



## European Court looks into the criminal proceedings against former Ukrainian Prime Minister Tymoshenko

The European Court of Human Rights has communicated to the Ukrainian Government the application [Tymoshenko v. Ukraine no. 2](#) (no. 65656/12) and requested it to submit its observations on the complaints.

The case is the second application brought by the former Ukrainian Prime Minister Yuliya Tymoshenko. It mainly concerns the criminal proceedings brought against her relating to contracts for the supply of gas.

Yuliya Tymoshenko, born in 1960, is the leader of *Batkivshchyna*, one of the strongest opposition parties in Ukraine, and of Yuliya Tymoshenko's Bloc. She was the Prime Minister of Ukraine in 2005 and between December 2007 and March 2010. 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, which is not final<sup>1</sup>, 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, brought on 10 August 2011, concerns the fairness of the criminal proceedings. In particular, relying on Article 6 §§ 1 and 3 (b) and (c) (right to a fair trial), Ms Tymoshenko complains of difficulties in defending her case before the national courts and questions their independence and impartiality. She also questions the quality of the provisions of the Criminal Code which were applied in her case, alleging a breach of Article 7 (no punishment without law). She further claims that the criminal case against her was politically inspired and constituted an abuse of the criminal system of justice, relying on Article 18 (limitation on use of restrictions on rights). Ms Tymoshenko makes a number of complaints under Articles 3 (prohibition of torture and inhuman or degrading treatment) and/or Article 8 (right to respect for private and family life): she alleges that a video tape recorded in the hospital where she has been treated since 9 May 2012, showing her in her room and during medical procedures, was published on the Internet and was also broadcast on the majority of regional TV channels. She further complains that at least three other video recordings were available on the official website

<sup>1</sup> Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

of the State Penitentiary Service, and that an audio recording of a telephone conversation between Ms Tymoshenko and her husband was published on the Internet. She also alleges that she faces difficulties in making any telephone calls from the hospital. Finally, she complains that she has been deprived of any possibility of communicating with the media and the outside world since 5 August 2011, which has had a negative impact on her political life.

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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.