



ECONOMIC SECURITY COUNCIL OF UKRAINE

ANALYTICAL REPORT

**PUBLIC COUNCILS IN UKRAINE: HAVE AN
EFFECTIVE TOOL OF PUBLIC CONTROL BEEN
CREATED?**



Analytical report

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The analytical report was prepared by the Economic Security Council of Ukraine together with the Commission on Monitoring Legislation and Rulemaking Work of the Public Anti-Corruption Council under the Ministry of Defense of Ukraine.

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INTRODUCTION / EXECUTIVE SUMMARY

Ukraine, straining all its forces and resources, and enlisting the help of Western allies, opposes totalitarian Russia, which unleashed a large-scale aggressive war against our country.

Civil society in Ukraine is traditionally the driving force behind the most important positive changes and reforms, its representatives often act as *watchdogs*, and whistleblowers of negative corruption mechanisms. In modern conditions in Ukraine, the need to build such a system of social (public) control, which would fulfill the following threefold task, is becoming more and more important.

First. The system of social (public) control should become one of the important factors in the European integration of Ukraine, the accession of our country to the EU.

In the modern political system of European democracies, civil society plays an increasingly prominent role. It should play a similar role in Ukraine.

The demands of strengthening the fight against corruption and strengthening the public's influence on these processes, reducing the risks of politicization of anti-corruption bodies are one of the prerequisites for the start of negotiations for Ukraine's accession to the European Union.

Second. Public control should become an effective and efficient tool of control over the activities of state authorities and in the fight against corruption.

This, in turn, will create opportunities and prerequisites for more transparent functioning of the state, strengthen its communication with the public, and lead to a decrease in the number of erroneous state decisions.

The third. Public control should play one of the decisive roles in ensuring economic stability and the post-war reconstruction of Ukraine.

In addition, it is the involvement of civil society that will allow (through increased transparency and the fight against corruption) to maximize the trust of international investors and donors in Ukraine.

This report analyzes only one of the tools that can be used by civil society to exercise control over state authorities.

We are talking about the system of public councils created following [Resolution No. 996 of the Cabinet of Ministers of Ukraine dated November 3, 2010](#) (hereinafter - Resolution of the CMU No. 996) and Councils of Public Control, which were created under the new anti-corruption law enforcement bodies. Special attention, for obvious reasons, is devoted to the results and features of the Public Anti-Corruption Council under the Ministry of Defense of Ukraine.

We hope that **the recommendations expressed in this Analytical report will allow us to develop more effective tools of social (public) control, in particular through**

the construction of an effective system of public councils. This will create more favorable conditions for the European integration of Ukraine, will allow to increase the transparency of the government and reduce the level of corruption, and therefore will increase our chances of winning this war.

The analytical report consists of an Introduction, three sections, Conclusions, and Recommendations.

CHAPTER 1 is devoted to the requirements of the European Union regarding the strengthening of the role of civil society and the fight against corruption in Ukraine.

CHAPTER 2 is devoted to the analysis of the effectiveness of public councils and Councils of Public Control, the problems of their formation and activity are highlighted.

CHAPTER 3 is devoted to the results of the first six months of activity of the Public Anti-Corruption Council under the Ministry of Defense of Ukraine.

CONCLUSIONS AND RECOMMENDATIONS are aimed at focusing attention on the measures necessary to increase the effectiveness of the activities of public councils.

CHAPTER 1. STRENGTHENING OF PUBLIC CONTROL AS ONE OF THE FACTORS OF EUROPEAN INTEGRATION OF UKRAINE

In democratic countries, the public is actively involved in monitoring the activities of state authorities and in anti-corruption monitoring. Involvement of civil society in the adoption of public decisions, strengthening of public control, and the fight against corruption are direct requirements of the European Union (EU) for the further European integration of Ukraine.

On November 8, 2023, the European Commission adopted [a package of documents containing a detailed assessment of the state of affairs and progress achieved by Ukraine on the way to joining the European Union](#) (hereinafter referred to as the Report). The Report emphasizes that Ukraine has made some progress in creating an anti-corruption institutional framework, has adopted a [National Anti-Corruption Strategy](#), and is accumulating experience in investigating, prosecuting, and passing judgments in corruption cases at the highest level.

The European Commission recommended the European Council to start negotiations with Ukraine on joining the EU. At the same time, for the actual start of negotiations, Ukraine must take several important anti-corruption steps in the next 4 months¹.

At the same time, **effective activity aimed at overcoming corruption, according to our European partners, is impossible without the participation of civil society.** Thus, in the Report, it is emphasized that Ukraine has an ambitious multi-year [National Strategy for the development of civil society in Ukraine for 2021-2026](#). However, the consequences of its implementation have yet to be assessed, and the Government should consider the possibility of its adaptation to the conditions of war and post-war reconstruction, and the importance of further improvement of its implementation is emphasized.

In addition, according to the EU recommendations set out in the Report, the government should continue to expand programs of state funding of civil society organizations ²and work on improving dialogue and consultations with non-governmental organizations.

The legal framework for public consultations, as one of the forms of public control, needs further standardization and consolidation. This requires the final adoption of the draft law on public consultations, which passed the first reading in the parliament in March 2021.

¹In particular: expand the staff of NABU to 1,000 people; to exclude from the Law of Ukraine "On Prevention of Corruption" restrictions on checking assets that were previously checked, to allow checking of property acquired before joining the public service, taking into account the rules provided for during martial law; introduce lobbying institute.

²In turn, from 2022, the EU allocated 31 million euros to support civil society within the framework of the thematic programs "Civil Society" and "Human Rights and Democracy".

CONCLUSIONS

Ukraine intensified reforms in the anti-corruption sphere after receiving the status of a candidate for EU membership. The National Anti-Corruption Strategy, accompanied by the state program for its implementation, was adopted. There is an active non-governmental sector in Ukraine, and the National Strategy for the Development of Civil Society has been adopted.

At the same time, as the EU emphasizes, the participation of civil society in the processes of combating corruption in our country is critically important, moreover, it is a significant advantage for the start of negotiations on Ukraine's accession to the EU.

CHAPTER 2. PUBLIC COUNCILS IN UKRAINE: LEGAL REGULATION, MAIN FUNCTIONS, AND PROBLEMS OF PUBLIC CONTROL

Institutionalization of civil society, i.e. the formation of organizations and groups endowed with a defined structure, sufficient powers, and effective tools of influence on certain spheres of state policy, is important for the effective exercise of the control function by the public. Such instruments of control over state policy, and important public anti-corruption bodies could become (and already partially are) public councils.

