

Break stalemate on Gonggadze case

EUROPEAN parliamentarians were warned last month that efforts to mount an independent inquiry into the death of Ukrainian journalist Gyorgy Gonggadze have reached "stalemate".

In September last year, the parliamentary assembly of the Council of Europe called for an independent international inquiry into the case, and in December, a delegation from the assembly was told by Ukrainian justice minister Susanna Stanik that Ukraine is ready to co-operate with such a procedure.

But now opponents of an inquiry into the case – regarded as a touchstone for press freedom in Europe – are arguing that Ukraine has no legal framework under which it could be held.

Ukraine's deputy general prosecutor, Aleksei Baganets, even claimed on 25 January that the Council of Europe had for that reason agreed not to proceed with setting up an inquiry. That statement was immediately denounced by press freedom campaigners as untrue.

But certainly there is delay at Strasbourg: the chairman of the Committee of Ministers of the Council of Europe, Lithuanian foreign minister Antanas Valionis, told the parliamentary assembly on 22 January

that the lack of a legal framework in Ukraine was the reason that no inquiry had been set up this far.

He added that he had been given assurances from Kyiv that authorities there are "ready to co-operate with the international community within the legal framework of Ukrainian law" and



Gyorgy Gonggadze: headless body found

that Ukrainian parliamentarians had asked for help in establishing such an enquiry.

Valionis was answering a question by Hanne Severinsen, a Liberal parliamentarian from Denmark and a rapporteur to the parliament on Ukraine, about why the inquiry

agreed upon in September had not gone ahead.

Severinsen responded that she wanted to hear "how we can break out of this continuing stalemate". Eighteen months had passed, she reminded the assembly.

The Ukrainian government says it is waiting on Strasbourg. The Committee of Ministers says it is waiting for individual countries to respond to its request for offers of assistance in the form of volunteering investigators. The Commission of the Ukrainian parliament is waiting for international assistance.

"We must adhere to our decision that an international commission should be set up," Severinsen concluded.

In Ukraine, three parliamentary deputies are now drafting a law under which an inquiry can be put on a firm legal footing. Now other European countries must do their part, by volunteering to participate in the investigation.

The NUJ urges journalists and parliamentarians in all European countries to seek assurances from their governments that such help will be offered.

We also call for the inquiry to be structured so that journalists' organisations and civil society are able to participate.

The Gonggadze case is a vital one not only for Ukraine but for the whole of Europe. Gonggadze, a journalist on the internet newspaper *Ukrainskaia Pravda*, disappeared in September 2000, after having spent several weeks telling friends and colleagues that he was being followed.

Soon afterwards, a headless corpse believed to be Gonggadze's was found at Tarashcha near Kyiv. It was subsequently identified as his to 99.5% and higher levels of certainty by a number of pathologists' reports.

Meanwhile a heavy burden of suspicion fell on Ukrainian president Leonid Kuchma. In November 2000 one of his bodyguards, Mykola Melnychenko, fled Ukraine and released tapes of the president and senior ministers discussing the need to do away with Gonggadze.

The tapes were circulated world-

wide and ignited a political crisis in Ukraine. Protesters camped outside parliament demanding "Ukraine without Kuchma". The president denied involvement in Gonggadze's murder but did not deny that the tapes were authentic.

Despite, or perhaps because of, this powerful prima facie evidence of a high-level conspiracy against Gonggadze, inquiries into the murder in Ukraine have run into the sand.

In May last year minister of internal affairs Yuri Smirnov announced that the case had been solved, and that Gonggadze had been murdered by "hooligans" who had themselves subsequently been killed. Shortly afterwards this version was discounted.

The demand for an independent international inquiry was first made by Gonggadze's colleagues and family, supported by many press freedom and human rights campaign groups. Gyorgy's mother, Lese Gonggadze, has spoken on the case internationally.

On 25 January a judge at the Pechersky district court in Kyiv turned down Lese Gonggadze's petition challenging the general prosecutor's refusal to initiate proceedings over her son's death against president Kuchma, presidential administration chief Vladimir Litvin and internal affairs minister Yuri

Kravchenko.

After the hearing Lese Gonggadze said that she would take the case to the European court and that she would not allow the matter to rest.

