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Суд



Організація з безпеки та
співробітництва в Європі



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PRAVO-JUSTICE

DEUTSCHE STIFTUNG FÜR
INTERNATIONALE RECHTLICHE
ZUSAMMENARBEIT E.V.



National University
«Ostroh Academy»

SUPREME COURT
ADMINISTRATIVE CASSATION COURT

AGENDA

VII INTERNATIONAL
SCIENTIFIC AND PRACTICAL CONFERENCE
ADMINISTRATIVE JUSTICE IN UKRAINE:
ISSUES OF THEORY AND PRACTICE

JUDICIAL PROTECTION
OF POLITICAL AND CIVIL RIGHTS
AND FREEDOMS IN PRE-WAR,
WAR AND POST-WAR PERIODS

Ostroh, 4–5 July 2024

CONCEPT

Civil and political human rights are the basis of modern democracy, and their protection is one of the main functions of a constitutional state governed by the rule of law. Among the specified rights and freedoms, along with electoral rights, the basic freedoms of expression, association, movement and free choice of residence, the right to peaceful public assembly, to appeal to state authorities and local self-government bodies, and to information are of particular importance. During its operation, the Administrative Cassation Court within the Supreme Court has developed a large volume of case-law in cases on the protection of political rights of citizens in peacetime conditions.

After the beginning of the large-scale Russian aggression against Ukraine in February 2022 and the introduction of martial law in Ukraine, the possibilities for the realization of certain political rights have changed. Article 64 of the Constitution of Ukraine, as well as Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms, establish the possibility of limiting these rights in extraordinary situations, in particular, in conditions of martial law; such restrictions and at the same time guarantees of these rights are introduced by the Law of Ukraine "On the Legal Regime of Martial Law". Taking into account these justified restrictions and at the same time preventing excessive violation of the specified rights becomes an important task for the courts, which forces us to revise the case-law taking into account the peculiarities of the martial law.

The end of the war and the social processes of the post-war reconstruction of Ukraine, as far as they can be predicted today, the expected accession of Ukraine to the European Union will also be characterized by their own peculiarities, in particular, in terms of realizing the political rights of citizens.

The topic of this Conference is determined by the mentioned issues.

OBJECTIVES OF THE EVENT

Exchange of experience regarding the issues (in the aspect) of:

- consideration of cases on political and civil rights and freedoms protection in conditions of a special legal regime by administrative courts (according to the thematic areas of the Conference);
- the peculiarities of consideration of cases on freedom of association, right to peaceful public assembly in conditions of a special legal regime;
- transitional justice in post-conflict countries in relation to the protection and restriction of political and civil rights, the prospects for the application of the adopted approaches by administrative courts in the post-war period;
- applying the case-law of the European Court of Human Rights and the Court of Justice of the European Union regarding the protection of political and civil rights, in particular in conditions of a special legal regime.

9:30–10:00

Registration of participants. Welcoming coffee

10:00–10:30

Opening remarks



Moderator: Zhanna Melnyk-Tomenko, judge of the Supreme Court in the Administrative Cassation Court, Secretary of the Judicial Chamber on Cases on Election Process and Referendum, as well as the Protection of Political Rights of Citizens, PhD in Law

Stanislav Kravchenko, President of the Supreme Court, PhD in Law

Mykhailo Smokovych, President of the Administrative Cassation Court within the Supreme Court, Doctor of Law

Ihor Pasichnyk, Acting Rector of the National University of Ostroh Academy, Doctor of Psychology

Maciej Janczak, Head of the Council of Europe Office in Ukraine

Oksana Tsymbrivska, Team Leader of the EU Project Pravo-Justice

Angela Schmeink, project manager for Ukraine and Vietnam, the German Foundation for International Legal Cooperation

Oleksandr Koval, Chairman of the State Administration of Rivne Oblast

10:30–10:35

Presentation video "Administrative courts of Ukraine"

