

**Situation in Ukraine, case of Yulia Tymoshenko**

**European Parliament resolution of 24 May 2012 on Ukraine (2012/2658(RSP))**

*The European Parliament,*

- having regard to its previous resolutions on Ukraine, in particular its resolutions of 9 June 2011<sup>1</sup>, 27 October 2011<sup>2</sup> and 1 December 2011<sup>3</sup>,
  - having regard to the Euronest Parliamentary Assembly resolution on the situation of Yulia Tymoshenko of 3 April 2012,
  - having regard to the statement issued by High Representative Catherine Ashton on the situation of Yulia Tymoshenko on 26 April 2012,
  - having regard to the statement on Euro 2012 issued by Androulla Vassiliou, European Commissioner responsible for sport, on 4 May 2012,
  - having regard to the statement by the Polish President Bronislaw Komorowski of 9 May 2012 that the European Football Championship 2012 should take place,
  - having regard to the Progress Report on the Implementation of the European Neighbourhood Policy in Ukraine published on 15 May 2012<sup>4</sup>,
  - having regard to the EU-Ukraine Cooperation Council meeting conclusions of 15 May 2012,
  - having regard to the Joint Declaration of the Prague Eastern Partnership Summit of 7 May 2009,
  - having regard to the conclusion of the negotiations between the EU and Ukraine on the Association Agreement, including negotiations on a deep and comprehensive free trade area (DCFTA) and the initialling of this agreement,
  - having regard to the Partnership and Cooperation Agreement (PCA) between the European Union and Ukraine, which entered into force on 1 March 1998<sup>5</sup>, and to the ongoing negotiations on the Association Agreement (AA) designed to replace the PCA,
  - having regard to Rule 110(2) and (4) of its Rules of Procedure,
- A. whereas Ukraine is a country of strategic importance to the EU; whereas Ukraine's size, resources, population and geographical location give it a distinctive position in Europe, making it a key regional actor which exerts considerable influence on the security, stability

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<sup>1</sup> Texts adopted, P7\_TA(2011)0272.

<sup>2</sup> Texts adopted, P7\_TA(2011)0472.

<sup>3</sup> Texts adopted, P7\_TA(2011)0545.

<sup>4</sup> SWD(2012)0124.

<sup>5</sup> OJ L 49 , 19.2.1998, p. 1.

and prosperity of the whole continent, and which should therefore bear its share of political responsibility;

- B. whereas Ukraine's human rights record, its respect for civil liberties and fundamental freedoms and for the rule of law, with the incorporation of fair, impartial and independent legal processes, and its focus on internal reform are prerequisites for the further development of relations between the EU and Ukraine;
- C. whereas the signing of an EU-Ukraine Association Agreement, including a DCFTA, will be important to Ukraine's European prospects; whereas the more Ukraine shares common values with the EU and the more it carries out reforms in the spirit of the Agreement, the deeper its relations with the EU will gradually become; whereas it is also of great importance for the EU to have the area of the rule of law and prosperity expanded on its eastern border, a significant part of which is formed by the border with Ukraine;
- D. whereas a comprehensive reform of some of the judiciary and measures to ensure respect for the rule of law in criminal investigations and prosecutions, including the principle of fair, impartial and independent judicial proceedings, has not yet been implemented in Ukraine; whereas these reforms must be developed in close cooperation with the Venice Commission; whereas a ruling on the cassation appeal in Ms Tymoshenko's case against the decision of Pechersk District Court in Kyiv is expected on 26 June 2012;
- E. whereas the sentencing on 11 October 2011 of Ukraine's former Prime Minister Yulia Tymoshenko to seven years in prison, and the trials of other high officials of the former government are not acceptable and constitute an act of selective justice; whereas serious deficiencies are noted with regard to the independence of the judiciary and the lack of reform in all aspects of the judicial process: prosecution, trial, sentencing, detention and appeals;
- F. whereas the EU continues to emphasise the need for respect for the rule of law, incorporating fair, impartial and independent legal processes, while avoiding the danger of giving rise to any perception that judicial measures are being used selectively; whereas the EU considers these principles especially important in a country which aspires to enter into a deeper contractual relationship based on a political association;
- G. whereas corruption and abuse of power remain widespread in Ukraine and require an unequivocal response by the authorities in the form of bringing those responsible to justice; whereas prosecutions and investigations must be impartial and independent and must not be used for political ends;
- H. whereas in its preliminary report the Danish Helsinki Committee for Human Rights, which has been monitoring the judicial proceedings in the case against Yulia Tymoshenko, identified fundamental shortcomings on the part of the Ukrainian criminal justice system, which have negatively affected the protection of individual human rights and the rule of law;
- I. whereas Ukraine's European perspective must be based on a policy of systematic and irreversible reforms in a number of important institutional, political, economic and social areas; whereas important reforms have already been, or are being, carried out, while others still need to be introduced; whereas the framework afforded by the Association Agreement will provide Ukraine with a crucial modernisation tool and a roadmap for steering internal

domestic reforms, as well as a tool for national reconciliation, which will help the country to overcome recent negative trends, bridge the divisions existing in Ukrainian society and unite it in its goal in relation to its European perspective, on the basis of the values of democracy, the rule of law, human rights and good governance;

