Expert Opinion (*Amicus Curiae*) in Criminal Proceedings No. 42025000000001123

The Civil Organisation Kharkiv Human Rights Protection Group (hereinafter – the KHPG), with the participation of legal experts, and at the request of a Member of Parliament of Ukraine, Yu. V. Tymoshenko (hereinafter – the Applicant) has carried out an examination of the circumstances of criminal proceedings No. 42025000000001123, registered in the Unified Register of Pre-Trial Investigations on 27 November 2025 under the elements of the criminal offense provided for in Article 369 § 4 of the Criminal Code of Ukraine. The examination was conducted based on the case materials provided by the Applicant's lawyers, with assistance from experts who prepared accompanying opinions in the relevant specialized fields.

Subject-matter. This opinion (*amicus curiae*) is not intended to provide a legal assessment of the Applicant's guilt or innocence in respect of the acts imputed to her, as that question falls within the exclusive competence of the court. Rather, the opinion focuses on assessing the procedural aspects of the criminal court case through the prism of: (a) the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (hereinafter – the Convention) and the established case-law of the European Court of Human Rights (hereinafter – the ECtHR), which takes priority in view of Article 9 § 5 of the Criminal Procedure Code of Ukraine, under which the criminal procedural legislation of Ukraine is applied about the case-law of the ECtHR; (b) the relevant legal positions of the Supreme Court.

Two-tier methodology. Given that the criminal proceedings are ongoing, the opinion combines two analytical strands: (a) the recording of circumstances already in existence which provide grounds for raising the question of a violation of Convention standards; (b) cautionary observations regarding the risks of such violations in the further course of the proceedings, identifying the procedural steps required for compliance with the requirements of the Convention and the case-law of the ECtHR.

The preventive orientation of the opinion is particularly significant in light of the Applicant's status as the leader of an opposition parliamentary faction in the Verkhovna Rada of Ukraine. In ECtHR case law, the criminal prosecution of such persons is subject to a heightened standard of procedural rigor.

The human-rights function of the KHPG. The preparation of this opinion forms part of KHPG's systematic human rights work. The organization proceeds from the premise that politically motivated prosecution – in any form and regardless of the political affiliation of the person against whom it may be directed – is unacceptable in a democratic State governed by the rule of law. It is precisely in this context that the KHPG consistently serves as an independent observer of criminal and administrative proceedings in which the relevant features may be present.

The amicus curiae form. The practice of submitting legal opinions in the form of *amicus curiae* briefs on questions of the Convention's application and the ECtHR's case-law is well established before international judicial institutions. Its use is dictated by the dynamic nature of the ECtHR's case law and by the limited availability of Ukrainian translations of the Court's judgments in cases not against Ukraine, which makes it difficult to apply Convention standards effectively in national law-enforcement practice without involving experts of the relevant profile.

1. Violations in the authorization of the covert investigative (search) action

1.1. The factual circumstances

On 7 January 2026, an investigating judge of the High Anti-Corruption Court issued a ruling granting authorization to conduct a covert investigative (search) action (hereinafter – CISA) in respect of the Applicant, stating in its reasoning that the grounds for the conclusion as to the person's involvement were "the record of the witness's questioning, an internal memorandum and

the record of the inspection of the website of the Verkhovna Rada of Ukraine, and other materials taken in their entirety".

The criminal proceedings were from the outset opened under Article 369 § 4 of the Criminal Code of Ukraine – under the elements of an act committed by an organized group; the letters to the Prosecutor General stated that the Applicant, together with other persons, had set up a scheme for giving and receiving an unlawful benefit. Subsequently, neither the witness testimony obtained during the pre-trial investigation nor the explanations given by the defense on behalf of the persons named in those letters contains any information concerning their contacts with the Applicant.

1.2. The national standard: Articles 246, 248, and 87 of the Criminal Procedure Code of Ukraine and the case-law of the Supreme Court

The exceptional character of CISAs. CISAs are among the most intrusive forms of procedural interference by the State in an individual's private sphere and in areas protected by Article 32 of the Constitution of Ukraine and Article 8 of the Convention. Pursuant to Article 246 § 2 of the Criminal Procedure Code of Ukraine, CISAs are conducted in cases where information about the criminal offense and the person who committed it cannot be obtained by other means. Under Article 248 § 3 (1) of the Criminal Procedure Code of Ukraine, an investigating judge issues a ruling authorizing a CISA solely on condition that the prosecutor, investigator, or inquiry officer proves the existence of sufficient grounds to believe that a criminal offense of the corresponding gravity has been committed. The standard of proof "sufficient grounds to believe" is not reducible to the fact that information has been entered into the Unified Register of Pre-Trial Investigations, nor to the prosecution's explanations as to the need to verify information: it concerns specific factual data that existed before the moment of the application and that could be verified by the investigating judge. Only the prior existence of a minimal body of such data serves as a guarantee against arbitrary interference by the State with an individual's private life; otherwise, the CISA is transformed not into a means of verifying an already existing suspicion, but into an instrument for the preliminary gathering of information with a view to subsequently searching for grounds for criminal prosecution.

The Supreme Court's standard in case No. 164/1293/17 concerning artificial overcharging. In the ruling of the panel of judges of the First Judicial Chamber of the Criminal Cassation Court of the Supreme Court of 14 May 2024 in case No. 164/1293/17, a legal position was formulated that is directly relevant to the assessment of the case under examination. The facts of that case were characterised by the following: the information had been entered into the Unified Register of Pre-Trial Investigations under the elements of a more serious offence (Article 368 § 3 of the Criminal Code of Ukraine), which opened the procedural possibility of conducting a CISA under Article 246 of the Criminal Procedure Code; after the CISA had been conducted, the prosecution reclassified the offence as a less serious one (Article 369-2 § 2 of the Criminal Code of Ukraine); and the only procedural sources available at the time the CISA authorisations were sought contained no information capable of justifying the more serious classification (§§ 29-30 of the ruling). The Supreme Court formulated a general legal position: under Article 87 §§ 1 and 2 of the Criminal Procedure Code of Ukraine, evidence obtained as a result of a substantial violation of fundamental rights is inadmissible, in particular where it is obtained through procedural actions requiring prior judicial authorisation that are carried out without such authorisation or in breach of its essential conditions; and where such authorisation is obtained as a result of the artificial creation of grounds for obtaining it, the conduct of investigative actions on its basis also falls within the rule laid down in those provisions of the procedural law (§ 31). The Supreme Court applied this conclusion as the ratio decidendi: the prosecutor's cassation appeal was dismissed, and the acquittal handed down by the first-instance court was upheld (§ 32).

1.3. The Convention standard: Article 8 of the Convention and the case-law of the ECtHR

The general test under Article 8 of the Convention. A CISA in the form of audio surveillance of a person constitutes an interference with the right guaranteed by Article 8 of the Convention, which is compatible with the Convention only on condition that it is (a) carried out "in accordance with the law", (b) pursues one of the legitimate aims provided for in Article 8 § 2, and (c) is "necessary in a democratic society" (Korniyets and Others v. Ukraine, § 53; Halford v. the United Kingdom, § 49). A finding that the measure in question was not carried out "in accordance with the law" is in itself sufficient to establish a violation of Article 8 (M.M. v. the Netherlands, § 46). The notion of "in accordance with the law" encompasses not only the existence of a corresponding legal provision but also the quality of the procedure itself: where the authorisation procedure is provided for by law but is applied in such a manner that it does not afford genuine safeguards against arbitrariness, the interference is not regarded as having been carried out "in accordance with the law" within the meaning of the Convention.

The standard of reasonable suspicion: Roman Zakharov v. Russia [GC]. In § 257, the Grand Chamber noted that, in assessing authorization procedures, the Court has regard to the powers of the authorizing body, the scope of its review and the content of the authorization – factors which, taken together, determine whether the procedure is capable of preventing covert surveillance from being authorized "haphazardly, irregularly or without due and proper consideration". In § 260 the Court stated that the authority granting authorisation for covert surveillance must be able to: (a) verify the existence of a reasonable suspicion against the person concerned, in particular whether there are factual indications for suspecting that person of planning, committing or having committed criminal acts; and (b) satisfy itself that the surveillance sought meets the requirement of "necessity in a democratic society", including whether it is proportionate to the legitimate aims pursued, by verifying whether those aims could not be achieved by less intrusive means.

The inadmissibility of retrospective justification: Matanović v. Croatia. In § 113 of the judgment, the ECtHR noted that the investigating judge's orders applying covert surveillance measures had referred to the prosecutor's requests and used statutory wording on the impossibility of investigating by other means, but lacked proper reasoning regarding the specific circumstances of the case. In § 114, the Court confirmed that the absence of proper reasoning in the investigating judge's order cannot be compensated for by "circumventing" that shortcoming by retrospectively justifying the use of covert surveillance by the national courts after it has already been carried out. The lawfulness of the authorization of a CISA must be assessed precisely by reference to the state of the materials at the moment the investigating judge's ruling was issued, and not post factum, by reference to what the prosecution ultimately gathered after the interference had already taken place.

