



ВЕРХОВНА РАДА УКРАЇНИ

ДЕПУТАТСЬКА ФРАКЦІЯ РАДИКАЛЬНОЇ ПАРТІЇ ОЛЕГА ЛЯШКА

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"12" серпня 2015р.

Mr. Thorbjørn JAGLAND

Council of Europe Secretary General

Mr. Nils MUIZNIKS

Council of Europe Commissioner for Human Rights

Copy to:

Mr. Petro POROSHENKO

President of Ukraine

Mr. Volodymyr GROYSMAN

Chairperson of the Parliament of Ukraine

Dear Mr. Secretary General,

Dear Mr. Commissioner for Human Rights,

Dear Mr. President,

Dear Mr. Chairman,

I present my compliments to you and would like to write to you in connection with the letter from the Council of Europe Commissioner for Human Rights to the Chairperson of the Parliament of Ukraine Mr. Groysman regarding the draft resolution I submitted for consideration of the Parliament of Ukraine "On annulling the Resolution of Ukraine on the appointment of Valeria Lutkovska as the Ukrainian Parliament Commissioner for Human Rights", which was published on the website of the Ukrainian Parliament Commissioner for Human Rights.

You are well aware that the elections of the Commissioner for Human Rights in Ukraine in 2012 took place with gross violations of Ukrainian legislation and international principles.

The United Democratic Opposition refused to participate in those elections because there were no alternative candidates in violation of the UN Paris Principles.

They were held in violation of the rule of law (Art. 8 of the Constitution of Ukraine) and of the legal order in Ukraine (paragraph 2, Art. 19 of the Constitution of Ukraine), in particular the following legal provisions were violated:

1. The Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” (part 1 of the Art. 5 on qualification requirements), which was pointed out by the relevant Committee for human rights of the Parliament of Ukraine in its two conclusions. As a matter of fact, the candidacy of V. Lutkovska was rejected at the stage of consideration by the Committee and could not be considered by the Parliament at all. Please note that the OSCE Parliamentary Assembly in its Monaco Declaration of 5-9 July 2012 (resolution on Ukraine, paragraphs 12-13) urged the Ukrainian authorities to ensure that the post is occupied by an individual with relevant experience in the field of human rights and emphasized that Ukraine, which was going to hold the Chairmanship of the OSCE, had a particular responsibility to provide a good example with regard to respecting these commitments in the human rights dimension;

2. The provisions for safeguarding the democratic procedure of the Law of Ukraine “On the Rules of Procedure of the Parliament of Ukraine”, which was noted in the remarks of the members of the vote counting commission:

- Paragraph 1 and paragraph 4 of the Art.38 on ensuring procedure of secret voting;

- Paragraph 4 of the Art.39 on prohibiting the use of unestablished samples of the ballot.

3. The elections did not comply with the international principles on the independence of national human rights institutions – paragraph 1 of the Part 2 of the UN Paris Principles – as there were no alternative candidates, but only the pro-government one.

4. The pro-government majority ignored demands of the United Opposition to establish a temporary investigative commission of the Parliament of Ukraine to review the lawfulness of the voting procedure and the legitimacy of the election of Valeria Lutkovska to the post of the Ombudsman before she took her oath in the Parliament.

5. Taking oath by Valeria Lutkovska, which according to the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” is a precondition for assumption of office, was organized by the parliamentary pro-government majority of the Yanukovich regime in a manner that flagrantly violated paragraph 6 of the Art.217 of the Law of Ukraine “On the Rules of Procedure of the Parliament of Ukraine”, which provides the procedure of taking oath by a newly elected Ombudsman.

According to paragraphs 2, 4 and 6 of the Article 48 of the Law of Ukraine “On the Rules of Procedure of the Parliament of Ukraine” violations of the Rules of procedure of the Parliament of Ukraine, which occur during consideration and voting for the laws, resolutions and other acts of the Parliament of Ukraine, shall be subject to mandatory removal and the relevant acts shall be annulled.

All the endeavors of the United Opposition to remove these violations by adopting relevant resolutions of the Parliament of Ukraine were blocked by the pro-government majority of the Party of Regions and Communist Party of Ukraine for almost three years. And impunity for these violations grew.

Having no possibility to restore the rule of law in the Parliament of Ukraine the parliamentary factions of the United Opposition made a public appeal to international organizations not to recognize the elections of Valeria Lutkovska to the post of the Ombudsman. Unfortunately, we didn't hear any public reaction from the Council of Europe officials regarding the blatant violations of the democratic principles.

The possibility to restore the rule of law in this matter appeared only after the Revolution of Dignity and the election of a new pro-European Parliament of Ukraine in October 2014.

Therefore, the attempt of the Office of the Commissioner for Human Rights to link the abovementioned Resolution with the presentation of the Annual report of the Commissioner for Human Rights is nothing, but an artificial fabrication and manipulation.

Moreover, when talking about ensuring the independence of the institution of the Ukrainian Parliament Commissioner for Human Rights it is worth mentioning that the budget of the Office of the Commissioner for Human Rights increased from 18 million UAH in 2012 to 28 million UAH in 2015. The staff of the Office grew from 100 to 200 people.

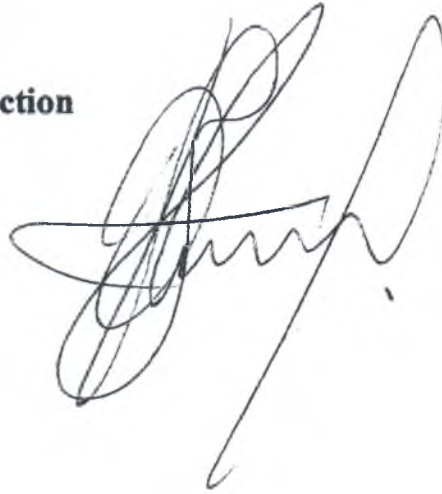
This draft Resolution I initiated is perceived as an act of justice and restoration of the rule of law in the matter of appointing the Commissioner for Human Rights by the Ukrainian society. The Resolution has been publicly supported by organizations of the mothers and women of the Maidan, political prisoners and Ukrainian intellectuals.

We would also like to point out that there are no international principles saying that the restoration of the rule of law, justice and constitutionality can be a threat to the independence of a National Human Rights Institution. It is only the removal of violations, which occurred during appointment of the Commissioner for Human Rights in 2012, that can ensure the real independence of the Ukrainian National Human Rights Institution. There should be held due elections with pluralist representation of the social forces (of civil society) as required by the UN Paris Principles.

Hopefully, the mentioned remarks can be useful for an objective assessment of the endeavors to restore the rule of law in the matter of appointing the Ukrainian Parliament Commissioner for Human Rights.

Taking the opportunity, I would also like to renew to you the assurance of my high regard.

**Leader of the Radical Party Faction
in the Ukrainian Parliament**

A handwritten signature in black ink, appearing to read 'Oleh Lyashko', written in a cursive style with a long, sweeping underline.

Oleh LYASHKO