



CPT/Inf (2011) 29

## **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 21 September 2009**

The Ukrainian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2011) 30.

Strasbourg, 23 November 2011

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**Copy of the letter transmitting the CPT's report**

Mr Mykola P. Iltiy  
First Deputy Head  
State Department on Enforcement of Sentences  
81 Melnikova Street  
04050 Kyiv  
Ukraine

Strasbourg, 1 April 2010

Dear Mr Iltiy,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Ukrainian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Ukraine from 9 to 21 September 2009. The report was adopted by the CPT at its 71<sup>st</sup> meeting, held from 1 to 5 March 2010.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Ukrainian authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Ukrainian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

As regards the information requested in paragraph 80, the CPT asks that it be provided **within one month**.

The CPT would ask, in the event of the response being forwarded in the Ukrainian language, that it be accompanied by an English or French translation. It would also be most helpful if the Ukrainian authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours sincerely,

Mauro PALMA  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Ukraine from 9 to 21 September 2009. The visit formed part of the Committee’s programme of periodic visits for 2009. It was the CPT’s seventh visit to Ukraine.<sup>1</sup>

2. The visit was carried out by the following members of the CPT:

- Wolfgang HEINZ, Head of delegation
- Tim DALTON
- Latif HÜSEYNOV
- Marzena KSEL
- Elena SEREDA
- George TUGUSHI

who were supported by Petya NESTOROVA (Head of Division), Johan FRIESTEDT and Victor MUNTEANU of the Committee’s Secretariat.

They were assisted by:

- Clive MEUX, consultant forensic psychiatrist, Oxford, United Kingdom (expert)
- Vadim KASTELLI (interpreter)
- Vikentiy SHIMANSKIY (interpreter)
- Larissa SYCH (interpreter)
- Serhiy SYZENKO (interpreter).

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<sup>1</sup> The reports on the six previous visits, in 1998, 1999, 2000, 2002, 2005 and 2007, have been made public at the request of the Ukrainian authorities, together with their responses (see CPT/Inf (2002) 19, CPT/Inf (2002) 20, CPT/Inf (2002) 21, CPT/Inf (2002) 22, CPT/Inf (2002) 23, CPT/Inf (2002) 24, CPT/Inf (2004) 34, CPT/Inf (2004) 35, CPT/Inf (2007) 22, CPT/Inf (2007) 23, CPT/Inf (2009) 15 and CPT/Inf (2009) 16).

**B. Establishments visited**

3. The delegation visited the following places of detention:

Establishments under the Ministry of Internal Affairs

- Darnitske District Directorate of Internal Affairs, Kyiv (follow-up visit)
- Shevchenkivske District Directorate of Internal Affairs, Kyiv (follow-up visit)
- Territorial Militia Sub-Division No. 1 (TVM-1) of the Obolonske District Directorate of Internal Affairs, Kyiv
- City Division of Internal Affairs, Boryspil
- City Division of Internal Affairs, Chernigiv
- Desnyanskyi District Division of Internal Affairs, Chernigiv
- Novozavodskyi District Division of Internal Affairs, Chernigiv
- Dniprovskyi District Division of Internal Affairs, Dniprodzerzhinsk
- Amur-Nizhnodniprovskyi District Division of Internal Affairs, Dnipropetrovsk
- Industrianyi District Division of Internal Affairs, Dnipropetrovsk
- Zhovtnevyi District Division of Internal Affairs, Dnipropetrovsk (follow-up visit)
- Leninskyi District Division of Internal Affairs, Lugansk
- Zhovtnevyi District Division of Internal Affairs and Municipal Militia Sub-Division No. 1 (MVM-1), Lugansk
- City Division of Internal Affairs, Slavutich
  
- Temporary holding facilities (ITT)<sup>2</sup> at:
  - Chernigiv
  - Dniprodzerzhinsk
  - Dnipropetrovsk (follow-up visit)
  - Lugansk
  - Slavutich
  - Stakhanov
  
- Reception and Distribution Centre for vagrants, Lugansk
  
- Rozsudiv Temporary Accommodation Centre for illegal immigrants (PTP)<sup>3</sup>

Establishments under the State Department on Enforcement of Sentences

- Dnipropetrovsk pre-trial establishment (SIZO) (with emphasis on newly arrived and life-sentenced prisoners)
- Kyiv SIZO
- Bucha Colony No. 85, Gostomel (follow-up visit)
- Dnipropetrovsk Colony No. 89
- Slovyanoserbisk Colony No. 60, Lozivske

In addition, the delegation interviewed prisoners at Lugansk SIZO who had recently been transferred from Internal Affairs establishments.