A direct precedent concerning Ukraine: Vykhor v. Ukraine. Of particular significance for the case under examination is the ECtHR's judgment in Vykhor v. Ukraine (application no. 36618/14, judgment of 22 January 2026): it concerns the assessment of the Convention compliance of CISAs authorized by an investigating judge within criminal proceedings in Ukraine under the very same procedural legislation under which the CISA in respect of the Applicant was authorized. In § 22 of the judgment, the ECtHR identified the following defects in the authorisation procedure as being incompatible with the requirements of Article 8 of the Convention: the investigating judge's orders had been "couched in vague terms without any information as to the specific facts of the case"; they had "merely stated that the information which could be obtained as a result of the requested covert investigative measures could be of significant importance for the investigation"; they had repeated the investigating authority's argument that "it would be impossible to obtain such information by other means"; and the text of the orders contained no indication that the investigating judge had applied the criterion of "necessity in a democratic society" or had assessed the proportionality of the measure. On that basis, the ECtHR concluded that the interference had not been carried out "in accordance with the law" within the meaning of Article 8 § 2 of the Convention (§§ 23, 25).

1.4. Application of the standards to the circumstances of the case

1.4.1. The quality of the ruling authorizing the CISA of 7 January 2026

The ruling of the HACC investigating judge of 7 January 2026 reveals two interrelated defects in its reasoning, each of which is in itself incompatible with the requirements of Article 8 of the Convention.

The absence of an individualized factual basis. The reasoning part of the ruling refers to the record of the witness's questioning, an internal memorandum, and the record of the inspection of the Verkhovna Rada of Ukraine's website. The only material purporting to serve as a factual justification is the hearsay testimony of a Member of Parliament's assistant, obtained on the very same day he was given a "special task". The ruling contains no analysis of why the investigating judge deemed this material sufficient to support a finding of reasonable suspicion against the Applicant.

The formal justification of the impossibility of obtaining the information by other means. As regards this condition, the ruling reproduces the statutory wording of Article 248 § 3 (1) of the Criminal Procedure Code of Ukraine, namely that it is "impossible to obtain by other means information about the commission of the criminal offenses in which the person may be involved". That ruling contains no specification whatsoever as to why less intrusive measures could not be used (such as questioning witnesses, inspecting correspondence, or other investigative actions).

The combination of these defects directly reproduces the picture established by the ECtHR in Vykhor v. Ukraine (§ 22), where the investigating judges' orders were found to have been "couched in vague terms without any information as to the specific facts of the case". In contrast, the reference to the impossibility of obtaining the information by other means "merely repeated the investigating authority's argument". Crucially, both the orders in Vykhor and the ruling in the case under examination were issued under the same procedural legislation, and both contained the same defects.

1.4.2. The risk of artificial overcharging

The proceedings were opened under Article 369 § 4 of the Criminal Code of Ukraine (a particularly serious offense), which, under Article 246 § 2 of the Criminal Procedure Code of Ukraine, is a procedural condition for conducting audio surveillance of a person. As of the date of preparation of this Opinion, the classification has not been changed.

The question of whether the body of factual data available at the time the authorization was sought was sufficient to justify this classification precisely requires further consideration following full disclosure of the materials of the proceedings under Article 290 of the Criminal Procedure Code of Ukraine. Should it turn out that no specific data objectively justifying a particularly serious offense existed at the time of the application, the question of the "artificial creation of grounds" for obtaining the authorization within the meaning of § 31 of the Supreme Court's ruling in case No. 164/1293/17 will arise, with the consequence that all evidence obtained on its basis is inadmissible. The retrospective justification of the classification is impermissible both under that standard and under the standard of the ECtHR (Matanović v. Croatia, § 114).

The doctrinal dimension of the question of classification. At the request of the defence, four academic institutions independently of one another prepared scholarly legal opinions on the interpretation of Article 369 of the Criminal Code of Ukraine, namely: the Academician V. V. Stashys Research Institute for the Study of Crime Problems of the National Academy of Legal Sciences of Ukraine; the Yaroslav Mudryi National Law University; the Private Joint-Stock Company "Higher Educational Institution 'National Academy of Management'"; and the Leonid Yuzkov Khmelnytskyi University of Management and Law. All of them arrive at a concordant result: the particularly aggravating element of Article 369 § 4 of the Criminal Code of Ukraine extends only to an act in the form of giving an unlawful benefit, whereas an offer or a promise made

by a single individual and without the features of a group of persons acting by prior conspiracy or of an organised group falls to be classified under Article 369 § 1 of the Criminal Code of Ukraine. An expansive interpretation thereof is incompatible with the principle of *nullum crimen sine lege*.

1.5. Conclusions

The ruling of the HACC investigating judge dated 7 January 2026 does not meet the requirements of Article 8 of the Convention or the ECtHR's case law. Two independent defects, namely the absence of an individualized factual basis for a finding of reasonable suspicion and the formal character of the justification regarding the impossibility of obtaining the information by other means, correspond directly to those which the ECtHR found in Vykhor v. Ukraine (§ 22) and are incompatible with the standard of Roman Zakharov v. Russia [GC] (§ 260).

The non-compliance thus established is not formal in nature: it determines the admissibility of the key item of evidence for the prosecution. Pursuant to Article 87 §§ 1 and 2 of the Criminal Procedure Code of Ukraine and the legal position of the Supreme Court in case No. 164/1293/17 (§ 31), evidence obtained based on an authorization issued in breach of fundamental procedural guarantees is inadmissible. Since the CISA audio recording is the key piece of evidence for the prosecution, and in certain respects its sole piece of evidence, a finding that it is inadmissible will be decisive to the outcome of the proceedings.

The court examining the case on the merits is obliged to conduct a substantive assessment of the lawfulness of the CISA authorization in accordance with the standards set out in Vykhor v. Ukraine and Roman Zakharov v. Russia [GC]. The defects identified cannot be remedied by retrospective explanations from the prosecution (Matanović v. Croatia, § 114). In view of this, the court must consider whether the evidence obtained as a result of the CISA was obtained in breach of Article 8 of the Convention and Article 87 of the Criminal Procedure Code of Ukraine.

2. Failure to grant the defense access to the CISA materials

2.1. The factual circumstances

One of the key items of evidence for the prosecution is the results of the CISA conducted on 12 January 2026, namely the audio recording of a conversation captured on material carrier No. 4794t. The defense was granted access solely to a partial derivative copy, the volume and limits of which were determined exclusively by the prosecution, without the possibility of examining the full content of the recording or the original material carrier on which that recording was made.

2.2. The national standard: Article 290 of the Criminal Procedure Code of Ukraine and the case-law of the Supreme Court

In the ruling of the panel of judges of the First Judicial Chamber of the Criminal Cassation Court of the Supreme Court of 11 May 2021 in case No. 737/838/16-к, the following legal positions were formulated that are directly relevant to the assessment of the circumstances of the case under examination:

(a) The requirements of Article 290 of the Criminal Procedure Code of Ukraine extend not only to evidence relating to the subject-matter of proof, but also to materials based on which a conclusion can be drawn as to the lawfulness of obtaining the evidence adduced by the prosecution (§ 20);

(b) a secrecy regime applied to certain decisions or documents does not relieve the prosecution of the obligation to provide them to the court and to disclose them to the defense in a case where the admissibility of evidence obtained as a result of actions taken based on those decisions is called into question by other participants in the proceedings (§ 21);

(c) where the admissibility of evidence has been called into question on reasonable grounds, the burden of proving such admissibility (including the disclosure to the defense of the relevant supporting materials) lies precisely with the prosecution (§ 32).

In substantiating the above conclusions, the Supreme Court referred directly to the case-law of the ECtHR, in particular to the cases of Rowe and Davis v. the United Kingdom and Leas v. Estonia, finding that the guarantees of Article 6 § 3 (b) of the Convention concern the accused's access to the case materials and overlap with the principle of equality of arms and the adversarial nature of the proceedings under Article 6 § 1 of the Convention (§ 24). Although in case No. 737/838/16-к itself the Supreme Court dismissed the cassation appeal on the ground that the defence had raised the question of the admissibility of the CISA evidence for the first time only at the cassation-review stage (§§ 34, 36), in the proceedings under examination the defence has, throughout the pre-trial investigation, pursued consistent and active efforts aimed at obtaining access to the original material carrier of the CISA recording. Accordingly, the Supreme Court's legal position is fully applicable to the criminal proceedings under review.

2.3. The Convention standard: Article 6 of the Convention and the case-law of the ECtHR

The principle of equality of arms and the right to adversarial proceedings. The principle of equality of arms is an inherent feature of a fair trial. It requires that each party be afforded a reasonable opportunity to present its case under conditions that do not place it at a substantial disadvantage vis-à-vis its opponent (Öcalan v. Turkey [GC], § 140; Foucher v. France, § 34). From the principle of equality of arms, there follows the general rule of the disclosure of evidence: Article 6 § 1 of the Convention requires the prosecution to disclose to the defense all material evidence in its possession – both for and against the accused (Rowe and Davis v. the United Kingdom [GC], § 60). Relevant considerations also follow from Article 6 § 3 (b) of the Convention, which guarantees the accused "adequate time and facilities for the preparation of his defense", entailing the possibility of acquainting himself with the results of the investigation throughout the proceedings (Leas v. Estonia, § 80; Huseyn and Others v. Azerbaijan, § 175; Beraru v. Romania, § 70). In Jalloh v. Germany (§ 96), the ECtHR specifically emphasized the significance of the opportunity to challenge the authenticity of a given item of evidence and to oppose its use.

