



# SYSTEM FOR STATE QUALITY ASSURANCE OF GOODS, WORKS AND SERVICES FOR DEFENCE PURPOSES

Experience of NATO Countries, Main Functions of the State Authorised Body and Guarantees of Independence of its Activities



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## INTRODUCTION

The present Analytical Report analyses the feasibility and ways of establishing an authorised body for state quality assurance of goods, works and services for defence purposes (hereinafter – the authorised body) on the principles of independence, transparency and anti-corruption.

The authors analyse national and international legislation, in particular, that of NATO countries on state quality assurance, and the problems that stand on the way of creating a qualitatively new system of state quality assurance for defence procurement in Ukraine.

Proposals are made to define the main tasks and functions of an independent authorised body, appoint its leadership and sources of funding.

Implementation of these changes will increase the control of the Ukrainian state over the quality of defence procurement, enhance the reliability and effectiveness of weapons and military equipment purchased for the Armed Forces of Ukraine, and will be a serious step towards joining NATO and implementing the standards and requirements of the North Atlantic Alliance in the practical activities of the Ukrainian government.

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# Section I. NATO MEMBER STATES' EXPERIENCE IN DEFENCE PRODUCT QUALITY GUARANTEEING

This section analyses the main provisions of the NATO Standardization Agreement STANAG 4107, which provides for the implementation of NATO standards (publications) on state quality assurance by the states parties to the Agreement. The place and status of authorised bodies for state quality assurance in individual NATO member states is also investigated.

## 1.1. Basic NATO requirements for state quality assurance in defence procurement

In order to ensure the quality of defence products in intergovernmental procurement, NATO applies mutual state quality assurance based on the NATO Standardization Agreement STANAG 4107 (hereinafter referred to as the NATO STANAG 4107 Agreement), which was adopted in 1997 and is currently in force in the 2022 version. The NATO STANAG 4107 Agreement provides for the implementation of Government Quality Assurance (GQA) as a process for assessing the conformity of manufacturers' / suppliers' quality management systems based on the implementation by participating states of a number of NATO AQAP standards (Allied quality assurance publications), in particular, the data provided in a table below.

NATO standards of the AQAP series	Link	Details
<a href="#">AQAP 2000</a>	<a href="https://www.bundeswehr.de/resource/blob/146172/81384f26d93c88d5c1e3524375c8ab8c/aqap-2000-2009-eng-data.pdf">https://www.bundeswehr.de/resource/blob/146172/81384f26d93c88d5c1e3524375c8ab8c/aqap-2000-2009-eng-data.pdf</a>	NATO policy on an integrated systematic approach to quality throughout the life cycle (edition 3, 2009)
<a href="#">AQAP 2070</a>	<a href="https://www.bundeswehr.de/resource/blob/133150/5391f30afd44274a5755c497e85a116f/aqap-2070-2019-eng-data.pdf">https://www.bundeswehr.de/resource/blob/133150/5391f30afd44274a5755c497e85a116f/aqap-2070-2019-eng-data.pdf</a>	NATO Mutual State Quality Assurance (Edition B, 2019), which regulates the process of mutual state quality assurance
<a href="#">AQAP 4107</a>	<a href="https://www.bundeswehr.de/resource/blob/5219736/4aea36dc0e72e6c08d2d23ea6b7360ea/aqap-4107-eng-en-data.pdf">https://www.bundeswehr.de/resource/blob/5219736/4aea36dc0e72e6c08d2d23ea6b7360ea/aqap-4107-eng-en-data.pdf</a>	Mutual Recognition of State Quality Assurance and Application of NATO Quality Assurance Publications (Edition A, 2018)
<a href="#">AQAP 2110</a>	<a href="https://www.bundeswehr.de/resource/blob/133214/4ad8f95e44da63854529b07db3863bd5/aqap-2110-2016-eng-data.pdf">https://www.bundeswehr.de/resource/blob/133214/4ad8f95e44da63854529b07db3863bd5/aqap-2110-2016-eng-data.pdf</a>	NATO Quality Assurance Requirements for Design, Development and Production (D Edition, 2016)
<a href="#">AQAP 2310</a>	<a href="https://www.bundeswehr.de/resource/blob/133162/2bfebc4894f2cd7e94d81c13a79d027c/aqap-2310-2017-eng-data.pdf">https://www.bundeswehr.de/resource/blob/133162/2bfebc4894f2cd7e94d81c13a79d027c/aqap-2310-2017-eng-data.pdf</a>	NATO quality assurance requirements for suppliers in the aviation, aerospace and defence industries (B edition, 2017)
<a href="#">AQAP 2210</a>	<a href="https://www.bundeswehr.de/resource/blob/133168/6302e491fe817463fda210d35dba5570/aqap-2210-2022-eng-data.pdf">https://www.bundeswehr.de/resource/blob/133168/6302e491fe817463fda210d35dba5570/aqap-2210-2022-eng-data.pdf</a>	NATO supplementary requirements to AQAP-2110 or AQAP-2310 for software quality assurance (edition A, 2017)
<a href="#">AQAP 2131</a>	<a href="https://www.bundeswehr.de/resource/blob/133156/96d5cceede6c9b80ca714e8eafe2e853/aqap-2131-2017-eng-data.pdf">https://www.bundeswehr.de/resource/blob/133156/96d5cceede6c9b80ca714e8eafe2e853/aqap-2131-2017-eng-data.pdf</a>	NATO requirements for quality assurance during final inspection and testing (edition C, 2017)





