

Report to the Ukrainian Government  
on the visit to Ukraine  
carried out by the European Committee for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment (CPT)  
from 9 to 16 September 2014

**EXECUTIVE SUMMARY**

The main objective of this ad hoc visit was to review the treatment of prisoners by staff at two correctional colonies in the Kharkiv area, namely Colonies Nos. 25 and 100. Further, as follow-up to the February 2014 visit, the delegation reviewed the action taken by prosecutors to investigate allegations of ill-treatment of detained persons by law enforcement officials during the “Maidan” events in Kyiv between November 2013 and February 2014. In this connection, particular attention was paid to specific cases which had been identified by the Committee during the February 2014 visit. Moreover, the delegation examined the situation of persons who had been detained by law enforcement officials in Kyiv and Kharkiv in the context of ongoing “anti-terrorism” operations.

Throughout the visit, the delegation received very good co-operation overall from the Ukrainian authorities. However, at Colony No. 25, attempts were made by staff to infringe upon the confidentiality of interviews of delegation members with prisoners.

The majority of persons detained in the context of “anti-terrorism” operations who were interviewed by the delegation stated that they had been treated correctly whilst in the hands of law enforcement officials. Further, the delegation received no allegations of ill-treatment by custodial staff at the detention facility of the State Security Service (SBU) in Kyiv and the pre-trial establishments (SIZOs) in Kyiv and Kharkiv. That said, some allegations were received of excessive use of force by SBU officers at the time of apprehension and/or of ill-treatment during subsequent questioning by SBU officers. In addition, a few allegations were heard of excessive use of force by soldiers at the time of apprehension.

As regards the investigations into allegations of ill-treatment by law enforcement officials during the “Maidan” events, consultation of relevant criminal investigation files revealed that, in all five cases examined by the delegation, investigators and prosecutors had carried out many essential investigative steps. However, a number of shortcomings were identified (e.g. lack of forensic medical examinations, delays in judges approving certain investigative actions). Further, it became apparent that investigations had reached a deadlock, since investigators had not identified any law enforcement official as a potential perpetrator. Overall, the investigations that had been carried out by investigative prosecutors did not seem to meet the requirements of effectiveness as defined by the case-law of the European Court of Human Rights and the relevant standards of the CPT. The Committee also reiterates its recommendation that steps be taken without any further delay to ensure that members of special forces and other uniformed police officers are always identifiable, through the wearing of a clearly visible identification number on the outside of their uniforms or on their helmet.

At Colonies Nos. 25 and 100, the delegation once again received a significant number of allegations of severe physical ill-treatment and/or torture of prisoners by prison officers (including senior members of staff). The delegation gained the distinct impression that, in both establishments, physical ill-treatment was used as a tool to maintain internal order. Further, the delegation was struck by the overall climate of fear in both establishments and the reluctance of prisoners to be interviewed. Many allegations were received that prisoners had been warned by staff not to say anything negative to the delegation. At Colony No. 100, allegations were also received that prisoners had been beaten up by prison officers after they had complained to a prosecutor or a representative of the Parliamentary Commissioner of Human Rights. Moreover, the CPT expressed concern about the frequency of allegations received in both colonies regarding corruption and exploitation of prisoners for economic reasons.

In its preliminary observations, the delegation called upon the Ukrainian authorities to carry out a prompt, independent, thorough and comprehensive inquiry from the central level into how Colonies Nos. 25 and 100 function (especially as regards the allegations of ill-treatment of prisoners) and to take appropriate measures to ensure that prisoners were not subjected to any retaliation for having spoken with the delegation.

By letters dated 11 and 23 February 2015, the Ukrainian authorities provided detailed information on the measures taken in response to the preliminary observations. In particular, inspections had been carried out of Colonies Nos. 25 and 100 by representatives of the General Prosecutor's Office (with the involvement of the Parliamentary Commissioner of Human Rights and various NGOs) as well as by a joint commission of the Ministry of Justice and the State Penitentiary Service (also with the involvement of several NGOs). The Directors of both colonies had been dismissed and criminal investigations had been initiated regarding two complaints of ill-treatment of prisoners by staff at Colony No. 100. Following a meeting with representatives of the CPT, the Minister of Justice issued a detailed set of instructions to the Directors of all prisons in the country regarding the measures to be taken to prevent ill-treatment and intimidation of prisoners and to improve the procedures for the investigation of allegations of ill-treatment. In addition, the Minister of Justice instructed the State Penitentiary Service to monitor the treatment of prisoners in Colonies Nos. 25 and 100 on a monthly basis (with the involvement of civil society organisations).

In the visit report, the CPT welcomes the measures taken thus far by the relevant Ukrainian authorities regarding the allegations of ill-treatment and/or intimidation of prisoners in Colonies Nos. 25 and 100. On the basis of all the information at its disposal, the CPT has reached the conclusion that a page is being turned and that decisive action is now being taken by the relevant authorities to combat the phenomena of ill-treatment and intimidation of prisoners in colonies. Consequently, the CPT has decided to close the procedure under Article 10, paragraph 2, of the Convention establishing the Committee, which had been set in motion in March 2013. The Committee also emphasises that it will continue to monitor closely the situation of prisoners in the the above-mentioned colonies (as well as in other prison establishments) and will not hesitate to re-open the procedure under Article 10, paragraph 2, at any moment, if it becomes apparent that the present process of improvement is not sustained and that the actions taken so far are not vigorously pursued at all levels.

During its visit to Colony No. 100, the delegation also reviewed the regime and security measures applied to prisoners sentenced to life imprisonment. From the information gathered during the visit, it transpired that most of the specific recommendations repeatedly made by the Committee after previous visits regarding the situation of life-sentenced prisoners had not been implemented. In particular, it remained the case that the prisoners concerned were usually locked up in their cells for 23 hours per day, were not allowed to have contact with life-sentenced prisoners from other cells, were systematically handcuffed during all movement outside their cells and were kept under constant video surveillance (CCTV) in their cells. The CPT calls upon the Ukrainian authorities to implement without further delay its long-standing recommendations in this regard.