



OPEN DIALOG

The case of Nadiya Savchenko



Russian investigative and judicial authorities cooperate with terrorists: they kidnap, arrest and convict the citizens of Ukraine in contravention of international law

At the same time, Savchenko's Russian counsels prove that her case has been fabricated

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1. Introduction

According to all international legal norms, the Russian Federation has no right to detain, arrest, present charges to or try the citizens of Ukraine for alleged crimes committed on the territory of Ukraine. The fact that Nadiya Savchenko was kidnapped on the territory of Ukraine by pro-Russian terrorists has been confirmed by video footage released by them immediately after taking her captive.

As a result of the investigation carried out by Nadiya Savchenko's Russian counsels (Mark Feigin, Ilya Novikov and Nikolay Polozov who with legal aid from the Open Dialog Foundation provide legal defence to Savechenko) it has been determined that there is no evidence of her guilt in the alleged crime; however, the Russian court continues to render decisions, favourable to the prosecution.

Savchenko's counsels managed to find a key witness in the criminal case of the Ukrainian soldier - Taras Sinyagovsky. It is on the basis of his testimony that the Investigative Committee of the Russian Federation fabricated the criminal case. As it transpired, Taras had been captured by terrorists along with Nadiya Savchenko. Whilst wounded, the soldier of the battalion 'Aydar' testified as a result of torture and a direct threat to his life.

The counsels were also able to obtain information regarding mobile phone connections and phone calls from Nadiya Savchenko's phone. Having considered the facts, the counsels discovered that Savchenko could not have committed the crime of which she is accused, as at that time she was in a completely different location than the one indicated in the criminal case.

Let us remind ourselves that the soldier of the Armed Forces of Ukraine, Nadiya Savchenko, participated in the anti-terrorist operation (ATO) in the East of Ukraine as a volunteer in the territorial defence battalion 'Aydar' (subordinate to the Ministry of Defence of Ukraine) and was taken prisoner by pro-Russian terrorists near the village of Metallist (Lugansk Province) on 17 June, 2014. As a result of cooperation of the terrorists and the Russian security services, Nadiya Savchenko was illegally transferred to Russia, where she faced a fabricated criminal case.

Nadiya is accused of 'complicity in the deaths of Russian journalists Igor Kornelyuk and Anton Voloshin' [1] who illegally entered the territory of Ukraine, and accompanying a group of fighters, reported their attacks on Ukrainian soldiers. Nadiya Savchenko allegedly played the role of a fire spotter in the mortar attack during which the journalists were killed. The Ukrainian soldier categorically denies her guilt. Russian counsels have found evidence (including Savchenko's phone bill), as well main witnesses who completely deny the claims of the Russian prosecution.

2. Illegal deprivation of freedom and of the right to a defence

Nadiya Savchenko was kidnapped in Ukraine and taken to Russia in the night of 24 June, 2014. According to the version of the Investigative Committee of the Russian Federation, she “crossed the Ukrainian-Russian border and asked for asylum”. That's how the Russian authorities explain their jurisdiction in the fabricated criminal case of Savchenko.

- **Over 7 days (from 23 to 30 June) the Ukrainian pilot was forcibly held under armed guard in a hotel in the city of Voronezh.**

Officially, Nadiya was detained in Russia only on 30 June, 2014. Savchenko was forbidden from leaving the hotel, communicating with her relatives or talking to anyone other than the guards. During this time, she was repeatedly interrogated, also with the use of a polygraph. Interrogations were conducted directly by the Russian investigator Dmitry Manshin who is now officially overseeing the criminal case against Nadiya Savchenko.

In particular, Major Manshin informed her that she was questioned as a *“witness in the criminal case against the Minister of Internal Affairs of Ukraine, Arsen Avakov and governor of Dnepropetrovsk Province, Igor Kolomoysky”*. [2]

- **The interviews of Nadiya Savchenko were conducted in the absence of a lawyer.**

She was not provided with an opportunity to communicate with her lawyer, despite the fact that during the questioning she was asked about her possible involvement in the deaths of Russian journalists, Igor Kornelyuk and Anton Voloshin. Thus, this violated Articles 56 and 189 of the Criminal Procedure Code, according to which, a lawyer may be present during the questioning of the witness, if the witness so desires.

