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## The humanitarian concerns with regard to people captured during the war in Ukraine

### Addendum to the report<sup>1</sup>

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Ms Nellija KLEINBERGA, Latvia, Alliance of Liberals and Democrats for Europe

#### 1. Events leading to the trial and sentencing of Ms Nadiia Savchenko

1. Ms Nadiya Savchenko, a Ukrainian military pilot and, subsequently, member of the Verkhovna Rada and of the Ukrainian delegation to the Parliamentary Assembly, participated in the anti-terrorist operation in eastern Ukraine as a member of the territorial defence battalion "Aydar". On 17 June 2014, she was captured by separatists near the village of Metalist (Lugansk province). On 30 June 2014, she was placed under arrest in the Russian Federation, where, according to the Russian authorities, she had travelled of her own accord on 23 June 2014.<sup>2</sup> Ms Savchenko was taken to a detention facility in Voronezh on 8 July 2014.

2. According to her own statements, confirmed by the Ukrainian officials, after being captured by separatists in Lugansk province, Ms Savchenko was taken across the border against her will and handed over to Russian intelligence officers.<sup>3</sup>

3. The court ordered her arrest on the 16<sup>th</sup> day of her illegal detention. Ms Savchenko was charged with aiding and abetting the killing of Russian journalists.<sup>4</sup> In September 2014, she was transferred to the Serbsky Institute in Moscow to undergo involuntary psychiatric and psychological assessment. Ms Savchenko was declared in good mental health on 30 October 2014 and transferred to a pretrial detention facility.

4. Ms Savchenko denied all charges against her and accused the Russian authorities of kidnapping her and fabricating a political case against her.

5. The Ukrainian Government considers Ms Savchenko as one of the citizens who should be released in accordance with the Minsk Agreements. On 19 November 2014, Nadiya Savchenko was registered by the Central Election Commission as a member of the Verkhovna Rada, having been elected *in absentia*.<sup>5</sup>

6. In December 2014, the Security Service of Ukraine provided Nadiya Savchenko's defence team with a report containing communication data generated by Ms Savchenko's mobile phone and the phones of the journalists who died on 17 June 2014. On the basis of this information, the location of Ms Savchenko and of the journalists on the first half of the day of the incident could be established, in particular the fact that Ms Savchenko had already been captured for several hours and kept in central Lugansk at the time when the journalists were killed.

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1. Addendum approved by the committee on 20 April 2016.

2. The Investigative Committee of the Russian Federation claims that Ms Savchenko arrived on Russian territory as a refugee.

3. See Ministry of Foreign Affairs of Ukraine, Statement of the MFA of Ukraine on illegal trafficking to Russia of Nadiya Savchenko, who was captured by terrorists, 8 July 2014.

4. Announced by the Investigative Committee of the Russian Federation spokesman, Vladimir Markin, on 9 July 2014.

5. See the European Parliament Resolution on the case of Nadiya Savchenko (2015/2663(RSP)), paragraph F.



7. On 15 December 2014, Ms Savchenko started a hunger strike in protest against the falsification of charges, her illegal incarceration and the lack of medical treatment in the pretrial detention centre.
8. On 26 January 2015, Ms Savchenko was appointed as a member of the Ukrainian delegation to the Parliamentary Assembly. The Assembly, in its [Resolution 2034 \(2015\)](#), recognised Ms Savchenko's parliamentary immunity as a member of the delegation of the Verkhovna Rada to the Assembly (a decision rejected by the Russian Federation) and called for her immediate release. Moreover, in its opinion for the Bureau of the Assembly,<sup>6</sup> the Committee on Rules of Procedure, Immunities and Institutional Affairs stated that Ms Savchenko enjoys European parliamentary immunity as a member of the Parliamentary Assembly of the Council of Europe, according to the provisions of the General Agreement on Privileges and Immunities of the Council of Europe, since the ratification of the credentials of the Ukrainian delegation on 26 January 2015.
9. The trial of Ms Savchenko's case began in September 2015, in Donetsk. Ms Savchenko denied the charges while the defence presented evidence showing that she was captured before the attack in which she was allegedly involved.
10. According to Amnesty International, during the trial, the Russian court constantly violated the principles of a fair trial procedure by rejecting the evidence of the defence and relying on testimonies of unidentified witnesses. The judge rejected the testimony of the alibi of Ms Savchenko presented by her defence, as well as mobile phone records proving that she was already in captivity when the journalists were killed.<sup>7</sup>
11. The position of the Russian court is in violation of the European Convention on Human Rights (ETS No. 5, "the Convention"), which guarantees the right to a fair trial, including the right of the defendant "to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him" (Article 6.30.d of the Convention and Article 14.3.e of the International Covenant on Civil and Political Rights (ICCPR)).
12. According to leading human rights defending organisations, the trial of Ms Savchenko was highly politicised<sup>8</sup> and constitutes a violation of fair trial standards. The result of this trial was easy to predict, as the prosecution had never investigated the allegations made by Ms Savchenko.
13. Consequently, on 22 March 2016, the Russian Rostov Region court found Ms Savchenko guilty of abetting the murder of the Russian television journalists Anton Voloshin and Igor Kornelyuk on 17 June 2014, during the armed conflict in eastern Ukraine, and convicted her to 22 years in prison with a 30 000 ruble (US \$450) fine. She was also convicted of the attempted murder of civilians and of illegally crossing the Ukrainian-Russian border as a refugee. Ms Savchenko and her defence team announced that they would not appeal the verdict, which they considered a judicial farce.
14. On 5 April 2016, the judgment came into effect. In protest, Ms Savchenko has started a new hunger strike.

