

UKRAINE

Press freedom and the murder of Georgy Gongadze

Memorandum to the Parliamentary Assembly of the Council of Europe

We, the undersigned organisations, call on the Council of Europe to launch a new inquiry into the murder of the Ukrainian journalist Georgy Gongadze.

We urge the Parliamentary Assembly of the Council of Europe to join us in calling on the CoE secretariat to take this action.

The Gongadze case is a touchstone for freedom of speech in Europe. Continued failure to resolve it encourages abuses of power to silence and intimidate journalists. A new CoE inquiry must widen its remit to deal with the serial failures of law enforcement, judicial and governmental procedures in Ukraine that have contributed to the non-resolution of the case.

After a preliminary investigation of these failures,¹ we bring to the Council's attention the following areas in which there are strong grounds to believe there have been, and are currently, serious breaches of human rights as expressed in European conventions, Ukrainian and international law:

- i. The catalogue of errors and inconsistencies in the case committed by the Ukrainian general prosecutor and other officials in the first stages of the investigation;
- ii. The recent announcement that a suspect is in custody, and the failure to bring to court, charge, or answer questions about this suspect;
- iii. The manner in which the conduct of the case has been misreported to the Council of Europe and to the public;
- iv. The Ukrainian authorities' failure to take into account in their investigations the so-called "Melnychenko tapes";
- v. The failure of the Ukrainian authorities to progress the investigation into the surveillance of Gongadze by interior ministry staff in the weeks prior to his murder and possible connections between this surveillance and the murder;
- vi. The possible connections between the Gongadze case, that of former police officer Ihor Honcharov (deceased), and criminal activity within the ministry of internal affairs;
- vii. The *prima facie* evidence of intimidation and harassment of officials who have tried to progress aspects of the case.

We urge that these seven areas of inquiry be included in the Council of Europe's fresh investigation of the case.

**The International Federation of Journalists
The National Union of Journalists of the UK and Ireland
The Gongadze Foundation
The Institute of Mass Information**

¹ In November 2003 a commission to examine the failure of law enforcement and judicial processes in the Gongadze case was set up with the support of the four organisations listed. The present memorandum has been produced by the commission and will be followed by a preliminary report, to be published by the end of 2004. Further details may be found at www.ifjgongadze.org.

(i) Early mis-information from officials

The first stage of the official investigation into the case of Georgy Gongadze, the Ukrainian journalist who went missing, and was later found to have been killed, on September 16, 2000, was notable for its distractions, inconsistencies and breach of due procedure under law.

After a corpse had been found in Tarashcha, a town near Kyiv, on November 2, 2000, an autopsy by the local coroner immediately revealed factors indicating that it was probably Gongadze: its physical dimensions, jewellery found with the corpse, the stomach contents, and shrapnel wounds to the hand. However, rather than allowing for this probability, which soon became a certainty, investigators tried to convince the public that the corpse was not Gongadze's and that he was still alive.

It is reported that Ukraine's chief coroner, Yuriy Shupyk, ordered that the corpse be immediately disposed of.² The local coroner, however, delayed and the corpse continued to decompose in the local morgue. On November 15 journalists arrived to claim the corpse, which was suddenly and inexplicably seized by the police and taken to Kyiv. The next day, deputy interior minister Mykola Dzhyha told parliament the corpse was too short to be Gongadze and had been in the ground for two years.³

On September 25, deputy interior minister Dzhyha said Gongadze had been seen in a Kyiv café the day after he disappeared;⁴ the interior minister, Yuriy Kravchenko, repeated this information on October 6.⁵ On the day after the corpse was found, deputy prosecutor general Serhiy Vynokurov announced that Gongadze had been seen on a train in Donetsk Region.⁶ On January 10, 2001, prosecutor general Mykhaylo Potebenko told the media he had received new information which "suggests that the journalist is still alive".⁷ A few days later his deputy, Aleksei Bahanets, went to Lviv to question people who said they had seen Gongadze; he said he had "no doubt that they were not mistaken".⁸ He repeated this claim a month later.⁹ In late January, Mr Potebenko said an accurate Czech visa had been issued to Gongadze after he disappeared.¹⁰ In late April, Mr Bahanets told Russian television: "We have a witness who was on holiday in the Czech Republic" and saw Gongadze in February.¹¹

There is no indication that the authorities properly investigated these public claims. If they had done, they presumably would have informed the public subsequently of the results. This did not happen.

On February 26, 2001, the prosecutor general confirmed that the corpse found in Tarashcha was Gongadze's, based on the results of DNA tests.¹² Yet even as late as August 2002, the deputy prosecutor general refused to rule out that Gongadze may still be alive; he told Ukrainian television: "We don't know for sure whose body this is."¹³ Exactly a year previously, his predecessor in the post had announced on television that tests had "fully confirmed" that the body belonged to Gongadze.¹⁴

These contradictory statements were accompanied by numerous announcements that the various genetic and forensic tests on the corpse were biased, flawed or otherwise inadmissible as evidence. This served to drag out the investigation and to prevent any progress.

² J Koshiw, *Beheaded: The Killing of a Journalist* (Artemia Press, 2003), pp128, 133

³ *Ibid.*, chapters 16 and 17

⁴ Ukrainian Television Third Programme, Kyiv, in Russian, 1500 gmt, September 25, 2000

⁵ Ukrainian Television Third Programme, Kyiv, in Russian, 1500 gmt, October 6, 2000

⁶ Ukrainian Television Second Programme, Kyiv, in Ukrainian, 1730 gmt, November 3, 2000

⁷ UNIAN news agency, Kyiv, in Ukrainian, January 10, 2001

⁸ Ukrainian Television Third Programme, Kyiv, in Russian, 1800 gmt 17 January 17, 2001

⁹ *Kyivskiye Vedomosti*, Kyiv, in Russian, February 15, 2001

¹⁰ *Kyivskiye Vedomosti*, Kyiv, in Russian, January 27, 2001

¹¹ Russia TV, Moscow, in Russian, 1000 gmt, April 20, 2001

¹² 'Corpse confirmed as dead writer', *The Independent* (London), February 27, 2001

¹³ *Novyy Kanal* television, Kyiv, in Ukrainian, 1600 gmt, August 9, 2002

¹⁴ Inter TV, Kyiv, in Russian, 1700 gmt, September 17, 2001

Furthermore, the prosecutor general refused to recognise Gongadze's mother, Lesya, as the aggrieved party in the case, thereby preventing her and her lawyer from having access to the materials of the case and independently observing its progress. The Pechersky Court in Kyiv ruled on February 9, 2001, that the prosecutor's office had acted outside the law in refusing to recognise Lesya Gongadze's rights.¹⁵

Hans Christian Krüger, special envoy of the Council of Europe, noted these shortcomings in his report to the Council in July, 2003. He said: "The Prosecutor General's Office made numerous -- and sometimes contradictory -- statements to the press and before Parliament. ... Inconsistencies in the authorities' statements were often interpreted as proof of bias and unwillingness really to establish the truth."¹⁶

We, the undersigned organisations, submit that the effect of these contradictions was seriously to delay the progress of the investigation and to spread confusion about the case. As a result, fresh clues and information may have been overlooked or discredited, or their significance ignored. The consequences for the later progress of investigation need to be assessed.

