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Ukraine: Authorities Must Stop the Harassment of Anti-Corruption Activists and Independent Civil Society Organizations

Amnesty International is concerned about worrying trends regarding the right to freedom of association in Ukraine, as the authorities are planning to adopt new discriminatory requirements for NGOs and are instigating criminal proceedings against anti-corruption civil society organizations in connection with their legitimate work. The Ukrainian authorities must cease the harassment and intimidation of activists and civil society, and ensure that new proposed laws do not unduly restrict their rights to freedom of expression and association.

Controversial Draft Laws Hurt Independent NGOs

In March this year, the Verkhovna Rada (Parliament) adopted a new law “On Preventing Corruption”, later signed by President Petro Poroshenko. Among the new regulations, the law introduced mandatory requirements for anti-corruption activists to file detailed personal financial and asset declarations every year, similar to those introduced for lawmakers and public officials in 2016. The authorities have not explained the necessity for the new measures against anti-corruption activists, which civil society groups have seen as a retaliation against activists who originally proposed such measures for politicians and public officials.

The new reporting requirements are discriminatory in nature and arbitrarily target anti-corruption activists in contravention of the rights to freedom of expression and association. Investigating and exposing corruption should not be punished. Furthermore, the current law exposes anti-corruption activists to pressure and harassment, and infringes on their right to privacy as they are required to submit their personal information, including their home addresses. Those who fail to submit declarations could face criminal charges that could lead to up to two years in prison.

Following widespread criticism within and outside Ukraine, on 10 July, the Presidential Administration introduced two new draft laws, which have not yet been approved. However, these new proposed bills have sparked more criticism as they would replace the mandatory financial declarations for anti-corruption activists with broader and potentially even more controversial measures.

Draft laws #6674¹ and #6675² would replace the obligatory personal financial declarations for anti-corruption activists with a general requirement for all non-profit organizations with an annual budget of over 300 times the officially defined minimum living income (currently UAH 1,700 or US\$ 63), to publish annual detailed financial declarations including all staff salaries, consultant

¹ Draft law #6674 is available here http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62214 (accessed 31 October 2017);

² Draft law #6675 is available here http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62215 (accessed 31 October 2017);

fees and payments for services, along with the names of each individual who receives them. Organizations would also be obliged to publish on their websites a list of donors contributing more than 50 times the minimum living income annually and a list of consultants receiving more than 50 times the minimum living income annually.

Publishing staff salaries and other personal information would put at even greater risk activists who work in territories controlled by Russian-backed separatists in eastern Ukraine. In the past, individuals who worked for foreign organizations in Donetsk and Luhansk were arbitrarily detained by the de facto security services, and accused of spying. Several NGOs have been providing essential services in those territories for marginalized and poor communities, including the provision of humanitarian aid and supplying lifesaving medicines – often at a great risk to their liberty and integrity. Under the proposed regulations, the risks of carrying out such activities would increase even more.

Furthermore, violations of these requirements could carry severe sanctions, including organizations losing their non-profit status, and possibly having their bank accounts frozen.

Amnesty International considers that, if adopted, the new requirements would impose undue restrictions on the right to freedom of association, and would hamper civil society organizations in Ukraine, partially by adding considerable administrative burdens on them. Moreover, such restrictions would severely limit the right to freedom of expression by exposing anti-corruption and other activists to harassment and intimidation. Amnesty International urges the Verkhovna Rada to review without delay the existing and proposed legislation and ensure that laws that regulate NGOs and their members of staff do not impose undue restrictions in accordance with Ukraine's obligations under international human rights law.

Criminal Investigations against NGOs

The Ukrainian authorities have been misusing the criminal justice system to further target and harass anti-corruption activists, human rights defenders and civil society organizations.

On 1 February 2017, the Prosecutor General's Office of Ukraine opened a criminal case against Patients of Ukraine and The All-Ukrainian Network of People Living with HIV/AIDS (PLWHA) for allegedly misusing foreign funds provided by the Global Fund to Fight AIDS, Tuberculosis and Malaria.³ Dmytro Sherembey, director of PLWHA, and Olha Stefanyshyna, director of Patients of Ukraine, were questioned as witnesses. The organizations were also requested to submit their annual activity reports, financial audits and other relevant documents.

On 3 October, the National Police sent a new request for information, expanding the scope of requested documents to 2017. On 11 October, the Tax Police raided the offices of the two organizations as part of the investigation, described as an "unannounced tax inspection". Notably, the Global Fund has neither raised any concerns in connection with the audit the two NGOs had carried out previously, nor made complaints regarding any alleged misuse of its funds by the organizations.

³ The Global Fund to Fight AIDS, Tuberculosis, and Malaria provides funds and support to respond to the epidemics. In Ukraine, PLWHA and other organisations receive funding to implement projects to reduce HIV/AIDS and tuberculosis occurrence and mortality. In 2016 and 2017, the project assisted nearly 80.000 HIV-positive adults who received social support and treatment, nearly 65.000 adult prisoners who received prevention services, and nearly 26.000 patients who received antiretroviral therapy. For more information, see: <http://network.org.ua/en/projects/proekt-globalnogo-fondu/>;

These two prominent civil society organizations are known for exposing corruption schemes in the public healthcare system, and recommending different actions to improve its efficiency and better utilise public resources. Additionally, the two organizations run programs to distribute medicines to marginalized people across Ukraine.

As a result of their campaigning, in 2015, the then-Prime Minister, Arseniy Yatsenyuk, ordered the transfer of the management of the medical procurement system from the Ministry of Health to UNICEF, the United Nations Development Fund and Crown Agents, a British company, which, according to Dmytro Sherembey, has in turn reduced the cost of state medical procurement and made it more efficient, and allegedly eradicated some corrupt schemes.

The Security Service of Ukraine (SBU) has also been conducting its own criminal investigation against both organizations under allegations of financing of terrorism, illegal banking operations, embezzlement, money laundering and the abuse of authority.⁴

On 21 September, Shevchenkivskyi District Court in Kyiv ruled that the SBU should be granted access to the banking accounts of the organizations. According to the court documents, copies of which have been made available to Amnesty International, the criminal investigation originates from a single Facebook post, in which the user “Volodymyr Boiko” makes allegations of corruption against several anti-corruption organizations, without providing any evidence to support his claims.

While requesting the court to grant access to the organizations’ bank accounts, the SBU investigator alleged that Patients of Ukraine and PLWHA had “financed terrorism” (separatism) in eastern Ukraine by sending money to partner organizations in Russia-occupied Crimea. The request was not supported by any other evidence than the Facebook post. The SBU’s request to the court does not explain how organizations working with people living with HIV in Crimea are linked to Russian-backed separatists in eastern Ukraine, or to any criminal activity.

Both organizations are at risk of having their bank accounts frozen. This would force them to stop their activities, negatively impacting the rights of tens of thousands of people who receive medical aid and other essential services from them.

Amnesty International urges the Ukrainian authorities to stop the harassment of civil society organizations and ensure that the criminal justice system is not misused to target and intimidate civil society activists.

Public Document

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⁴ Articles 190, 200, 209, 258-5 and 364 of the Criminal Code of Ukraine;