

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



Contact: Abel de Campos
Tel: 03 88 41 26 48

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Meeting: 1186 meeting (3-5 December 2013) (DH)

Item reference: Communication from the authorities (24/10/2013)

Communication from Ukraine concerning the case Tymoshenko against Ukraine (Application No 49872/11).

Information made available under Rule 8.2.a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1186 réunion (3-5 décembre 2013) (DH)

Référence du point : Communication des autorités (24/10/2013)

Communication de l'Ukraine relative à l'affaire Tymoshenko contre l'Ukraine (Requête n° 49872/11) (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 8.2.a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



МІНІСТЕРСТВО ЮСТИЦІЇ УКРАЇНИ

Україна, 01001, м. Київ
вул. Городецького, 13
Тел./факс: (38-044) 278-37-23

DGI

24 OCT. 2013

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

24.10.2013 № 12.0.1-41/10802

На № _____

Ms Geneviève Mayer
The Head of Department
for the Execution of Judgements
of the European Court of Human Rights
Directorate General of Human rights – DG II
Council of Europe
F-67075 Strasbourg Cedex

Re: *Tymoshenko v. Ukraine*

Dear Madam,

I would like to take this opportunity to express my respect and once again confirm the importance of execution of Court's judgments to the Government for enforcing the rule of law and priority of human rights and freedoms.

As for the execution of a Court's judgment in the case *Tymoshenko v. Ukraine* the Government would like to inform that we took a number of measures that, as we believe, are the most appropriate and enforce the execution of the Court's judgment the most.

In its decision in this case the Court found that the application of a preventive measure in the form of detention was illegal. The lawfulness of the applicant's sentence in the form of imprisonment was not considered by the Court. The legislation of Ukraine did not provide the procedure for national courts to review the legality of imposition of a preventive measure which already have been ceased.

Based on this the Government believe that the most effective measure for eliminating the violations of Ms Tymoshenko's rights was to translate the judgment into Ukrainian and publish it in the official Government's print outlet – Official Herald of Ukraine [Ofitsiyni Visnyk Ukrainy], no. 64, August, 2013. Besides, it was placed on the official web-site of the Ministry of Justice.

The general measures that are to be implemented for the execution of Court's judgment in this case are the same as for Kharchenko group – that is solving the shortcomings of the procedure of application of the preventive measure in the form of detention on remand. It should be noted that at the national level the case of Ms. Tymoshenko was tried according to an old Criminal-Procedural Code of Ukraine of 1960 whereas the new Criminal Procedural Code came into force only in November 2012.

As it have been reported earlier, the provisions of the new Criminal Procedural Code of Ukraine provide fundamentally new procedure of application of a preventive measure in

the form of detention, its replacement with another form of preventive measure, as well as its reconsideration and extension of the detention. Thus, the above procedure meets the requirements of the Convention and Court's case-law and, thereby, eliminates the legal deficiencies that were causing violations of Article 5 of the Convention.

Further, I would like to inform that a number of state authorities (General Prosecutor's Office, Supreme Court of Ukraine, High Specialized Court of Ukraine for Civil and Criminal Cases, Kyiv City Court of Appeal and Pecherskyy District Court of Kyiv) have received explanation letters on the merits of the violations found in the Court's judgment in the case *Tymoshenko v. Ukraine* and were called upon to avoid similar violations in the future.

Since Ms. Tymoshenko had not submitted any claims to the Court in respect of damage or costs and expenses, no award was made under those heads.

The Government take into account the recommendations of CM and are considering the possibility of participation in international technical assistance programs in order to maximize the execution of Court's judgments.

Yours faithfully



Olga Davydchuk
Acting Government Agent
before the European Court of Human Rights