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<sup>2</sup> *Ізолятор тимчасового тримання, abbreviated “ІТТ”.*

<sup>3</sup> *Пункт тимчасового перебування, abbreviated “РТР”.*

Establishments under the State Border Service

- Kyiv International Airport Special Premises (SP)<sup>4</sup> (follow-up visit)
- Temporary Detention Facility (PTT)<sup>5</sup> at the Chernigiv Border Service Detachment

Establishments under the Ministry of Health

- National High Security Psychiatric Hospital, Dnipropetrovsk (follow-up visit)

Establishments under the Ministry of Labour and Social Policy

- Svyatoshynskiy Neuropsychiatric Institution (“Internat”) for women, Kyiv

Other establishments

- Secure ward at Kyiv Municipal Clinical Emergency Hospital (follow-up visit).

**C. Consultations held by the delegation and co-operation encountered**

4. During the visit, the CPT’s delegation met Mr. Oleksandr GALINSKYI, Head of the State Department on Enforcement of Sentences, and held consultations with senior officials from that Department as well as from the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Health, the State Border Service, the Prosecutor General’s Office and the Office of the Parliamentary Commissioner for Human Rights.

Further, the delegation held consultations with a number of representatives of international and non-governmental organisations active in areas of concern to the CPT.

A list of the governmental authorities, other authorities and international and non-governmental organisations with which the delegation held consultations is set out in Appendix II to this report.

5. The co-operation provided to the CPT’s delegation, both from the national authorities and from staff at the establishments visited, was generally of a very good level. The delegation enjoyed rapid access to the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention establishing the CPT. Further, the delegation was provided with all the necessary documentation and additional requests for information made during the visit were promptly met. All this is positive and demonstrates that, unlike on previous visits, information about the CPT’s visit and the Committee’s mandate had been circulated to the establishments concerned.

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<sup>4</sup> *Спеціально приміщене*, abbreviated “SP”.

<sup>5</sup> *Пункт тимчасово тримання*, abbreviated “PTT”.



One exception concerned the Svyatoshynskiy Neuropsychiatric Institution for women in Kyiv, to which the delegation paid an unannounced visit on Saturday, 12 September. The delegation had already spent some two hours at that establishment when the Institution's Director gave instructions by phone that the delegation should leave the premises. The delegation's work was resumed after an intervention from the CPT's Liaison Officer, Mr. Mykola ILTIAY. **The CPT trusts that measures will be taken in future to avoid incidents of this type; this should involve the dissemination of information about the CPT's mandate and powers to all the authorities and staff concerned.**

Further, at certain establishments (e.g. the Secure Ward at the Kyiv Emergency Hospital, the Kyiv SIZO and Colony No. 89 in Dnipropetrovsk) the delegation had the impression that staff had instructed detained persons to speak only positively of the establishment concerned and/or had strongly advised them not to make any complaints. At Colony No. 89 in particular, some inmates with whom the delegation spoke stated that staff had threatened them with repercussions after the visit. The CPT must stress once again that any kind of intimidating or retaliatory action against a person before or after he/she has spoken to a CPT delegation would be totally incompatible with the obligations of Parties to the Convention. **The Committee calls upon the Ukrainian authorities to take measures to prevent such action in future.**

6. As stressed by the CPT in the past, the principle of co-operation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that decisive action be taken in response to the Committee's recommendations. During the 2009 visit, the CPT noted a number of positive developments, in particular as regards the improvement of material conditions of detention in Internal Affairs establishments, the conditions in which immigration detainees are held and the development of social rehabilitation/preparation for the release of prisoners. The Committee hopes that the Ukrainian authorities will continue to build upon them.

However, the CPT is concerned that little or no progress has been made in other areas. This relates in particular to the treatment of persons detained by Internal Affairs agencies, the situation in pre-trial establishments and the conditions under which life-sentenced prisoners serve their sentences. Decisive steps must be taken to improve the situation in the light of the CPT's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention establishing the Committee.

