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CPT/Inf (2012) 31

# Response

# of the Ukrainian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ukraine

# from 29 November to 6 December 2011

The Ukrainian Government has requested the publication of this response. The report of the CPT on its November/December 2011 visit to Ukraine is set out in document CPT/Inf (2012) 30.

Strasbourg, 14 November 2012

*Note:*
*In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.*

# Information on measures taken with respect to comments and recommendations of the European Committee for the Prevention of Torture based on the outcomes of its visit to Ukraine in December 2011

**Regarding paragraph 11**

On April 13, 2012 the Verkhovna Rada of Ukraine (Ukrainian Parliament) adopted the new Code of Criminal Procedure of Ukraine.

After the Code was assessed by European experts and given generally positive review, it was signed by the President of Ukraine on May 14, 2012 (it will enter into force on November 19, 2012).

Among the most important novelties introduced by the Code the following are worth to mention: ensuring of procedural equality and competitiveness of parties, strengthening of guaranties regarding protection of rights of suspects and accused persons, extension of rights of victims, updating of pre-trial investigation procedure, modernization of judicial control procedure, introduction of new judicial examination procedure relieved from accusatory inclination, modernization of appeal procedure, introduction of new types of criminal proceedings.

**Regarding paragraph 13**

The new Code of Criminal Procedure (CCP) establishes conceptually different procedure for obtainment of testimonies; in particular, the court is only allowed to motivate its opinion based on testimonies directly heard by it during the court session or based on those given to investigating magistrate at the court session during pre-trial investigation. The court has no right to motivate court decision with testimonies given to investigators, prosecutors, or to refer to them.

Such approach will enable to solve a number of issues related to strengthening of human rights protection at the stage of preliminary investigation, since there would be no sense for an investigator or a prosecutor to obtain testimonies with application of violence or threatening, as such testimony shall not be considered evidence according to the law.

**Regarding paragraph 19**

Pursuant to obligations of Ukraine envisaged by Article 3 of the Optional Protocol to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Commission on Issues Related to Prevention of Tortures was established in September 2011 acting as a consultative and advisory body subordinated to the President of Ukraine, and its composition was approved[1].

Despite the Commission is not a fully functional national preventive mechanism in the meaning of the Optional Protocol, since the Constitution of Ukraine does not allow establishment of bodies with special status in addition to those envisaged in the Constitution, Commission establishment is expected to serve as the first step towards the creation of an efficient preventive mechanism.

Presently, steps are taken to address the issue of the National Preventive Mechanism (NPM) within the framework of the Ombudsman institute using the ’Ombudsman+’ model. Thus, Department for the Implementation of the National Preventive Mechanism has already been established in the structure of the Ombudsman Secretariat, and relevant public consultations are held to elaborate implementation concept for the said model.

[1] Decrees of the President of Ukraine No. 950/2011 dated 27.09.2011 and No.1046/2011 dated 18.11.2011, respectively.

**Regarding paragraph 20**

Based on the results of follow-up on recommendations of the European Committee for the Prevention of Torture holding of professional training of the Ministry of Internal Affairs personnel is improved through intensification of training, wide use of training seminars, and combination of theoretical instructions with practice of law enforcement activity.

On June 8, 2012 a meeting was held featuring representatives of the Main Department for Combating Organized Crime of the Ministry of Internal Affairs of Ukraine, the National Academy of Prosecution of Ukraine, EU Delegation to Ukraine and Administrative Office of the Twinning Program with the aim to discuss issues related to update of Terms of Reference for framework experts under the Twinning project 'Strengthening the capacity of National Academy of Prosecutors of Ukraine in professional prosecutors training and providing prosecutor's office with skilled staff'.

The procedure for holding of professional training in the internal affairs bodies is defined in the Guideline for holding of professional training for enlisted persons and commanding officers in the bodies of internal affairs of Ukraine approved by the Order of the Ministry of Internal Affairs of Ukraine dated 14.04.2012 No. 318 (registered with the Ministry of Justice of Ukraine on 08.05.2012 under No. 728/1041).

Professional training of the employees of the bodies of internal affairs is carried out both during training of employees for the fulfillment of their service duties at specialized educational establishments as well as at the place of service.

