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via the Pechersky District Court  
Kyiv 01601, 15 Volodymyrska St.

Plaintiff Department of Ensuring the Honesty of  
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Respondent Natalia Mikhailovna Vitrenko,  
d.o.b. December 28, 1951,  
Citizen of Ukraine, registered and residing at Kyiv  
[REDACTED]  
Passport [REDACTED], issued  
by the Obolonsky District Administration of the  
Main Directorate of the Ministry of Internal Affairs  
of Ukraine, August 31, 2006  
[REDACTED]  
Tel.: [REDACTED]  
E-mail: [REDACTED]

## Appellate Complaint

against the ruling of the Pechersky District Court of Kyiv dated November 4, 2024  
in case №757/49134/24-п

By a decision dated November 4, 2024 the Pechersky District Court of Kyiv ruled in favor of the suit brought by the Department of Ensuring Honesty in Political Finances [hereinafter the “Department”], National Agency on Corruption Prevention (NAZK)<sup>1</sup>, and found me, N.M. Vitrenko, guilty of an administrative offense (misdemeanor) under Article 212-21 of the KUpAP [Code of Ukraine on Administrative Offenses]. The court ruled:

*“Natalia Mikhailovna Vitrenko is found guilty of committing an administrative offense under Article 212-21 of the KUpAP and is liable for an administrative penalty in the form of a fine in the amount of three hundred times the minimum tax-exempt personal income for a citizen, which is 5100 (five thousand one hundred) hryvnias.*

*“Proceedings with respect to the commission by Natalia Mikhailovna Vitrenko of an [additional] administrative offense under Article 212-21 of the KUpAP, namely failure to submit reports from political parties on property, revenues, expenditures, and financial obligations for 2023, shall be terminated because of the expiration of the period of limitation for initiating the enforcement of administrative liability.*

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<sup>1</sup> Translator’s note: Acronyms of government institutions and legal codes are transliterated from Ukrainian in this text. A table of acronyms is provided at the end.

*“Natalia Vitrenko shall be required to pay the government court fees in the amount of 605.60 hryvnias.*

*“By way of elaboration, in the event of non-payment of the fine within the period established by Article 307, Part 1 of the KUpAP, the amount of the fine assessed shall be mandatorily doubled.”*

I believe that the above-cited ruling does not correspond to the actual circumstances of the case and the requirements of the Constitution and laws of Ukraine. Therefore, I dispute it.

### **1. Circumstances of the Case**

On September 27, 2022 the Supreme Court, in case №II/857/5/22, administrative proceeding №A/990/15/22, ruled to ban the Progressive Socialist Party of Ukraine (hereinafter “PSPU”, “the Party”).

According to Article 21, Part 2 of the Law of Ukraine “On Political Parties in Ukraine” (hereinafter “the Law”), the ban of a party means the termination of its operations, the dissolution of its central and local governing bodies, the exclusion of the party, as well as information on members of such bodies (other than governing ones), from the Unified State Register of Legal Entities, Individual Entrepreneurs, and Public Organizations, and the termination of membership in the political party.

Consequently the banning of a party deprives that political party of all rights and obligations provided for under the Law. In particular, the right to take part in the political activity of the state, to receive state funding or any non-governmental financial support, to carry out international activity, and so forth.

Thus, a banned political party lacks the rights and obligations of an active political party, established by the Law.

According to Articles 21, 23 and 24 of the Law, a liquidation commission is formed to implement the decision on banning a party.

The Charter of the PSPU endowed the chairman of the Party with the authority to conduct general party operations (Article 5.2.1 of the Charter of the PSPU). In the event of termination of the PSPU’s operations (Article 8.1 of the Charter), the Charter obliges all bodies of the PSPU under the Charter (excepting a liquidation commission), officials, primary cells, and local and regional organizations to cease operations, and requires termination of membership in the PSPU. Thus I, as chairman of the PSPU, lost that status in connection with the banning of the Party and lost the authority to represent the PSPU in any relations with other organizations, including governmental bodies. The Charter of the PSPU does not obligate either the chairman of the PSPU or any of the Party’s members to head a liquidation commission.

