

SPEECH

**of the Ukrainian Parliament Commissioner for Human Rights, Nina Karpachova,
at the presentation to the Parliament of Ukraine of the Annual Report on**

**“THE STATE OF OBSERVANCE AND PROTECTION OF HUMAN RIGHTS
AND FREEDOMS IN UKRAINE”**

June 24, 2009

Dear Chairman!

Dear Members of the Parliament!

Government officials!

Representatives of the diplomatic corps!

The judiciary and the media!

Dear fellow citizens!

On December 10, 2008 – the day of the 60th Anniversary of the Universal Declaration of Human Rights – I presented the Special Report of the Commissioner on “The State of Observance of International Standards of Human Rights and Freedoms in Ukraine” in this room.

Today, I would like to present to you the Annual Report of the Commissioner on the human rights and freedoms situation in Ukraine. Members of the Parliament of Ukraine will receive copy of the full document, which is based on the results of an in-depth study on how the human rights and freedoms situation comply with the Constitution and legislation of Ukraine.

The monitoring from the present Annual Report is based primarily on complaints of our fellow citizens, foreigners and stateless persons received by the Commissioner. Since its establishment as a constitutional body of the parliamentary control, the Commissioner for Human Rights has received **complaints from 950 thousand people.**

Every second complaint touched upon the **civil rights violations**, in particular on the litigation, the right to judicial protection, inappropriate enforcement of court decisions, the conditions of detention etc. **Every third complaint** was about the violation of **social and economic rights of the citizens**, including rights to social protection, health, medical care, housing and land. Over **13%** of complaints dealt with the violation of **personal rights**, in particular the use of torture.

Every tenth complaint was a **collective one** with hundreds of signatures. Thus, the complaint from the citizens of the Bahchisaray district of the Autonomous Republic of Crimea on violations of the rights to land was signed by 1580 people; the complaint from the city of Snizhne of the Donetsk region on the closure of three schools was signed by 530 students and 620 parents; the assistance in the reconstruction of the underground operational offices of the Ukrainian and regional allergic hospitals (city of Solotvino in Transcarpathia) was sought by 230 employees of that medical institutions. Sixty residents of the city Zaluchchya of Kolomiysk district of Ivano-Frankivsk region complained to the Commissioner on the poor performance of the national authorities and bodies of self-government in dealing with the flood in 2008.

Based on the results of my monitoring, I have to state that there are **indicators of a systematic crisis in the field of human rights and freedoms in Ukraine**.

Moreover, the global financial and economic crises further aggravated the situation and wiped out all hope for social justice. The gap between the rich and the poor inside the country as well as globally has increased dramatically. World has been sharply divided on the so-called golden billion of the rich countries and the rest of the world population, which is more than 5 billion people. This division **put Ukraine among the countries of peripheral capitalism**.

This fact has been proved by the numerous complaints received by the Commissioner on the **decrease in living standards during the systemic political, legal and socio-economic crises as well as impediments for people in solving their vital problems**, created also due to the bureaucratic attitude of officials and officers. Most of the received complaints dealt with abusive actions and omissions of the courts, officers of the Ministry of Internal Affairs, Prosecutor's offices, public administrations and local self-governments.

Dear people deputies!

The most flagrant form of human rights violations is poverty. In my opinion, it is poverty that prevents the realization of other human rights and freedoms. I would like to note, that there has been a tremendous gap between the growth of total income of the poor and the rich for the last eight years in Ukraine, with the number of the poor being unchanged.

According to the experts, in particular from the Institute of Demography and Social Research of the National Academy of Sciences (NAS) of Ukraine, 27% of the population lived in a state of poverty, including about half of them in a state of extreme poverty, in 2008. The poverty has exacerbated in large families, families of the unemployed, the elderly and people living in rural areas.

Moreover, if we apply the criteria of poverty established by the World Bank for Western Europe, then the category of the poor in Ukraine should include more than 70% of its population. It has been confirmed by sociological studies.

In Ukraine, with its developed industry and agriculture as well as the high level of education of the population, **the poverty is the result of especially brutal violation of the rights of the majority of the Ukrainian society to access to resources and national wealth.** It fully confirms the position of the UN Secretary General, Ban Ki-moon, *on interdependence of such phenomenon as poverty, underdevelopment and discrimination of people.*

Despite the undertaken measures, the situation with reducing poverty in our country shows that **Ukraine** will be unable to meet its first and foremost commitments under the UN Millennium Goals **by 2015 – to reduce poverty and the number of the poor people by one half and one third respectively.**

It was only in 2008 that the number of the unemployed increased by more than 710 thousand. Nearly 1 million of our citizens have been registered in the Employment Service as unemployed and 1,7 million people have been forced to work part-time.

There are 9 applicants for every single workplace in Ukraine today. This number reached from 40 to 50 people in such regions as Khmelnytsky, Cherkasy and Ivano-Frankivsk. The promised number of 5 million jobs, unfortunately, has never been created in Ukraine.

