



**Report:  
Nadiya Savchenko's case**



***Captured Ukrainian Servicewoman Sent for Psychiatric Examination***

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## **1. Introduction**

Russian investigative agencies continue with the criminal prosecution against Nadiya Savchenko, the captured Ukrainian servicewoman. This is a completely fabricated and politically motivated criminal case. Having no evidence of the Ukrainian citizen's guilt, Russian investigative agencies used a Soviet technique of fighting against other-minded individuals: they sent her to a psychiatric clinic where she will stay for at least a month. This was done in violation of the law, as Nadiya was sent for psychological and psychiatric examination before the appeal against the imposed examination was contested in court.

Sending the defendant for psychiatric examination is a way of buying time in the absence of strong evidence against her. In this way, the Russian authorities are trying to ensure the even greater isolation of the Ukrainian servicewoman from the lawyers and representatives of the international community, as her case has become a high profile one, not only in Russia and Ukraine, but also in the West.

Her stay in the psychiatric clinic considerably reduces her lawyers' opportunities to visit her (they are allowed to visit her once a week) and it makes it impossible for Savchenko to meet with Ukrainian diplomats. It is possible that medical influence techniques may be applied to her. Russian legislation allows the prolongation of psychological and psychiatric examinations to up to 3 months. The authorities are likely to take advantage of this opportunity in Savchenko's case.

The conditions in which Nadiya Savchenko is being kept in the psychiatric clinic are even tougher than those of the detention facility.

Moreover, Russia investigative bodies unlawfully refused to incorporate the witnesses' statements – collected by Savchenko's lawyers and proving her innocence – into the case file. The only evidence in the criminal case is therefore the testimony of anonymous members of terrorist groups acting in eastern Ukraine, who indirectly referred to her as being the person guilty of the Russian journalists' murders.

The international community regards Nadiya Savchenko as a political prisoner and demands that the Russian authorities immediately release her in compliance with the Minsk Agreement for the resolution of the armed conflict in the East of Ukraine.

## **2. Refusal to initiate criminal proceedings in connection with Nadiya Savchenko's kidnapping**

Nadiya Savchenko was transported from Ukraine to Russia on the night June 23, 2014, after having been held captive by pro-Russian armed combatants. Nadiya Savchenko was transported to Russia with a sack over her head which prevented her from committing to memory any details of what was happening. Once in Russia, the Ukrainian servicewoman was taken to a hotel in the city of Voronezh where she was kept under the watch of armed guards for a week. During this period, she was interrogated many times, with the use of a polygraph in some cases. It was only on June 30, 2014, that Nadiya was officially detained on suspicion of involvement in the death of Russian journalists on the territory of Ukraine.

Nadiya Savchenko and her lawyers filed a petition for the commencement of criminal proceedings in connection with her kidnapping, but on August 21, 2014, the Investigative Committee of Russia issued an order refusing to commence proceedings. The investigation into Nadiya Savchenko's kidnapping, conducted by the Investigative Committee was superficial, inefficient and beneficial for the investigators. In order to cover up Savchenko's kidnapping, the Russian investigators cooked up an account, according to which she was allegedly detained by Russian road patrol officers on June 23, 2014, while crossing the Ukrainian-Russian border. According to this version,

Savchenko intended to seek refuge in Russia. During the identification procedure, it was determined that she could have been involved in the death of the Russian journalists. It is strange, however, that – according to the investigators’ account – after that, Savchenko was lodged in a hotel near Voronezh and lived there “freely” for a week until her detention on June 30, 2014. [\[1\]](#)

It is obvious that the investigators’ version cannot be true, because if Nadiya Savchenko had really been detained by the road patrol officers, she would have been taken to a police station, and not to a hotel.

### **3. The investigators refuse to incorporate the witnesses’ statements proving Savchenko’s innocence into the case file**

The evidential basis supporting the charges against Nadiya Savchenko consists of the statements of combatants fighting on the side of the Lugansk People’s Republic (recognised as a terrorist organisation by Ukraine). Moreover, the identities of these witnesses remain secret which may mean that they do not exist and that their statements have, in fact, been fabricated.