**D. Immediate observations under Article 8, paragraph 5 of the Convention**

7. At the end of the visit, the CPT's delegation held talks with the Ukrainian authorities in Kyiv in order to acquaint them with the main facts found during the visit. On this occasion, the delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation in respect of **Colony No. 89 in Dnipropetrovsk**. At that establishment, the delegation received numerous allegations of physical ill-treatment of inmates by staff. Some of the alleged ill-treatment was of such severity that it could be considered as amounting to torture. The delegation requested the Ukrainian authorities to carry out without delay, at national level, an independent, thorough and comprehensive inquiry into the treatment of prisoners by staff at Colony No. 89.

The above-mentioned immediate observation was subsequently communicated in a letter of 6 October 2009 from the President of the CPT. The Committee requested the Ukrainian authorities to provide, within three months, the results of the inquiry carried out into the treatment of prisoners at Colony No. 89. In that letter, confirmation was also requested that the metal shutters have been removed from cell windows in the "arrest house" at the Kyiv SIZO.

8. In a letter of 2 February 2010, the Ukrainian authorities provided information on the outcome of the inquiry into the treatment of prisoners at Colony No. 89 as well as on the removal of metal shutters in the "arrest house" at the Kyiv SIZO. The CPT will consider this information later in the report.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Establishments under the authority of the Ministry of Internal Affairs

#### 1. Preliminary remarks

9. It should be recalled that, pursuant to the Code of Criminal Procedure (CCP), the maximum period during which criminal suspects may be detained by Internal Affairs officers on their own authority is 72 hours. Before the expiry of this period, the bodies of the inquiry (*орган дізнання*) are required, if they wish to have a suspect remanded in custody, to bring the suspect before a judge. A person remanded in custody is in principle transferred to a pre-trial establishment (SIZO). However, the person may be detained in an Internal Affairs temporary holding facility (ITT) for up to 10 days if transport to the SIZO cannot be affected owing to the distance or absence of appropriate means of transportation.

10. During the 2009 visit, the delegation observed a significant drop in the number of violations of the legal provisions on the duration of custody by the Militia. Most detained persons interviewed by the delegation indicated that they had been presented before a judge within 72 hours of the moment of apprehension. Further, no evidence was gathered of criminal suspects spending over 10 days in ITTs, and the practice of returning remand prisoners placed in SIZOs to ITTs appeared to have been curbed. As regards district divisions of Internal Affairs (which are equipped with cells in principle intended for stays of up to 3 hours), the detention periods recorded in the custody registers were usually within the prescribed time limit and rarely exceeded 24 hours (e.g. at Boryspil Division of Internal Affairs, where stays of up to 3 days were noted).

However, the CPT is concerned about what appears to be a grey period between the moment a person is obliged to remain with the Militia and the moment of drawing up a protocol of detention. Operational Internal Affairs Officers met during the visit indicated that they were entitled to have an informative talk lasting up to 3 hours before handing over an apprehended person to an investigator who would inform the person of his rights and draw up a protocol of detention. This period of “3 hours” did not appear to be counted towards the 72-hour time limit of custody by the Militia. In this context, it is noteworthy that a number of persons interviewed during the visit alleged that they had spent a night in an operational staff office or handcuffed to a radiator in a corridor before being officially detained.<sup>6</sup> Further, in a few isolated cases, the delegation heard allegations that persons had been kept successively in a series of Internal Affairs establishments (e.g. for up to 17 days) before being remanded in custody. In this context, it is noteworthy that the actual time of apprehension was not always recorded in the custody records.

The above-mentioned practices entail a heightened risk of ill-treatment. **The CPT calls upon the Ukrainian authorities to ensure that the legal provisions on the duration of police custody are respected in practice. This should include measures to ensure that the time-limit of 72 hours starts to run as from the moment of *de facto* apprehension, which is referred to in protocols of detention and arrest warrants.**

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<sup>6</sup> For example, the consultation of the legal file of one detained person revealed that apprehension had taken place on 10 September 2009 at 5 p.m., the protocol of detention had been drawn up on 11 September at 7.30 p.m., and the court’s decision for remand in custody had been taken on 14 September.

