

Estonia

Chapter 8:

# Ukraine

Lithuania

Belarus

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# Ukraine

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## UN support to the *Ombudsman* Institution in Ukraine

On 10 December 2007 the UN signed a Memorandum of Understanding (MOU) and an accompanying action plan with Ukraine's *Ombudsman* office. The MoU was signed on Human Rights Day to launch a one-year joint campaign to commemorate the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights and the 10-year anniversary of the *Ombudsman* office in Ukraine. Joint activities include the organization of parliamentary hearings on persons with disabilities and the publication of a report containing all state and shadow reports by UN human rights institutions.

# Lady Justice is the informal name of Nina Karpachova, the Ombudsperson in Ukraine

The Yard in Lviv. The snow-covered wooden gate squeaked. Together with the Ukrainian Parliament Commissioner for Human Rights, we are in the yard of a house on a remote street in the town of Gorodok in Lviv Oblast. The mistress of the house is already waiting for us, and she invites us into her cozy dwelling. This is where, in April 1996, she said her last goodbyes to her 26-year-old son.

These are the recollections of my first minutes spent with Nina Karpachova, who came to our small town to meet with my compatriot, Ivanna Mozola. Ms. Karpachova was investigating the death of her son, Yuri Mozola, which occurred while he was in a Ukrainian Security Service (SSU) cell in Lviv. Sighing, the mother tells us the story: „They took away my son at the end of March and three days later I was told he had died. How was it possible that a healthy person in the prime of life died so quickly? It was only later on that it became known that he had been savagely tortured and beaten in order to make him give the law enforcement officers the information they needed. My son is gone now, as if he were never with us. I have only one hope left, and it's you, Nina Ivanovna.”

Yuri Mozola, a 26 year old car mechanic, was detained by law enforcement officers following the denunciation of a demented woman. He was groundlessly charged with terrible crimes – the killings of 12 residents from the village of Bratkovichi, also located in Gorodok District. After Yuri had already died, it was proven that the real murderer was Anatoly Onoprienko, a notorious serial killer who had claimed a total of 52 lives.

At the Lviv SSU detention facility, Yuri Mozola was hideously tortured. When his body was released to his parents, they found that his hair had gone grey and that there was not a single unbroken bone in his arms and legs. As his interrogators tried to pin dozens of crimes on the deeply religious Christian, Yuri made the only choice that was morally acceptable to him: death was better than the loss of his dignity and integrity.

The Lviv Oblast Procurator's Office initiated a criminal case to investigate Yuri's death. The Lviv Court Martial of the Western Region of Ukraine investigated for nearly five years. Both the staff

at the pretrial detention facility of the Lviv SSU and the oblast's Procurator's Office were found guilty. They were punished, but the punishments were purely symbolic.

As for the parents - Ivanna and Ivan Mozola – they, after the unspeakable ordeal they had gone through, were not even recognized as victims or civil claimants by the court. Ivanna Mozola, wiping away her tears, asked Nina Ivanovna, "I know that all the money in the world will not bring my flesh and blood back to me... But why are they mocking us?"

Trying to console the still-grieving mother, Nina Ivanovna said: „Human life is invaluable, and no amount can bring your son back. But if the state has taken your son away from you, it must take responsibility for it. It is my obligation, both morally and legally - to help you find at least some justice.,,

This meeting with Yuri Mozola's parents took place in December of 2000. Soon after that, Nina Karpachova petitioned to sue the Security Service of Ukraine and the Procurator's Office – an unprecedented event in the Ukraine, and indeed, in all post-Soviet states. At the first court hearing in the Frankovsk District Court in Lviv the Ukrainian Ombudsperson stated: "If my petitions to sue are not granted, I will be forced to apply to both the Supreme Court of Ukraine and to the European Court of Human Rights."

This was an unheard of challenge to the "caste of the invincible" and to the entire system of repression, but it was one that was supported by society. On 28 May 2002 the court recognized the Mozola family's right to damage compensation. The Lviv SSU and Procurator's Office were ordered to pay the victims 150,000 hryvnias. Justice was served this time, but as the case of Yuri Mozola showed, his death was not merely the result of security agents exceeding their bounds, but of a system in which security agencies use illegal means of investigation as standard practice when dealing with people.