Nadiya Savchenko’s lawyers managed to interview a few people who saw Nadiya on the day she was captured – June 17, 2014. Among those interviewed were Vera Savchenko (Nadiya’s sister), Taras Sinyagovsky and Aleksandr Gadzikovsky – soldiers of the volunteer paramilitary battalion “Aydar”. It follows from the statements of the persons interviewed that Nadiya Savchenko was captured before the death of the Russian journalists. Therefore, she couldn’t have committed the crime she is being charged with. In addition to this evidence, the counsels also managed to obtain an itemised phone bill of Nadiya Savchenko; the information contained therein also provides the defendant with an alibi. [\[2\]](#) This evidence proves Savchenko’s innocence completely. However, the Investigative Committee represented by the investigating officer Dmitry Manshin has refused to incorporate this evidence, explaining his decision by the fact that the witnesses were interrogated within the territory of Ukraine and not Russia.

Mark Feygin, Savchenko’s lawyer, considers this decision by Russian investigative agencies to be wrongful, as the Criminal Procedure Code of Russia does not indicate where the lawyer’s interviews of witnesses are to be conducted. Under the Article 86 of the Criminal Procedure Code (CPC) of Russia, the defender has a right to collect evidence by way of interviewing people with their consent; the Code does not provide any additional conditions for the lawyers to meet. [\[3\]](#) It is worth noting that when considering Nadiya Savchenko’s case in the Sovetsky court of Voronezh on August 27, 2014, the judge accepted the lawyer’s interview with Taras Sinyagovsky and admitted it as written evidence. [\[4\]](#)

Earlier, the Investigative Committee expressed a wish to interrogate Vera Savchenko as a witness during her planned visit to Nadiya in the detention facility in Voronezh. Soon after, Vera had to cancel her trip to Russia as a consequence of the risk of her being detained on false charges.

It is also worth pointing out that the special procedure for the conduct of investigative actions within the territory of another state (Article 53 of the CPC of Russia) to which the Investigative Committee is referring, does not prevent Russian officers from investigating the death of the Russia journalists on the territory of Ukraine, and without any cooperation with the Ukrainian law enforcement bodies. We recall that earlier, the General Prosecutor of Ukraine, Vitaly Yarema, claimed that the Russian Prosecutor’s Office is unwilling to cooperate with Ukrainian law enforcement bodies on Nadiya Savchenko’s case. [\[5\]](#)

#### 4. Psychological and psychiatric examination imposed on Nadiya Savchenko

On August 27, 2014 a trial was held in the Sovetsky district court of Voronezh regarding the extension of Nadiya Savchenko's detention. At the trial, the lawyers presented convincing evidence of Savchenko's innocence and applied for her release subject to a 1 million ruble bail (around 20 thousand euros). The court denied the request of the lawyers and ordered that the term of custody be extended till October 30, 2014. Apart from that, the court granted the investigators' request to send Nadiya Savchenko for a psychological and psychiatric examination, the grounds for the examination being "the gravitas of her actions and unmotivated cruelty towards the victims". [\[6\]](#)

Nadiya Savchenko's reaction to the examination was highly negative: *«I consider this psychological examination imposed on me to be unlawful. That's why I refuse to talk to the clinical personnel, to give any testimony, to answer any questions in written or oral form, to fill in any questionnaires or undergo any tests.* [\[7\]](#)

According to the lawyer Ilya Novikov, the examination was appointed in order to ensure the even greater isolation of Nadiya Savchenko from the outer world, as her opportunities to meet with her lawyers will be limited while she is in the psychiatric clinic. [\[8\]](#) On September 2, 2014, Ilya Novikov filed a complaint against the decision to send Nadiya Savchenko for psychiatric examination.

The complaint was scheduled to be heard on September 26, 2014, but due to Nadiya Savchenko's absence, the hearing was reappointed to a later date – October 13, 2014. It is worth noting that Rebecca Harms, a Member of the European Parliament, was to attend the trial at the Basmany court, but she was unable to take part in the hearing, as she was denied entry into the territory of Russia. [\[9\]](#)

A few days before the scheduled trial – on September 22, 2014 – Savchenko's transportation from the Voronezh detention facility to Moscow began. The transportation lasted 48 hours during which, Nadiya caught a cold and suffered earache. The lawyers were not informed about her transportation and thus had to search for Nadiya, checking Moscow detention facilities over a period of several days. Nadiya was eventually located in Female Detention Facility no.6.

