

## IAP Information Note No. 4

### MOI PROCEDURE FOR INTERNAL INQUIRIES

The conduct of internal inquiries is regulated by the Instruction on Procedure of Conduct of Internal Inquiries in the Law Enforcement Authorities of Ukraine, adopted by the Decree of the Minister of Interior No. 230 on 12 March 2013.<sup>1</sup>

An internal inquiry is carried out in the event that a law enforcement official commits a disciplinary offence and in the case of the destruction or loss of official documents or of acts that encroach on the rights and freedoms of a citizen or breach disciplinary rules. An inquiry is also carried out in the case of events such as the death or injury of law enforcement officials. An internal inquiry shall also be ordered in the case of the use of firearms, special means or force by law enforcement officials, as well as in cases of loss of weapons or special means issued to such officials.

The Minister of the Interior is authorised to order an internal inquiry with regard to any law enforcement official and on any basis. An internal inquiry is ordered by the head of a main department of Ministry of the Interior (“MoI”) or other MoI departments or divisions. Internal inquiries may also be ordered at the request of an individual, a local self-government authority, the mass media or an official.

An individual official or a commission may be appointed to conduct an internal inquiry. An internal inquiry is entrusted to the internal security department or staff inspection unit of a staffing department. In the absence of such department/unit, an internal inquiry is entrusted to the most experienced official considered to be able to comprehensively assess the relevant circumstances and to come to an objective conclusion. Subordinates or accomplices of the official under investigation may not be involved in its conduct.

An internal inquiry shall be completed within one month after it is ordered with a possible extension for a maximum period of one more month. If the law enforcement official is found to be at fault, he/she is disciplined. If in the course of an internal inquiry it is established that the disciplinary offence committed might constitute a crime or an administrative offence, the official responsible for conduct of the internal inquiry shall submit a proposal to the superior who ordered the investigation, to take the relevant measures under the criminal or other relevant legislation.

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<sup>1</sup> The text of the Decree is available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/z0541-13>. The adoption of this Instruction was criticised by a leading human rights organisation in Ukraine – Helsinki Human Rights Union. In its annual report on the human rights situation in Ukraine in 2013, the organisation was concerned that the text of the Instruction ignored numerous proposals from NGOs and experts, including those to ensure the participation in the internal inquiry of the victim of the acts of law enforcement authorities. The Instruction allows the questioning of the victim, however it does not allow the latter to request the participation of a lawyer or an expert, to study the materials of the inquiry, to submit additional materials or to receive complete information as to the results of the inquiry. Relevant extracts from the 2013 Annual Helsinki Human Rights Report are available at: <http://helsinki.org.ua/index.php?id=1398020125> (in Ukrainian).