The permissibility of restrictions: the "strict necessity" criterion and counterbalancing safeguards. The right to the disclosure of evidence is not absolute: the ECtHR recognizes that there may be competing interests in criminal proceedings, namely national security, the need to protect witnesses, and the need to keep secret the methods of investigation (Van Mechelen and Others v. the Netherlands, § 58; Paci v. Belgium, § 85). However, only those restrictions on the rights of the defense which are strictly necessary are permissible; in no circumstances may they impair the very essence of the right to a fair trial (Van Mechelen, § 58; Regner v. the Czech Republic [GC], § 148). Any difficulties caused to the defense by such restrictions must be sufficiently counterbalanced by the procedures followed by the national courts (Rowe and Davis [GC], § 61; Doorson v. the Netherlands, § 72; Regner [GC], §§ 147-149), which entail the following key elements:

(a) *Independent judicial scrutiny.* The question of the justification for the non-disclosure of materials to the defense must be decided by an independent court, and not unilaterally by the prosecution. The mere failure of the prosecution to submit the contested materials to the court for assessment in itself constitutes a violation of Article 6 § 1 of the Convention (Rowe and Davis [GC], § 66);

(b) *Proper reasoning for the refusal to disclose.* The national judicial authorities must give relevant and sufficient reasons both as to why a particular item of evidence was not disclosed to the defense and as to whose decision it was that it should not be disclosed (Yüksel Yalçınkaya v. Türkiye [GC], §§ 330-331; Dowsett v. the United Kingdom, §§ 42-43);

(c) *The significance of the undisclosed evidence.* The greater the weight that the undisclosed evidence carries in the trial, the more serious the risk of unfairness in the proceedings as a whole (Jasper v. the United Kingdom [GC], §§ 54-55).

The specific features of the disclosure of electronic evidence: Yüksel Yalçınkaya v. Türkiye [GC]. Directly relevant to the case under examination is the position of the Grand Chamber of the ECtHR in Yüksel Yalçınkaya v. Türkiye, where the applicant was convicted to a decisive extent on the basis of digital evidence. The ECtHR found a violation of Article 6 § 1 of the Convention, having regard to the following positions:

(a) where a conviction is based to a decisive extent on digital evidence, the quality of such evidence and the possibility of effectively challenging it acquire particular significance (§ 311). Electronic evidence raises distinct issues of reliability, since by its nature it is more susceptible to destruction, damage, alteration, or manipulation (§ 312);

(b) The fact that the defense had access to reports on the digital evidence does not deprive it of the right to seek access to the underlying data based on which those reports were generated (§ 327): such materials may contain elements that could have enabled the applicant to exonerate himself or to call into question the admissibility, reliability or evidential value of the material (§ 328);

(c) the mere fact that electronic evidence is consistent with other available data does not deprive the accused of his procedural rights in respect of that evidence (§ 328); the inability of the defence to have direct access to the electronic evidence and to verify its integrity by its own means places on the national courts a heightened obligation to subject these matters to the most rigorous scrutiny (§ 334).

Relevant case-law concerning records of covert surveillance: Natunen v. Finland. In *Natunen v. Finland* (application no. 21022/04, judgment of 31 March 2009) the ECtHR found a violation of Article 6 § 1 in conjunction with Article 6 § 3 (b) of the Convention because the destruction by the prosecution of part of the records of covert surveillance had made it impossible for the defence to verify its assumptions as to their relevance and to prove that they were correct before the courts (§§ 39, 42-43, 47).

2.4. Application of the standards to the circumstances of the case

2.4.1. The absence of proper reasoning regarding the provision of the original material carrier

The defense already has a partial derivative copy of the recording. The contested question is therefore narrow and specific in character: why precisely the original carrier No. 4794t and the full content of the recording must remain inaccessible, whereas the derivative copy has already been provided. No procedural decision gives relevant and sufficient reasons for this specific restriction (Yüksel Yalçınkaya [GC], §§ 330-331; Dowsett, §§ 42-43).

2.4.2. The digital nature of the evidence and the right of access to the underlying data

The partial derivative copy is, in its function, analogous to the "reports on the digital evidence" in Yüksel Yalçınkaya: access to the derivative material does not exhaust the defense's right of access to the underlying data, that is, to the original carrier (§§ 327-328). It is precisely the original that is necessary for verifying the integrity and authenticity of the recording – matters that acquire a substantive significance in view of the technical indications of possible tampering identified by the experts. The fact that the recording is said to be consistent with other materials of the proceedings does not nullify the defense's procedural rights in respect of it (§ 328). In its practical consequence, the situation is comparable to Natunen v. Finland, where the inability to verify part of the records of covert surveillance made it impossible for the defense to prove its assumptions as to their relevance (§§ 42-43, 47): here, an analogous effect is achieved not by the destruction of the material but by the refusal of access to its original.

2.4.3. The significance of the evidence and the heightened obligation of judicial scrutiny

The greater the weight the undisclosed evidence carries, the greater the risk of unfairness in the proceedings as a whole (Jasper [GC], §§ 54-55). The CISA audio recording is positioned by the prosecution as its central – and in certain respects sole – item of evidence. The inability of the defense to have direct access to the original and to verify its integrity by its own means activates the heightened obligation of the court to subject the questions of reliability and authenticity to the most rigorous scrutiny (Yüksel Yalçınkaya [GC], § 334). That obligation objectively cannot be discharged so long as access to the original remains closed.

2.5. Conclusions

The restriction of the defense's access to the original material carrier No. 4794t and to the full content of the CISA recording does not meet the requirements of Article 6 §§ 1 and 3 (b) of the Convention. The non-compliance is substantive rather than formal: it concerns the central item of evidence for the prosecution, for which technical indications of possible tampering have already been recorded. In such circumstances, the refusal of access to the original renders the right to a defense in respect of this evidence effectively illusory and, at the same time, makes it impossible for the court to discharge its heightened obligation to verify its reliability and authenticity.

The procedural consequence is settled: where the admissibility of the CISA evidence has been called into question on reasonable grounds, the burden of confirming it – including through the disclosure to the defense of the original carrier and the accompanying materials – lies with the prosecution (Rowe and Davis [GC], § 66; the Supreme Court in case No. 737/838/16-к).

3. Violations in respect of the search conducted

3.1. The factual circumstances

On the night of 13-14 January 2026, NABU detectives carried out two searches without a prior ruling of an investigating judge, under Article 233 § 3 of the Criminal Procedure Code of Ukraine:

(a) of the premises actually used by the Applicant for her activity as a Member of Parliament and leader of the parliamentary faction of the political party All-Ukrainian Union "Batkivshchyna" – from 9.32 p.m. on 13 January to 9 a.m. on 14 January (more than eleven and a half hours, predominantly at night-time);

(b) of a vehicle in the Applicant's actual possession – from 0.26 a.m. to 2.48 a.m. on 14 January.

On 19 January 2026, an investigating judge of the HACC, in a closed hearing without the defense's participation, granted the application in part, authorizing the searches that had already been carried out. The ruling is final and not subject to appeal under the Criminal Procedure Code of Ukraine.

3.2. The national standard: Article 30 of the Constitution, Article 233 of the Criminal Procedure Code, and the case-law of the Supreme Court

Article 30 of the Constitution of Ukraine and Article 233 § 1 of the Criminal Procedure Code establish the general rule that a search may be conducted only based on a reasoned judicial decision. The exception provided for in Article 233 § 3 of the Criminal Procedure Code permits entry before the issuing of an investigating judge's ruling only in urgent cases concerning the saving of life and property or the immediate pursuit of suspects, with a mandatory and immediate post factum application to the investigating judge. The permissibility of this model is contingent on two cumulative conditions: (a) genuine, objectively justified urgency, and (b) effective post factum judicial scrutiny.

In the ruling of the Joined Chamber of the Criminal Cassation Court of the Supreme Court (hereinafter – the Joined Chamber of the CCC of the SC) of 7 October 2024 in case No. 466/525/22, three relevant legal positions were formulated:

(a) *The urgency criterion.* The exceptional procedure is justified only where there are reasonable grounds to assume a genuine threat of the destruction of property within the time objectively necessary to obtain a ruling by the ordinary procedure;

(b) *The content of the justification.* The application, the materials attached to it, and the investigating judge's post factum ruling must specify which particular circumstances, at the moment of entry, indicated a genuine and specific threat of the loss or destruction of property, and why such a threat was not unreasonably perceived as genuine;

(c) *The urgency of the post factum application.* An arbitrary performance of the rule on an immediate retrospective application (with the omission of the time objectively required for it) does not meet the "urgency" criterion where the materials do not indicate the existence of objective and insurmountable obstacles to applying as soon as possible.

3.3. The Convention standard: Article 8 of the Convention and the case-law of the ECtHR

The notion of "home". The ECtHR interprets "home" within the meaning of Article 8 of the Convention broadly: it encompasses a person's professional premises (Niemietz v. Germany, §§ 29-31; Buck v. Germany, § 31), companies' offices (Société Colas Est and Others v. France, § 41; DELTA PEKÁRNY a.s. v. the Czech Republic, § 77), the editorial offices of periodicals (Saint-Paul Luxembourg S.A. v. Luxembourg, § 37) and the premises of political parties.

Searches without prior judicial authorization. The ECtHR recognizes that national legislation may permit such searches, but maintains heightened vigilance in respect of them, given the risk of arbitrariness (DELTA PEKÁRNY a.s., § 87; Işıldak v. Turkey, § 51; Gutsanovi v. Bulgaria, § 222). The essential condition of permissibility is the compensation of the absence of ex ante scrutiny by effective ex post facto judicial scrutiny, in the course of which the person has a genuine opportunity to obtain a review of the lawfulness and necessity of the measure, both as to the facts and as to the law, and, where unlawfulness is established, to obtain redress (DELTA PEKÁRNY a.s., § 87; Brazzi v. Italy, §§ 44-45).

The quality of the ex post facto scrutiny. The scrutiny must be substantive, not formal. In Gutsanovi v. Bulgaria (§ 223), the ECtHR found a violation of Article 8, since the judge, in reviewing the search records, confined himself to formally signing them, affixing a stamp and the word "approved", without delivering a separate reasoned decision.

