

Enclosed information material is submitted by the Human Rights Platform "Uspishna Varta"

Human Rights Platform "Uspishna Varta"

## HUMAN DIMENSION MEETING 2019

### WORKING SESSION 4-5. Specifically selected topic: Safety of journalists

**Name of organization:** Human rights platform "Uspishna Varta"

## THE MAIN THREATS TO THE SAFETY OF JOURNALISTS IN UKRAINE

### Recommendations to the state of Ukraine

To ensure the right to freedom of speech and opinion enshrined in *Article 34 of the Constitution of Ukraine*, as well as *Article 19 of the International Covenant on Civil and Political Rights*, the following measures should be taken by the state of Ukraine

- Stop the SBU and other law enforcement bodies' practice of interfering in the work of editorial offices and journalists for the purpose of censoring materials and voiced opinions.
- Oblige law enforcement bodies to apply anti-separatism legislation strictly in accordance with the obligations of states under article 19, paragraph 1, of the ICCPR and not use opposition opinions or criticism to stifle or prosecute.
- Abandon the practice, which is regulated by the decisions of the NSDC and implemented by the SBU, of deporting foreign journalists and banning them from entering Ukraine.
- Recognise the existence of political prisoners in Ukraine and stop persecuting those whose cases are in the courts or at the stage of pre-trial investigation; promote the amnesty and rehabilitation of already convicted political prisoners.
- Ensure a transparent, timely, and effective investigation into attacks on media editorial staff, journalists, and bloggers carried out by representatives of right-wing radical groups and others.

### **The main threats to the safety of journalists in Ukraine**

1. During 2018-2019, **law enforcement bodies searched the editorial offices of independent media and carried out covert investigative actions against journalists**. Thus, despite the protests and concerns of international organisations, on February 8th 2018 the office of the "Vesti Ukraine" media holding company was forcefully captured with the active participation of government departments, law enforcement bodies, and civilian mercenaries. The exertion of pressure by the SBU was reported by the online publication "Strana.ua" (June 2019), the "Avers" television and radio company (Lutsk, March 2019), and the "Patriot" newspaper (Zhytomyr, July 2019).

2. Despite the appeals of the OSCE and other international organisations, the **practice of deporting foreign journalists and not allowing them to enter Ukraine continued in 2018-2019**. As was reported by the SBU at the end of 2018, the department banned 83 "Russian propagandists" from entering Ukraine<sup>1</sup>. In 2019, a ban on entry was imposed on a number of foreign journalists who planned to cover the electoral campaign (Christian Wehrschoetz, Mark Innaro). A number of OSCE/ODIHR observers were also denied access to Ukraine because they had previously visited Crimea and the occupied territories of Donbass. The SBU also maintained the **practice of deporting journalists** with foreign citizenship from Ukraine (Yusuf Inan, Pavel Kazarnitsky, Rita Bondar).

3. Over the past 5 years, Ukraine has **persecuted journalists and public figures for their opinions and beliefs**. "Political" cases against journalists, public figures, and politicians were initiated, as a rule, under articles from the section of the Criminal Code "Crimes against the Foundations of National Security of Ukraine" (Articles 110-114<sup>1</sup> of the CCU). In general, according to these articles, between 2015-March 2019 the prosecution authorities registered 2,332 criminal offenses, **handed over a suspicion in 738 cases (31%)**, and 494 cases<sup>2</sup> were sent to the court. **Most of the charges under these articles that the "Uspishna Varta" legal team had the opportunity to examine<sup>3</sup> are based on "formal suspicion", without an appropriate evidence base and with violations of procedural law.**

4. During 2014-2019, **human rights defenders recorded more than 500 cases in which people were detained on charges of treason, attempts to overthrow the constitutional order, espionage, and other articles for long periods and without a court verdict**. As a rule, these charges were made against journalists, politicians, public figures, and users of social networks who expressed alternative views on the political situation in the state.

5. Thus, the **journalist Vasily Muravitsky**, who was detained by the SBU on August 2nd 2017 on charges of treason (Article 111 of the Criminal Code of Ukraine), spent 11 months in a PTDC and for more than a year under house arrest. He is charged with concluding a standard labour contract with the international Russian agency, where he published his analytical column. As of August 2019, the prosecutor's motion seeks to re-examine all the evidence, which will delay the consideration of the case for a few more years. Litigation continues on the cases of the previously arrested **journalists Dmitry Vasilets and Ruslan Kotsaba**, whose sentences were previously

---

<sup>1</sup> <https://ssu.gov.ua/ua/news/1/category/2/view/5512#.mHz1rOaj.dpbs>

<sup>2</sup> Most often, law enforcement bodies indicted under the following articles:

- Article 110 and Article 110-2 "Infringement on the territorial integrity and inviolability of Ukraine" - a total of 347 suspicions;
- Article 109 "Actions aimed at forcibly changing or overthrowing the constitutional order or seizing state power" - 202 suspicions;
- and Article 111 "State Treason" - 153 suspicions.