**The postponed trial on the complaint against the decision to send Nadiya Savchenko for a psychological and psychiatric examination was to take place on October 13, 2014. On this very day, the investigating officers reported that Nadiya Savchenko had already been delivered to the Serbsky State Scientific Centre for Social and Forensic Psychiatry to undergo the examination.** *“According to the criminal procedure legislation of Russia, the complaints against the decision on the psychological and psychiatric hospital examination that Savchenko and her defender filed in the Basmany Court of Moscow, do not suspend the execution of the said decision of the investigating officer”,* – the Investigative Committee's statement reads. [\[10\]](#)

In light of the course of events, it is now obvious that the Russian court, which acts alongside the investigative agencies, had no intention of granting the lawyers' request to cancel the psychological and psychiatric examination of Nadiya Savchenko. It turned out that the Ukrainian citizen had been taken to the Serbsky Centre on October 10, 2014. *“These tricks are aimed at impeding access to justice. The investigators are deliberately exacerbating the situation with Savchenko, ostentatiously disregarding sovereign and international law”,* – this is how lawyer Nikolay Polozov commented on the situation of Nadiya being placed into the Serbsky Centre. [\[11\]](#)

On October 13, 2014, late at night, the court held a closed hearing in spite of Nadiya Savchenko's absence. There were people who had come to support Nadiya – public observers from Ukraine, some members of the Ukrainian parliament and her mother, Maria Savchenko. The Open Dialog

Foundation organised another observation mission on Nadiya Savchenko's case (their sixth mission since she was kidnapped). Among the mission participants were Anastasia Chornohorska – an employee of the Foundation – and a representative of the OZON civic monitoring group. [\[12\]](#) The lawyers managed to get the hearing postponed until November 11, 2014 because of the defendant's absence from the trial. The period of Nadiya's stay in the Serbsky Centre is expected to have finished by then. However, it is possible that the examination could be extended for two more months.

According to the lawyers, the conditions in which Nadiya Savchenko is being kept in the Serbsky Centre are very harsh. She is only allowed to meet with her lawyers once a week; these meetings are fully controlled by supervisors. During the meetings, Nadiya is separated from the lawyers by thick glass; communication is only possible by means of telephone. They are only allowed to speak in Russian (before, Nadiya could freely talk to her lawyers in Ukrainian). Moreover, the transfer of any kind informational materials is forbidden. The light in Savchenko's cell is turned on 24 hours a day; the door of her cell is left open throughout the night for the supervisor to control her. Such treatment of the Ukrainian servicewoman can be regarded as psychological pressure.

It is worth noting that during Nadiya Savchenko's stay in the Serbsky Centre, her period of detention expires (October 30, 2014). So, the psychiatric examination can be used as a pretext for the further detention of Savchenko. In this context, it is important to note Vladimir Putin's recent promise to promote Savchenko's release – the promise he made to Petro Poroshenko during their Milan meeting on October 17, 2014. *"Yesterday I brought up the issue of Nadiya Savchenko quite forcefully. Vladimir Putin promised to look into this issue once again and to inform me about it during our talk, as, according to him, some new circumstances have come to light which he has to take into consideration"*, Poroshenko told the journalists. It is highly likely that the "new circumstances" are the psychiatric examination. **In this case, it is possible that the examination results could serve as a pretext for releasing Nadiya due to lack of jurisdiction.** [\[13\]](#)

## 5. Russia is violating international law in Nadiya Savchenko's case

The forcible transportation of the Ukrainian citizen Nadiya Savchenko to Russia is regarded as a kidnapping and under principles of international law, (the 1996 Draft Code of Crimes against the Peace and Security of Mankind, the 1998 Rome Statute of the International Criminal Court and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance) is a crime against mankind.

Taking into account the fact that Nadiya Savchenko was a combatant taking part in an armed conflict and was taken captive, she can also be regarded as a prisoner of war; therefore, the International Humanitarian Law (the Hague Convention IV of 1907, the Geneva Convention III of 1929) applies to her. Under International Humanitarian Law, combatants are not liable to prosecution for taking up arms (unless they have committed an international crime). Therefore, the prosecution of Nadiya Savchenko contravenes international law. The criminal prosecution of the captured Ukrainian citizen is politically motivated; the trials are not impartial, which is a violation of the requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms.

It is remarkable that the law enforcement bodies of Russia, having no strong evidence of Savchenko's guilt, continue with her prosecution. Aside from that, the right of the Russian investigative agencies to investigate the case of Russian citizens' death which took place on the territory of another state, with no cooperation of that other state in their investigation, is dubious.