We further submit that the Council of Europe may wish to re-visit Mr Krüger's conclusions and ask whether these errors were in fact proof of an "unwillingness to establish the truth".

In September 2002, Gongadze's widow Myroslava filed a case to the European Court of Human Rights against Ukraine, claiming: "The State of Ukraine failed to conduct an effective investigation on Georgy Gongadze's case and therefore violated Article 13 of the European Convention on Human Rights." The case is in progress.

(ii) Recent announcements that a suspect is in custody and subsequent failure of process

The lack of progress and the flawed investigation in the early stages of the case might seem to contrast with recent announcements from the current prosecutor general, Henadiy Vasylyev. Mr Vasylyev appeared to have made no progress in the case until June 21, 2004, when he unexpectedly announced that a suspect, "Citizen K", was in detention.

We request that the Council of Europe investigate the apparent falsity of Mr Vasylyev's announcement that a suspect is in custody, the mass of contradictions raised by the announcement, and the prosecutor's failure to answer inquiries about the suspect as required under Ukrainian law.

On June 21, 2004, the press department of the general prosecutor's office declared that a suspect, "Citizen K", had said he killed Gongadze. A spokesperson announced: "The man's testimony is corroborated by the circumstances of the crime, such the time [of the crime] and some other key facts established by the investigation, including the beheading [of Gongadze]."¹⁷ Citizen K had previously been prosecuted for several other murders that involved beheading, the spokesperson said.

On the next day a spokesperson for the general prosecutor's office, said: "Citizen K has said he executed and beheaded Heorhiy Gongadze ... We are almost certain he did it."¹⁸

¹⁵ Interview with judge Mykola Zamkovenko, formerly chair of the Pechersky Court, Kyiv, September 15, 2004

¹⁶ Report by Mr Hans Christian Krüger to the Bureau of the Parliamentary Assembly of the Council of Europe, AS/Bur (2003) 60, 2 July 2003, paragraphs 2.18 and 2.19.

¹⁷ 'Ukraine prosecutors report breakthrough in Gongadze case', Interfax-Ukraine, June 21, 2004

¹⁸ Associated Press Online, June 22, 2004.

The announcement about Citizen K, which was widely reported, came just two days after the appearance of an article in the *Independent* (London), which revealed that leaked documents of the general prosecutor's investigation showed that senior government officials had obstructed those investigations.¹⁹ The appearance of this article cast the prosecutor's investigation in a very bad light.

The announcement about Citizen K, in contrast, was made as if it marked a breakthrough in the investigation.

However, on July 14, 2004, the lawyer for Gongadze's mother received a letter from the prosecutor general's office. Deputy prosecutor general Grishchenko stated that "at the present time there are no suspects in the criminal case of the murder of Gongadze. No charges have been made against anyone in this case."²⁰ This letter directly contradicts the prosecutor general's earlier statements.

In July, 2004, the Institute of Mass Information, the Ukrainian Law Organization, the International Federation of Journalists and the National Union of Journalists of Great Britain and Ireland wrote to the general prosecutor to ask for information about Citizen K under article 9/32/33 of the Ukrainian law on information. A reply was received from the general prosecutor's office on August 13, stating that Citizen K had not been arrested as part of the Gongadze case, and that an investigation was continuing.

On August 16 the prosecutor's office retracted its earlier statement about Citizen K. A spokesperson announced that there are no grounds for saying that Citizen K "has any status in the Gongadze case" and that "it would not be appropriate to report any other circumstances" regarding Citizen K.²¹

We submit to the Council of Europe that this information strongly suggests that the general prosecutor's office made a false announcement in June 2004 about the progress of the case in order to improve its image. This amounts to a serious breach of law and procedure.

(iii) Mis-reporting of the case to the Council of Europe and to the public

We submit that the prosecutor's handling of Citizen K is not an isolated incident: it is simply the most recent in a pattern of announcements about the case by the general prosecutor and other officials that cannot be reconciled with known facts about the investigation.

These announcements appear to have been made primarily with the aim of "managing" the investigation's public image. We further submit that such a method may have underpinned reports on the case to the Council of Europe.

Fully aware of the gravity of this allegation, we draw to your attention the following.

As noted, in June 2004 the prosecutor general announced that Citizen K's confession marked a breakthrough in the case. However, the Ukrainian delegation to the Council of Europe had already informed the CoE more than three years previously that a Citizen K had been detained by the prosecutor general. The delegation, citing the prosecutor general's office, informed the CoE that "information about the circumstances of the murder of G. Gongadze could be possibly known to Citizen K., who is currently in custody ... for committing a number of grave crimes, including

¹⁹ Askold Krushelnysky , 'Pressure piles on Ukrainian leader after leaks reveal attempts to cover up killing', *Independent* (London), June 19, 2004

²⁰ Interview with Andriy Fedur, Kyiv, September 14, 2004. (A certified copy of the letter to Mr Fedur is in our possession.)

²¹ Interfax-Ukraine, August 16, 2004.

premeditated murders by order." Citizen K had been ordered to murder a "famous oppositional journalist in Kyiv", the delegation's report to the CoE stated.²²

The information provided to the CoE by the Ukrainian delegation was effective in persuading the Parliamentary Assembly not to ask for Ukraine to be immediately excluded from the Council of Europe; instead, in April Ukraine was granted an extension.²³

No more was heard about Citizen K until the prosecutor general's surprise announcement in June 2004, followed by its equally surprising retraction of its statement two months later (see above).

The Ukrainian delegation's report to the CoE also stated that the prosecutor general's office was analysing the possible involvement in Gongadze's murder of "Citizens D and G", who belonged to an organised criminal groups and whose corpses had been "found" and "identified". Very soon afterwards, the president of Ukraine, the interior minister and his deputy, the general prosecutor and his deputy all announced that the case had been solved and that citizens D and G had murdered Gongadze.

