European Court discontinues examination of second case brought by former Ukrainian Prime Minister Tymoshenko

In the case of **Tymoshenko v. Ukraine (no. 2)** (application no. 65656/12) the European Court of Human Rights has unanimously decided, on 16 December 2014, to strike the application out of its list of cases pursuant to Article 39 (friendly settlements) of the European Convention on Human Rights. The decision is final.

The case – the second application brought by the former Ukrainian Prime Minister Yuliya Tymoshenko before the ECHR – mainly concerned the criminal proceedings brought against her in April 2011 relating to contracts for the supply of gas.

The Court took note of the Ukrainian Government's declaration in which they admitted that the criminal prosecution of Ms Tymoshenko had been politically motivated and in which they acknowledged a violation of her Convention rights, and of various measures taken by the Government as a consequence of those violations. Following Ms Tymoshenko's agreement to the terms of that declaration, the Court considered that it implied a friendly settlement between the parties and therefore found no reason to continue its examination of the case.

Principal facts and complaints

Yuliya Tymoshenko, born in 1960, was the Prime Minister of Ukraine in 2005 and between December 2007 and March 2010. She was subsequently an opposition leader. In April 2011, criminal proceedings were brought against her for allegedly making an illegal order for the signing of a contract concerning gas imports. On 11 October 2011, she was convicted on all charges, including that of exceeding authority or official powers, and sentenced to seven years' imprisonment and a three-year ban on holding public office. On 29 August 2012, the conviction and sentence were upheld in a final judgment.

Ms Tymoshenko's first application before the European Court of Human Rights (no. 49872/11) concerned complaints related to her detention. In its Chamber judgment of 30 April 2013, the Court held in particular: that Ms Tymoshenko's pre-trial detention had been arbitrary; that the lawfulness of her detention had not been properly reviewed; and, that she had had no possibility to seek compensation for her unlawful deprivation of liberty, in violation of Article 5 (right to liberty and security) of the European Convention on Human Rights. The Court also found that, in breach of Article 18 of the Convention (limitation on use of restrictions on rights), her right to liberty had been restricted for reasons other than those permitted under Article 5.

The second application (no. 65656/12), brought on 10 August 2011, concerned the fairness of the criminal proceedings. Ms Tymoshenko raised several complaints under Article 6 (right to a fair trial), Article 7 (no punishment without law) and Article 13 (right to an effective remedy). She also complained, under Article 18 (limitation on use of restrictions on rights), that the criminal case against her had been politically motivated and constituted an abuse of the criminal system of justice. Furthermore, the case raised a number of issues under Articles 3 (prohibition of torture and inhuman or degrading treatment) and Article 8 (right to respect for private and family life), Article 10 (freedom of expression) taken in conjunction with Article 18 of the Convention and under Article 4 of Protocol No. 7 (right not to be tried or punished twice).

Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 10 August 2011. On 10 June 2013 it was communicated to the Ukrainian Government.

After unsuccessful friendly-settlement negotiations, the Government informed the Court on 7 May 2014 that they proposed to make a declaration with a view to resolving the issues raised by the application.

The Government admitted that the criminal prosecution against Ms Tymoshenko had been politically motivated and acknowledged a violation of her rights guaranteed by Articles 3, 6, 7, 8 and 13 in connection with Article 8 of the Convention, Article 18 in connection with Articles 6, 8 and 10 of the Convention, and Article 4 of Protocol No. 7. They also informed the Court about various measures taken as a consequence of the violations which they admitted had occurred in the applicant's case. Finally, the Government requested the Court to strike the application out of its list of cases.

On 10 June 2014 Ms Tymoshenko informed the Court that she had agreed to the terms of the Government's declaration.

The decision was given by a Chamber of seven, composed as follows:

Mark **Villiger** (Liechtenstein), *President*,
Angelika **Nußberger** (Germany),
Ganna **Yudkivska** (Ukraine),
Vincent A. **de Gaetano** (Malta),
André **Potocki** (France),
Helena **Jäderblom** (Sweden),
Aleš **Pejchal** (the Czech Republic)*, Judges*,

and also Claudia **Westerdiek**, *Section Registrar.*

Decision of the Court

The Court took note of Ms Tymoshenko's agreement to the terms of the declaration made by the Government and found that her agreement could be considered as an implied friendly settlement between the parties. The Court therefore found no reason to continue its examination of the applications and decided to strike it out of its list of cases pursuant to Article 39 of the Convention (friendly settlements).

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.