The nighttime character of the search. Searching at night or at dawn aggravates the seriousness of the interference and requires particularly compelling justification and additional safeguards to protect human dignity (Kučera v. Slovakia, §§ 119, 122; Rachwalski and Ferenc v. Poland, § 73; Zubaľ v. Slovakia, §§ 41-45).

3.3.1. A direct precedent concerning Ukraine: Korniyets and Others v. Ukraine

Directly relevant to the assessment of the circumstances of the case submitted for examination is the ECtHR's judgment in Korniyets and Others v. Ukraine of 10 July 2025, in which the Court analysed precisely the Ukrainian model of conducting searches under Article 233 § 3 of the Criminal Procedure Code of Ukraine with subsequent post factum legalisation, and found a violation of Article 8 of the Convention on the following key grounds:

(a) *The fundamental importance of procedural safeguards in the post factum scrutiny (§ 65).* Since the assessment of the existence of urgent cases is carried out by investigators and prosecutors, often under conditions of limited time, the existence of sufficient procedural safeguards in the retrospective scrutiny acquires particular significance;

(b) *The requirement of adversarial proceedings (§ 66).* The question of applying measures that affect human rights must be decided within a certain adversarial process before an independent body;

(c) *The specific assessment of the Ukrainian procedure (§ 68).* Under the Criminal Procedure Code of Ukraine, the post factum review is similar to the ex parte procedure for issuing a ruling before a search: it is conducted without the participation of the person or his or her defense counsel, and the retrospective legalization of the search is not subject to appeal;

(d) *The distinction between ex ante and ex post procedures (§ 69).* Although there are obvious grounds for excluding the person from the examination of an application submitted before a search, there is no justification for applying equally strict restrictions in the course of the retrospective review;

(e) *The requirement as to the quality of the reasoning of the ruling (§ 71).* Rulings couched in general terms, which essentially reproduce the investigators' applications, do not convincingly demonstrate that a thorough assessment of the case's circumstances was conducted. The ECtHR directly linked the low quality of such scrutiny to the person's absence from the examination.

The ECtHR found that a procedure initiated ex officio and conducted ex parte, without any possibility for the person to participate, cannot be regarded as affording sufficient safeguards against unlawful and arbitrary interference by the State (§ 70).

The ECtHR had earlier formulated analogous legal positions in the cases of Tortladze v. Georgia (§§ 65-66) and Kobiashvili v. Georgia (§§ 67-79), to which the Court refers directly in its judgment in Korniyets and Others v. Ukraine.

3.4. The particular context: the political-party dimension and Article 11 of the Convention

The searches were carried out in places directly connected with the Applicant's political activity as leader of an opposition parliamentary faction in Parliament. This does not alter the applicability of the standards set out above under Article 8 of the Convention. Still, it substantially heightens the requirements regarding the justification, proportionality, and quality of the judicial scrutiny of such procedural actions.

Freedom of association, guaranteed by Article 11 of the Convention, has particular significance in relation to political parties: measures affecting their activity are subject to the strictest scrutiny as to their necessity in a democratic society, and exceptions to the general rule of freedom of association are construed narrowly (Vona v. Hungary, § 58; United Communist Party of Turkey and Others v. Turkey [GC], § 46). The capacity of a search to affect the functioning of a political party, the confidentiality of party and parliamentary communications, and the security of party documents and data carriers in themselves give rise to heightened requirements as to the justification of the measure, which must be assessed through the prism of the combined operation of Articles 8 and 11 of the Convention.

3.5. Application of the standards to the circumstances of the case

3.5.1. The quality of the justification of urgency in the detective's application

According to the standard set by the Joint Chamber of the CCC of the SC, the detective's application and the supporting materials must contain specific factual data indicating a genuine and specific threat of the loss of property precisely at the relevant moment in time. Instead, the justification in the application is reduced to general, formulaic wording: that funds, draft notes, telephones containing correspondence concerning voting, or special technical devices "could be destroyed, thrown out of the window or handed over to third parties within a matter of minutes",

and that the vehicle "could change its location within a short time". Such wording could be applied to any criminal proceedings; it is not individualized to the specific circumstances and does not answer the question of which particular factual data indicated a genuine threat of property destruction.

To accept such abstract justification as sufficient effectively nullifies the distinction between the ordinary (Article 233 § 1 of the Criminal Procedure Code) and the exceptional (Article 233 § 3 of the Criminal Procedure Code) regimes of search.

This question acquires additional significance in view of the fact that the CISA conducted on 12 January 2026 is, by its nature, covert: the person in respect of whom it is carried out must not know either that it is being conducted or its content. Accordingly, the conduct of the CISA did not in itself create for the Applicant any informational precondition for the active destruction of evidence. In the absence of materials of the proceedings of any data on specific actions by the Applicant between 12 and 13 January aimed at destroying evidence, the grounds for applying the exception in Article 233 § 3 of the Criminal Procedure Code are subject to the most rigorous scrutiny.

3.5.2. The quality of the ex post facto judicial scrutiny

The quality of the HACC investigating judge's ruling in proceedings No. 1-кс/991/472/26, in light of the standards set out in Korniyets and Others v. Ukraine, raises three distinct concerns.

The absence of the defense's participation. The examination of the detective's application took place in a closed hearing without the participation of the Applicant or her defense counsel, without affording an opportunity to submit observations, to contest the detective's assertions as to the genuineness of the threat of the destruction of property, or otherwise to take part in the examination. In light of the ECtHR's direct positions in Korniyets (§§ 68-70), such post-factum scrutiny does not afford sufficient procedural safeguards against unlawful and arbitrary State interference.

The quality of the reasoning of the ruling. The investigating judge's reasoning regarding the existence of grounds for an urgent search contains no individualized assessment whatsoever of the specific circumstances of the Applicant's case. Instead, the ruling reproduces the general wording of the detective's application as to the possibility of "destruction", "throwing out of the window" or "handing over to third parties" – without explaining which particular factual data concerning the Applicant gave grounds to consider such a threat genuine. It is precisely this type of reasoning that the ECtHR in Korniyets (§ 71) characterized as not convincingly demonstrating a thorough assessment, and directly linked to the absence of the person's participation in the examination of the application.

The impossibility of appealing against the ruling. According to its operative part, the ruling is final and not appealable. Such a procedural model, whereby a ruling on the post-factum legalization of a search cannot be subject to review at any stage, is directly addressed by the ECtHR's criticism in Korniyets (§ 68).

3.5.3. The night-time character of the search

The search of the premises lasted from 9.32 p.m. on 13 January 2026 to 9 a.m. on 14 January (more than eleven and a half hours), and the search of the vehicle from 0.26 a.m. to 2.48 a.m. on 14 January, that is, predominantly at night-time. According to the ECtHR's case-law set out above, the nighttime character of a search aggravates the seriousness of the interference and requires a separate, compelling justification. However, neither the detective's application nor the investigating judge's ruling provides any justification for the search's nighttime character; this aspect was not the subject of any examination.

3.5.4. The political-party dimension of the search

All the aspects set out above acquire additional weight in view of the fact that the person in whose possession the searches were carried out is the sitting leader of an opposition parliamentary faction in Parliament, and that the searches themselves directly concerned materials connected with her parliamentary and political activity – in particular, documents and notes regarding the faction's position on questions of voting on bills due to be considered by the Verkhovna Rada of Ukraine. In such a context, the defects identified (the absence of proper justification of urgency, the night-time character of the search, the lengthy interval since the opening of the proceedings, and the potential formality of the post factum review) not only constitute distinct problems under Article 8 of the Convention, but must also be assessed in conjunction with Article 11 of the Convention, which requires the strictest scrutiny of measures affecting the activity of political parties.

3.6. Conclusions

The searches carried out on the night of 13–14 January 2026 do not meet the requirements of Article 233 § 3 of the Criminal Procedure Code of Ukraine or of Article 8 of the Convention. The detective's application and the investigating judge's ruling are confined to formulaic wording regarding a threat to destroy property, without any individualized assessment of the specific circumstances of the Applicant's case. The foregoing directly contravenes the standard set by the Joint Chamber of the CCC of the SC in case No. 466/525/22. At the same time, the retrospective judicial scrutiny was carried out without the participation of the defense, the ruling essentially reproduces the reasoning of the application, and no appeal against it is provided for by law, which is incompatible with the standards of Korniyets and Others v. Ukraine (§§ 68-71). The nighttime character of the search and its duration of more than eleven hours received no separate justification whatsoever (Kučera v. Slovakia*;* Rachwalski and Ferenc v. Poland*;* Zubaľ v. Slovakia).

The defects established acquire additional weight in view of the fact that the search was conducted on premises used by the leader of an opposition parliamentary faction and concerned materials relating to her parliamentary and political activity. In this context, the non-compliance must be assessed in conjunction with Article 11 of the Convention, which requires the strictest scrutiny of measures affecting the activity of political parties.

The violations set out give rise to a specific procedural consequence. Pursuant to Article 87 § 1 of the Criminal Procedure Code of Ukraine and the case-law of the Supreme Court, evidence obtained as a result of a search carried out in substantial violation of a person's fundamental rights is inadmissible.

4. The possibility of examining the witness operating under a concealed identity and the guarantees of the right to a defense

4.1. The factual circumstances

In the materials of the criminal proceedings submitted for examination, the person who had direct communicative contact with the Applicant and who in fact carried the audio-surveillance equipment during the conduct of the CISA on 12 January 2026 (O. S. Mazur) appears under altered personal data, under a concealed-identity (legend) regime. At the same time, it can be established from the materials of the proceedings that this person is a sitting Member of Parliament of Ukraine – a public figure whose identification, in view of her status, the extent of her public activity, and the information available in the public domain, is not difficult.