Within a few months, however, this allegation was revealed to be completely untrue, and the interior minister and the general prosecutor's office retracted its earlier statements.

On April 29, 2001, the deputy general prosecutor in charge of the Gongadze case, Mr Bahanets, said he believed that two Kyiv criminals, whose corpses had recently been found, could be Gongadze's murderers.²⁴ On May 14, 2001, president Kuchma announced that investigators had "practically discovered" the killers.²⁵ Two days later the interior minister, Mr Smyrnov, declared the case had been "solved": "We have proof concerning the criminals, who have died, to our sorrow," he said.²⁶ On the same day Mr Smyrnov's deputy, Mr Dzhyha, announced that Gongadze had been killed by these two criminals.²⁷ On May 24, 2001, the general prosecutor, Mr Potebenko, told Ukrainian television: "We have enough proof in order to consider this case as such to be nearing completion."²⁸

However, on May 25 a Kyiv newspaper revealed that the two criminals blamed for Gongadze's death had both been filmed at a wedding on the day Gongadze disappeared. The very next day, Mr Smyrnov, the interior minister, retracted his claim.²⁹

A Russian television documentary, a copy of which was handed to the Ukrainian parliament's ad-hoc commission on Gongadze in December 2001, contained proof that one of the two criminals was still alive and well and that nobody had ever arrested him.³⁰ In January 2002, deputy prosecutor general Mr Bahanets announced that the investigation had not confirmed that the two Kyiv criminals, previously said to have killed Gongadze and to now be dead themselves, were involved in the journalist's murder.³¹

This episode demonstrates that information given to the Council of Europe by the Ukrainian delegation, and which was used to justify claims by senior state officials that the investigation was making progress and had even solved the Gongadze case, was based on elementary falsehoods. This information was used to persuade the CoE not to suspend Ukraine's membership.

²² Annex to Appendix I distributed by the Ukrainian Delegation on March 1, 2001, at the 739th meeting of the Ministers' Deputies regarding the results of the investigation into the G. Gongadze case.

²³ 'Assembly grants another extension to Ukraine', CoE press statement, Strasbourg, April 26, 2001, ([http://press.coe.int/cp/2001/302a\(2001\).htm](http://press.coe.int/cp/2001/302a(2001).htm))

²⁴ Ukrainian New Channel television, Kyiv, in Russian, 1120 gmt, April 29, 2001.

²⁵ Interfax news agency, Moscow, in English, May 14, 2001

²⁶ 'Ukraine aide says thugs killed newsman', The Boston Globe, May 16, 2001

²⁷ UNIAN news agency, Kyiv, in Ukrainian, May 16, 2001

²⁸ Ukrainian Television Third Programme, Kyiv, in Russian, 1700 gmt, May 24, 2001

²⁹ 'Ukraine government backtracks on slaying', The New York Times, May 26, 2001

³⁰ Holos Ukrayiny, Kyiv, in Ukrainian, January 9, 2002

³¹ Novyy Kanal television, Kyiv, in Ukrainian, 1700 gmt, January 25, 2002

The information accusing the two criminals was also widely used in Ukraine to convince the general public that the investigation into the case was nearing completion.

We believe that the success or failure of the Ukrainian authorities' investigation, and the reasons for it, cannot be fully assessed without taking this aspect into account.

(iv) Failure to assess the "Melnichenko tapes"

We, the undersigned organisations, believe that there is *prima facie* evidence on the so-called "Melnichenko tapes" that, shortly before Gongadze's murder, the president of Ukraine and senior ministers discussed harming him. **The general prosecutor's office has refused at all times for the last four years to consider this central aspect of the case. We urge that the CoE takes this into account.**

In November 2000, one of President Kuchma's guards, Mykola Melnychenko, released recordings which he claimed he had made in the president's office. On at least five occasions from June 12 to July 3, 2000, president Kuchma and his ministers discussed following Gongadze closely, "crushing" him, "taking care of" him and "throwing him to the Chechens".

Until September 2004, five laboratories had conducted tests on the authenticity of the recordings.³² The results have been inconclusive, but successive Ukrainian prosecutor generals have made highly contradictory statements about the tapes. These statements undermine their claims that the tapes are inadmissible as evidence in the Gongadze case.

In December 2000, prosecutor general Potebenko announced that the tapes were "categorically a fake". Investigations into president Kuchma's possible complicity in Gongadze's disappearance were therefore ended shortly afterwards.

On January 18, 2001, the investigators of the prosecutor general's office raided the flat of member of parliament Mykola Rudkovskyy (an aide to Socialist Party leader Oleksandr Moroz), seizing a computer and some CDs. Later that month Mr Potebenko said that the search had revealed an "underground laboratory" that had "a direct relation to the audio tape scandal". The investigators, he said, found several hours of records of speeches by Ukrainian leaders: "It is possible that the faked records were compiled from separate words and excerpts from those audio materials. Examination will be conducted soon to answer a lot of questions."³³

A few days later, Mr Potebenko said the tapes were "compromised with certain words or fragments".³⁴ His deputy, Mr Bahanets, said a week later that the tapes "were compiled from separate fragments of conversations".³⁵

More than 18 months later (October 2002) the prosecutor general Mr Piskun returned to this issue, stating that the Gongadze episodes on the tapes were edited on Mr Rudkovskyy's computer. According to Mr Piskun, the editing started on 18 September 2000 and was carried out for a month.³⁶ Mr Piskun's deputy, Viktor Shokin, added that Gongadze "disappeared on 16 September, while the piece of tape ... in which the president allegedly spoke about Gongadze started to be assembled on 18 September. This has been proved by expert analysis."³⁷

³² NB. The organisations that are signatories to this report are aware of the many issues, including human rights issues, raised in the public discussion of the genesis of, and contents of, the "Melnichenko tapes". These important matters fall outside the scope of our investigations. We are concerned only that all the available evidence points to the authenticity of the sections of the tape on which Gongadze is discussed (i.e. those that have been publicly available since November 2000). The possible connection or connections between those conversations and the murder of Gongadze is a matter for forensic and judicial inquiry that we in no way seek to pre-judge. Our concern is that such inquiry has not yet begun.