Notably, not a single case has been recorded in which Russian investigative agencies initiated criminal proceedings in connection with Russian citizens' participation in the hostilities in the East of Ukraine, although there is every legal reason for them to do so. (Article 359 of the Criminal Code of Russia, "Mercenarism"). The fact of Russian citizens' participation in the hostilities was acknowledged by Russian Foreign Minister Sergey Lavrov. [\[14\]](#)

## **6. The international community regards Savchenko as a political prisoner and demands that she be released immediately**

On September 16, 2014, the Office of the United Nations High Commissioner for Human Rights published a report on the human rights situation in Ukraine. Among other things, the report contains information concerning the persecution of Nadiya Savchenko by Russian law enforcement bodies. [\[15\]](#)

On September 18, 2014, the European Parliament adopted a resolution on the situation in Ukraine, in which it called on the relevant authorities of Russia, asking for the release Nadiya Savchenko and other kidnapped Ukrainian citizens (Oleh Sentsov, Oleksiy Chirniy, Gennady Afanasiev and Oleksandr Kolchenko). [\[16\]](#).

On October 7, 2014, the U.S. Assistant Secretary of State Victoria Nuland said during her meeting with students in Kiev that one of the U.S. conditions for lifting sanctions against Russia is Nadiya Savchenko's release. "All the hostages must be returned, notably including Nadiya Savchenko", Victoria Nuland said. [\[17\]](#)

The necessity of the immediate release of Ukrainian citizens Nadiya Savchenko and Oleh Sentsov was also voiced by Daniel Baer, the U.S. Ambassador to the OSCE, during the session of the OSCE's Permanent Council in Vienna on October 9, 2014. The U.S. Ambassador emphasised that the forcible treatment that Savchenko is undergoing is reminiscent of the Soviet authoritarian practice of fighting against "other-minded" people. [\[18\]](#)

On October 13, 2014, the media centre of the international human rights organisation Amnesty International announced that Nadiya Savchenko does not qualify as a "prisoner of conscience" as only those imprisoned for expressing their political, religious or scientific views can be regarded as such. [\[19\]](#) Perhaps the representatives of Amnesty International have not examined Savchenko's case thoroughly enough: Shortly after the Ukrainian servicewoman was taken captive by pro-Russian terrorists, she was interrogated, with Russian journalists taking part in the interrogation. The video recording of this interrogation [\[20\]](#) was posted on the Internet, after which, Nadiya Savchenko became one of the symbols of the Ukrainian resistance against Russia's military aggression in the East of Ukraine. Subsequently, Savchenko was transported to Russia, where a trumped-up criminal case was initiated against her.

It is also worth noting that Amnesty International stated that Savchenko's release depends entirely on the decision of the Russian authorities, which can be interpreted as Amnesty International's recognition of Nadiya as a political prisoner.

On October 14, 2014, during his meeting with Russian Foreign Minister Sergey Lavrov, the U.S. Secretary of State John Kerry reiterated the position of the U.S. on Nadiya Savchenko's case. "We discussed Ukraine and the need for the full implementation of all of the 12 points of the September 5th Minsk Agreement. [...] The shooting around Donetsk airport and other parts of eastern Ukraine has to stop. Foreign forces and weapons need to be withdrawn. Hostages – all hostages – need to be released, and that includes the pilot, Nadia Savchenko", – concluded Kerry. [\[21\]](#)



On October 14, 2014, the Russian *Memorial* Human Rights Centre, which is an association of dozens of human rights organisations from Russia, Belarus, Germany, Italy, France, Kazakhstan, Latvia and Ukraine, published a statement in which it recognised Nadiya Savchenko as a political prisoner. *“In our view, the prosecution of Savchenko is a part of the political and informational anti-Ukrainian campaign launched by the Russian authorities after the change of power in Kiev in February 2014. Russia supports armed separatists – who are standing for the separation of Donetsk and Lugansk regions from Ukraine – in different ways, privately as well as publicly, thus it is a conflicting party. This gives grounds for regarding the criminal prosecution of Ukrainian citizens as politically motivated”*, reads the statement of the *Memorial* Human Rights Centre. [\[22\]](#) According to the human rights activists, the very wording of the rulings on Nadiya Savchenko’s case are indicative of the court’s political bias, as the documents refer to “the territory of Donetsk and Lugansk People’s Republics” which are not officially recognised by any state, including Russia.