Even people, who have a permanent employment are not secured from living in poverty, as **the remuneration of the majority of workers can not meet the minimum needs of their families in Ukraine.**

The State has failed to establish the minimum wage at the subsistence level from January 1, 2009. There is a discriminatory approach to the determination of wages, in particular for the employees of the budgetary sphere.

I emphasized that shortcomings in my appeals to the Prime Minister of Ukraine and the Chairman of the Parliament of Ukraine. Solving the problem requires immediate amendments of the State budget for the current year and creating relevant allowances in the draft State budget for the next year.

It has been tangible for people that their salary does not meet the rapid growth of consumer prices. According to the latest update, the average wage for 2009 increased only by 6% over the previous year, while consumer prices show a 15% increase. The prices for bread, milk, fish, butter, sugar and transport services increased even more during the previous year. The cost of the medical services increased by one third, the rent prices increased by 35%, and the prices for hot water and heating – by 50%.

And as for the slow down of the price growth during the recent months, I have to note that it has been insignificant, and, indeed, resulted from a sharp fall in purchasing activity of the people. It, actually, indicated the reduction of real wages of the working population, first of all.

At the same time, I have to note that **wage debts**, unfortunately, **have doubled in May 2009 even in comparison with the 12 months of 2008** – from 722 million to 1,405 billion.

As well as in previous years, a significant number of complaints have been received from the pensioners. They complain on a gross violation of their rights by authorities, non-enforcement of the decisions of the Constitutional Court of Ukraine, as well as court decisions on claims of the citizens.

Nearly 10 million pensioners have a pension of 680 hrivnas (USD rate is 8 hrivnas per 1 dollar), which is almost 60 hrivnas less than the poverty line of 739 hrivnas. Contrary to the pensions legislation, the recalculation of pensions in 2008 was based on the index of an average wage of 2007, which resulted in a situation, when every pensioner actually lost from 300 to 500 hrivnas. I had to appeal to the Minister of Labor and Social Policy, but so far the situation has not been changed. I call on the Parliament to resolve this issue at the legislative level as soon as possible, without any restrictions of the human rights of the pensioners, which is sought by the executive authorities.

In recent years, **a so-called land reform unfolded in Ukraine**, which in fact became **a battle for the redistribution of the main wealth of the Ukrainian people - the land**. This process never resulted in the development of the Ukrainian village, but, which is very unfortunate, ruined its basis.

There is a developing trend of changing use of the agricultural land. Growing food products for people is being replaced by growing canola, which is used as a raw material for producing biofuels. More than 11 million hectares of arable land, which is one third of all arable land in Ukraine, has been excluded from agricultural use.

Therefore, we saw an increased migration from the rural areas. About 25% of villages have been classified as deteriorating. The pace of extinction of the rural population is three times higher than in 1990.

At the same time, monitoring of the Commissioner indicates that the long-term brutal and massive violations of property rights to land by authorities and local self-governments have been taking place even beyond the rural area. Predatory redistribution of land has been increasingly accompanied by accidents and even loss of life among population.

In June of 2006 the country was stirred by the **tragic death of the 40-year-old single mother from the city of Alushta (the Autonomous Republic of Crimea), Natalia Kobeleva**. To take away the 0,04 hectares of land, which was the only source of existence for this woman and her minor child, – 0,04 hectares of land! – in favor of the business structure “Aluston-98”, there was launched and used to full extend the local government machine: from the courts and Prosecutor’s office to the city Council.

Three years of the struggle in courts and the Prosecutor's offices by the Ombudsman confirmed: when the judiciary and business merge, then there is simply no place for honor, justice or law.

It is hard to imagine, but even after the Ombudsman, Prosecutor's office, the State committee on land resources of Ukraine in the Autonomous Republic of Crimea and, eventually, Alushta city Council provided indisputable evidence of illegal seizure of private 0,04 hectares of land pieces by the business structure, the Commercial Court of the Autonomous Republic of Crimea (Judge P. Chumachenko, L. Kovtun) said: "No, we will not give the land back to people!".

In the end, there was launched an illegal construction of apartments on this piece of land by the sea. The elite complex "Europe" was supposed to be a football field for children's sport club, which the "Aluston-98" company received under the guise of a civil organization. One hectare of the land, the most valuable piece of land along the southern coast of Crimea, allegedly was meant to be used for a stadium construction. But now we can not imagine the prospect of the stadium for children, which took a human life.

It was only on June 23, 2009 that the higher courts, eventually, adopted a fair decision in this case by **recognizing** the decision of the city Council and the **lease agreement on the land piece of 1 hectare as invalid**. I hope that soon this piece of land will be returned by Alushta city Council to those people, which it was taken from, including the son of Natalia Kobeleva, who paid for her 0,04 hectares of land with her life.

I would like to draw your attention, dear Members of the Parliament, to this fact, because it has been first precedential judicial decision in Ukraine of the kind. The High Commercial Court of Ukraine and Sevastopol Commercial Court of Appeal finally had the courage to stop the illegal and improper use of land by the business structure, whose actions have been actually directed by one of the judges of Alushta City Court, which has two patrons in the Supreme Court of Ukraine. By the way, I emphasized this fact at the Congress of Judges of Ukraine.