According to Nadiya Savchenko, on 30 June, 2014, Major Manshin along with the branch of the police of Novousmanskoy District of Voronezh Province, Russia, staged her ‘accidental detention at the hotel as a suspect’. This was done in order to conceal the fact of illegal forcible holding in custody of a Ukrainian servicewoman in Russia for 7 days,^[3] which, according to Russian legislation (Article 127 of the Criminal Code of the Russian Federation) is a criminal offence.

It was only after her formal arrest on 30 June, 2014, that Nadiya Savchenko was permitted to see a lawyer. She was appointed a public defender Nikolay Shulzhenko who did virtually nothing to prevent her incarceration ordered by the court on 2 July, 2014.

- **Nadiya Savchenko as a citizen of another state was deprived of the right to diplomatic protection.**

Ukrainian Consul, Gennadiy Breskalenko asked 9 times for permission to visit Savchenko in the detention facility, but each time he received a denial from the Russian side. The Consul was able to meet with her only on his tenth attempt on 16 July, 2014, after the intervention of the lawyer Mark Feigin and after the European Court of Human Rights demanded explanations from Russia as to why Nadiya Savchenko had not been permitted to meet with the Ukrainian consul [4]. Subsequently, when Gennadiy Breskalenko again tried to visit her at the end of July, he was refused permission to do so under the pretext that the permitted number of visits had already been exhausted (2 meetings with visitors per month), although this law does not apply to the visits of consuls (according to the Federal Law ‘On remanding in custody of suspects and persons accused of committing crimes’).

- **As a means of exerting pressure on Savchenko, Russian investigators use the selective isolation of the pilot and a ban on the transfer of books in the Ukrainian language to her.**

In July 2014, Nadiya Savchenko's interview for the Russian television channel 'LifeNews' was considered to be her 'second visit' of the month. It should be noted that the decision on the use of the right to visit the kidnapped Ukrainian woman was made at the sole discretion of the Russian investigator. On 24 July, 2014, Nadiya was questioned by Russian journalists once again without a lawyer present, and the video interview was subsequently edited to fit the version convenient for the Russian propaganda and aired in the Russian media. It is significant that one of the interview questions concerned the Malaysian aircraft Boeing-777, which, according to the Ministry of Internal Affairs of Ukraine [\[5\]](#) and U.S. Intelligence [\[6\]](#) was shot down by pro-Russian terrorists on 17 July, 2014. Nadiya could not have possibly known about the crash, as she had been kept in isolation since 17 July, 2014. [\[7\]](#)

Representatives of human rights organisations of Ukraine and the members of the Polish and Ukrainian parliaments, who were in the Russian Federation during the periods of 16-18 July, 2014 and 11-13 August, 2014 for the purpose of carrying out monitoring missions in the case of Savchenko, were also refused permission to visit Nadiya Savchenko. [\[8\]](#) A ban on the transfer of books in the Ukrainian language to her constitutes evidence of her strict isolation. The Russian side has explained the ban with the fact that the contents of the books cannot be verified. [\[9\]](#)

- **Threats against family members and sanctions against Russian lawyers.**

A desire to meet with Nadiya was also expressed by her sister, Vera Savchenko; however, she cannot enter Russia due to the threat of being arrested by the Russian law enforcement bodies. As stated by the Consul of Ukraine in the Russian Federation, Gennadiy Breskalenko on 14 July, 2014, the investigator in Savchenko's case, Dmitriy Manshin informed him of his intention to question Vera. [\[10\]](#) Such actions of the Russian side can be regarded as pressure exerted on Nadiya Savchenko's family members.

Nadiya Savchenko's counsels are also being subjected to pressure. On 21 July, 2014, the counsel Mark Feigin issued a statement, which had been directed to the Moscow Bar Association 'Moscow Legal Centre' by the administration of detention centre No. 3 in which Nadiya Savchenko is being remanded. The statement reads that Mark Feigin was 'caught' transferring to Savchenko two notes from her sister which 'had not been subjected to censorship'. The statement also includes an appeal to the Moscow Bar Association with a request to 'take appropriate measures' in relation to Mark Feigin. [\[11\]](#) Such actions of the administration of the detention centre may indicate the intention of the Russian authorities to use all possible methods (from administrative sanctions to the deprivation of attorney license) to effect the withdrawal of the lawyers from Savchenko's case.