In response to every application or information on the infringement of human and citizen rights by police officers of any body of internal affairs, including Shevchenkivsky District Police Division, the Department for Human Resources and subordinated subdivisions organize mandatory internal investigation, based on which, and subject to the existence of legal grounds, guilty police officers are brought to disciplinary responsibility, and measures are taken to identify reasons and conditions for prevention of such infringements in the future.

In particular, regarding investigation of the criminal case, initiated on the event of death of "A" in the premises of Shevchenkivsky District Police Division Department of the Main Department of the Ministry of Internal Affairs of Ukraine in the city of Kyiv against police officers of Shevchenkivsky District Police Division of the Main Department of the Ministry of Internal Affairs of Ukraine in the city of Kyiv "B" and "C", we inform you that according to the Resolution of Desniansky District Court of the city of Kyiv accused "C" was relieved from criminal responsibility under paragraph 1 Article 367 of the Criminal Code of Ukraine pursuant to the Act of Amnesty, while accused "B" was sentenced to conditional deprivation of liberty.

Upon the results of consideration of appeals submitted by victims, the Court of Appeal of the city of Kyiv revoked the Resolution and the sentence of Desniansky District Court of the city of Kyiv on May 14, 2012, and forwarded the criminal case for additional investigation to the prosecutor's office in the city of Kyiv, which is currently in progress.

**Regarding paragraph 22**

Pursuant to provisions of the new CCP, where during the court session the person claims that he was ill-treated during apprehension or detention in the empowered public authority, the investing magistrate is obliged to take record of such claim or to accept written application from the person and:

1) to ensure immediate forensic examination of the person;
2) to assign to the competent body of pre-trial investigation to investigate facts stated in the person's application;
3) to take necessary measures to ensure person's safety according to the existing legislation.

Investigating magistrate is obliged to act according to the same procedure irrespective of the availability of person's application, where his appearance, condition or other circumstances known to investigating magistrate give grounds to reasonably assume infringement of the law during apprehension or detention within the empowered public authority.

**Regarding paragraph 24**

Information regarding paragraph 24 will be provided additionally.

**Regarding paragraph 25**

Since November 1, 2011 internal security divisions of the Ministry of Internal Affairs received 2 586 applications from citizens on infringement of their constitutional rights and freedoms, including 639 – on infliction of bodily injury.

In the course of inspections information stated under 270 appeals was confirmed, including 64 of them – regarding infliction of bodily injury. Based on the results of their consideration 35 criminal cases were initiated by prosecution bodies. In view of the specified offences 250 police officers were brought to disciplinary responsibility, of which 36 were dismissed from the bodies of internal affairs.

As of June 30, 2012 the courts heard 4 criminal cases initiated according to the materials submitted by internal security subdivisions of the Ministry of Internal Affairs in 2011 against officers of the bodies of internal affairs with respect to application of physical violence to apprehended citizens. Upon the results of their consideration 6 law enforcement officers were found guilty of crimes envisaged by Article 365 of the Criminal Code of Ukraine and sentenced. Pursuant to the Regulations on service in the bodies of internal affairs by enlisted and commanding stuff the said persons were dismissed.

Within the said period the courts heard 3 criminal cased initiated against officers of the bodies of internal affairs according to Article 127 of the Criminal Code. Upon the results of their consideration 9 law enforcement officers were found guilty and sentenced. Pursuant to the Regulations on service in the bodies of internal affairs by enlisted and commanding stuff the said persons were dismissed.

Statistical data on disciplinary sanctions applied to officers of the bodies of internal affairs for improper treatment of apprehended persons are not stored by internal security subdivisions.

In addition, we inform that in cases when prosecution bodies take decisions to refuse initiation of criminal case based on information on improper treatment of citizens, the prosecutors, if acts of police officers have signs of disciplinary offence, and pursuant to Articles 23-1 and 99 of the CCP of Ukraine, take resolutions on initiation of disciplinary proceedings.

**Regarding paragraphs 26 and 54**

All medical examinations in pretrial detention centers (SIZO) are carried out exceptionally by medical staff without presence of other institution representatives.

According to the Joint Order of the Ministry of Justice of Ukraine and the Ministry of Healthcare of Ukraine of 10.02.2012 No. 239/5/104 (hereinafter referred to as the Joint Order) documents (information) containing the details of health condition of a person deprived of liberty and on the provision of essential medical assistance to such person should be kept under conditions ensuring confidentiality of such details.