10:35–10:50

European integration dimension: challenges for administrative justice

Virgilijus Valančius, senior international expert, Support to EU Integration Process in the Justice Sector Component Lead, EU Project Pravo-Justice, Doctor of Law

10:50–12:30

Session 1

Access to public information and the right to appeal to public authorities, local self-government bodies, their officials and employees



Moderator: Tetyana Oleksiyuk, Vice-President of the Access Info Group, PhD in Law

Topics for discussion:

- the right to appeal and access to public information;
- access to official documents;
- access to information through open data;
- liability for violation of information rights of individuals

European standards in the context of protection of the right to access to public information in Ukraine: case-law

Myroslava Bilak, judge of the Supreme Court in the Administrative Cassation Court, Doctor of Law

Application of the Tromsø Convention to protect the right to access to information

Helena Jäderblom, President of the Access Info Group, President of the Supreme Administrative Court of Sweden

Grounds and limits of access to official information – topical issues and examples from case-law

Lars Brocker, President of the Constitutional Court and President of the Higher Administrative Court of Rhineland-Palatinate (Germany), Doctor of Law

National security and the right to information: an assessment of legal and practical application during a conflict

Toby Mendel, Executive Director of the Centre for Law and Democracy (Canada)

The main trends of the case-law of the Court of Justice of the European Union in the field of access to documents

Irmantas Jarukaitis, judge of the Court of Justice of the European Union, Doctor of Law

A new stage in the development of the constitutional right to appeal: the law on administrative procedure, the draft law on appeal

Oleksandr Banchuk, Deputy Minister of Justice of Ukraine, PhD in Law

The right to access to public information: decisive steps of a young state

Oleh Prudvyus, President of Zaporizhzhia Circuit Administrative Court, PhD in Law

12:30–13:15

Lunch

13:15–15:15

Session 2

Protection and restriction of freedom of association in political parties and civil organizations; implementation of the right to peaceful public assemblies



Moderator: Myroslava Bilak, judge of the Supreme Court in the Administrative Cassation Court, Doctor of Law

Topics for discussion:

- the right to form political parties and public organizations in the context of Ukraine's European integration;
- limits of state control over political parties;
- prohibition of political parties;
- conditions for registration and cancellation of registration of political parties;
- the right to peaceful public assembly, its limitations in prewar and war time

Protection and restriction of freedom of association in political parties and public organizations, realization of the right to peaceful public assembly

Kaarlo Tuori, Honorary President of the Venice Commission of the Council of Europe, Doctor of Law

Case-law of the European Court of Human Rights regarding permissible restrictions on the right to freedom of association in the interests of the national security

Dmytro Tretiakov, Deputy Registrar of the Administrative Tribunal of the Council of Europe, Senior Lawyer of the Registry of the European Court of Human Rights

Crisis of the institution or the dominant model of the political party in Ukraine?

Anatolii Romaniuk, professor of the Department of Political Science at the Ivan Franko National University of Lviv, Head of the Centre for Political Studies at the Ivan Franko National University of Lviv, Doctor of Political Sciences

Grounds for banning political parties. Judicial support of cases on the ban of political parties

Olena Vakulenko, Director of the Department for Judicial Work, the Ministry of Justice of Ukraine
Vyacheslav Khardikov, Director of the Department for State Registration, the Ministry of Justice of Ukraine

Protection of democracy and freedom of political activity: balancing problems and the role of administrative courts

Olha Kotsiuruba, senior legal adviser at the All-Ukrainian civil organization "Civil Network OPORA", PhD in Law

Prohibition of political parties under German and European law

Martin Steinkühler, judge of the Federal Administrative Court of the Federal Republic of Germany

The case-law of the European Court of Human Rights regarding the implementation of the right to peaceful assembly and the peculiarities of its implementation in Ukraine

Serhii Ishchuk, professor of the Department of Theory and History of State and Law, the National University of Ostroh Academy, Doctor of Law

