



ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt

EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo

EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme

EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

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Pavlo Dmitrovich Petrenko
Minister of Justice of Ukraine

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The European Association of Lawyers for Democracy and World Human Rights (ELDH) expresses its deep concern regarding the latest stage of the process of seeking to ban the Communist Party of Ukraine (CPU, web-site at <http://www.kpu.ua/>), which commenced with the Order of the Ukrainian Ministry of Justice of 23 July 2015. That Order revoked the registration of the CPU and two other linked parties, and therefore their right to take part in the forthcoming local elections. The order was made under “De-Communisation” laws which came into force on 20 May 2015 which include bans on Communist and Nazi symbols.

On 16 December 2015 the Kyiv District Administrative Court upheld an application by the Ministry of Justice to outlaw any activities of the Communist Party of Ukraine whatsoever. The application asserted that “[the CPU] carries out actions aimed at changing the constitutional order through violent means; violating the sovereignty and territorial integrity of Ukraine; propaganda of war, violence and incitement to inter-ethnic enmity and encroachment of human rights and freedoms, and members of CPU systematically make calls to create armed formations”.

ELDH is greatly concerned by the fact that no probative evidence whatsoever has been so far been presented by the Ministry to support these very serious and highly prejudicial allegations. So far as the Laws of May 2015 are concerned, the ban appears to be based on the fact that the CPU uses the Communist symbol of the hammer and sickle.

On 17 December 2015 Amnesty International warned that “banning the [CPU] in Ukraine is a flagrant violation of freedom of expression and association and should be immediately overturned... The moves by the Ukrainian authorities to ban the [CPU] solely on account of its name and use of Soviet-era symbols violates the rights to freedom of expression and association

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and sets a dangerous precedent in Ukrainian political life.” A complaint by the CPU was lodged in the European Court of Human Rights.

On 21 December 2015 the OSCE and the Council of Europe’s Venice Commission published their Joint Interim Opinion on the “Law of Ukraine on the condemnation of the communist and national socialist (Nazi) regimes and prohibition of propaganda of their symbols”, and stated: “The law is too broad in scope and introduces sanctions that are disproportionate to the legitimate aim pursued. Any association that does not comply with Law No. 317-VIII may be banned, which is problematic with regard to every individual’s freedom of association. This is particularly the case when it comes to political parties, which play a crucial role in ensuring pluralism and the proper functioning of democracy... The banning of political parties from participation in elections or their dissolution should be a measure of last resort in exceptional cases.”

The CPU appealed the 16 December 2016 decision in the Kyiv Appeal Administrative Court, and on 15 May 2017 the appeal reached the stage of final speeches (called “debates” in Ukraine), with a speech by the First Secretary of the Central Committee of the CPU, Petro Simonenko (published in the *Rabochaya Gazeta*, <http://rg.kiev.ua/page5/article38716/>), and a video has been published on the CPU’s web-site at http://www.kpu.ua/ru/86905/vystup_petra_symonenka_u_sudovyh_debatah_v_kyjivskomu_ape_ljatsijnomu_administratyvnomu_sudi_15_travnja_2017_roku).

The ELDH has been informed that the “debates” will conclude on 5 July 2017, and a delegation from ELDH composed of lawyers from Greece and Italy will attend the hearing on that day as observers.

The ELDH calls on the honourable judges of the Kyiv Appeal Administrative Court in ensuring compliance with the rule of law, to pay close attention to the case-law of the European Court of Human Rights concerning Article 11 of the ECHR, Freedom of Association, which is binding on Ukraine, and to take careful account of the warnings expressed by Amnesty International, the OSCE, and the Venice Commission as to the grave dangers posed to the freedom of association of individuals in Ukraine, and to the proper functioning of democracy in Ukraine.

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