

EGYPT: Egypt issues law allowing president to appoint judges

Reuters (28.04.2017) – <http://reut.rs/2p4eEHP> – Egyptian President Abdel Fattah al-Sisi has ratified legal amendments that allow the president to make judicial appointments to its top courts, a move judges said would erode the independence of the judicial system.

Parliament passed the amendments on Wednesday but some judges had called on Sisi to hold off on ratifying them, calling the amendments an unconstitutional breach of separation of powers.

The amendments were issued on Thursday in the official gazette, formally passing them into law.

Elected in 2014 after leading the military's 2013 overthrow of the Muslim Brotherhood's President Mohamed Mursi, Sisi has deflected Western criticism that he has suppressed political opposition and human rights and has sought to present himself as an indispensable bulwark against terrorism in the Middle East.

Egypt's judiciary has long enjoyed a degree of independence. But judges say a crackdown on the judiciary that started in 2014 has aimed at bringing it under tighter government control.

The amendments stipulate that each court nominate three of its most senior members for leadership, one of whom the president will choose to be its head.

This is a departure from the old system, in which leadership generally passed to the court's most senior member and the president signed off in a largely ceremonial role.

Egypt's judges club, an informal professional association, said on Wednesday it would hold an emergency meeting on May 5 to discuss how to move forward after parliament passed the law. It called on Sisi at the time not to ratify it.

Supporters of the amendments say they are necessary to strengthen Sisi's authority on critical issues such as combating Islamist militants.

Sisi declared a three-month state of emergency nationwide this month after two Islamic State suicide bombings at churches in Tanta and Alexandria killed at least 45.

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UKRAINE: Injustice wins again

Set free by Kyiv judges, four former Berkut riot

police officers charged with murder of torture fled to Russia this month. Their cases, dating back to the 2013-2014 Euromaidan Revolution, underscore ongoing corruption in Ukraine's judicial system and the abject failure of court reforms

Kyiv Post (21.04.2017) – The incident has triggered a public outcry with critics arguing that the officers' flight is another classic example of Ukraine's politicized and corrupt judiciary.

They claim the cases were sabotaged by the Interior Ministry led by Arsen Avakov, accusing the nation's biggest law enforcement agency of protecting former Berkut officers accused of crimes committed during Ukraine's 100-day Euromaidan Revolution that drove President Viktor Yanukovich from power of February 24, 2014.

Lawyers suspect the court rulings were influenced by higher-ranking officials who the officers might have implicated in wrongdoing.

The National Police, accused of protecting its officers, denied any meddling, while the Interior Ministry and the courts involved did not comment by the time the Kyiv Post went to publication.

Suspects released

The officers who fled released a video from Russia saying "they have realized that it is dangerous for them to stay in Ukraine." They had pleaded non-guilty and complained about prosecutors' alleged bias.

The four officers – Vitaly Honcharenko, Vladyslav Masteha, Artem Voilokov and Oleksandr Kostyuk – were detained in June

in Kharkiv where they lived and served. Only Honcharenko had been suspended while the other three still worked in the police.

Three judges of the Kyiv Court of Appeals – Oleh Prysyazhnyuk, Vyacheslav Dzubin and Tetiana Rosik – released Honcharenko on April 6.

Berkut officers Voilokov and Masteha were placed under night-time house arrest – a measure effectively equivalent to release during daytime – **by Iryna Lytvynova, a judge of Kyiv's Pechersk Court, in March.**

The fourth officer, Kostyuk, was released by Roman Novak, a Pechersk Court judge, in November.

Valery Lashevych, a judge of the Kyiv Court of Appeal, placed another ex-Berkut officer, Oleksandr Belov, under night-time house arrest in November. Below is still in Ukraine.

Sergii Gorbatiuk, head of the prosecutorial department for trials in absentia, believes the judges' rulings to be unlawful and says he is planning to prosecute them.

Judges' background

Some of the judges who released the officers have a controversial reputation and are considered to be loyal to the authorities.

In March, **Rosik and Lashevych** were chosen to consider an appeal against the arrest of State Fiscal Service Chief Roman Nasirov, a loyalist of President Petro Poroshenko. **Lashevych and Pryzyazhnyuk** on April 19 ruled to return Nasirov's passport and other documents, which had previously been seized to prevent him from fleeing.

Lashevych and Rosik in March also reduced the bail for Ruslan Zhurilov, a suspect in a corruption case investigated by the National Anti-Corruption Bureau of Ukraine (NABU).