3. Court hearings are held without the personal presence of Nadiya Savchenko

The first hearing in the case of Nadiya Savchenko was held on 2 July, 2014. The meeting of the Novousmanskyy District Court of Voronezh was, contrary to the law, held behind closed doors without the presence of the public and the press, as well as without the personal presence of Nadiya. This was a violation, since, according to Russian law, the hearing regarding the imposition of a measure of restraint on the suspect must be carried out mandatorily in his or her personal presence (Article 108, point 4 of the Criminal Procedure Code of the RF). Also, the Ukrainian embassy was not informed about holding of the hearing in respect of a Ukrainian citizen. The information about the hearing was passed to the Ukrainian embassy only after the hearing had taken place and the decision had been rendered to incarcerate the Ukrainian soldier for a period of 60 days (until 30 August, 214).

On 10 July, 2014, the Voronezh Regional Court held the second meeting, which was also closed to the public. Even Ukrainian consul, Gennadiy Breskalenko, was forbidden from being present in the courtroom. Having examined the case, the court ordered that the violations be remedied. Nadiya Savchenko succeeded in filing a complaint regarding the fact that during handing down of the decision to take the soldier into custody by the Novousmanskyy District Court, the documentation on the case was not translated into the Ukrainian language. [\[12\]](#)

During both court hearings, the interests of Nadiya Savchenko were defended by Counsel Nikolay Shulzhenko, provided for the soldier by the Russian state. Shulzhenko signed documents on 'non-disclosure' that were clearly in the interests of the investigation. After the information was aired in the media, the Open Dialog Foundation offered legal assistance to Nadiya Savchenko's family members.

On 11 July, 2014, an agreement was signed between Vera Savchenko, Nadiya's sister, and Russian lawyers: Mark Feigin, Ilya Novikov and Nikolay Polozov on granting legal aid to Nadiya.

On 25 July, 2014, the Voronezh Regional Court held a hearing to examine the appeal against her arrest. Nadiya Savchenko was not present in court in person, and the communication with her was carried out via online video stream. Prior to this, on 17 July, 2014, Nadiya Savchenko filed a motion with the Voronezh Regional Court, requesting that she be permitted to attend the court session in person. Also, her counsels petitioned the court to allow her personal presence in the courtroom, but Judge Tatiana Litovkin denied the motion.

At the session, the counsels informed about the challenging of the counsel Nikolay Shulzhenko. Nadiya Savchenko's defenders petitioned for her release from custody with a bail of 500,000 rubles (approx. 10,300 euros), but the application was rejected, and the court upheld the decision of the first instance court – the Ukrainian soldier will be kept in custody until at least 30 August, 2014. [\[13\]](#) Counsel Mark Feigin stated that the defence intends to appeal against the decision to keep Nadiya Savchenko under arrest in the European Court of Human Rights.

On 2 August, 2014, the Voronezh Regional Court held another hearing on the case of Nadiya Savchenko. The court considered the appeals of the counsels against the fact that the Ukrainian woman had been kidnapped against her will and transferred from Ukraine to Russia. Upon consideration of the appeals, the court rendered a decision stating that *"the Ukrainian woman was found on the territory of Russia and her freedom was not restricted by anyone until 30 June, 2014, when she was officially detained"*. The court substantiated the decision with the case file [\[14\]](#), [\[15\]](#) and refused to investigate further.

4. Counsels report that the kidnapped Ukrainian soldier has an alibi

Savchenko could not have committed the crime of which she is accused, as at that time she was in a completely different place than that indicated in the criminal case. The counsels of the kidnapped Ukrainian woman managed to establish this fact when questioning the main witness in her criminal case - Taras Sinyagovsky, as well as on the basis of the received information regarding mobile phone connections and phone calls listed on Nadiya Savchenko's phone.

In the case file, Nadiya Savchenko's guilt is explained as follows: *"N.V. Savchenko, acting by prior agreement with S.V. Melnychuk (the commander of the battalion 'Aydar' - Ed.) and unidentified persons from among soldiers of the battalion 'Aydar', performing her criminal role, assigned to her (...), **having noticed on the side of the road the Russian journalists I.V. Korneliuk and A.D. Voloshin** as well as other civilians, assisting in the completion of crime through provision of information, with the purpose of killing two or more persons (...) informed by telephone S.V. Melnychuk and unidentified persons from among the soldiers and commanders of the battalion 'Aydar' of their (journalists' and civilians') precise location"*.