The Charter of the PSPU also did not obligate the chairman of the Party, either in the course of lawful political activity or after a ban on the Party, to directly compile reports on financial or any other activity of the PSPU.

It should be added that I, as one of the founders of the PSPU and its continuous leader for the entire 26 years of its existence, would never agree, and did not agree, to head a liquidation commission and carry out the liquidation of my own Party, which I consider to have been banned unlawfully (the European Court of Human Rights has accepted for consideration a complaint against the unlawful banning of the PSPU).

Unexpectedly, on November 12, 2024 I learned of the November 4, 2024 ruling by the Pechersky District Court on imposing administrative liability on me. This surprised me because neither I nor any of the PSPU’s governing bodies or local and regional units have engaged in any political activity whatsoever since the banning of the Party. We are still awaiting a ruling from the European Court.

## **2. The NAZK's Violation of My Rights and Freedoms, Which the Court Failed to Defend**

Even under conditions of martial law, the Constitution of Ukraine (Articles 3, 28) and the state's obligations under the European Convention on Human Rights (hereinafter "the Convention") and the International Covenant on Civil and Political Rights (hereinafter "the Pact") require that the honor and dignity of every person be defended against unlawful infringement. But the attempt by the NAZK Department to hold me liable as the head of a banned opposition party discredits me in the eyes of the public, both in Ukraine and worldwide. This damages my business reputation, honor, and dignity. It also constitutes punishment of me by means of a claim on my personal funds.

The NAZK is holding me liable for failure to submit a financial report on the activity of a party that has been banned by the court, on the basis of legislation that concerns reporting requirements only for active (not banned) political parties. I believe, that is, that the government in the person of the NAZK is continuing to slander and discredit me as an opposition political figure in Ukraine.

The court ought to have defended my rights and freedoms. It is precisely the court, that bears responsibility for conducting fair and impartial court proceedings, as is defined in Articles 8, 21, 22, and 55 of the Constitution of Ukraine; Articles 2, 6, 10, and 263 of the TsPKU [Civil Procedural Code of Ukraine]; Articles 1 and 7 of the KUpAP, Article 2 of the KASU [Administrative Procedural Code of Ukraine], Article 2 of the TsPKU; Article 17 of the Law of Ukraine on Implementation of the Decisions and Application of the Precedents of the European Court of Human Rights; Article 6, Point 1 of the Convention; precedents of the European Court; and Article 2 of the Law of Ukraine on the Judiciary and the Status of Judges. Unfortunately, the Pechersky District Court, in upholding the suit by the NAZK Department, in gross violation of the norms of procedural and substantive law, and without my participation in the court session, made an unlawful and groundless decision and thus failed to defend my rights, freedoms, and legal interests.

## **3. The Unlawfulness and Groundlessness of the Court's Ruling**

According to Article 263 of the TsPKU,

*"1. A court ruling must be based on the principles of the rule of law, and be lawful and well-founded.*

*"2. A lawful ruling is one made by the court in accordance with the norms of substantive law and in compliance with the norms of procedural law.*

*"3. A court ruling must correspond to the purpose of civil court proceedings, defined in this code....*

*"5. A well-founded ruling is one made on the basis of complete and comprehensively ascertained circumstances, which the litigating parties cite as grounds for their claims and objections, supported by evidence that has been examined during the court session."*

Article 242 of the KASU defines the same requirements for court rulings.

The Constitutional Court of Ukraine issued an interpretation of the content of the rule of law, in a case dated November 2, 2004 (being a constitutional referral from the Supreme Court of Ukraine), according to which the rule of law requires that the state implement it in both legislative and law enforcement activity, in particular with respect to laws, which by their nature should be perfused above all by ideas of social justice, freedom, equality, and so forth. One of the manifestations of the rule of law is that law is not limited to legislation, which is only one of its forms, but also includes other social regulators, in particular the norms of morals, tradition, custom, and so forth, which are legitimized by society and follow from the cultural level society has historically achieved.