This section analyzes the activities of both the so-called "classic" public councils created under the executive authorities, as well as the new Public Control Councils created under the new anti-corruption law enforcement agencies.

2.1 PUBLIC COUNCILS UNDER MINISTRIES AND OTHER EXECUTIVE BODIES: LEGAL REGULATION, FUNCTIONS, AND PROCEDURE OF FORMATION

This subsection analyzes the legal grounds for the creation and operation of public councils under the bodies of executive power following [Resolution No. 996 of the Cabinet of Ministers of Ukraine dated November 3, 2010](#).

2.1.1 Legal grounds for the creation and activity of public councils under the bodies of executive power

According to [the Decree of the Cabinet of Ministers of Ukraine dated November 3, 2010 No. 996](#), the Public Council under the Ministry, another central body of executive power, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city, district, district in mm. In Kyiv and Sevastopol, the state administration (hereinafter – PC) **is a temporary advisory body, formed to promote public participation in the formation and implementation of state and regional policy.**

As of the end of the III quarter of 2022, public councils operated at 66 executive bodies: 12 ministries³; 34 other CPBs⁴; 20 regional and Kyiv city state administrations⁵.

³In addition to the Ministry of Agrarian Policy and Food of Ukraine, the Ministry of Internal Affairs, the Ministry of Community Development, Territory and Infrastructure of Ukraine, the Ministry of Culture and Information Policy of Ukraine, the Ministry of Health of Ukraine, the Ministries of Economy of Ukraine, the Ministry of Reintegration of Temporarily Occupied Territories.

⁴In addition to the State Border Service of Ukraine, the State Service of Ukraine for Transport Safety, the State Service of Ukraine for Geodesy, Cartography and Cadaster, the State Service of Sea and Water Transport and Shipping of Ukraine, the State Agency for Energy and Energy Saving, the State Inspection of Energy Effective Supervision of Ukraine, the State Agency of the Reserve of Ukraine, the State Tourism Development Agency of Ukraine, the State Inspection of Architecture and Urban Planning of Ukraine, the Antimonopoly Committee of Ukraine, the National Police of Ukraine, the Ukrainian Institute of National Remembrance, the National Commission for State Language Standards, the State Property Fund of Ukraine, the State Debt Management Agency of Ukraine.

⁵In addition to Dnipropetrovsk, Zhytomyr, Zaporizhzhya, and Ivano-Frankivsk regional state (military) administrations.

2.1.2 Formation of the Composition of the public councils under the CPB

The procedure for forming the composition of the so-called "classical" public councils is determined by the regulations of the Resolution of the CMU No. 996 and is typical for all public councils created under the CPB (for more details, see **Table 1. Examples of public councils formed under the central bodies of executive power following the Resolution of the Cabinet of Ministers of Ukraine dated November 3, 2010 No. 996**).

Representatives of public, religious, and charitable organizations, professional unions and their associations, creative unions, associations, employers' organizations, non-state mass media, and other non-business societies and institutions legalized following the legislation of Ukraine may be elected to their composition.

The composition of the public council can be formed by rating voting. No more than one representative from each institution of civil society may be elected to the public council.

At the same time, the process of electing the members of the public council at the CPB has a rather behind-the-scenes and closed character. The quantitative composition of the PC is limited in advance, as a rule, to 20-40 representatives of civil society institutions. The specified PCs are elected by ranking voting *only by the constituent assembly participants who were previously delegated to them*.

CONCLUSIONS

Such an election procedure artificially limits the influence of the public on the process of forming public councils, reduces the opportunities for regional civil society organizations regarding their participation in the PC under the central executive authorities, and increases the risk of turning the PC election procedure into backroom agreements between the participants of the election process.

2.1.3 The main functions of public councils under the CPB

It is worth noting that the public councils under the CPB perform the same type of functions as defined by Resolution of CMU No. 996. Based on the analysis of regulatory provisions, it is worth highlighting the following main functions of public councils:

representative - ensuring the representation of the interests of the public in relations with executive authorities on various issues for their adoption of effective and positive decisions that contribute to the well-being of the state or a certain region;

consultative – preparation and submission to the executive body, which has established public councils, of proposals for organizing and conducting consultations with the public, as well as for an approximate plan for their implementation;

control - public examination and public anti-corruption examination of draft legal acts, as well as public control of the body's consideration of public suggestions and comments, its compliance with legal acts aimed at preventing and combating corruption;

rule-making – participation of public councils in the rule-making process by providing proposals to executive authorities regarding the preparation of draft legal acts on the formation and implementation of state policy in the relevant field, improving the body's work;

communicative - ensuring a dialogue between the executive authorities and the public through generalization and provision of information to the specified authorities about the proposals of public associations regarding the solution of issues of important social importance;

organizational - organization of public events to discuss topical issues of the development of the industry or administrative-territorial unit;

informational - preparation and publication of an annual report by public councils on their activities, as well as informing the public about their activities, decisions made, and their implementation on the official website of the body and in another acceptable way;

protective - informing executive authorities about illegal actions, as a result of which the rights of citizens and their associations are violated, to promptly solve the specified problems.

Table 1. Examples of public councils formed under the central bodies of executive power following [the Resolution of the Cabinet of Ministers of Ukraine dated November 3, 2010 No. 996](#)