It is also apparent from the materials of the criminal proceedings that (a) the fact of this witness's existence and her participation in the conduct of the CISA have been formally disclosed to the

defence within the materials of the criminal proceedings, and that (b) the reference to the need to ensure this witness's safety has been relied upon by the prosecution to justify its refusal to provide the defence with the full audio recording of the conversation and access to the material carrier of that recording.

4.2. The national standard

At the level of national legislation, the procedure for conducting procedural actions involving the application of safety measures is governed by the Criminal Procedure Code of Ukraine (in particular, Article 336 § 8 and Article 352 § 9) and by the Law of Ukraine "On Ensuring the Safety of Persons Participating in Criminal Proceedings" (hereinafter – Law No. 3782-XII). Under Article 20 of that Law, the basis for applying safety measures is the existence of data indicating a genuine threat to a person's life, health, home, and property; the decision to apply them is formalized by a reasoned resolution (ruling) of the authorized entity (Article 22). National legislation thus mandatorily requires the establishment of objective grounds, substantiated by specific factual data, for the application of safety measures.

4.3. The Convention standard: Article 6 §§ 1 and 3 (d) of the Convention

The ECtHR has established case law for assessing the lawfulness, in criminal proceedings, of the use of the testimony of witnesses whose identities remain unknown to the defense. Its key elements are as follows.

The exceptional character of anonymity and the requirement of objective grounds. The anonymity of a witness is permissible only on condition that the national authorities can give relevant and sufficient reasons for keeping his or her identity secret (Doorson v. the Netherlands, § 71; Visser v. the Netherlands, § 47). A witness's merely subjective fear is not sufficient: the first-instance court is under an obligation to verify whether there are objective grounds for such fear and whether they are supported by evidence (Al-Khawaja and Tahery v. the United Kingdom [GC], § 124; Balta and Demir v. Turkey, § 44). The position of the ECtHR in Van Mechelen and Others v. the Netherlands (§ 61) is illustrative: the Court found that the national court had insufficiently assessed the threat of reprisals, having confined itself to a reference to the seriousness of the offenses committed without examining the applicants' real capacity to carry out the threats or to induce other persons to do so.

The "sole or decisive evidence" rule and the most rigorous scrutiny. Where a conviction is based solely or to a decisive extent on the testimony of a witness whom the defense has had no opportunity to examine, or where such testimony carries significant weight in establishing guilt, the ECtHR is under an obligation to subject the proceedings to the most rigorous scrutiny. Compliance with the requirements of the Convention in such proceedings is possible only where there are sufficient counterbalancing factors, encompassing effective procedural safeguards (Schatschaschwili v. Germany [GC], §§ 116, 123; Snijders v. the Netherlands, § 67).

The specific nature of the restriction of the rights of the defense in the case of anonymity. Unlike the situation of an absent witness, where his or her identity is known to the defense and the latter can investigate possible motives for distorting the testimony, anonymity deprives the defense of the possibility of ascertaining whether such a witness has reasons for giving false testimony (Asani v. North Macedonia, § 36). To compensate for such a restriction, the defense must be afforded strong procedural safeguards (Doorson v. the Netherlands, § 72; Van Mechelen and Others, § 54). In particular: (a) the defence must be afforded a genuine opportunity to examine the witness during the trial – at least in a form which does not fully reveal his or her identity but which makes it possible to verify the reliability of the testimony and to ascertain the witness's possible interest; and (b) the court, in assessing such testimony, is under an obligation to take into account the limited

possibilities of the defence to verify it and to apply heightened caution – especially where this testimony is the "sole or decisive evidence for the prosecution".

4.4. Application of the standards to the circumstances of the case

4.4.1. The application of a concealed-identity regime to a publicly known person

The person concerned is a sitting Member of Parliament of Ukraine – a public figure whose status, biographical data, and public activity are publicly available information. The anonymization of such a person's personal data, in the absence of additional protective measures, largely loses its functional meaning. In such a situation, a legitimate question arises as to whether the concealed-identity measures applied pursue the genuine aim of protecting this person, or whether they in fact serve as an instrument for restricting the defense's procedural rights, notwithstanding the latter's formal awareness of the witness's identity. As a consequence, a heightened obligation is placed on the prosecution to give relevant and sufficient reasons both as to why safety measures are applied in respect of the witness and as to why such a regime remains appropriate and proportionate in circumstances where the person has in fact been identified.

4.4.2. The witness's active role in the formation of the key item of evidence

The person concerned is not a passive eyewitness to events. She: (a) was in direct contact with the Applicant; (b) in fact performed the function of carrier of the audio-surveillance equipment within the framework of the CISA; (c) is a source of the context in which the recorded conversations took place; and (d) possesses information about the circumstances of the conduct of the CISA which is relevant to the assessment of the authenticity and evidential value of the recording obtained. Under the ECtHR's case law, such a person is a "witness for the prosecution" in the autonomous meaning of that term, and a witness whose testimony may be decisive in establishing the circumstances of the criminal proceedings.

4.4.3. The use of the witness operating under a concealed identity for the purpose of restricting the defense's right of access to the key item of evidence

The reference to the need to protect this witness has been relied upon by the prosecution to justify its refusal to provide the defense with access to the full recording of the conversation and to the material carrier of the CISA (see, in more detail, Section 2 of this Opinion). In practice, this means the reference to witness protection is used to restrict the defense's access to the key prosecution evidence, even though the witness's identity is already known to the defense. Such an approach relies on using the safeguards of one procedural institution to nullify the safeguards of another. It does not meet the strict-necessity requirement for any restrictions on the defense's rights (Van Mechelen and Others, § 58).

4.4.4. Questioning at the pre-trial investigation stage in the absence of the defense

It follows from the materials that questioning of this witness has already been conducted within the framework of the pre-trial investigation in the absence of the defense, which was provided only with the record for examination. This situation, in itself, does not run counter to the Criminal Procedure Code of Ukraine at the pre-trial investigation stage. Still, it acquires fundamental significance in the context of the subsequent trial: testimony obtained without allowing the defence to put questions to the witness cannot, according to the established case-law of the ECtHR, serve as the "sole or decisive" evidence for a conviction unless the accused is afforded an adequate opportunity to examine that witness at another stage of the proceedings (Al-Khawaja and Tahery [GC], §§ 119, 127; Schatschaschwili [GC], §§ 105-131).

4.5. Conclusions

The procedural regime applied to the witness who carried the audio-surveillance equipment does not meet the requirements of Article 6 §§ 1 and 3 (d) of the Convention: the application of safety

measures is not supported by relevant and sufficient justification; the institution of witness protection is used to restrict access to the key item of evidence for the prosecution; and, finally, the witness's testimony was obtained without allowing the defence to put questions to her.

Affording the defense a genuine opportunity to examine this witness during the trial is not a discretionary decision of the court but a Convention obligation: without such examination, her testimony cannot form the basis of a conviction (Al-Khawaja and Tahery [GC], § 119). In view of the witness's active role in the formation of the key item of evidence for the prosecution, a failure to discharge this obligation will create independent grounds for finding a violation of Article 6 of the Convention (Schatschaschwili [GC], § 116).

5. Violation of the presumption of innocence

5.1. The factual circumstances

The pre-trial investigation in the case submitted for examination received extensive coverage in the mass media. A review of the publications on the Internet makes it possible to identify four distinct elements of the communicative actions of the pre-trial investigation body and other State officials:

(a) *The first official publication releasing a fragment of the CISA (14 January 2026).* On the morning of 14 January 2026, approximately 6 hours after the completion of the search (see Section 3 of this Opinion), a statement was published on NABU's official website under the heading "The leader of a parliamentary faction has been notified of a suspicion (VIDEO+PHOTO)" (link – https://nabu.gov.ua/news/kerivnytci-deputats-ko-fraktci-parlamentu-povidomleno-pro-pidozru/). Simultaneously, a fragment of the CISA materials (the recording of the conversation) was posted on the YouTube platform under the title "Vote-buying in the Verkhovna Rada by a faction leader" (link – https://www.youtube.com/watch?v=CmcngrtYCT8&t=21s);

(b) *The title of the criminal-proceedings card in NABU's official records.* The proceedings are registered under the title "Bribery of MPs by a parliamentary faction leader" (link – https://nabu.gov.ua/news/pidkup-nardepiv-kerivnytceiu-fraktci-vr/);

(c) *The notice of completion of the pre-trial investigation of 8 April 2026.* A notice of the completion of the investigation in the case was published on the websites of NABU and the SAPO (link – https://nabu.gov.ua/news/zaversheno-slidstvo-u-spravi-kerivnytci-deputats-ko-fraktci-parlamentu/), using the wording "the investigation has established", followed by a presentation of the incriminated acts as though factually proven;

(d) *The public comment of the President of Ukraine of 20 January 2026.* The President of Ukraine commented on the circumstances of the criminal proceedings under examination (links – https://www.pravda.com.ua/news/2026/01/20/8017043/; https://suspilne.media/1218660-zelenskij-zaaviv-so-sprava-timosenko-ne-povazana-z-mozlivimi-viborami-v-ukraini/), referring to a specific factual detail of the case known publicly only from the communication of the pre-trial investigation body.

