

Stop Persecution of Anti-corruption Activists

Open Letter to the Ukrainian Authorities

7 November 2017

We, members of the NGO coalition the Civic Solidarity Platform (CSP) and other NGOs across Europe and the United States, express serious concern about harassment and persecution of anti-corruption activists in Ukraine, including restrictive legislation requiring activists to disclose personnel assets, criminal investigations and smear campaigns against well-known anti-corruption organisations and activists, as well as physical attacks against individuals and a lack of effective investigations in such cases. We call upon the Ukrainian authorities to immediately take all necessary measures to reverse these highly disturbing developments.

E-declarations for anti-corruption activists

On 27 March 2017, following approval by the Verkhovna Rada of Ukraine, President Poroshenko signed Law No. 6172, amending Ukraine's existing law "On Countering Corruption." The amendments oblige anti-corruption activists to submit public electronic declarations of property status (e-declarations), despite the fact they are not receiving public money. Previously this requirement only applied to the highest state officials, MPs, public servants and judges. Moreover, individuals who provide any services to an "anti-corruption civic organization", are required to fill e-declarations.

The process of filling out e-declarations is long and cumbersome; therefore, the amendments may restrict the ability of civil society organisations to operate, by exerting an unnecessary bureaucratic burden on their work. According to the law activists and others who do not file asset declarations would face criminal charges and up to two years in prison. Due to the vagueness of the law's wording, it could be arbitrarily applied to harass specific individuals. Since the Law's adoption, it has had a restraining, discouraging effect on civil society working in the area of countering corruption.¹

Criminal investigations and smear campaigns

We are concerned by a series of recent criminal proceedings against non-governmental organisations and civil society activists on fabricated or improper charges. For instance, on 11 October 2017 the National Police of Ukraine and the Prosecutor General's Office of Ukraine raided the office of the Charitable Fund "Patients of Ukraine" and seized the fund's documents. The leadership of the Fund together with two other organisations, the All-Ukrainian Network of People Living with HIV/AIDS and the Alliance for Public Health, have been accused of alleged misappropriation of funds provided by the Global Fund to Fight AIDS, Tuberculosis and Malaria and financing the so-called "Luhansk People's Republic" and "Donetsk People's Republic". Audits by the Global Fund itself have never shown misappropriation. The three organisations are famous for their long term fight against corruption in the healthcare sector.²

¹ See more at <https://www.hrw.org/news/2017/04/05/ukraine-new-law-targets-anti-corruption-activists-journalists>, <https://www.hrw.org/news/2017/09/19/ukraine-ngos-need-eu-help>.

² See more at https://humanrights.org.ua/en/material/pravozahisnij_porjadok_dennij_vvazhaje_provadzhenija_proti_gro_madskih_objednan_tiskom_na_gromadjianske_suspilstvo, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-ukrainian-authorities-to-revise-the-anti-corruption-legislation?inheritRedirect=true&redirect=%2Fen%2Fweb%2Fcommissioner%2Fhuman-rights-defenders>.

In August 2017, the Investigation Department of the Fiscal Service of Kyiv instituted criminal proceedings against the heads of the Anti-Corruption Action Centre.³ Anti-corruption activists believe that information collected during the investigation (for instance via surveillance) will later be used in a smear campaign against them. Defamatory materials have already been published to discredit the members of the Anti-Corruption Action Centre, Vitaliy Shabunin and Oleksandra Ustinova.

Physical attacks and lack of effective investigations

We are deeply concerned by two recent attacks on Evhen Lisichkin and Dmytro Bulakh, anti-corruption activists from Kharkiv. On 18 September 2017, Lisichkin, an activist from Kharkiv Anticorruption Center and head of the Democratic Alliance in Kharkiv, was attacked near his house and beaten up by two men who threatened to kill him for his civil activism. Lisichkin was diagnosed with brain concussion and other less severe injuries.⁴ Two weeks earlier, on 30 August 2017, Dmytro Bulakh, a head of the Kharkiv Anticorruption Center, was brutally beaten up.⁵ According to media reports, the police began investigating the crime. However, the preliminary categorisation of the attack as “hooliganism” raises concerns as it does not take into account Bulakh’s civic activity and work and the possible motive behind the attack. In June 2017, Vitaliy Shabunin was sprayed with pepper spray at the Dniprovskiy District Military Enlistment Office.⁶

Anti-corruption activists contribute to observance of human rights and fundamental freedoms and act in the interest of the whole of society. They are exposed to heightened risks of attacks or harassment due to the specific issues they are working on, as they often reveal to the public information on unlawful activities and corruption by state authorities and officials.