Mechanism of creation	Functions and tasks	Regulations, personal composition, and term of office
Public Council under the Ministry of Finance of Ukraine		
<p>The composition of the Public Council is formed by voting at the constituent assembly by the approved standard provision.</p>	<p>The Public Council, in accordance with the tasks assigned to it:</p> <ol style="list-style-type: none"> 1) prepares and submits proposals to the Ministry of Finance for an indicative plan for consultations with the public; 2) prepares and submits proposals to the Ministry of Finance regarding the organization of consultations with the public, including the involvement of representatives of interested parties; 3) prepares and submits to the Ministry of Finance mandatory for consideration proposals, conclusions, analytical materials regarding the resolution of issues in the spheres belonging to the competence of the Ministry of Finance, preparation of drafts of normative legal acts, improvement of the body's work; 4) conducts public monitoring, taking into account the proposals and comments of the public by the Ministry of Finance, ensuring the transparency and openness of its activities, as well as compliance with the requirements of regulatory and legal acts aimed at preventing and combating corruption; 5) informs the public about its activities, the decisions made, and the status of their implementation, submits relevant information to the Ministry of Finance in a mandatory manner for publication on its official website and in any other way; 6) collects, summarizes and submits to the Ministry of Finance Proposals of the public regarding the solution of issues of important social importance; 7) prepares and publishes an annual report on its activities 	<p>The number of members of the Public Council is 40 people.</p> <p>The term of office of the members of the Public Council is two years from the date of approval of its composition by the Ministry of Finance.</p> <p>The provision was approved by the Order of the Ministry of Finance of Ukraine dated December 13, 2021 No. 671.</p> <p>You can get acquainted with the Personal composition here.</p>
Public Council under the Ministry of Digital Transformation of Ukraine		
<p>The composition of the Public Council can be formed by rating voting at constituent</p>	<p>The Public Council, in accordance with the tasks assigned to it:</p> <ol style="list-style-type: none"> 1) prepares and submits proposals to the Ministry of Digitization for the tentative plan for consultations 	<p>The quantitative composition of the Public Council is determined by the</p>

<p>meetings or rating electronic voting.</p> <p>No more than one representative from each CGI may be elected to the Public Council.</p>	<p>with the public, as well as for the organization of consultations with the public;</p> <p>2) prepares and submits to the Ministry of Digitization mandatory for consideration proposals, conclusions, analytical materials on solving issues in the sphere of activity of the Ministry of Digitization, preparation of drafts of normative legal acts in the relevant field, improvement of the work of the Ministry of Digitization;</p> <p>3) conducts public monitoring, taking into account the suggestions and comments of the public, ensuring the transparency and openness of its activities, as well as its compliance with regulatory and legal acts aimed at preventing and combating corruption;</p> <p>4) informs the public about its activities, decisions made and their implementation on the official website of the Ministry of Digital Affairs and in any other way;</p> <p>5) collects, summarizes, and submits to the Ministry of Digital Information on public proposals for solving issues of important social importance;</p> <p>6) prepares and publishes an annual report on its activities.</p>	<p>initiative group and cannot be more than 35 people.</p> <p>The term of office of the members of the Public Council is two years from the date of approval by the Ministry of Digital Transformation of Ukraine of its members.</p> <p>The provision was approved by the order of the Ministry of Digital Affairs About the Public Council under the Ministry of Digital Transformation of Ukraine.</p> <p>You can familiarize yourself with the personal composition of the Public Council at the link.</p>
<p>Public Council under the State Customs Service of Ukraine</p>		
<p>The formation of the public council at the constituent meetings is carried out through rating voting for the candidates to the Public Council submitted by civil society institutions.</p> <p>Ranking voting is carried out by filling in written ballots for voting, the production of which is ensured by the State Customs Service, by the participant of the founding meeting. The ranking electronic voting takes place within the period determined by the State Customs Service using information and communication technologies, including through the official web</p>	<p>The Public Council, following the tasks assigned to it:</p> <p>1) prepares and submits proposals to the State Customs Service for an indicative plan for consultations with the public;</p> <p>2) prepares and submits proposals to the State Customs Service regarding the organization of consultations with the public, including the involvement of representatives of interested parties;</p> <p>3) prepares and submits to the State Customs Service mandatory for consideration proposals, conclusions, analytical materials regarding the resolution of issues in the relevant field, preparation of projects of regulatory and legal acts, improvement of the work of the State Customs Service;</p> <p>4) conducts public monitoring with the State Customs Service taking into account suggestions and comments from the public, ensuring transparency and openness of its activities, as well as compliance with regulatory and legal acts aimed at preventing and combating corruption;</p> <p>5) informs the public about its activities, the decisions made and the status of their implementation, submits the relevant information of the State Customs Service</p>	<p>The Regulations on the Public Council can be found here.</p> <p>The staff is approved by the Order of the State Customs Service of Ukraine dated 17.11.2020 No. 524 "On approval of the Staff of the Public Council under the State Customs Service of Ukraine".</p>

<p>portal of the State Customs Service, in the manner determined by the State Customs Service.</p>	<p>for publication on the official web portal of the State Customs Service and in any other way;</p> <p>6) collects, summarizes and submits public proposals to the State Customs Service for solving issues of important social importance;</p> <p>7) prepares and publishes an annual report on its activities.</p>	
<p>Public Council under the Administration of the State Border Service of Ukraine</p>		
<p>The composition of the Public Council is formed at the constituent assembly by rating voting for candidates.</p>	<p>The Public Council, in accordance with the tasks assigned to it:</p> <p>a) prepares and submits proposals to the Service for the tentative plan for conducting consultations with the public, as well as for conducting consultations not provided for in such a plan;</p> <p>b) prepares and submits proposals to the Service regarding the organization of consultations with the public;</p> <p>c) submits mandatory proposals to the Service for consideration, in respect of which the Service conducts consultations with the public, as well as regarding the preparation of draft legal acts on the formation and implementation of state policy in the sphere assigned to the Service's competence, as well as regarding the improvement of the Service's work, improvement of coordination and interaction with other bodies of executive power;</p> <p>d) conducts, in accordance with the legislation, a public examination of the Service's activities and a public anti-corruption examination of draft legal acts developed by the Service;</p> <p>e) carries out public control with the Service taking into account the public's suggestions and comments, ensuring transparency and openness of its activities, access to public information in its possession, as well as its compliance with regulatory and legal acts aimed at preventing and combating corruption;</p> <p>e) compulsorily informs the public about its activities, decisions made and their implementation on the official website of the Service and in another acceptable way;</p> <p>f) collects, summarizes and submits to the Service information about the proposals of civil society institutions regarding the solution of issues of important social importance;</p> <p>g) organizes public events for discussion of topical issues in the spheres assigned to the competence of the Service, with the involvement of its territorial bodies;</p>	<p>The quantitative composition of the Public Council is determined by the constituent assembly. The Regulation on the Public Council was approved by Protocol No. 2 of March 29, 2017</p> <p>You can familiarize yourself with the personal composition of the Public Council here .</p>

	<p>g) prepares and publishes an annual report on its activities;</p> <p>h) cooperates with public councils under ministries, other central and local bodies of executive power, public associations, mass media, and is involved in international cooperation.</p>	
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CONCLUSIONS

Public councils under the CPB perform limited functions in terms of control over the activities of executive authorities, especially in the field of control over the use of budget funds and the fight against corruption.