The Guideline of administration of the Ministry of Internal Affairs of 12.12.2011 No. 17658/Чн prescribes to exclude attendance of third persons and Temporary Holding Facilities (ITT) officers during medical examinations of apprehended persons.

**Regarding paragraphs 27 and 31**

According to the abovementioned Joint Order all findings of medical examinations in detention facilities should be registered in medical documentation according to the established form.

The said Order regulates cooperation between healthcare institutions subordinated to the State Penitentiary Service of Ukraine and the Ministry of Healthcare of Ukraine ensuring continuous updating of medical documentation, which enables to obtain necessary medical information regarding detained persons.

Personal responsibility for objectiveness of data entered into medical documentation is born by a medical worker (a doctor or a paramedic).

Where the bodily injury is detected on the detained person, the medical worker should draw a certificate in 3 copies stating in detail the nature of injury, its scope and location. First two copies are attached to documentation of the personal file and medical record of the detained person, while the third copy is given to the person.

The event of detection of bodily injury on the detained person should be communicated to the prosecutor by of the warder of the facility, and recorded in the Registry of Detected Bodily Injuries.

Pursuant to Section 9 of the Rules of Internal Regulations of Temporary Detention Facilities of the Bodies of Internal Affairs of Ukraine approved by the Order of 02.12.2008 No. 638 persons detained in ITTs should pass preliminary health screening before their placement into cells.

Such screenings are performed by general health institutions of local healthcare bodies, which are therefore independent from the police, and the medical conclusion on their health condition and necessity for hospital treatment is provided.

During their stay in ITTs detained persons undergo compulsory medical examination, which includes general physical examination, and, if necessary, X-ray and photofluorography, laboratory and other kinds of examinations.

Persons placed to ITT are examined by the paramedic, or, if where such position is not available, questioned by the duty officer in charge of the facility on their health condition in order to identify persons in need of urgent medical treatment.

Results of questioning of apprehended and detained persons on complaints regarding health condition identified during examination and the nature of medical assistance provided to persons in need are entered into corresponding records in the Registry of preliminary examination of persons placed to the ITT and the Registry of provision of medical assistance to persons detained in the ITT, which are permanently stored with the duty officer in charge of the ITT. Data on absence or presence of complaints regarding health condition are entered personally to the said register by the detained person.

In addition, pursuant to sub-paragraph 3.1.10 of the said Rules, the persons detained in ITTs are entitled to medical and sanitary and epidemiological provision, including paid medical services at their own expense.

During first 5 months of 2012 557 apprehended and detained persons have undergone treatment in healthcare institutions of the Ministry of Healthcare.

**Regarding paragraph 32**

In order to ensure the observance of constitutional rights of citizens during their placement and custody in rooms for apprehended and conveyed persons (KZDs) and pursuant to the Decision of the Constitutional Court of Ukraine of 11.10.2011 No. 10-рп/2011 on the compliance of particular provisions of Article 263 of the Code of Ukraine on Administrative Offences and sub-paragraph 5 of the first paragraph of Article 11 of the Law of Ukraine 'On Police' with the Constitution of Ukraine Assignment of the Ministry of Internal Affairs of 16.10.2011 No. 14701/Мг was prepared, envisaging that administrative custody of persons charged with administrative offence may not last more than three hours (except for certain categories of persons).

Police officers were instructed that during conveyance of persons charged with administrative offences to the bodies of internal affairs they should take into account severity of the offence, level of public hazard and mental condition of the person, and should take decision on their placement to KZD only subject to written permission of the head of the municipal district line division.

Measures are taken by the Ministry of Internal Affairs in order to prevent violations of terms of custody of citizens in KZDs and to reduce the number of sick persons under custody. Within the 1st half-year of 2012 the number of persons detained for the term of more than 3 hours was reduced by **81 per cent** (from 15810 to 3014) in comparison with the relevant period of 2011, while reduction of the number of persons detained for the term of more than 24 hours made up **68 per cent** (from 3107 to 1006).