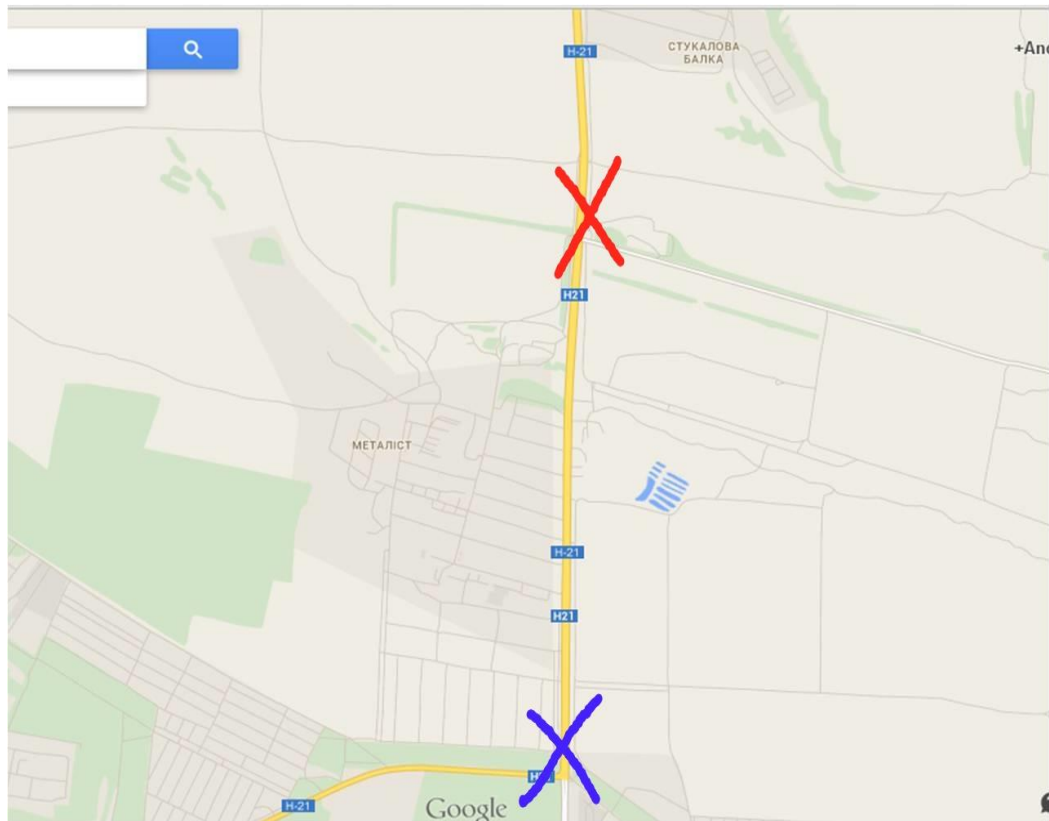
The evidence base in the criminal case against Nadiya Savchenko consists of testimonies of anonymous members of terrorist groups operating in the east of Ukraine, as well as on testimonies of the captured Ukrainian soldier, Taras Sinyagovsky. Taras was captured near the village of Metallist on the same day (17 June, 2014) as Nadiya Savchenko. Russian security services used the testimony of Taras, given under a direct threat to his life. In the video material, he says that during the battle near the village of Metallist he had seen Nadiya Savchenko talking "with someone on the phone". This testimony is the main argument of the prosecution in respect of the kidnapped Ukrainian pilot, Savchenko. **Based on this evidence, the Russian investigators concluded that Nadiya Savchenko, having noticed the Russian journalists, directed mortar fire at them.**

Taras has already been released from captivity, and the Russian counsels, defending the interests of Nadiya Savchenko, managed to meet with him and ask him about the events of that day near the village of Metallist.