Meanwhile **Dzyubin and Lashevych** have ruled against ex-Deputy Prosecutor General Vitaly Kasko, Ukop Party leader Gennady Korban and lawmaker Ihor Mosiychuk – political opponents of Poroshenko.

Dzyubin visited the Presidential Administration in 2015 before ruling against Korban, according to the UNIAN news agency.

Lashevych was investigated in a case against ex-Kyiv Appeals Court Chief Anton Chernushenko, who fled in 2015 after being charged with interfering with the automatic system for allocating cases to judges. **Lashevych** is also accused of having ties to Poroshenko's grey cardinal and lawmaker Oleksandr Hranovsky who has close ties with the prosecutors and lawyers but denies influencing law enforcement.

Judge Lytvynova was investigated over an alleged unlawful ruling in 2015, while Novak has been accused of numerous procedural violations.

Declared wealth

The judges' assets declarations have shown property that is at odds with their modes salaries.

Pryzyazhnyuk owns two houses, three apartments, two cars and 7500 square metres of land. His job in the Kyiv Appeal Court pays him \$ 13,000 per year.

Novak, whose yearly salary is \$9000, owns with his wife a 12,000 square meter land plot in Kyiv and \$16,500 in cash.

Lytvynova, who makes \$11,300 as a judge, has two apartments and two houses.

Dzyubin makes \$11,700 a year, while he and his wife have three apartments and \$43,000 in cash.

Sabotage by police

Meanwhile, the Interior Ministry is trying to protect Berkut police officers. For example, Kharkiv city police tried to get Honcharenko out under their responsibility.

Top officials of Kyiv police have also addressed the courts asking not to suspend Berkut officers, and the police has given positive recommendations to Berkut suspects.

Ex-Deputy Prosecutor General Oleksiy Bahanets has also accused Interior Minister Arsen Avakov and his aide Anton Gerashchenko of obstructing the prosecution of Berkut officers. Gerashchenko has praised some of the suspects for their service.

Suspected crimes

Police officer **Honcharenko and Belov** are accused of killing three people on February 18, 2014. Honcharenko is also suspected of attacking protester Serhiy Didych, who was later killed in another incident.

“I have no hope that these crimes will be solved,” Didych’s widow Halyna Didych said. “Now we see the results – Kharkiv-born Avakov and his aide (Anton Gerashchenko) are helping Kharkiv Berkut police members to avoid punishment.”

Masteha and Voilokov are suspected of torturing protesters on January 19, 2014. Honcharenko and Kostyuk have also been charged with assaulting human rights activist Kostyantyn Reutsky at a checkpoint in Kharkiv Oblast on January 29, 2015.

Honcharenko has been officially recognized as a veteran of the war with Russia. Critics have dismissed his veteran status as false as he effectively fled to the enemy.

Previous runaways

About seven Berkut officers fled in February 2014 at a time when there was no proof of their involvement in EuroMaidan murders.

In April 2014, Berkut police commander **Dmytro Sadovnyk** – the key suspect in the EuroMaidan murders case – and two other Berkut employees were arrested.

In late July to August, prosecutors were preparing to arrest six more Berkut officers but the suspects left the country after what critics believe was a leak of information from law enforcement agencies.

Sadovnyk fled the country after **Pechersk Court Judge Svitlana Volkova** released him from custody and put him under night-time house arrest on September 19, 2014.

Volkova had no right to release him as Sadovnyk's arrest was to expire only on September 26, 2014, according to the General Prosecutor's Office. Rank-and-file prosecutors wanted to arrest him after that but the leadership of the Prosecutor's General's Office refused to allocate a special forces unit to arrest him after he was released. Oleksiy Donsky, a top official at the prosecutorial department for trials in absentia, said in 2014.

Political influence?

Then-Prosecutor General Vitaly Yarema and his deputy Mykola Herasimyuk have been blamed for allowing Sadovnyk to escape.

Herasimyuk, who later became a parliamentary aide to lawmaker Hranovsky, was offered bribes to drop charges against allies of ex-President Viktor Yanukovich, and he transferred \$700,000 abroad in 2014, according to emails published by the Organized Crime and Corruption Reporting Project.

Since Yarema, who denied accusations of sabotage, was a

loyalist of Poroshenko, the president has also been accused of being involved in the case, which he denies.

Volkova was known for her loyalty to the authorities. The case against Volkova, who is accused of making an unlawful ruling has seen no progress.