The more than 10 years of experience in the functioning of public councils under the CPB proves the need to expand their control functions and strengthen transparency in the activities of executive authorities and their accountability to the public.

2.2 PUBLIC COUNCILS (PUBLIC CONTROL COUNCILS) UNDER THE NEW ANTI-CORRUPTION LAW ENFORCEMENT BODIES: LEGAL REGULATION, FUNCTIONS AND PROCEDURE OF FORMATION

In recent years, attempts have been made in Ukraine to significantly strengthen the system of public control by new anti-corruption law enforcement bodies (the National Anti-Corruption Bureau (NABU), the National Agency for the Prevention of Corruption (NAPC), the State Bureau of Investigation (SBI), the Bureau of Economic Security (BEB)). Under these bodies, following the relevant laws, public councils were created with expanded control functions.

This subsection analyzes the legal basis for the creation and operation, of the main functions of public councils (Public Control Council) under the new anti-corruption law enforcement agencies.

2.2.1 Legal grounds for the creation and operation of public councils (Public Control Council) under the new anti-corruption law enforcement agencies

The Council of Public Control at the National Anti-Corruption Bureau (CPC NACB) is a permanent collegial consultative and advisory elected body, which is formed following [the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine"](#).

The Regulations on the Council of Public Control under the National Anti-Corruption Bureau and the Procedure for its Formation are approved by [Resolution No. 132 of the Cabinet of Ministers of Ukraine dated February 16, 2022](#).

The Public Council at the National Agency for the Prevention of Corruption (PC NAPC) is a collegial body formed following [the Law of Ukraine "On Prevention of Corruption"](#) to ensure public control over the activities and transparency of decision-making by the National Agency for the Prevention of Corruption.

The Regulations on the Public Council under the National Agency for the Prevention of Corruption and the Procedure for holding a competition for the formation of its composition were approved by [Resolution of the Cabinet of Ministers of Ukraine No. 952 of November 20, 2019](#).

The Council of Public Control under the State Bureau of Investigations (CPC SBI) is a collegial consultative and advisory body formed following [the Law of Ukraine "On the State Bureau of Investigations"](#) to ensure transparency and civil control over the activities of the State Bureau of Investigations.

Regulations on the Council of Public Control under the State Bureau of Investigation and its Procedures were approved [by the Decree of the President of Ukraine No. 42/2020 of February 5, 2020](#).

The Council of Public Control under the Bureau of Economic Security (CPC BES) is a permanent collegial elected body, which is formed following [the Law of Ukraine "On the Bureau of Economic Security of Ukraine"](#) to exercise public control over the activities of the Bureau of Economic Security, establish effective interaction with the public.

The Regulations on the Council of Public Control under the Bureau of Economic Security of Ukraine and the Procedure for its formation are approved [by Resolution of the Cabinet of Ministers of Ukraine No. 872 dated August 18, 2021](#).

CONCLUSIONS

In contrast to the so-called "classic" public councils, which were created following the normative legal act of the Cabinet of Ministers, public councils (Public Control Councils) under the new anti-corruption bodies were created according to the requirements of relevant laws. According to the current legislation, such councils were defined precisely as control bodies.

This approach significantly increased the status of such councils and created prerequisites for strengthening public control over the activities of new anti-corruption law enforcement agencies.

2.2.2 Formation of the composition of public councils (Public Control Council) under new anti-corruption law enforcement agencies

The formation of public councils (Public Control Council) under the new anti-corruption law enforcement bodies is of the same type (for more details, see **TABLE 2. Examples of public control councils formed under new anti-corruption and law enforcement agencies**).

As a rule, such a Council is formed based on an open and transparent competition consisting of 15 people for two years. The competition for the formation of the composition of the Council is conducted through direct online rating voting by citizens living in the territory of Ukraine.

CONCLUSIONS

The process of formation of public councils (Public Control Council) under the new anti-corruption law enforcement bodies is much more transparent and competitive than the formation of the personnel of the so-called "classical" public councils. All citizens of Ukraine living on the territory of Ukraine can be involved in this process.

This makes it possible to choose such a personal composition of the Councils of Public Control, which is more socially active and oriented to the active control of the relevant authorities.

The main functions of public councils (Public Control Council) under the new anti-corruption law enforcement agencies

The main functions of public councils (Public Control Council) under the new anti-corruption law enforcement bodies are defined in the Regulations on their activities (for details, see: **TABLE 2. Examples of Public Control Councils formed under the new anti-corruption law enforcement bodies**).

At the same time, they are more or less the same. As a result of generalization, they can be reduced to the following main functions:

representative - collecting, summarizing and transmitting information regarding the proposals of civil society institutions regarding the need to solve issues related to a certain sphere of state policy;

consultative – conducting public monitoring of the law enforcement anti-corruption body, taking into account the suggestions and comments of the public regarding its activities, ensuring the transparency and openness of its activities, observing the rights and freedoms of man and citizen, the principle of gender equality, access to public information in its possession, and as well as compliance with legal acts aimed at preventing and combating corruption;

control - participation of council members in the work of disciplinary and competition commissions, review of reports and approval of their conclusions regarding them, listening to information about the activities, implementation of plans and tasks of the relevant anti-corruption law enforcement body;

norm-making - promotion of public discussion of projects of normative legal acts on the activities of CPB;

informational and communicative - facilitating the receipt of objective information by the heads of the corresponding anti-corruption law enforcement body regarding the public assessment of the state of performance of tasks and duties assigned to them;

organizational – organization of public events for discussion of topical issues of the CPB activity.