11. Albeit on a smaller scale than during the 2005 visit, it transpired that the provisions of the Code of Administrative Offences and Section 11 (5) of the Law on the Militia<sup>7</sup> were still being used to prolong the time available for questioning criminal suspects. **The CPT once again calls upon the Ukrainian authorities to take resolute steps to stamp out this practice and to ensure that the detention and questioning of persons suspected of a criminal offence are always carried out in full compliance with the provisions of the CCP.**

## 2. Torture and other forms of ill-treatment

12. During the 2009 visit, the CPT's delegation once again received a substantial number of allegations of recent physical ill-treatment of persons detained by Internal Affairs officers. The allegations came from men, women and juveniles alike and related mostly to ill-treatment inflicted at the time of questioning with a view to securing a confession or obtaining other information. In some cases, the severity of the ill-treatment alleged was such that it could be considered as amounting to torture (e.g. the infliction of electric shocks to various parts of the body; asphyxiation using a plastic bag or gas mask, with tear gas or cigarette smoke being poured into the mask; insertion of a condom-covered truncheon into the anus; blows struck to the soles of the feet; extensive beating while the person was handcuffed and suspended or maintained in a hyperextended position). Further, many persons alleged that, in the course of questioning, they had been subjected to threats of physical violence, verbal abuse or threats to harm their relatives.

Most of the above-mentioned allegations related to periods some time before the delegation's visit; consequently, any injuries which might have been caused by the ill-treatment alleged would almost certainly have healed in the meantime. However, some of the allegations of recent physical ill-treatment were corroborated by the delegation's own medical observations. Further, evidence indicative of ill-treatment was found in the medical documentation consulted at the establishments visited and, in some cases, facial injuries were clearly visible on the photographs taken upon admission of the persons concerned.

On a more positive note, no allegations were received of ill-treatment by custodial staff working at the ITTs and the Reception and Distribution Centre for vagrants visited.

13. It should be noted that during the visit, the delegation once again found, in rooms of criminal search officers (referred to as operational staff, "*operativniki*"), a range of non-standard and unlabelled items (e.g. a baseball bat at Leninskyi District Division of Internal Affairs in Lugansk; a crowbar at Zhovtnevyi District Division of Internal Affairs in Dnipropetrovsk). **The CPT reiterates its recommendation that any non standard-issue items capable of being used for inflicting ill-treatment be removed from Internal Affairs premises where persons might be questioned.**

Further, the delegation was informed that all Internal Affairs officers were issued with a gas mask as part of the standard equipment. While most of the officers had their personal gas masks properly labelled and stored, **on several occasions, the delegation found gas masks which were unlabelled and not in a container.**

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<sup>7</sup> Pursuant to which persons suspected of having committed administrative offences may be held by the Militia for up to three days (provided that the public prosecutor is given notice in writing within 24 hours of the moment of detention) to establish the identity of such a person and verify whether he has committed any offences.

14. In previous visit reports, the CPT made a series of recommendations aimed at combating torture and other forms of ill-treatment. From the subsequent responses provided by the Ukrainian authorities, it is clear that efforts have been made in this area, in particular as regards measures to step up Internal Affairs staff training, to adopt new instructions, and to increase supervision, including through independent monitoring. The setting-up in 2006 of Civic Councils on human rights and the creation of mobile monitoring groups (see paragraph 34) are welcome developments. Further, in 2008, a Human Rights Monitoring Department was created at the Ministry of Internal Affairs, tasked, *inter alia*, with establishing a system of internal oversight, providing advice on legislative improvements, and co-ordinating the work of the mobile monitoring groups.

Notwithstanding the above-mentioned efforts, the frequency and consistency of the allegations received by the CPT's delegation during the 2009 visit suggest that methods of severe ill-treatment/torture continue to be used with impunity by Internal Affairs officers. It is clear that continued determined action, bringing together in a joint effort all relevant State agencies, is needed to combat this phenomenon.

15. Concern about the persistence of ill-treatment by the Militia was expressed by many of the delegation's official interlocutors in the course of the 2009 visit. And the delegation noted, at senior level, signs of commitment to improving matters. Shortly before the 2009 visit, the Minister of Internal Affairs had made a statement condemning the use of torture by the Militia and had dismissed a number of Internal Affairs officers involved in a case of ill-treatment of a detained person in Odessa for "discrediting the Ministry of Internal Affairs structures".

16. A factor that undoubtedly contributes towards the continuance of ill-treatment is the pressure on Internal Affairs officers to obtain high "clear-up" rates combined with heavy reliance on confessional evidence. Further, there are reportedly difficulties in recruiting and motivating suitable candidates, due to the low pay and the fact that Internal Affairs officers have been stripped of a number of privileges.

