

# **PUBLIC-PRIVATE PARTNERSHIP AND CIVIL OVERSIGHT AS A PART OF THE ANTI-CORRUPTION FRAMEWORK — A RECORD BRIBERY CASE OF A TOP UKRAINIAN OFFICIAL**

*Iraklii Kalandiia\**

## **I. GENERAL OVERVIEW**

This paper is divided into two parts. The first part touches upon the importance of collaboration between the public and private sectors in the formation of effective anti-corruption infrastructure. The article describes empirical examples of fruitful cooperation between civil society and public institutions that led to better transparency, efficiency, communication and cooperation within the anti-corruption framework. The second part is regarding a record bribery case, which is currently being tried in the High Anti-corruption Court of Ukraine. The author of the paper took part in the investigation in the capacity of analyst, which involved the analysis of financial agreements, banking documents, preparation of analytical reports and partaking in preparation of mutual legal assistance requests.

The case study part is divided into two subsections. The first one is a description of actions taken and challenges incurred during investigation of the predicate offence — undue advantage received by the Head of the SFS; the second one is about the money-laundering scheme used by him and his associates. Each part contains paragraphs about difficulties faced during investigation of each crime and comments regarding actions taken to mitigate or resolve the aforementioned difficulties.

## **II. IMPORTANCE OF PPP AND COLLABORATION WITH CIVIL SOCIETY FOR ANTI-CORRUPTION EFFORTS**

### **A. Historical Context**

After the Revolution of Dignity, Ukraine clearly chose the path of European integration and initiated efforts to combat deep-rooted corruption that permeated the State and its sectors. Over the past decade, through the combined efforts of the government and civil society, an anti-corruption framework has been established, relevant legislation enacted and reforms to the public procurement process implemented.

Ukraine received 36 out of 100 points in the Corruption Perceptions Index for 2023, adding 3 points. These data were published today by Transparency International Ukraine. The country ranks 104th among 180 countries. Ukraine's growth by 3 points is one of the best results in the world over the past year. In total, over the past 10 years, Ukraine has added 11 points, which is the largest increase among the countries that currently have the status of EU candidates. Experts of Transparency International Ukraine highlight the key events that influenced the result.<sup>1</sup>

In the past 10 years, Ukraine has made more substantial progress in anti-corruption reforms than it did during the previous 23 years of its independence. This would not be possible without effective anti-corruption infrastructure. From 2014 to 2019, several anticorruption bodies were established, such as: National Anti-corruption Bureau of Ukraine (hereinafter NABU), Specialized Anti-Corruption Prosecutor's Office (SAPO), High Anti-Corruption Court (HACC), National Agency on Corruption Prevention (hereinafter NACP) and the

---

\* Senior Investigator at First Unit of Financial Investigation, Department of Criminal Analysis and Financial Investigation, National Anti-Corruption Bureau of Ukraine.

<sup>1</sup> *Corruption Perceptions Index 2023: Ukraine improves its score by 3 points*, available at: <https://nazk.gov.ua/>

Asset Recovery and Management Agency (ARMA).

The country has also implemented a wide array of anti-corruption tools, including electronic asset declarations, the Prozorro public e-procurement system and the Prozorro sales platform for selling and leasing public property. Additionally, state registers have been made accessible, the institution of whistleblower protection has been established and a unified portal for tracking public fund usage has been created, among other initiatives. Public-Private Partnerships (PPPs) and civil oversight played a crucial role in supporting anti-corruption efforts by fostering greater transparency, accountability and efficiency. Here's why PPPs are important in this context:

- i. **Increased Transparency:** Collaboration between the public and private sectors often involves clearly defined contracts and frameworks, which improve transparency in decision-making processes. Private sector involvement can help expose inefficiencies and encourage the public sector to adopt best practices, reducing opportunities for corruption.
- ii. **Enhanced Accountability:** By involving private entities, who often have a vested interest in ensuring integrity, PPPs introduce an additional layer of oversight. This external accountability reduces the likelihood of corrupt practices and strengthens the integrity of projects, especially those involving significant public funds.
- iii. **Improved Efficiency:** Private companies often bring expertise, technology and innovative practices that can streamline processes and reduce bureaucratic red tape, which is where corruption tends to thrive. Efficient systems leave fewer loopholes for illicit activities.
- iv. **Capacity-Building:** PPPs allow the public sector to learn from private sector approaches to ethics, governance and financial management, helping to develop better systems to detect and prevent corrupt practices.
- v. **Mutual Checks and Balances:** Both sectors rely on each other for the successful execution of projects. This partnership creates a dynamic of mutual checks and balances where both sides are motivated to prevent corruption in order to maintain the partnership's success and their reputations.