TABLE 2. *Examples of public control councils formed under new anti-corruption law enforcement agencies*

Mechanism of creation	Functions and tasks	Regulations, personal composition and term of office
Council of Public Control of the NABU		
<p>Candidates for participation in the online competition are submitted by public associations whose state registration took place at least one year before the announcement of the competition and whose statutory activity is related to the prevention and counteraction of corruption. A public association can recommend no more than three candidates for participation in the competition.</p> <p>Online voting is held within 12 hours using the official NABU website.</p> <p>Any citizen living in the territory of Ukraine can take part in voting. During participation in voting, a citizen can vote for no more than 15 candidates.</p>	<p>To fulfill the tasks assigned to it, the Council:</p> <ol style="list-style-type: none"> 1) hears information about the activities, implementation of plans and tasks of the National Anti-Corruption Bureau; 2) examines the reports of the National Anti-corruption Bureau and approves its conclusion on them within two weeks from the date of submission; 3) conducts public monitoring of the National Anti-Corruption Bureau's consideration of the public's suggestions and comments regarding its activities, ensuring transparency and openness of its activities, compliance with human and citizen rights and freedoms, the principle of gender equality, access to public information in its possession, as well as compliance with normative legal acts aimed at preventing and combating corruption; 4) organizes public events to discuss topical issues of the National Anti-Corruption Bureau; 5) elects two representatives from among the members of the Council who are members of the Disciplinary Commission of the National Anti-Corruption Bureau; 6) designates representatives to the composition of the competition commissions, which hold a competition for filling vacant positions of full-time employees in the National Anti-corruption Bureau, in the number of no more than three persons in the composition of one competition commission; 7) promotes public discussion of draft legal acts on the activities of the National Anti-Corruption Bureau; 8) discusses with the involvement of experts (specialists) the issue of ensuring the openness and transparency of the National Anti-Corruption Bureau, prevention of attempts to discredit the National Anti-Corruption Bureau and its employees, develops recommendations on these issues; 9) prepares and publishes an annual report on its activities. 	<p>The Council is formed based on an open and transparent competition consisting of 15 people for two years.</p> <p>The Regulations of the Council of Public Control under NABU can be found here.</p>
Public Council under the National Agency for the Prevention of Corruption		

<p>The competition for the formation of the composition of the Council (further - the competition) is conducted by rating online voting by citizens living on the territory of Ukraine.</p> <p>Candidates for participation in the competition are submitted by public associations, whose state registration took place at least one year before the announcement of the competition and whose statutory activity is related to the prevention and counteraction of corruption (hereinafter - public association).</p> <p>A public association can recommend no more than three candidates for participation in the competition.</p>	<p>Council to fulfill the tasks assigned to it:</p> <ol style="list-style-type: none"> 1) elects up to three representatives from among its members, who are part of each of the commissions that hold a competition to fill vacant positions in the National Agency; disciplinary commissions that carry out disciplinary proceedings against civil servants of the National Agency; 2) hears information about the activities, implementation of plans and tasks of the National Agency, monitors the effectiveness of the National Agency's implementation of its powers; 3) analyzes the situation to ensure the independence of the National Agency; 4) reviews the annual report of the National Agency and approves the conclusion on it; 5) considers the draft of the national report on the implementation of the principles of anti-corruption policy and approves the conclusion on it; 6) participates in the development of the anti-corruption strategy and the state program for its implementation; 7) participates in the development of projects of normative legal acts of the National Agency and prepares conclusions regarding them; 8) exercises other powers provided for by the Regulation. 	<p>The Council is formed based on an open and transparent competition consisting of 15 people for two years.</p> <p>You can familiarize yourself with the Regulations of the Council of Public Control at the NAZK here and with the personal composition here.</p>
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Public Anti-Corruption Council at the BEB

<p>When participating in a rating online vote, a citizen of Ukraine can vote "for" no more than 15 candidates, and in the case of a rating online vote to elect a member of the Council of Public Control instead of one whose powers have been prematurely terminated - for one candidate.</p> <p>A citizen of Ukraine has the right to vote only once for each of the candidates. The personnel composition of the Council of Public Control is approved by the Director of the Bureau of Economic Security following the principle of representation of women and men. Proposals regarding candidacies for</p>	<p>The Council of Public Control in order to fulfill the tasks assigned to it:</p> <ol style="list-style-type: none"> 1) hears information about the activities, implementation of plans and tasks of the Bureau of Economic Security; 2) examines the reports of the Bureau of Economic Security and, within 45 calendar days from the date of their receipt, approves its conclusion regarding them; 3) prepares and submits proposals to the Bureau of Economic Security regarding the organization and holding of consultations with the public, participates in such consultations; 4) promotes public discussion of draft legislative and other normative legal acts on the activities of the Bureau of Economic Security; 5) conducts public monitoring regarding the consideration of the Bureau of Economic Security's suggestions and public comments regarding its activities, ensuring transparency and openness of its activities, compliance with the rights and 	<p>The Council of Public Control is formed on the basis of an open and transparent competition consisting of 15 people for a period of two years.</p> <p>The Regulations on the Council of Public Control at the BEB can be found here, and the personal composition here.</p>
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<p>participation in the competition are submitted by public associations. A public association may submit no more than three proposals regarding candidacies for participation in the competition.</p>	<p>freedoms of a person and citizen, the principle of gender equality, access to public information in its possession, and as well as compliance with legal acts aimed at preventing and combating corruption;</p> <p>6) organizes public events to discuss current issues of the development and activities of the Bureau of Economic Security, events for legal education of the population;</p> <p>7) collects, summarizes and submits to the Bureau of Economic Security information regarding the proposals of civil society institutions regarding the need to resolve issues related to the activities of the Bureau of Economic Security;</p> <p>8) elects from its membership no more than three representatives who are part of the competitive commissions of the Bureau of Economic Security (except for the commissions that hold contests for positions, information about which is a state secret), in compliance with the principle of representation of women and men;</p> <p>9) elects three representatives from among the members of the Public Control Council to the disciplinary commission of the Bureau of Economic Security and submits to the Director of the Bureau of Economic Security a proposal to include such persons in the composition of the disciplinary commission in compliance with the principle of representation of women and men;</p> <p>10) informs the public about its activities, decisions made, and the status of their implementation by publishing relevant information on the official website of the Bureau of Economic Security under the heading "Public Control Council";</p> <p>11) prepares and publishes an annual report on its activities.</p>	
<p>Council of Public Control of the SBI</p>		
<p>Online rating voting for Council candidates is conducted on the official website of the State Bureau of Investigation within 24 hours. According to the results of the rating online voting, the competition committee forms a list of 30 candidates who have received the most votes and are allowed to write an essay and conduct an interview. Based on the results of the essay writing and the interview, the competitive commission forms a ranking list of</p>	<p>Council to fulfill the tasks assigned to it:</p> <p>1) hears information about the activities, implementation of plans and tasks of the State Bureau of Investigation;</p> <p>2) examines the reports of the State Bureau of Investigation and approves its conclusion on them;</p> <p>3) prepares and submits proposals to the State Bureau of Investigation regarding the organization and holding of consultations with the public, participates in such consultations;</p> <p>4) promotes public discussion of draft legislative and other normative legal acts on the activities of the State Bureau of Investigation;</p>	<p>The Council is formed based on an open and transparent competition consisting of 15 people for two years.</p> <p>The Regulations on the Public Control Council of the SBI can be found here, and the personal composition here.</p>