The counsels managed to determine two important details which are relevant to the evidence base of the criminal case against Nadiya Savchenko:

Firstly, Taras Sinyagovsky stated that the testimony, recorded in a video by terrorists and sent to the Russian side, had been given by him under pressure. *"I did what I was ordered to do. There was always a security guard present with a gun,"*- he said. In addition, Taras Sinyagovsky's health condition during the interrogation was serious. *"I felt very bad. I was seriously wounded, I was taken from the intensive care unit straight to the prison cell. They changed the bandage only once, just after this interrogation. I wasn't thinking straight at that time,"*- he said to the lawyers. Obviously, the video recording of Taras Sinyagovsky's testimony by the terrorists cannot be regarded as evidence due to the fact that the testimony was given under physical and psychological pressure.

Secondly, as it transpired, Nadiya Savchenko was captured north of the village of Metallist, while journalists were killed at an intersection, which is located south of the village. Nadiya Savchenko was moving along with her combat unit from the north and was not able to get to the village, as she was taken captive. That is, Nadiya Savchenko could not have possibly seen the journalists and direct mortar fire towards them, as recorded in the criminal case. It should also be noted that according to the testimony of Nadiya herself, she was captured at approx. 11.00 a.m., while the Russian journalists were killed at approx. 1:00 p.m. (according to the case file).



The map of the Metallist village and the surrounding areas. The red cross on the map denotes the approximate location at which Nadezhda Savchenko was captured (indicated by Taras Sinyagovskiy), whilst the blue cross denotes the approximate location at which the Russian journalists were killed.

The map was printed out from the Google service system -

<https://www.google.com.ua/maps/@48.6257535,39.2806518,14z?hl=uk>

As stated by Mark Feigin, according to the information from mobile connections and phone calls listed on Nadiya Savchenko's phone, obtained by the counsels from the Ukrainian side, Savchenko's phone bill proves that she was not present in the area where the Russian journalists were killed. [\[16\]](#)

Hence, the charges that Nadiya Savchenko allegedly observed the location of the Russian journalists, and gave the order to open mortar fire on them, are not supported by the facts, and are therefore false.

5. Nadiya Savechenko – a hostage of the Russian authorities

The criminal case against Nadiya Savchenko is purely political in nature. This is confirmed not only by the fact of her kidnapping, the contrived charges and the lack of evidence on the part of the Russian investigators, but also by the fact that Nadiya is a witness in the criminal case against the Minister of Internal Affairs of Ukraine, Arsen Avakov and governor of Dnepropetrovsk Province, Igor Kolomoysky, as well as the commander of the battalion 'Aydar', Sergey Melnychuk. In this connection, her release from custody is only possible under the conditions of a consolidated diplomatic and political stance of defence by the international community, in particular Germany, Italy, France, USA and Great Britain.

Presently, Nadiya Savchenko, as well as other captured Ukrainian citizens (Oleg Sentsov, Alexey Chirnyi, Alexandr Kolchenko, Gennadiy Afanasyev), is a hostage of the Russian authorities. It is obvious that finding the path of liberation of Ukrainians in all these cases at a legal level is almost impossible, because of the demonstrative nature of the criminal prosecution of citizens of Ukraine.

Previously, the General Prosecutor of Ukraine, Vitaliy Yarema stated that Russia's General Prosecutor's Office has refused to cooperate with Ukrainian prosecutors in the case of Nadiya Savchenko. [\[17\]](#) This decision taken by the Russian side is odd, given the fact that the crime of which Nadiya Savchenko is accused, was committed on the territory of Ukraine. Carrying out any investigative actions on the territory of Ukraine without the consent of the Ukrainian authorities is a violation of Ukrainian sovereignty. The unwillingness of the General Prosecutor's Office of Russia to cooperate with the Ukrainian Prosecutor's Office also proves that Russia is not going to solve the issue of Nadiya Savchenko through legal means.

Also, Nadiya Savchenko's counsel, Mark Feigin, does not believe she will be acquitted by the Russian court without the support of the international community. *"In Russian courts, acquittals do not happen. They are handed down only occasionally, and certainly, they cannot be rendered in political cases... Therefore, we must soberly and clearly understand that in such cases we must not rely on the politics, or just the proceedings. We need to find a synergistic combination of both in order to bring this issue to the top so that everyone understands that it is not the judge of the Voronezh court, but Putin himself who is responsible for the decision on the case"* [\[18\]](#), - the lawyer enunciated.

