

UKRAINIAN AMERICAN BAR ASSOCIATION

Асоціація Українських Правників Америки



Statement of the Ukrainian American Bar Association On the Trial and Sentencing of Julia Tymoshenko

DATE: October 11, 2011

The Ukrainian American Bar Association (UABA) since its inception has consistently advanced the rule of law, and condemned its infringements without regard to who has abridged the principle or where. As such, the UABA strenuously condemns the sentencing of Julia Tymoshenko to seven years in prison by the Ukrainian court on October 11, 2011.

The prosecution alleged the former Prime Minister had abused her authority in causing the state run energy company NAK Naftogaz to conclude an agreement with Russia for the supply of natural gas, an agreement which now is claimed to be financially disadvantageous for Ukraine. The agreement was executed openly and publicly debated at the time, and no fraud or collusion was ever alleged even during the Tymoshenko trial. The former Prime Minister's actions, therefore, constituted a political act involving another sovereign state. If the former Prime Minister exceeded her authority, the Ukrainian judicial system or Verkhovna Rada of Ukraine could have, and can still, act to void and repudiate the agreement. However, *ultra vires* acts, untainted by fraud, cannot be sustained as being criminal under any interpretation or view of the rule of law in any democratic society.

It is, therefore, with deep regret that the UABA must recognize the conviction and sentencing of Julia Tymoshenko as politically-motivated and a gross violation of fundamental principles of justice. Unless this miscarriage of justice is promptly reversed, the Ukrainian judicial system will stand convicted as an arm of a totalitarian state, and Ukraine could be precluded from furthering its integration into the European community.

From the very beginning of this ordeal, the UABA (as well as the vast majority of democratic institutions and governments from around the world) publicly and privately warned that the Tymoshenko trial and predictable verdict would result in catastrophic consequences to Ukraine as a nation. Regrettably, these dire warnings were stubbornly and myopically ignored by the Ukrainian prosecutors. It is self evident that damaging geopolitical consequences will now be felt by the Ukrainian nation as a whole -- rather than by the perpetrators of this gross and unjust verdict and sentence.

Ukraine has endured a very difficult and tortured road over centuries in gaining its national independence and has made significant steps in the past 20 years in cultivating a democratic society. The Tymoshenko trial is a very tragic step backwards and a serious setback in the democratic evolution of the nation. It is hoped that the anticipated appellate review process within the Ukrainian legal system will swiftly rectify this tragic miscarriage of justice and curtail the geopolitical damage that will be suffered by Ukraine. It should be remembered that the Tymoshenko trial and sentencing is no longer about her but about the future prospects of Ukraine as a democratic society that respects the rule of law – a just and fair society that the Ukrainian people deserve.

Officers and the Board of Governors of the Ukrainian American Bar Association

2009-2011 Officers:

President:
George Pazuniak

Vice President:
Andrew E. Steckiwi

Treasurer/Secretary:
George Pazuniak

Chairman of the Board
Stephen M. Grogoza

Board of Governors:
Andrew Pidgirsky
Myroslaw Smorodsky
Ivanna Bilych
Markian B. Silecky
Walter M. Lupan
Bohdan Zelechiwsky

Scholarship Committee:
Taras G. Szmagala, Jr.

**Young Attorneys
Committee:**
Iryna Ivaschuk

Law Student Committee:
Petro R. Kostiv