<p>candidates, which is published on the official website of the State Bureau of Investigation no later than two working days after the end of the interview stage. The first 15 candidates from the ranking list are included by the competition commission in the list of persons recommended to the Council, which is submitted for approval to the Director of the State Bureau of Investigation.</p> <p>The composition of the Council is approved by the Director of the State Bureau of Investigation. The term of office of the Council and its members begins on the day of the first meeting of the Council.</p>	<p>5) discusses with the involvement of representatives of public associations, mass media, and citizens of Ukraine the issue of ensuring the openness and transparency of the activities of the State Bureau of Investigation;</p> <p>6) collects, summarizes and submits to the State Bureau of Investigation information regarding the proposals of civil society institutions regarding the need to improve the forms and methods of interaction;</p> <p>7) elect three representatives from among the members of the Council to the Disciplinary Commission of the State Bureau of Investigations and submit to the Director of the State Bureau of Investigations a proposal to include such persons in the Disciplinary Commission;</p> <p>8) develops and approves the Rules of Professional Ethics of the State Bureau of Investigation;</p> <p>9) has the right to receive, upon written request, from the Director of the State Bureau of Investigation, his first deputy and deputies, from state bodies, local self-government bodies, enterprises, institutions and organizations, information necessary to ensure the performance of the tasks assigned to it, except for that assigned in accordance with with the law to information with limited access;</p> <p>10) organizes and conducts meetings, conferences, seminars, round table meetings and other events on issues within the competence of the Council.</p>	
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CONCLUSIONS

Public councils (public control councils) under the new anti-corruption law enforcement agencies (NABU, NAZK, DBR, BEB) are not only consultative and advisory bodies. They perform important control functions (review reports and information from such bodies) and influence their personnel policy.

In particular, the Public Control Councils were allowed to elect their representatives to the disciplinary commissions that conduct official investigations; and commissions that conduct the selection of candidates for positions in these bodies.

2.3 PROBLEMS OF IMPLEMENTING EFFECTIVE SOCIAL CONTROL BY PUBLIC COUNCILS

The experience of the functioning and activities of both the so-called "classical" public councils under the CPB and the Public Control Councils under the new anti-corruption law enforcement bodies also revealed the following problems.

The first public councils have limited institutional and expert capacity.

Only one representative of the CPB, who is elected as the secretary of the public council, ensures the activity of the PC, keeping minutes of the meetings, and preparing certain documents for the PC meetings. In his department, this employee, as a rule, performs other functions.

Thus, the capacity of the public council, its ability to perform the functions assigned to it, is primarily determined by the institutional capacity of those civil society organizations that have delegated their representatives to it.

At the same time, as is known, most public organizations in Ukraine have only started on the path of full-fledged institutional development, which in turn negatively affects the effectiveness of public councils.

The second is an insufficient level of communication between the public councils and the management of CPB.

There are quite a few cases when the leadership of the ministry or other bodies of the central executive authority perceives the public council as an artificial, superfluous institution in the state administration system. There are no formal norms regarding the mandatory meeting, for example, of the Minister or his deputies with the public council.

This significantly limits communication between the management of the CPB and the public council and reduces the influence of the public on the process of making state decisions, monitoring their implementation, and fighting corruption.

The third. The activities of public councils at the CPB are often quite formal.

As a rule, meetings of public councils at CPB take place three or four times a year. In the period between meetings, individual public councils freeze their work, and their members passively await the next meeting of the Regional Council. This approach of individual members of the PC to participate in their work was affected by the problems of wartime, which significantly reduced the effectiveness of the work of the public councils.

The fourth. Insufficient publicity of the activities of public councils, and their low level of communication with society.

One of the responsibilities of the public councils, created by Resolution of the CMU No. 996, is to report on their work. Publicity and transparency of the work of public councils are necessary to fulfill their goal - to ensure dialogue between society and the CPB, as well as open control over the activities of authorities.

The low publicity of such reporting leads to a decrease in the level of dialogue between the PC and the public; and creates opportunities for the non-transparent activity of public councils and external influence on their work.

CONCLUSIONS

The analysis of the formation and activity of public councils revealed several problems that negatively affect the creation of an effective system of public control over state power, including in the field of anti-corruption.

Cases of the formation of public councils because of behind-the-scenes agreements are not unique, their insufficient institutional capacity, formalism in work, and inadequate level of communication between the PC and the leadership of the CPB are noted. The so-called "classic" public councils have limited functions, primarily control and in the field of fighting corruption.

To increase the integrity of the process of formation of PCs under the CPB, it is worth defining a more transparent and clear procedure for their formation with the involvement of a larger number of citizens of Ukraine.

It is necessary to expand the range of powers of public councils, such as mandatory delegation of their authorized representatives to participate in meetings and meetings held by the relevant authority; to develop a mechanism for implementation by the public council of the function of public control and anti-corruption monitoring; to approve the mandatory requirements for the executive authorities regarding the establishment of cooperation with the public councils; to increase the level of publicity of these councils - through social networks, reporting at press conferences and communication with representatives of the public regarding the work done, existing issues, comments and suggestions.

CHAPTER 3. PUBLIC ANTI-CORRUPTION COUNCIL AT THE MINISTRY OF DEFENSE OF UKRAINE: FIRST RESULTS OF ACTIVITIES

This Section analyzes the legal grounds for the creation and the first results of the Public Anti-Corruption Council under the Ministry of Defense of Ukraine.

3.1 LEGAL GROUNDS FOR THE CREATION AND ACTIVITIES OF THE PUBLIC ANTI-CORRUPTION COUNCIL AT THE MINISTRY OF DEFENSE OF UKRAINE

The Ministry of Defense of Ukraine is probably the only department in Ukraine where two public councils operate at once. One of them, a classic one, was created by Resolution No. 996 of the CMU.

