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PACE ASKS FOR FULL INVESTIGATION OF GONGADZE CASE

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On October 5 the Parliamentary Assembly of the Council of Europe (PACE) issued a resolution requesting that the Ukrainian authorities deal with different aspects of the investigation into the murder of journalist Heorhiy Gongadze ([assembly.coe.int](http://assembly.coe.int)). However, the Ukrainian authorities will not honor that request.

The Socialist Party of Ukraine (SPU) issued its own damning indictment in parliament this week ([spu.org.ua](http://spu.org.ua), *Ukrayinska pravda*, October 4). Specifically the SPU demanded that parliamentary speaker Volodymyr Lytvyn allow parliament to hear the conclusions of the parliamentary investigation into the murder before the March 2006 parliamentary elections, the SPU insisted. Lytvyn headed the presidential administration when Gongadze was murdered in 2000.

Outgoing First Deputy Prime Minister Mykola Tomenko and former Security Service head Oleksandr Turchynov also accused Lytvyn of obstructing the hearings, as have Gongadze's mother, Lesia, and his widow, Myroslava (*Ukrayinska pravda*, September 7, 8, 9, 15). These accusations prompted a *Sunday Times* (September 18) investigative article entitled "President's aides in murder 'cover-up'."

The parliamentary commission report was completed in late 2002 but has never been read in parliament. Commission head Hryhoriy Omelchenko has provided a summary (*Ukrayinska pravda*, September 20). Asked why the Prosecutor's office had not reacted to the three-year-old report, Prosecutor Sviatoslav Piskun limply said he had not received it, as it was still in the mail (*Ukrayinska pravda*, September 29).

Yaroslav Koshiw, author of the only Western book on the Gongadze murder, *Beheaded: The Killing of a Journalist* (Artema Press, 2003) accuses both Lytvyn and former president Leonid Kuchma of involvement.

Koshiw reproduces a tape recording made by former presidential guard Mykola Melnychenko in which Lytvyn allegedly advises Kuchma to not use the courts against Gongadze. Instead, Lytvyn proposes that Kuchma "release" the Interior Ministry onto the journalist.

The PACE resolution, like the SPU statement, calls upon Ukraine to hold parliamentary hearings on the Gongadze case. This demand is a rebuff to Lytvyn and to Prosecutor Piskun, who both attended PACE sessions where they attempted to prove that Ukraine had progressed in its investigation.

The PACE resolution reaches the same conclusion as that of the September open letter by the International Federation of Journalists (IFJ) and other organizations. Specifically, PACE "regrets that the case of those who allegedly executed the murder has been separated from the main case-file and has been qualified as a murder committed by a group of persons following their prior collusion, which is seen as a step towards excluding from the prosecution the masterminds and organizers." PACE states its dissatisfaction that there has been no progress into "the prosecution of those who ordered and organized this crime" nor any "credible examination of the Melnychenko recordings" ([assembly.coe.int](http://assembly.coe.int)).

PACE, like the IFJ open letter, is referring to the trial set to begin this month of the three policemen who were present at Gongadze's murder. They are poised to become the scapegoats after which the case would be closed and the "organizers" given de facto amnesty.

Yushchenko cannot implement the PACE resolutions dealing with Gongadze, which will damage him in two ways.

Domestically, the Orange opposition (former prime minister Yulia Tymoshenko, SPU, Pora) will use this issue in the 2006 election campaign. It is a good weapon; the Gongadze case weakened Kuchma and facilitated the Orange Revolution.

Internationally, failure to implement PACE resolutions will damage Ukraine's efforts to integrate into Western structures. Since Kuchma's Ukraine also ignored PACE, the international organizations will wonder how much has changed with Yushchenko.

Yushchenko is unwilling to pay the political price now required for admitting that Kuchma was given immunity at the December 2004 roundtable negotiations, which were brokered by the EU, Poland, Lithuania, and Russia. He could have safely revealed the deal in early 2005, arguing that it was needed to break the deadlock and prevent bloodshed. But admitting it today will provide ammunition for the Orange opposition.

The amnesty deal for Kuchma has no legal backing, as parliament failed to adopt a law on presidential immunity in 2004. It therefore is only based on Yushchenko's word, his long-standing inability to confront Kuchma, and backing from Polish President Alexander Kwasniewski and EU Foreign Policy chief Xavier Solana.

Outgoing National Security Council secretary Petro Poroshenko, who alone from the Orange coalition attended the negotiations with Yushchenko, also backed granting immunity. Poroshenko had cordial relations with Kuchma until 2001 (see Melnychenko tape recording in *Ukrayinska pravda*, July 6).

The head of Yushchenko's 2004 election campaign, Oleksandr Zinchenko, also hinted that an immunity deal was possible. As the Orange Revolution grew in strength, Zinchenko advised, "Immunity would depend upon his [i.e. Kuchma] moral conduct in the coming days" (*The Observer*, December 5, 2004).

Three days after Zinchenko's comments, Kuchma's signed into law the "compromise package" made at the roundtable negotiations that included a repeat presidential runoff and constitutional reforms. Two days later, Kuchma reinstated Piskun as prosecutor-general, presumably to "guarantee" everything agreed at the roundtable negotiations, including Kuchma's immunity.

Interviewed in Izvestiya nearly a year later (September 23), Tymoshenko disdainfully said, "Yushchenko has explained to everyone that Kuchma is not to be touched. He said that Kuchma is a former head of state and is therefore not to be hunted like a rabbit." She added, "There are no allegations against Kuchma; he will be allowed to keep all his property, even unlawfully acquired property. In effect Kuchma has been granted a pardon."

Yushchenko's unwillingness to come clean about an amnesty deal with Kuchma, coupled with his refusal to launch an investigation into Lytvyn's alleged involvement in the Gongadze murder on the grounds of political expediency, will make it impossible for Ukraine to fulfill the PACE resolutions. Nevertheless, it is time that Yushchenko finally acknowledges the "elephant" in the room – the unresolved Gongadze murder.