The impact of martial law on the exercise of the right to peaceful public assembly: legal mechanisms of protection under martial law

Andrii Zahorodniuk, judge of the Supreme Court in the Administrative Cassation Court, PhD in Law

15:15–15:45

Coffee-break



15:45–18:00

Session 3

Institution of citizenship and freedom of movement and free choice of residence place



Moderator: Andrii Zhuk, judge of the Supreme Court in the Administrative Cassation Court, PhD in Law

Topics for discussion:

- the principle of single citizenship;
- multiple citizenship;
- acquisition and loss of Ukrainian citizenship;
- the consequences for a citizen of Ukraine acquiring the citizenship of another state, in particular the aggressor state;
- restriction and protection of the right to freely choose a place of residence during wartime;
- legal status of internally displaced persons;
- the right to leave Ukraine during wartime

Institute of citizenship of Ukraine: state and post-war prospects

Yurii Kliuchkovskyi, associate professor of the Department of General Theoretical Jurisprudence and Public Law, the National University of Kyiv-Mohyla Academy, member of the Scientific Advisory Board at the Supreme Court, Doctor of Law

Citizenship and freedom of movement with an emphasis on the needs of internally displaced persons

Edith Zeller, judge at the Administrative Court of Vienna (Austria), President of the Association of European Administrative Judges (2014–2023), Expert of EU Project Pravo-Justice, Doctor of Law

The role of administrative judicial process in protecting the rights of forcibly displaced groups of persons and stateless persons under martial law in Ukraine

Karolina Lindholm-Billing, UNHCR Representative in Ukraine

Constitutional development of post-war Ukraine (citizenship factor)

Petro Stetsiuk, scientific consultant on legal issues of the Razumkov Centre, retired judge of the Constitutional Court of Ukraine, Doctor of Law

Special regimes in the Polish legal system. The issue of restriction of human rights and freedoms

Krzysztof Winiarski, judge of the Supreme Administrative Court of Poland, Doctor of Law

Peculiarities of detention and deportation of irregular migrants by the bodies of the State Border Guard Service of Ukraine

Yurii Kuryliuk, Head of the Department of Administrative Jurisdiction, State Border Protection Department, Administration of the State Border Guard Service of Ukraine, Doctor of Law

Citizenship and national security

Ivo Pilving, Chairman of the Administrative Law Chamber, Supreme Court of Estonia

Single and multiple citizenship

Iryna Kovalevska, First Deputy Chairman of the State Migration Service of Ukraine, PhD in Law

Olena Palienko, Deputy Director of the Department for Citizenship, Passporting and Registration of the State Migration Service of Ukraine

Prospects for assessing the "legality" of restrictions on freedom of movement and free choice of residence place under the conditions of the legal regime of martial law in Ukraine

Oleh Ilnytskyi, associate professor of the Department of Administrative and Financial Law, Ivan Franko National University of Lviv, member of the Scientific Advisory Board at the Supreme Court, PhD in Law

18:00–19:30

Dinner

9:30–10:00

Welcoming coffee



10:00–10:45

Moderated discussion

Ensuring private and public interests as a guarantee of the realization of constitutional human rights and the influence of case-law on the formation of social policy of the state



Moderator: **Olesia Radyshevsk**a, judge of the Supreme Court in the Administrative Cassation Court, Doctor of Law

Formation of social policy: balance of private and public interests

Dariia Marchak, First Deputy Minister of Social Policy of Ukraine

The concept of subsidiarity, European integration processes and the role of administrative justice in the implementation of the ECHR provisions during the war: a brief overview of the state of implementation of the Convention and the state of ECHR judgments implementation by Ukraine

Pavlo Pushkar, Head of the Department for the Execution of Judgments of the European Court of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe, lecturer of international and European human rights law at the University of Strasbourg and the Ukrainian Catholic University, member of the Scientific Advisory Board at the Supreme Court, PhD in Law

The problem of (not) taking into account the opinions of the Supreme Court by subjects of public authority and its consequences for the administration of justice by local courts

