

## **Ukrainian Helsinki Human Rights Union**

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Only in English

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#### **Ukraine**

#### **Written submission**

### **Failure to provide Yury Lutsenko, a leader of the opposition party, with medical care constitutes inhuman treatment**

Access to medical care, this including free choice of doctor, is one of the minimum standards stipulated by the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment with respect to detainees and people accused of a crime and remanded in custody. The position of the European Court is also clearly articulated in a number of judgments, for example, in the case of Kucheruk v. Ukraine, Yakovenko v. Ukraine and others. Failure to provide timely and appropriate medical care is deemed inhuman or degrading treatment and is a violation of Article 3 of the European Convention on Human Rights which guarantees the right to not be subjected to torture and ill-treatment. Ukraine has committed itself to comply with the European Convention which forms a part of its domestic legislation. Nonetheless failure to provide medical care to people in custody is a systemic and widespread rights violation in Ukraine and this is particularly evident in the high-profile cases which the public are following, such as the prosecution of the former Minister of Internal Affairs, Yury Lutsenko.

On 28 May Mr Lutsenko was examined by Professor S. Tkach from the Faculty of Internal Medicine of the Bogomolets National Medical University and O. Shvets, the Chief Diet and Nutrition Doctor [Dietolog] of the Health Ministry and Associate Professor of the same University. Their recommendation was that Lutsenko would receive treatment in a specialized hospital. However the diagnosis given by these specialists, the results of the examinations and their recommendations were concealed from both Lutsenko and his family. This in itself constitutes a violation of the Constitution and Law on Information which make it mandatory to provide a patient or his or her representative with information about their state of health. His condition only deteriorated and on 30 August the same specialists examined him again. The diagnosis given is extremely serious: cryptogenic cirrhosis of the liver with portal hypertension and digestive tract varicose veins.

According to O. Shvets there was also a very serious situation in May involving an ulcer condition and Lutsenko needed specialized hospital treatment. Yet he was not transferred to a hospital as had been recommended by S. Tkach and O. Shvets. It is not known whether their prescriptions were implemented. Over the last three months Lutsenko's condition has seriously deteriorated. In May the cirrhosis, which is a very serious liver illness, was not diagnosed. So that the cirrhosis of the liver does not progress and to avoid complications, the specialists have

recommended treatment in a gastroenterological clinic. This treatment cannot be provided in the SIZO [detention centre] which does not have the qualified doctors, medication and equipment.

Yet the court, against the doctors' recommendations, only permitted Lutsenko to be seen by medical staff from Health Ministry establishments within the confines of the SIZO. According to the Health Ministry's Chief Diet and Nutrition Doctor, this is extremely dangerous. Over the next weeks in Lutsenko's detention conditions, the disease will only get worse. Without full treatment, the cirrhosis of the liver could progress, with its decompensation, complication developing (haemorrhages, etc). In the most serious case, it could turn into cancer.

The failure to provide medical care to Yury Lutsenko can be classified as inhuman treatment which is in violation of Article 3 of the European Convention on Human Rights. We therefore demand that Lutsenko be immediately provided with hospital treatment in the appropriate medical clinic.