The primary responsibility for bringing about change rests with senior police officers, who should inculcate professionalism and promote a culture where the right thing to do is to report ill-treatment by colleagues. In this context, it is essential to strengthen the control over the time preceding the drawing up of a protocol of detention, when operational officers perform the initial, informal questioning of persons. A high degree of vigilance is additionally required to monitor the sub-divisions of district divisions of Internal Affairs (TVM/MVM).

**The CPT recommends that a firm message of "zero tolerance" of ill-treatment continue to be delivered at regular intervals to all Internal Affairs staff. It should be made clear that the perpetrators of ill-treatment and those condoning or encouraging such acts will be subject to severe sanctions.**

**The Committee also calls upon the Ukrainian authorities to develop more rigorous recruitment procedures and improve professional training of Internal Affairs operational officers and investigators. During the training, particular emphasis should be placed on advanced methods of crime investigation, thereby reducing reliance on information and confessions obtained via interrogations for the purpose of securing convictions. In this context, investment should also be made in the acquisition of modern technical means of inquiry (e.g. criminalistic and laboratory equipment).**

**Such training should be combined with the adoption of detailed instructions on the proper questioning of criminal suspects (including initial interviews by operational officers). It must be made crystal clear that the precise aim of questioning criminal suspects should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to secure a confession from someone already presumed, in the eyes of law enforcement officials, to be guilty.**

**It is equally important that the new draft Code of Criminal Procedure contains amendments which reduce the incentive to seek to extract confessions. Further, statements which have been made as a result of torture or other forms of ill-treatment should be inadmissible as evidence in any proceedings, except against a person accused of ill-treatment as evidence that the statement was made.**

17. It should also be noted that some detainees interviewed by the delegation claimed that Internal Affairs officers had asked for money in order to drop the charges against them and arrange their release. **The CPT recommends that a clear message be delivered to Internal Affairs staff that abusing their position in order to obtain money from detained persons will be the subject of severe sanctions. Further, the Committee wishes to stress the need for the adoption of a comprehensive strategy - based on specific legislation, prevention, education and the application of appropriate sanctions - for combating corruption in the Internal Affairs bodies.**

18. The examination of documentation at some of the Internal Affairs establishments visited revealed that before leaving the establishment, detained persons had signed statements that no measures of physical coercion had been applied to them and that they had no complaints against Internal Affairs staff. In the CPT's opinion, this is a practice which could clearly inhibit the person concerned from making a truthful statement about what had happened to him (especially if ill-treatment has been inflicted by the very same Internal Affairs officers in whose custody the person finds himself). **The CPT recommends that this practice be abolished.**

19. According to statistical information provided by the Ministry of Internal Affairs, there were, in 2008, 48,250 complaints concerning unlawful acts by Internal Affairs staff, of which 3,708 were considered to be justified, and from January to mid-September 2009, 25,690 complaints, of which 3,831 were found to be justified<sup>8</sup>. The number of Internal Affairs staff convicted for excess of authority or official powers was 126 in 2007, 100 in 2008 and 83 until September 2009.

During the 2009 visit, the Prosecutor's Office provided statistical information concerning criminal cases against Internal Affairs officers. According to it, in 2008 and the first six months of 2009, 256 criminal cases were opened, including 10 under Section 127 of the Criminal Code (CC) (torture) and 96 under Section 365 of the CC (excess of authority or official powers). 87 criminal cases were referred to the courts with indictments concerning 141 persons, 8 of whom were found to be criminally liable according to Section 127 of the CC. Court decisions were issued in respect of 91 Internal Affairs officers, of whom 28 were sentenced to imprisonment, 3 to restriction of liberty, 3 to other punishments, and 57 were put on probation. Additionally, 86 of these persons were deprived of the right to hold certain positions or be engaged in certain activities.

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<sup>8</sup> The respective figures for 2006 were 44,608 complaints, of which 5,170 were justified, and for 2007, 39,701 complaints, of which 4,207 were justified.

The variance in the above-quoted information makes it difficult to obtain a clear picture of the situation. The compilation of statistical information is not an end in itself; if properly collected and analysed, it can provide signals about trends and assist in the taking of policy decisions. Increased co-ordination between the Ministry of Internal Affairs and the Prosecutor's Office is clearly needed in this respect. **The CPT invites the Ukrainian authorities to introduce a uniform nationwide system for the compilation of statistical information on complaints, disciplinary sanctions, and criminal proceedings and sanctions against Internal Affairs officers. Steps should also be taken to improve the provision of information to the public on the outcome of investigations into complaints of ill-treatment by Internal Affairs officers.**

20. Irrespective of the above-mentioned figures, the findings from the 2009 visit suggest that there is a lack of effective investigation into cases of possible ill-treatment by Internal Affairs staff.