From the very beginning of the crisis, citizens encountered massive problems associated with the possibility of free possession and disposal of their earned money. Commercial banks massively violated citizens' rights to timely receive salaries and pensions transferred to their bank accounts – which was especially common phenomenon in the first phase of the crisis – as well as the right to use deposit savings. In addition, it became a widespread practice to unilaterally increase the interest for foreign and national currency loans given to people.

In autumn last year, I addressed the relevant submissions on the issue to the President of Ukraine, as well as for three times – including at the special personal meeting – to the Governor of the National Bank of Ukraine.

Ordinary citizens of our country, unlike the bankers, have seen no tangible results of the multibillion credits of the International Monetary Fund received by Ukraine.

Today, the poor find themselves in extreme poverty, while people from middle-class become poor. Low income is a major obstacle in the implementation of vital human rights – to adequate food, medical care, education, housing, legal assistance, etc.

The present Report includes the findings of the monitoring and analysis of the issues related to violation of the rights to health care and free medical treatment, and reduced network of medical institutions – in particular in rural areas, as well as for patients with tuberculosis – and the right to being provided with necessary drugs and medicines, and funded surgeries. Moreover, I would also like to note that medical equipment is morally obsolete and its depreciation has reached 80% in our country. All of these resulted in a poor health of the population and critical demographic situation.

There is a growing epidemic of tuberculosis, HIV/AIDS, spread of infectious diseases, **which threatens national security**. There were 89 thousand patients with all forms of active tuberculosis, including nearly 1600 children under the age of 17, registered in tuberculosis institutions in Ukraine at the beginning of 2009.

Serious concerns have also been caused by **growing number of complaints related to the patients' rights**. This problem has become next to a tragedy, as I regularly receive complaints from our citizens, who have experienced irreparable drama by having lost a wife or a child as the result of a poor qualification of a doctor.

Recently, I have received complaint from a citizen of Artemivsk city, who lost his 43-year-old wife, a doctor by profession, as the result of a late diagnosed cancer. The citizen of Verhovinsky district of Ivano-Frankivsk region demanded an independent investigation into the death of his wife and a baby during the childbirth. The Ukrainian society was stirred by the death of a student from Kramatorsk city. He died after vaccination. The Commissioner took under the special control the case of a 30-year-old citizen of Kirovohrad city Svetlana Diatlova, who became bedridden after the birth of the third child due to professional errors of doctors.

I am convinced that every human tragedy requires an objective consideration. There should be additional investigations, prosecutor's inspections and providing real assistance to the victims. At the same time, I do hope that the Ministry of Health will also protect the rights of patients, but not only the esprit de corps.

I would like to draw a special attention to the rights of the persons with disabilities. There has been no fundamental changes in the access to education, employment, culture and public life of the state for the persons with disabilities. That is why they still complain on isolation within their apartments due to the absence of any secure means of transportation and prosthetics. These people encounter not only the lack of financial resources, but also heartless attitude of the local officials, when they ask for a safely equipped access to their accommodations as well as installing ramps. This issue

has also been raised in the appeals of the Members of the Parliament received by the Commissioner.

In this regard, I urge you once again to ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol, which were signed by Ukraine in 2008, without undue delays. On this issue, the Ombudsman had made submission to the President of Ukraine, with an active support of the National Assembly of Disabled of Ukraine and its President, Member of the Parliament, Valery Sushkevich.

Dear Members of the Parliament!

Once again, from this rostrum, I would like to **address you on behalf of 1 million 300 thousand families, who are waiting for a housing**. If the housing issue will be solved that slow, a lifetime will not be enough for most of our citizens to receive their own apartments.

Adopted in 2006, the Law on Social Housing has never been implemented as no money for the construction of social housing for the most disadvantaged people has been ever allocated!

A very specific issue is the **protection of housing rights of the residents of dormitories**. I have repeatedly raised this issue in my submissions to the President, the Prime Minister and the Chairman of the Parliament of Ukraine.

According to the State Property Fund, there are nearly 2 thousand dormitories in Ukraine, which have been unlawfully included in the statutory funds of enterprises and organizations with a half million of its residents, who actually turned into slaves. We must help these people through our joint efforts. In fact, most of them are labor veterans, single mothers, families with little children and persons with disabilities.

Thus, there is a 7-year-old ongoing struggle for the restoration of **the right to housing of the 80 families from the dormitory belonging to “Lugansk akumulatory” factory**. Three residents of the dormitory have unfortunately died within this period.

Dramatic has been the situation with the rights of the residents of dormitories in Kyiv, Lviv, Dnipropetrovsk, Kherson, Lutsk, Brovary and dozens of other cities.

The issue has not been even solved by the adopted last year Law “On ensuring the implementation of housing rights of residents of dormitories”. What is the problem? The article 14 of this Law reads: **owners of the dormitories “may make them a communal property”**. They “may”, but not obliged to do so.

Therefore, from this rostrum, I call on the Members of the Parliament to finally resolve this pertaining problem. To avoid further brutal violations of human rights of the kind, all the dormitories should be made a communal property and, thus, ensure the right

of people to privatize their housing. These people simply have no other chance to have a home.

