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Pukach arrest smells like pre-election ploy by Yushchenko

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Taras Kuzio says there is little likelihood that senior officials will be ever charged.

The July 21 arrest of ex-Interior Ministry general Oleksiy Pukach, a suspect in the 2000 murder of journalist Georgiy Gongadze, began the same weekend that President Victor Yushchenko declared his re-election bid for the Jan. 17 presidential election.

Were these two events merely coincidences or a bizarre attempt to rekindle Yushchenko's popularity above its paltry 2-3 percent? We can all be excused for being skeptical. After all, it is only two months before the election campaign officially kicks off.

We can also be skeptical because the same Yushchenko awarded a state medal on Feb. 17, 2007 to Prosecutor-General Mykola Potebenko, who covered up Gongadze's murder. The award was for "his great personal contribution to the building of a law abiding state, the strengthening of legality and law abiding, and his long years of conscientious toil on the occasion of his 70th birthday."

There are three aspects to the arrest of Pukach that do not add up.

Firstly, why did Pukach decide to hide in a village in Zhytomyr Oblast and not, as we were repeatedly told, abroad? Why did he not flee when the State Security Service (SBU) officers began to pretend they were fishing in the village five days before he was arrested? In small villages strangers are easily spotted. Pukach apparently knew he might be apprehended but did nothing to defend himself.

A retired SBU officer had come to live in the village at the same time as Pukach and had made friends with him. Is that another coincidence? Or was he sent to watch over him so Pukach could be used in a future political battle? As they say, there is no such thing as a "former" spook.

Secondly, why did Pukach not hide his identity card? Children playing near his car found his Interior Ministry identification card inside it. Pukach's lawyer, Serhiy Osyka, claimed that nobody had ever tried to find Pukach. "I can give you exclusive information that Pukach decided to give himself up. In reality nobody was looking for him and he never hid," Osyka said.

The first deputy head of parliament's committee on organized crime and corruption, Hennadiy Moskal, also said that police officers had told him that Pukach was in contact with them and that he never went into hiding.

Thirdly, the YouTube video (<http://www.youtube.com/watch?v=dF0AhPunZaw>) of Pukach's arrest was a public relations gimmick. It is rather strange that only the fragment of the video made by the SBU, where he is asked if he had been involved in the Gongadze case and says "yes" was posted on YouTube. Such questions are unusual during an actual arrest and it was obviously made for the camera and YouTube.

Former Justice Minister Serhiy Holovaty, a Regions Party deputy since the 2007 elections, was head of parliament's 2006 commission to investigate the Gongadze murder. He told Glavred magazine that he believes that the security forces released Pukach from custody in 2003 and have "controlled" him ever since (which could explain why the "retired" SBU officer was living in the village). Holovaty believes Pukach's release and subsequent life was controlled until a certain point in time when he would be used for political games.

Holovaty doubted that Pukach's release would solve the Gongadze case as he did not see any political will in Ukraine to do this. Holovaty is right. A full investigation would throw a dragnet over the roles of ex-President Leonid Kuchma, Potebenko, ex-SBU chairman Leonid Derkach and ex-presidential chief of staff Volodymyr Lytvyn.

Yushchenko would not escape scrutiny himself in a full investigation. He condemned protesters in February 2001 who had been mobilized by Gongadze's murder. Another signature on the condemnation of the protesters was Ivan Plyushch, whom Yushchenko had appointed National Security and Defense Council secretary in 2006. Plyushch was elected to the parliament on the pro-presidential Our Ukraine-Peoples Self Defense party in 2007.

As prime minister, Yushchenko and his allies to this day, such as Roman Besmertny who was then Kuchma's representative in parliament, refused to ever condemn Kuchma. Besmertny threatened to disband parliament if it had voted to support Prime Minister Yulia Tymoshenko's call for Kuchma's impeachment.

The Pukach arrest could blow a hole in the conviction of three policemen (Mykola Protasov, Oleksandr Popovich and Valeri Kostenko) sentenced on March 19, 2008, to 12 and 13 years each. The three officers had admitted that they had been present when Pukach, who had commanded the surveillance unit, strangled Gongadze. Pukach's lawyer says that this was fabricated by the three officers.

Following the conviction of the three officers, Tymoshenko called for the Gongadze investigation to move to finding the organizers, "who are political and public figures." This view was echoed by Gongadze's family and other politicians from the Orange Revolution's two political groups in the parliamentary coalition.

The Council of Europe's representative on the Gongadze case, Sabine Leutheusser-Schnarrenberger, said: "While I welcome the conviction of the three police officers, I must admit that the Gongadze file is not closed until the instigators and organizers of this crime have also been held to account."

There is little likelihood that senior officials will be ever charged, despite Pukach's arrest. Three officials were de facto given immunity in 2004-2007 (Kuchma, Judge Maria Prindiuk, Potebenko) and three are no longer alive (General Yuriy Kravchenko, Ihor Honcharov, General Edward Fere).

The "guarantor" of the immunity deal was Sviatoslav Piskun who was – again not coincidentally –

reinstated as Prosecutor General on Dec. 9, 2004. This happened a day after parliament approved a compromise package approved by Yushchenko at European Union-sponsored roundtables.

Kravchenko allegedly committed suicide with two bullets to the head on March 4, 2005, the same day he was set to give testimony at the prosecutor's office. Former Health Minister Mykola Polishchuk, an expert in firearms, ruled out suicide, the official verdict, because an individual would lose consciousness after the first shot and would not have been able to inflict the second wound himself.

Ukraine's judicial system came out of the Gongadze murder very badly. The International Federation of Journalists (IFJ), which has issued three reports into the Gongadze case in January and September 2005 and September 2007, believes that Potebenko and the prosecutor's office deliberately obstructed the investigation of the murder. Judge Maria Prindiuk closed the case against Pukach in April 2004 for destroying documents related to the Gongadze investigation. Prindiuk continued to work as a judge and was awarded a state medal by Yushchenko on Dec. 14, 2007.

Police detective Honcharov died in police custody on Aug. 1, 2003, and his body was cremated two days later, before an autopsy was performed. Leaked documents showed that an injection of the sodium thiopental drug caused Honcharov's death. Honcharov claimed to have knowledge of those behind Gongadze's murder. Light sentences of five years (with three years suspended) were given to three prison guards at pretrial detention facility No.13 in Kyiv for their involvement in Honcharov's murder. General Fere, another witness, died on June 4.

The timing of Pukach's arrest is highly suspicious because it took place at the same time as Yushchenko announced he would be a candidate in the upcoming presidential election. Just after being elected in 2004, Yushchenko promised the Council of Europe and Ukrainians that it was a matter of his honor to resolve the Gongadze murder. Until now, in seeking to prosecute only the three lower-ranking police officers, while ignoring the organizers, the Yushchenko administration has continued a longstanding policy of keeping ruling elites above the law. If Yushchenko is seeking to use Pukach to score political points in the election campaign, it will backfire and become the final nail in his discredited presidency.

Pukach's arrest is unlikely to bring to justice those who ordered Gongadze's murder. And this is the real tragedy for his family and for Ukraine's rule of law.

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