The other is the Public Anti-Corruption Council under the Ministry of Defense of Ukraine (PAC MoD), whose creation was modeled after the public control councils under law enforcement anti-corruption bodies. In the future, this Analytical Report will analyze the results of the activities of the PAC MoD.

The Public Anti-Corruption Council under the Ministry of Defense of Ukraine was created following [the Order of the Ministry of Defense "On the Public Anti-Corruption Council under the Ministry of Defense of Ukraine"](#) in the spring of 2023 and there is a permanent collegial consultative and advisory body of the Ministry of Defense of Ukraine, formed for the participation of the public in ensuring the assessment of corruption risks in the Ministry of Defense for the formation of appropriate anti-corruption measures.

CONCLUSIONS

The need to strengthen public (civil) control and combat corruption in the Ministry of Defense of Ukraine led to the need to form the Public Anti-Corruption Council following the example of the Public Control Councils under the new anti-corruption law enforcement agencies.

However, unlike them, the PAC MoD was created not by the requirements of the relevant law, and not even following the provisions of the normative legal act of the Cabinet of Ministers of Ukraine, but under the order of the Minister of Defense of Ukraine.

This reduces the public legitimacy and weight of PAC MoD and limits its capabilities in the field of anti-corruption during defense procurement.

3.2 FORMATION OF THE PUBLIC ANTI-CORRUPTION COUNCIL AT THE MINISTRY OF DEFENSE OF UKRAINE

PAC MoD is formed based on an open and transparent competition consisting of 15 people for one year. The contest is conducted by rating online voting. Candidates for participation in it are submitted by public associations whose state

registration took place at least two years before the announcement of the competition and whose statutory activity is related to prevention and countermeasures.

A public association can recommend no more than three candidates for participation in the competition. Voting is held within 12 hours using an official electronic resource. Citizens of Ukraine can participate in voting. During participation in voting, a citizen can vote for no more than 15 candidates.

CONCLUSIONS

Following the example of the Councils of Public Control, the staff of the PAC MoD is elected on a competitive basis by citizens of Ukraine who live on the territory of Ukraine.

Such an approach significantly increases not only the public legitimacy of the PAC MoD but also allows it to elect active citizens of Ukraine, focused on combating corruption, to it.

3.3 MAIN FUNCTIONS OF THE PUBLIC ANTI-CORRUPTION COUNCIL AT THE MINISTRY OF DEFENSE OF UKRAINE

The Public Anti-Corruption Council under the Ministry of Defense of Ukraine to fulfill the tasks assigned to it:

- 1) studies the results of the activities of the Ministry of Defense, military administration bodies, enterprises, institutions, and organizations on issues within its competence;
- 2) based on the results of consideration of materials within two weeks from the day of their receipt, submit recommendations and proposals to the Minister of Defense of Ukraine;
- 3) monitors the implementation of the Ministry of Defense's proposals from the public regarding its activities, ensuring transparency and openness of its activities, compliance with human and citizen rights and freedoms, the principle of gender equality, access to public information in its possession, as well as compliance with anti-corruption legislation;
- 4) organizes public events (public meetings, seminars, round tables, etc.) regarding the prevention of corruption, combating corruption in the Ministry of Defense and eliminating its consequences;
- 5) members of the Anti-Corruption Council may be involved in the work of the disciplinary commission for consideration of disciplinary cases of the Ministry of Defense apparatus, as well as in the work of competitive commissions for the selection of candidates for positions in the Ministry of Defense;
- 6) monitors the efficiency of public procurement in the Ministry of Defense, as well as the state of material, monetary, material, food and other types of provision of servicemen;

- 7) participates in the development of projects of regulatory and legal acts and prepares relevant proposals and recommendations;
- 8) promotes public discussion of projects of normative legal acts on the activities of the Ministry of Defense;
- 9) provides recommendations on crisis communications and monitors potentially problematic information areas, performs analysis and pre-crisis communication with society;
- 10) prepares and publishes an annual report on the results of its activities.

CONCLUSIONS

The functions of the PAC MoD are expanded compared to the functions of the so-called "classical" public councils.

At the same time, compared to the capabilities of the Councils of Public Control, they are limited, since the PAC MoD cannot fully perform control functions, and fully influence the personnel policy and integrity policy of the Ministry of Defense of Ukraine.

3.4 MAIN RESULTS OF THE PUBLIC ANTI-CORRUPTION COUNCIL AT THE MINISTRY OF DEFENSE OF UKRAINE

Since the creation of the PAC MoD, 27 of its meetings have been held, members of the Council's rule-making commission analyzed individual policies of the Ministry of Defense of Ukraine and provided recommendations regarding the following problems.

First. State guarantee of the quality of defense purchases.

To ensure the quality of defense products during interstate procurement in NATO, mutual state quality assurance is used according to the STANAG 4107 standardization, which provides for the implementation by NATO member states of standards in the areas of quality assurance (Quality Assurance) and government quality assurance (Government Quality Assurance).

Taking into account Ukraine's course towards NATO membership, the implementation of such standards in the system of state quality assurance of defense products was foreseen by [the Annual National Program under the auspices of the Ukraine-NATO Commission for the year 2021](#), approved by [the Decree of the President of Ukraine dated May 11, 2021 No. 189/2021](#) with due in 2023.

The concept of creating a structural unit for the state guarantee of the quality of goods, works and services for defense purposes, which was proposed by the Ministry of Defense of Ukraine, did not contain guarantees for ensuring the independence of such a body, compliance with the principles of impartiality and objectivity.

With the support of the Anti-corruption Platform [of the Economic Security Council of Ukraine](#), the Regulatory Commission of the PAC MoD has developed an alternative concept of a body for state quality assurance of the mentioned categories, which will ensure compliance with the above-mentioned principles and correspond to global practices for the creation and functioning of such a body.

The corresponding concept was presented to the working group of the NAKC on monitoring the implementation of the plan of anti-corruption measures according to the directions of the Ministry of Defense.

Second. Checking the quality of rear support.

After reports in the media about allegedly corrupt purchases of winter uniforms, the regulatory commission of the PAC MoD initiated an inspection of the remaining parts of the corresponding batch of uniforms. Together with other members of the public, samples were taken for examination.

Along with this, the standard-setting commission of the PAC MoD initiated a quality check of food supplies and physical support of the Armed Forces - so that, with unchanged prices, servicemen do not receive a deterioration in their quality. Meetings were held with the command of the Logistics Force to agree on compliance checks with suppliers. Based on the results of the inspections, changes to the rear procurement system will be proposed.