Another issue of great concern is the **critical state of the housing maintenance and utilities**. The industry faces widespread downturn, but there still has been no specific state approach to its reorganization.

Fresh in our memories is the technical disaster in Alchevsk city, where about 60 thousand people were left without heat in winter. Ombudsman inspection of that issue on the ground revealed that a large-scale disaster had been caused by almost complete ignorance of the housing maintenance and utilities sector on part of the government authorities and local self-government.

Currently the Commissioner deals with the issue of redress for the victims of gas explosion in Dnepropetrovsk, Evpatoria, Lviv. However, no perpetrators of those tragedies still have been identified. There has been no appropriate conclusions done to prevent such tragedies in the future.

The permanent socio-economic crisis and total poverty have resulted in **mass migration flows** within the country as well as abroad. There are **over 5-7 million Ukrainian** working migrants **abroad**, including also seasonal migrants. In this regard, I have emphasized the need to adopt **Key principles of the state migration policy of Ukraine** and to create a strong **State Migration Service as an independent civil governmental authority with special status** for the consecutive seven years now.

On the contrary, the Government is continuously undertaking efforts aimed at establishing the State Migration Service under the Ministry of Internal Affairs, approaching migration policy exclusively from the perspective of combating illegal migration. However, such policy should also include protecting the rights of our citizens abroad, refugees and asylum seekers, as well as the social integration of foreign working migrants into the Ukrainian society.

To stop such Government efforts, which contradict to obligations of Ukraine before the Council of Europe, I and the President of Ukraine had to make two joint appeals to the Constitutional Court of Ukraine. The Government eventually cancelled its illegal decision.

In the appeals to government authorities the Commissioner also strongly emphasized the need to ratify **the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990**. This important international instrument offers an improved level of protection of migrant workers, including millions of illegal Ukrainian workers abroad.

One of the most acute issues, which the Commissioner has been dealing with lately, is **the protection of the rights of Ukrainian sailors, who get in pirate captivity**.

During the last ten months only, Somali pirates seized more than 60 Ukrainian seamen – crewmembers of MV “Lehmann Timber”, MV “Captain Stefanos”, MV “Faina”, MV “Saldanha”, MV “Seal Tide”, MV “Ariana”, MV “Malaspina Castle” and others. Only last night, on 23rd of June, pirates finally released Ukrainian seamen from the bulk carrier MV “Marathon”. Unfortunately, one of them, the father of three children Sergey Vartekov was killed during the seizure of the ship by pirates. I would like to reiterate my sincere condolences to his family.

At this very moment there are 27 Ukrainian seamen still kept by pirates in terrible conditions of a 60 degrees Celsius heat and a constant threat to life.

People, who get employed on a vessel through the mediation of crewing private structures, are virtually left unprotected before the pirates. As early as the summer of 2008, when dealing with the case of the **crew of MV “Lehmann Timber”**, together with the distinguished Member of the Parliament, Mr. Ihor Sharov, we addressed the President of Ukraine, Mr. Viktor Yushchenko, with the request to **create a coordinating body of executive authorities to counter maritime terrorism, which was piracy**. But only over six months later, when dozens of other Ukrainian sailors were captured, the Cabinet of Ministers finally formed the relevant structure.

To ensure the safety of sailors in the Gulf of Aden and other dangerous sea areas, there is a need for coordinated efforts of ship-owners and cargo owners, but under control of the state, which is responsible for its citizens, wherever they are, under the Constitution.

This was not the case with MV “Faina”, which crew became hostage not only of the pirates, but also of the special cargo on board. The human life is more important for the Ombudsman than any cargo. Therefore, my priority was to prevent the use of military force for the release of MV “Faina”. To achieve that aim, I held top level talks in Kenya, including with the Prime Minister, the Speaker of the Parliament, the Defense Minister, the Chief of General Staff, as well as the Ambassadors of Somalia, the United States and Russia to this country. I would also like to express my sincere gratitude to the following Members of the Parliament of Ukraine: Mykola Katerinchuk, Valery Konovalyuk and Ihor Sharov, who actively supported the efforts of the Commissioner for Human Rights during this period.

I am sure, that **without alleviating total poverty in Africa**, particularly in **Somalia**, piracy will be simply impossible to overcome. My experience of saving crews of the vessels with the Ukrainian seamen on board shows, that the use of force alone will never solve this problem. The coordinated efforts of all the international community is required to address this global challenge. As a maritime state with nearly 100 thousand seamen, Ukraine have to initiate such efforts and actively engage with them.

Dear Members of the Parliament!

There is probably no such issue full of despair, as complaints of citizens, who **can not prove their right to justice in courts.**

The serious problems in the national judicial system have been also noted by the **European Court of Human Rights, which has already made 500 substantive judgments against Ukraine. Almost 90 percent of the cases** stated violation of Article 6 of the European Convention on Human Rights and Fundamental Freedoms concerning **the right to a fair trial.** Almost 45 million USD has been paid from the State Budget of Ukraine for enforcement of the judgments of the European Court over the last nine years. And this has been Ukrainian taxpayers money!

