & Security, who reports on finances and performance to the donor(s). TI-Ukraine will be a sub-grantee and required to report to TI-DSP quarterly. For following years, financing will need to be sought and overseen by the NAKO.

## **7. Language**

The working language of the NAKO will be English. Formal communication with external Ukrainian partners will be translated into Ukrainian.