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Olena Prytula addresses the London meeting. With her are interpreter David Crouch (centre) and Simon Pirani

Press freedom the key t

IT'S "just not good enough" for European institutions to put aside vital freedom of speech cases like that of murdered journalist Gyorgy Gongadze, NUJ general secretary John Foster told a public meeting on the issue in October in London.

Foster wrote to Foreign Office minister Peter Hain straight after the meeting, demanding UK support for an independent international inquiry into the death of Gongadze.

The case was comparable to that of NUJ member, Martin O'Hagan who had been killed a few days earlier by

loyalist terrorists in the north of Ireland, Foster said. "When journalists like Gyorgy Gongadze or Martin O'Hagan are killed, the public's right to know is undermined. Politicians cannot be neutral to this."

Foster also suggested lobbying the Irish government, meeting with the Ukrainian ambassador, taking the issue up with EU human rights institutions and working together with the Russian journalists' union.

Sharing the platform with Foster was Olena Prytula, editor of the *Ukrainska Pravda* web site on which

Why Ukrainians point fin

by **Simon Pirani**

EVEN before the release of tape recordings of president Leonid Kuchma expressing a wish to harm Gyorgy Gongadze, many in Kyiv suspected that Ukraine's ruling elite was involved in the internet journalist's murder.

Georgian-born Gongadze, 32 when he died, specialised in exposing the corruption that pervades that elite to the highest levels.

In September 1999, a month before Kuchma was last re-elected president, Gongadze questioned him about former prime minister Pavlo Lazarenko, who has been convicted of multi-million-dollar money-laundering charges in Switzerland and is now facing trial in the US.

Gongadze button-holed Kuchma at a campaign rally, shortly after the president had pinned medals on his interior minister and other officials. Gongadze suggested that the Ukrainian security services' failure to apprehend Lazarenko was breathtaking, given the scale of his offences and the impunity with which he operated.

"Your [security] ministers messed up. Millions of dollars went abroad. And now you're giving them medals," he told Kuchma.

The president scowled and asked Gongadze his name. Then he muttered something about economic crime being the responsibility of the security police, not the interior ministry.

The exchange was televised. Shortly after Gongadze's murder, Kuchma claimed he had never heard of him – at which point TV journalists re-broadcast the clip, showing that he knew him only too well.

Gongadze disappeared on 16 September 2000, after several weeks during which he reported being followed and threatened.

On 14 November 2000, a decapitated and badly-decomposed body was found at Tarashcha outside Kiev – and on 10 January 2001, the public prosecutor, Mykhaylo Potebenko, told parliament he was "99.6 per cent sure" it was Gongadze's, after tests by Russian pathologists.

Tests by other foreign pathologists have established the body's identity to even higher degrees of certainty. On 28 November 2000, a tape recording of Kuchma chatting about the need to do away with Gongadze was played in parliament by Socialist party leader Oleksandr Moroz.

Kuchma's voice says on the tape: "I say take him [Gongadze] out, throw him away. Give him to the Chechens."

Other voices on the tape apparently include those of internal affairs minister Yuri Kravchenko and presidential administration chief Volodymyr Lytvyn.

Anti-Semitism

The tapes are laced with obscenities and anti-Semitism, and show a leader obsessed with silencing the press and eager to sanction harassment of opponents. He is heard laughing at reports of arson against oppositionists and giving his blessing to senior politicians spirit millions of dollars out of state companies.

Mykola Melnychenko, a secret service officer and former Kuchma bodyguard, announced from a hiding place outside Ukraine that he had made the tape. He subsequently released further



NUJ general secretary John Foster discusses the case with Olena Prytula

recordings of Kuchma plotting illegal acts, including a grenade attack in 2000 on opposition politician Natalia Vitrenko. Melnychenko last year received political asylum in the US.

Investigations drag on. This year, with parliamentary elections due on 31 March, Ukrainian journalists and opposition politicians continue to accuse the authorities of procrastination and delay both in confronting corruption in general, and in investigating the Gongadze case in particular.

The public prosecutor's office, while publicly casting doubt on the need for or possibility of an international inquiry, is slowly preparing a further examination of the Tarashcha corpse.