The Venice Commission, in one of its reports, identified six necessary elements of the principle of the rule of law:

- 1) *legality, including a transparent, accountable and democratic process for enacting law;*
- 2) *legal certainty;*
- 3) *prohibition of arbitrariness;*
- 4) *access to justice before independent and impartial courts, including judicial review of administrative acts;*
- 5) *respect for human rights;*
- 6) *non-discrimination and equality before the law.*

(Adopted by the Venice Commission at its 86th Plenary Session, Venice, March 25-26, 2011.)

This content of the principle of the rule of law is one of the main foundations for the implementation of fair court proceedings, which is established, besides in the above-mentioned norms of the Constitution of Ukraine and the TsPKU, also in Article 6, Part 1 of the Convention: *“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”*

### **3.1. Violation of the Norms of Procedural Law**

It follows from the ruling by the Pechersky District Court, that the litigation was conducted in my absence, motivated by my having supposedly been appropriately notified. This does not correspond to reality, nor to the requirements of Article 126 of the KASU or Article 128 of the TsPKU. I do not have a digital office and no law requires me to have one. Nor do I have an official email address. Today I am an ordinary citizen of Ukraine, a pensioner. A summons to court arrived to my personal email address at 10:49 a.m. on the day of the court proceedings, November 4, 2024, which proceedings were set for November 4, 2024 at 16:10 (4:10 p.m.), i.e., six hours later. (A screenshot of this email is attached to this complaint.)

No documents whatsoever were sent to my email address—neither a statement of claim from the NAZK Department, nor any documents supporting the claim. I did not receive any documents whatsoever concerning this case at my home address, [REDACTED] (a copy of my passport is attached to this complaint). It should be added that both the court’s ruling and the summons state a different address, in error.

I have not granted to anybody the authority to receive mail addressed to me at any address in Ukraine.

Thus, the summons to appear in court, by a notice on the very day of the proceedings, and the failure to provide me any documentation related to the case, led to gross violation of my procedural rights, which set the stage for the court’s unlawful ruling.

My rights, guaranteed by Articles 44, 77, 80, and 162 of the KASU and Articles 43, 81, 84, and 178 of the TsPKU were violated, and Articles 9 of the KASU and 12 of the TsPKU were violated, because there was no adversarial process between the parties. The litigation took place in gross violation of my right to legal assistance, which is guaranteed by Article 59 of the Constitution of Ukraine and Article 15 of the TsPKU.

The European Court of Human Rights, in monitoring the fairness of litigation through the prism of the requirements of Article 6, Part 1 of the Convention, considers that a violation of the fairness of litigation occurs when the right to familiarize oneself with the materials of the case, the right to effective legal assistance and procedural equality, and the principle of adversarial exchange between the parties are violated. In particular, this is shown in *Stran*

*Greek Refineries and Andreadis v. Greece*, dated Dec. 9, 1994; *Popov v. Russia*, dated July 13, 2006; and *Airey v. Ireland*, dated Oct. 9, 1979.

The Prosecutor's Office made no evaluation of the accusations against me. The Prosecutor did not appear in court and did not state his legal opinion.

The above-cited numerous and gross violations of my procedural rights are evidence of the violation of my right to a fair trial and, according to Article 376, Part 2, Point 3 of the TsPKU, are grounds for annulling the court's ruling.

### **3.2. Violation of the Norms of Substantive Law**

What has been stated above shows that the court, in making its ruling, violated Article 8 of the Constitution of Ukraine, Article 6 of the KASU, and Article 10 of the TsPKU by not defending my legal rights and freedoms during the litigation.

The Pechersky District Court, in its ruling, incorrectly applied the Law. According to Article 19, Part 2 of the Constitution of Ukraine, "Bodies of state power and local self-government bodies, and their officials, are obliged to act only on the grounds, within the limits of authority, and in the manner envisaged by the Constitution and laws of Ukraine." And the content of Article 21 ("Prohibition of a political party"), Article 23 ("Termination of the operations of a political party"), and Chapter VI, Part 6, "Final Provisions," of the Law does not provide for any obligation of a banned political party, its representatives, or the liquidation commission or its chairman to submit reports on property, revenues, expenditures, and financial obligations.