The latter 4 standards are contractual documents (applied by appropriate references in contracts), establish requirements for suppliers' quality management systems and include the requirements of international and regional standards ISO 9000:2015, IDT DSTU ISO 9000:2015 (AQAP-2110) or EN AS 9100 (AQAP-2310) and additional NATO requirements, including those for state quality assurance.

Assessing the compliance of manufacturers' / suppliers' quality management systems with the requirements of contract-type standards allows the customer to gain confidence that the manufacturers' / suppliers' management system is functioning efficiently and effectively in relation to a particular contract.

Thus, confidence in the quality of defence products is achieved both during the evaluation and selection of contractors prior to the conclusion of contracts and during the execution of concluded contracts. At the same time, **quality management system conformity assessment and monitoring do not replace, but only complement, product conformity assessment, which allows optimising the relevant processes, in particular, acceptance control processes.**

State quality assurance of defence products is one of the procurement quality assurance tools that applies to high-risk contacts and is carried out in accordance with the provisions of AQAP-4107, AQAP-2070 and on the basis of the contractual requirements standard, for example, AQAP-2110.

When the buyer establishes requirements for state quality assurance and determines the relevant standard (for example, AQAP 2110), the relevant authorised body carries out state quality assurance, during which the company's quality management system is assessed and monitored and the compliance of the management system with the requirements of AQAP 2110 and the product supply agreement is assessed.

In particular, during the state quality assurance, the manufacturer (supplier) must provide the representative of the authorised body for state quality assurance with the following rights:

The right to access the facilities where the works related to the contract are performed	Necessary assistance for evaluation, verification, validation, testing, inspection or release of products	Necessary documentation to confirm the conformity of products to the contract specifications
Unlimited opportunity to check the compliance of products with the requirements of the contract	Unlimited opportunity to assess the compliance of the manufacturer's quality management systems	
Unlimited opportunity to assess the compliance of external suppliers	Information related to the fulfilment of the contract requirements	Copies of the required documents, including those on electronic media.
Company personnel to operate the equipment	Access to information and communication facilities	Place, facilities and equipment to perform GQA



## Conclusions

NATO countries have established a quality assurance system for defence products, which primarily strictly monitors compliance with the requirements for the quality management system implemented by the manufacturer/supplier.

However, assessing the conformity of quality management systems does not replace product conformity assessment, including testing, certification and acceptance of products.

The choice of the appropriate set of quality assurance tools depends on the level of risks in relation to the product and the manufacturer/supplier. This ensures a comprehensive approach to quality assurance based on a risk-oriented approach.




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### **1.2. State quality assurance bodies of individual NATO member states: legal status and main functions**

In the course of preparation of this section, the experience of European NATO member states in the establishment and functioning of state quality assurance bodies was analysed for further analysis and implementation of best practices in Ukraine.

There are no uniform approaches among NATO member states to define the organisational and legal status of the authorised body for state quality assurance in defence procurement (see Table 1).

Some of these authorised bodies are structural subdivisions (with certain guarantees of independence and autonomy) of national ministries of defence or national armed forces. Such authorised bodies operate in this format in the UK, Hungary, Poland and Romania.

In Germany, Slovakia and the Czech Republic, state quality assurance institutions are independent public authorities (state institutions) that operate in close cooperation, coordination and interaction with the national Ministry of Defence. In Bulgaria, the authorised body for state quality assurance is a structural unit of a separate institute that is subordinated to the national defence ministry.

The main functions of the authorised bodies for state quality assurance include: assessing the quality management systems of defence suppliers based on the requirements of the AQAP standards defined in the contracts; implementing relevant NATO standards; ensuring that the state fulfils its obligations under the NATO STANAG 4107 Agreement; and representing the country's interests in the quality of defence products in NATO.