**Regarding paragraph 33**

Current Code of Criminal Procedure of Ukraine does not contain mandatory provisions for audio- and video-recording of questioning of suspects. According to Article 85-1 of the CCP of Ukraine the person performing questioning of the suspect may use audio-recording. Correspondingly, in accordance with the requirements of Article 85-2 of the CCP of Ukraine filming and video-recording may be used in performing investigative activities. In accordance with Article 114 of the CCP of Ukraine during pre-trial investigation investigator independently takes all decisions on performing investigative activities, with the exception of cases, where written permission of the court (judge) or prosecutor is prescribed by the law, and is fully responsible for compliance of these activities with the law.

Article 107 of the new Code of Criminal Procedure envisages that the decision on recording of a procedural action using technical means during pre-trial investigation, including in course of consideration of issues by the investigating magistrate, is taken by the person, who performs relevant procedural action. If so requested by participants of the procedural action, application of technical recording means is obligatory.

Failure to use technical means for recording of criminal proceedings in cases, where such means are obligatory, will lead to invalidity of the relevant procedural action and of the outcomes resulting from this action, except for the cases, when parties do not object to considering such action and its outcomes valid.

Article 224 stipulates that photo-, audio and/or video-recording may be used during questioning

**Regarding paragraph 36**

In order to ensure observance of Constitutional rights of citizens during their custody in rooms for apprehended and conveyed persons, obligatory provision of persons placed to rooms for apprehended and conveyed persons with the 'Information for Apprehended Persons' is envisaged in the Order of the Ministry of Internal Affairs 'On Adoption of Amendments to the Guidelines for Organization of Activity of Front Offices of Bodies and Subdivisions of Internal Affairs of Ukraine Intended to Protect Public Interests and Interests of the Sate from unlawful interventions' adopted by the Order of the Ministry of Internal Affairs of 28.04.2009 No. 181.

The Information, referred to existing legislation and international law provisions, states the rights of apprehended persons and the procedure to be followed in case of infringement of their constitutional rights in detention facilities. In addition, the Information specifies fax number, necessary details and the list of documents to be submitted, when preparing petition to the European Court of Human Rights, if there is unavoidable risk of infliction of irrevocable damage to the apprehended person.

The Ministry of Internal Affairs of Ukraine implements measures to ensure that the right for protection is secured by investigators for suspects and accused persons, and Article 21 of the CCP of Ukraine is observed, according to which the investigator must explain to the suspect (accused person) his right to have a defendant and compile a protocol on this, and provide the suspect (accused person) with possibility for defense against his charge using means defined by the law. Moreover, in accordance with Articles 106, 115 of the CCP of Ukraine the investigator must compile a protocol for each apprehension of the person and inform one of his relatives.

Article 69-1 of the CCP of Ukraine envisages that a witness is entitled to defendant of his choice during questioning or other investigative activities with his participation.

Article 48 paragraph 2 sub-paragraph 1 envisages that before the initial questioning of the suspect or accused person the defendant may have a confidential meeting with him, and after initial questioning he may have such meetings without limitation of time and number of the meetings.

With the purpose of practical enforcement of such right on May 17, 2012 an instruction to heads of investigation offices (departments) of the Main Department of the Ministry of Internal Affairs and other Departments of the Ministry of Internal Affairs was sent by the Main Investigation Department regarding necessity of unconditioned observance of the right of detained persons for meetings with the defendant without limitation of time and number of the meetings. In particular, the requirement is to ensure provision of permissions to defendants for meeting their detained clients from the moment they are admitted to participate in the case, without limitation of time and number of the meetings during pre-trial investigation of the criminal case, and to carry out internal investigation with respect to every event of neglecting these requirements and to establish strict disciplinary responsibility for those found guilty in such neglecting.

**Regarding paragraph 37**

On June 2, 2011 the Verkhovna Rada of Ukraine adopted the Law on Free of Charge Legal Aid, which envisages provision of free-of-charge secondary legal aid since January 1, 2013 by Centers for the Free-of-Charge Secondary Legal Aid of the whole territory of Ukraine.

The Resolution of the Cabinet of Ministers of 28.12.2011 No. 1363 adopts the Procedure for Informing the Centers for the Free-of-Charge Secondary Legal Aid on events of apprehension of persons. This procedure sets forth general conditions and the mechanism for informing the said centers of the events of apprehension by interrogation and pre-trial investigation bodies.