The *Ukrainska Pravda* web site, on which Gongadze worked, commented

on 25 January: "The public prosecutor's office continues to insist that there is no legal basis for setting up an international commission [...] but unbiased specialists maintain that Ukrainian legislation in no way forbids the establishment of such commissions, which means that there is nothing to stand in the way of putting together an international group. Nothing, that is, apart from the will to do it.

"The prosecutor's office continues with its games, and points at so-called progress being made in their investigations, but is unable to say anything concrete, because it is forbidden to make such disclosures. It yields to the pressure of public opinion and agrees to an additional examination of the body, but only several months after

to democracy says National Union of Journalists

f Gongadze worked, who was in London
l- as a guest of the NUJ to highlight the
1 case. Prytula told the meeting:

t "President Kuchma has said he
s wants an inquiry, but his actions
contradict his words. Our hope is that
e he will agree to the international
e inquiry now being proposed in
e Brussels."

i- Reporters Sans Frontieres repre-
1 sentative Jean-Christophe Menet
r pointed out that Gongadze was the
e 13th Ukrainian journalist killed in five
1 years. But accusations of the presi-
dent's involvement - triggered when

a former Kuchma bodyguard released
audio tapes that apparently showed
the president conspiring with senior
ministers to harm Gongadze - made
the case especially important.

Sara de Jonge of the International
Federation of Journalists said all
campaigning efforts should be co-
ordinated internationally. The
European parliamentary committee
on human rights should be
approached, she suggested.

The visit to London by Olena
Prytula - who also attended meetings
at the House of Commons, the BBC,

the Daily Express, the Independent,
the Guardian and London university -
was sponsored by the NUJ nationally
and by several London branches.

■ Foreign Office minister Peter Hain
responded to NUJ General Secretary
John Foster noting that the
Parliamentary Assembly of the
Council of Europe (PACE) had "urged
the authorities concerned to complete
the investigation into Gongadze's
murder and initiate - if necessary - an
independent commission".

He added: "This implies Ukrainian
acquiescence, which we understand

is unlikely". Hain said that the
Committee of Ministers would need
to "look at this proposal in detail"
and warned of "procedural problems".

"If the COE and Ukraine agree to
create an international investigative
commission, we would support partici-
pation by representatives from the jour-
nalistic profession and civil society."

Foster has written back to Hain,
urging that the UK government take
an unequivocal position that the
inquiry IS necessary, and asking that
it volunteer the help of investigators
to the Committee of Ministers.

nger at their president



with baseball bats outside his office in
Slaviansk, eastern Ukraine. Oleksandrov
specialised in exposing corrupt links
between politicians, police and busi-
ness in the area, and immediately after
his death, prosecutors said they
thought it was linked to his journalism.

Subsequently, in August last year,
they announced that they had
detained a suspect, and now believed
that the killing was simple hooliganism.
Recalling a similar announcement by
Kyiv prosecutors, that they thought
Gongadze had been murdered by drug
addicts, who had themselves subse-
quently been killed, the newspaper
Holos Ukrainy sarcastically headlined
its comment: "May be it was the drug
addicts again?"

Another journalist was killed in
2001: Oleh Breus, founder of the
Luhansk newspaper XX Vek, who was
shot dead on 3 July. Ukrainian jour-
nalists also run the risk of imprisonment.

A recent dossier compiled by
Reporters Sans Frontieres mentioned
campaigning anti-corruption journalist
Sergei Potamanov of Crimea, who was
recently freed after a year in jail on
"hooliganism" charges that he denied,
and Dmytro Schurchalo, who spent a
week in prison after covering anti-
Kuchma demonstrations in Kyiv.

The dossier also lists 18 violent
attacks on journalists, six specific
threats of violence, and dozens of
instances of harassment.

It is widely assumed in Ukraine that
responsibility for Gongadze's death in
particular, and for dangers to jour-
nalists in general, lies at the very top of the
state.

To understand why, it is important

to bear in mind the extent of the
corruption these journalists have made
efforts to expose.

The biggest fish caught so far,
former prime minister Pavlo Lazarenko,
is in a Californian jail awaiting a US
federal trial on 53 counts of conspir-
acy, money laundering, wire fraud and
receipt of more than \$200 million
worth of stolen property.