**Table 1. State quality assurance bodies of NATO member states**

State	State Quality Assurance Organization	Organisational and legal status	Main functions
Bulgaria	<b><u>Military Standardization and Certification Directorate</u></b>	The Directorate is a subdivision of the Professor Tsvetan Lazarov Defence Institute. The Institute is an internationally recognized scientific organisation that has proven its unique expertise in the field of defence and security. The Defence Institute was established on June 04, 2009 by the Decree of the Council of Ministers of Bulgaria No. 140 as a legal entity subordinated to the Minister of Defence and is the successor to the rich traditions of a number of previous military-scientific, scientific-technical institutes and expert structures of the Ministry of Defence.	State quality assurance body: <ul style="list-style-type: none"> <li>- certifies quality management systems for defence products for compliance with the Alliance for Quality Assurance publications of the AQAPs series;</li> <li>- certifies defence products;</li> <li>- certifies physical protection means of restricted information intended for use in the structural units of the MoD, the Armed Forces and structures directly subordinate to the Minister of Defence, as well as beyond;</li> <li>- organises the development, coordination, approval, registration, distribution, storage and updating of military standardisation documents;</li> <li>- coordinates the participation of representatives of the MoD, the Bulgarian Armed Forces (BAF) and structures directly subordinate to the Minister of Defence in the technical committees of the Bulgarian Standardization Agency;</li> <li>- organises and coordinates the process of ratification, approval and implementation of NATO standardisation documents and maintains the STANDARD information system;</li> <li>- coordinates cooperation in the field of military standardisation within NATO, the European Union and on a bilateral basis;</li> <li>- coordinates the participation of national representatives of the Ministry of Defence, CABs and structures directly subordinate to the Minister of Defence in the working bodies of the NATO Standardization Agency;</li> <li>- organises and manages activities to create approved Bulgarian military terminology based on NATO standardisation documents;</li> <li>- participates in the preparation of tactical and technical tasks, technical specifications, test methods, etc. related to the development of military equipment and systems, weapons and ammunition, C4I systems and physical protection systems for restricted information;</li> <li>- participates in the process of development, coordination, approval, registration, publication, updating, storage and distribution of national military standardisation documents.</li> </ul>
The United Kingdom	<b>DAT&amp;QA / Defence Commissioner for Technical Support and Quality Assurance</b>	The Defence Acquisition and Quality Assurance (DAT&QA) is acting under a mandate from the Permanent Secretary of the Ministry of Defence D/PUS/11/4(264) of September 5, 2018. DAT&QA is the UK's National Quality Assurance Authority (NQAA). The relevant functions are carried out by DE&S (an independent body of the Ministry of Defence for the Armed Forces with unique management rights delegated by Her Majesty's Treasury and the Cabinet of Ministers).	The NQAA and DAT&QA ensure that the right standards are maintained in the delivery of defence capabilities through appropriate assurance of procurement, engineering and logistical support through coherent and effective defence quality management. In general, the NQAA has two main roles: <ul style="list-style-type: none"> <li>- monitoring the state's fulfilment of its obligations under the NATO STANAG 4107 agreement.</li> <li>- representing the interests of the UK Ministry of Defence on quality in NATO.</li> </ul> The body acts under a letter of delegation from the US Department of Defence through a representative of the UK Conference of National Armaments Directors (CNAD).
Hungary	<b><u>Hungarian Defence Forces General Staff Logistics Directorate</u></b>	Logistics Directorate of the General Staff of the Hungarian Defence Forces (J-4). J-4 is a departmental level organisation of the MoD, which is directly subordinated to and controlled by the Chief of the General Staff of the Hungarian Armed Forces (hereinafter referred to as the GGS). It is headed by a Chief of Department and consists of three different divisions: Logistics Division, Operational Support Division and Planning Division.	<ul style="list-style-type: none"> <li>- Manages the consumer logistics system of the Defence Forces;</li> <li>- prepares decisions of the NGS on logistics issues,</li> <li>- sets military requirements in the field of logistics;</li> <li>- draws up plans for logistics support of operations;</li> <li>- coordinates the tasks of logistics support of the armed forces;</li> <li>- coordinates the training and education of logistics personnel;</li> <li>- analyses the management of the logistics budget;</li> <li>- represents the Armed Forces logistics at NATO, EU and bilateral logistics forums.</li> </ul>
Germany	<b><u>BAAINBw Bundesamt für Ausrüstung, Informationstechnik und Nutzung der Bundeswehr</u> / Federal Office for Equipment, Information Technology and Utilization of the Bundeswehr</b>	A central government agency that purchases equipment in accordance with the needs and requirements of the Bundeswehr. It is also responsible for the quality of the equipment.	In order to ensure the quality of the goods and services ordered, the Bundeswehr places specific requirements on the comprehensive quality management process to be implemented by contractors. In its contracts with contractors, the Federal Office for Equipment, Information Technology and Utilisation of the Bundeswehr defines these quality assurance requirements in detail. They serve as clearly defined working principles and precise guidelines for cooperation for both the service provider and the Federal Office as the customer. The contracts also include NATO requirements as contractual elements. This allows the Bundeswehr to ensure full interoperability of systems and technologies with NATO forces.