In my opinion, the **judiciary requires an in-depth and systemic reforms.** The Constitution of Ukraine should be amended for judges to be elected by people for a particular term in office. There is a need to adopt a new Criminal Procedure Code and the Law on Free Legal Aid – its draft has already been approved by the Parliament in the first reading. Furthermore, we need to adopt a new version of the Advocacy Law, and as a follow-up to the recommendations of the Council of Europe Committee of Ministers to adopt a law on mediation, which is reconciliation, that would regulate pretrial dispute settlement. And, finally, there should be **established juvenile courts, primarily to protect the rights of the child.**

As well as before, courts continue to positively decide on 90% of requests of the investigation authorities for arrest permissions every year. Thus, it is obviously vain to expect that the practice of mass arrests will discontinue and the courts will protect constitutional human right to liberty and integrity in the first place.

There were 20 thousand detained people in pretrial detention facilities early this year. Almost 15 thousand of the detained persons, or 74%, were waiting there for a court judgment in their cases. Sergei Miroszyn has been waiting for the judgment of the Leninsky District Court of Sevastopol city for five years behind the bars. A seriously ill with tuberculosis, citizen of Luhansk city Valery Volchanskiy waited for the court's judgment for six years.

I have repeatedly raised the issue of **vulnerability of millions of our citizens, who fell victims of crime.** In March 2009, I addressed the President of Ukraine on the need to ratify the European Convention on the Compensation of Victims of Violent Crimes of 1983, which would enable the state to protect the rights of hundreds of thousands of our countrymen, victims of crime, within Ukraine and abroad.

The draft law on safeguarding the right to a trial within a reasonable time, that has been submitted to the Parliament, should be adopted as soon as possible.

Only 35% of court decisions would be enforced in Ukraine, which is a flagrant violation of the human right to a fair trial. Even with an effective court decision, some people have to wait for the special state service to enforce it for years.

Monitoring of the Commissioner indicates the **existence of systemic problems, which impede the enforcement of judgments of the national courts.**

Due to the massive failure to enforce court decisions, our country has acquired a negative international profile. In particular, the lack of funds in the State Budget was dismissed by the European Court of Human Rights, which had already made judgments in a number of cases against Ukraine, in particular in such cases as “*Voitenko against Ukraine*”, “*Koval and Patsiura against Ukraine*”. The European Court noted that **the lack of funds can not justify the failure to enforce court decisions.**

A burning issue is also an **inadequate enforcement of judgments by relevant authorities.** Negligence on part of the enforcement authorities sometimes goes beyond any limits violating rights of entire labour collectives and squandering state property on a large scale.

Thus, the Ombudsman has been addressed by the labour collective of the Odessa State Enterprise “Chorazmorshlyah” in connection with the illegal selling of the vessels “Arabatskaya” and “Plavmaysternya” by the enforcement authorities of the Odessa Regional State Administration of Justice. And it happened at a time when the Ukrainian fleet was almost destroyed!

I took this case under investigation and requested the Prosecutor General of Ukraine to check the legality of selling that vessels. The Odessa region Prosecutor’s Office instituted criminal proceedings against officers of the enforcement authority on charges of abuse of authority when selling the vessels. Pre-trial investigation in the case is ongoing.

The same situation we have in the case of the Ukrainian dredge “Perekopsky”, which was arrested in Argentina. An Odessa private company, which I believe to be only a cover, is trying to lay hands on the vessel. In this regard, the Ombudsman has been undertaking a very difficult investigation. Until recently, this vessel would give 2 million dollars of annual profits to the state budget of Ukraine. I urged the Prosecutor General and the President of the Supreme Commercial Court of Ukraine to take measures to **preserve the vessel flying the flag of Ukraine as well as to prevent the destruction of the remaining national trade fleet.**

In my opinion, instead of establishing the institute of private enforcement agents, as proposed by the Ministry of Justice, the State enforcement service should be transferred back to the judiciary, which would be a logical completion of the justice process. It is a matter of honor for the courts to control the implementation of their own decisions.

Dear Members of the Parliament!

Countering the use of unlawful methods of investigation, including torture, is one of the priorities of the Ukrainian Parliament Commissioner for Human Rights.

While there were **1428** complaints on cruel and inhuman treatment or punishment in 2007, their number increased by one third to **1922** complaints in 2008.

As a rule, law enforcement authorities beat people to force them to take the quilt upon themselves, in order to artificially increase their efficiency in crime disclosure, or even just to get a bribe. It takes place right in the office in 70% of such cases. According to the findings of the Commissioner, information from regional Prosecutor's offices and human rights defenders as well as specific court judgments, tortures have been used in all regions of Ukraine. This is further confirmed by the data from health care institutions. 1800 people were admitted to hospitals after being beaten in the police in 2006. In 2007 and 2008 their number was 2 thousand.

