

THE BANNING OF POLITICAL PARTIES IN UKRAINE

The following August 25 fact sheet was posted by the Schiller Institute on Sept. 1, 2022 for international circulation.

Chronology and Status of Appeals

Evident violations of due process, the Constitution of Ukraine, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights

On Thursday, Aug. 11 the blacklist titled “Speakers who spread narratives consonant with Russian propaganda” abruptly disappeared from the website of the Center for Countering Disinformation (CCD), of Ukraine’s National Security and Defense Council (NSDC).

The CCD took down the list of prominent statesmen, scholars, strategic analysts and political activists from many countries, whom it had labelled “information terrorists” and “war criminals,” after intense international attention to it, as summarized below.

On the same day, Aug. 11, the first hearings took place in a set of cases before the Supreme Court of Ukraine, which have drawn almost no attention in the international media. These are the appeals filed by seven political parties, banned by the Ukrainian government as being pro-Russian. The bans were rushed through in June and July, at closed-door trials that bore little resemblance to any “rule of law.”

International attention to how Ukraine is treating its own citizens, such as there has been regarding the treatment of foreigners on the “blacklist,” is needed if these appeal hearings are to stand a chance of being fair, truthful, and free of political pressure on the Court.

The following information is provided for diplomats, journalists and others who may wish to attend the Supreme Court of Ukraine hearings, which are held before a panel of justices sitting as the Administrative Court of Appeal (*Kasatsiyny administrativny sud*). Unlike the lower court proceedings, which took place out of the public eye, observers are permitted at Su-

preme Court hearings, which are held at 8 Moskovskaya St., Bldg. 5, in Kiev.

Known dates of hearings, as currently scheduled:

- **Sept. 6**, 09:30 am Kiev time—appeal by the Party of Shariy.
- **Sept. 15**, 2:00 pm Kiev time—continuation of appeal by the Opposition Platform—For Life.
- **Sept. 27**, 10:00 am Kiev time—appeal by the Progressive Socialist Party of Ukraine.
- **Sept. 29**, 2:00 pm Kiev time—continuation of appeal by the Union of Left Forces of Ukraine.

Telephone number for Supreme Court: (044) 207-35-46. For requests regarding specific case files: (044) 501-95-30.

The schedule of hearings before the Administrative Court of Appeals is online [here](#): (in Ukrainian) and can be checked for updates.

Chronology

Feb. 24, 2022: President Volodymyr Zelensky declared a state of martial law in Ukraine, after the Russian Federation’s introduction of its Armed Forces into Ukraine in a “special military operation.”

March 20, 2022: The National Security and Defense Council (NSDC) of Ukraine [suspended](#) eleven political parties for the duration of martial law. President Zelensky [stated](#) that the reason was their “political ties” with Russia. The suspended parties included three parties that have been significant political forces in Ukraine:

Opposition Platform—For Life. Registered since 1999 under various names, OPFL received 13.05% of the vote in the 2019 parliamentary elections and held 44 seats in the Supreme Rada, or parliament, when suspended. Its leader, Yuri Boyko, was formerly Minister of Energy (2006–2007) and a Deputy Prime Minister (2012–2014). The party’s leaders were vigorous opponents, in 2013, of Ukraine’s signing an Association Agreement with the European Union, opening the

country to exploitation of its resources and manpower by European-based economic cartels and disrupting historically productive economic ties with Russia.

Then-President Victor Yanukovich's decision to postpone signing that deal was the trigger on the Nov. 2013–Feb. 2014 “Euromaidan” coup that ousted him. Businessman Victor Medvedchuk, who had promoted close economic and political relations between Ukraine and Russia, merged his political movement (“For Life”) with the party in 2018, acted as co-chairman, and was elected to the Rada on the OPFL slate in 2019.

Accused by the government of “high treason” in May 2021, for involvement in economic projects in Crimea (which seceded from Ukraine by referendum in 2014 and joined the Russian Federation), Medvedchuk escaped from house arrest in March 2022, was captured by the Security Service of Ukraine (SBU), and is currently being held without bail. The OPFL removed him as co-chairman March 8, 2022.

Progressive Socialist Party of Ukraine. Registered in 1996 and led by Dr. of Economics Natalia Vitrenko, held a bloc of seats in the Rada in 1998–2002; individual leaders served as MPs longer. In the 1999 presidential election, Vitrenko qualified as a candidate and received 11 percent of the vote, despite the disruption of her campaign by an assassination attempt. She and the PSPU consistently opposed Ukraine's membership in the International Monetary Fund and mobilized against cooperation with NATO.