## **The Suppression of Speech**

Such examples are numerous and can be found all over the Ukraine. This is proven by the numerous complaints referred to the Ombudsperson and by facts and figures published in the media. After the groundbreaking and widely publicized Mozola case, Nina Karpachova concluded that law enforcement officers in the Ukraine, when unable to solve crimes through legal means, often resorted to more violent methods.

Similar brutal methods of investigation and interrogation were also applied to the famous journalist, Vladimir Lutyev, editor of the newspaper *The Evpatoriya Week* and one of the few

people brave enough to take on the Crimean mafia . In this case, Crimean authorities utilized methods to suppress freedom of speech that, until then, had been unheard of. They tried to rid themselves of the journalist through a series of endless investigatory measures, psychological and physical tortures, and incarceration.

Mr. Lutyev was first arrested was in 2002 on false and trumped-up charges. The case lasted for more than 5 years, and in the end, Mr. Lutyev received a sentence of 8 years imprisonment. Again, it was Nina Karpachova who stepped forward to defend human dignity.

“After Vladimir Lutyev’s colleagues in the Crimea contacted me,” Nina Ivanovna recalls, “I immediately started a case aimed at halting the intimidation and harassment of a journalist who was father to two children and also a disabled person.” Mr. Lutyev, after enduring these ordeals for five years, was suffering from rapidly deteriorating health and the situation was dire. Finally, on 15 March 2007, at a hearing in the Supreme Court of Ukraine, with the Commissioner for Human Rights present, the Court reversed the judgment of the Sevastopol Court of Appeal and Vladimir Lutyev was released from custody. The next day, at a well-attended press-conference held at the leading news agency UNIAN, and broadcast live all over the country, the Crimean journalist said: “I owe my life to Nina Ivanovna Karpachova.”

Yet for all of the happy endings, there are countless sad ones. Igor Alexandrov, a journalist and broadcaster from the town of Slavyansk is one such case. After having been deprived of his right to report on a judicial proceeding, he was killed by corrupt policemen in the hallway of his own apartment block. They did so in order to prevent him from publicizing an audio recording of the confession made by a mafia boss about committing a grave crime.

Lesya Gongadze provides another unfortunate example of the work Nina Karpachova must undertake. In 2000, the entire world was terrified to learn about the involvement of top Ukrainian officials in the disappearance of the journalist Georgy Gongadze. A decapitated body found in Taraschan District was offered for identification, but Ms. Gongadze refused to recognize it, and he – Georgy or not – remains unburied. How can a mother live through this? “In my most bitter moments, when my heart was heavy, it was Nina Karpachova who saved me from despair,” Lesya Gongadze told us. “She accompanied me to courts, to procurator’s offices - she gave me the strength to go on, so that I wouldn’t do anything to myself. She doesn’t leave me today either. That’s why I am so grateful to her for everything, and I will be forever.”

Those were the years, at the turn of the millennium, when the Ukrainian authorities waged a brutal offensive against freedom of speech. Perhaps the only person who courageously fought for the right of journalists to speak the truth was the Ombudsperson, Nina Karpachova.

Therefore, it was no accident when, in June 2003, the National Union of Journalists of Ukraine awarded the Commissioner for Human Rights with the All-Ukrainian Ivan Franko Prize – “for persistent protection of journalists from illegitimate restriction of their rights and freedoms, for constant support of mass-media representatives in the exercise of their professional duty.”

During my first interview with the Commissioner I could not help asking the question: „In your opinion, what is the role of mass media in our extremely politicized time?”

“ I have idealistic hopes for the media in our country, but much to my regret the media is not what I envisioned it as,” Nina Ivanovna replied without hesitation. “The press in Ukraine has failed to become the fourth branch of power and indeed, has come to need protection from all sorts of oppression itself. Suffice it to say that, today the Ukraine ranks 105<sup>th</sup> among 168 countries in the world in a ranking of freedom of speech. I think this shows that we still have many problems with freedom of speech, despite all the positive steps that have been taken in recent years. At the same time, there is a completely realistic danger today that our mass media will change from being ardent defenders of democracy into puppets of wealthy masters. Into servants, that is. And then life will be very hard for those journalists who do not wish to betray their duty and principles – for those who wish to stand up for truth, human rights, and the interests of the people.