The court's incorrect application of this Law led to the adoption of an unlawful ruling in this case and the violation of my rights, freedoms, and legal interests.

The court incorrectly interpreted and wrongly applied Article 105 of the TsKU [Civil Code of Ukraine] by unlawfully ascribing to the chairman of the liquidation commission the obligation to submit reports to the NAZK on a party that has been banned, following the obligations defined for active parties, as established by the Law.

Article 105 of the TsKU grants guarantees to the creditors of a banned legal entity to defend their rights. For resolving these problems, "*the participants of a legal entity, the court, or the body that made the decision to terminate the legal entity shall appoint a termination commission (the liquidation commission) and a chairman of the commission, or liquidator, and shall establish the procedure and deadline for creditors to file their claims against the legal entity that is being terminated*" (Article 105, Part 3, TsKU). Next, Part 4 of Article 105 of the TsKU assigns to the liquidation commission and its head the right to represent the interests of the legal entity, for purposes of ascertaining creditors' claims. But this article of the TsKU makes no reference to any obligation of the chairman himself of the liquidation commission to submit reports to the NAZK. No evidence was presented in court of the NAZK's being a creditor of the PSPU or having any claims on the PSPU as a creditor.

Thus, the employment of Article 105, Part 4 of the TsKU in the court's ruling is in error.

The requirements for submission to the NAZK of reports from active political parties on property, revenues, expenditures, and financial obligations is established in Article 17 ("Party financial reports") of the special Law of Ukraine "On Political Parties in Ukraine", which regulates this function.

The court improperly applied Article 21, Part 3 of the Law and Article 105, Part 4 of the TsKU to recognize me, Natalia Mikhailovna Vitrenko, as chairman of the termination commission (liquidation commission) of the Party.

The formation of a liquidation commission and appointment of its chairman, when a party is banned, is done by the court, according to Ukrainian legislation. The Supreme Court, in its decision in case №11/857/5/22, dated Sept. 27, 2022, made no such decision, the PSPU

made no such decision, and the Pechersky District Court did not indicate any legal norm that would establish a lawful procedure for appointing the members of the liquidation commission or its chairman.

The court, in upholding the suit by the NAZK Department, based its ruling on the Administrative Offense Protocol, filed by the NAZK Department. The court thereby violated Articles 74 and 75 of the KASU and 78 and 79 of the TsPKU: “1. *The court shall ignore evidence obtained in violation of procedures established by law.*” The procedure for composing a protocol is clearly defined in Articles 7, 9, 245, 256, 268, and 280 of the KUpAP.

Article 280 of the KUpAP obliges a body (or official), upon examining a case of administrative offense, to ascertain whether or not an administrative offense has been committed, whether or not the given person is guilty of committing it, whether or not this person is subject to an administrative penalty, whether or not there are mitigating or aggravating circumstances, whether or not damage to property has occurred...

No such ascertainment occurred. This is evidenced by the following: The NAZK Department ascribed to me a place of residence, where I am not registered and do not live; failed to ascertain that the Law does not give the banned PSPU the same rights and obligations as active political parties in Ukraine; inclusively, the Law provides for no reports whatsoever to be submitted by a banned party.

The court failed to investigate the provisions of the PSPU Charter, in particular its provision that after a ban on the Party I have no authority to compile any reports whatsoever, including on demand by the NAZK. The court failed to investigate the fact that the Law does not oblige a banned party to submit reports on its activity. All in all, to demand reports on the operations of a party whose operations have been banned is to provoke a crime. The court did not investigate the fact that there exists no law that would oblige me, Natalia Vitrenko, to report on the activity of the banned PSPU. The court failed to ascertain that I do not even have the technical possibility and am not a specialist qualified for writing such reports. And a banned party cannot have any revenue whatsoever, with which the services of compiling such reports could be paid.

Despite this, the NAZK Department drew up a Protocol, holding me administratively liable under Article 212-21 of the KUpAP, thereby grossly violating Articles 256 and 268 of the KUpAP.