Lazarenko was convicted in June
2000 in Switzerland of money-launder-
ing offences; he admitted to \$9 million
worth and prosecutors told a Geneva
court they were investigating another
\$880 million worth. Lazarenko has also
been charged in Ukraine with arrang-
ing three contract killings.

Vicious cycle

Lazarenko got rich in the mid-1990s
when he was energy minister. Following
on the industrial slump of the early
1990s, Ukraine plunged into a vicious
cycle of debt and barter payments.

In 1995, when western advisers
were feeding a mania for privatisation
in the Soviet republics, the business of
importing, trading and distributing
Russian gas was handed to traders,
who needed licences and import
quotas from the state. The state
granted larger import quotas to gas
traders it liked, assigning them solvent
customers.

Traders made money by paying
producers, mostly Gazprom of Russia,
far less than they themselves collected.
The main method of payment was
barter and little was written down.

Three trading companies dominated
the market: United Energy Systems of
Ukraine (UESU), Interhaz, and Itera-

Ukraina, the Ukrainian subsidiary of a
much larger Russian gas trader.
Lazarenko helped these companies get
rich.

The most successful gas trader,
UESU, was given exclusive contracts to
supply gas to most of Ukraine's east-
ern industrial heartland and grew
rapidly to notch up a \$10 billion
annual turnover.

Most Ukrainians do not believe that
corruption on such a grand scale was
possible without Kuchma's consent.

The gas trading trough at which
Lazarenko and others fed was snatched
away from them in 1999. Oil and gas
production, trading and transport was
centralised under the control of
Naftogaz Ukrainy, a state monopoly
controlled by Kuchma's friends.

Critics say the corruption didn't stop,
it just became more institutional. The
allegations against Ihor Bakai, former
Naftogaz Ukrainy boss, piled so high
that he was forced to resign late last
year. Tax authorities are now investigat-
ing him in connection with an unpaid
\$145 million bill from the company.

As well as highlighting the presi-
dent's possible role in urging action
against Gongadze, the Melnychenko
tapes also suggest that Kuchma and
state tax administration chief Mykhailo
Azarov both knew that Bakai was plun-
dering Naftogaz Ukrainy.

Azarov apparently reports to
Kuchma how he told Bakai, "well,
Ihoryok, at a minimum you put in your
pocket a hundred million".

Azarov reported that he had told
Bakai to "destroy all the papers that
witness directly or indirectly" to the
theft and "I will not expose you".

s that decision had already been made
s by the president. Whatever happens,
l- the prosecutor's office is counting on
d getting the results of the examination
1 after the general election. "

l- The prosecutor's office is shame-
l- lessly pulling the wool over the eyes of
1 the international community, who,
l- conditioned as they are to respecting
t the laws of others, can do nothing but
t trust in the authorities' declarations."

Journalists in danger

l- Journalists - particularly those that
j investigate such stories about power
o and money - remain in great danger in
e Ukraine.

s TV station director Ihor
e Oleksandrov, who was beaten to death
r on 3 July last year by a gang armed

What Strasbourg has, and has not, agreed

ON 27 September 2001 the Parliamentary Assembly of the Council of Europe, after hearing a report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, adopted Recommendation 1538 (2001) to the Committee of Ministers, which recommends that the Ministers "call on the Ukrainian authorities to initiate, if necessary, a new investigation into the disappearance and death of Mr Heorhiy Gongadze, and to set up an independent commission of enquiry including international investigators for this purpose, and ask the governments of the member states of the Council of Europe to propose assistance by their investigators".

Up to the time of writing, no governments of member states had offered assistance with an inquiry.

On 19 December a delegation from the Parliamentary Assembly visited Kiev. The Ukrainian Minister of Justice, Susanna Stanik, met the delegation and stated that Ukraine is ready to co-operate with the Council of Europe in setting up an international investigation into Gongadze's death.

According to reports in the Ukrainian press, Stanik informed the parliamentarians "of a recent decree by the president of Ukraine ordering that the process of honouring obligations to the Council of Europe [of which the inquiry was one] be speeded up".