<sup>3</sup> <https://uspishna-varta.com/ru/novyny/sizo-ili-zalog-pochemu-sudy-ne-naznachayut-zalogi-po-politicheskim-delam>

appealed in the appeal instances. Kotsaba was imprisoned for 524 days, and Vasilets and his colleague Evgeny Timonin - 820 days

6. On March 27th 2019, the Shevchenkivskyi court of the city of Zaporozhye fully acquitted the **journalist Pavel Volkov**, who spent more than a year in jail. The journalist was arrested on September 27th 2017, he was charged under part 2 of Article 110 of the Criminal Code - encroachment on the territorial integrity of Ukraine (by a group of persons) - and Article 258-3 of the CCU - giving other assistance to terrorists. During the trial, Volkov pleaded not guilty. In the acquittal, the court acknowledged that the prosecution did not provide appropriate, admissible, and sufficient evidence of the journalist's guilt. The Court of Appeal upheld the decision of the trial court. *“We cannot criminally punish someone for a lack of patriotism,”* said the judge<sup>4</sup>.

7. The **“Uspishna Varta” human rights platform welcomes the decision of the Constitutional Court of Ukraine (hereinafter - the CoCU) from June 25th 2019, which recognised the provision of part 5 of article 176 (“General Provisions on Measures of Restraint”) of the Criminal Procedure Code of Ukraine as unconstitutional.** This provision stipulated that with respect to persons suspected under articles on terrorism, crimes against the foundations of national security of Ukraine, or obstruction of the activities of the Armed Forces, a measure of restraint milder than detention should not be applied<sup>5</sup>. Now, under these articles, a measure of restraint in the form of detention is not mandatory. Although the decision of the CoCU determines future law enforcement practices, immediately after its adoption **there has been significant progress in the cases of political prisoners who have been in prison for a long time.**

8. Thus, on June 26th 2019, the court softened the measure of restraint imposed on **General Aleksandr Shchegolev**, having changed it to house arrest. He spent almost 4 years in a PTDC on charges of unlawful obstruction of peaceful assembly and abuse of office during the events of February 2014<sup>6</sup>. On July 4th 2019, the court appointed an alternative measure of restraint in the form of a bail for the **Ukrainian director Oleg Sagan**, who was detained by the SBU in November 2018 on charges of violating the territorial integrity of Ukraine (part 2 of article 110 of the CCU) for filming and posting videos on YouTube with content that is disrespectful towards the authorities<sup>7</sup>. After spending 4 years in jail, the **doctor and publicist Igor Dzhadan** (Kharkov)<sup>8</sup> was also released on bail. On July 22nd 2019, the Kiev Court of Appeal released from custody the

---

<sup>4</sup> More details about the case of Pavel Volkov can be found here <https://uspishna-varta.com/ru/pravozashhitnye-kejsy/99>

<sup>5</sup> <https://uspishna-varta.com/ru/novyny/posle-resheniye-ksu-v-sizo-mozhet-umenshitsya-kolichestvo-podozrevayemykh>

<sup>6</sup> More details about General Shchegolev's case can be found here <https://uspishna-varta.com/ru/pravozashhitnye-kejsy/delo-general-aleksandra-shchegoleva>

<sup>7</sup> More details about the case of Oleg Sagan can be found here <https://uspishna-varta.com/ru/pravozashhitnye-kejsy/oleg-sagan>

<sup>8</sup> <https://uspishna-varta.com/ru/pravozashhitnye-kejsy/delo-igorya-dzhadana>

**Ukrainian politician Aleksandr Efremov.** He had spent 3 years in a PTDC without a conviction on charges of treason and encroaching on territorial integrity<sup>9</sup>. On July 3rd 2019, the court released under house arrest the government official **Stanislav Ezhov**, who spent a year and a half in jail on charges of treason<sup>10</sup>.

9. **At the same time, many political prisoners remain under arrest, including the journalist Kirill Vyshinsky, who has been in a PTDC for more than a year.** Vyshinsky was detained in May 2018 on suspicion of state treason and, as of August 15th 2019, continues to be in jail without a conviction. The journalist is mainly charged for a number of articles published in the "RIA Novosti" Ukraine newspaper in 2014-2018. On January 14th 2019, the prosecutor's office announced the completion of a pre-trial investigation against Vyshinsky, and on March 5th the journalist was presented with an indictment. From March 26th the journalist's case started to be heard in the Podolsky district court of Kiev. Throughout the entire period, the appeals court consistently dismissed the complaints of the journalist's defence regarding the extension of the measure of restraint<sup>11</sup>.

