When Will Europe Wake Up? Ukraine's Dictatorship Is Shrouded in Myths About Democracy

This report, from a correspondent in Ukraine, updates the article "<u>Time to Halt Kiev's Flouting of Basic Freedoms and the 'Rule of Law'</u>," which appeared in EIR of January 24, 2025.

Feb. 21—The world is slowly waking up and abandoning the propagandistic clichés about democracy in Ukraine. United States President Donald Trump's new

team in the White House talks about the need for elections to be held in Ukraine and about ensuring freedom of speech in the mass media as a requirement for restoring the violated basic rights of Ukraine's citizens. Sooner or later, these problems have to be dealt with, and an honest answer given about the nature of the regime in Ukraine. This is all the more pressing after Volodymyr Zelensky's statements that he will remain President until Ukraine joins the EU and NATO, that elections are not held in wartime, and that if some Ukrainians don't like the lack of elections, they should seek citizenship somewhere else.

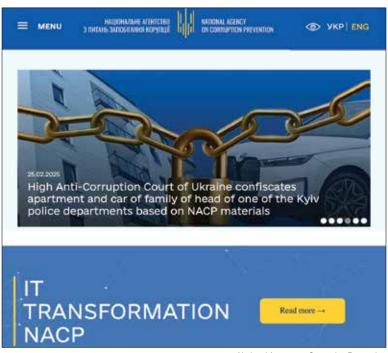
Two additional basic principles of democracy should be recognized. The first is the ability for opposition political parties to operate without the threat of political repression or the physical elimination of their leaders, and the second is whether or not the system of justice adheres to the supremacy of law during litigation—whether citizens,

and particularly politicians subjected to persecution and arbitrary actions by Ukrainian government agencies, have the right to a fair trial. Formally, the question is whether or not Articles 1, 3, 8, 55 and 59 of the Constitution of Ukraine are really guaranteed, and whether or not Ukraine adheres to the obligations it has assumed under international law, in particular those formulated in the European Convention on Human Rights and the International Covenant on Civil and Political Rights. Are the courts in Ukraine guided

by these obligations and do they take into account European Court precedents in making their own rulings?

Without honestly and objectively answering these questions, a transition to peace and to Ukraine's future as a lawful, democratic state is impossible.

A review of how opposition parties were banned may serve as an example, along with how those who



National Agency on Corruption Prevention

Website of the National Agency on Corruption Prevention.

were not imprisoned are harassed and persecuted by government agencies such as the Security Service of Ukraine (SBU), the Ministry of Justice of Ukraine, the National Agency for Corruption Prevention (NAZK), and the Prosecutor's Office of Ukraine.

Here I would like to review a specific case: the current harassment of Dr. of Economic Sciences Natalia Vitrenko, an economist known not only within the country, but also abroad, who was a People's Deputy of Ukraine (MP) in 1995-2002, a candidate

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for the Presidency of Ukraine in 1999 and 2004, and leader of the opposition Progressive Socialist Party of Ukraine (PSPU).

How were the opposition parties banned in Ukraine? First, the National Security and Defense Council (SNBO), by a decision dated March 18, 2022 (and made without any court ruling!), accused 12 parties of "anti-Ukrainian" activity. The concept of "anti-Ukrainian activity" is not found in either the Criminal Code or the Administrative Code of Ukraine. But this public, extrajudicial accusation was massively repeated by the media.

The President of Ukraine, acting extrajudicially and outside the scope of his constitutional powers, as defined in Article 102 of the Constitution of Ukraine, then issued a decree to suspend the operations of these 12 parties. The

Ministry of Justice of Ukraine was ordered by the President to file lawsuits for banning these opposition parties. The mass media, violating the presumption of innocence and before any court ruling, then labelled all these parties as charged, citing assertions made in Presidential Decree No. 153/2022, dated March 19, 2022. In an atmosphere shaped by this mass media coverage, and in violation of Ukraine's international obligations and domestic legislation, the parties were found guilty by the courts and their operations were banned. This was a dramatic infraction of Articles 10 and 11 of the European Convention on Human Rights and of European Court rulings!

The trials took place in May through September of 2022. This was with violations of Ukraine's obligations under Article 6, Paragraph 6 of the European Convention—the right to a fair trial. Ukraine's system of judicial examination was changed, for the purpose of banning the parties. The 8th Administrative Appeals Court (in Lviv) was designated as the court of primary jurisdiction, while the court of appeal was the Supreme Court.

