

IN THE EUROPEAN COURT OF HUMAN RIGHTS

FIRST SECTION

APPLICATION Nos. 51111/07 and 42757/07

Between:

MIKHAIL BORISOVICH KHODORKOVSKIY

PLATON LEONIDOVICH LEBEDEV

Applicants

- and -

THE RUSSIAN FEDERATION (No. 3)

Respondent

ANNEXE 2

OWNERSHIP STRUCTURE OF OAO YUKOS

1. This is the applicants' detailed response to the question at footnote 1, page 9 to the Statement of Facts where the Court asked "*It is unclear whether GML became the direct owner of that block of shares immediately after the privatisation or some time [sic], and whether this ownership structure remained the same throughout the period under examination, i.e. 1998-2003.*"
2. GML was established on 5 September 1997 (until 23 January 1998 it was named Flaymon Limited), and therefore naturally did not take part in the privatisation of

Yukos in December 1995. GML was never the direct owner of the shareholding in OAO Yukos to which the question in the footnote refers. The “*Draft plan for issue of American depository shares and ordinary shares by YUKOS Oil Company*” (dated 15 March 2003), which is contained in the criminal case file at vol.147 p.177, states that at the time of its incorporation in 1993 the company was fully state-owned:

“In December 1995, during the process of the privatisation of the Company, ZAO Laguna, a Russian company affiliated to companies that are collectively controlled by the current shareholders of Group Menatep and other persons, won an investment tender process for the sale of 33% of the company's shares. ZAO Laguna acquired this 33% shareholding from the Russian Government for approximately 9.4 million US dollars and took on an obligation to provide a further 150.1 million US dollars to fund the Company's investment programmes. During the same period, in December 1995 ZAO Laguna also won a loans-for-shares auction, following which it granted the Russian federal government a loan of 159.0 million US dollars and took on an obligation to provide the Company with 200.0 million US dollars in investment funding during the period 1996 - 1998. As security for this loan the Russian government provided 45% of the Company's shares. Participation in the investment tender was a condition of taking part in the loans-for-shares auction. AKB [*Joint-Stock Commercial Bank*] Menatep, which was affiliated to some of the current shareholders of Group Menatep, acted as commissioning agent and representative of the State Committee of the Russian Federation for Management of State Property in relation to the registration of applications to take part in the loans-for-shares auction. Because the Russian government failed to repay the loan of 159.0 US dollars to ZAO Laguna by 1 September 1996, Bank MENATEP, acting as commissioning agent, sold the shares that had been provided as security for the loan at a commercial tender process in December 1996. ZAO Monblan, another affiliate of the companies that were collectively controlled by the current shareholders of Group MENATEP and other persons, acquired these shares for 160.1 million US dollars.”

3. Thereafter it states that over the course of the next few years GML entered into a number of transactions relating to the Yukos Company's shares. As at 31 December 2002 GML (via three subsidiaries which it owned directly or through intermediaries: Yukos Universal Limited (which is the selling shareholder in this allotment), Hulley Enterprises Limited and Menatep Asset Management Limited) was the beneficial owner and had rights of control over approximately 63% of the Yukos Company's shares.
4. Inevitably and naturally, over the period 1998-2003 changes in the ownership structure took place as a result of the sales and purchase of shares. However,

GML maintained majority shareholding throughout that period and the changes were not fundamental ones as regards the indirect holding of shares by GML

5. In the specially prepared “YUKOS management information”, GML disclosed the following information (vol.36 p.11-14 of the case materials, in particular page p.12): Group Menatep owned 100% of the charter capital of Yukos Universal Ltd, which in turn, as of 10 June 2002, held and controlled 1,364,904,402 shares in Yukos, or 61.01% of the total number. Of these, Yukos Universal Ltd immediately held 79,288,881 shares or 3.54% of the total number, while 1,285,615,521, or 57.47%, of the total number of the Company's shares were held by the company Hulley Enterprises Ltd, which is a 100% subsidiary of Yukos Universal Ltd. In this way, Group Menatep had the ability, through Yukos Universal Ltd, to exercise voting rights at the Company's general shareholders' meetings in respect of 1,364,904,402 shares or 61.01% of the total number of the Company's shares.

6. According to the case materials, as at 31 December 2002 the structure of the ownership of ordinary shares in OAO NK Yukos was as follows: Group Menatep, which held shares in the Company via directly and indirectly owned subsidiaries - 63.11%; Veteran Petroleum Trust - 10%; shares at the disposal of Yukos subsidiaries 3.61%; shares provided to ADR (American Depositary Receipt) - 12.81%; other shareholders - 10.46%. (see case materials at vol.147, p.205).