

IAP Information Note No. 9

‘DRACONIAN’ LAWS

On 16 January 2014 the Parliament adopted a set of laws which purported to impose limitations on rights and freedoms. For these reasons the laws are referred to as ‘draconian’ or ‘dictatorship’ laws. On 28 January 2014 the Parliament abolished the ‘draconian laws’ of 16 January 2014 by another legislative act which came into force on 2 February 2014 (Law No. 732-VII)¹.

This section describes the five laws adopted on 16 January 2014.

‘Draconian Laws’

Law of Ukraine on Introducing Changes into the Law ‘On Judiciary and Status of Judges’ and other procedural laws concerning additional measures for protection of citizens’ safety (Law No. 721-VII)²

Law No. 712-VII came into force on 22 January 2014 and was invalidated on 2 February 2014. In summary the changes introduced by the law were the following:

- i. Law No. 712-VII introduced changes into the Code of Administrative Offences by significantly increasing the fine for breach of the procedures for the organisation of demonstrations. It also introduced fines for wearing masks or other clothes similar to the uniform of police or military forces. It introduced punishment in the form of a fine or an administrative arrest for installing tents and constructions used during demonstrations without obtaining the consent of the authorities. The fines were increased also for assisting in organising demonstrations held in breach of the procedures, for contempt of the court, and for a refusal to comply with lawful requests of a prosecutor and a fine was introduced for refusal to comply with the lawful demand of a Security Service official;
- ii. The Law also introduced a fine for driving in a column of more than five cars (motorcades) which resulted in the obstruction of transport movement without the prior agreement of the relevant department of the Ministry of Interior;
- iii. The Law introduced criminal responsibility for extremist activity and defamation; for unlawful collection, possession and dissemination of confidential information about a judge, a law enforcement official or their family or disseminating offending information aimed at disrespecting a judge or a law enforcement official; for unauthorised interference with the state information and telecommunication systems and for disseminating information subject to restricted access;
- iv. The Law also increased the penalty for such crimes as deliberate destruction of another’s property, group violations of public order, incitement to acts threatening public order, hooliganism, occupying premises used by the state authorities, putting up resistance to state officials, threats of violence to law enforcement officials, deliberate destruction or damage to property belonging to a law enforcement official and attempts on the life of a law enforcement official;

¹ The text of the Law is available in Ukrainian at: <http://zakon4.rada.gov.ua/laws/show/732-18/paran2#n2>.

² The text of the Law is available in Ukrainian at: <http://zakon4.rada.gov.ua/laws/show/721-vii>.

- v. According to the Law, a court decision holding a person liable for contempt of court was to be final and not subject to appeal;
- vi. The Law amended the Tax Code and the Law on Public Organisations by introducing the notion of ‘foreign agent’, which was defined as a public organisation funded from abroad and carrying out political activity on the territory of Ukraine;
- vii. The Law spelled out the functions of the Security Service of Ukraine in the area of technical protection of information;
- viii. The Law further introduced changes in the area of telecommunications, one of the most significant being that the use of a SIM-card was to be on the basis of a contract between an individual consumer and the telecommunication service provider;
- ix. The Law also introduced the requirement of state registration of information agencies.

Law of Ukraine on Introducing Changes into Certain Legislative Acts Concerning Administrative Responsibility for Offences Committed During Football Matches (Law No. 722-VII)³

Law No. 722-VII was repealed on 2 February 2014 before it came into force.

The law introduced such forms of punishment as a ban on attending football games. It was applicable to persons who had committed administrative offences on the territory of the game venue. Such ban was to be applied as a punishment additional to the main one. It was to be applied by a court and could be imposed for a period between six months and two years. Breach of such a ban was to be punishable by a fine.

Law of Ukraine on Introducing Changes into Legislative Acts Concerning Responsibility for Administrative Offences in the Area of Road Safety Recorded Automatically (Law No. 723-VII)⁴

Law No. 723-VII was invalidated on 2 February 2014 before it came into force.

Law No. 723-VII regulated the responsibility for a traffic offence, which was recorded automatically. One of the main provisions of this measure was to hold responsible for such an offence the person in whose name the vehicle was registered unless the person could prove that at the moment when the offence was committed the vehicle/registration plate was in the unlawful possession of another person or that another person was driving the vehicle at that moment. According to the changes proposed by this law, the decision holding such a person liable was to be taken in the person’s absence.

Law of Ukraine on Introducing Changes into Rules of Procedure of the Parliament (Law No. 724-VII)⁵

Law No. 724-VII came into force on 22 January 2014 and was invalidated on 2 February 2014. The Law introduced changes into the Rules of Procedure of the Parliament to facilitate the procedure for examination by Parliament of the question of holding criminally responsible, detaining or arresting a member of the Parliament and lifting his or her immunity.

³ The text of the Law is available in Ukrainian at: <http://zakon4.rada.gov.ua/laws/show/722-18>.

⁴ The text of the Law is available in Ukrainian at: <http://zakon4.rada.gov.ua/laws/show/723-18>.

⁵ The text of the Law is available in Ukrainian at: <http://zakon4.rada.gov.ua/laws/show/724-18>.

Law of Ukraine on Introducing Changes into the Code of Criminal Procedure Concerning In Absentia Proceedings (Law No. 725-VII)⁶

Law No. 725-VII came into force on 22 January 2014 and was invalidated on 2 February 2014.

The Law introduced a separate chapter on proceedings *in absentia* into the Code of Criminal Procedure. It provided that proceedings *in absentia* might take place if the suspect or the accused was evading justice and it was considered possible to conduct the proceedings in his/her absence. It spelled out the circumstances in which a suspect or an accused was deemed to be evading justice. It also determined the authority entitled to take decisions on the conduct of proceedings *in absentia* (an investigator or prosecutor at the pre-trial investigations stage, the court at the trial stage). It also provided for the mandatory participation of the defence counsel in proceedings *in absentia* and further provided that the proceedings should be discontinued if the accused or defendant appeared or if it was established that it was impossible to carry out the proceedings in the absence of the suspect or the accused.

Reaction by Council of Europe and OSCE

On 17 January 2014, the day following the adoption of the ‘draconian’ laws, the Commissioner for Human Rights of the Council of Europe issued a statement condemning the adoption of such laws as running counter to the Ukraine’s obligations of respect for human rights.⁷

The Parliamentary Assembly, in its Resolution on the Functioning of democratic institutions in Ukraine, condemned the adoption of the laws on 16 January 2014 by stating that ‘these laws violate the principles of freedom of expression, freedom of assembly and manifestation, as well as the freedom of the media and freedom of information, and infringe on the right to a fair trial. Cumulatively, these laws are undemocratic and repressive and run counter to Ukraine’s obligations under the European Convention on Human Rights (ETS No. 5) and as a member of the Council of Europe.’⁸

Finally, in its opinion issued on 10 February 2014 the Organisation for Security and Co-operation in Europe (“OSCE”) observed that the laws of 16 January 2014 did not meet key international human rights standards, in particular those concerning the freedom of peaceful assembly, freedom of expression, freedom of association, and the right to a fair trial.⁹

⁶ The text of the Law is available in Ukrainian at: <http://zakon4.rada.gov.ua/laws/show/725-18>.

⁷ [Statement](#) by the Commissioner for Human Rights of the Council of Europe of 17 January 2014.

⁸ PACE [resolution](#) of 28 January 2014.

⁹ [Opinion](#) on amendments to certain laws of Ukraine passed on 16 January 2014, 10 February 2014, § 11.