**Table 1. State quality assurance bodies of NATO member states**

State	State Quality Assurance Organization	Organisational and legal status	Main functions
Poland	<u>Military Centre for Standardization, Quality and Codification</u>	The Military Standardisation, Quality and Codification Center is a structural unit of the Ministry of National Defence of Poland. As part of the coordination of standardization activities of the Ministry of Defense, the Standardisation Division manages the secretariats of the Military Standardisation Committee (WKN), the Military Terminology Subcommittee of the WKN and the Military Medicine Subcommittee of the WKN. The Standardisation Division is organised into three sections: Linguistic Section, Standards Development Section, Military and Allied Cooperation Section.	<ul style="list-style-type: none"> <li>- Organisation and coordination of standardisation activities in the Ministry of National Defence in the field of operational, logistical, administrative and military terminology;</li> <li>- work with NATO standardisation documents in the Ministry of Defence by coordinating the process of preparing national responses to NATO on the ratification and implementation of NATO standardisation agreements (STANAG);</li> <li>- organising and coordinating the proper functioning of the quality assurance system in the Ministry of National Defence;</li> <li>- organisation and coordination of the functioning of the National Codification System (SKWO) and implementation of tasks within the NATO Codification System;</li> <li>- organisation and coordination of tasks related to the participation of the Ministry of National Defence in the national system of notification of legal acts (EU) containing technical provisions.</li> </ul>
Romania	<u>Ministry of national defence Armaments general directorate</u>	A central structure under the direct supervision of the Minister of National Defence of Romania.	<p>The Ministry of Defence organises and carries out the quality assessment and certification of suppliers to the general Armed Forces, in particular, the supplier in accordance with the Romanian Government Decision No. 1073 of November 1, 1996 on the assessment, certification and supervision of the quality of suppliers to the armed forces. The Military Certification, Accreditation and Supervision Authority (OMCAS) was established within the General Directorate of Armaments to carry out procurement. Customers of the Ministry of Defence are obliged to select and define quality assurance requirements in tender documents and contracts for the procurement of defence systems and equipment in accordance with the requirements of AQAP 2009 - NATO's Guide to the Use of AQAP 2000 Series. The quality assessment and certification of suppliers of defence systems and equipment to the Ministry of Defence registered in Romania are carried out through audits organised and conducted by OMCAS.</p> <p>The assessment of quality assurance of suppliers of defence systems and equipment during the contract period is carried out by the Governmental Quality Assurance Representative (GQAR) for suppliers using the Quality Supervision Service (QSS), in accordance with the Supplier's State Quality Assurance Plan attached to the contract. State Quality Assurance Representatives may perform the task of overseeing Romanian suppliers to a NATO body or a NATO or non-NATO member country as specified in AQAP 2070, AQAP 2000 and STANAG 4107, as applicable. State quality assurance, as stipulated by AQAP 2070, related to defence systems and equipment procurement contracts concluded by the Ministry of Defence with suppliers having offices in NATO member states, is carried out by the National Quality Assurance Body in accordance with the contract requirements, STANAG 4107 and AQAP requirements.</p>
Slovakia	<u>Urad pre obrannú štandardizáciu, kodifikáciu a štátne overovanie kvality</u> / Defence standardization, codification and state quality assurance body/	The Office is a public authority with national competence in the field of defence standardisation, codification and state quality control. The Authority is a budgetary organisation that is linked to the state budget through the budget section of the Ministry of Defence of the Slovak Republic with its income and expenditures.	The State Quality Assurance Body exercises powers in the field of defence standardisation, codification and state quality control.
Czech Republic	<u>Defence Standardisation, Codification and Government Quality Assurance Authority</u>	The Authority for Standardization, Codification and State Quality Assurance in the Defence Sector is a governmental body coordinated by the Czech Ministry of Defence and subordinated to the Secretary of State. The Office closely cooperates with the Ministry of Defence and participates in the development of principles and procedures related to the implementation of the above programs in the interests of the Ministry of Defence. The Office participates in the activities of the Quality Council of the Czech Republic and the Accreditation Council. It also participates in the activities of the Technical Committee for Accreditation of Certification Bodies that certify quality systems. The Directorate represents the Czech Republic in the relevant NATO bodies and in the relevant international organisations and ensures the fulfilment of tasks arising for the Czech Republic from the activities of these bodies and organisations.	The authority determines the concept, strategic goals, creation and management of defence standardisation, cataloguing and state quality assurance of products and services intended for the defence of the state. In certain areas of activity, it is a body for the formation and implementation of policy in the field of standardisation, management of a unified cataloguing system and the construction and management of a system of state quality assurance of products and services. In fulfilling its tasks, it cooperates with other ministries, other administrative bodies, regions, relevant NATO bodies, similar bodies or agencies of NATO member states and similar bodies or agencies of other states.