Here is what Mr. Andrei Zakharov, a citizen of Znamensky district of Kirovograd region, wrote in his complaint to the Commissioner: *"I was forced to stand on my elbows and knees, they beat me on my heels and backside, they put a gas mask on my head and blocked air access, I was suffocating. It was hard to believe I found myself into the hands of monsters, beasts in human shape. I served in peacekeeping troops in Iraq, but could not bear such torture. In order to save my life, I was forced to acknowledge the guilt. However, three days later, when I was in hospital, I received a call and was told that they caught a real murderer, a man acquainted to me"*. The criminal proceedings against those guilty of torture was instituted only after the intervention of the Commissioner for Human Rights.

Unfortunately, **abusing people is taking grave forms and leads to death of the detainees**. Thus, in 2008, police officers from the Shevchenko district police office in the city of Kyiv killed 32-year-old Timur Fyedas. A 52-year-old Roman Stasiuk, father of two children, was killed by police of Sokal city in Lviv region. A 39-year-old entrepreneur Sergei Kuntsevskiy was tortured by the law-enforcement officials from the city of Pryluki in Chernihiv region for 3 hours to death – this case gained wide publicity.

The proceedings of the Commissioner on the protection of the rights of the family of **Peter Hudak**, a father of three children, who was tortured to death by the officers of the Nadvirnianskiy police district in Ivano-Frankivsk region, lasted for two years. The court finally decided the verdict and sentenced torturers to actual imprisonment in April 2009. The Chief of the Criminal Investigation got 9 years and his subordinate officers of the criminal investigation department were sentenced to 8 years of imprisonment.

This verdict of **Horodenka District Court of Ivano-Frankivsk region can be considered a real breakthrough in the judicial protection of rights of victims of torture**. I think that all judges of Ukraine have to change their attitude to proceeding such socially dangerous crimes and make the most strict verdicts in such cases.

Through the "visits without previous notice" the Commissioner and the experts of the Office of the Commissioner have spent in general (just try to imagine!) over two years inside the detention facilities and prisons during their 10 years of work. According to the results of this systematic monitoring of observance of human rights in

detention facilities and prisons, police authorities continue to hold prisoners in conditions that humiliate human dignity and deemed as a type of torture under the international standards.

In this context, it could also be mentioned the Autonomous Republic of Crimea and Sevastopol city, Volyn, Dnipropetrovsk and Kirovohrad regions. The last inspection of the Commissioner in Kiev region revealed that the Ministry of Internal Affairs of Ukraine had failed to make any decisive steps to address at least the main issue, which is providing the unimpeded access of daylight and fresh air to cells. The prisoners can not even open the vents, because it can be done only outside, where prisoners, of course, can not go. At the same time prison officers may open them only after the permission of senior officers.

In order to counter such negative phenomenon as torture, the President of Ukraine initiated the signing and ratification of the Optional Protocol to the UN Convention against Torture, on the submission of the Ombudsman. Ukraine was one of the first countries to do so. Unfortunately, our country has not yet created a national preventive mechanism on tortures, although the first steps in this direction have already been made.

Thanks to the consistent implementation of measures for the humanization of punitive policy of the state, **it has tended to reduce the number of convicts in prisons**, which is also positive – since 2000 it has decreased by 77 thousand people or one third.

Currently, there are 145 thousand people held in 184 institutions of the penitentiary service, with 25% of them being kept in detention facilities. This number includes 1526 minors and more than 6 thousand women. However, almost 20 thousand, or every one out of seven, have been serving sentence for crimes that do not pose a significant social threat. So, I would like to once again emphasize the need for implementation of the national model of probation, that is the wider use of alternative measures of punishment.

At the background of generally reduced number of prisoners, there is an increased number of life prisoners due to the grave crimes committed by them. If compared with 1999, when the moratorium on the death penalty was introduced, their number reached from 417 to 1560 people, of whom 17 were women. The Commissioner has repeatedly expressed concerns about the inappropriate detention conditions for life prisoners. But, a differentiated progressive system of serving sentences has never been implemented despite the European practice.

Recently, there appeared outrageous cases, when courts began to apply a life imprisonment against citizens as means of resolving business conflicts. A case of the former deputy director of the Lviv market “Shuvar”, a 50-year-old Vladimir Panasenko, who was sentenced by the Lviv Region Court of Appeal to life imprisonment, is an example. According to the materials of the criminal case, he allegedly attempted to kill Roman Fedyshyn, director of the market. The Ombudsman has taken this case under investigation. I hope that we will establish the truth in this explicitly designer case.

One of my “visits without previous notice” revealed a Security Service detention ward, that was subject to liquidation at the request of the Council of Europe as early as in 2003, in Kyiv. As the Commissioner for Human Rights, I have publicly stated that it was actually the use of secret prisons, which was absolutely unacceptable. After my personal meeting with the head of the Security Service Valentin Nalyvaichenko, the situation was set under legislation. I raised that issue specifically at the Cabinet of Ministers meeting. Moreover, the President of Ukraine issued a relevant Decree.

Inspections of the Commissioner showed that due to poor medical care the level of mortality among prisoners remains high. 130 persons die in pre-trial detention facilities every year. I have drew attention of the law-enforcement authorities and courts to the need for humane treatment of detainees, the inadmissibility of abuse of arrest, particularly, when it comes to difficult patients. It may sometime cost a life.