**Regarding paragraph 39**

In view of incompliance with legal requirements temporary detention facility of Vyshgorod District Department of the Main Department of the Ministry of Internal Affairs in the Kyiv Oblast was liquidated as a unit.

Regarding CPT recommendation on the necessity to take immediate steps to put an end to the practice of holding detained persons overnight in the offices of operational officers at Vyshgorod District Department of the Main Department of the Ministry of Internal Affairs of Ukraine in the Kyiv Oblast we inform that information on such cases found by CPT members during their visit to Vyshgorod District Department was not received by the Ministry of Internal Affairs of Ukraine, and internal investigation was not initiated on this event.

During supervisory inspections, the prosecutors pay particular attention to the prevention and elimination of infringements of the law and rights of apprehended and detained persons leading to tortures and other instances of ill-treatment in wardens for apprehended and detained persons in front offices and special institutions of the bodies of internal affairs.

First of all, these infringements relate to unlawful apprehension of persons, inadequate medical and sanitary conditions, and detention of persons in conditions, which have indications of inhuman treatment. In general, 12870 documents of prosecution reaction were submitted through 2011 (3554 documents – during the first quarter of 2012), and 9765 officials were brought to disciplinary responsibility upon consideration of these documents (3020 persons – during the first quarter of 2012).

**Regarding paragraph 41**

With the aim of eliminating conditions, which might facilitate to such situation, the State Penitentiary Service of Ukraine has started participation in the implementation of the Project 1.2.1 ‘Combating ill-treatment and impunity’ within the framework of Council of Europe Action Plan for Ukraine for 2011-2014 (implementation period – from 01.07.2011 till 31.12.2013).

In March 2012 penitentiary institution served as a platform for monitoring observance of human rights in detention facilities – human rights monitors representing thirteen states went through training on the basis of penitentiary establishments of Ukraine. The event was aimed at gaining additional experience on practical monitoring skills over detention facilities for compliance with international standards and regulations of serving procedures for criminal penalties by the convicts and conditions for their detention in penitentiary establishments.

During April 23, 2012-June 27, 2012 monitoring of detention conditions in five penitentiary establishments of Kyiv, Lviv, Mykolaiv, Kharkiv and Chernihiv Oblast was carried out with the participation of human rights organizations.

**Regarding paragraph 42**

During 2005-2011 convict “D” was transferred through Kharkiv SIZO to other penitentiary establishments 12 times. During detention of the said person in the Kharkiv SIZO neither physical force nor special measures were applied in respect of him.

Prosecution bodies of Kharkiv Oblast performed a check on claims submitted by the convict “D” on application of physical force on him by officers of Kharkiv pre-trial detention facility of the Administration of State Penitentiary Service of Ukraine in this Oblast from August 13, 2011 till August 15, 2011.

It was found that the prosecutor’s office of Zhovtnevy District of Kharkiv performed preliminary inquiry with respect on this event, on the basis of which initiation of criminal proceedings against the officers of Kharkiv pre-trial detention facility was refused on December 11, 2011, since no signs of crime envisaged in Articles 126, 127, 364-1, 365, 365-1 of the Criminal Code of Ukraine were found in their acts.

**Regarding paragraph 43**

Every convict under custody is provided with a sleeping place and bedding items.

In accordance with sanitary regulations compulsory washing and replacement of bed linen is performed at least once in 7 days.

Since January 1, 2012, following enactment of the second indent of Sub-paragraph 23 of paragraph 1 of the Law of Ukraine of 21.01.2010 No 1828-VI 'On Amendments to the Criminal-Executive Code of Ukraine', provisions as regards with respect living space per convict were introduced, including:

- in detention homes intended for detention of persons sentenced to arrest (male and female, including underage persons) – not less than 4 sq. m. per one person;
- in penal colonies intended for detention of persons sentenced to deprivation of liberty (male and female) – not less than 4 sq. m. per one person;
- in juvenile correctional facilities intended for detention of persons sentenced to deprivation of liberty (underage male and female) – not less than 4 sq. m. per one person;
- in healthcare facilities affiliated with penal colonies intended for detention and treatment of persons sentenced to deprivation of liberty (male and female, including underage persons) – not less than 5 sq. m. per one person;
- in penal colonies intended for detention and hospital treatment of persons with tuberculosis (male and female, including underage persons) – not less than 5 sq. m. per one person;
- for convicts sentenced by court to a certain term of detention in ward-type rooms and those sentenced to life imprisonment – not less than 4 sq. m. per one person.
- for convicts retained in pre-trial detention facilities for maintenance works – not less than 4 sq. m. per one person.