On 8 August, 2014, Ukraine's Foreign Ministry issued a statement in which they considered Nadiya Savchenko, Oleg Sentsov and other citizens of Ukraine who are being held in the territory of Russia as hostages, political prisoners. Prior to this, the Ukrainian Foreign Ministry has repeatedly appealed to cease the prosecution of Nadiya Savchenko and release her. Also, members of the Ukrainian Parliament: Oleg Osukhovskiy, Alexandr Briginets, Andrey Pavlovskiy, Yuriy Syrotyuk and Oleg Kanivets called on the Russian authorities to immediately release the Ukrainian soldier.

On 12 August, 2014, the media reported information about the alleged possibility of exchanging 'political prisoners' between Ukraine and Russia (Nadiya Savchenko and Oleg Sentsov for Andrey Stenin and Mariya Koleda). [\[19\]](#) Nadiya Savchenko's counsels have already denied this information, stating that it could have been a provocation and they "did not ask anyone to organise the exchange and did not propose any candidates for this". At the same time, the counsels have expressed their willingness to provide assistance if Ukraine and Russia decide to exchange prisoners.

6. Conclusions

The Open Dialog Foundation hereby demands that Russian investigative authorities cease the criminal prosecution of Nadiya Savchenko, as it is politically motivated and is not based on an adequate evidence base. In fact, there is virtually no evidence against the Ukrainian soldier. Despite this, the demonstrative criminal prosecution of Nadiya Savchenko continues, and the Russian court renders decisions, convenient for the investigators. In particular, the court ordered to incarcerate Savchenko until 30 August, 2014, and refused to release her on bail. Also, the court, basing its decision solely on the materials of the criminal case and failing to order further investigation, ruled that Nadiya Savchenko 'hadn't been kidnapped by anybody'.

The kidnapping of Nadiya Savchenko and holding a demonstrative court trial on trumped-up charges is a flagrant example of the violation of human rights and judicial arbitrariness. The international democratic community is obliged to include a requirement of the release of the Ukrainian soldier in the agenda of any talks with Russia.

Over the past few months, our Foundation has organised 3 observation missions to Russia for the purpose of monitoring the observance of the rule of law and human rights in criminal proceedings against citizens of Ukraine who had been kidnapped by Russia's secret services (apart from Nadiya Savchenko, also Oleg Sentsov, Gennadiy Afanasyev, Alexey Chirnyi and Alexandr Kolchenko are being held captive). With the support of the Open Dialog Foundation, legal aid has been provided to Nadiya Savchenko and her family members. We hereby call on the international human rights organisations and institutions - the UN, the OSCE, PACE, NATO PA, Human Rights Watch, Amnesty International, Atlantic Council, Freedom House, as well as European leaders - François Hollande, David Cameron, Angela Merkel, Matteo Renzi, Jose Manuel Barroso and Martin Schulz to join the campaign in defence of Ukrainian political prisoners in Russia.

List of sources:

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4. On 15 July, 2014, the European Court of Human Rights has commenced the proceedings in the case of Nadiya Savchenko vs. Russia.
5. 'Krym.Realii' website / Militants shot down a passenger aircraft with a BUK missile launcher, received from Putin - Geraschenko - <http://ua.krymr.com/content/article/25460911.html>
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13. Radio Svoboda (Ukraine) / Russian court leaves Nadiya Savchenko in custody. - <http://www.radiosvoboda.org/content/article/25470023.html>
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16. Dialog.ua / The counsels: there is new evidence proving Nadiya Savchenko's innocence. - http://www.dialog.ua/news/14019_1408529694
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The Open Dialog Foundation was established in Poland, in 2009, on the initiative of Lyudmyla Kozlovska who is currently the President of the Foundation. The statutory objectives of the Foundation include protection of human rights, democracy and rule of law in the post-Soviet area, with particular attention devoted to the biggest CIS countries: Russia, Kazakhstan and Ukraine.

The Foundation pursues its goals through the organisation of observation missions, including election observation and monitoring of the human rights situation in the CIS countries. Based on these activities, the Foundation creates its reports and distributes them among the institutions of the EU, the OSCE and other international organisations, foreign ministries and parliaments of EU countries, analytical centres and media.

In addition to observational and analytical activities, the Foundation is actively engaged in cooperation with members of parliaments involved in foreign affairs, human rights and relationships with the CIS countries, in order to support the process of democratisation and liberalisation of internal policies in the post-Soviet area. Significant areas of the Foundation's activities also include support programmes for political prisoners and refugees.

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