Socialist Party of Ukraine. One of Ukraine's largest parties from its registration after Ukraine's independence in 1991 until 2007, holding a large bloc of seats in the Rada in 1994–2006.

Also suspended were seven smaller leftist parties (Bloc of Volodymyr Saldo, registered 2019; Derzhava, reg. 1999; Left Opposition, reg. 2015 as a platform for members of the banned Communist Party of Ukraine to run for office; Nashi, reg. 2015; Opposition Bloc, reg. 2010; Socialists, reg. 2014; Union of Left Forces, reg. 2008) and the Party of Shariy, founded in 2015 by supporters of investigative journalist Anatoly Shariy, who probed corrupt business-government relations and left Ukraine in 2012 citing threats to his life.

May 3, 2022: The Supreme Rada passed Law of Ukraine 2243-IX On Amendments to Certain Legislative Acts of Ukraine on Prohibition of Political Parties, which permanently banned parties in Ukraine found guilty of “justification, recognition as legitimate, [or] denial” of Russian “armed aggression,” including by

describing Russia's actions using any other language; or for “glorification” or “justification” of other actions by Russia.

May 14, 2022: President Zelensky [signed](#) Law of Ukraine 2243-IX, which entered into force on May 18. (The text of the law is available [here](#) in Ukrainian).

June–July 2022: The Ministry of Justice of Ukraine and the Security Service of Ukraine brought suit against 16 parties—each of the 11 listed above and 5 others, under Law of Ukraine 2243-IX. The cases were assigned to the Eighth Administrative Appeals Court in Lviv, western Ukraine. The court found in favor of the Ministry of Justice and SBU in all the cases. Besides the ban, each ruling provided for confiscation of all property, money and assets of each party and their transfer to the state. Each party was allowed 20 days from the decision in its case, to file an appeal to the Supreme Court of Ukraine, located in Kiev.

Aug. 5, 2022: As of this date, seven of the banned parties had appealed the decisions to the Supreme Court, according to a report from the Ukrainian news site Hromadske.ua citing a [summary](#) by the Ukrainian NGO *Chesno* (“Honestly”), which specializes in fair elections. The seven appealing parties, including the three major or formerly major parties, are:

- Happy Ukraine
- Opposition Platform–For Life
- Party of Shariy
- Progressive Socialist Party of Ukraine
- Socialist Party of Ukraine
- Socialists
- Union of Left Forces

Hromadske.ua (Ukrainian media outlet, in Russian) [reported](#) Aug. 5:

According to *Chesno* analyst Ihor Feshchenko, consideration of cases by the Supreme Court differs from their consideration by the Eighth Administrative Appeals Court in Lviv. Journalists and observers are freely admitted, but consideration of the cases goes more slowly. Feshchenko explained: “The difference is that the Supreme Court judges clearly study the documents and delve into the arguments of the parties to the case; they may ask for explanations, pose questions to seek clarification, or request the submission of additional documents by the next session

of the court. This is what makes an appeal take longer.”

Aug. 11, 2022: The first Supreme Court hearings were held in the appeals of bans on Opposition Platform–For Life and the Union of Left Forces. Each case was continued to a date in September.

Aug. 15, 2022. The PSPU’s appeal hearing, scheduled for Aug. 16, was abruptly postponed on the eve, on grounds that one of the panel of justices was departing on vacation. It was rescheduled for Sept. 27.

Irregularities, Concerns, and Appeal Issues

It is apparent that there have been violations of the following laws, conventions, and norms in the process of banning opposition parties in Ukraine, and that these violations will be cited in the appeals.

The [Constitution of Ukraine](#)

Article 15 states that the “state guarantees freedom of political activity.”

The International Covenant on Civil and Political Rights ([ICCPR](#)) and the **European Convention on Human Rights ([ECHR](#))**, to each of which Ukraine is a party.

Article 2.1 of the ICCPR requires that states party to the Covenant respect the civil and political rights it defines “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 14 of the ECHR states the same.

Article 14.2 of the ICCPR guarantees the presumption of innocence: “Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law.”

Article 14.3.d of the ICCPR mandates that a person facing any criminal charge be guaranteed “to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing.”

Article 15 of the ICCPR states: “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.” Article 7 of the ECHR affirms the same. Laws are not to be applied retroactively to statements or other actions that occurred before they were adopted.

Significantly, Article 15 of the ICCPR is defined in Article 4, paragraph 2 as *non-derogable*, a term refer-

ring to a signatory country’s right to “derogate from” (deviate from) its obligations to uphold some civil rights “in time of public emergency which threatens the life of the nation.” Ukraine filed with the UN Secretary General, on March 1 and March 4, 2022, its derogation from an array of ICCPR provisions. But the prohibition on the retroactive application of laws is not and cannot be one of them.