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## **Bursting with our pain**

“I bear my cross, because I am a mother, a mother who lost her son. But how can your heart take all our pain?” Lesya Teodorovna asked Nina Karpachova in Lviv. “Last night you went to Yuri Mozola’s mother, and in the morning you came to me. Every one of us shares our pain and our anguish with you, yet you continue. I will pray to God for your heart, so that it doesn’t burst with our pain.”

There are countless stories of mothers that Nina Karpachova has comforted and saved from bearing their grief alone in the Ukraine. The mother of the irrepressible Ukrainian opposition activist Yuliya Tymoshenko is another example. I asked the Commissioner for Human Rights: “You decided to go visit Yuliya Vladimirovna in her jail cell after she had been placed under

arrest. I have heard that that her mother, whose legs were paralyzed, actually stood up from her bed and started praying for you when she heard that you were going? Is it true?"

Nina Karpachova replied, "Yes, it is true. I learned about it from Yulia Tymoshenko after she had been released from the Kiev pretrial detention facility. The fact that her mother stood up from the bed meant a lot to me. I received threats from very influential people on my way to the Lukyanovsky detention facility – they kept calling me on the phone, demanding that I refrain from making that visit – and I had absolutely no doubt that Ms. Tymoshenko was a courageous person, that she could endure everything... but, above all else I was concerned about her

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mother. Just as I am concerned about all the mothers who worry about their children, children who suffer from the hideous actions of law enforcement officers."

A terrible tragedy during an airshow at the Sknilovsk Aerodrome near Lviv in 2002 turned the place into a cemetery almost instantly. Together with

the victims, relatives, and friends of the people who perished, Nina Karpachova raises the question of state recognition of the status of victims of such tragedies, and the difficulties in seeking justice. As the Commissioner herself has pointed out, it is difficult to help others when you cannot help yourself. She reiterated this opinion at the presentation of a multi-author monographic study entitled „The Problems of Exercising the Rights and Freedoms of Man and Citizen in Ukraine,, published by the Kiev-based publishing house "Juridical Thought" on the eve of the 11<sup>th</sup> anniversary of the Ukrainian Constitution. Is it the opinion of the Commissioner that Ukraine has a bad Basic Law?

"To the contrary," Nina Ivanovna says. "But the point is that the legal consciousness of the people who are in charge of implementing constitutional norms and laws is not yet based upon the principles of the rule of law. Much has been declared, but little has been done. Injustice takes root where there is no respect for human rights, where human dignity is not respected. This is primarily the fault of the authorities that hide behind the name of the State and are not fully accountable to the people. The Ombudsperson's powers in the sphere of protecting human rights and freedoms are limited. In particular, the Ombudsperson is still not endowed with the right to legislative initiative, and he/she cannot be a full participant in court proceedings."

## Advocate of the millions, defender of the unprotected

For more than 10 years the Ukrainian Ombudsperson Nina Karpachova has been known as „the advocate of the millions and the defender of the unprotected,„. She was the first official in the Ukraine to publicize at Parliament proceedings information on violations of human rights and freedoms in places of detention, where such disgraceful practices like torture still flourish. She pays „visits without advance notice,„ to interrogation rooms, temporary detention facilities, pretrial detention centers, and correctional establishments in different regions of Ukraine. When appropriate, like was the case after she began her investigations into cruel and humiliating treatment, she conducts public hearings and asserts appropriate claims to the authorities.

The Ombudsperson often unconditionally defends victims in the Ukraine. Her support for Alexander Kirilyuk from Lugansk, who at 23 years of age had become disabled and crippled as a result of torture perpetrated by the police, is one such instance. However, Nina Karpachova's work to protect the rights of Ukrainians extends beyond even the borders of her country. In Azerbaijan, she successfully secured the release of and helped repatriate Alexander Kazantsev, a Class 1 airplane pilot that had been arrested after a plane crash there in 2004. But it is probably the story of Zinaida Voloshina, whose uncontainable tears of hope and relief ran down her face on her return to the Ukraine, which best illustrates Ms. Karpachova's dedication.

Zinaida Voloshina, with her little daughter, moved to Abkhazia from the Ukraine in 1987 for family reasons. Far away from her native land, Zinaida found herself in a tragic situation, living through a military conflict, and then, wrongly condemned to death. She was detained in terrible conditions in a temporary facility that offered no fresh air, no medical aid, and no exercise. Five years in constant expectation of execution was an almost unbearable emotional torture for the young woman. She lost all hope; she doubted that she would ever return to her native Ukraine, that she would ever see her mother, her children, and her friends and relatives again.