## Conclusions

The authorised bodies for state quality assurance in NATO member states have different organisational and legal forms: both separate units of the national defence ministry and independent public authorities.

At the same time, all of them have guarantees of independence of their activities, function in close cooperation, interaction and coordination with the Ministry of Defence, evaluate and monitor quality management systems of defence suppliers, and implement NATO standards in their work practices.

## Section II. PROBLEMS OF GUARANTEEING AND ENSURING THE QUALITY OF GOODS, WORKS AND SERVICES FOR DEFENCE PURPOSES IN MODERN UKRAINE

This section analyses the legislation of Ukraine on state quality assurance in defence procurement, the state of practice of the State Authorised Body and the problems on the way to creating an effective and efficient system of state quality assurance in accordance with the requirements of the Law of Ukraine "On Defence Procurement" and NATO STANAG 4107.

### 2.1. National legislation on state quality assurance in defence procurement

In Ukraine, the state quality assurance of defence procurement is regulated by the Law of Ukraine "On Defence Procurement" and the Resolution of the Cabinet of Ministers of Ukraine "On the Authorised Body for State Quality Assurance" of June 16, 2021, No. 622, Orders of the Cabinet of Ministers of Ukraine "On Approval of the Concept of Establishing a System of State Quality Assurance of Goods, Works and Services for Defence Purposes" of November 1, 2022, No. 976r and "On Approval of the Action Plan for Implementation of the Concept of Establishing a System of State Quality Assurance of Goods, Works and Services for Defence Purposes" of February 24, 2023, No. 172\*.

The Law of Ukraine "On Defence Procurement" (hereinafter - the "Law") was adopted by the Verkhovna Rada of Ukraine in 2020 to harmonise national legislation with the legislation of the European Union and NATO member states in the field of defence procurement. A large group of practitioners, civil servants, experts and foreign representatives worked on its development.

\* These Regulations are analysed in detail in sub-sections 2.3. "Problems of creating in Ukraine an effective and efficient system of state guaranteeing the quality of defence purchases in accordance with the standards of NATO member countries" of this report.





The Law contains many progressive provisions based on NATO requirements, including those on state quality assurance in defence procurement.

Article 1 of the Law defines state quality assurance as "the establishment by the authorised body for state quality assurance of compliance of the processes of ensuring the quality of goods, works and services for defence purposes with the requirements of state contracts (agreements)". The same article states that the authorised body for state quality assurance" is a body authorised by the Cabinet of Ministers of Ukraine to assess the compliance of quality assurance processes for defence goods, works and services with the requirements set by state customers in defence procurement".

In addition, Article 39 (2) of the Law provides that state quality assurance measures shall be carried out by representatives of the authorised body for state quality assurance **if the state customer has established the relevant requirements and conducted a risk analysis, the results of which prove the need to apply the state quality assurance mechanism\*\***. In other words, under certain conditions, the process of state quality assurance may not be carried out, and other tools, such as quality control, may be used to ensure quality.

According to the Resolution of the Cabinet of Ministers of Ukraine No. 622 of June 16, 2021, the authorised body for state quality assurance is the Ministry of Defence of Ukraine. And according to the "Regulation on the Department of State Quality Assurance of the Ministry of Defence of Ukraine" (hereinafter – the Department), this structural unit of the Ministry of Defence currently performs the functions of state quality assurance. In accordance with the Regulation on the Department of Customer Representation, these representative offices are subordinated to this Department.

**Thus, there is a potential conflict of interest within one agency, which increases the risk of supplying defence products of inadequate quality.**



\*\* According to paragraph 5 of the final provisions of the Law, it is noted that "the provisions of this Law on state quality assurance shall enter into force after the establishment of the authorised body for state quality assurance, the adoption of relevant military standards and their approval."