Separately, it is worth noting the interaction of the PAC MoD standard-setting commission with the Arms Procurement Department: the members of the commission were provided with information on receivables for the purchase of ammunition.

The third. Analysis of draft laws in the field of defense.

During August-September 2023, the Verkhovna Rada of Ukraine considered several important draft laws, which were analyzed by the norm-making commission of the PAC MoD and recommendations were made for them.

1. [Bill No. 9534](#) on the declaration of military personnel.

Despite supporting the restoration of declarations and expanding the range of officials who must submit electronic declarations, the PAC MoD rulemaking commission proposed to clearly define the list of such persons among the military, namely: members of military medical commissions, representatives of territorial procurement centers and persons engaged in procurement.

All other servicemen must submit declarations after the end of martial law. The proposals were submitted to the Deputy Chairman of the Committee of the Verkhovna Rada of Ukraine on Combating Corruption Yaroslav Yurchyshyn and were fully considered during his second reading.

2. Resolution of the Verkhovna Rada No. 10071 "Regarding the support of the defense and industrial complex of Ukraine in the conditions of martial law".

The regulatory commission of the PAC MoD analyzed this resolution and determined that the resolution does not resolve the existing ambiguous interpretation of regulatory legal acts regarding considering the profit of suppliers of defense and other products.

Previously, the PAC MoD standard-setting commission had already submitted proposals to the Cabinet of Ministers regarding this issue, in particular: regarding instructing the Ministry of Economy to provide an official clarification regarding the enforcement of the provisions of Resolution No. 335, which does not regulate the issue of making a profit, as it is already regulated by the Economic and Civil Codes of Ukraine.

At that time, the proposal was not fully considered, but recently the Ministry of Economy provided an explanation that will significantly improve the legal position of the Ministry of Defense in the case that is being considered in court.

To **counter disinformation and promptly respond to challenges in the field of defense**, the Anti-corruption platform of the WER consults the members of the PAC MoD on public communications and provides support in organizing coverage of the position of the members of the PAC MoD standard-setting commission in the media. In particular, their interviews were organized in the Ukrainian media: TSN 1+1 (telethon) together with the deputy chairman of the Verkhovna Rada Committee on Combating Corruption; ICTV facts (telethon); Live channel (live broadcast); channel 24; 5 channel.

CONCLUSIONS

During the six months since the creation of the PAC MoD, 27 of its meetings were held, which made it possible to promptly respond to the challenges and problems that arise in the activities of the Ministry of Defense.

The members of the PAC MoD provided recommendations on the state guarantee of the quality of defense products, quality control of rear support, and separate draft laws in the field of defense. Some of them were taken into account in the activities of the Ministry of Defense and were reflected in the information space.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

1. The participation of civil society in the processes of combating corruption in Ukraine is critically important, moreover, it is a significant advantage for the start of negotiations on Ukraine's accession to the EU.
2. The creation of a system of public councils under the bodies of executive power revealed several problems that negatively affected the creation of an effective system of public control over state power, including in the field of anti-corruption.
3. The cases of the formation of public councils under the CPB as a result of behind-the-scenes agreements are not unique, their insufficient institutional capacity, lack of publicity and formalism in their work, inadequate level of communication between the PC and the leadership of the executive authorities are noted, they have limited functions, primarily control and in the field of combating corruption.
4. Public councils (Public Control Councils) under the new law enforcement anti-corruption bodies were created following the requirements of the relevant laws precisely as control bodies. This approach significantly increased the status of such councils and created prerequisites for strengthening public control over the activities of new anti-corruption bodies.
5. The process of forming public councils (Public Control Councils) under the new law enforcement anti-corruption law enforcement bodies is much more transparent and competitive than the formation of the personal composition of the so-called "classical" councils. This makes it possible to choose such a personal composition of the councils of public control, which is more socially active and oriented to the active control of the relevant authorities.
6. The need to strengthen public control and counter corruption in the Ministry of Defense of Ukraine led to the need to form the Public Anti-Corruption Council following the example of the Public Control Councils under the new anti-corruption law enforcement agencies.

However, unlike the Public Control Councils, the PAC MoD was created not under the requirements of the relevant law, and not even following the provisions of the regulatory act of the Cabinet of Ministers of Ukraine, but by the order of the Minister of Defense of Ukraine. This significantly reduces its social legitimacy and weight and limits its capabilities in the field of anti-corruption during defense procurement.

7. The functions of PAC MoD are expanded compared to the functions of the so-called "classical" public councils. At the same time, compared to the capabilities of the Public Control Councils, they are limited. PAC MoD cannot fully perform control functions and fully influence the personnel policy and integrity policy of the Ministry of Defense of Ukraine.

RECOMMENDATIONS

1. Following the example of Public Control Councils under the new anti-corruption law enforcement bodies, it is necessary to qualitatively strengthen the system of public control over the activities of government bodies, transform the existing system of public councils under the CPB (including PAC MoD) and take the following measures:
2. To adopt a special law on the legal status, procedure of formation, and functions of public councils, in which to formalize their work and competencies.
3. To determine a transparent and clear procedure for the formation of the personal composition of all public councils through rating internet voting by citizens of Ukraine following the procedure for selecting the personal composition of the RGK under new law enforcement anti-corruption bodies. Candidates submitted for participation in the competition must be members of the relevant public association for at least 6 previous months.
4. To strengthen the control functions of all public councils over the activities of executive authorities, anti-corruption, including:
 - consideration of projects of regulatory legal acts of the CPB, participation in their development, preparation of proposals and recommendations for them;
 - conducting regular anti-corruption monitoring, participating in the development and monitoring of the implementation of the anti-corruption program of the CPB;
 - consideration of reports on the results of the activities of relevant state authorities, approval within a month of the corresponding feedback, which is an integral part of thereport;
 - influence on personnel policy and integrity policy of CPB, participation in the work of disciplinary commissions, and competitive selection of employees;
 - the possibility of delegating the participation of authorized representatives of public councils in meetings and meetings held by the relevant authority.
5. Provide for mandatory communication and establishment of interaction between public councils and the leadership of state authorities, increasing the level of publicity of these councils.
6. To strengthen the institutional and expert capacity (*capacity building*) of public councils (including expert support, adjustment of the work of secretariats, development of work methodology, etc.