³³ Kyivskiye Vedomosti, Kyiv, in Russian, January 27, 2001

³⁴ Financial Times, February 7, 2001 (USA Edition)

³⁵ Kyivskiye Vedomosti, Kyiv, in Russian February 16, 2001

³⁶ Interfax-Ukraine news agency, Kyiv, in Russian, 1409 gmt, October 2, 2002

³⁷ Segodnya, Kyiv, in Russian, November 28, 2002

Mr Piskun spelled out the implication: that the Ukrainian opposition had fabricated the tapes, and possibly murdered Gongadze, in order to frame president Kuchma for the murder.³⁸ Mr Shokin repeated this allegation: "The motive was indeed to frame the president."³⁹

Despite these extremely serious allegations, no charges have been brought against Mr Rudkovskyy. Furthermore, none of the examinations of the tapes have implicated Mr Rudkovskyy in fabricating the recordings.⁴⁰

Bruce Koenig, founder of the American audio/video specialist firm Bek Tek and formerly supervisor of the FBI's audio/video forensic laboratory, examined the Gongadze excerpts from the tapes and concluded in February 2002 that the tapes had not been doctored. Mr Koenig has sealed the materials he examined and stated he is prepared to defend his examination in court.⁴¹ An examination in September 2002 by the US Justice Ministry of those parts of the tapes concerning illegal arms sales to Iraq confirmed Bek Tek's conclusions.⁴²

Prosecutor general Piskun said he took the Bek Tek findings seriously. He announced: "Taking into account the new findings about [authenticity] tests held on the so-called Melnychenko records, the Prosecutor-General's Office has ordered an additional phonoscopic test."⁴³ In March 2003, the prosecutor general's office announced: "The prosecutor-general has sent a request to the US Department of Justice to conduct a joint examination of the original recordings concerning Gongadze."⁴⁴ In September 2003, Mr Piskun announced in the Kyrgyz capital Bishkek that he had commissioned a "unique expert examination" which should clear up the question.⁴⁵ Finally, in December 2003 the prosecutor general requested and received \$160,000 from the Ukrainian government to conduct an international expert examination of the tapes⁴⁶; the money went to the Kyiv Forensic Science and Research Institute.

These statements are in direct contradiction to the prosecutor general's earlier statements that the tapes had been fabricated by Mr Rudkovskyy.

The prosecutor general turned down requests by the undersigned organisations and others that international journalistic and civil society organisations be allowed to observe the examination.⁴⁷ Oleksandr Zhyr, former head of the parliamentary commission investigating the Gongadze case, said he is prepared to produce the materials in his possession for examination by the prosecutor general, on condition that the examination should be under the control of international journalists' organisations to ensure objectivity and to prevent tampering with the tapes.⁴⁸ The general prosecutor has not responded to this long-standing proposal.

On September 10, 2004, the head of the Kyiv institute announced the results of the latest tests: the tapes were a doctored copy, he said, and the voices on them were unrecognisable.⁴⁹

However, three days later the prosecutor general's office stated that the tests had been performed on copies of the recordings provided by members of parliament, implying that without

³⁸ Interfax-Ukraine news agency, Kyiv, in Russian, 1134 gmt, October 2, 2002

³⁹ Segodnya, Kyiv, in Russian, November 28, 2002

⁴⁰ Rudkovskyy agreed he had copies of the recordings on his computer -- Moroz has never denied that he has copies -- but that was all. He said he would sue Piskun for the allegations against him. (Interfax-Ukraine news agency, Kyiv, in Russian, 1409 gmt, October 2, 2002)

⁴¹ Interview with Oleksandr Zhyr, Kyiv, September 15, 2004

⁴² Interview with Hrihoryy Omelchenko in Ukrayina Moloda, Kyiv, in Ukrainian, September 3, 2002

⁴³ Interfax-Ukraine news agency, Kyiv, in Russian, July 19, 2002

⁴⁴ Interfax-Ukraine news agency, Kyiv, in Russian, April 1, 2003

⁴⁵ Interfax-Ukraine news agency, Kyiv, in Russian, September 4, 2003

⁴⁶ Interfax-Ukraine news agency, Kyiv, in Russian, January 8, 2004

⁴⁷ Letter from IFJ, NUJ, RSF, Article 19, IMI to the General Prosecutor of the Ukraine, February 2, 2004; Reply from the General Prosecutor, February 19, 2004; Second letter from IFJ, NUJ, RSF, Article 19, IMI to the General Prosecutor of the Ukraine, February 24, 2004; Reporters Without Borders press release, March 25, 2004.

⁴⁸ Interview with Oleksandr Zhyr, Kyiv, September 15, 2004

⁴⁹ Interfax-Ukraine news agency, Kyiv, in Russian, September 10, 2004

the originals, absolute certainty was impossible.⁵⁰ This announcement made a nonsense of the Kyiv institute's statement that the examination had revealed that the tapes were copies -- the investigators already knew that this was the case.⁵¹ To summarise: the prosecutor general's office commissioned an expensive new examination of the tapes which was certain to produce no new information.

On September 22, 2004, the prosecutor general again returned to the allegations last made by his predecessor almost two years ago, announcing to a press conference that editing of the Gongadze excerpts on the tapes had begun on September 18, 2000, two days after the journalist's disappearance. He said experts had reached this conclusion after inspecting a computer hard drive and some CDs. He announced a criminal investigation into the doctoring of the recordings.⁵²

This announcement was made as if it was news, although the prosecutor first made precisely these allegations in January, 2001, after raiding Mr Rudkovsky's flat.

We, the undersigned organisations, submit that the prosecutor general's office:

- **Made extremely serious allegations against a member of parliament on the basis of insufficient evidence and in the face of evidence to the contrary;**
- **Failed to substantiate those allegations;**
- **Repeatedly used those unsubstantiated allegations over a 3.5-year period to discredit the authenticity of the tapes;**
- **Dismissed credible examinations of the tapes that have confirmed their authenticity;**
- **Ordered a new examination of the tapes, apparently in the knowledge that it would be certain to provide no new information.**

Moreover, the prosecutor general has consistently refused to perform a method of analysis of the tapes suggested by an authoritative institution.

After examining the recordings, the International Press Institute (Vienna) concluded: "Comparison between the violations of law and the criminal acts suggested in the recordings and the actual happenings in the Ukraine may be a proper method in achieving a solution".⁵³

Only the Ukrainian parliament's commission on Gongadze has applied this method.

