

## IAP Information Note No. 5

### SSU PROCEDURE FOR INTERNAL INQUIRIES

The conduct of an internal inquiry in the Security Service of Ukraine (“SSU”) is regulated by the Directive on Internal Inquiry in the SSU, adopted by Decree of the SSU No. 547 of 16 July 2008.<sup>1</sup> The Directive covers internal inquiries conducted with regard to military servicemen of the SSU.<sup>2</sup>

#### A. Grounds for and order of conduct of internal inquiry

An internal inquiry is carried out in the following circumstances:

- a failure to comply with, or inadequate fulfillment of, the requirements of the laws in force, orders or other regulatory documents, which has resulted in prejudice to the SSU’s performance of its functions or in a threat to life and limb or in causing other grave consequences, or in a breach of public order and the rights and interests of persons, or in causing damage to the State, an enterprise, institution or organisation;
- a failure to comply with the requirements of the laws in force which has resulted in creating conditions for, or the actual disclosure of, state secrets;
- a breach of the legal provisions governing the use of confidential information which is the State’s property, or other information of restricted access, which is protected by the Constitution of Ukraine;
- a breach of the procedure for use of firearms, special means or use of force;
- traffic accidents involving SSU vehicles or SSU persons performing their official duties;
- accidents and fires at SSU properties;
- for the purposes of clarifying circumstances leading to an offence and identifying the involvement (fault) of officials;
- at the request of SSU servicemen, in order to dismiss allegedly unfounded accusations.

An internal inquiry is ordered by a superior who is competent to give orders to a subordinate as well as impose a disciplinary punishment on a subordinate. He/she may carry out the inquiry himself/herself. It may also be delegated to another official or a commission. The superior of the serviceman under inquiry should also participate in the inquiry. Subordinates of the serviceman under enquiry, as well as persons involved in the offence investigated or other interested persons, may not carry out such internal inquiry.

An internal inquiry should be completed within one month from the day it is appointed. Under certain circumstances the time limit may be extended for a maximum period of one month.

SSU officials are required to assist in the conduct of the inquiry; they should provide an accurate account of the information requested, as well as produce requested documents and materials.

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<sup>1</sup> <http://zakon2.rada.gov.ua/laws/show/z0709-08/paran20#n20> (in Ukrainian).

<sup>2</sup> According to Article 19 of the Law of Ukraine ‘On the Security Service of Ukraine’, the staff of the SSU includes military servicemen as well as employees who have an employment contract with the SSU.

## **B. Purpose and results of internal inquiry**

An internal inquiry should establish the circumstances (time and place) and consequences of an offence or the events which led to the setting up of the internal inquiry; the persons guilty of the offence, as well as persons whose action or inaction resulted in negative consequences or threatened such consequences; the existence of a causal link between the unlawful acts or inaction of the persons and its consequences; the reasons for committing the offence and the conditions which enabled the commission of the offence; the relevant legal provisions which were violated; the extent to which every person involved was guilty of the offence, as well as the motivation of the serviceman in committing the offence and his/her attitude towards it.

Upon completing the internal inquiry, the person responsible for its conduct reports on the conclusions. The person under inquiry is entitled to study the conclusions and to file objections to them. If, in the course of an internal inquiry, any elements of a criminal or administrative offence are discovered, the person responsible for its conduct submits a proposal to the person who has appointed the inquiry to refer the conclusions of the inquiry, together with its materials, to the relevant law enforcement authorities for further action.