There are over 6 thousand patients with active tuberculosis held in the detention facilities and prisons. One third of them were first diagnosed in pretrial detention facilities. Over the past three years, more than 4 thousand persons deprived of their liberty became ill with tuberculosis, 277 of who, unfortunately, died.

Based on the findings of the Commissioner, there were conducted **first public hearings of the Ombudsman** to discuss issues of respecting the rights, freedoms and legitimate interests of persons kept in pretrial detention facilities. It was participated by the representatives of state authorities, prosecutor’s offices, human rights defenders, journalists, academicians and independent experts. Hearings elaborated new constructive approaches to the protection and remediation of the constitutional rights of the prisoners and detainees.

Dear Members of the Parliament!

Democracy is impossible without freedom of speech. Therefore, its protection remains to be one of the priorities of my work in the capacity of the Ombudsman of Ukraine. The present Report gives a detailed analysis of the freedom of speech situation in Ukraine. I believe, as the Members of the Parliament, you will read it with a great interest.

In particular, the Report provides a well-grounded monitoring, which proves that there has been a continued offensive on the rights of the national media. If several years ago it would be a political offensive, today it has become of economic nature. **A “money censorship” leads to imitation, monopolization and, ultimately, privatization of freedom of speech.**

The truth often turns into the persecution for a journalist. The country has been outraged that an editor of the newspaper “Gutsulsky Region”, Peter Havuk, from Ivano-Frankivsk region, with his over thirty years of journalistic experience, was dismissed for publishing an open address of forty members of the District Council against the illegal order of the newly elected head of Kosivsk District Council.

An unprecedented victory of justice in the protection of freedom of speech was the recent acquittal of the main editor of “Evpatoryyskaya Week”, **Vladimir Lutyev**. He has been known for his revealing articles. The Ombudsman of Ukraine jointly with the journalists, in particular from the Crimea, and experts from the Institute of Mass Media was fighting for his right to life, professional activities and human dignity. This courageous person, who challenged the abuse of police, prosecutor’s office and court power, was sentenced to eight years of imprisonment. The Court of Appeal of Mykolaiv Region and the Supreme Court of Ukraine acquitted him on all charges. This encouraging example is so far rather an exception than the rule in relations of authorities and the press.

I can not, but touch upon an extremely pressing problem – the society needs protection against false information. **The extent of responsibility for the information should not be less than that of the freedom of speech.** Once again I would like to emphasize that the Code of Ethics for Ukrainian journalists should be as sacred as the Hippocratic oath for doctors.

I am highly concerned about the **situation with the right of citizens to free expression of their will.** There were a great number of misprints and mistakes in the voter lists during the parliamentary elections in 2006 and again in 2007. Hundreds of thousands of citizens of Ukraine were deprived of the right to participate in the electoral process, because they did not have a residence registration.

In my opinion, any discrepancies in voter lists and stay of citizens away from the place of their registration on the voting day, which according to the law denies them the opportunity to vote, is a flagrant violation of their constitutional electoral rights. **The state is obliged to provide unimpeded access to a ballot box for every citizen of Ukraine irrespective of the place of his/her registration.**

It was a shameful fact, when the authorities of the independent Ukraine tried to publicly involve the Security Service of Ukraine in the electoral process in 2007. I had to draw public attention to this fact.

I am convinced in the need to introduce amendments to the electoral law, which would give an opportunity to make the electoral process more democratic and transparent. Society needs to have open electoral lists, as well as abolished discriminatory vote threshold, which was set to limit the number of the political parties in the elected bodies. **Without undue delay, there should be adopted the Electoral Code of Ukraine.**

It is of a great concern that there have been registered several draft laws in the Parliament of Ukraine, which offer to increase the amount of cash collateral for presidential candidates for several folds. It is my strong belief, that the draft laws would actually introduce a wealth censorship, which is a sign of discrimination, and therefore a gross violation of the constitutional rights of the citizen to be elected to any position in the country.

There can be no fair and honest elections until the complete formation of the **Unified State Register of Voters**, which the Commissioner for Human Rights has been insisting on since 2000.

Dear Members of the Parliament!

The **protection of the rights of the child** is the priority of the Commissioner for Human Rights. Thousands of complaints on the violation of child's rights have been received by the Commissioner for human rights annually. There are also individual complaints lodged by the children. The present monitoring allows for a conclusion that the child's rights have been blatantly violated in Ukraine, in particular to an adequate standard of living. Especially critical is the situation with large families, where children often do not receive appropriate nutrition, medical care and qualified education.

The number of children in the country decreased by 3 million 300 thousand over the past ten years. Compared with the developed countries, the rate of infant mortality per 1000 live births has been almost twice as much in our country. Therefore, there is an urgent need not only to preserve the existing system of medical institutions for children, but also to implement advanced medical technology and further increase the number of the medical institutions for children.