5.2. The national standard

The principle of the presumption of innocence is enshrined in the Constitution (Article 62). It is included among the general principles of criminal proceedings (Article 17 of the Criminal Procedure Code of Ukraine). In the context of the case under examination, this principle takes on particular significance, as it protects a person not only from a biased attitude on the part of the court but also from premature conclusions by the State authorities and from public opinion formed under their influence.

5.3. The Convention standard: Article 6 § 2 of the Convention

The general principle. The ECtHR consistently interprets Article 6 § 2 of the Convention as prohibiting, among other things, State officials from making public statements that prompt the public to conclude that a suspected (accused) person is guilty before such guilt has been established in accordance with the law (Allenet de Ribemont v. France, §§ 35-36; Ismoilov and Others v. Russia, § 161; Butkevičius v. Lithuania, § 53). The presumption of innocence does not prohibit informing the public about criminal investigations, but it requires that such information be conveyed with all requisite discretion and circumspection (Fatullayev v. Azerbaijan, § 159; Garycki v. Poland, § 69; Lavents v. Latvia, §§ 126-127). The ECtHR draws a fundamental dividing line between a statement that a person is suspected of having committed a particular offense (permissible) and an assertion that the person has committed an offense, in the absence of a final conviction (a violation of the presumption of innocence): Ismoilov and Others, § 166; Nešťák v. Slovakia, § 89; Garycki, § 67.

The choice of words and the objective character of the assessment. The ECtHR consistently emphasizes the particular importance of officials' choice of words in public statements made before a person has been found guilty (Daktaras v. Lithuania, § 41; Khuzhin and Others v. Russia, § 94). Thus, in Gutsanovi v. Bulgaria (§§ 195-201), the ECtHR found a violation of Article 6 § 2 on account of the Minister of the Interior's characterization of the applicant's actions as a "scheme of machinations built up over several years". The absence of an intention to breach the presumption of innocence does not in itself preclude a finding that it has been breached (Avaz Zeynalov v. Azerbaijan, § 69): it is sufficient that there be reasoning or wording which objectively makes it possible to conclude that an attitude towards the person as guilty has been formed (Minelli v. Switzerland, § 37).

5.3.1. The publication of evidential materials and the identification of the person

Of particular significance in the circumstances of the case under examination is the very fact of the public release of a fragment of the recording obtained as a result of the CISA, before the completion of the pre-trial investigation and the examination of the case by a court. In Bédat v. Switzerland [GC] (§ 51), the ECtHR emphasized that the press must not overstep the bounds set, among other things, to protect the accused's right to respect for his private life and his presumption of innocence, when reporting on criminal proceedings. In Axel Springer SE and RTL Television GmbH v. Germany (§§ 40, 51), the Court underlined the significance of the possibility of identifying the person from the published materials. It noted that even the fact that an accused has admitted guilt does not, in itself, deprive him of the protection afforded by the presumption of innocence.

The cited case law directly concerns the balancing of freedom of the press against the presumption of innocence. However, the corresponding standards are a fortiori applicable to a situation where the initiator of the publication is not a private media outlet but the pre-trial investigation body itself, which publishes a fragment of evidence obtained by covert means. In such a situation, what is at issue is no longer the assessment of the actions of the press, but the actions directly of the official to whom the requirements of Article 6 § 2 of the Convention apply. The absence of a direct indication of the person's surname and forename in the publication does not nullify the breach of the presumption of innocence where the context and accompanying information objectively make it possible to identify the person, which, given the Applicant's public status, is obvious.

5.3.2. Premature publicity and its impact on the fairness of the proceedings as a whole

The ECtHR recognises that an intensive media campaign is capable of adversely affecting the fairness of a trial through the formation of public opinion, which may call into question the impartiality of the court within the meaning of Article 6 § 1 and, at the same time, the presumption of innocence under Article 6 § 2 (Khuzhin and Others v. Russia, § 93; Craxi v. Italy (no. 1), § 98). Comments by a prosecutor that constitute prejudicial statements regarding the accused give rise to a separate issue under Article 6 § 2, independently of other aspects of premature publicity under

Article 6 § 1 (Turyev v. Russia, § 21). The presumption of innocence operates throughout criminal proceedings (Poncelet v. Belgium, § 50; Minelli, § 30), and any breach of that presumption at the early stages is not "nullified" by a person's subsequent conviction (Matijašević v. Serbia, § 49; Nešťák, § 90).

5.3.3. The particular context: political figures and statements by high-ranking officials

In the ECtHR's case-law, public statements by the authorities in cases concerning political figures are assessed having regard to the risk that criminal prosecution may be used as an instrument of political pressure. Such statements may in themselves serve as an indicator of the existence of an ulterior purpose of prosecution within the meaning of Article 18 of the Convention (Ilgar Mammadov v. Azerbaijan, § 142; Rashad Hasanov and Others v. Azerbaijan, §§ 122-124; Selahattin Demirtaş v. Türkiye (no. 4), §§ 316-317).

The ECtHR's case law concerning public statements by high-ranking officials of the executive branch warrants separate attention. In Bavčar v. Slovenia (§§ 109-125), the Court found a violation of Article 6 § 2 arising from statements by the Minister of Justice and the Prime Minister about the applicant, a publicly known political and economic figure. The ECtHR found that the cumulative effect of such statements could influence the adoption of the judicial decision and prompt the public to perceive the applicant as guilty before a final judicial decision had established such guilt.

5.4. A direct precedent concerning Ukraine: Sytnyk v. Ukraine

Directly relevant to the assessment of the circumstances of the case submitted for examination is the ECtHR's judgment in Sytnyk v. Ukraine (application no. 16497/20, final on 24 July 2025). In that judgment, the Court found that the combination of such factors as: (a) the transfer of the materials of the criminal proceedings to the media with a reference to "a source in the law-enforcement bodies"; (b) extensive media coverage using negative wording regarding the circumstances of the case; and (c) a public statement by a high-ranking official of the prosecution body containing a factual assessment of the applicant's actions – taken together, may indicate that, beyond the formal aim of verifying allegations of corruption, the authorities may have been directing their efforts personally against the applicant and at his discrediting (§§ 152-154).

In Sytnyk, the ECtHR held that such a configuration of public communication violated the applicant's rights. The judgment became final less than half a year before the commencement of the criminal proceedings under examination.

5.5. Application of the standards to the circumstances of the case

5.5.1. The publication of a fragment of the CISA evidence by the pre-trial investigation body, with the simultaneous identification of the person

The release of a fragment of the recording of the conversation obtained as a result of the CISA on the YouTube platform, under a heading containing a direct characterisation of the acts in terms of their classification ("Vote-buying in the Verkhovna Rada by a faction leader"), was carried out by the pre-trial investigation body itself even before the completion of the pre-trial investigation and the examination of the case by a court. Given the Applicant's public status, the publication's context, and the accompanying materials, she was easily identified. Such a communicative action falls directly within the standard of Bédat v. Switzerland [GC] (§ 51) and Axel Springer SE (§§ 40, 51) in its reinforced form. In this fortiori, the publication originates not from a media outlet but from the very body to which the requirements of Article 6 § 2 apply.

5.5.2. The title of the case card in NABU's official records

The wording "Bribery of MPs by a parliamentary faction leader" constitutes an assertion of an already committed act and of the person who committed it, in the absence of a final conviction. This directly contravenes the ECtHR's dividing line between a statement of suspicion and an assertion of the commission of an offense (Ismoilov and Others, § 166; Garycki, § 67).

5.5.3. The notice of completion of the pre-trial investigation using the wording "the investigation has established"

Such wording, within the criminal process, is naturally perceived as an assertion that the incriminating acts have been proven. It falls within the standard of discretion and circumspection that the ECtHR requires of official notices about an investigation (Fatullayev, § 159; Garycki, § 69).

5.5.4. The public comment of the President of Ukraine referring to specific details of the case

In view of the factual anchoring of the comment to details known to the public exclusively from the prior communication of the pre-trial investigation body, and the status of the person who made the statement (the Head of State), this circumstance falls directly within the standard formulated by the ECtHR in Bavčar v. Slovenia (§§ 109-125) concerning statements by high-ranking State officials.

Taken together, these four elements of the communicative actions of the pre-trial investigation body and the President of Ukraine reproduce – in their structural and functional dimension, and in certain respects also in their factual dimension – the configuration which the ECtHR in Sytnyk v. Ukraine regarded as constituting a violation of Article 6 § 2 of the Convention.

5.6. Conclusions

A comparison of the circumstances of the public communication of the pre-trial investigation body and other State officials regarding the criminal proceedings under examination with the standards of Article 6 § 2 of the Convention as interpreted by the ECtHR, primarily in Sytnyk v. Ukraine, provides grounds for finding a violation of the Applicant's presumption of innocence.

The violation of the presumption of innocence thus established is of independent significance and cannot be "nullified" by the further course of the proceedings, including their outcome (Matijašević, § 49; Nešťák, § 90). A public perception of the person as guilty, formed at the early stages of the proceedings, is capable of having irreversible consequences for the fairness of the proceedings as a whole – both from the standpoint of the impartiality of the court (Article 6 § 1) and from the standpoint of the presumption of innocence itself (Article 6 § 2). Any further selective dissemination of materials from the criminal proceedings before their examination by a court, as well as any further public statements by the pre-trial investigation body and other State officials regarding the Applicant that go beyond restrained informing, will deepen the established violation.

6. The question of possible entrapment

6.1. The factual circumstances

The body of materials provided in the criminal proceedings is focused on actions taken in respect of the Applicant after 5 January 2026, whereas materials are absent for a significant period preceding that; accordingly, the question of who took the initiative in formulating the offer of an unlawful benefit remains open.