In February, 2003, the commission held a meeting to attempt to reconstruct president Kuchma's day on 12 June, 2000, according to the tapes. Two members of Parliament, Borys Oliynyk of the Communist Party and Ivan Drach of the opposition Our Ukraine bloc, testified after listening to the tapes that recordings of their conversations with president Kuchma on that day were genuine.⁵⁴ In his book on the Gongadze case, the Ukrainian journalist Jarko Koshiw has also drawn attention to several instances in which conversations on the tapes predicted subsequent events known to have taken place.⁵⁵

⁵⁰ Era, Kyiv, in Ukrainian, September 13, 2004

⁵¹ The lawyer Andriy Fedur showed this investigation written proof from the deputy prosecutor general that the prosecutor's office already knew that the tapes used in the latest examination were not originals. Interview with Fedur, Kyiv, September 14, 2004

⁵² UNIAN news agency, Kyiv, in Ukrainian, September 22, 2004

⁵³ Letter to Oleksandr Lavrynovych and Serhiy Holovaty, Investigative Commission of the Supreme Council, Kyiv, from Prof. Johann P. Fritz, director, IPI, Vienna, February 22, 2001

⁵⁴ Interfax-Ukraine news agency, Kyiv, in Russian, February 11, 2003; UNIAN news agency, Kyiv, in Ukrainian, February 11, 2003

⁵⁵ J Koshiw, *Beheaded: The Killing of A Journalist* (Artemia Press, 2003), pp32-34, 58-60, 67-68, 82

We submit that a new investigation by the Council of Europe should assess attempts to apply this approach to authenticating the Melnychenko tapes.

(v) Failure to investigate the surveillance of Gongadze and its possible connection to his murder

On July 14, 2000, Georgy Gongadze sent an open letter to the prosecutor general to complain he was being followed. Senior Ukrainian state officials at first denied the fact of surveillance, then made contradictory statements which continue to this day, despite *prima facie* evidence of Gongadze's surveillance by police before he was murdered.

As soon as serious investigations into police surveillance were undertaken, the president intervened to stop the investigation.

We submit that failure to take seriously the surveillance of Gongadze, and its possible connection to his murder, is part of a pattern of repeated failure to properly investigate vital aspects of the case.

In October 2000, Ukrainian television reported that both first deputy minister of internal affairs Dzyhyha and a representative of the Security Service of Ukraine "categorically denied" their organisations' involvement in shadowing Gongadze.⁵⁶ In February 2001, deputy prosecutor general Bahanets stated that his office had investigated Gongadze's allegations of police surveillance and found no evidence that surveillance took place.⁵⁷

However, in February 2003 a letter to an opposition newspaper claiming to be from police officers alleged that the police and interior minister Kravchenko had been involved in Gongadze's murder.

On February 20, 2003, prosecutor general Piskun said he was investigating the involvement of interior ministry staff in Gongadze's death. Contradicting previous statements by the interior ministry and the prosecutor general, Mr Piskun stated: "Gongadze himself announced that he was being followed. We do not rule out the possibility that he was murdered precisely by the people who were following him. And we are looking for those people."⁵⁸ On Feb 24, Piskun repeated this statement.⁵⁹

On February 28, however, he denied saying that his office was investigating possible police involvement: "It is a lie. I never said that," Piskun told a newspaper.⁶⁰ Two months later Mr Piskun's deputy, Mr Shokin, contradicted Mr Piskun, saying security service involvement in the murder was being investigated.⁶¹

That summer a key witness, Ihor Honcharov, a former policeman of the interior ministry's directorate for fighting organized crime, died in custody in mysterious circumstances. Shortly afterwards, important letters of his were made public. He had told the prosecutor general's investigators a year before the names of police officers involved in surveillance of Gongadze. He also said that policemen had killed Gongadze on interior minister Kravchenko's orders.⁶²

On August 11, the prosecutor's office said Mr Honcharov's letters contained "practically no new information" because they had already questioned him.⁶³ But a month later Mr Piskun said the

⁵⁶ Ukrainian Television Third Programme, Kyiv, in Russian, 1700 gmt, October 3, 2000

⁵⁷ Kyivskiye Vedomosti, Kyiv, in Russian, February 14, 2001

⁵⁸ 'Q&A with Prosecutor General Svyatoslav Pyskun', Kyiv Post, February 20, 2003

⁵⁹ Interfax-Ukraine news agency, Kyiv, in Russian, February 24, 2003

⁶⁰ 2000, Kyiv, in Russian, February 28, 2003

⁶¹ Segodnya, Kyiv, in Russian 25 Apr 03

⁶² Ukrayinska Pravda web site, Kyiv, in Ukrainian, August 7, 2003; Interfax-Ukraine news agency, Kyiv, in Russian, August 11, 2003

⁶³ Interfax-Ukraine news agency, Kyiv, in Russian, August 11, 2003

letters had helped them make "significant progress",⁶⁴ confirming that the "some facts [contained in the letters] have proved to be true".⁶⁵

Despite these contradictory statements, during this period the prosecutor general's office became confident that it was nearing a solution to the Gongadze case.

On May 13, 2003, Mr Vynokurov, the first deputy prosecutor general, said the office had "come very close to solving" the case.⁶⁶ On September 4, 2003, prosecutor general Piskun said the case was "practically solved".⁶⁷ Five days later he issued arrest warrants for two suspects. On September 21, 2003, Mr Piskun told Ukrainian television the investigation was "at the final stage".⁶⁸ Hryhory Omelchenko, now chair of the parliamentary commission on Gongadze, had already announced that his explanation of the murder coincided with that of Mr Piskun's;⁶⁹ he subsequently confirmed that they were agreed on the issue of Gongadze's surveillance by interior ministry police.⁷⁰

It was during this period (Winter 2002-Autumn 2003) that the Council of Europe's special envoy, Hans Christian Krüger, complimented Mr Piskun's office, praising a "professional" investigation, transferring his authority to Piskun as reporter on Gongadze to the Council of Europe, and then issuing a report saying Mr Piskun was "doing all he can" to solve the case.⁷¹

In October 2003, the investigation appeared to have reached a climax. On October 24, the prosecutor announced that the former head of the interior ministry intelligence directorate, Mr Pukach, had been arrested in the Gongadze murder case, accused of issuing orders to destroy documents listing people who conducted surveillance of Gongadze.⁷²

At this point, president Kuchma intervened to halt further progress of the investigation.

