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S. RES. 466

Calling for the release from prison of former Prime Minister of Ukraine Yulia Tymoshenko.

IN THE SENATE OF THE UNITED STATES

May 17, 2012

Mr. INHOFE (for himself, Mr. DURBIN, and Mr. CASEY) submitted the following resolution; which was referred to the Committee on Foreign Relations

September 19, 2012

Reported by Mr. KERRY, with an amendment and an amendment to the preamble

RESOLUTION

Calling for the release from prison of former Prime Minister of Ukraine Yulia Tymoshenko.

Whereas Ukraine has experienced encouraging growth and reforms since it declared its independence from the former Soviet Union in 1991 and adopted its first constitution in 1996;

Whereas the 1996 constitution provided basic freedoms like the freedom of speech, assembly, religion, and press, but was ultimately too weak to contain the existing corruption-laced political culture inherited from its communist past;

Whereas, as a result of the electoral fraud by which Prime Minister Viktor Yanukovich was declared the winner of the 2004 presidential election, the citizens of the Ukraine organized a series of protests, strikes, and sit-ins, which came to be known as 'The Orange Revolution';

Whereas the Orange Revolution, in concert with international pressure, forced an unprecedented second run-off election, which resulted in opposition leader Viktor Yushchenko defeating Mr. Yanukovich by a margin of 52 percent to 44 percent;

Whereas, in the 2010 presidential election, incumbent Yushchenko won only 5.5 percent in the first round of voting, which left former Prime Minister Yanukovich and then Prime Minister Yulia Tymoshenko to face one another in the run-off election;

Whereas, Mr. Yanukovich defeated Ms. Tymoshenko by a margin of 49 percent to 44 percent;

Whereas, shortly after the 2010 inauguration of Mr. Yanukovich, the Ukrainian Constitutional Court found most of the 2004 Orange Revolution inspired constitutional reforms unconstitutional;

Whereas, in 2010, President Yanukovich appointed Viktor Pshonka Prosecutor General;

Whereas, since Mr. Pshonka's appointment, more than a dozen political leaders associated with the 2004 Orange Revolution have faced criminal charges under the Abuse of Office and Exceeding Official Powers articles of the Ukrainian Criminal Code;

Whereas, in 2011, Prosecutor General Pshonka brought charges under these Abuse of Office articles against former Prime Minister Yulia Tymoshenko over her decision while in office to conclude a natural gas contract between Ukraine and Russia;

Whereas, on October 11, 2011, Ms. Tymoshenko was found guilty and sentenced to seven years in prison, fined \$189,000,000, and banned from holding public office for three years following the completion of her sentence;

Whereas, recognizing the judicial abuses present in Ukraine, the Parliamentary Assembly Council of Europe (PACE) passed Resolution 1862 on January 26, 2012;

Whereas Resolution 1862 declared that the Abuse of Office and Exceeding Official Powers articles under which Ms. Tymoshenko was convicted are 'overly broad in application and effectively allow for ex post facto criminalization of normal political decision making';

Whereas, since Ms. Tymoshenko's imprisonment, the Prosecutor General's Office has reopened additional cases against her that were previously closed and thought to be sealed under a 10-year statute of limitations;

Whereas, beginning on October 28, 2011, and multiple times since, Ukrainian Deputy Prosecutor General Renat Kuzmin has alleged in television interviews that Tymoshenko was involved in contract killings, but has filed no formal charges;

Whereas, for much of Ms. Tymoshenko's detention, she had limited outside contact and access to needed medical treatment;

Whereas international calls for Ms. Tymoshenko's release, access to outside visitors, and adequate medical treatment were initially ignored even as her health continued to deteriorate;

Whereas, on April 28, 2012, major international news organizations, including the British Broadcast Corporation and Reuters, reported on and produced photos of bruises allegedly received by Ms. Tymoshenko from prison guards on April 20, 2012;

Whereas, in response to her inhumane treatment, Ms. Tymoshenko began a hunger strike on April 20, 2012;

Whereas, amid international outrage, the European Union has delayed indefinitely the signing of a free trade agreement with Ukraine;

Whereas, under international pressure, Ms. Tymoshenko was moved to a hospital in Kharkiv on May 9, 2012, prompting her to end her hunger strike, yet leaving her in poor health; and

Whereas on May 30, 2012, the European Parliament passed a resolution (C153/21) deploring the sentencing of Ms. Tymoshenko: Now, therefore, be it

Resolved,

That the Senate--

(1) condemns the selective and politically motivated prosecution and imprisonment of former Prime Minister Yulia Tymoshenko;

(2) expresses its deep concern that the politicized nature of prosecutions and detention of Ms. Tymoshenko and other members of her party took place in a country that is scheduled to assume chairmanship of the Organization for Security and Cooperation in Europe (OSCE) in 2013;

(3) expresses its deep concern that the politicized detention of Ms. Tymoshenko threatens to jeopardize ties between the United States and Ukraine;

(4) calls for the Government of Ukraine to release Ms. Tymoshenko from her current incarceration based on politicized charges, to provide Ms. Tymoshenko with timely access to medical care, and to conduct the October parliamentary elections in a fair and transparent manner consistent with OSCE standards; and

(5) calls on the Department of State to institute a visa ban against those responsible for the imprisonment and mistreatment of Ms. Tymoshenko and the more than dozen political leaders associated with the 2004 Orange Revolution.