## B. Success of Prozorro

After the Revolution of Dignity in February 2014, reforming public procurement procedures became a top priority for the Ministry of Economy. A group of enthusiasts from the private sector, who had actively participated in the Maidan protests, stepped in to assist with this task.

The reform required legislative changes, as the existing laws were outdated and mandated paper-based procurement processes. The reform team consisting of ministry staff, representatives of business and civil society developed an electronic procurement system, co-created by Transparency International Ukraine. By early 2015, the new IT system, Prozorro, was officially introduced and launched.

A key milestone for the reform was the adoption of the Law of Ukraine "On Public Procurement", which established the primary principles and regulations for procurement. With the introduction of this law and the Prozorro system, public procurement became more transparent and competitive.

Under the law, the main method of public procurement is open bidding, a transparent process for selecting suppliers. This process is conducted within the Prozorro system, allowing all interested businesses to participate through electronic platforms. Information about all open auctions is made available on the Prozorro platform. Each announced purchase order has its own webpage, accessible without registration or special requirements, from anywhere in the world. On this page, users can view:

- The specific items or services the customer intends to purchase;
- The requirements for the goods, works or services, as well as for potential suppliers;
- The necessary documents for tender participation;

- The draft contract that will be signed, and more.

Throughout the tender process, all decisions made by the customer, participant proposals, appeal documents, state audit reports and other materials are transparently displayed. Any exceptions to competitive bidding are strictly regulated by law and must be reported in the system. As a result, users can track purchases by the State starting from \$12,000.

Prozorro received the World Procurement Award in 2016, gaining recognition as a leading example of public procurement digitalization from the EBRD and Open Contracting Partnership. In 2020, Prozorro topped the Transparent Public Procurement Rating, and in 2021, together with the monitoring platform Dozorro, managed by TI Ukraine, it was recognized by the United States as a model for addressing corrupt practices.

Additionally, the Law of Ukraine “On Transparency in the Use of Public Funds” led to the creation of the E-data platform, which consolidates key resources like [Spending.gov.ua](http://Spending.gov.ua) and [Openbudget.gov.ua](http://Openbudget.gov.ua). These platforms publish information about transactions made and contracts signed by budget fund managers.

Consequently, adherence to the principles of transparency and openness throughout all phases of the procurement process is likely to be widely regarded.

### **C. Public Councils as a Civil Oversight Mechanism**

Ukrainian legislation includes provisions that allow civil society to monitor the activities of government bodies (via public councils attached to these bodies) and to participate in the development and oversight of state policies at both the central and local levels (through public examinations).

In May 2019, the Cabinet of Ministers updated the methodology for forming public councils within state bodies, introducing online voting for council members. This significantly enhanced the transparency of the selection process. For certain government bodies, special laws regulate anti-corruption institutions and the formation and operation of public councils. Notably, the Public Control Council at NABU, which emerged in 2015, was the first such body formed through an open online vote.

Today, public councils have been established under every anti-corruption body. A prime example of public involvement in state policy development is the work on the new anti-corruption strategy led by the NACP in 2020. The agency facilitated extensive cooperation with business and civil society representatives.

During June and July 2020, the NACP held eight public consultations, after which it presented a detailed report. A particularly commendable effort was the preparation and publication of a 676-page comparative table outlining the strategy’s key provisions, along with comments and suggestions received. This approach to involving civil society and business should serve as a model for future public-government collaborations.

The NACP’s 2023 annual report also highlighted public engagement in developing the State Anti-Corruption Program. It noted that 11 discussions were held, with 300 registered participants and over 9,000 viewers.

Another notable example of collaboration between government, civil society and business is the “Together Against Corruption” initiative, launched in 2016. This initiative involves various NGOs, including the Reanimation Package of Reforms (RPR), Transparency International Ukraine, the National Council of Reform’ Project Office and over 30 public associations.