On October 29 he dismissed Mr Piskun; Mr Pukach was released from custody a week later. The new prosecutor general, Mr Vasylyev, denied that the Gongadze case was nearly solved,⁷³ and announced to journalists that "everything has been started from a clean slate" in the murder investigation.⁷⁴

However, in June 2004, information from leaked documents from the prosecutor's investigations in 2003 was published in the *Independent* (London). The documents appeared to show that interior ministry undercover police teams carried out surveillance on Gongadze for weeks until the time of his abduction, on the orders of Mr Pukach. They appeared to show that the surveillance continued until Gongadze's disappearance on 16 September 2000; on that day, Mr Pukach told officers to forget that there had been any surveillance operation against Gongadze.⁷⁵

The original documents were later published on a website.⁷⁶ At first the prosecutor general stated that it was "very dubious about [publications] with quotations from anonymous sources, or from mythical employees of law enforcement bodies".⁷⁷ Only six weeks later

⁶⁴ 2000, Kyiv, in Russian, September 5, 2003

⁶⁵ Kyiv Post, September 12, 2003

⁶⁶ UNIAN news agency, Kyiv, in Ukrainian, May 13, 2003

⁶⁷ Interfax-Ukraine news agency, Kyiv, in Russian, September 4, 2003

⁶⁸ ICTV television, Kyiv, in Russian, 1500 gmt, September 21, 2003

⁶⁹ One Plus One TV, Kyiv, in Ukrainian, 1730 gmt, December 11, 2002

⁷⁰ Interview with Omelchenko, Kyiv, September 16, 2004

⁷¹ 'European envoy praises Ukraine's journalist murder probe', One Plus One TV, Kyiv, in Ukrainian, 1730 gmt, December 14, 2002; Interfax-Ukraine news agency, Kyiv, in Russian, June 24, 2003; Report by Mr Hans Christian Krüger to the Bureau of the Parliamentary Assembly of the Council of Europe, AS/Bur (2003) 60, 2 July 2003

⁷² Ukrainian Television first programme, Kyiv, in Ukrainian, 0800 gmt, October 24, 2003

⁷³ AP Online, December 18, 2003

⁷⁴ Ukrayinska Pravda web site, Kyiv, in Ukrainian, May 18, 2004

⁷⁵ Askold Krushelnysky, 'Pressure piles on Ukrainian leader after leaks reveal attempts to cover up killing', *Independent* (London), June 19, 2004

⁷⁶ www.delogongadze.org

⁷⁷ Ukrayinska Pravda web site, Kiev, in Ukrainian, June 21, 2004

did the prosecutor general's office state at a press conference that the documents were genuine.⁷⁸

In the meantime, the prosecutor general, Mr Vasylyev, stated most emphatically in an open letter to the *Independent* that Gongadze had indeed been under surveillance: "The information about the fact that Gongadze was under surveillance prior to his disappearance has been at the disposal of the parliamentary ad-hoc investigation commission for a long time. I knew about this information when I worked in the commission in 2000-02. ... Therefore it is, to put it mildly, not serious to say that the published information is a sensation!"⁷⁹

Despite this clear statement, the interior ministry announced a new investigation into the surveillance of Gongadze. On September 14, the ministry reported the results of its investigation, saying it had not been able to establish whether Gongadze had been followed because documents had been destroyed and employees denied any surveillance.⁸⁰ Two days later the ministry qualified its initial statement, telling journalists that it was in no position to say yes or no.⁸¹

We submit that the Ukrainian authorities have made every effort to avoid reaching the conclusion that Gongadze was followed by police before his death, and that this surveillance may have been linked to his disappearance. When lines of inquiry led towards this conclusion, the investigation was immediately halted and the investigating personnel were replaced.

This is a serious breach of law and procedure. It demands to be investigated by the Council of Europe.

(vi) Failure to investigate Honcharov's evidence

Ihor Honcharov, the crucial witness who died in custody in August 2003, not only gave evidence confirming Gongadze's surveillance; he also gave detailed evidence of the operation of a gang, whose members included policemen, who kidnapped and murdered people for money. This gang, of which Mr Honcharov claimed to have been a member, has become known in the press as the "werewolves". Mr Honcharov alleged that the gang abducted and killed Gongadze on the orders of interior minister Kravchenko.

Honcharov also said that, after he informed the head of Kyiv's directorate for combating organized crime about these facts, he was given a savage beating and warned not to tell anyone else. Two months later he died in custody and the body was hastily cremated. Fearing for his life, Mr Honcharov had written letters and requested they be published in the event of his death.

Mr Honcharov's evidence points to the possible existence of illegal "death squads" within Ukrainian state bodies. Despite the seriousness of this evidence, and the authority of its source, the Ukrainian authorities have failed to mount a proper investigation.

Very early on, suspicions were aired that Mr Honcharov did not die a natural death. In November 2003, a respected Ukrainian newspaper revealed that specialists had concluded that Mr Honcharov was administered a series of injections, in particular a preparation that paralysed the breathing.⁸²

In December 2003, however, prosecutor general Vasylyev told a news conference: "A medical examination did not establish the cause of death as violent."⁸³

⁷⁸ UNIAN news agency, Kyiv, in Ukrainian, August 2, 2004

⁷⁹ UNIAN news agency, Kyiv, in Ukrainian, July 8, 2004

⁸⁰ TV 5 Kanal, Kyiv, in Ukrainian, 1400 gmt, September 14, 2004

⁸¹ Ukrainska Pravda, September 16, 2004

⁸² Zerkalo Nedeli, Kyiv, in Russian, November 8, 2003

⁸³ Interfax-Ukraine news agency, Kyiv, in Russian, December 18, 2003

In June 2004, the *Independent* (London) published information based on leaked documents, including a secret autopsy on Mr Honcharov which showed he was injected with a drug called Thiopental, an anaesthetic. Most anaesthetics depress he breathing.

Only after this publication did prosecutors for the first time say that a Mr Honcharov did not die of natural causes, as previously claimed, although they denied that the death was caused by injection of drugs. The prosecutor general's office said it had opened a criminal investigation into Mr Honcharov's death in May; the results showed the cause of death was a blow to the spine.⁸⁴

Two days later, however, the prosecutor's office announced that the detective investigating Mr Honcharov had been removed from the case, and that the prosecutor had opened another investigation into Mr Honcharov's death.⁸⁵

We submit that there is a clear pattern of reluctance to investigate Mr Honcharov's evidence:

- Despite Mr Honcharov's claim that his life was in danger, the prosecutor general only admitted to his murder after documents from the Gongadze investigation had been made public;
- As shown above, the prosecutor general was also reluctant to investigate Mr Honcharov's evidence that Gongadze had been placed under surveillance.

Since prosecutor general Piskun was dismissed from his post, his successor has shown no interest in Mr Honcharov's main claim: namely, that interior ministry police killed Gongadze. Despite the gravity and authenticity of this claim, which has extremely serious implications for Ukrainian democracy, no explanation has been given as to why it has not been investigated.