At the end of February 2007 the Council of Europe Commissioner for Human Rights Tomas Hammarberg approached the Nina Karpachova with a request to protect Zinaida Voloshina's right to life. She had been in prison in Abkhazia for 13 years already. During the course of her imprisonment, she became very sick and bed-ridden. By 2007, it had been 5 years since she had walked on her own. It was clear that she urgently needed emergency medical treatment and care. Nina Karpachova's efforts helped free her from prison, spare her from being executed, and repatriate her. With the Ombudsperson's assistance, Zinaida obtained a Ukrainian passport, checked into the Simferopol Center of Diagnostics for medical treatment and rehabilitation, and eventually started to walk on her own again.



◀ Zinaida Voloshina, a resident of the Crimea condemned to death in Abkhazia, gives flowers to her saviors Nina Karpachova and Tomas Hammarberg. 14 April 2008, Kiev.

In a recent letter addressed to the Ukrainian Ombudsperson, the Council of Europe Commissioner for Human Rights, Tomas Hammarberg, wrote: “I am glad that the case of Zinaida Voloshina has been successfully resolved. For me this case is a brilliant example of cooperation between human rights activists, the Secretariat of the Ukrainian Parliament Commissioner, and my Office, that resulted in an utterly positive outcome. I wish all the best to Ms. Voloshina.”

Mr. Hammarberg had the fortune to see with his own eyes that Zinaida Voloshina had recovered at the International Conference “Contemporary Challenges to Human Rights and Freedoms.” The Conference took place in Kiev on 14 April 2008 - the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights and the 10<sup>th</sup> anniversary of the establishment of the Ukrainian Parliament Commissioner for Human Rights. Both Mr. Hammarberg and Ms. Karpachova were present to witness the formerly bed stricken prisoner present them with flowers and words of gratitude.

## Wherever They May Be

Since 2003 the Commissioner has been concerned about the problems related to Ukrainian labor migration. Her Special Report to Parliament, entitled “The State of Observance and Protection of Rights of Ukrainian Citizens Abroad” highlights the problems that economic migrants face. In the past, she has worked diligently to free Oleg Tuzhansky from a Chinese prison, and has done the same for dozens of other Ukrainians who have been detained or incarcerated in places like Turkey, Greece, Poland, and the Russian Federation. In Lyublin, Poland, she struggled for five years to win an out-of-court settlement for the family of Sergei Kudra, an economic migrant from Kiev who was shot and killed by a Polish policeman.

“Of course, people move abroad because their life is not too good here,” Nina Karpachova says. “They are compelled to become economic migrants, pushed to take this step by authorities that are unable at this point in time to provide citizens with decent jobs, good levels of professional training, or decent wages. Today, Ukrainian economic migrants are forced to provide for their children and parents by working in slave shops abroad, and their children become orphans, their families fall apart. This is the gruesome reality for not only Ukraine but for many other countries in the world.”

Nina Karpachova was the first person in the Ukraine to begin combating international trafficking in human beings. She is the author of the Ukrainian law that defined “trafficking in human beings” and established criminal liability for this crime. The National Steering Committee on Prevention of Trafficking in Human Beings was established under the Ombudsperson and has since attained widespread international recognition. Linked to this, the Ombudsperson has initiated and authored a number of draft laws that seek to prevent uncontrolled adoption of orphan children.

For Nina Karpachova there is no such thing as someone else’s sorrow. The Commissioner for Human Rights is always where she is called for, where her help and support are needed. Over the past 10 years, she has helped almost a million people through her selfless work. She does not classify people into political, religious, or racial groups, nor does she classify by any other attributes. As Nina Karpachova says, „I protect the rights of an individual person, not the rights of political parties.” She works with compassion and care, investing herself into her work. This is the reason why she has been the irreplaceable Ombudsperson, a person who has been elected for the third time to fulfill this selfless and risky role. It is also why she opens her annual reports on the observance and protection of human rights and freedoms in Ukraine with these poetic lines about the dignity of Man, written by the brilliant Vasili Simonenko:

Do you know that you are a Man?  
Do you realize it or not?  
Your smile is one of a kind,  
Your torment is one of a kind,  
Unique are the eyes that are yours.  
...  
Because you are a Man on this earth...

**Miroslav Malakhivsky**

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