According to the Law of Ukraine "On Preliminary Detention" the norm of area in the cell for one person in detention may not be less than 2,5 sq.m., and for pregnant woman or woman with a child – 4.5 sq.m.

Presently, upon available actual area of cells, pre-trial detention facilities under jurisdiction of the State Penitentiary Service (SPS) of Ukraine provide average 3.0 sq. m. of living space per person.

In Kyiv ITT, upon available actual area of cells, every person has 2.5 sq.m. of living areas, in Kharkiv ITT – 2.8 sq.m.

In addition, in 2012 the issue of funding capital expenses for refurbishment and renovation of penitentiary establishments and pre-trial detention facilities from the State Budget of Ukraine in the amount of UAH 9.6 million and UAH 3.164 million for running repairs was settled.

Moreover, the list of first priority construction, reconstruction and major refurbishment sites of the State Criminal and Executive Service of Ukraine was drawn, including:

- construction of administrative building, reconstruction and major refurbishment of existing buildings and facilities of engineering structure of Kyiv pre-trial detention facility;
- construction of secured facilities of Vilniansky and Kharkiv pre-trial detention facilities, and of treatment facilities for convicts with tuberculosis of Goloprystanska penal colony (No. 7) in Kherson Oblast;
- reconstruction (major repair) of the child care home at Chernihiv penal colony (No. 44) and of 43 buildings removed from operation at other penitentiary establishments, in order to create additional places for detention of convicts;
- construction (new construction, reconstruction and major refurbishment) of centralized draining and drain filtering systems of penitentiary establishments.

In order to address problems with accommodation of detained persons according to the Order of the SPS of Ukraine of 14.06.2011 No. 191 pre-trial detention blocks for 2001 persons were created on the territory of particular penal colonies, of which 483 were established in specialized tuberculosis treatment institutions.

Pursuant to the Order of the SPS of Ukraine of 14.06.2011 No. 192 detention homes for 1051 person were created on the territory of 32 penal colonies, to which persons sentenced to arrest and whose sentences entered into force, were withdrawn from pre-trial detention facilities.

Cell windows at pre-trial detention facilities are regularly checked for access of fresh air and natural light to the cell. It was found that vent window panes ensure access of fresh air. Level of natural light is adequate for satisfaction of household needs of detained persons, while electric light is mainly provided with a 100 W light bulb (or an energy saving bulb of equivalent power), which enables detained persons to read freely and write without harm to their sight. In addition, each cell has detached toilet conveniences.

Permanent control over maintenance of proper air temperature in living premises is performed by administrations of penitentiary establishments and pre-trial detention facilities, subject to daily reporting to front office of the Administration of the SPS of Ukraine.

All living premises of penitentiary establishments are equipped with natural (input-outlet) ventilation.

In addition, household air fan is available in virtually all premises for improvement of microclimate.

**Regarding paragraphs 44 and 45**

Metal shutters were disassembled from windows of cells of secured building No. 1 in Kharkiv SIZO.

Eleven temporary holding cubicles for detention of persons in the aggregate section were disassembled, and new cells were built, the structure and the area of which, by means of reduction of the number of boxes from eleven to four, is compliant with current legal requirements. In order to ensure adequate lighting and airing of the hallway of aggregate section window reconstruction was performed: the small-sized window was demounted, window opening was extended and the larger window was inserted.

In pre-trial detention facilities aggregate section cells equipped with sitting places are used for temporary holding of detained persons, they provide adequate lighting, toilet conveniences, ventilation and conditions compliant with sanitary and hygienic rules.

**Regarding paragraph 46**

In Kyiv and Kharkiv SIZOs all detained persons without exception are provided with daily walks for at least one hour. For underage persons, pregnant women, women taking care of children under 3 years of age, and sick persons, subject to doctor's permission, walks for up to two hours are allowed.

In cases of unfavorable weather conditions, the detained persons are allowed to do physical exercises at SIZO gym.

All walking grounds of Kyiv and Kharkiv SIZO are equipped with crossbars and parallel bars for doing physical exercise and playing sports games.

