

2015-04-20

Fråga-svar

Ukraina. Rättssäkerhet för oppositionen och situationen för Kommunistpartiet.

Fråga

- Har regeringskritiker attackerats i Ukraina?
- Hur är situationen i Ukraina generellt för medlemmar i det ukrainska Kommunistpartiet?
- Är kommunistpartiet förbjudet i Ukraina sedan majdanrevolutionen?
- Hur fungerar rättssäkerheten i det Kiev-kontrollerade Ukraina för personer som är kritiska till regeringen och/eller uppfattas vara pro-Ryssland, särskilt då Högra sektorn och andra högerextrema rörelser varit inblandade?

Svar

Har regeringskritiker attackerats i Ukraina?

Brittiska BBC rapporterar om ett antal mystiska dödsfall som drabbat högt uppsatta anhängare till före presidenten Yanukovich:

At least eight Yanukovich allies have died suddenly in the last three months.

Most of the deaths are said to have been suicides. However, officials say it was possible some were killed or forced to take their lives.

Commentators in Ukraine have accused supporters, as well as opponents, of the current pro-Western government of involvement in the deaths. (BBC, 2015-04-16)

Enligt den socialistiska sidan Socialist Appeal finns tecken på förtryck av oppositionen:

[Ukrainian left-wing organization Borotba]: Democratic rights in Ukraine have been reduced to a minimum over the past year. Opposition demonstrations are almost impossible as they are often outlawed and brutally suppressed. There is also a strict censorship of the media. Most of the media (not just the opposition) who have deviated from the official line have had to cease operations. Media outlets have also experienced armed attacks on their offices and editorial boards as a result of political deviation.

However, open opposition to the government and social protest are treated as the work of "the enemy." (Socialist Appeal 2015-03-31)

En trend som rapporterats av flera nyhetskällor är aktivister som kastar parlamentsledamöter i soptunnor:

Impatient with unsigned lustration legislation, activists from groups like the ultranationalist Right Sector have been tossing officials in trash containers -- and sometimes beating them, too -- to signal disgust at the officials' ties to the government of former President Viktor Yanukovich, their alleged corruption, or their supposed support for separatists in the country's east. (Radio Free Europe/Radio Liberty, 2014-10-02)

Hromadske specificerar vilka som drabbats:

Since then, a number of Ukrainian politicians and bureaucrats have fallen victim to the practice, most of whom associated with Yanukovich's Party of Regions or the Communist Party... (Hromadske, 2014-10-11)

Enligt The Jamestown Foundation har oppositionspolitiker även drabbats av andra typer av attacker:

Over the past several months, a number of other parliamentarians—especially those accused of mass-scale corruption, connection to the so-called "dictatorship bills" of January 16, or who had expressed support for separatists in eastern Ukraine—have also fallen victim to trash can "containerization," street attacks, negative billboard campaigns, or even possible arson ... (The Jamestown Foundation, 2014-10-22)

I maj 2014 drabbade pro-ukrainska och pro-ryska demonstranter ihop i Odessa. I slutet av dagen stod ett fackföreningshus, där flera av de pro-ryska demonstranterna barrikaderat sig, i brand.

The basic sequence of events appears to have been (established from eyewitnesses and photos and videos): four people died on Friday afternoon after shots were fired by pro-Russian militants onto a peaceful demonstration for Ukrainian unity in the city centre. Later a pro-Ukrainian crowd, including some far-right militants, sought revenge by torching the pro-Russian protest camp in front of the

trade union building. Pro-Russians sought refuge in that building. Some of them shot at the pro-Ukrainian crowd from inside. The shooting stopped. At some point the building caught fire. Throughout the day Molotov cocktails flew in both directions. By virtually all accounts (including that of Ukraine's prime minister) the police did nothing. (The Economist, 2014-05-08)

Hur är situationen i Ukraina generellt för medlemmar i det ukrainska Kommunistpartiet?

New Eastern Outlook skrev angående valet att vissa partier motarbetats:

It was during Ukraine's last elections that the OSCE [Organization for Security and Co-operation in Europe] reported on opposition parties being regularly intimidated or outright prevented from campaigning before the May 25, 2014 polls. Right Sector was mentioned at least once by name as intervening in political proceedings in an attempt to bar opposition members from participating and attacks on the Communist Party's offices were reported, specifically in the capital of Kiev itself.