Note: In its [notifications](#) to the United Nations Secretary General in March 2022, Ukraine also did not derogate from Articles 2 or 14 of the ICCHR. In its [derogation](#) from an array of obligations under the ECHR, submitted to the Secretary General of the Council of Europe on April 16, 2022, Ukraine did not derogate from Articles 7 or 14 of the ECHR.

Law of Ukraine 2243-IX

Amendment 5, point 7 of the law under which the parties have been banned (which has the form of a list of amendments to the existing Law of Ukraine On Political Parties in Ukraine and other acts) mandates *speedy consideration of appeals*, stating that the appeals court in cases brought under the law “shall review the case within one month of the opening of the appeal process.”

Indications that these laws, conventions and norms have been violated in the Ministry of Justice and SBU cases for banning the parties, include the following:

The prohibition on *retroactive application of laws* was cited in the Progressive Socialist Party of Ukraine’s countersuit, brought in, and rejected by, the Eighth Administrative Appeals Court in Lviv. It cited retroactive application of the May 14, 2022 law regarding “pro-Russian” postures, to statements made by PSPU leaders as far back as several years. The PSPU had ceased all activity on Feb. 24, 2022, nearly 3 months before Law of Ukraine 2243-IX came into effect, and therefore committed no acts at all while it has been in force.

During the first hearings at the Supreme Court, violation of this prohibition evidently continued. According to *Chesno* and the courts-monitoring Ukrainian website Graty.me, the Ministry of Justice and SBU, in refuting the appeals of the OPFL and the Union of Left Forces, continued to cite statements from up to 8 years ago, and to argue, for example, that year-old statements by OPFL members of parliament in support of implementing the Minsk Accords—the 2015 agreement on a negotiated settlement of the civil conflict in eastern Ukraine, which Ukraine itself

signed—were evidence of their guilt.

Observers have noted that one of the most infamous cases of the retroactive application of a law in a political case took place in Nazi Germany: the December 1933 trial and January 1934 execution of Dutch communist Marinus van der Lubbe for allegedly setting fire to the German Reichstag building in February 1933—a provocation used by the Nazis to consolidate their power, suspend civil liberties, and begin reprisals against those they identified as enemies. When the Prosecutor General of Germany issued a final ruling January 2008 that overturned van der Lubbe’s conviction, she stated that his execution resulted from Nazi laws “that were created to implement the National Socialist regime and enabled breaches of basic conceptions of justice”; specifically, he was condemned to death under a [law that had been adopted](#) only after the incident.

In *violation of the presumption of innocence*, the Parties were publicly labelled “pro-Russian” by Ukrainian Ministry of Justice officials before any court proceedings. Ministry of Justice officials’ frequent characterization of the Parties as “pro-Russian” created an adverse political climate for the trials, an example of which is that the website of the western-funded “honest elections” NGO *Chesno* includes a rogues’ gallery in which long-time PSPU leader Natalia Vitrenko is labelled “traitor.”

Assignment of the party-ban cases to the Eighth Administrative Appeals Court created obstacles to the parties’ *right to be tried in their presence and with legal counsel of their choosing*. The June–July trials were all held at the Eighth Administrative Appeals Court, located in Lviv—500 km west of Kiev in an area generally politically hostile to the parties, a fact that deterred some parties from defending their cases in person.

In a [video](#) (with English subtitles) posted June 29, Anatoly Shariy, who lives in Spain, reported that the lawyer for the Party of Shariy was prevented from attending the court in Lviv by the government’s filing of a criminal case against him (for comments made in a WhatsApp chat), so that he would have been arrested at the airport upon arrival from western Europe.

Participation in the Lviv court’s closed-door hearings by the defendants or their lawyers via remote video connection was not allowed.

The requirement for a *speedy appeal* has already been violated. On July 17, Minister of Justice Denys

Maliuska [announced](#) that he expected all the cases to be finished “by the end of Summer,” and proposed to start counting up how much government coffers will receive from the Parties’ confiscated assets. For some parties, the one-month period for completing the appeal process, mandated by law, has already run out. Seven appeals had been filed as of Aug. 5. The two Parties whose appeal cases had their first hearing before the Supreme Court Aug. 11 were given continuation dates of Sept. 15 and 29. Leaders of the PSPU, assigned a hearing date of Aug. 16, were notified the previous day that their case had been rescheduled to Sept. 27.

Other apparent irregularities in the Lviv Court’s rulings and the government’s actions during the appeals process include:

- Holding an entire Party responsible for alleged actions by its leaders.