- J. whereas Ukraine will host the 2012 European Football Championship together with Poland in June; whereas so far high-ranking European politicians have indicated that they will not attend matches taking place in Ukraine, but have not called for a boycott of the European Football Championship matches;
1. Stresses that one of its main foreign policy objectives is to enhance and foster relations with Ukraine and strengthen the European Neighbourhood Policy, whose aim is to encourage political, economic and cultural relations between the countries concerned and the EU and its Member States; underlines the fact that the signing and ratification the Association Agreement and its effective implementation will require an improvement in the human rights situation, including decriminalisation of political decisions under a reformed penal code, in the rule of law and in deep democracy, with an end to the stifling of the political opposition and with free, fair and transparent elections;
  2. Stresses that the current problems in relations between Ukraine and the European Union can only be solved on the basis of a clear willingness on the part of the Ukrainian authorities to carry out and implement the necessary reforms, in particular of the legal and judicial system, with the aim of full adherence to the principles of democracy and respect for human rights and fundamental freedoms, minority rights and the rule of law; calls for active and effective support in this reform process to be given by the institutions of the European Union and by the Council of Europe and its Venice Commission;
  3. Reaffirms its concerns about the judicial proceedings against former and current high government officials, which were not conducted in accordance with European standards of fairness, impartiality, transparency and independence; calls for the unconditional immediate release of all prisoners sentenced on politically motivated grounds, including leaders of the opposition;
  4. Deplores the sentencing of former Prime Minister Yulia Tymoshenko; stresses that strengthening the rule of law and an independent judiciary, as well as initiating a credible fight against corruption, are essential not only to the deepening of EU-Ukraine relations but also to the consolidation of democracy in Ukraine;
  5. Calls on the Ukrainian authorities to distinguish between political and criminal responsibility and to change the existing criminal penal code accordingly; stresses that the democratic struggle for political decisions must take place in parliament, with participation by voters in free elections, and must not be destroyed by personally or politically motivated acts of criminal prosecution and manipulated judgments in the criminal courts;
  6. Calls on the Ukrainian authorities to clarify the situation of prisoners sentenced on politically motivated grounds before the start of the election campaign;
  7. Calls on the Ukrainian authorities to guarantee the impartiality and transparency of the cassation process in Ms Tymoshenko's case, which should take place in line with the fair and just legal standards and practices common in Europe, and demands an end to the use of selective justice targeting political and other opponents; deplores the fact that the High

Specialised Court of Ukraine on Criminal and Civil Cases has postponed its ruling on the cassation appeal in Ms Tymoshenko's case against the decision of Pechersk District Court in Kyiv; notes the adjournment of the cassation hearing on the case of Yulia Tymoshenko to 26 June 2012, considers this delay regrettable, and warns against protraction of due legal process;

8. Urges the Ukrainian authorities to ensure full respect for the right of all prisoners sentenced on politically motivated grounds, including Ms Tymoshenko, Mr Lutsenko and Mr Ivashchenko, to adequate medical assistance in an appropriate institution, for their right of unrestricted access to their lawyers and for the right to be visited by relatives and other people such as the EU ambassador; stresses the need for Ukraine to respect fully the legal and human rights of defendants and detainees, including the right to medical care, in line with international standards; condemns the use of force by prison guards against Yulia Tymoshenko, and recalls the obligation of Ukraine to examine promptly and impartially any complaints of torture or other forms of cruel, inhuman or degrading treatment;
9. Calls for the Ukrainian authorities to establish an independent and impartial international legal panel to report on possible violations of fundamental rights and freedoms in the cases of Yulia Tymoshenko and other members of her government; notes with satisfaction the outcomes of the meeting of the President of the European Parliament, Mr Martin Schulz, with the Prime Minister of Ukraine, Mr Mykola Azarov, and expects the Ukrainian authorities to respond to the agreed proposal by providing guidelines for its prompt implementation so as to ensure, in cooperation with, and in support of, the Charité medical team, proper medical treatment for Ms Yulia Tymoshenko, as well as judicial scrutiny by an authoritative and competent EU personality of the appeal and cassation processes and future trials of the former Prime Minister of Ukraine;
10. Welcomes the fact that Ms Tymoshenko was transferred from the Kachanivska prison to hospital by her own decision, and takes note of the recent visit by international medical experts;
11. Insists that all judicial proceedings against former and current high-ranking government officials must be conducted in accordance with European standards of fairness, impartiality, transparency and independence; condemns the fact that the Ukrainian authorities are bringing new politically motivated cases against Ms Tymoshenko and others, contrary to the principles of the rule of law;
12. Expresses dismay at the state of democratic freedoms, as well as at the practice of instrumentalising state institutions for partisan purposes and political revenge;
13. Underlines the critical importance of free, fair and transparent parliamentary elections in Ukraine later this year, including the right of the opposition leadership to take part, and the need to maintain a deep commitment to democratic values and the rule of law, including in the period between elections; calls for the European Parliament to participate in its own right in an international election observation mission to observe the next parliamentary elections;
14. Reminds the Ukrainian authorities of the need for comprehensive reforms, which must be implemented in order to pave the way for Ukraine to converge with European norms and standards; stresses that Ukraine's rapprochement with the EU should be built upon its commitment to EU values and freedoms; stresses that one cornerstone of these standards

must be an independent judiciary;

15. Stresses that full respect for human rights legislation and establishing basic OSCE standards would strengthen the credibility of Ukraine's OSCE chairmanship, due to take place in 2013;
16. While expressing its hope for the success of the European Football Championship 2012 in Poland and Ukraine, calls on European politicians who wish to attend Euro 2012 matches in Ukraine to make their awareness of the political situation in the country publicly clear and to seek opportunities to visit political detainees in prison, or to attend in their private capacity and not as VIPs;
17. Instructs its President to forward this resolution to the EEAS, the Council, the Commission, the Member States, the President, Government and Parliament of Ukraine and the Parliamentary Assemblies of the Council of Europe and the OSCE.