

IAP Information Note No. 10

AMNESTY LAWS

On 19 December 2013 the Parliament adopted a Law on the Elimination of Negative Consequences and Prevention of Prosecution and Punishment of Persons in Connection with Events that Took Place during Peaceful Demonstrations (Law No. 712-VII; came into force on 26 December 2013)¹. On 16 January 2014 the Parliament adopted a Law introducing changes into the Law No. 712-VII (Law No. 731-VII; came into force on 22 January 2014)².

The laws were aimed at preventing the prosecution and punishment of persons who had participated in the mass protests in the period between November and December 2013. They applied, in particular, to persons who were suspected or accused of committing the following crimes in the period between 21 November and 26 December 2013:

- actions aimed at a violent change of constitutional order or a take-over of power;
- intentionally inflicting injuries of moderate severity;
- **encroaching upon the equality of citizens on the grounds of race, nationality or religious belief (Article 161 of the Criminal Code);**
- **hindering the lawful professional activity of journalists (Article 171 of the Criminal Code);**
- theft;
- deliberate destruction or damage of property;
- misinformation about a threat to public safety;
- blocking transport communications or seizing of transport enterprises;
- unlawful taking possession of a vehicle;
- group breaches of public order;
- mass disturbances;
- incitement to actions threatening public order;
- unlawful seizure of state or public buildings;
- putting up resistance to a state official;
- interfering with the activities of a law enforcement official or official of State Enforcement Service;
- threats or violence towards law enforcement official;
- attempt on the life of a law enforcement official;
- taking a state official or law enforcement official as a hostage;
- **abuse of power by a law enforcement official (Article 365 of the Criminal Code);**
- interfering with the activities of the judiciary;
- failure to enforce a court judgment;
- hindering the appearance of a witness, victim or expert and coercion to refuse to testify.

The laws allowed for the release of law enforcement officials from responsibility for abuse of power committed during the Maidan events (Article 365 of the CC). It also allowed for the possibility to release from responsibility of, among others, law enforcement officials who engaged in attacking journalists during the Maidan events, since Article 171 of the Criminal Code provides for aggravated punishment if the crime is committed by an official. Similarly, Article 161 of the Criminal Code provides for aggravated punishment for breach of the equality of citizens on the grounds of race, nationality or religious belief by an official.

¹ The text of the Law is available in Ukrainian at: <http://zakon2.rada.gov.ua/laws/show/712-18>.

² The text of the Law is available in Ukrainian at: <http://zakon2.rada.gov.ua/laws/show/731-18>.

On 29 January 2014 the Parliament adopted another amnesty law which entered into force on 2 February 2014 (Law No. 737-VII)³. The law covered crimes committed during the period between 27 December 2013 and the date of entry into force of the law, in connection with the mass protests which had commenced on 21 November 2013. It envisaged an amnesty for a similar list of crimes as the amnesty laws of 19 September 2013 and 16 January 2014, extending the scope of the amnesty to cover the crimes of a threat or violence towards a state official or a judge and the deliberate destruction or damage to property belonging to a law enforcement official. However, it did not cover the crimes of hindering the lawful professional activity of journalists (Article 171 of the Criminal Code) or the abuse of power by a law enforcement official (Article 365 of the Criminal Code).

The law also envisaged release from administrative arrest. It, however, contained a condition according to which the law began to apply only after the protesters had left the buildings, including those belonging to the state and local self-governing bodies; allowed access for the employees working in such building and removed any obstacles to access to the buildings; unblocked the transport communication on Hrushevskoho Street and unblocked other streets and squares in Kyiv and other cities (with the exception of those where peaceful demonstrations were taking place). If the conditions were not fulfilled within fifteen days from the entry of the law into force, the law became invalid.

All three laws of 19 December 2013 and 16 and 29 January 2014 were repealed by the Amnesty Law adopted on 21 February 2014 (Law No. 743-VII)⁴ which entered into force on 28 February 2014. The Law of 21 February 2014 envisaged an amnesty for crimes committed between 21 November 2013 and the moment of its entry into force in connection with the mass protests which had started on 21 November 2013.

The Law of 21 February 2014 extended the list of crimes covered by the previous amnesty laws: there were added such crimes as an attempt on the life of a public official, subversive action, the intentional infliction of injuries of grave or minor severity, threats of homicide, unlawful detention or abduction, taking hostages, hindering the lawful activity of political parties, public organisations and trade unions, coercion to participate or hindering participation in strikes, breach of the inviolability of the home, theft and robbery, founding a criminal organisation, committing a terrorist act, creating military groups not envisaged by law, evading military call-up and war propaganda. This law also envisaged release from administrative responsibility.

Article 9 of the Law of 21 February 2014 banned the collection, registration, accumulation, possession, adaptation, renewal, use and distribution of the personal data of persons who had participated in the mass protests which began on 21 November 2013 and, which had been obtained in connection with the participation of those persons in these actions. Such personal data was subject to destruction in accordance with the procedure established by law.

The Law of 21 February 2014 is currently in force.

³ The text of the Law is available in Ukrainian at: <http://zakon2.rada.gov.ua/laws/show/737-18>.

⁴ The text of the Law is available in Ukrainian at: <http://zakon2.rada.gov.ua/laws/show/743-18>.