This Protocol was drawn up without my participation, and therefore in violation of my rights to provide explanations and objections, make use of legal assistance, or appeal the content of the Protocol in court. The Protocol was submitted to the court without my signature, and a second copy was not provided to me. This means that the Protocol, drawn up in gross violation of procedures, cannot be admissible evidence in court.

### **3.3 The Court's Ruling Was Groundless**

A ruling is well-founded, if it has been adopted on the basis of a complete and comprehensive ascertainment of the circumstances.

The court failed to investigate and did not ascertain the following circumstances, which led to an unlawful ruling:

1) that I am registered and reside at [REDACTED] Kyiv, and have not authorized anyone to receive mail addressed to me;

2) that I received neither the Protocol, nor the statement of claim, nor any other materials whatsoever that were submitted by the NAZK's Department for consideration by the court;

3) that the court summons to appear on Nov. 4, 2024 reached my email address on the day appointed for the court session, Nov. 4, 2024, six hours before it was to begin;

4) that neither the Constitution of Ukraine, the norms of international law, nor the PSPU charter obliges me, Natalia Vitrenko, after the banning of the Party, to make reports on the property, revenues, expenditures, and financial obligations of the PSPU;

5) that the NAZK's Department, in drawing up the Protocol on holding me administratively liable, grossly violated the requirements of the KUpAP.

6) that the appointment of me as chairman of the liquidation commission contains no reference to a norm of law, in accordance with which I would be named chairman of a liquidation commission. Moreover, this was done without my approval, against my will, and without due notification of me about such an appointment.

Thus, there are no legal grounds for my appointment as chairman of the liquidation commission for the PSPU to be done on a legal basis in accordance with the requirements of Article 19, Part 2 of the Constitution of Ukraine.

And insofar as the court had no legal grounds for my appointment as chairman of the liquidation commission, it essentially supported the NAZK's swindle and held me administrative liable as an individual.

As a result, the Pechersky District Court, on Nov. 4, 2024, made an unlawful and groundless ruling in case №757/49134/24-П, in violation of Article 242 of the KASU and Article 263 of the TsPKU, and thus failed to defend my rights, freedoms and legal interests. Thus, according to Article 16, Part 2, Paragraphs 3 and 4 of the TsKU, the court can defend my rights only by termination of the action that has violated my rights and restoration of the *status quo ante*.

In view of the above-cited argumentation in the TsPKU and on the basis of Article 16, part 2, Points 3 and 4 of the TsKU, Articles 2, 6, 242, 292-296, and 317 of the KASU, and Articles 2, 10, 263, 351-356, 376 of the TsPKU

I request

1. That my appellate complaint against the ruling by the Pechersky District Court of Kyiv in case №757/49134/27-П, dated Nov. 4, 2024, be accepted for consideration.
2. That the deadline for appeal be extended.
3. That the ruling of the Pechersky District Court of Kyiv in case №757/49134/27-П, dated Nov. 4, 2024, be annulled, and a new ruling made, to deny the claims of the National Agency on Corruption Prevention's Department of Ensuring Honesty in Political Finances.
4. To impose court costs on the plaintiff.

Attachments:

1. Copy of the appellate complaint – 1 copy.
2. Ruling of the Pechersky District Court of Kyiv in case №757/49134/27-П, dated Nov. 4, 2024 – 2 copies.
3. Statement on reopening the time-period for filing an appeal – 1 copy.
4. Screenshot of email to N. Vitrenko, dated Nov. 4, 2024 – 2 copies.
5. Court summons – 2 copies.
6. Copy of N. Vitrenko's passport – 1 copy.
7. Receipt for payment of court fee – 1 copy.

November 19, 2024 \_\_\_\_\_ N. Vitrenko

**TABLE OF ACRONYMS**

<b>Acronym, transliterated from Ukrainian</b>	<b>Translation of expansion</b>	<b>English acronym</b>
KASU	Administrative Procedural Code of Ukraine	
KUpAP	Code of Ukraine on Administrative Offenses	
NAZK	National Agency on Corruption Prevention	NACP
PSPU	Progressive Socialist Party of Ukraine	PSPU
TsKU	Civil Code of Ukraine	CCU
TsPKU	Civil Procedural Code of Ukraine	