- Admission as evidence of demonstrably false claims. Anatoly Shariy stated in the above-cited video that not only had the Party bearing his name done none of the things charged, but that most of the “offenses” were not even crimes under Ukrainian law. In the PSPU case, there was the attribution to PSPU leader Natalia Vitrenko of comments written in a fake “Natalia Vitrenko” Facebook group with which she had no connection, and an accusation that Vitrenko had personally organized a referendum in the Donetsk Region in Feb. 2014, to spark the “separatist” movement there, whereas in reality, for the remaining days of February after the Feb. 24, 2014 regime-change in Kiev, she had been in Paris, Strasbourg and Italy, meeting with European elected officials about what had just happened in Ukraine.

- Although only the lower court is supported to consider evidence, under Ukrainian law, while the appeals court, in this case the Supreme Court, should rule on the correct or incorrect application of the laws, the Ministry of Justice and SBU have reportedly been submitting packets of “new evidence,” taking advantage of the pause between an initial hearing and its continuation, to do so.

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International Attention Makes a Difference

The blacklist titled “Speakers who spread narratives consonant with Russian propaganda,” which abruptly disappeared from the website of the Center for Coun-

tering Disinformation (CCD) of Ukraine's National Security and Defense Council (NSDC) Aug. 11, contains more than 70 people's names. They are statesmen and policy and strategy experts, including 7 current members of the European Parliament, U.S. Sen. Rand Paul, former President of Brazil Lula da Silva, New Zealand's former Associate Minister of Foreign Affairs Matthew Robson, two active candidates for office in the USA, prominent scholars, and former intelligence and military officers from the USA, France, Switzerland and other countries, now working as analysts and commentators.

Second on the list is Helga Zepp-LaRouche, founder of the international Schiller Institute, followed by 30 people, both her direct associates and guest speakers, who took part in this year's series of online Schiller Institute conferences, dedicated to finding a solution to the crisis in Ukraine and preventing its blow-up into World War III.

The extremely primitive list attributes one- or two-line "pro-Russian narratives" to each person named. Among them are well-documented facts and sober analytical conclusions like "Russia is being pushed towards nuclear war." Acting Director of the CCD Andriy Shapovalov, when the list was unveiled on July 14, 2022, described the people listed as "information terrorists" who "will have to answer to the law as war criminals."

The CCD took down the blacklist after intense international attention to it. The Schiller Institute reported in an Aug. 16 [press release](#) that U.S. intelligence analysts believe the publication of exposés in India, Germany, and Denmark, denouncing the very idea of the blacklist, played a role in its withdrawal into the shadows. Danish Foreign Minister Jeppe Kofod had to answer questions in Parliament for an hour Aug. 19, in a hearing initiated by independent MP Marie Krarup out of concern for three Danes placed on the list.

Several people named by the CCD warned that it is a threat to their personal security. Scott Ritter, the former U.S. Marine Corps intelligence officer and UN weapons inspector, wrote in a [letter](#) addressed to his Congressmen,

Ukraine has a history of converting "blacklists" of this nature into "kill lists," where those who speak out against the policies of the Ukrainian

government are being murdered or threatened with violence.

On Aug. 20, sixteen prominent Americans whose names appeared on the CCD blacklist, called on six committees of the U.S. Senate and the U.S. House of Representatives to investigate the use of taxpayers' money to finance these overt threats to the right to free speech and the personal security of U.S. citizens. The six Congressional committees, three each in the House and Senate, are Foreign Relations/Foreign Affairs, Judiciary, and Select Committees on Intelligence. The [letter](#) read, in part:

The CCD is being financed by the U.S. Government, including from H.R. 7691, The Additional Supplemental Appropriations Act of 2022, which provides funding for the Ukrainian government and its Center for Countering Disinformation. We strongly protest these threats to our constitutional right to free speech, to academic freedom, and to the threat of physical harm coming from a nation at war with the nation we are falsely accused of representing, in our speech and our writings. We call on your Committee to exercise your oversight of the use of taxpayer funds by investigating the funding of this foreign government agency and their role in directly threatening Americans' rights and safety.

The Honorable Matthew Robson Aug. 12 released his letter to New Zealand PM Jacinda Ardern about the blacklist, and the threat it implies to the safety of people like himself who are on it.

The enemies' list authorized by the government of the Ukraine is a breach of international law and indicates a willingness to harm those such as me who exercise the right of freedom of expression.

He called on her to protest to the government of Ukraine and "to advise the relevant security agencies ... of the danger that has been created for a citizen of New Zealand."

More details about the CCD blacklist, denunciations of it from people in many countries, and demands for its investigation are available on the Schiller Institute [website](#).