



Ukrainian Bar Association Statement on Sanctions against Ukrainian Citizens

**Kyiv, Ukraine February 21,
2025**

On February 12, 2025, President Zelenskyy signed Decree No. 81/2025, enacting the decision of the National Security and Defense Council of Ukraine (NSDC) "On the Application of Personal Special Economic and Other Restrictive Measures (Sanctions)." This decision imposed sanctions on four Ukrainian citizens. This is not the first time the NSDC has imposed sanctions on individuals.

The Ukrainian Bar Association (UBA) fully understands the critical importance of the NSDC's work amidst Russia's armed aggression against Ukraine and supports all legal measures to protect national security. However, the UBA emphasizes that any emergency protective measures must comply with the Constitution of Ukraine, international law, and the European Convention on Human Rights (ECHR). Therefore, we find it necessary to outline our legal position regarding the constitutional limits of the NSDC's authority to impose sanctions on Ukrainian citizens.

According to Article 107 of the Constitution of Ukraine, the NSDC is a coordinating body under the President of Ukraine on matters of national security and defense. It does not have judicial or law enforcement powers. Expanding the NSDC's authority to restrict the rights and freedoms of Ukrainian citizens without due process or effective appeal violates Articles 6 and 19 of the Constitution of Ukraine and undermines the principles of legal certainty and the rule of law.

The Law of Ukraine "On Sanctions" stipulates that sanctions against Ukrainian citizens may only be applied in cases of terrorist activity. International practice demonstrates that even targeted sanctions require a transparent decision-making procedure and effective judicial review to prevent abuse and protect fundamental rights.

In recent years, Ukraine has witnessed the application of sanctions to Ukrainian citizens on additional grounds (e.g., alleged collaboration, threats to national security). The excessive secrecy surrounding the evidentiary basis of NSDC decisions may violate the principle of equality and the right to a fair trial. Imposing sanctions on Ukrainian citizens without publicly substantiating the charges raises concerns about the legitimacy and impartiality of the entire sanctions mechanism.

Sanctions decisions are often based on undisclosed information, which remains inaccessible even to the individuals affected. Appealing such decisions is complicated by limited access to the full evidentiary base, even for the lawyers representing sanctioned parties. These circumstances significantly hinder the right to a fair trial, leading to potential violations of Articles 6 and 13 of the ECHR. Negative rulings from the European Court of Human Rights will harm Ukraine's international reputation and may lead to financial and political liability for the state.

The UBA calls for the following:

1. The NSDC must act strictly within the law and within the scope of its powers. While the NSDC's legal framework provides a degree of discretion, this discretion is limited by its constitutional nature as a coordinating body under the President of Ukraine and by European principles of discretionary powers.
2. The NSDC's powers must not replace or duplicate those of other state institutions, particularly judicial and law enforcement bodies. The NSDC's constitutional status does not grant it executive, judicial, or pre-trial investigation functions. Using it as an alternative governance tool undermines the separation of powers, legal certainty, and the rule of law, posing risks to democratic governance.
3. No political expediency can justify decisions that lack a clear legal basis or are derived from broad interpretations of the law. High public support for certain decisions cannot serve as a justification for legally questionable actions, even if they appear politically attractive.
4. UBA calls for the development of clear procedures for appealing sanctions, ensuring proper judicial oversight, access to evidence (within the limits of state security), and adherence to the presumption of innocence. This approach will mitigate the risk of violations of Articles 6 and 13 of the ECHR and foster public trust in government decisions.
5. UBA is ready to provide expert assistance to government authorities in drafting legislation to improve the procedural framework for sanctions, establish transparent decision-making mechanisms, and ensure effective judicial protection.

The UBA stresses that abandoning the rule of law in emergency situations can have severe consequences: undermining public trust in state institutions, leading to unfavorable rulings in international courts, and damaging Ukraine's international reputation.

UBA invites the legal community to engage in an active discussion on the constitutional status and limits of the NSDC's powers. Upholding constitutional principles is essential for maintaining a functioning democracy and preserving Ukraine's legal system in the face of Russian aggression.

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