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## **THE THORNY WAY OF CREATING THE STATE BUREAU OF INVESTIGATIONS OF UKRAINE**

The creation of the State Investigation Bureau in Ukraine is usually associated with the adoption of the Law of Ukraine «On the State Bureau of Investigations» on November 12, 2015 by the Parliament. Most scholars point to the causal relationship of this act with the text of the Criminal Procedure Code, where Part 4 of Art. 216 defined the investigation and attributed to the competence of investigating agencies of the state bureau to investigate the pre-trial investigation of crimes committed by a certain number of officials, except when authorized by the investigators of National Bureau of Investigations.

But it should be noted that the creation of the State Bureau of Investigations among the authorities conducting pre-trial investigation has a long, unpredictable way.

Even more than eighteen years before the adoption of the Law of Ukraine «On the State Bureau of Investigations», a decree of the President of Ukraine «On the National Bureau of Investigation of Ukraine» dated April 24, 1997, was published. The decree of the president was the result of activity of the Working Group formed by the President of Ukraine in 1995. This body can be considered as an ideological predecessor of the State Bureau of Investigations. Among the tasks of the National Bureau of Investigations, the president separately identified the conduct of informational and analytical work to identify and eliminate the causes and conditions conducive to corruption and commit other dangerous crimes, forecasting the dynamics of crime in society (O. Busol, Law of Ukraine «On the State Bureau of Investigations» // Public Opinion on law-making / Informational and analytical bulletin on the basis of operational materials / No. 10 (113) June 2016 — p.22). Unfortunately, there were no special results of the work by the created body. There were doubts about the feasibility of further functioning of this body. The official reason for the liquidation of the National Bureau of Investigations was the adoption of a decision by the Constitutional Court of Ukraine in the case of the constitutional petition of the deputies of Ukraine on the compliance with the Constitution of Ukraine (constitutionality) of the Decree of the President of Ukraine of April 24, 1997 N 371 «On the National Bureau of Investigations of Ukraine», according to which, on the one hand the President's withdrawal beyond the powers conferred by the Constitution of Ukraine upon the issuance of the mentioned decree was not revealed, but taking into account that the parliament did not consider the draft laws on the organization the activities of the National Bureau of

Investigations, and according to item 14 of Article 92 of the Constitution of Ukraine, the organization and activities of the pre-trial investigation bodies are determined exclusively by law, so the provisions of the presidential decree were declared unconstitutional. In pursuance of this decision the Constitutional Court of Ukraine issued the Decree of the President of Ukraine dated December 15, 1999 No. 1573, which was abolished by the National Bureau of Investigations.

The next attempt to establish the National Bureau of Investigations is connected with the adoption of the Presidential Decree dated March 15, 2005 and Presidential Decree No. 834/2005 of May 23, 2005, the Working Group on the Development of the Conception of the Establishment and Organization of the Activities of the National Bureau of Investigations of Ukraine and the Interdepartmental Commission on issues of reforming law enforcement agencies. By the way, it was headed by the secretary of the National Security and Defense Council P. Poroshenko at the initial stage of functioning. On September 6, one of the commissions supported the draft Concept for the reform of the law-enforcement bodies of Ukraine (the system of criminal justice) (Conception of the reform of the law-enforcement bodies of Ukraine (criminal justice system) (draft): <http://www.ukrprison.org.ua/index.php?id=1285058160>). The text of this document mentioned the National Bureau of Investigations. In the work of the first commission there were contradictions among co-heads V. Stretovych and V. Korol Regarding the functional purpose of the National Bureau of Investigations, V. Stretovych considered it necessary to create a new, mobile body that would be engaged in «financial intelligence» in the country and fight corruption. V. Korol proposed to organize a new body in the form of merging the relevant investigation units of the Security Service of Ukraine, the Ministry of Internal Affairs and the State Tax Administration, and the National Bureau of Investigations should deal with the fight against organized crime and corruption. (Development of public law in Ukraine (report for 2005 2006) // According to N. Aleksandrova, I. Koliushko. — K.: Ed. Konus, 2007. — p. 416-417). Despite the statements of the members of the commissions on the drafting of the Law of Ukraine «On the National Bureau of Investigations», no project was submitted to parliament. The concept of reforming the law-enforcement bodies of Ukraine was also not devoid of shortcomings, which did not make it possible to leave this document beyond the status of the project. The lack of effective results of these working groups led to their elimination in 2008 and 2006, in accordance to the Presidential Decrees.

But in our opinion, the creation of the State Bureau of Investigations, which, according to the original version of the current Criminal Procedural Code, became the successor to the Prosecutor's Office, should be considered even earlier.

The Constitution of Ukraine of 1996, among the functions of the prosecutor's office, did not mention a pre-trial investigation and provided the prosecutor's bodies with only a temporary possibility of pre-trial investigation until the bodies to which this function would be transferred. There is a certain consistency in this, since such a change in approach deprives the investigator of the pressure of the prosecutor, as without the mediator of the prosecutor's office. The creation of the State Bureau of Investigations is a logical continuation of the changes that took place in 1996.

Maybe the idea of establishing the State Bureau of Investigations as a separate independent body of pre-trial investigation should be linked to the Concept of judicial reform of April 28, 1992, where legislative consolidation of the procedural independence of the investigator and the necessity to create a single investigatory apparatus were key points. The last thesis, by the way, in the current conditions of combating corruption, when the concentration of investigative powers, especially regarded to corruption offenses, is false, and no longer relevant.

In our view, the further formation of the State Bureau of Investigations in Ukraine should be carried out by taking into account not only the experience of foreign countries, but also its own historical experience.

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## **A BRIEF DESCRIPTION OF FEDERAL BUREAU OF INVESTIGATION**

The Bureau of Investigation (BOI) was created on July 26, 1908. Attorney General Charles Joseph Bonaparte, using Department of Justice expense funds, hired thirty-four people, including some veterans of the Secret Service, to work for a new investigative agency. Its first «Chief» (the title is now known as «Director») was Stanley Finch. Bonaparte notified the Congress of these actions in December 1908.

The bureau's first official task was visiting and making surveys of the houses of prostitution in preparation for enforcing the «White Slave Traffic Act» or Mann Act, passed on June 25, 1910. In 1932, the bureau was renamed the United States Bureau of Investigation. The following year it was linked to the Bureau of Prohibition and rechristened the Division of Investigation (DOI) before finally becoming an independent service within