

UKRAINIAN AUTHORITIES FILE CRIMINAL CHARGES OF SEPARATISM

By Taras Kuzio

On June 22-23 the Ukrainian Prosecutor-General's Office finally introduced the first criminal charges of separatism against two eastern Ukrainian leaders: Viktor Tykhonov, head of the Luhansk oblast council, and Yevhen Kushnariov, the former governor of Kharkiv oblast. Both men opposed Viktor Yushchenko in the 2004 presidential election (*Ukrayinska pravda*, June 22 and 23). The charges relate to Section 2, Article 110 of the criminal code, which deals with threats to Ukraine's territorial integrity and the inviolability of its borders.

The charges relate to their organization and high-level involvement in a separatist congress held near Donetsk on November 28, a week after round two of the presidential election (see EDM, November 29, 2004). The event was organized by supporters of presidential candidate Viktor Yanukovych, who seemed to feel betrayed by his Kyiv allies, particularly President Leonid Kuchma and Parliamentary Speaker Volodymyr Lytvyn.

The main organizer of the separatist congress was the Party of Regions, which Yanukovych himself leads. Yanukovych will therefore most likely face questioning, although his involvement may be difficult to prove in court. Many of Kyiv's political analysts suspect that Kuchma himself may have given a nod to the separatist congress, as it was held on November 28, the same day that Interior Ministry troops were dispatched to Kyiv to squash the Orange Revolution.

Both events could have been part of a two-pronged effort by Kuchma to pressure Yushchenko in the round-table negotiations then being brokered by Poland, Lithuania, and the EU. Kuchma may have hoped to turn the Orange Revolution and election stalemate to his advantage by forcing Yushchenko to agree to constitutional reforms. These changes were finally agreed as part of a "compromise package" that included amendments to the law on presidential elections and holding a repeat second round of the election on December 26. Not coincidentally, the Donetsk oblast council rescinded its decision to hold a separatist referendum after the "compromise package" was agreed.

Kuchma had played a duplicitous role throughout the 2004 election, calling for free-and-fair elections while doing nothing to ensure them. As early as May 2004 Kuchma had warned that there might be attempts to pit eastern Ukrainian voters against western voters. His close adviser Anatoliy Halchynsky, then director of the National Institute for Strategic Studies, the presidential think tank, wondered who was stoking regional tensions that "have long passed the permissible point" (Den, October 2004).

Kuchma, Halchynsky, and Yanukovych may feign innocence over the growth of east-west tension during the 2004 election, yet Yanukovych was the authorities' candidate and his campaign deliberately inflamed regional tensions by using anti-nationalist and anti-American rhetoric against Yushchenko.

While 4,000 regional officials in eastern Ukraine attended the November 28 congress, they are unlikely to all be targeted. Charges will be most likely directed at the organizers of the South Eastern Autonomous Region (known by its Ukrainian abbreviation of PSAR) rather than the participants.

The charges also affect relations with Russia, as Moscow Mayor Yuri Luzhkov attended the separatist congress. Luzhkov has an odious reputation in Ukraine because of his long-term support for Crimean separatists. In hindsight, the Donbas separatists erred by inviting Luzhkov to attend and support them at the congress.

Surprisingly, the charges represent the first instituted against separatists in post-Soviet Ukraine. Separatists in the first half of the 1990s in the Crimea and Donetsk were undermined by the intelligence services, economic pressure, and parliamentary and presidential actions. No criminal charges were ever laid.

The current separatism charges may be difficult to prove. During the congress there were calls for separatism, particularly in the Donbas. But most calls were for regional autonomy and the transformation of Ukraine into a federal republic. At the time, the Donetsk oblast council and the Donetsk Party of Regions were headed by Boris Kolesnykov, who was arrested in April on extortion charges. In these positions he initiated a vote on December 1 on whether to hold a referendum on January 9. The vote was adopted 155-1.

The two questions to be posed in the referendum concerned transforming Ukraine into a federal republic and, within this new federal structure, upgrading Donetsk to an autonomous republic along the lines of the Crimea. On December 16, the Donetsk oblast council rescinded its decision to hold a January referendum. If it had gone ahead, the results would not have been legally binding and would have been overturned by Kyiv.

The separatist congress was as much generated by hostility to the Orange Revolution as it was by fears of a Yushchenko election victory. The congress

statement claimed, "If the coup d'etat is being developed further and an illegitimate president comes to power, participants in the congress reserve the right to take adequate actions and self defense" (Ukrayinska pravda, November 29, 2004).

Tykhonov and Kushnariov's supporters claim the charges against them are politically motivated. This is not surprising, as the Yushchenko team is forcing members of the former pro-Kuchma camp to finally take responsibility for their actions, whether for corruption, election fraud, or separatism.

Ukraine's new opposition is now not only reeling from charges of massive corruption and widespread election fraud, but also treasonous charges of separatism. They will have to survive these three sets of accusation to remain a serious political force by the 2006 election.