In order to update regulatory framework regarding conditions and procedures for detention of persons in pre-trial detention facilities and align them with international standards, draft Orders of the Ministry of Justice of Ukraine 'On adoption of Rules for internal regulation of pre-trial detention facilities' and 'On adoption of Guidelines for organization of service and supervision over persons held in pre-trial detention facilities' were prepared, currently undergoing state registration.

**Regarding paragraph 48**

In accordance with the abovementioned Joint Order of the Ministry of Justice of Ukraine and the Ministry of Healthcare of Ukraine of 10.02.2012 No. 239/5/104 all persons put under custody enjoy the possibility to receive specialized medical assistance in healthcare institutions of the Ministry of Healthcare of Ukraine without delays.

**Regarding paragraph 49**

In respect of the convict Ms. Julia Tymoshenko

During the time Ms. Julia Tymoshenko spent in Kachanivska penal colony (No. 54) until May 9, 2012, inclusively, 21 medical boards were set up comprising over 20 academicians, PhDs of medical sciences and Associates of Sciences; she refused to undergo medical examinations in 13 cases.

In addition, pursuant to the Joint Order of the SPS of Ukraine, the Ministry of Healthcare of Ukraine and the Ministry of External Affairs of Ukraine of 10.02.2012 No. 69/105/40 'On establishment of Medical Board Comprising Foreign Specialists for Medical Examination of Ms. Julia Tymoshenko and Support of Operation of this Board on the Territory of Ukraine' the international medical board comprising foreign specialists was established, which performed medical examinations of convict Julia Tymoshenko on February 14 and 15, 2012, and gave relevant recommendations.

It must also be noted that medical workers of Kachanivska penal colony (No. 54) proposed on a daily basis convict Julia Tymoshenko to undergo medical examinations, which were turned down by her in most cases. Out of 284 proposed medical examinations, 247 were turned down.

All board medical examinations with respect to convict Julia Tymoshenko were performed exclusively based on her written consent. Medical examinations of convict Julia Tymoshenko performed by medical personnel of Kachanivska penal colony (No. 54) were compliant with legal regulatory acts regulating procedures for provision of medical assistance to detained and convict persons.

On April 20, 2012 the board of Ministry of Healthcare and SPS specialists proposed Ms. Julia Tymoshenko to continue her treatment in the facilities of Central Clinical Hospital of UKRZALIZNYTSIA general health institution, in which, according to the opinion of German specialists, most favorable conditions were created for rehabilitation of Ms. Julia Tymoshenko.

Upon her arrival to the hospital on April 21, 2012 convict Julia Tymoshenko refused to undergo initial medical screening and examination and to start the course of rehabilitation measures.

On April, 2012 in view of implicit refusal of convict Julia Tymoshenko to sign informed consent for initial medical screening and medical intervention, she was signed out from the hospital and transferred back to Kachanivska penal colony (No. 54).

On May 4, 2012 after the course of rehabilitation measures was suggested to Ms. Julia Tymoshenko by German and Ukrainian doctors, she agreed in the oral form to undergo this course in the facilities of Central Clinical Hospital of UKRZALIZNYTSIA general health institution under supervision of specialists from German Clinic 'Sharite'.

On May 9, 2012 Mrs. Julia Tymoshenko was hospitalized in the said healthcare institution with the purpose to undergo the course of rehabilitation measures under supervision of specialists from German Clinic 'Sharite', where she stays until present.

Regarding convict Juriy Lutsenko

In May, 2011 he refused to take food and he announced that in the written form. This had an adverse effect on his general health condition and lead to aggravation of chronic diseases he had.

During the time spent by Mr. Juriy Lutsenko in Kyiv pre-trial detention facility 14 boards of specialists of the Ministry of Healthcare of Ukraine of highest professional qualification were created for his examination and treatment; Mr. Juriy Lutsenko refused to undergo board screening once (on May 28, 2012).

In order to carry out instrumental examination Mr. Juriy Lutsenko was taken out of the premises of the pre-trial detention facility and transported to leading Kyiv clinics 8 times.

From April 6, 2012 till April 20, 2012 Mr. Juriy Lutsenko was undergoing additional examination in Kyiv municipal emergency care hospital. Based on information provided by specialists of this hospital diagnosis of Mr. Juriy Lutsenko remained without changes.