During a debate in the Parliamentary Assembly of the Council of Europe on 22 January, Ms Hanne Severinsen of the Liberal Party of Denmark tabled a question as follows: "Noting the failure of the Committee of Ministers to comply with the recommendations of the Parliamentary Assembly regarding Ukraine;

"To ask the Chairman of the Committee of Ministers,

"Why the Committee of Ministers has failed specifically to comply with the request in Recommendation 1538, Article 3, to initiate a new investigation into the disappearance and death of Mr Gongadze, and to set up an independent commission of inquiry, including international investigators for this purpose."

An exchange between Antanas Valionis, current president of the Committee of Ministers and minister of foreign affairs of Lithuania, and Mrs Severinsen, appears in the official record of proceedings as follows:

Mr Valionis: "The Committee of Ministers answered the Assembly's concerns in paragraph 4 of the reply that it gave last week to Parliamentary Assembly Recommendation 1538.

"The Committee of Ministers specifically

states that 'it continues to follow closely the investigation into the disappearance and death of Mr Georgiy Gongadze. Further progress in this investigation is essential. The Committee of Ministers reiterates to Ukrainian authorities the importance of conducting a full and transparent investigation of the case and reminds member states' governments of their call for international assistance in this regard.' It is true that the Committee of Ministers did not set up an independent commission of inquiry. But the fact is that Ukrainian law does not provide for the establishment of an independent international commission of inquiry to investigate this case", as stated in the reply.

"However, the Committee of Ministers welcomed 'the Ukrainian authorities' readiness to consider steps they might take to facilitate practical implementation of the proposal contained in paragraph 3 (ii) of Assembly Recommendation 1538.'

"I have raised the issue of the case of Mr Gongadze with the authorities of Ukraine during my visit to Kyiv. I have received assurances that they are ready to co-operate with the international community within the legal framework of Ukrainian law. For your information, after my visit the Chairman of the Deputies received the message of the Chairman of the Commission of the Verkhovna Rada [parliament] of Ukraine for investigating the murder of journalist Gongadze, asking for international assistance for investigation. It was distributed in the Committee of Ministers.

"The Committee of Ministers will certainly continue to follow this question closely."

The President: "Thank you, Mr Valionis. Would you like to ask a supplementary question, Mrs Severinsen?"

Mrs Severinsen (Denmark): "Yes, I would like to hear how we can break out of a continuing stalemate. One and a half years have passed. The Ukrainian Government says that it is waiting for an initiative from the Committee of Ministers. The Committee of Ministers says that it is waiting for responses from other countries. I am sure that the various countries are waiting for a common signal. The Commission of the Verkhovna Rada is waiting for international assistance. We must adhere to our decision that an international commission should be set up."

The President: "Thank you. Would you like to reply, Mr Valionis?"

Mr Valionis: "Ukraine authorities asked member states to co-operate on this matter and we still wait for the next steps to be taken."

WHAT YOU CAN DO ...

If you are a parliamentarian

- ✓ Ask your government to contact the Council of Europe to offer help in establishing the inquiry, e.g. by making available investigators and researchers with the necessary qualifications.
- ✓ Seek clarification with the Council of Europe's Committee of Ministers that it regards the inquiry as "necessary" and will proceed with it as a matter of urgency.
- ✓ Make contact with the Ukrainian parliamentarians drafting legislation setting out a legal basis for the inquiry to be conducted in Ukraine.
- ✓ Copy correspondence to the NUJ and other campaigning organisations.

If you are a journalist, a journalists' organisation or union, or any supporter of press freedom

- ✓ Write to your government, and ask your parliamentarians to write to your government, urging it to contact the Council of Europe to offer help in establishing the inquiry.
- ✓ Write to the Council of Europe's Committee of Ministers and the parliamentarians from your country who sit in the parliamentary assembly.
- ✓ Get in touch with the NUJ and other campaigning organisations.

For further information

There is further information on the Gongadze case at

<http://www.nuj.org.uk/> – the web site of the National Union of Journalists London Freelance branch

<http://www.rsfr.fr/> – Reporters Sans Frontieres, which has issued research on the case

<http://www.thepost.kiev.ua/> – the Kyiv Post, whose site includes links to English-language transcriptions of the Melnychenko tapes

<http://www.pravda.com.ua/> – Ukrainska Pravda, the web site on which Gongadze worked (Ukrainian and Russian only)

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