

GONGADZE CASE – EXPERT POLL

Prosecutor-General Office’s Controversial Actions Fuel Distrust in Gongadze Case – experts

The Gorshenin Institute conducted an opinion poll among Ukrainian lawyers to learn the prospects of the probe into the Gongadze case, including the legality of the Prosecutor-General’s Office charges against former president Leonid Kuchma.

Member of Ukrainian Parliament, Defence Lawyer Serhiy Vlasenko has said that the main problem of the accusation part of the case is using the “Melnychenko tapes” as evidence, even though expert examinations did not confirm the authenticity of the tapes.

“The resolution to open the criminal case may have at least some prospect only on one condition: if the investigators approve using Melnychenko’s tapes as evidence with no reservations or restrictions. First, I would like to recall that over 10 years have passed since the tapes were made public. It is not clear where the original recordings of the tapes have been all this time and what happened to them. It is also not clear what happened to the original recording device used or allegedly used to record all this – this is the second aspect. Third, in order to recognize the tapes as unconditional evidence, the source of the origin of the tapes must be confirmed. Also, the authenticity of voices shall be confirmed and moreover, it is important to confirm that no technical acts or manipulations were made to the tapes. Fourth, and this is rather a legal than a political aspect, if the tapes are used as evidence for this particular case, they can probably also be used as evidence for other cases”, Vlasenko said.

Member of Ukrainian Parliament, Lawyer Svyatoslav Oliynyk supports Vlasenko’s opinion saying that adduction of Melnychenko’s tapes to the case is a serious legal problem.

“I also said before that if the Prosecutor-General’s office recognized the tapes as evidence, then this becomes applicable to other people whose voices are heard on the tapes, and a decision shall be approved regarding these people as well. This is not only the Gongadze case, there are many other people involved. And it will take a long time for law circuits to discuss the legal procedure of adding the tapes to the case, I think”, Oliynyk said.

The polled experts also pointed out that leakage and publication in the media of the documents from the Prosecutor-General’s Office, in particular, the accusation part of the case against former president Leonid Kuchma, is a planned act of provocation.

Oliynyk said: “Without doubt, the publication of the case’s documents in the media clearly demonstrates that the documents were deliberately released from the Prosecutor-General’s Office. This action speaks for the fact that the Prosecutor-General’s Office now acts for this case in information space rather than in the legal frameworks”.

Honoured Lawyer of Ukraine, Member of Venice Commission Maryna Stavniychuk condemned involving media stories like this in a criminal investigation.

“Unfortunately, this has already become a norm when piles of case-related documents are published in the media in relation to different criminal cases. In principle, documents like these shall remain confidential for the investigation. And I believe that this is extremely bad performance, including the performance of the law-enforcement authorities,” Stavniychuk said.

Serhiy Vlasenko expressed the same position: - Quite often approaches like these are used as an element of manipulation of public opinion, as an attempt to affect the public consciousness in the course of an investigation of a criminal case. But the Prosecutor-General’s Office, which can take a very principled position in case of leak of information in one criminal case, suddenly loses its principled stance when it comes to other cases.

Human Rights Activist, Head of International League of Protection of Human Rights of Ukrainians Eduard Bahirov said that inconsistency and controversy of the Prosecutor-General Office’s recent actions and public statements in relation to the Gongadze case raised total distrust in the fairness of the investigation.

“All the people who used to have at least any relation to the Prosecutor-General’s Office and looked into the criminal case, they caused irreparable damage to trust in fair results of the investigation. This is the biggest problem in the entire history of the Prosecutor-General’s Office, Interior Ministry, State Security Service of Ukraine, justice and criminal investigation in Ukraine, at least for the period of Ukraine’s independence. They have to use right and lawful measures to overcome this legal collapse, the so-called Gongadze case. This case has been investigated for so long, and statements by prosecutors-general made over the last 10 years, statements made by the investigators, defence lawyers, witnesses and other involved persons have been so controversial, that there is no trust not only in the Prosecutor-General’s Office but also in the government in general”, Bahirov said.

