



**WHITE PAPER  
ON DEPOLITICIZATION OF LAW  
ENFORCEMENT AGENCIES  
AND THE PROSECUTOR'S OFFICE:  
Leadership Appointments / Dismissals  
(extract)**

### **Annotation:**

In conditions of war, political interference in the functioning of the prosecutor's office and law enforcement agencies poses a significant threat to proper democratic processes within the country. To effectively prevent and counter crime, there is a need for stable and effective operation of these authorities, particularly when it comes to restoring justice for victims of war crimes, addressing the issues of treason and collaborationism, and managing the overall increase in crime in certain areas of public life. To address these challenges, it is important to minimize political influence over personnel appointments to the top positions in these bodies. The decisive factor for such appointments should be professionalism, which can be assessed through a competitive selection process for relevant positions.

This publication provides information on the steps needed in the area of state policy aimed at depoliticizing prosecutorial and law enforcement agencies, particularly by introducing competitive principles for the appointment of the Prosecutor General and leaders of law enforcement agencies, based on the practices of the EU states and the United Kingdom.

The publication is intended for a wide range of legal professionals, scholars, employees of prosecutor's offices and law enforcement agencies, as well as anyone interested in the reform of law and order system in Ukraine.

## **I. BRIEF SUMMARY**

### **International experience**

In modern legal systems, there are various models of law and order and the authorities responsible for this function. **There is no single model of law and order administration in Europe**, as it combines internal, executive, parliamentary, judicial, and specialized supervisory bodies, whose functions and powers are defined by law. To prevent the politicization of law enforcement agencies, political authorities, including MPs and members of the government, are not given operational control over the police. For this purpose, independent executive authorities are tasked with administrative control and supervision over the police. Therefore, most law enforcement agencies in the EU have a centralized administrative structure.

Based on the studied experience of law enforcement agencies' administration in the EU countries, it can be asserted that the **EU administrative models of law enforcement agencies at the top level are similar to those that have been developed in Ukraine**, where municipal law enforcement agencies are absent, and there is a system of vertical subordination while adhering to the principle of autonomy of each law enforcement officer. Analysis of European legislation indicates that there are **two conceptual approaches to building a pre-trial investigation agency system – centralized and differentiated. In most countries, the police is a part of the executive branch under the jurisdiction of the Ministry of Internal Affairs/Internal Security, or is coordinated by the Ministry of Justice.**

**At the same time, security police bodies, tasked with the functions of protecting law and order, are mostly included under law enforcement agencies.** Their leadership appointment process **may involve an open competition** where internal and external candidates are considered based on their qualifications, experience, and leadership qualities. The selection process may also involve participation of various stakeholders, including law enforcement agencies, government officials, and community leaders. **Annex № 2 outlines a list of models for appointing leadership of law enforcement agencies (police) in the EU states and in the United Kingdom.**

European standards for the appointment/dismissal of the Prosecutor General, primarily the standards of the Council of Europe, provide that **professional and non-political experience should be part of the selection process**. There is emphasis on the need to **create an appointment commission composed of individuals respected by the public and trusted by the Government**.

**The pan-European model of appointment of the Prosecutor General assumes the decisive role of the government (executive power) in the nomination of candidates, and of the president (head of state) in the appointment. EU member states offer various models to ensure the independence of prosecutors by involving collegial bodies (Council of Prosecutors) in prosecutorial system administration. Such bodies usually provide opinions on candidates for the position of Prosecutor General and other positions within the prosecutor's office.**

### **Depoliticization of law enforcement agencies and prosecutor's offices in Ukraine**

Adoption of new legislation on law enforcement agencies – starting from the Law of Ukraine “On the National Police” (2015) and going through the Law of Ukraine “On the Bureau of Economic Security” (2021) has **led to a number of conceptual problems regarding the organizational and legal framework of activity of these bodies and the order of appointment/dismissal of their leadership, respectively**. In some cases, these problems became unconstitutional in nature, which was later only partially corrected. Furthermore, depoliticization of the police, which involved separation of the functions of the Ministry of Internal Affairs and the National Police, was not completed, because **the Minister of Internal Affairs retains administrative authority over the police**, for example, regarding the appointment of leadership of territorial police units, approval of the deputy heads of the National Police, etc.

As for the reform of the prosecutor's office, **neither the Constitution of Ukraine nor the Law of Ukraine “On the Prosecutor's Office” or any other laws provide for the need for qualifications-based selection for the position of Prosecutor General and conducting a competition**. Unfortunately, since the Revolution of Dignity, there have been no changes regarding expressing a vote of no confidence in the Prosecutor General by the Verkhovna Rada of Ukraine. **Therefore, a simple majority vote of MPs is sufficient to dismiss the Prosecutor General from office, which can serve as a tool for exerting pressure on the Prosecutor General.**

**The current documents in the area of state policy – the Comprehensive Strategic Plan for the Reform of Law Enforcement Agencies for 2023-2027 and the State Anti-Corruption Program for 2023-2025 – do not contain provisions regarding competitive principles for the appointment of leadership of law enforcement agencies and prosecutor's offices**, although such provisions were considered during the preparation of these documents.

