

Yulia Tymoshenko Goes On Trial A Day Before Constitution Day

Publication: Eurasia Daily Monitor Volume: 8 Issue: 126

June 30, 2011 05:03 PM Age: 6 days

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(Source: France24)

Opposition leader Yulia Tymoshenko's trial began on June 27, a day before Ukraine celebrated constitution day, an irony that has not bypassed Ukrainians. In a new Razumkov Center for Economic and Political Studies survey, Ukrainians pointed to President Viktor Yanukovich as the main infringer of human rights in Ukraine (criminal structures came second). Nearly three quarters of Ukrainians believe their human rights are infringed upon, and that this situation is deteriorating (www.uceps.com.ua, June 27).

In an earlier survey the Razumkov Center found nearly half of Ukrainians believe political repression exists in Ukraine, while 60 percent feel the security forces are tougher toward the opposition than towards pro-regime forces (Ukrayinska Pravda, 7 June). With Tymoshenko and 12 members of her government, nine leaders of the fall 2010 anti-tax code protests and approximately a similar number of nationalist activists under investigation, on trial, or in jail, the number of Ukrainians who are politically persecuted stands at over 30 – growing to a number similar to Belarus.

Roman Besmertnyi, Ukrainian Ambassador to Belarus in 2009-2011, lambasted the Tymoshenko trial as “98 percent of that which is taking place in Belarus” on the Shuster Live television program (June 24). Our Ukraine-People's Self Defense bloc issued a similar statement earlier this month.

The petty nature of the criminal charges leads Ukrainians to believe that political persecution has returned and international organizations and Western governments to complain about “selective justice.” Tymoshenko is charged with mis-spending Kyoto credits on pensions, over-paying for ambulances in a rigged tender and abuse of office for signing the 2009 gas contract. A fourth case could be opened on the alleged over-payment for anti-flu vaccines (see critical analysis in *Ukrayinsky Tyzhden*, May 31).

As Ukraine's energy sector is the biggest source of corruption in the country, the very idea that only one of countless gas contracts signed with Russia was bad is not to be taken seriously (EDM, April 25). The Party of Regions, then led by Yanukovich, voted together with the Bloc of Yulia Tymoshenko (BYuT) against the January 2006 gas contract, but neither the Prime Minister as well as Our Ukraine leader Yuriy Yekhanurov nor Yushchenko,

who fully supported it, was criminally charged.

Former Interior Minister, Yuriy Lutsenko, is charged with spending government funds for a police holiday and authorizing a pension to his driver who was past retirement age. The anti-tax code protestors are charged with damaging floor tiles on the Maidan (Independence Square).

Moreover, 16 employees of the Lviv museum dedicated to repression in the Soviet era were interrogated this month. In September 2010, the museum Director Ruslan Zabilyi was detained by the Ukrainian Security Service (SBU) for “divulging state secrets” which are in fact KGB archives declassified in the Viktor Yushchenko presidency pertaining to Stalinist repression in the 1930’s and 1940’s.

Against this background even pro-regime Parliamentary Chairman Volodymyr Lytvyn was forced to admit, “If one looks at that which is transpiring in the public part (of the court process) it is an amortization of the judicial system, it is its discrediting” (Ukrayinska Pravda, June 29). Ukrayinska Pravda (June 25) journalists present in court wrote “On that side of the Schengen zone they do not treat animals as they treat people in Ukraine who came to court to the Tymosheko trial.” EU Ambassador Jose Manuel Pinto Teixeira, present in court, described the conditions as “in-human” (Ukrayinska Pravda, June 24).

The issue of “selective justice” has damaged the reputation of the Yanukovych administration the greatest in Europe and the US, reinforcing Ukraine fatigue. Tymoshenko’s pre-trial hearing was held three days after Yanukovych promised to defend democratic values in a speech in Strasbourg to the Parliamentary Assembly Council of Europe (PACE) (www.president.gov.ua, June 21).

In June alone, PACE, the European Parliament, and the US Helsinki Commission Congressional Record released statements on democratic regression and political persecution in Ukraine (<http://assembly.coe.int/>; www.europarl.europa.eu; www.csce.gov). The US State Department issued a statement on the day of Tymoshenko’s pre-trial hearing: “The United States is aware of the opening of the trial against former Prime Minister Yulia Tymoshenko and reiterates its concern about the appearance of politically-motivated prosecutions of opposition figures in Ukraine. When the senior leadership of an opposition party is the focus of prosecutions, out of proportion with other political figures, this creates the appearance of a political motive” (<http://www.state.gov/r/pa/prs/ps/2011/06/167064.htm>). The EU Commissioner for Enlargement, Štefan Füle, stated the EU’s concern about politically motivated charges.

On June 22, two days before the hearing, Tymoshenko appealed that her case is politically motivated to the European Court of Human Rights (Ukrainians often jokingly state that the only free court in Ukraine is the ECHR). The Ukrainian authorities are legally obliged to implement the ECHR ruling.

US lawyers have also been hired on both sides of the Tymoshenko case, including undertaking an October 2010 “audit” of her 2007-2010 government. Covington and Burling held a press conference in Washington on June 17, where their report refuted the “audit” and subsequent charges dealing with Kyoto credits and ambulances describing them as “politically motivated” (the report did not analyze the gas contract) (<http://www.pravda.com.ua/articles/2011/06/18/6308683/>).

What is the West to do and does it have leverage?

If Tymoshenko is imprisoned in the summer, rather than given a suspended sentence, this will be seen as crossing a red line. A sign of tough Western reaction came when Tymoshenko was briefly detained on May 24, leading to the June 9 European Parliament resolution.

Demand for targeted visa denials is growing in Ukraine while being quietly discussed as an option in some Western quarters. The Ukrainian Human Rights Helsinki Union called on EU member states, the United States and Canada to introduce sanctions against Ukrainian officials involved in human rights violations. The appeal has been signed by nearly 500 Ukrainian civil society activists and journalists, and the list is growing (<http://www.helsinki.org.ua/index.php?id=1307592518>).

If the red line is crossed with Tymoshenko's imprisonment, two questions would follow: is it possible for Washington and Brussels to coordinate a policy of selective visa denials and, if it is, who should be on the list? If Tymoshenko is given a suspended sentence, the West might choose to ignore it and continue its virtual dialogue with Kyiv at the expense of double standards, ignoring growing similarities with Belarus. The prosecutor has said that the criminal article, under which Tymoshenko is charged with abuse of office for the gas contract, provides for up to 10 years in prison and does not allow a suspended sentence (Ukrayinska Pravda, June 29).