6.2. The Convention standard: distinguishing a legitimate investigation from entrapment

The ECtHR has established a two-stage methodology for assessing complaints of entrapment, comprising a substantive and a procedural test (Matanović v. Croatia, § 122; Ramanauskas v. Lithuania *(no. 2)*, § 55).

The substantive test: the passive versus active character of the authorities' actions. Entrapment, as distinct from a legitimate covert investigation, is found to exist where the agents of the authorities, or persons acting on their instructions, do not confine themselves to investigating criminal activity in an essentially passive manner, but exert such an influence on the person as to incite the commission of an offence that would otherwise not have been committed (Ramanauskas v. Lithuania [GC], § 55). In assessing the passivity of the investigation, the ECtHR examines the reasons for conducting the covert operation and the conduct of the authorities in the course of it, in particular whether there were objective suspicions that the person was involved in criminal activity or was predisposed to commit an offense (Bannikova v. Russia, § 38). In the leading case of Teixeira de Castro v. Portugal (§§ 37-38) the ECtHR found a violation of Article 6 § 1 of the Convention, having regard to a combination of factors: the absence of any previous convictions of the applicant, the absence of any investigation opened in respect of him, the absence of any prior acquaintance of the police officers with the applicant, and the absence of any grounds to suppose that, but for the agents' intervention, the offence would have been committed.

The question of initiative: "joining" versus "instigating". Of fundamental importance is the question of precisely who took the initiative in making contact. In Milinienė v. Lithuania (§§ 37-38), which is traditionally contrasted with *Teixeira de Castro*, the ECtHR found the actions of the law-enforcement authorities to be a legitimate "joining" of criminal activity precisely on the ground that the initiative came from a private individual who had, of her own accord, approached the police with a complaint that the applicant had demanded a bribe, and that it was only after such approach that the operation was authorised and carried out under the supervision of the Deputy Prosecutor General with a view to verifying that complaint. By contrast, an agent's taking the initiative in making contact with a person, in the absence of objective suspicions that he or she is involved in criminal activity, is regarded by the ECtHR as an indication of incitement-type conduct (Burak Hun v. Turkey, § 44; Sepil v. Turkey, § 34; Ramanauskas [GC], § 67).

The procedure for authorization and supervision. The clarity and foreseeability of the procedure for authorizing, executing, and supervising a covert operation are of substantial importance. The absence of such a procedure, or its improper performance, weighs in favor of a finding of entrapment (Teixeira de Castro, § 38; Ramanauskas [GC], § 64; Tchokhonelidze v. Georgia, § 51). The ECtHR separately emphasizes the need to ascertain precisely which reasons or personal motives prompted the undercover agent to approach the particular person with the relevant initiative (Ramanauskas [GC], § 64).

The procedural test. Where the substantive test does not yield an unequivocal answer, in particular as a result of conflicting positions of the parties as to the course of events or the absence of sufficient information in the case materials, decisive significance attaches to the judicial examination of the complaint of entrapment (Edwards and Lewis v. the United Kingdom [GC], § 46; Matanović, §§ 131-135; Ramanauskas (no. 2), § 62). Where the defense's allegation of entrapment is not manifestly ill-founded, the burden of proving the absence of entrapment is placed on the prosecution (Ramanauskas [GC], § 70). The national courts are under an obligation to carry out a thorough examination of the case materials; for the proceedings to comply with Article 6 § 1 of the Convention, all evidence obtained as a result of incitement must be excluded, or a procedure with analogous consequences must be applied to it (Akbay and Others v. Germany, §§ 123-124). Decisions of the national courts dismissing a complaint of entrapment must be duly reasoned (Sandu v. the Republic of Moldova, § 38; Tchokhonelidze, § 52).

6.3. Application of the standards to the circumstances of the case

The available materials do not permit a definitive answer to the question of compliance with the "essentially passive" standard of investigation within the meaning of Teixeira de Castro (§ 38) and Bannikova v. Russia (§ 38). In particular, the following remain unclear: the nature of the actions of

the pre-trial investigation body before the agent appeared in the proceedings; the circumstances in which the agent approached the pre-trial investigation body and was engaged in conducting the CISA; and the scope and content of the instructions given to the agent.

6.4. Conclusions

The allegation of possible entrapment in the circumstances of this case is not manifestly ill-founded within the meaning of Ramanauskas [GC] (§ 70). It has a specific factual basis requiring procedural examination. This conclusion is not a finding that entrapment occurred – that question ultimately falls within the court's competence. Rather, it activates the consequences provided for by the ECtHR's procedural test: the burden of proving the absence of entrapment is placed on the prosecution, and the national court is under an obligation to carry out a substantive, rather than formal, examination of the relevant complaint, with due reasoning in its decision (Ramanauskas [GC], § 64; Tchokhonelidze v. Georgia, § 51).

A failure to comply with these requirements in the further course of the proceedings will create independent grounds for finding a violation of Article 6 § 1 of the Convention on account of entrapment, with the corresponding consequences as regards the admissibility of the evidence obtained as a result of the CISA.

7. Assessment of the politically motivated prosecution of the Applicant

7.1. Statement of the question

Throughout the preceding sections of this Opinion, the circumstances of the criminal proceedings have been examined consistently through the prism of specific Convention guarantees.

This section addresses whether there are indications of politically motivated prosecution in the criminal proceedings against the Applicant.

This question warrants separate consideration, since the totality of the procedural circumstances that are relevant under individual Convention provisions may, at the same time, serve as an indicator of the existence of an ulterior purpose of prosecution within the meaning of Article 18 of the Convention and, in the broader human-rights discourse, of indications of politically motivated prosecution. The appropriateness of a separate assessment is additionally dictated by the Applicant's status as leader of an opposition parliamentary faction in Parliament, which, in the established case-law of the ECtHR, heightens the standard of rigor in the assessment of a criminal prosecution, as well as by the human-rights function of the KHPG, which consistently applies the corresponding methodological approaches.

7.2. The Convention standard: Article 18 of the Convention

Article 18 of the Convention provides that the restrictions permitted under the Convention shall not be applied for any purpose other than those for which they have been prescribed. The object and purpose of this provision is the prohibition of the misuse of power (Merabishvili v. Georgia [GC], § 303). Article 18 is, by its nature, accessory: it has no independent existence and applies only in conjunction with another provision of the Convention establishing or restricting a right. At the same time, it is autonomous, since a violation of Article 18 may be found even where no violation of the Article with which it applies in conjunction has been established (Merabishvili [GC], § 288; Aliyev v. Azerbaijan, § 198; Selahattin Demirtaş v. Türkiye (no. 2) [GC], § 421). A formally lawful restriction of a right may contravene Article 18 if it is applied for a purpose not provided for by the Convention.

The "predominant ulterior purpose" test. In situations where a restriction of a right pursues both a legitimate purpose (provided for by the Convention) and an ulterior purpose at the same time (a plurality of purposes), a violation of Article 18 is established only on condition that the ulterior purpose was predominant – that is, one that actually prompted the authorities to act and constituted the basis of their efforts (Merabishvili [GC], §§ 303, 305; Navalnyy v. Russia [GC], § 165; Korban v. Ukraine, §§ 211-213). The question of predominance depends on the entire body of circumstances of the case (Merabishvili [GC], § 307).

The standard of proof. The ECtHR does not apply a general presumption of good faith to national authorities, nor does it require a heightened standard for complaints under Article 18 (Merabishvili [GC], §§ 282, 310). A separate incriminating item of evidence need not prove an ulterior purpose: a conclusion as to its existence may be based on a body of sufficiently strong, clear and concordant circumstantial evidence – information about primary facts, contextual facts and sequences of events which may serve as a basis for inferences as to the genuine purpose of the actions in question (Ilgar Mammadov v. Azerbaijan, § 142; Merabishvili [GC], § 317).

Relevant categories of circumstances. The ECtHR's case-law has identified recurring categories to which the Court has regard in assessing an ulterior purpose: (a) whether the charges relate to the person's political activity or to ordinary criminal offences (Merabishvili [GC], § 320; Ugulava v. Georgia, § 130); (b) the quality of the reasoning of the national judicial decisions (Sabuncu and Others v. Turkey, § 256; Azizov and Novruzlu v. Azerbaijan, § 78); (c) the proportionality of the preventive measures to the nature of the charges (Navalnyy v. Russia (no. 2), § 95); (d) the chronological synchronisation of the prosecution with key political events (Selahattin Demirtaş (no. 2) [GC], §§ 426, 429); (e) the opposition political status of the applicant (Ilgar Mammadov, §§ 137-143; Selahattin Demirtaş (no. 2) [GC], §§ 423-427); (f) the systemic character of the procedural violations as a pattern of conduct on the part of the authorities (Selahattin Demirtaş (no. 2) [GC], § 428); (g) the selectivity of the procedural pressure in respect of political opponents (Selahattin Demirtaş (no. 2) [GC], § 427); (h) the character of the public communication of the pre-trial investigation bodies, including leaks of investigative materials to the media (Sytnyk v. Ukraine, §§ 152-154).

A fundamental limitation. The mere fact that the suspect's political opponents may benefit from his conviction does not preclude criminal prosecution where genuine charges exist. A high political status does not confer immunity (Khodorkovskiy v. Russia, § 258; Khodorkovskiy and Lebedev v. Russia, § 903; Ugulava, § 128).