It will surely be of concern to the Council of Europe, as an organisation concerned with human rights, that the prosecutor general is not following this line of inquiry.

In this connection we draw attention to the statement given to this investigation by Oleksandr Lavrynovych, formerly chair of the parliamentary commission on Gongadze and now minister of justice in Ukraine. He said that the Ukrainian government did not discuss matters such as the possible operation of death squads within state structures: "The question of illegal groups [operating in the interior ministry] has not been discussed in the government. What is there to discuss? The work should be done by those whose job it is. If investigators are making investigations, and the investigations are not complete, they do not make reports to the government -- that has never been the case in the whole of human history."⁸⁶

(vii) Evidence of intimidation and harassment of officials

The undersigned organisations believe that, such has been the resistance by various figures in the Ukrainian government, administration and law enforcement bodies to progressing the Gongadze investigation, that intimidation and harassment may have been used against those who sought to do so.

We draw attention to the following officials who became involved in the case and as a consequence may have suffered intimidation and harassment, in breach of both international conventions on human rights and Ukrainian law.

(a) Ihor Vorotyntsev, district coroner, Tarashcha

⁸⁴ Interfax-Ukraine news agency, Kyiv, in Russian, 1002 gmt, June 21, 2004

⁸⁵ UNIAN news agency, Kyiv, in Ukrainian, June 23, 2004

⁸⁶ Interview with Lavrynovych, Kyiv, September 14, 2004

Ihor Vorotyntsev conducted the first autopsy on the Tarashcha corpse and matched it with Gongadze (the autopsy should by law have been performed in the presence of the local prosecutor). He also issued a death certificate in Gongadze's name to Gongadze's colleague Olena Prytula (by law he should have done this in the presence of a police officer).

Mr Vorotyntsev alleges that he was mistreated and put under pressure because he tried to carry out his duties in line with his job description, rather than in line with the wishes of the general prosecutor's office.

Mr Vorotyntsev told this investigation that prosecutor general Potebenko had come to his home to question him. "With Piskun it was even more 'fun' -- it was awful. They shouted at me for a long time, swore at me, put moral pressure on me. Then they wanted me to sign a protocol saying that there hadn't been any such pressure."

Other examples of the pressure placed on Mr Vorotyntsev include a phone call to say that a black maria was on its way [*"konvoi uzhe zakazali"*], being asked where he had "hidden the money", as if he was carrying out orders for material gain, and being called early in the morning and told to be in the general prosecutor's office for questioning by 10am.

"It was the same under Potebenko, but under Piskun it started with new vigour, on a bigger scale," Mr Vorotyntsev told this investigation.

Mr Vorotyntsev is presently on sick leave, having suffered a heart attack.⁸⁷

Mr Vorotyntsev came under intense pressure from successive general prosecutors, who seemed to want to blame him and other local officials for irregularities and therefore deflect attention from the much greater irregularities committed by top state officials.

In December 2002, charges were brought against Serhiy Obozov, the Tarashcha prosecutor, and Serhiy Belinsky, an investigator from the local prosecutor's office. They were charged with abuse of office, fraud and complicity in crime during the Gongadze case investigation.⁸⁸ Obozov was sentenced to 2.5 years in jail.⁸⁹

Mr Vorotyntsev said: "Potebenko had Belinsky sacked. He has suffered more than anyone."

(b) Andriy Fedur, defence lawyer for Lesya Gongadze

Having agreed to be the lawyer for Lesya Gongadze, Georgy's mother, lawyer Andriy Fedur says he faced harassment from state officials as a result.

On October 12, 2002, the authorities in Kyiv arrested Mr Fedur on suspicion of forging documents.⁹⁰ Two months later the prosecutor general's office prohibited Mr Fedur from participating in the Gongadze case.⁹¹

Mr Fedur told this investigation: "First they made some changes to the law in 2001, to the effect that if a criminal case is taken out against a lawyer, that lawyer cannot defend others. A criminal case was duly taken out against me and I was put in prison. No judge looked at my case, no one decided I was guilty."

⁸⁷ Interview with Ihor Vorotyntsev, Tarashcha, September 13, 2004

⁸⁸ One Plus One TV, Kyiv, in Ukrainian, 1730 gmt, December 11, 2002

⁸⁹ One Plus One TV, Kyiv, in Ukrainian, 1630 gmt, May 6, 2003

⁹⁰ Interfax-Ukraine news agency, Kyiv, in Russian, October 12, 2002

⁹¹ UNIAN news agency, Kyiv, in Ukrainian, December 16, 2002

"The new law is unique -- here is no such law anywhere else. If the conditions of the law came into effect after sentencing, of course, that would be quite another matter. But as things stand they have deprived me of my profession."

On April 30, 2003, the Kyiv city prosecutor Andriy Boiko declared that Mr Fedur had not falsified any documents. This investigation has seen a copy of Mr Boiko's ruling.

"Boiko was in charge of the investigation into my falsifying documents," Mr Fedur said. "He announced in court that the documents were not falsified and that I, Fedur, did not falsify them."

"I also have a copy of a magistrate's decision ruling that I was held in jail illegally."⁹²

The changes to the law under which Mr Fedur was taken off the Gongadze case were introduced under presidential chief of staff Viktor Medvedchuk, who is also the chair of the Ukrainian Union of Lawyers and a member of the Supreme Council of Justice (a constitutional organ that looks at complaints against the courts). He therefore has the power to appoint lawyers.

We bring to the attention of the Council of Europe the possible consequences for democracy of such an apparent breakdown in the separation of powers between the executive and the judiciary.

(c) Oleksandr Zhyr, former chair of the parliamentary commission on the Gongadze case

Oleksandr Zhyr says the results of an election which he was forecast to win by a handsome majority were falsified because of his role in investigating the Gongadze case.

Late in the evening on July 12, 2002, a local court disqualified Mr Zhyr -- then chair of the parliamentary commission investigating the Gongadze case -- from standing in an election for parliament on July 14.⁹³ The lateness of the decision meant Mr Zhyr could not appeal.

An election watchdog, the Committee of Voters of Ukraine, condemned the disqualification.⁹⁴ The ad-hoc parliamentary commission monitoring the observance of law during the by-election stated that "massive vote rigging" had taken place.⁹⁵

Mr Zhyr told this investigation: "The first round of the election took place on March 31. I received information that I had been elected and that 76 per cent voted for me.

"Then we were told the numbers of votes had been falsified. We have a video from a hidden camera of how the head of the electoral commission gathered together all the members of the commission and said: get a pen and write down what the numbers of votes should be.