The BBC would even travel with ultra-right Neo-Nazi militants to the Communist Party headquarters in Kiev they had taken over. The office was ransacked and defaced with Nazi runes. (New Eastern Outlook, 2014-11-01)

Ett antal attacker mot kommunistpartiets lokaler har rapporterats av media. Interfax-Ukraine rapporterar att det ukrainska kommunistpartiet på sin hemsida angett att okända unga maskerade män kastat molotovcocktails genom fönstret på kontoret i Sviatoshynskydistriktet i Kiev morgonen den 11 januari 2015. Extremister från den nationalistiska rörelsen Revanche tog på sig ansvaret för dådet (Interfax-Ukraine, 2015-01-12).

Enligt Ukraine Antifascist Solidarity tog samma grupp ansvar för en tidigare attack i december mot ett annat av kommunistpartiets kontor i Kiev (Ukraine Antifascist Solidarity, 2015-01-12).

OSCE skrev om ytterligare en attack i Dnipropetrovsk förra våren:

The SMM visited the regional office of Ukraine's Communist Party, which had been, according to media, attacked with Molotov cocktails the night before. The SMM saw the marks of Molotov cocktails that fell in a yard. (OSCE, 2014-05-29)

Är kommunistpartiet förbjudet i Ukraina sedan majdanrevolutionen?

Under sommaren 2014 initierades en process som syftade till att förbjuda kommunistpartiet. Interfax-Ukraine citerar justitieministern som hänvisade till en mängd ospecificerade olagliga aktiviteter: "... I have made the decision, signed and sent it to the District Administrative Court regarding the liquidation of the Communist Party" (Interfax-Ukraine, 2014-07-08). I juli öppnades även 308 brottsmål mot medlemmar av kommunistpartiet. Uppgifter uppgavs finnas för att partiets administration öppet stött Rysslands annektering av Krim och skapandet av de självutnämnda

folkrepublikerna i Donetsk och Luhansk, samt finansierat Donbas milis. Interfax-Ukraine rapporterade sedan att ” On September 4, the Kyiv District Administrative Court again indefinitely postponed the hearing of the lawsuit filed by the Justice Ministry and the State Register seeking a ban on the Communist Party.” (Interfax-Ukraine, 2014-11-10)

Enligt International Association of Democratic Lawyers (IADL) avgick huvuddomaren i målet mot kommunistpartiet i februari 2015 efter polisen gjort en räd mot domarens kontor och konfiskerat datorer och dokument kopplade till målet. Strax efter avgick även övriga 25 domare involverade i målet, enligt IADL som följd av olaga hot och andra påtryckningar. Detta resulterade i att rättegången uppsköts på obestämd tid (IADL, 2015-03-17). I mars uppgav den ryska nyhetsbyrån Tass att rättegången utan förklaring lagts ned samma dag som den skulle börja (Tass, 2015-03-30).

I början av april kom uppgifter att ledaren för kommunistpartiet kallats till förhör, misstänkt för brott mot den nationella säkerheten (Ukraine Today, 2015-04-06).

Några dagar senare meddelade flera mediekällor att kommunistiska namn, symboler och sånger olagligförklarats i Ukraina:

Ukraine's new legislation condemns "totalitarian Communist and Nazi regimes in Ukraine" and bans "all public denial" of their "criminal character" as well as the "production", "circulation" or "public utilisation" of their symbols, except for educational or scientific purposes -- or found in a cemetery. (AFP, 2015-04-09)

Hur fungerar rättssäkerheten i det Kiev-kontrollerade Ukraina för personer som är kritiska till regeringen och/eller uppfattas vara pro-Ryssland, särskilt då Högra sektorn och andra högerextrema rörelser varit inblandade?

BBC hänvisar till Europarådet, som kritiserat Ukraina för att inte gå till grunden med händelser under 2014:

The Council of Europe, the continent's main human rights body, said an investigation into the deaths of protestors and policemen during the anti-government protests last year showed "serious deficiencies" and failed to satisfy "requirements of the European convention of human rights".