The arbitrary conduct of the Ministry of Justice amplified the distortion of due process. In its suit against the PSPU, for example, the Ministry of Justice stated an invalid legal address for the party and did not provide the party with a copy of the complaint. The



Natalia Vitrenko's webpage

The Progressive Socialist Party of Ukraine was one of the 12 banned opposition parties. Dr. Natalia Vitrenko, shown here addressing a rally before the banning, was its leader.

Lviv court ruled to ban the PSPU without examining a single piece of evidence. This legal disgrace was upheld on September 27, 2022 in the Supreme Court's ruling on the PSPU.

The Supreme Court did reject practically all the Ministry of Justice and SBU accusations, and partially ruled in favor of the PSPU's appellate complaint. But the public accusations in the mass media influenced the court, which upheld the ban of the PSPU on the sole grounds of statements by two members of the party, without any linguistic expert evaluation and without any evidence that those statements reflected party policies adopted in accordance with the PSPU's Charter. In addition, the court allowed the application of the March 2022 decree to actions and statements dating from earlier—a retroactive application of the law.

The court made no ruling on the creation of a liquidation commission. Nonetheless, without Natalia Vitrenko's agreement or knowledge, and without giving her any choice in the matter, two years after the court ruling to ban the PSPU, in November 2024 it suddenly emerged that the Ministry of Justice had registered her as head of a liquidation commission for the PSPU.

And the NAZK began to use that appointment aggressively to persecute Natalia Vitrenko. The

NAZK charged Vitrenko under Article 212-21 of the Code of Ukraine on Administrative Offenses (KUpAP), with failing to submit a financial report on the operations of the PSPU (whose operations had been banned by the courts)! No law in Ukraine provides for a report to be submitted for a banned party as if for an active party. The court ruled to fine Vitrenko 5,100 hryvnias (approximately USD 120). This amount may be assessed for every quarterly period in the future. Moreover, if the lower court ruling is upheld, Vitrenko may be entered into a register of corrupt persons, which would lead to liens being placed on her personal property and residence, and prohibition of her leaving the country or taking any part in politics.

The NAZK suit was brought in the Pechersky District Court of Kyiv. The court failed to inform Natalia Vitrenko properly that she was to be on trial, and ruled in favor of the NAZK's demands in her absence. Vitrenko appealed. Neither representatives of the NAZK nor those of the Prosecutor's Office attended court in the primary jurisdiction or the appeals court. Under the Law on the Prosecutor's Office, as well as Articles 2 and 250 of the KUpAP, the Prosecutor's Office is designated as responsible for monitoring the lawfulness of actions by government agencies and for defending citizens' rights. The Prosecutor's Office officially informed the appeals court that it declines to take part in the hearings of this case. The judge of the Kyiv Court of Appeals submissively agreed to this.

At the same time, the judge on February 19 denied Natalia Vitrenko's motion seeking approval of her choice of legal representative for her defense— Vladimir Marchenko, People's Deputy of Ukraine in 1990-2002, member of the Constitutional Committee of the Supreme Rada of Ukraine in its I and II sessions (1991-1996), first deputy chairman of the PSPU, and leader of the charitable human rights organization Kazatsky Sich (Cossack Stronghold). The judge found fault with the fact that he holds an engineering degree, rather than a law degree. But for twelve years, from 1990 to 2002, V. Marchenko was a People's Deputy of Ukraine involved in human rights issues! Besides his high professional level as a lawmaker, Marchenko has taken part in more than 50 court cases at various levels, most of which he won. The Prosecutor's Office has refused to perform its oversight duties with respect

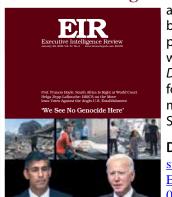
to the lawfulness of the NAZK's actions, and the judge did not admit Natalia Vitrenko's chosen defense representative, Vladimir Marchenko, to the court. Vitrenko was forced to defend herself.

On behalf of Ukraine, the judge in effect renounced rights that are recognized by the European Convention: the right to a fair trial (Article 6, Part 1 of the Convention), where the burden of proof is placed upon the accuser; the right of an accused to present his position; the adversarial presentation of arguments; and respect for human rights. The judge has viewed the case solely according to the truncated norms of the KUpAP, the administrative code, ignoring the norms of the Constitution of Ukraine and of international law. The judge has been unable, however, simply to throw out Vitrenko's arguments. The hearing has been continued for a third time, and is scheduled to resume on March 19, 2025.

The situation is similar throughout the justice system. Is this the democracy Europe is defending?



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