### **D. Conclusion**

In the years following the Revolution of Dignity, Ukraine has made significant strides in combating corruption and aligning with European standards. Through collaboration between government institutions, civil society and the private sector, a robust anti-corruption infrastructure has been established, including key bodies like NABU, SAPO and HACC, as well as digital tools such as Prozorro and E-data platforms. These reforms have led to greater transparency, accountability and public oversight in areas like procurement and state governance. Ukraine’s progress in the Corruption Perceptions Index, alongside its successful

public-private partnerships and civil engagement mechanisms, demonstrates a clear commitment to institutional integrity and anti-corruption efforts. This comprehensive approach is setting a strong foundation for Ukraine's future, both domestically and in its path toward European integration.

### III. CASE PART I: BRIBE AS PREDICATE OFFENCE

#### A. Facts and General Overview

On 17 October 2022, the National Anti-corruption Bureau of Ukraine together with the Special Prosecutor's Office exposed the former Head of the State Fiscal Service (hereinafter SFS), who received a record bribe of USD 5.5 million and more than EUR 21 million from the owner of an agricultural holding.

In the course of the pre-trial investigation, it was established that in accordance with the Tax Code of Ukraine in the editions valid during 2015-2016, in the event that a business entity has a negative value in the difference between the amounts of the tax liability payment and tax credit within the reporting period, such an entity had the right to budget reimbursement of such amount on the basis of its application and declaration on the amount of budget reimbursement.

From 2015-2016, budgetary, value-added tax (hereinafter – VAT) reimbursement to the payer was carried out by the State Treasury authorities on the basis of the conclusion of the local tax authority and general information of the central authority of the state tax service. During 2015 – 2016 there was not enough money in State Budget to refund VAT for all entities entitled to such reimbursement.

During pre-trial investigation it was established that during August and December 2015 and January and February 2016 from the state budget of Ukraine in favour of a number of companies in agricultural business, the ultimate beneficial owner of which is Mr. B, were paid USD 142.5 million as a refund of value-added tax. It was established that former Head of SFS, Mr. N, assisted in the VAT refund for those companies in exchange for receiving an illegal benefit from Mr. B.

According to the materials of the pre-trial investigation, such assistance consisted in providing illegal advantages to the listed taxpayers by prioritizing the inclusion of information about them in the summary information of the State Tax Service, while other taxpayers also eligible for such reimbursement were not included in the aforementioned summary. Repeatedly, the right to receive budget VAT refund for the payers arose earlier than for the listed companies, but they were not reimbursed and therefore the order of such compensation was violated.

At the same time Mr. N's obtaining of undue benefit was carried out with the help of his advisor at the time – Mr. K, who, in order to hide the nature of the funds received for the unlawful benefit, involved a number of abroad shell companies in such transfers. Mr. N also used a shell company controlled by him for crediting a part of the amount of unlawful benefit.

It was established that the funds of the unlawful benefit were paid by transfer from the accounts of non-resident companies controlled by Mr. B, through the accounts of companies with signs of fictitiousness to the accounts of non-resident companies controlled by 1) Mr. K, 2) Mr. N and 3) relatives of the latter.

Overview of information regarding investigation:

- Period of investigation: October 2017 – February 2023
- Number of Ukrainian companies involved: 31
- Number of foreign companies: 10
- Number of MLA requests: 12
- Number of foreign jurisdictions involved: 4

- Total amount of bribe: USD 5.5 million, EUR 21 million

### **B. Challenges Faced during Investigation**

The most favourable way in approaching a bribery investigation is documenting an offence while it is in progress, meaning criminals and law enforcement move head-to-head while the latter create the basis for gathering robust evidence to be presented in court — so called catching the criminals red-handed. Information about the crime that is going to happen sometime in the future is often gathered from intelligence.

In this case, investigation started after the crime was committed. If there is no possibility to document the bribe in real time, then the amount of relevant evidence, both direct and circumstantial, to be gathered post-factum has to be of the highest standard; moreover, there is limited space for investigative manoeuvres because your case is built upon multiple pillars which are interconnected.

At the start of investigation when first searches were conducted investigators discovered that a significant amount of documents of the Ukrainian companies involved and related to VAT reimbursement were destroyed, so other avenues had to be explored. Copies of these were requested from the State Treasury. Basically, a limited amount of information was obtained during these searches, so investigators had to check whether any of such evidence was gathered within checks/audits/investigations of other controlling bodies and request this information from relevant bodies.