The UN Special Rapporteur on the situation of human rights defenders noted that “human rights defenders addressing environmental and land issues and corporate responsibility, as well as those working on governance issues, promoting transparency and accountability, and those exposing discrimination, corruption and violence at the hands of States, business enterprises and other non-State actors, are among those human rights defenders who are most exposed and at risk”.⁷

The state has an obligation to provide protection and an effective remedy for persons who have been victims of a human rights violation. The state has also a duty to conduct prompt and impartial investigations of alleged violations of human defenders’ rights, including anti-corruption activists. Ukraine has obliged to uphold these standards as a signatory of the International Covenant on Civil and Political Rights, as well as a member of the Organisation for Cooperation and Security in Europe (OSCE) as well as the Council of Europe.⁸

³ https://humanrights.org.ua/en/material/proti_organizaciji_shabunina_podatkova_milicija_vidkrila_kriminaln_u_spravu.

⁴ <http://kharkivobserver.com/?p=11180>,
https://humanrights.org.ua/material/u_kharkovi_napali_na_antikorupcijnogo_aktivista.

⁵ <http://kharkivobserver.com/?p=10616>.

⁶ https://humanrights.org.ua/en/material/shabunina_oblili_z_gazovogo_balonchika.

⁷ UN Human Rights Council Resolution 31/32 (Protecting Human Rights Defenders, whether Individuals, Groups or Organs of Society, Addressing Economic, Social and Cultural rights) <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/055/98/PDF/G1605598.pdf?OpenElement>.

⁸ In particular the UN Declaration on Human Rights Defenders, http://www.un.org/ru/documents/decl_conv/declarations/defender.shtml, OSCE Guidelines on the Protection of Human Rights Defenders, <http://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders?download=true>, Declaration of the Committee of Ministers on Council of Europe action to improve protection of human rights defenders and promote their activities, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d3e52.

We call upon the Ukrainian authorities to:

- **Immediately stop prosecutions against anti-corruption activists on fabricated or improper charges, and to refrain from further prosecution;**
- **Openly condemn smear campaigns and physical attacks against anti-corruption activists and organisations working on anti-corruption issues;**
- **Undertake prompt, effective and impartial investigations into the physical violence against anti-corruption activists and ensure that the perpetrators are brought to justice. Take all necessary measures to prevent such attacks in the future;**
- **Amend legislative provisions on e-declarations so they do not impede or disable civil society activities aimed at fighting corruption, including ensure that the penalty of loss of the non-profit status is not included in any future legislation on NGOs.**

Signed by the following organisations:

Human Rights Information Centre (*Ukraine*)
Helsinki Foundation for Human Rights (*Poland*)
Netherlands Helsinki Committee
Transparency International
Amnesty International Ukraine
Human Rights First (*USA*)
Barys Zvozkau Belarusian Human Rights House (*Belarus/Lithuania*)
Human Rights Movement "Bir Duino-Kyrgyzstan"
Women of the Don (*Russia*)
Centre de la Protection Internationale (*France*)
Kosova Rehabilitation Centre for Torture Victims
Citizens' Watch (*Russia*)
Centre for Civil Liberties (*Ukraine*)
DRA - German-Russian Exchange (*Germany*)
Kharkiv Regional Foundation "Public Alternative" (*Ukraine*)
Moscow Helsinki Group (*Russia*)
Promo LEX (*Moldova*)
Centre for the Development of Democracy and Human Rights (*Russia*)
Freedom Files (*Russia*)
Pax Advisory (*USA*)
World Organisation Against Torture (OMCT), in the framework of the Observatory for the Protection of Human Rights Defenders
CrimeaSOS (*Ukraine*)
Helsinki Committee of Armenia
Office of Civil Freedoms (*Tajikistan*)
StrategEast (*USA*)
Partnership for Transparency (*USA*)
Truth Hounds (*Ukraine*)
Corruption Watch (*United Kingdom*)
Public Association "Dignity" (*Kazakhstan*)
Crude Accountability (*USA*)
International Federation for Human Rights (FIDH), in the framework of the Observatory for the Protection of Human Rights Defenders
Helsinki Association for Human Rights (*Armenia*)
Institute for Reporters' Freedom and Safety (*Azerbaijan*)
Minority Rights Group Europe (*United Kingdom/Hungary*)
Helsinki Citizens' Assembly-Vanadzor (*Armenia*)

Human Rights Center of Azerbaijan
International Partnership for Human Rights (*Belgium*)
Kazakhstan International Bureau for Human Rights and the Rule of Law
Legal Transformation Center (*Belarus*)
Libereco - Partnership for Human Rights (*Germany/Switzerland*)
Macedonian Helsinki Committee
Humanrights.ch (*Switzerland*)
Norwegian Helsinki Committee
Protection of rights without borders (*Armenia*)
Public Verdict Foundation (*Russia*)
Human Rights Centre "Viasna" (*Belarus*)
Association of Ukrainian Human Rights Monitors on Law Enforcement

Endorsed by the following individuals:

Susan Rose-Ackerman, Yale University (*USA*)
Ted Moorman (*USA*)
Jose Ugaz, criminal defense attorney and individual member of the Transparency International (*Peru*)
Frank Vogl, co-founder and Advisory Council member of the Transparency International; the Partnership for Transparency Fund; Georgetown University (*USA*)