The draft Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Regulation on the Authorised Body for State Quality Assurance", prepared in 2023 by the Ministry of Defence, proposes to designate the State Department of Quality Assurance of the Ministry of Defence as the authorised body for state quality assurance (instead of the entire defence department).

At the same time, the Conclusion of the anti-corruption expertise prepared by the National Agency on Corruption Prevention emphasises that the provisions of the said Regulation are declarative and do not contain effective legal mechanisms to ensure the independence of the authorised body for state quality assurance." The proposed draft is also inconsistent with the Anti-Corruption Strategy for 2021-2025, contains a corruption factor, and should be sent for revision.

Based on the requirements of the Resolution of the Cabinet of Ministers "On Approval of the Procedure for Controlling the Quality of Defence Goods, Works and Services at All Stages of Their Development, Production, Modernization, Repair and Utilisation, as well as the Targeted Use of Funds" of July 28, 2021, No. 781, a mechanism for controlling the quality of defence goods, works and services has been established and is functioning in Ukraine\*\*\*.

At the same time, the system of state quality assurance in NATO member states, as shown in the previous Section, is based on different approaches and principles. The authorised body for state quality assurance is established to assess the compliance of the quality management system of the defence manufacturer and issue a certificate of compliance with NATO standards (AQAP), which the state customer may require from the bidder. Therefore, the Cabinet of Ministers Resolution No. 781 cannot be considered in the sense of creating and regulating the state quality assurance system in Ukraine.



## Conclusions

NATO member states primarily control the quality management system at defence manufacturers as the most effective way to ensure the quality of defence products, while other quality assurance tools are also used, depending on the level of risks. A similar approach is envisaged by the Law on Defence Procurement.

The creation and functioning of a qualitatively new system of state quality assurance requires the implementation of the provisions, requirements and standards stipulated by the NATO STANAG 4107 Agreement, the Law "On Defence Procurement" into the regulatory acts of the Cabinet of Ministers of Ukraine and the powers of the authorised body for state quality assurance of goods, works and services for defence purposes.

\*\*\* In accordance with the paragraph 3 of the Resolution, it is the "representations of state customers" that carry out such control. In addition, the resolution prescribes a control mechanism for scientific research work (par.4-8), implementation of the preliminary project (par.9), research and design work, i.e. sketch design and production of a prototype (par.10-11), carrying out state testing of the prototype (par.12), i.e. research and design work (stage of work) to control the quality of defence goods during their serial production (assembly), acceptance of defence goods (par.18-22), shipment of goods (par.23), analysis of complaints on such goods (par.24). Representations also exercise control over proper use of funds under the state contracts (agreements) on defence procurements (par.30).





## 2.2. Functioning of the state quality assurance system in modern Ukraine

As noted in the previous section, Ukraine has established the Department of State Quality Assurance of the Ministry of Defence of Ukraine (hereinafter – the Department), which ensures that the Ministry of Defence performs the functions of an authorised body for state quality assurance.

The Department is an independent structural unit of the Ministry of Defence of Ukraine, authorised to assess the compliance of quality assurance processes for defence goods, works and services with the requirements set by the state customer.

At the same time, the structural unit of the Ministry of Defence cannot independently carry out conformity assessment and subsequent certification of defence producers.

The Department is subordinate to the Minister of Defence of Ukraine. However, the activities of the Department are directly directed and coordinated by the Deputy Minister of Defence of Ukraine, who, in accordance with the Order of the Ministry of Defence of Ukraine No. 46/nm of 26 January 2023, also controls the Department of Military Technical Policy, Development of Armaments and Military Equipment. At the same time, one of the main tasks of the Department of Military Technical Policy, Development of Armaments and Military Equipment is to ensure that the Ministry of Defence performs the functions of a defence procurement customer.

Thus, **the Department of State Quality Assurance is directly subordinated to the Deputy Minister of Defence, who simultaneously controls another department that performs the functions of the state customer.** This, in turn, may give rise to certain corruption risks and eliminates the guarantees of independence of such a department.

Thus, the current system of state quality assurance bodies does not meet the purpose and objectives of Government Quality Assurance and the commitments undertaken by Ukraine to implement the standards required for NATO membership.



## Conclusions

There are no regulatory acts of the Cabinet of Ministers on the implementation of the state quality assurance system in Ukraine. There is a potential conflict of interest, as the functions of the state customer and state quality assurance are concentrated in one agency – the Ministry of Defence of Ukraine.

Therefore, efforts should be made to establish an independent authorised body for state quality assurance of defence goods, works and services on the principles of independence and transparency of efficiency. This will ensure the implementation of mutual state quality assurance with NATO member states and partners, and in the future will ensure Ukraine's full accession to the NATO Standardisation Agreement STANAG 4107.





