



## Resolution 1645 (2009)<sup>1</sup>

# Investigation of crimes allegedly committed by high officials during the Kuchma rule in Ukraine: the Gongadze case as an emblematic example

Parliamentary Assembly

1. The Parliamentary Assembly, recalling its [Resolution 1466 \(2005\)](#) on the honouring of obligations and commitments by Ukraine, stresses the importance it attaches to the safety of journalists and political activists, especially those linked to opposition groups, in all member states of the Council of Europe.
2. Crimes against journalists and political activists must be investigated by the competent authorities as a matter of priority, without political interference. The authorities must strive to identify not only the actual perpetrators of these crimes but also their instigators and organisers, without regard to the rank and position of the suspects.
3. As regards the Gongadze case, the Assembly welcomes the clear language used by the European Court of Human Rights in finding violations of Articles 2, 3 and 13 of the European Convention on Human Rights (ETS No. 5) in its judgment of 8 November 2005. It stresses the importance of the timely and comprehensive execution of this judgment, which must include carrying out, without further delay, those investigations the authorities had failed to perform.
4. The Assembly also welcomes the recent conviction of three former Ministry of Interior police officers for the murder of Georgiy Gongadze. However, it regrets the release from custody of their immediate superior, General Pukach, and his escape from being arrested again, as well as the untimely death of the former Minister of the Interior, Yuriy Kravchenko, all in unclear circumstances.
5. The Assembly remains deeply concerned that no progress has been achieved in holding to account those who instigated and organised the murder of Georgiy Gongadze and reiterates its position that the case cannot be considered as solved until the instigators and organisers, in addition to the actual perpetrators of the crime, are held to account.
6. The authenticity of the recordings, allegedly made in the President's office, of conversations pertaining to various criminal acts ("Melnychenko recordings") should be examined without further delay in such a way as to allow the results of this examination to be used as evidence in court, as the case may be.
7. The Assembly welcomes the readiness of the Ukrainian Prosecutor General's Office to allow foreign experts to participate in the examination of the recordings and of the equipment used, a fact which should encourage the witness in question to surrender these items to the authorities in due course. Whilst regretting that it took the Ukrainian authorities so long to launch an official request for legal co-operation, it invites the requested authorities to consider this request favourably, taking into account the technical feasibility of undertaking such an expertise at this late stage.

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1. *Assembly debate* on 27 January 2009 (4th Sitting) (see [Doc. 11686](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Leutheusser-Schnarrenberger). *Text adopted by the Assembly* on 27 January 2009 (4th Sitting). See also [Recommendation 1856 \(2009\)](#).



8. Independently from their authentication, these recordings can provide valuable leads to witnesses or other evidence which should be exploited. Other investigative acts such as those proposed by a team of investigators in October 2005 still remain to be carried out, including an investigation of the circumstances in which two senior officials, Mr Fere and Mr Dagaev, suffered strokes that permanently incapacitated the former and killed the latter in 2003.

9. Regarding the crime against political activist O. I. Podolsky, the Assembly welcomes the conviction of the former police officers who admitted their guilt. However, in view of the parallels with the Gongadze case, it considers that the instigators and organisers of this crime must still be identified and brought to justice.

10. Other high-profile crimes, such as those committed against Verkhovna Rada deputy O. S. Yelyashkevich and journalist I. Aleksandrov, as well as the death in custody of I. Honcharov, the alleged leader of a criminal gang within the Ministry of the Interior, further illustrate the severe dysfunctioning of different law-enforcement bodies during the Kuchma era and beyond.

11. Consequently, the Assembly invites:

11.1. the Ukrainian Prosecutor General's Office to use all possible avenues of investigation to identify those who instigated and organised the murder of Georgiy Gongadze and the other crimes mentioned in paragraphs 9 and 10 above, in particular to:

11.1.1. pursue vigorously the authentication of the "Melnychenko recordings", with the participation of foreign experts;

11.1.2. pursue other available methods of establishing the authenticity of these recordings, such as the interrogation as witnesses of persons whose voices were allegedly recorded, and comparisons between discussions allegedly recorded and actual events;

11.1.3. open a criminal investigation into the responsibilities for the failure – established by the European Court of Human Rights – to protect Georgiy Gongadze and to properly investigate his disappearance, as requested by the Assembly in [Resolution 1466 \(2005\)](#);

11.1.4. investigate the circumstances in which General Pukach was released from custody in 2003, and was later reportedly able to avoid arrest in Israel, and to open criminal cases against those responsible, as appropriate;

11.1.5. re-examine the circumstances of the death of the late Minister of the Interior, Yuriy Kravchenko, and to also investigate the possible crime of inciting a person to commit suicide;

11.1.6. interrogate as witnesses other senior staff members or former staff members of the Ministry of Interior who may have information on the special unit headed by General Pukach;

11.1.7. investigate the exact circumstances in which two former senior officials, allegedly linked to the Gongadze case, suffered strokes within a short period of time, resulting in the death of Mr Dagaev and Mr Fere's falling into a coma;

11.2. all the persons whose voices allegedly appear on the "Melnychenko recordings", to fully co-operate with the Prosecutor General's Office by providing voice samples for purposes of comparison and as witnesses;

11.3. the political leadership of Ukraine to refrain from interfering with the investigation into the instigators and organisers of the murder of Mr Gongadze and other crimes.

12. The Assembly resolves to continue following the above-mentioned cases in the framework of its monitoring procedure concerning Ukraine.