Applicability beyond detention. In the majority of cases in which the ECtHR has found a violation of Article 18, the issue concerned detention (in conjunction with Article 5). However, in Sytnyk v. Ukraine, the ECtHR found a violation of Article 18 in conjunction with Articles 6 and 8 in respect of administrative proceedings in which the person had not been deprived of liberty; an analogous approach was applied in other cases as well (Juszczyszyn v. Poland, §§ 318-321; Miroslava Todorova v. Bulgaria, §§ 205-213). This confirms the applicability of Article 18 to the proceedings under examination as well, notwithstanding that detention has not been applied in respect of the Applicant.

7.3. The human-rights standard

The concept of "politically motivated prosecution" in the human-rights methodology is a generic category, broader than the concept of "political prisoner" or "prisoner of conscience": it encompasses the entire spectrum of measures of State coercion (criminal, administrative, extrajudicial) applied for illegitimate political motives not provided for by law. Within this approach, prosecution is classified as politically motivated where the actions of State bodies and their officials and officers are prompted by: (a) illegitimate considerations of a socio-political nature; or (b) the actions of the person concerned in defense of the rights, freedoms, and legitimate

interests of citizens. A fundamental limitation of this approach is the categorical exclusion of politically motivated prosecution of actions connected with violence, calls to violence, or activity aimed at the abolition of human rights and freedoms.

PACE Resolution 1900 (2012) "The definition of political prisoner". A person deprived of their personal liberty is regarded as a political prisoner if: (a) the deprivation of liberty has been imposed in violation of one of the fundamental guarantees of the Convention (in particular, freedom of thought, expression, assembly, association); (b) the deprivation of liberty has been imposed purely for political reasons without connection to any offence; (c) the duration or conditions of the deprivation of liberty for political reasons are clearly disproportionate; (d) the person has been deprived of liberty for political reasons in a discriminatory manner; or (e) the deprivation of liberty is the result of manifestly unfair proceedings, and this appears to be connected with the political motives of the authorities. The Resolution is formulated in relation to situations of deprivation of liberty, which constitutes an objective limitation on its direct application to the case under examination. At the same time, its criteria are used in human rights practice as a methodological reference point beyond this narrow sphere.

The expanded approach of human-rights organizations. In accordance with the approaches of the human rights protection group "Memorial", the broader category of victims is expressly recognized as encompassing politically motivated prosecutions, including persons who are not deprived of liberty but are subjected to other forms of State pressure (extrajudicial, administrative, disciplinary). Such a person is not recognized as a political prisoner in the narrow sense, but is classified as a victim of politically motivated prosecution and is protected by the human rights community.

The approach of the Kharkiv Human Rights Protection Group. In the course of its work, the KHPG consistently applies a combination of general approaches with its own methodological features, dictated by the specific nature of the Ukrainian political and legal context. The KHPG regards prosecution on political grounds as a category broader than deprivation of liberty: it includes both criminal cases in which detention is not applied and instances of unlawful extrajudicial pressure. The KHPG applies the above formula of illegitimate motives and consistently extends it to the assessment of specific criminal and administrative proceedings in Ukraine, combining an assessment of procedural violations with an assessment of the political context of the prosecution.

The burden of proof. An allegation that a person is a victim of politically motivated prosecution must be supported by prima facie evidence. Once such evidence has been provided, the burden of proof shifts to the State, which must demonstrate compliance with international human rights standards, observance of the requirements of proportionality and non-discrimination, and the fairness of the trial. This standard is methodologically compatible with the standard of proof under Article 18 of the Convention.

7.4. Application of the standards to the circumstances of the case

7.4.1. Circumstances that correlate with the standards identified

The Applicant's public position regarding the anti-corruption bodies. On 22 July 2025, the Applicant, as the leader of a parliamentary faction, supported Bill No. 12414, which aimed to restrict the powers of NABU and the SAPO. In addition, the Applicant systematically and publicly criticized the activity of these bodies. The criminal proceedings were opened less than four months after that vote, on 27 November 2025. The temporal proximity between a person's public activity directed against a body which subsequently initiates her criminal prosecution, and the opening of such proceedings, is regarded as a circumstance requiring scrutiny in view of Article 18 of the Convention (Ilgar Mammadov v. Azerbaijan, §§ 137-143). Such a combination of circumstances raises the question of whether the Applicant's public position regarding NABU and the SAPO became one of the factors that determined her selection as the object of criminal prosecution.

The Applicant's opposition political status. The Applicant is a Member of Parliament of Ukraine and leader of the parliamentary faction of the political party All-Ukrainian Union "Batkivshchyna". That political force is consistently in opposition to the current authorities. Her current political status includes exercising leadership within a parliamentary faction and regularly criticizing State authorities, including the State's highest officials. In the ECtHR's case-law, opposition status is consistently regarded as a circumstance that heightens the rigor of the assessment of a criminal prosecution (Ilgar Mammadov, §§ 137-143; Selahattin Demirtaş *(no. 2)* [GC], §§ 423-427). Such a status does not in itself create a presumption that the criminal prosecution is of a political character, but it lends additional significance to the other circumstances identified.

The extension of procedural pressure to another member of the opposition political force. The search on the night of 13–14 January 2026 (see Section 3 of this Opinion) encompassed premises in which the official office of a Member of Parliament of Ukraine, Serhii Vlasenko – a member of the parliamentary faction of the All-Ukrainian Union "Batkivshchyna" – was also located. Mr. Vlasenko is the chair of a parliamentary temporary investigative commission to investigate possible corruption in law enforcement and judicial bodies, and, in that capacity, stands in a potential institutional conflict with NABU and the SAPO, consistently criticizing their activities publicly.

At the same time, Mr. Vlasenko has no procedural status whatsoever in the criminal proceedings under examination – no investigation is being conducted in his respect. His official office as a Member of Parliament of Ukraine is statutorily protected. In view of this, the conduct of a search on the said premises and the possible interference with Mr. Vlasenko's parliamentary activity constitute distinct circumstances requiring separate legal assessment: Mr. Vlasenko has already submitted a corresponding report of a criminal offense to the competent authorities.

The simultaneous character of the procedural pressure on two members of one opposition political force, one of whom has a defined public-law status in his relations with the pre-trial investigation body, falls within the indicator identified by the ECtHR in Selahattin Demirtaş (no. 2) [GC] – the extension of procedural pressure to several members of an opposition political force.

The configuration of the public communication of the pre-trial investigation body and State officials. As analysed in detail in Section 5 of this Opinion, the public communication surrounding the pre-trial investigation is characterised by a combination of features that go beyond ordinary informing: the simultaneous publication of the official notice of suspicion and a fragment of the CISA materials in open access; the formulation of the title of the criminal-proceedings card as an assertion of an already committed offence; the notice of completion of the investigation using the wording "the investigation has established"; and the public comment of the President of Ukraine referring to specific details of the criminal proceedings. Such a configuration objectively approximates the factual pattern in which the ECtHR found a violation of Article 18, together with Articles 6 and 8, in Sytnyk v. Ukraine (§§ 152-154).

The totality of procedural decisions as a pattern of conduct. Sections 1-4 and 6 of this Opinion analyse in detail the character of the procedural decisions adopted within the framework of the pre-trial investigation: the conduct of searches at night-time without a prior ruling of an investigating judge, with subsequent post factum legalisation without the participation of the defence; the restriction of the defence's access to the original material carrier of the key audio evidence; and the circumstances requiring separate verification in view of the ECtHR's standards on the inadmissibility of entrapment. In the ECtHR's case-law, the systemic character of procedural violations that, taken together, form a certain pattern of conduct by State authorities is an independent indicator in assessing the existence of an ulterior purpose (Selahattin Demirtaş (no. 2) [GC], § 428).

7.4.2. Circumstances requiring further monitoring

Given that the criminal proceedings are ongoing, several circumstances relevant to a final assessment under Article 18 of the Convention and under the methodology of human rights organizations cannot be established within the framework of this Opinion. These include, in particular: (a) the conduct of the national courts during the examination of the case on the merits – the quality of the reasoning of their decisions and the thoroughness of their examination of the defence's arguments regarding the procedural violations identified in the preceding sections; (b) any change of the preventive measure towards a more stringent one and the grounds for such a change; the proportionality of the preventive measure chosen or changed to the nature of the charges; (c) the dynamics of the public communication of the pre-trial investigation body and the highest officials of the State, including compliance with the requirements of Article 6 § 2 of the Convention; (d) the real possibility for the defence to give effect to the Convention guarantees henceforth, including the provision of access to the original material carrier of the key item of evidence and the effective examination of the complaint of entrapment; and (e) any further procedural actions in respect of other members of the parliamentary faction of the All-Ukrainian Union "Batkivshchyna".

7.5. Conclusions

The circumstances of the criminal prosecution of the Applicant contain features that correlate with the indicators of politically motivated prosecution in the ECtHR's case-law under Article 18 of the Convention: the chronological synchronisation between the Applicant's public position regarding the anti-corruption bodies (in particular, her support for Bill No. 12414, aimed at restricting the powers of NABU and the SAPO) and the opening of criminal proceedings against her less than four months later; the Applicant's opposition status; the simultaneous procedural pressure on another member of the same faction, who stands in a relationship of institutional conflict with the pre-trial investigation body; the configuration of public communication that reproduces the factual pattern of Sytnyk v. Ukraine; and the totality of procedural decisions analysed in this Opinion, which is capable of forming a pattern of conduct within the meaning of Selahattin Demirtaş (no. 2) [GC].

None of these circumstances is, taken in isolation, sufficient to establish a violation of Article 18 of the Convention. However, taken together, they provide grounds for enhanced monitoring of the proceedings: should these circumstances be confirmed in the further course of the case and not be substantively rebutted by the pre-trial investigation body or the court, the question of the existence of an ulterior purpose of prosecution will acquire independent significance.