## 2.3. Challenges in establishing an effective and efficient system of state quality assurance for defence procurement in Ukraine in line with NATO standards

There are several problems in Ukraine that need to be addressed in order to create an effective and efficient system of state quality assurance in line with NATO standards. In particular:

**1** Lack of a sufficient number of specialists who not only thoroughly study the legal regulation of state quality assurance in NATO member states, but also have experience in practical auditing of quality assurance systems at defence enterprises. There are no clear requirements for conducting such audits, such as checklists for quality management system audits, etc.

**2** A significant number of enterprises performing defence contracts do not have a quality management system in place in accordance with the requirements of DSTU ISO 9000:2015 and NATO AQAP standards, in particular AQAP 2010. Implementation of such a quality management system requires appropriate time and professional staff.

**3** The requirements of the Law of Ukraine "On Defence Procurement" and the NATO Standardisation Agreement STANAG 4107 should be implemented in the regulatory acts of the Cabinet of Ministers of Ukraine.

Solving these problems will require some time for their qualitative preparation of the relevant regulations on state quality assurance in defence procurement and a corresponding breakdown in the psychology of civil servants.

In order to create a system of state quality assurance and as part of the reforms in the security and defence sector of Ukraine, the current government has taken a number of measures. Clause 3.6 of the Anti-Corruption Strategy for 2021-2025, approved by the Law of Ukraine "On the Principles of State Anti-Corruption Policy for 2021-2025", states that "the ineffective model of control of defence products in the production process does not allow timely and full prevention of the supply of defective weapons and military equipment".

Therefore, the Anti-Corruption Strategy for 2021-2025 envisages achievement of the strategic result - "an authorised body for state quality assurance of defence products, which issues certificates of conformity, is established and operates".

Decree of the President of Ukraine No. 189 of 11 May 2021 approved the Annual National Programme under the auspices of the NATO-Ukraine Commission for 2021, which, in particular, provides for

- Adoption of a regulatory act on Ukraine's accession to the NATO Standardisation Agreement STANAG 4107 (period of execution – 2023).
- Ensuring notification of NATO of Ukraine's accession to the NATO Standardisation Agreement STANAG 4107 ((period of execution – 2023).





On 1 November, 2022, the Government adopted a Resolution of the Cabinet of Ministers of Ukraine approving the Concept of the State Quality Assurance System for Defence Goods, Works and Services, and on 24 February 2023, it approved the Action Plan for the Implementation of the Concept of the State Quality Assurance System for Defence Goods, Works and Services.

The Concept is to be implemented over 2022-2026 in two stages. The first stage (short-term tasks until 2024) envisages the following tasks:

- concluding international agreements with partner states on the application of the system of mutual state quality assurance;
- development of regulations on the functioning of such a system, its organisational structure, powers, functions and responsibilities of state customers and contractors, and other subjects of the state quality assurance system, which are harmonised with the requirements of international ISO standards and NATO AQAP standards;
- completion of the development and implementation of national and military standards on the order of operation of the system;
- training of specialists, in particular on the audit of the quality management system;
- development and implementation of mechanisms for auditing and assessing the compliance of the quality management system of contractors, auditing their capabilities, process audits, audits of goods, works and services, metrological audit (metrological expertise).



## Conclusions

None of the tasks set out in the relevant Presidential Decree, the Anti-Corruption Strategy and the Action Plan approved by the Cabinet of Ministers has been fully implemented.

It is necessary to identify the tasks set out in the Decree, the Anti-Corruption Strategy and the Action Plan as urgent and to concentrate all necessary resources for their implementation.