Another interesting issue occurred upon requesting information from the Ukrainian bank in which some of the companies controlled by Mr. B conducted business activities. As it turned out, the server with the records of transactions regarding VAT reimbursement malfunctioned, and it was not possible to obtain the necessary data. Coincidentally, Mr. B was the ultimate beneficial owner (hereinafter UBO) of that bank at the time. In order to gather information about incoming and outgoing wire transfers from companies benefitting from VAT reimbursement, several requests to counterparty banks were filed. For instance, funds from the State Treasury were wired from the state bank to the bank where Mr. B was UBO, so in order to get these records after failing to obtain them from the recipient bank, information was requested from the sender bank.

Once initial evidence about wire transfers to shell companies abroad was obtained, MLA requests to Latvia, Switzerland and the USA were prepared. Meanwhile, in Ukraine investigators were able to gather information about money flows from companies abroad through the means of covert actions, interviews and searches, i.e. important data was extracted from a seized notebook.

Execution of MLA requests can take significant time and can be cumbersome to obtain from some jurisdictions. Upon receiving first portions of MLAs and corroborating it with the evidence obtained during other investigative action such as searches, interviews and covert operations, it was discovered that money eventually was deposited in several Swiss banks, accounts controlled by Mr. N, his advisor Mr. K and relatives of Mr. N. According to Swiss banking secrecy laws upon receiving subpoenas from federal prosecutors regarding disclosure of banking information for MLA purposes, Swiss banks notify the client about such requests and the client is entitled to challenge the aforementioned request in court, which is what happened in this case, although with favourable outcome for law enforcement. The whole process became protracted and some MLAs for money-laundering part are still pending.

### **C. Results of Investigation**

In October 2022, three persons were handed notices of suspicion — the former Head of SFS, his adviser and an agricultural businessman. On 2 February 2023, the investigation into the former head of the State Fiscal Service and his advisor was completed, and on 24 May 2023, the case was sent to court. The investigation into the owner of the agricultural holding was completed in April 2023. In February 2024, the indictment against him was sent to court (in absentia), as he had fled the country. In May 2024, the Head of SFS has been recently released on USD 1.4 million bail after spending 18 months in detention (initial amount of bail was set in equivalent of USD 13.2 million), he is prohibited from communicating with selected individuals, must wear an electronic bracelet and has surrendered his passport. As of October 2024, his case is being tried in the High Anti-corruption Court. The adviser and businessman are wanted. Overall, 12 MLA requests were sent, 16 searches were conducted and bank records of approximately 50 companies were analysed.

## IV. CASE PART II: MONEY-LAUNDERING

### A. Facts and General Overview

As described in Part I, in the period of 2015 – 2016 several non-resident shell companies were used for obfuscation of crime — bribe to the former Head of SFS in the amount of USD 5.5 million and EUR 21 million. After being transferred from non-resident companies controlled by agricultural tycoon Mr. B, money has been deposited in the accounts of these companies registered in the British Virgin Islands:

Company	Controller/Shareholder	Relation to Mr. N	Amount
R Group Ltd	Mr. N Jr.	Brother of former Head of SFS	USD 5.5 million
L Ventures Ltd	Mr. G	Father-in-law	EUR 13 million
N Leader Ltd	Mr. K	Adviser	EUR 8 million

During searches and covert action conducted at the end of 2022 several agreements regarding the purchase of real estate assets were discovered, as well as documents referring to unusual financial transactions. In the course of investigation, detectives were able to reconstruct three separate money flows originating from companies R Group Ltd, L Ventures Ltd and N Leader Ltd.

#### 1. N Leader Ltd Controlled by Mr. K (advisor to Mr. N)

3 million EUR were transferred from N Ltd to Czech Agrarian Company (EUR 1 million) and Polish Agrarian Company (EUR 2 million) as prepayment for wheat, subsequently money from both companies was wired to a Hong Kong Company. 5 million EUR were converted into USD, were transferred to the account of the U.S. based Title Insurance Company, according to the agency agreement between N Ltd and Title Insurance Company. At the account of the US company, this transfer was mixed with other funds and presumably used for the purchase of real estate.