## 2. Reactions of the international community to the court's verdict

15. The abduction, illegal detention and political motivation of the investigation and court proceedings as well as the final verdict have given rise to strong condemnations by international organisations, governments as well as non-governmental organisations (NGOs) and individuals.
16. The United States Senate and the European Parliament adopted resolutions calling for the immediate release of Ms Savchenko.
17. International pressure over the Savchenko case increased further as Lithuania followed Ukraine in issuing a formal "Savchenko List" of 46 Russian and Ukrainian persons banned from travelling to Lithuania over the pilot's imprisonment.<sup>9</sup>
18. Following the verdict, the Prosecutor General's Office of Ukraine opened two criminal proceedings against Russian judges and prosecutors involved in the sentencing of Ms Savchenko. The Ukrainian authorities approved sanctions against 84 Russian individuals involved in the trial of Ms Savchenko.

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6. See Opinion of the Committee on Rules of Procedure, Immunities and Institutional Affairs concerning the status of Ms Savchenko with regard to Council of Europe immunity, AS/Pro (2015) 04 def.

7. Amnesty International Public Statement, 23 March 2016, AL Index: EUR 56/3710.

8. Russia: Ukrainian Pilot Convicted. Justice Marred by Unfair Trial, Human Rights Watch, 22 March 2016.

9. Lithuania blacklists 46 for their role in Savchenko trial, 12 April 2016, [www.reuters.com/article/us-ukraine-crisis-lithuania-savchenko-idUSKCN0X927X](http://www.reuters.com/article/us-ukraine-crisis-lithuania-savchenko-idUSKCN0X927X).

19. Anne Brasseur, then President of the Parliamentary Assembly, asked Russian Duma Speaker Sergey Naryshkin for his assistance in securing the urgent release of Ms Savchenko, underlining that “this is an issue which will continue to poison relations between Russia and Ukraine and put the life of a young woman at risk, unless it is resolved rapidly”.<sup>10</sup> Her successor Pedro Agramunt also called for Nadiya Savchenko’s immediate release.<sup>11</sup>

20. Liliane Maury Pasquier (Switzerland, SOC) and Theodora Bakoyannis (Greece, EPP/CD) and Jordi Xuclà (Spain, ALDE) and Axel Fischer (Germany, EPP/CD), respectively co-rapporteurs in the Assembly’s Monitoring Committee in respect of the Russian Federation and Ukraine, pointed out that Ms Savchenko, as a member of the Parliamentary Assembly, should benefit from immunity from prosecution under the General Agreement on Privileges and Immunities of the Council of Europe and its protocols. The four rapporteurs reiterated the Assembly’s call for her immediate release and urged the Russian authorities to allow her to return to Ukraine.

21. Daniel Mitov, Chair of the Committee of Ministers of the Council of Europe, underlined that the case of Ms Nadiya Savchenko has been raised on a number of occasions within the [Committee of Ministers](#) and it has already expressed its concern about Ms Savchenko’s state of health and called on the Russian authorities to release her without delay on humanitarian grounds.

22. In my capacity as rapporteur on this report, I made several statements to draw the attention of the international community to the continuing detention by the Russian Federation of Ms Nadiya Savchenko and to request her liberation.

### 3. Conclusion

23. The charges against Ms Savchenko appear to be fabricated and the trial manipulated in such a way that a guilty verdict was a foregone conclusion.

24. The international community, including the European Parliament, the European Union and the United States, has condemned the unfair trial of Ms Savchenko and called for her immediate release. In accordance with previous negotiations, the Ukrainian authorities reiterated their readiness to carry out an exchange of prisoners in order to allow the return of Ms Savchenko and other Ukrainian political prisoners. Her state of health is of the utmost concern as she continues her hunger strike.

25. Until now, the Russian authorities have rejected any appeals for Ms Savchenko’s release. Moreover, they have prevented any Ukrainian doctors from checking her medical condition. I believe that it is the obligation of the Assembly to condemn the unfair and illegal trial of Ms Savchenko by the Russian court and to call on the Russian Federation to immediately release her. Ms Savchenko’s release would send a strong humanitarian message given her health problems, and would help rebuild confidence in the peace process aimed at resolving the two-year-old crisis in and around Ukraine.

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10. The [PACE President asks for help in securing Ukrainian pilot Nadiya Savchenko’s release](#), PACE, 21 January 2015.

11. [President reacts to the beginning of the verdict on PACE member Nadiya Savchenko](#), PACE, 21 March 2016.