"Two thousand militia came to the ward. Convoys of coaches arrived with militia. They frightened people.

"A week before the election, [Mykola] Ahafonov [a member of parliament] came and warned me that I would be crushed. He explained that a number of high-ranking officials had spoken to him. They had decided to get rid of me in court. I was told to stop all meetings with voters.

"I was removed from the electoral roll on the Friday before the elections, effectively two minutes before the day of the election.

"The governor, [Mykola] Shvets, did not hide that Kuchma had told him: 'It's either you or Zhyr.'

⁹² Interview with Andriy Fedur, Kyiv, September 14, 2004

⁹³ UNIAN news agency, Kyiv, in Ukrainian, July 13, 2002

⁹⁴ Interfax-Ukraine news agency, Kyiv, in Russian, July 13, 2002

⁹⁵ UNIAN news agency, Kyiv, in Ukrainian, July 17, 2002

"I didn't contest the decision in court. There wasn't any point. And my wife had died between the first and second rounds of voting."

At the time, the Ukrainian media frequently linked Mr Zhyr's mistreatment to his role in investigating the Gongadze case. Mr Zhyr confirmed to this investigation: "I have no doubt that this was linked to the Gongadze case, it was done because of Gongadze. I can prove that the elections were fixed so that the deputy was appointed, not elected. I can prove this in court."⁹⁶

(d) Mykola Zamkovenko, former chair of the Pechersky district court, Kyiv

For several months after Gongadze's disappearance, the prosecutor general refused to recognise Mrs Lesya Gongadze as the aggrieved party. In February 2001, the judge Mykola Zamkovenko established that deputy prosecutor Bahanets had acted outside the law in this regard.

At about the same time (March, 2001), Mr Zamkovenko ruled that a prominent opposition leader and businesswoman, Yulia Timoshenko, should be released from custody.

In May 2001, a criminal suit was filed against Mr Zamkovenko for cases he had ruled on several years earlier.⁹⁷ Viktor Kudryavtsev, the first deputy prosecutor general, conducted a search of Mr Zamkovenko's premises. A court later ruled that this search had been illegal.⁹⁸

In July 2001, a presidential decree was issued, at the request of the Supreme Council of Justice, sacking Mr Zamkovenko.⁹⁹

Mr Zamkovenko's case was passed to the oblast appeals court in Kyiv, where a judge delivered a verdict of negligence [*khalatnost*]. Mr Zamkovenko appealed and the Supreme Court will examine the case on September 30, 2004.¹⁰⁰

Deputy prosecutor general Bahanets told the press that he would never forgive Zamkovenko for the Gongadze case and for freeing Timoshenko.¹⁰¹

NB. We have suggested here that Mr Zamkovenko's dismissal may have been related not only to his ruling on Mrs Lesya Gongadze's application, but also on his ruling on Mrs Timoshenko's bail application. He himself sees his mistreatment as connected to the Gongadze case; Mr Bahanets stated his public that his appeal to the judicial qualification commission to discipline Zamkovenko was a consequence of the Gongadze case¹⁰². The Timoshenko case falls outside the scope of our investigation. **Our concern is with the evidence of a possible causal connection between Mr Zamkovenko's decision on Mrs Gongadze's application and his subsequent dismissal, which may have been in breach of human rights and Ukrainian law.**

(e) Svetlana Karmelyuk, legal medical expert involved in DNA tests on the Tarashcha corpse

In late December 2000, Svetlana Karmelyuk refused to cooperate further with the official Gongadze investigation because she saw that procedural rules were being broken. She took leave and prepared to go away.

⁹⁶ Interview with Oleksandr Zhyr, Kyiv, September 15, 2004

⁹⁷ UNIAN news agency, Kiev, in Ukrainian, May 25, 2001

⁹⁸ UNIAN news agency, Kiev, in Ukrainian, May 31, 2001; Ukrainian Television Second Programme, Kiev, in Ukrainian, 1500 gmt, June 15, 2001

⁹⁹ Ukrainian Television Third Programme, Kiev, in Russian 1500 gmt, July 18, 2001

¹⁰⁰ Interfax-Ukraine news agency, Kiev, in Russian, March 29, 2004

¹⁰¹ Interviews with Andriy Fedur and Mykola Zamkovenko, Kyiv, September 14 and 15, 2004

¹⁰² Segodnya, Kiev, in Russian, April 4, 2001;

Two policemen came to her home at 9pm on December 30. They demanded she give them her foreign passport. An argument ensued and the policemen tried to seize the passport.

The incident was reported as an instance of pressure on the medical expert, who had been due to fly to Germany to examine the results of independent DNA analysis commissioned by the parliamentary commission on Gongadze.¹⁰³

Conclusion

In July 2003, Mr Hans Christian Krüger reported to the Bureau of the CoE Parliamentary Assembly on the Gongadze case.¹⁰⁴ He concluded that under prosecutor general Potebenko "mistakes" were made and that there had been a "hesitation to conduct criminal investigations in an open, transparent, and effective manner". Mr Krüger expressed the hope that prosecutor general Piskun would push the investigation forward.

Our investigation has established that the mistakes committed by Mr Potebenko and other officials, and noted by Mr Krüger, were extremely serious, indicate a failure of the official investigation to follow due process and law, and may have obstructed and prejudiced subsequent investigations into the case.

However, our investigation has also established that, contrary to Mr Krüger's hopes:

- Prosecutor general Piskun failed to take into account evidence that connected senior ministers to the Gongadze case (the "Melnychenko tapes");
- He made highly contradictory statements and failed to progress the inquiry in other essential respects;
- When, however, Mr Piskun's investigations moved in the direction of investigating events within the ministry of internal affairs, he was dismissed from his post;
- His successor, Mr Vasylyev, effectively halted the investigation, made a number of highly contradictory and unsubstantiated claims regarding the case and failed to investigate serious evidence now in the public domain.

In the name of freedom of speech and human rights, we call upon the Council of Europe to re-open its investigations and examine the facts presented here.

Signed:

**The International Federation of Journalists
The National Union of Journalists of the UK and Ireland
The Gongadze Foundation
The Institute of Mass Information**

¹⁰³ Ukrainiska Pravda, Kyiv, January 2, 2001; interview with Valentina Telychenko, lawyer of Myroslava Gongadze, Kyiv, September 13, 2004

¹⁰⁴ Report by Mr Hans Christian Krüger to the Bureau of the Parliamentary Assembly of the Council of Europe, AS/Bur (2003) 60, 2 July 2003, paragraphs 3.22 and 3.23