#### 2. R Group Limited Formal Shareholder Brother of the Former Head of SFS

After receiving USD 5.5 million in 2015, money was transferred to Agrarian Investment company, where advisor, Mr. K, was holding the position of CEO, and the basis for the transfer was prepayment for purchasing wheat. At the beginning of 2017, approximately the same amount was wired back to R Group Ltd as return of funds for cancellation of an agreement. At the same period, part of these returned funds in the amount of EUR 4 million were transferred to the third company, controlled by father-in-law of former Head of SFS — Mr. G.

#### 3. L Ventures Ltd Controlled by Mr. G, Father-in-Law of Mr. N

Mr. G, father-in-law of Mr. N has been involved in the construction/real estate development business for many years. In the end of May 2017 one of the companies owned by Mr. G, registered in Ukraine SKY LLC purchased Business and Residential complex (approx. 50 thousand m<sup>2</sup>, 60% completion) in the central part of Kyiv for about USD 15 million. On the same day, Sky LLC sold property rights for apartments in this complex to its seller for USD 14 million. As a result, Sky LLC has spent approximately USD 1 million for the large business building in the city centre of Ukraine's capital, which is gross underpayment. During investigation another part of this deal was discovered. As it turned out, on the same days of May 2017 L Ventures Ltd had bought shares of Swedish company FRM AB for EUR 17 million. The seller of shares was St.AB company, a Sweden registered company which was under the control of a third party from Ukraine. FRM AB at the time was a sole shareholder of Ukraine registered company that sold property right to SKY LLC. EUR 17 million paid for shares of FRM AB to St.AB originated from a bribe paid by agro tycoon to Mr. N, originally 13 million and 4 million received from the second company, R Group Ltd. (previously returned funds for cancellation of wheat purchase contract). As a result, it was discovered that actual purchase of real estate was conducted by purchasing of shares of FRM AB from Swedish St.AB company. Mr. N and Mr. G used criminal proceeds to buy shares of FRM AB and became owners of real estate.

### B. Challenges Faced during Investigation

In the money-laundering part of the case main there were several challenges, including:

- *Complex financial transactions*: complex and layered transactions were used to obscure the origins of

## PARTICIPANTS' PAPERS

illicit funds, making it difficult for investigators to trace and connect the money to criminal activities. Substantive analytical procedures, review of contracts and understanding the nature of the transactions pertained to building robust foundation for the money-laundering charges.

- *Use of shell companies:* offshore accounts were used to hide the true ownership and origin of funds, complicating efforts to identify the individuals behind the transactions. Analysis of business activities of these companies and further reconciliation with the data obtained during searches and seizures led to identifying the true nature of these companies.
- *International jurisdiction issues:* due to the number of different jurisdictions involved, each with its specific regulations and enforcement practices, certain legal and logistical challenges arose as investigators needed to coordinate their efforts across different jurisdictions. During the investigation, a strong emphasis was placed on expediting MLA requests. The investigative team provided all essential details clearly and concisely, adhered strictly to legal protocols and maintained open communication channels with the foreign legal authorities handling the requests.

Several witnesses were interviewed, additional MLA requests were sent to Switzerland, Sweden, USA, Poland and Hong Kong. Investigation is on the finish line as of today, and the investigative team is still awaiting the last MLAs. As of today, part of the real estate in the city centre of Kyiv has been seized: 76 apartments in possession of Mr. G's company have been seized as proceeds of crime. The total value of the seized assets is approximately USD 5 million.

## V. CONCLUSION

This paper is about the record bribe and transnational money-laundering case involving Ukraine's former top official and his associates. It highlights the challenges encountered during the investigation and the actions taken to mitigate and overcome adverse effects that arise from such obstacles. Challenges occurring during investigation of both episodes include, but are not limited to:

- Sophisticated techniques used by criminals to disguise the origin of illicit funds.
- Involvement of multiple jurisdictions, making it difficult to navigate within cross-border legal standards and cooperation levels.
- Complex financial transactions involving a wide range of instruments and institutions.
- Legal barriers, i.e. different countries have different laws and regulations regarding financial transactions, privacy and data sharing.
- Delays and complex bureaucratic process obtaining MLAs.

As of today, the case of bribery is being tried in the High Anti-corruption Court. The former top official posted bail after being detained for 18 months, and his advisor and businessman are wanted and indicted in absentia. Regarding the status of the money-laundering part, as of today it is still under investigation in its final stage.