10. **Despite the increasing criminal liability for obstructing journalistic activities, journalists in Ukraine continue to be subjected to physical aggression and assault.** According to the National Union of Journalists of Ukraine, in **2017-2018, 175 cases of attacks on journalists were recorded in the country.** Police inaction and the lack of punishment for attacks and even the murders of journalists gave rise to a wave of violence from the side of right-wing radical groups against media outlets and journalists, who the "nationalists" consider to be "separatists". Over the past 2 years members of extreme right-wing groups staged riots and blocked the offices of the Union of Orthodox Journalists (associated with the Ukrainian Orthodox Church, January 2018), the "ZIK" TV channel (March 2018), the "Inter" TV channel (May 2018), the "NASH" TV channel (November-December 2018), and the "NewsOne" TV channel (July 2019). On July 13th 2019, unknown persons fired a grenade launcher at the building of the "112 Ukraine" TV channel in Kiev. Representatives of radical right-wing organisations attacked the press centers of "Ukrainskie Novosti" (August 3rd 2018), "Interfax-Ukraine" (November 12th 2018), and "Ukrinform" (July 30th 2019). Also, during 2018 right-wing radical groups attacked individual journalists and representatives of media journalists from "Sharj.net" (February 2018, Kiev), "Gromadske" (July 2018), "NewsOne" (2 incidents in September and October 2018), and others.

11. **The police are extremely slow and reluctant to investigate such attacks.** Thus, in June 2019 the "Vesti Ukraine" media holding company said that the police were extremely slow to investigate the vandalism, theft, and deliberate destruction of the holding company's property,

---

<sup>9</sup> More details about the case of Aleksandr Efremov can be found here <https://uspishna-varta.com/ru/pravozashhitnye-kejsy/aleksandr-yefremov>

<sup>10</sup> More details about the case of Stanislav Ezhov can be found here <https://uspishna-varta.com/ru/pravozashhitnye-kejsy/stanislav-yezhov>

<sup>11</sup> More details about the case of Kirill Vyshinsky can be found here <https://uspishna-varta.com/ru/pravozashhitnye-kejsy/kirill-vyshinskiy>

as well as the obstruction of journalism as a result of the seizure of the editorial office in February 2018<sup>12</sup>. According to the NUJU, **92% of crimes against journalists remain uninvestigated**.

12. **The media community and human rights organisations are seriously concerned about the lack of responsibility for the killing of journalists**. On the night of May 3rd 2019, a local **journalist Vadim Komarov** was brutally beaten up in Cherkassy. He spent a long time in a coma, and died on June 20th. In his publications he repeatedly raised acute topics, including about theft of budget funds, illegal construction, and corruption in local authorities. The police are investigating the murder, but there is no information about the prosecuted.

13. Law enforcement officers still have not made progress in the investigation into the murder of the **journalist Pavel Sheremet**, who died on July 20th 2016 as a result of a car explosion in the center of Kiev. The person accused of killing the Ukrainian **journalist and writer Oles Buzina**, who was killed on April 16th 2015 in the courtyard of his house in Kiev, was released from custody under a personal obligation in December 2015. The first preparatory hearing on the case began in the Shevchenkivskyi court of Kiev only on February 9th 2018. As of August 2019, the courts sessions are continuing, representatives of the right-wing radical group “C14” that is accused of killing Buzina remain at large.

\*\*\*

This shadow report was prepared **by the All-Ukrainian Association “Uspishna Varta” (“Successful Guards”)**. “Uspishna Varta” is a human rights platform that unites lawyers, public figures, and volunteers to protect the political and civil rights and freedoms of citizens of Ukraine, as well as to provide support for people and organizations that are persecuted for their political beliefs. Our main function is to monitor violations of the rights and freedoms of citizens in Ukraine and to make them public for a prompt response and to defend the affected people and organisations. We collect evidence of violations for the further transfer of these facts to the responsible authorities of Ukraine, and if a reaction does not follow, then they are transmitted to the world community and international organisations.

The UN Economic and Social Council (ECOSOC) at its coordination and management meeting on 23rd July 2019 adopted the recommendation of the Committee on Non-Governmental Organizations (NGOs) to grant special consultative status to AUA “Uspishna Varta”.

More information about our initiative can be found on our website. <https://uspishna-varta.com/>

e-mail: [uspishnavarta@gmail.com](mailto:uspishnavarta@gmail.com)

Telephone: 0 800 20 40 04

---

<sup>12</sup> <https://uspishna-varta.com/ru/novyny/politsiya-vyalo-rassleduyet-zakhvat-redaktsii-vesti>