Ukrainian officials for their part called the criticism "surprising and baseless". (BBC, 2015-04-17)

Europeiska Kommissionen har undersökt hur ansvarighet för tortyr fungerar inom polisväsendet:

Even though the number of cases of ill-treatment decreased due to the implementation of the new Criminal Procedure Code, the lack of police accountability for recurrent cases of illtreatment and torture remained a problem. This is due to the absence of effective and independent investigation and the lack of a police complaint mechanism. The State Bureau of Investigation, provided for in the

new Criminal Procedure Code and which could investigate cases of ill-treatment and torture, was not yet set up. (European Commission, 2015-03-25, s. 7)

I sin senaste årsrapport konstaterar Amnesty International (AI) att polisen sällan ingriper då demonstrationer urartar:

With tensions affecting many regions of the country, demonstrators for and against the post-Yanukovych authorities clashed repeatedly in several cities, with police often failing to interfere or deal effectively with the resulting violence.

In Odessa, on 2 May, 48 anti-EuroMaydan protesters were killed, and over 200 injured, inside a burning building besieged by their opponents during violent clashes. Police failed to take effective action to prevent or contain the violence. Several criminal investigations into these events were opened. In November, the first court hearings began in one of the related cases against 21 men, all of them pro-Russian activists, under charges relating to mass disorder and unlawful use of firearms and explosives. The secrecy surrounding the official investigations prompted concern about their effectiveness and impartiality. (AI, 2015-02-25)

UN Office of the High Commissioner for Human Rights (OHCHR) har sammanfattat rättssäkerhetsläget i Ukraina:

In areas controlled by the Government of Ukraine, the HRMMU [UN Human Rights Monitoring Mission] was presented with numerous due process violations, both in civil and administrative cases. Public authorities and courts sometimes justified non-compliance with international human rights standards by the “actual state of war” in the country. The HRMMU is also concerned with the neglect of procedural rights of detainees. In the Odesa region in particular, the HRMMU collected evidence of systematic violations of the Criminal Procedure Code, which should lead to the immediate release of the detainee (for example, the late presentation of a written notice of suspicion and/or violation of the terms of detention, apprehension and house search without the order of an investigating judge or a court). However, during the court hearings judges have tended to systematically ignore these violations, which in turn constitute a violation of fair trial standards. (OHCHR, 2014-11-15, s. 32)

I en tidigare rapport skrev OHCHR (2014-07-15):

There are disturbing reports of cases, including journalists, politicians and of people allegedly supporting the armed groups, of having been arrested by the Ukrainian forces but whose whereabouts could not be ascertained for a long period of time or are still not known. These cases constitute a violation of the right to liberty and security, which implies a prohibition of arbitrary arrest or detention, and of the ‘minimum guarantees’, such as the right to a

counsel, that every person deprived of liberty is entitled to benefit from under international human rights law. (OHCHR, 2014-07-15, s. 16)

Kanadensiska Immigration and Refugee Board har i en respons skriven sommaren 2014 undersökt till vilken grad polisen ingriper när opponenter hotas.

The Professor indicated that

[t]he police are unwilling or unable to protect the public in most instances [...]. In government-controlled areas, the police have not protected opponents of the current government from intimidation by paramilitary groups. Similarly, in rebel-controlled areas, the police have either transferred their loyalty to the rebels or are standing to one side and unwilling to confront them. (Professor 18 June 2014)

The Professor of political science similarly stated that the Ukrainian police force often acts with "political inclination, and it is engaged in political discrimination" (Professor of political science 22 June 2014). He further explained that

the police is often unable or unwilling to prevent or stop violence by the far right organizations and their paramilitary formations and the Maidan self-defence. Several violent incidents perpetrated by these groups took place in Kyiv. The Ministry of Interior established under its formal jurisdiction special police battalions led and staffed by far right organizations, such as the Right Sector and the Social-National Assembly/Patriot of Ukraine. Additional such battalions are in process of formations, including one by Svoboda. These formations [were] deployed in Donbas against pro-Russian separatists, and they were involved in attacks, beatings, illegal detention, indiscriminate shelling, wounding and killings of unarmed protesters or civilians in the separatist-held regions. (ibid.)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources report that in May 2014, in the city of Odessa, between 31 and 50 pro-Russian protestors were killed in a fire (CRG 6 May 2014; AP 2 May 2014; BBC 8 May 2014) when they sought refuge in a building that burned down (ibid.; AP 2 May 2014). The Professor explained that the protestors were "burnt to death by pro-government activists who threw Molotov cocktails into a building into which the anti-government protestors had fled" (Professor 18 June 2014). The AP similarly reports that, according to a police spokesman, the fire was caused by Molotov cocktails (AP 2 May 2014). According to the Professor,