Rostyslav Moskal, judge of the Lviv Circuit Administrative Court

The role of courts in enhancing rule of law principles and judicial independence: a reflection on ODIHR's experience in advancing the right to fair trial in administrative proceedings

Konstantine Vardzelashvili, Head of Democratization, OSCE Office for Democratic Institutions and Human Rights

10:45–12:00

Session 4

Prerequisites and challenges during the organization and conduct of elections in the post-war period



Moderator: **Olena Hubska**, judge of the Supreme Court in the Administrative Cassation Court, Doctor of Law

Topics for discussion:

- the future of Ukrainian electoral system in the post-war period;
- administration of the election process in post-war Ukraine;
- improvement of electoral legislation within the European integration process;
- state guarantees and public control over compliance with the electoral rights of citizens

Judicial protection of electoral rights of citizens in Ukraine: experience of administrative judicial process

Mykhailo Smokovych, President of the Administrative Cassation Court within the Supreme Court, Doctor of Law

Post-war elections: main challenges and ways to overcome them

Serhii Kalchenko, deputy of the Verkhovna Rada of Ukraine, Head of the Committee of the Verkhovna Rada of Ukraine on Rules of Procedure, Parliamentary Ethics and Organisation of Work of the Verkhovna Rada of Ukraine, PhD in Law

Post-war elections: main challenges and commitments in the context of European integration

Alina Zahoruiko, deputy of the Verkhovna Rada of Ukraine, Deputy Head of the Committee, Head of the Subcommittee on Elections, Referendums and Other Forms of Direct Democracy of the Committee of the Verkhovna Rada of Ukraine on the Organization of State Power, Local Self-Government, Regional Development and Urban Planning

Challenges of proper administration of the first post-war elections in Ukraine

Viktoriia Hlushchenko, member of the Central Election Commission

Election campaigning abroad: issues of expediency and possibility of regulation in post-war elections

Bohdan Mokhonchuk, senior lecturer of the Department of Constitutional Law of Ukraine at the Yaroslav Mudryi National Law University, PhD in Law

The experience of the Republic of Croatia in conducting post-war elections: challenges and lessons learned

Duro Sessa, judge of the Supreme Court of the Republic of Croatia, President of the Supreme Court of the Republic of Croatia and the Chairman of the State Election Commission of the Republic of Croatia ex officio (2017–2021), President of the International Association of Judges

12:00 –12:30

Coffee-break



12:30–14:00

Continuation of the Session 4

Prerequisites and challenges during the organization and conduct of elections in the post-war period



Legal positions of the Constitutional Court of Ukraine regarding electoral rights (*the right to elect and to be elected*)

Halyna Yurovska, judge of the Constitutional Court of Ukraine, PhD in Law

Jus post bellum: the Constitution and human rights in the period of post-war normalization

Oleksandr Vodiannikov, Senior Project Associate, OSCE Support Programme for Ukraine, PhD in Law

Imperative mandate: practice and application problems

Alla Basalaieva, associate professor of the Department of Constitutional Law of Taras Shevchenko National University of Kyiv, Head of the Election Law Committee of the National Bar Association of Ukraine, Head of the State Audit Service of Ukraine, PhD in Law

Challenges related to the implementation of active and passive electoral law in the first post-war elections

Denys Kovryzhenko, senior legal advisor of the International Foundation for Electoral Systems IFES Ukraine

How to protect the voting rights of Ukrainian citizens abroad in administrative courts in post-war elections: challenges and ways to overcome them

Pavlo Romaniuk, legal advisor of the All-Ukrainian public organization "Civil Network OPORA", associate professor of the Department of Constitutional Law of Ukraine at the Yaroslav Mudryi National Law University, PhD in Law

14:00–14:30

**Summing up
Closing the conference**



14:30–15:00

Coffee-break



15:00–16:30

Excursion in the National University of Ostroh Academy (*optional*)

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