Another significant issue is children's orphanage. The number of orphans and children deprived of parental care reached 103.5 thousand in early 2009 and has been annually increased. Dealing with the protection of the rights of such children, the Commissioner has been insisting that the priority should be given to their placement in Ukrainian families. Foreign adoption should be a matter of exception. We need eventually to conclude bilateral agreements with destination countries of the adopted Ukrainian orphans, and increase vigilance and responsibility of the Ukrainian diplomats.

Violence against children has become a terrible fact of nowadays. Children are subjected to trafficking, they get involved in crime and fell victims of prostitution and pornography. Therefore, it is necessary to speed up amendments to the Law of Ukraine on criminal liability for the use of children in the production of pornography as well as strengthen the liability for sexual crimes against children.

In order to prevent the negative impact of the environment on children and secure their rights, the legislation of Ukraine in the field of the child welfare should be brought in line with international standards. There should be increased accountability and strong joint efforts of all governmental authorities, local self-government as well as wide engagement of civil society. It should be particularly emphasized this year, when the World celebrates the 20th Anniversary of the UN Convention on the Rights of the Child, which was ratified by 193 countries, with Ukraine being one of the first. Soon, there will also be presented a Special Report on the status of child's rights in Ukraine.

Under the current legislation, the **Commissioner shall maintain control over the compliance with the principle of equal rights for women and men.** According to the

monitoring, there persist **direct as well as indirect discrimination** in relation to women in Ukraine. This applies, in particular, to the wage level for women, which is on average comprised only of 70% of the wage level for men. Unemployment has been also a predominantly female problem, especially among older women. We failed to get rid of violence against women. Women fell victims in 90% of the trafficking cases.

There are significant disparities regarding the participation of women in bodies of state authority and local self-governments, as well as in the Parliament. The situation can be improved, in particular, through the **use of the so-called positive discrimination**. It would dramatically improve the representation of women in bodies of authority, thus contributing to the harmonization of modern public relations.

According to the legislation, **the Commissioner for Human Rights has the power of civil control over the military organization and law enforcement agencies of the state**. Thus, there has been separate section in all previous reports, including this one, focused on this sphere.

The most flagrant violation of the rights of servicemen still remains the encroachment on their lives and health. According to the statistics of 2008, almost 13% of crimes in the Armed Forces of Ukraine related to bullying.

Very acute problem is the increased number of soldiers committing suicide. If in 2008 there died 77 servicemen in the Armed Forces of Ukraine, with 17 of them being suicide cases (22%), only in the first quarter of 2009 two thirds of the died servicemen committed suicide (8 out of 12). Today, morning news reported another such sad case from Rivne city.

The fundamental human right to life and health as well as the environment has been under a great risk due to the danger inherent to the military warehouses and explosions of their arsenals in Artemovsk, Tsvitosi, Novobohdanivka and Lozova. The position of the Commissioner for Human Rights is that without proper funding of relevant government programs it would be impossible to solve these problems.

Dear Members of the Parliament!

The previous Reports and public statements of the Commissioner stressed that an effective parliamentary control over the observance of constitutional human rights and freedoms, which has been vested on the Commissioner for Human Rights under the Constitution of Ukraine, is impossible without the cooperation of the Commissioner with the Members of the Parliament, parliamentary committees and factions.

During my term in office, the Commissioner received about 3 thousand requests and complaints from the Members of the Parliament mostly related to the protection of human rights. Every such complaint has been investigated and in every case there has been strong cooperation towards the redress.

I strongly believe, that further strengthening of this cooperation will improve the efficiency of parliamentary control over the observance of constitutional rights and freedoms in Ukraine.

Finally. On the eve of the Constitution Day of Ukraine, the main part of which is devoted to the human rights and freedoms, I would like to congratulate the Members of the Parliament, everyone, all the fellow citizens on this national holiday. And, since there is no true celebration without a gift, I would like to present to you a written copy of the first Ukrainian Constitution – Constitution of Hetman Philip Orlik of the rights and liberties of the Zaporizhia Army of 1710. I have brought this document from the National Archive of Sweden.

The Constitution of Philip Orlik, as I emphasized in the first Annual Report of the Commissioner for Human Rights, is a document of extraordinary importance for understanding the origins of the Ukrainian democracy. The President of Ukraine, speaking today in Kharkiv, appealed to the students on this occasion, urging young people to deeply explore their history and to be proud of it.

It is the world's first written democratic Constitution, which appeared 65 years before the U.S. Constitution and 80 years before the French Declaration of Human and Citizens' Rights.

I would like to note that the Constitution incorporated a lot of democratic principles, which we start to really reinforce only nowadays. It reflects the demands of the Cossacks, which they put forward to all their Hetmans. The demands were mainly related to limitations of Hetman authority as well as organization of the state authority on the principle of its division into legislative, executive and judicial, conducting elections of all government officials and strengthening human rights and freedoms. This document limited tax collection, established safeguards for human rights of women – widows of the Cossacks, their wives and orphans. The Hetman was imposed the duty to ensure respect to the civil liberties.

This gift of the Ombudsman to the Parliament of Ukraine you will see at the exhibition “Human Rights in Ukraine”, which is open on the third floor of the Ukrainian Parliament.

Thank you for your attention.