[t]here is clear evidence of collusion between the police and some of the protestors/activists. Films of the events show demonstrators with

red arm bands consulting with, and being protected by, policemen who were also wearing red arm bands. There is considerable dispute as to whether the demonstrators in question were pro- or anti-government, and so we cannot say with certainty which side the police were supporting, merely that they were not acting neutrally. (Professor 18 June 2014)

The Professor noted that "[t]o date, the police and judicial authorities do not appear to have made a serious effort to investigate the murders committed in Odessa" (ibid.). However, the Professor of political science stated that the police held many pro-Russian activists in Odessa, claiming that they were responsible for killing pro-Russian protesters who were burnt to death in the building (Professor of political science 22 June 2014). The Professor of political science further noted that the police officers failed to question far-right perpetrators and examine "evidence, such as videos and self-admissions by the Right Sector and the Social National Assembly, indicating that their side started the fire which resulted in the death of most of the victims" (ibid.) (Canada: Immigration and Refugee Board of Canada, 2014-07-02)

Vad som egentligen hände under branden i fackföreningshuset i Odessa i maj 2014, och framför allt, vem som bör stå till svars för dödsfallen, varierar beroende på vilken sida av konflikten som uttalar sig. Flera källor uttalar dock kritik mot polisens agerande den dagen:

For two and a half hours the police were absent, said Olga Gold, a teacher watching the unrest. "The authorities have been absolutely indifferent," she said. (The Guardian, 2014-05-02)

Kyiv Post har intervjuat ögonvittnen som var där den dagen:

... I was calling the police and the fire brigade and the ambulance but no one answered. I understood that no one was planning to rescue us."

Finally, at about 8 p.m., the police arrived ...

Meanwhile the Ukrainian State Security Service says toxic chemicals were used in the Trade Unions House fire, and the violence was orchestrated and financed from outside with the connivance of local police who, along with emergency services, did not arrive at Kulykove Pole Square until hours after the clashes began. (Kyiv Post, 2014-05-08)

The Economist framför kritik mot utredarna av branden, samt även polisutredningar av händelser tidigare under 2014:

BEFORE the soot had even settled in Odessa's burned-out trade union building, where at least 40 people, mostly pro-Russian demonstrators, died in a fire last Friday, the building was opened to

the public - undermining chances that the promised investigation would supply credible answers.

... the government's failure to carry out a satisfactory, independent investigation into the shootings of 82 Maidan militants on February 20th. (The Economist, 2014-05-08)

Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

Källförteckning

AFP, *Ukraine outlaws Communist names in fresh break with Soviet past*, 2015-04-09, <http://news.yahoo.com/ukraine-parliament-bans-communist-nazi-propaganda-115421909.html> (hämtad 2015-04-13)

Amnesty International, *Amnesty International Report 2014/15 - Ukraine*, 2015-02-25, <http://lifosintern.migrationsverket.se/dokument?documentSummaryId=34162> (hämtad 2015-04-13)

BBC, *What's behind the high-profile deaths in Ukraine?*, 2015-04-17, <http://www.bbc.com/news/world-europe-32341840> (hämtad 2015-04-17)

BBC, *Ukraine ally of ex-President Yanukovich found dead*, 2015-04-16, <http://www.bbc.com/news/world-europe-32329512> (hämtad 2015-04-16)

Canada: Immigration and Refugee Board of Canada, *Ukraine: Political situation, including relationship between the Svoboda Party and the Party of Regions (Partiya Rehioniv, PR), and their regions of influence; state protection for participants in the conflict (2013-June 2014)*, 2014-07-02, <http://www.refworld.org/docid/53e47f424.html> (hämtad 2015-04-13)

European Commission: *Implementation Of The European Neighbourhood Policy In Ukraine; Progress In 2014 And Recommendations For Actions Accompanying The Document Joint Communication To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions [SWD(2015) 74 final]*, 2015-03-25, http://www.ecoi.net/file_upload/1226_1427898393_ukraine-enp-report-2015-en.pdf (hämtad 2015-04-13)

Hromadske, *Ukrainians Throw Their Politicians In Trash Bins. For Real.*, 2014-10-11, <https://medium.com/@Hromadske/ukrainians-throw-their-politicians-in-trash-bins-seriously-e398b8f306e4> (hämtad 2015-04-13)