Therefore, **in order to safeguard against excessive political influence, it is advisable to provide competitive criteria for the selection of leadership of law enforcement agencies and prosecutor's offices, as well as to improve the procedure for their dismissal and complete the process of depoliticization of law enforcement agencies and ministries, by clearly distinguishing their functions.**

## **II. RECOMMENDATIONS REGARDING DEPOLITICIZATION OF PROSECUTORIAL AUTHORITIES AND LAW ENFORCEMENT AGENCIES IN UKRAINE:**

### **4.1. Recommendations on depoliticization of law enforcement agencies**

#### ***4.1.1. Regarding unification of organizational and legal status of law enforcement agencies***

- Develop a framework law on law enforcement agencies, which will determine the legal status and place of law enforcement agencies within the system of state bodies, their system and functions, requirements for their employees, as well as foundations for financial and logistical support of these agencies and social and legal protection of their employees.
- Distinguish law enforcement agencies from intelligence, counter-intelligence, security, and other related bodies and institutions based on their exclusive functional focus, which includes pre-trial investigation and operational search activities.
- Provide pre-trial investigation bodies with the status of a central executive body, with their activities coordinated and directed by the Cabinet of Ministers of Ukraine (and, if necessary, with the involvement of relevant ministries).
- Harmonize the system of law enforcement agencies with judicial and prosecutor's office systems at the district and regional levels, taking into account the principle of territoriality.
- Standardize the system, organizational structure, and personnel of law enforcement agencies, as well as their financial and logistical support based on uniform criteria determined by the specifics of their activities.
- Ensure organizational and functional autonomy of those law enforcement agencies that act as structural subdivisions of other state bodies.
- Unify the legal status of law enforcement officers and transform positions of investigators and operatives of operative units who have a higher legal education into detective positions.

#### ***4.1.2 Regarding positions of heads of law enforcement agencies***

- Increase the qualification requirements regarding professional competence, integrity, and ethics for candidates for the positions of heads of law enforcement agencies.
- Implement an exclusively competitive procedure, with involvement of independent experts, for filling the positions of heads of law enforcement agencies.
- Determine a comprehensive list of grounds for early dismissal or termination of powers of the heads of law enforcement agencies, and develop a special procedure for their application.
- If the activity of a law enforcement body is coordinated and directed through a relevant ministry, divest the minister of any influence on administrative, personnel, and operational issues in the relevant law enforcement body. The ministry should perform a political function, while the law enforcement agency – an operational one.

## **4.2. Recommendations on depoliticization of the prosecutor's office**

### ***4.2.1. Regarding the Prosecutor General position***

- Increase qualification requirements regarding age, work experience, professional competence, integrity, and ethics for candidates for the Prosecutor General position.
- Implement an exclusively competitive procedure, with involvement of independent experts, for filling the Prosecutor General position.
- Determine an exhaustive list of grounds for early dismissal or termination of the Prosecutor General's powers, and develop a special procedure for their application.

### ***4.2.2. Regarding positions of the heads of prosecutor's offices***

- Eliminate the influence on the heads of prosecutor's offices at the regional and district level by representatives of both central and local authorities, in particular by removing from the latter's competence the resolution of any issues regarding the organizational and material support of the prosecutor's office.
- Develop competence profiles for all leadership positions in the prosecutor's office to clearly divide a prosecutor's administrative and procedural work.
- Create a system of regular independent evaluation of personnel, based on personal – primarily qualitative – work results in accordance with defined competencies; disseminate the practice of keeping a “personal dossier”, to include the declaration of family ties (among others).
- Improve the mechanisms for integrity vetting of prosecutors; improve internal mechanisms for enhancing responsibility and combating corruption in the criminal justice system.
- Implement a system of employee incentives that would take into account their personal achievements at work, to consist of a combination of moral, material, and career incentives.

### ***4.2.3. Regarding auxiliary issues***

- Develop professional self-governance to address internal matters within the prosecutorial system.
- Strengthen the role of the High Council of Justice as the unified center for coordinated resolution of personnel and organizational issues within the judicial and prosecutorial systems.
- Provide professional self-governance bodies with a genuine opportunity to participate in determining the needs for material support of criminal justice institutions and distribution of material resources.
- Enhance the independence of the Council of Prosecutors and the Qualification and Disciplinary Commission of the Prosecutorial System.

Full text of the *White Paper on Depoliticization of Law Enforcement Agencies and the Prosecutor's Office: Leadership Appointments / Dismissals* (Ukr.) is available at the link:  
<https://pravo.org.ua/books/bila-knyga-depolityzatsiyi-organiv-pravoporyadku-ta-prokuratury-pryznachennya-zvylnennya-kerivnytstva/>