

Ukraine: Charges brought against Leonid Kuchma

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On 21 March, Ukraine's Prosecutor-General initiated criminal proceedings against the former President of Ukraine, Leonid Kuchma. He has been accused of abuse of authority, as a consequence of which journalist Georgiy Gongadze was abducted in 2000. This claim is not only insufficiently plausible, but has also already expired under the statute of limitations. Kuchma has been questioned several times on this matter, and has been forbidden to leave the country. This event has been widely discussed in the media, pushing Yulia Tymoshenko's participation in a Brussels conference held by the European People's Party (EPP) into the background. It is clear that the action against the former President is politically motivated, and is intended to demonstrate that the Ukrainian government will treat both opposition and establishment representatives equally strictly. However, it is highly likely that the return to the Kuchma inquiry has wider political objectives, although it will only be possible to say what these are by analysing further developments.

President Kuchma and the Gongadze case

Georgiy Gongadze, a well-known political journalist based in Kyiv, was abducted and murdered in the autumn of 2000. Shortly afterwards, recordings were released of alleged conversations held in President Kuchma's office (the so-called Melnychenko tapes), from which it appeared that the President of Ukraine was exasperated by Gongadze's activity and suggested "silencing" him. The disclosure of these recordings, and the sluggishness of the investigation into the Gongadze murder, became one of the reasons for the rise of the social movement which culminated in the 'Orange Revolution' four years later.

In 2008, three militia officers were found guilty of Gongadze's murder and sentenced to long prison sentences; the fourth person accused, General Oleksiy Pukach, was only arrested in 2009, and his trial is still in progress. However, the public prosecutor's office has not accused him of carrying out the murder on the orders of a superior, but of having done so on his own initiative.

Leonid Kuchma has consistently denied the authenticity of the recording, as well as having ever given instructions to take any action against Gongadze. Even if one assumes that the recordings are authentic, it does not follow from them that the President issued any definite order, but rather that his emotional expressions could have been treated by his interlocutors as a 'creative inspiration'.

From the perspective of hindsight, it seems certain that Major Mykola Melnychenko, a member of the President's guard at that time who claims that he recorded numerous conversations between Kuchma and his colleagues, was only a figurehead, and the

disclosure of the recordings was intended to compromise Kuchma on the international stage and weaken him internally. It remains an open question as to whether the source of this scandal from the year 2000 should be sought within Ukraine or beyond its borders. Commentators often accuse the secret services of the Russian Federation, and/or Ukrainian politicians who oppose Kiev's rapprochements with NATO and the EU, of responsibility for this alleged plot.

The initiation of proceedings against Kuchma does not mean he will be brought before a court, and still less that he will be sentenced. The allegation of abuse of authority, which resulted in Gongadze's abduction, has already expired, and there is no basis in the existing evidence for a more serious charge (instigation to murder) to be brought. The Prosecutor intends to refer the matter to court, in order to formally establish the fact of the case's expiration (in accordance with the Ukrainian Code of criminal procedure). This will close the legal proceedings against the former President, but will still leave some doubts as to their political nature.

The political importance of the 'Kuchma case'

There is no doubt that in the short term the 'Kuchma case' is clearly intended to improve President Victor Yanukovich's image in the West. After the ban preventing Tymoshenko from leaving her home was lifted, enabling her participation in the EPP's Brussels conference on 24 March, the announcement of the charges against Kuchma was intended to show that Ukrainian justice does not only prosecute opposition activists, and that Ukraine is not disregarding the risks to press freedom. At the same time, this step was intended to divert the Ukrainian media's attention from Tymoshenko's visit to Brussels (and has effectively achieved this).

It seems, however, that this action also has more serious long-term objectives. This is indicated by the nature of the accompanying media operation, which is aimed to create the biggest fuss possible while obscuring the true facts of the matter. Analysts and journalists in Kiev are almost unanimous in their assessment of the case's long-term objectives: an attempt to put pressure on Volodymyr Lytvyn, the speaker of parliament (who in 2000 was the head of the President's administration, and who according to many sources drew Kuchma's attention to Gongadze's publications), and/or on the media tycoon Viktor Pinchuk (who in private life is Kuchma's son-in-law). Somewhat less frequently, they mention the desire to distract public attention from the deterioration of the country's material situation, as well as the current president Viktor Yanukovich's desire for revenge on Kuchma (for having allowed the results of the fraudulent presidential election of 2004 to be recounted, as a result of which Viktor Yushchenko became president).

However, the media only publish more or less likely speculations; they do not present any serious arguments, and have not tried to say how likely any of these individual motivations are. Nor is anyone posing the key question – which political circles surrounding the President of Ukraine came up with the idea of politically exploiting the charges against Kuchma. Nor is any mention being made of the possibility that the special services (and not necessarily those of Ukraine) have been participating in the case. It seems that, apart from those responsible for bringing the charges now, no-one today knows what the operation's long-term objectives are. It will be only possible to assess this when the next few stages of

the process have been completed.