On June 14, 2012 Mr. Juriy Lutsenko was consulted by an infection disease doctor, preliminary diagnosis was established, corresponding recommendations were provided. In accordance with recommendations of the infection disease doctor and application of Mr. Juriy Lutsenko.

On June 21, 2012 he was examined by the dentist of Kyiv ITT, who recommended him to consult a dental orthopedist.

On June 26, 2012 blood sample was taken for laboratory examination of blood.

On July 3, 2012 he was consulted by the dental orthopedist in Kyiv municipal dental policlinic.

Presently, convict Juriy Lutsenko receives full amount of recommended treatment under supervision of institutional medical workers; his health condition is satisfactory.

Regarding detained Valeriy Ivashchenko[2]

On arrival to Kyiv pre-trial detention facility he was screened by doctors, and the corresponding diagnosis has defined for him, and the recommendations were made. Therapist supervision and ambulatory treatment were prescribed.

In 2012 for examination and treatment of Mr. Valeriy Ivashchenko 11 boards of specialists of the Ministry of Healthcare of Ukraine of highest professional qualification were created, Mr. Valeriy Ivashchenko refused to undergo board screening once (on April 11, 2012). Personal doctors of Mr. Valeriy Ivashchenko were twice admitted to the territory of Kyiv pre-trial detention facility for consultation.

[2] By letter of 7 November 2012, the Ukrainian authorities provided the CPT with the following updated information: "On April 12, Kiev's Pechersky district court sentenced Valeriy Ivashchenko, who served as acting Defence Minister in 2009-2010, to five years in prison for abuse of office. On 14th of August 2012 the Kiev Court of Appeals modified abovementioned sentence on probation and released Mr. Ivashchenko from custody in the courtroom."

On January 17, 2012 and on June 7, 2012 he was taken out of the premises of pre-trial detention facility to Romodanov Neurosurgery Institute, where he underwent examination: electroneuromyography, MRT of lumbosacral spine.

Twice he was taken for consultation out of the premises of the pre-trial detention facility to Kyiv municipal dental policlinic. Health condition of Mr. Valeriy Ivashchenko is monitored by medical staff of Kyiv pre-trial detention facility and specialists of the Ministry of Healthcare of Ukraine. Currently, treatment in a specialized healthcare institution is not required for him.

Provision of medical assistance to convicts Julia Tymoshenko and Juriy Lutsenko and detained Valeriy Ivashchenko is carried out in accordance with legal framework on healthcare in Ukraine.

**Regarding paragraph 50**

Meetings with relatives and other persons are granted to persons detained in pre-trial detention facilities according to Article 12 of the Law of Ukraine ‘On Pre-Trial detention’. Grounds for refusal to authorize a meeting should be stated in writing to the person, who arrived for the meeting.

According to amendments introduced to the Law of Ukraine ‘On Pre-Trial Detention’ and after enactment of the Code for Criminal Procedure of Ukraine meetings will be granted to detained persons at least three times a month.

Mailing of prisoners is carried out in accordance with Article 13 of the Law of Ukraine ‘On Pre-Trial Detention’. Administrations of pre-trial detention facilities do not impede dispatch and receipt of letters by prisoners in any way. ITT administrations assist prisoners in obtainment of necessary documents to prepare appeals to the European Court of Human Rights.

Pursuant to amendments introduced to the Law of Ukraine ‘On Pre-Trial detention’ and after enactment of the Code for Criminal Procedure of Ukraine applications of persons regarding judicial appeal of decisions, acts or lack of action of investigator or prosecutor or appeal of resolutions of investigating magistrate on selection of detention as a preventive measure or prolongation of detention terms or on application of temporary or extradition arrest should be sent by administrations of pre-trial facilities to the court defined by the law within 24 hours from the moment of their submission.

Phone conversations are not envisaged for detained persons by the legislation of Ukraine. Notwithstanding this, convicts serving their terms are allowed to make phone calls without limitation of their number and duration.

**Regarding paragraph 53**

Instruction of the Administration of the Ministry of Internal Affairs of 12.12.2011 No. 17658/Чн explicitly prohibits handcuffing of apprehended and detained persons during their stay in specialized wards of healthcare institutions, including at the Kyiv Municipal Emergency Hospital.