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## CONCLUSIONS

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1. The NATO Standardisation Agreement STANAG 4107 provides for mutual state assurance of the quality of defence products of the Alliance member states. The AQAP standards primarily assess the quality management system in the production of defence products. At the same time, the quality of weapons and military equipment continues to be assessed during its testing and acceptance.
2. State quality assurance bodies in NATO member countries operate both as structural units of national ministries of defence and as independent state structures, but always in close cooperation with the national defence ministry.
3. The current Law of Ukraine "On Defence Procurement" provides for the establishment of a system of state quality assurance based on the requirements of the NATO Standardisation Agreement STANAG 4107.
4. At the same time, Ukraine has not yet adopted any regulatory acts of the Cabinet of Ministers to implement these requirements of the Law of Ukraine "On Defence Procurement" and NATO standards.
5. In Ukraine, there is a potential conflict of interest when the functions of the state customer, customer's representative offices and the state defence quality assurance body are concentrated in one agency - the Ministry of Defence of Ukraine. Therefore, **efforts should be made to establish an independent authorised body for state quality assurance of defence goods, works and services based on the principles of independence, transparency, competence and efficiency.**
6. Ukraine lacks a sufficient number of specialists among civil servants and employees of defence enterprises who are familiar with the requirements of the STANAG 4107 Agreement and have practical experience in implementing quality management systems in production and conducting relevant assessments.
7. Most of the tasks set by Presidential Decree No. 189 of 11 May 2021, the Anti-Corruption Strategy for 2021-2025 and the Action Plan for the Implementation of the Concept of Establishing a State Quality Assurance System for Defence Goods, Works and Services have not yet been completed. **It is crucial to complete the tasks within the timeframe stipulated by the relevant Presidential Decree, the Anti-Corruption Strategy and the Action Plan. The introduction of a system of state quality assurance for defence procurement is essential for the procurement of modern and high-quality weapons and military equipment for the Armed Forces of Ukraine, which are fighting a fierce battle against the Russian aggressor.**

Such state work requires time, the political will of the country's leaders, and technical assistance from NATO member states.





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# PROPOSALS FOR THE ESTABLISHMENT OF AN AUTHORISED BODY FOR STATE QUALITY ASSURANCE OF DEFENCE PROCUREMENT IN UKRAINE

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## 1. Organisational and legal form of the authorised body for state quality assurance of goods, works and services for defence procurement

When considering the choice of the organisational and legal form of the State Authorised Agency, it is necessary to take into account the principles of activity of such an agency, which are primarily: independence; impartiality and objectivity; openness and transparency; professional competence; prevention of corruption, etc.

The authorised body primarily performs the function of assessing and supervising the compliance of the quality management system of defence contractors. State quality assurance should be carried out in the interests of customers of all the security and defence forces, i.e. it should be interagency.

Based on this, *it is advisable to designate the State Agency for State Quality Assurance of Defence Procurement as the authorised body for state quality assurance, which will be established by the Cabinet of Ministers of Ukraine upon the proposal of the Ministry of Defence and will be under the management of the Ministry.* It is also advisable to expand the scope of state quality assurance to cover the entire range of defence products, not just defence goods, works and services.



## 2. Guarantees of independence and transparency of the authorised body

The authorised body for state quality assurance shall act on the basis of the principles of independence, transparency of its activities, openness and impartiality. Compliance with these principles may be ensured by the following measures:

- appointment of the head of the authorised body for state quality assurance in defence procurement and his/her deputies on a competitive basis similar to the procedure for selecting the director of the NABU;
- implementation of the state standard in the field of anti-corruption - DSTU ISO 37001:2018;
- establishing a supervisory board consisting of independent reputable foreign and Ukrainian experts.





### **3. Method of appointment of the head of the authorised body for state quality assurance in defence procurement**

The head of the authorised body shall be appointed based on the results of a competition. The competition is held according to a procedure similar to the process of election and appointment of the head of the NABU with the participation of foreign experts. The newly appointed head of the authorised body is contracted for a 5-year term, which can be terminated early only in clearly defined cases. The activities of the authorised body are audited annually. Such measures will contribute to additional independence and transparency of the authorised body's activities and the quality of its work.

### **4. Financing of the activities of the authorised body for state quality assurance of defence procurement**

The activities of the authorised body are financed from the state budget, which is a non-profit organisation.



### **5. Main tasks of the authorised body for state quality assurance in defence procurement**

- compliance with the provisions of NATO standards on mutual assurance and quality assurance;
- participation in the development and implementation of state policy on the functioning of the state quality assurance system for defence products;
- assessing the compliance of quality management systems of executors of state contracts (agreements) with the requirements of selected quality management system standards;
- coordination and ensuring the effective functioning of the state quality assurance system in the implementation of domestic and foreign economic contracts (agreements) for the procurement of defence goods, works and services, as well as mutual state quality assurance at the request of the authorised body for state quality assurance of the buyer state in case of establishing requirements for state quality assurance;
- implementation of international cooperation in the military-technical field of state quality assurance within the established powers;
- establishing requirements, criteria and rules for assessing the conformity of quality assurance processes for defence goods, works and services in agreement with the interested parties.





## **6. Implementation of NATO standards in the activities of the authorised body for state quality assurance of defence procurement**

Practical implementation in Ukraine of the requirements for mutual state quality assurance based on the NATO Standardisation Agreement STANAG 4107. Implementation of NATO standards (publications) in the areas of quality assurance and state quality assurance.

## **7. Deadline for launching the authorised body for state quality assurance in defence procurement**

The body will be fully operational in the second half of 2024.