It is worth noting that the stark words of the human rights organisation concerning Nadiya Savchenko and the part Russia is playing in the military conflict in the East of Ukraine may result in the banning of this organisation. The *Memorial* liquidation lawsuit filed by the Ministry of Justice is currently being considered by the Supreme Court of Russia. The human rights activists believe that the process of banning the organisation is connected with their recognition of Nadiya Savchenko as a political prisoner. [\[23\]](#)

On October 17, 2014, the MEP Petras Auštrevičius wrote an open letter to President of Russia, Vladimir Putin, calling on him to release Nadiya Savchenko, a lieutenant of the Ukrainian Air Forces, unlawfully transported to the territory of Russia. The letter was signed by 60 members of the European Parliament from different European countries.

## 7. Conclusion

The Open Dialog Foundation expresses its protest against the contrived criminal case against the Ukrainian servicewoman Nadiya Savchenko, against the gross violations of the law that took place in the course of the criminal proceedings, as well as the ungrounded and wrongful imposition of a psychological and psychiatric examination on Nadiya Savchenko.

In particular, Russian investigative agencies are overtly manipulating the law, to ensure that the first-hand testimony collected by Nadiya Savchenko’s lawyers, proving her innocence of the crime she is being charged with is not incorporated into the case file. By doing so, the law enforcement bodies are violating the legislation of Russia (Article 86 of the Criminal Procedure Code of Russia) which allows the lawyers to collect evidence.

Moreover, the Investigative Committee of Russia refused to initiate criminal proceedings in connection with Nadiya Savchenko’s kidnapping. Russian investigators continue to support the false accounts which state that Nadiya voluntarily arrived in Russia as a refugee and that soon after she was inadvertently disclosed and detained by law enforcement officers.

**The psychological and psychiatric examination imposed on the Ukrainian citizen is an attempt of the investigative agencies and the court to avoid responsibility in a case where there is no evidence of Savchenko’s guilt, and where there have been political orders issued to carry out repressions against her.**

**The international community has made it clear to Russia that they consider Nadiya Savchenko to be a prisoner of war and demand that the Russian authorities release her in compliance with the Minsk agreement.**



One of the most respected human rights organisations in Russia, the *Memorial* Human Rights Centre, has recognised Nadiya Savchenko as a political prisoner, claiming that the criminal case against her is part of the anti-Ukrainian informational campaign launched by the Russian authorities.

The Open Dialog Foundation hereby calls on the Russian authorities to stop the politically motivated prosecution of Nadiya Savchenko, to cancel the psychological and psychiatric examination imposed upon her and to immediately release the Ukrainian pilot from custody.

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The Open Dialog Foundation was founded in Poland in 2009 upon the initiative of Lyudmyla Kozlovska who is now the President of the Foundation. ODF's core goals include protection of human rights, democracy and rule of law in the post-USSR space, with special attention being paid to the largest countries of the CIS: Russia, Kazakhstan and Ukraine.

The Foundation pursues its goals by means of organising observation missions (including election observation and monitoring of the human rights situation in the CIS countries). Following the observation results, the Foundation publishes reports and disseminates them among the institutions of EU, OSCE and other international organisations, foreign affairs ministries and parliaments of the EU countries, analytical centres and the media.

In addition to its observational and analytical activities, the Foundation cooperates actively with parliamentarians who participate in foreign policies and deal with the issue of human rights observance and relations with the CIS countries in order to support the process of democratisation and liberalisation of the domestic policies in the post-Soviet space. Another important field of the Foundation's activity is support of assistance programmes for political prisoners and refugees.

00-580 Warsaw

11a Szucha Avenue, office 21

E-mail: [odfoundation@odfoundation.eu](mailto:odfoundation@odfoundation.eu)

[www.odfoundation.eu](http://www.odfoundation.eu)

+48 22 307 11 22

Report published on October 24, 2014

Printed by: OPEN DIALOG FOUNDATION

Cover photo: <http://www.kommersant.ru/>

**For more detailed information, please contact:**

Andriy Osavolyuk – [andriy.osavoliyk@odfoundation.eu](mailto:andriy.osavoliyk@odfoundation.eu)

Lyudmyla Kozlovska – [lyudmylakozlovska@odfoundation.eu](mailto:lyudmylakozlovska@odfoundation.eu)

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