

EXECUTIVE SUMMARY

Introduction

Following the much criticised public order operations on Independence Square (“*Maidan*”) on 30 November 2013, there was an ever-growing concern as to the manner in which anti-Government demonstrators (referred to as “*Maidan*” protesters) were apprehended and treated by law enforcement officials. The CPT responded to this concern, firstly by holding high-level talks in December 2013 and then by carrying out a visit from 18 to 24 February 2014. In the course of the visit, the Committee’s delegation focussed on the treatment of “*Maidan*” protesters in the context of two public order operations in January 2014 (i.e. from 19 to 23 January in Kyiv and from 26 to 27 January 2014 in Dnipropetrovsk) and during the operations of 18 to 21 February 2014 in Kyiv, which occurred during the visit.

The CPT’s findings on the treatment of protesters apprehended during public order operations

The CPT found that the deliberate ill-treatment of “*Maidan*” protesters by or with the authorisation, support or acquiescence of law enforcement officials prior to their handover to police convoy officers or investigators, was an accepted means of enforcing law and order during the public order operations at issue. In several instances, the alleged ill-treatment was of such severity that it could be considered as amounting to torture.

Grey areas

In a number of instances, there are grey areas which prevented the CPT’s delegation from gaining a clear picture of the situation. This was in particular the case of the alleged presence of foreign law enforcement officials among Ukrainian special forces in Kyiv, the possible involvement of “undercover” plain-clothed law enforcement officials in the questioning of apprehended persons in the so-called “anti-*Maidan*” protest camp in the capital city and the degree of involvement of unidentified private individuals in public order operations. In the case of Dmytro Bulatov, who was abducted and ill-treated by unidentified individuals, the possible connection of the actual perpetrators with a Ukrainian or foreign public authority remains an open question. The investigations conducted by the Ukrainian authorities failed to confirm or refute the allegations or indications received by the CPT’s delegation. The Committee requested to be kept informed of any progress made in relation to these matters.

Action proposed to combat ill-treatment and impunity

The CPT trusts that the Ukrainian authorities will do their utmost to implement the recommendations made in the report on the Committee's 2013 periodic visit. It is essential to ensure that i) within any special police units and Interior Troops in particular, torture and other forms of ill-treatment (including excessive use of force) during public order operations are not – and are not seen to be – tolerated under any circumstances; ii) the relevant legislation and regulations are reviewed in order that the use of force is better circumscribed; iii) the subsequent identification of law enforcement officials is always made possible; iv) no provision can be interpreted as allowing a delegation of police duties and powers to private individuals/entities in the context of public order operations; v) health-care professionals and investigative judges/courts are made better aware of their duties and legal obligations to prevent/combat police ill-treatment; vi) care is taken to ensure that the national preventive mechanism will meet, under any circumstances, the key requirements as laid down in the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

In order to combat impunity effectively, the CPT considers that Ukraine's prosecuting authorities must set up a national specialised "task force" to look into all cases involving alleged ill-treatment and other abuses by or with the authorisation, support or acquiescence of public officials during the "Maidan" protests and any similar events after February 2014. Moreover, a State Bureau of Investigation, as foreseen by the Code of Criminal Procedure, should be set up and developed as soon as possible and the possibility of integrating the aforementioned "task force" into this body should be examined at the earliest opportunity.

Practical operation of procedural safeguards against police ill-treatment

In both Kyiv and Dnipropetrovsk, the practical operation of procedural safeguards against police ill-treatment – in particular the rights of notification of custody and of access to a lawyer, including free legal aid – appeared to be somewhat better when compared with the CPT's findings during the 2013 visit. However, in the circumstances, the failure to provide prompt access to a doctor for persons detained by law enforcement agencies is of grave concern. Leaving detained persons with serious bodily injuries without any appropriate medical care for hours on end could, in the Committee's view, be considered as amounting to inhuman and degrading treatment. The CPT calls upon the Ukrainian authorities to ensure that the legal obligation to provide, without delay, medical assistance to any person detained by a law enforcement agency, who is in need of it, is always complied with in practice.

During the visit, the delegation came across what could be considered a case of gross forgery of official custody registers in Dnipropetrovsk. The CPT recommends that a thorough inquiry be carried out into this matter.

Follow-up

The Ukrainian authorities are requested to provide, within three months, a full response containing an account of action taken by them to implement the Committee's recommendations and setting out their reactions and replies to its comments and requests for information.

They are also requested to provide, within one month, information on i) any action envisaged/taken by the relevant authorities to set up a specialised investigation "task force" as referred to above ; ii) any specific investigations conducted into cases referred to in the report and iii) progress made into the investigations into other cases of ill-treatment by or with the authorisation, support or acquiescence of public officials during the "Maidan" demonstrations in Kyiv and Dnipropetrovsk.