Other fugitives

Meanwhile, two other Berkut officers fled in February 2015.

Currently, 23 former Berkut employees are wanted and 14 of them have gotten Russian citizenship. Some of them formed a new Berkut police unit in the Russian occupied Ukrainian territory of Crimea, while others are employed by Moscow's OMON riot police unit.

Lawyer Markiyan Halabala says there's little hope that Russia will extradite the Berkut officers, but there is a chance for a trial in absentia if the corresponding law is improved. However, the authorities have so far failed to amend the legislation on trials in absentia, which is currently at odds with international law.

Disgraced unit

At least 10-ex-Berkut officers charged with crimes, including five in Kharkiv Oblast, remain in Ukraine, with some released and others in custody or under house arrest. Of these, five are on trial on suspicion of murdering protesters on February 20, 2014.

Though the Berkut unit, known for its brutality, was formerly liquidated on February 25, 2014 de facto it was simply renamed.

Most of the Berkut officers remained in the police, said lawyer Vitaly Tytych and ex-police vetting commission members Roman Sinitsyn and Olga Khudetska. But the Interior Ministry and the National Police have so far refused to divulge the number of Berkut officers who remained in their jobs.

Though ex-National Police Chief Khatia Dekanoidze initially planned a stricter vetting procedure for Berkut police, it has not been implemented, according to Sinitsyn and Khudetska.

According to them, some Berkut officers also “hid” by being transferred tot the National Guard and Defense Military units, which did not have to pass vetting.

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ROMANIA: Fighting Corruption

with Con Tricks: Romania's Assault on the Rule of Law

Henry Jackson Society (04.01.17) – <http://bit.ly/2iccFlg> – A new report from The Henry Jackson Society, *Fighting Corruption with Con Tricks: Romania's Assault on the Rule of Law*, has found that Romanian politicians are engaged in political score-settling and serious violations of human rights which are dressed up as anti-corruption efforts. The report warns that practices which show considerable continuity with the communist era are taking place. The National Anti-corruption Directorate (DNA), for example, is an active participant in political struggles, and there is a strong correlation between those targeted for prosecution and the interests of those in power. Politicians are able to exert influence over the DNA using their control of key appointments, and by directing high-profile investigations. There is growing concern that the intelligence services are also involved, and with the DNA they are believed to be undermining judicial independence. All of this has the effect of weakening of the rule of law.

The report's key findings include:

- There are concerns that the intelligence services are covertly directing anti-corruption prosecutions. However, the government has refused to investigate allegations that the intelligence services have infiltrated the judiciary and prosecution services.
- There have been numerous abuses of process. Arrested individuals have been paraded before the media in handcuffs, relatives of suspects have been threatened with indictment, suspects have been offered immunity for implicating someone more newsworthy, and evidence has been systematically leaked to the media.
- Crucial principles of justice enshrined in the European Convention on Human Rights, as well as the European

Union's Charter of Fundamental Rights, are being routinely violated. This includes the right to a fair trial and the presumption of innocence.

Romania's international partners should consider these as matters of serious concern, and should act. The report recommends a range of measures through existing mechanisms on the part of the UK, the EU, and the US State Department. In particular, the European Commission should trigger its Rule of Law Mechanism, which is designed to deal with emerging systemic threats to the rule of law within the EU. Additionally, the UK should either reform or replace the European Arrest Warrant (EAW) to include stronger human rights safeguards; there have been two recent cases where the Romanian authorities were able to use the EAW to pursue politically motivated legal actions through UK courts.

David Clark, the report author, said;

"Europe's leaders have been exceptionally naïve in accepting Romania's claim to be cracking down on corruption, Romania's anti-corruption drive has itself become a tool of political corruption.

There is considerable evidence that investigations are used to settle political scores, that prosecutors collude with government, that judges are improperly influenced to maintain high conviction rates, that the domestic intelligence service plays a covert role in manipulating the criminal justice system and that abuses of due process are routine.

The result is that basic standards of human rights are being regularly infringed, including the right to a fair trial and the right to a presumption of innocence.

The EU's complacency about Romania creates the very real risk of creeping authoritarianism as other countries realise that anti-corruption campaigns provide convenient cover for bypassing the democratic standards that are supposed to bind

together all European countries."

See the full report here.

For additional information, see The Guardian's article "Romania's corruption fight is a smokescreen to weaken its democracy": <https://www.theguardian.com/world/2017/jan/10/romania-corruption-fight-is-a-smokescreen-to-weaken-its-democracy>

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