Interfax-Ukraine, *Ukrainian Communists report arson of office in Kyiv*, 2015-01-12, <http://en.interfax.com.ua/news/general/243826.html> (hämtad 2015-04-13)

Interfax-Ukraine, *SBU chief: Communist Party ban important for national security*, 2014-11-10, <http://en.interfax.com.ua/news/general/233543.html> (hämtad 2015-04-13)

Interfax-Ukraine, *Justice Ministry launches process to ban Communist Party of Ukraine*, 2014-07-08, <http://en.interfax.com.ua/news/general/212602.html> (hämtad 2015-04-13)

International Association of Democratic Lawyers, *IADL statement on the illegalization of the Communist Party of Ukraine*, 2015-03-17, <http://www.iadllaw.org/en/node/493> (hämtad 2015-04-13)

Kyiv Post, *Two Odessa fire survivors, both in the anti-government camp, tell their stories*, 2014-05-08, <http://www.kyivpost.com/content/ukraine/odessa-fire-survivors-tell-their-stories-346999.html> (hämtad 2015-04-17)

New Eastern Outlook, *Ukraine's Elections: Stabilization Through Eradication*, 2014-11-01, <http://journal-neo.org/2014/11/01/ukraine-s-elections-stabilization-through-eradication/> (hämtad 2015-04-13)

Organization for Security and Co-operation in Europe (OSCE)
OSCE, *Latest news from the OSCE Special Monitoring Mission to Ukraine (SMM) based on information received until 18:00 hrs, 28 May (Kyiv time)*, 2014-05-29, <http://www.osce.org/ukraine-smm/119299> (hämtad 2015-04-13)

Radio Free Europe/Radio Liberty, *Frustrated Ukrainian Activists Dishing Out 'Trash-Bucket Justice'*, 2014-10-02, <http://www.rferl.org/content/ukraine-lustration-trash-can-justice/26616901.html> (hämtad 2015-04-13)

Socialist Appeal, *Ukraine: One Year After the Maidan "Revolution"*, 2015-03-31, <http://socialistappeal.org/news-analysis/international/1570-ukraine-one-year-after-the-maidan-revolution.html> (hämtad 2015-04-13)

Tass, *Kiev court cancels hearing on ban of Ukraine's Communist Party*, 2015-03-30, <http://tass.ru/en/world/785789> (hämtad 2015-04-13)

The Economist, *Ukraine's murky inferno*, 2014-05-08,
<http://www.economist.com/blogs/easternapproaches/2014/05/odessas-fire-examined> (hämtad 2015-04-17)

The Guardian, *Ukraine clashes: dozens dead after Odessa building fire*, 2014-05-02, <http://www.theguardian.com/world/2014/may/02/ukraine-dead-odessa-building-fire> (hämtad 2015-04-17)

The Jamestown Foundation, *Upcoming Parliamentary Elections in Ukraine: Old Faces in New Rada?*, 2014-10-22,
http://www.jamestown.org/programs/edm/single/?tx_ttnews%5Btt_news%5D=42982&cHash=4f2a51eb1ba3ca1ddf37282114ecd79b#.VSuA6mccRaQ
(hämtad 2015-04-13)

Ukraine Antifascist Solidarity, *Kiev: Fascist arson attack against Communist Party District office*, 2015-01-12,
<https://ukraineantifascistsolidarity.wordpress.com/2015/01/12/kyiv-fascist-arson-attack-against-communist-party-district-office/> (hämtad 2015-04-13)

Ukraine Today, *Ukraine's Communist Party leader questioned on suspicion of crimes against national security*, Apr. 6, 2015,
<http://uatoday.tv/politics/ukraine-s-communist-party-leader-questioned-on-suspicion-of-crimes-against-national-security-419860.html> (hämtad 2015-04-13)

UN Office of the High Commissioner for Human Rights (OHCHR), *Report on the human rights situation in Ukraine*, 2014-11-15,
<http://www.refworld.org/docid/546ef1a94.html> (hämtad 2015-01-14)

UN Office of the High Commissioner for Human Rights (OHCHR), *Report on the human rights situation in Ukraine*, 2014-07-15,
<http://www.refworld.org/docid/548ff21f4.html> (hämtad 2015-01-15)