According to information provided by the Ministry of Internal Affairs, complaints of ill-treatment are transmitted to the Internal Affairs unit concerned and an internal investigation is carried out. If a violation is found which does not constitute a criminal offence, the commander of the unit takes disciplinary measures against the perpetrator. If an element of crime is established or there are considerable divergences in the explanations of the parties concerned, the materials of the internal investigation are forwarded to the relevant prosecutor. On the basis of the information and evidence collected in the course of the internal investigation, the prosecutor decides whether to initiate a preliminary investigation. Pursuant to Section 112 of the CCP (competences of the investigating agencies), the preliminary investigation is carried out by investigators of the Prosecutor's Office in all cases concerning offences committed by law enforcement officials.

However, there appeared to be a high level of mistrust amongst detained persons in the system for investigating complaints against Internal Affairs officers. Some persons interviewed during the visit alleged that, following the lodging of a complaint, they had been rearrested and ill-treated. It was suggested that the Prosecutor's Office often failed to initiate criminal cases into allegations of ill-treatment even when there was strong evidence, and that, when cases were opened, this was rarely under Section 127 of the CC (torture).

The CPT wishes to stress that, in order for the investigation of complaints against Internal Affairs officers to enjoy public confidence and be effective, the procedure involved must be, and be seen to be, independent and impartial. The fact that prosecutors base their decisions as to whether or not to open a preliminary investigation on evidence collected by officers from the same service as those who are the subject of the investigation, casts serious doubt on the independence and impartiality of the current procedure. Moreover, there is an inherent conflict of interests in the dual nature<sup>9</sup> of the functions of prosecutors.

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<sup>9</sup> The Prosecutor's Office is entrusted both with prosecution on behalf of the State and with oversight of the observance of the rights of individuals and the proper conduct of investigations.

**The CPT recommends that urgent steps be taken to ensure that investigations into cases involving allegations of ill-treatment fully meet the criteria of an “effective” investigation, as established by the European Court of Human Rights.<sup>10</sup> In this context, the Committee urges the Ukrainian authorities to set up an independent agency specialised in the investigation of complaints against law enforcement officials which is demonstratively separate from the Internal Affairs structures and the prosecution service (using the experience of other European countries). This will help overcome the widespread perception of impunity.**

21. During the 2009 visit, the delegation once again met a number of detained persons who alleged that their complaints of ill-treatment - even when they had had visible injuries - had not been taken seriously or had been ignored by judges before whom they had been brought with a view to applying the preventive measure of remand in custody.

In the reports on the visits in 2002 and 2005, the CPT recommended a more active role for judges in ascertaining whether ill-treatment has occurred. The Committee’s recommendation has been taken into account in the drafting of a new CCP, which provides that whenever “a person states that s/he has been subjected to violence during apprehension or detention by a public authority, the judge is required to record such a statement or accept a written statement from the person concerned and: 1) ensure a prompt forensic medical examination of this person, 2) assign investigation of the facts [...] to the appropriate investigating authority, 3) take the necessary measures to ensure protection of the person concerned in accordance with the law”. The judge should act in the above-described manner “whatever the person states if his/her appearance or state, or any other information known to the judge, gives ground for the judge to believe that the person concerned has been ill-treated during apprehension or custody”.<sup>11</sup>

**The CPT would like to be informed of the envisaged date of entry into force of the draft new CCP and of any measures taken in the meantime concerning the role of judges in ascertaining whether ill-treatment has occurred.**

22. The role played by health-care staff in the prevention of ill-treatment has been repeatedly emphasised by the CPT in the past. The findings from the 2009 visit highlight the need for reinforcement of the system for detecting and reporting injuries observed on persons admitted to ITTs.

Feldshers working in ITTs recorded the objective medical findings, in a more or less detailed manner, and sometimes included a brief reference to allegations made by the person concerned, but there was no conclusion as to whether the injuries observed were consistent with the person’s allegations. Further, the delegation received the impression that the entries in the medical records concerning the state of health of detainees upon arrival were made in a superficial manner and did not always reflect the actual situation. In the case of injuries being observed, the feldsher completed a form (“act of injury”) which was signed by the officer on duty and filed. It appeared from conversations with feldshers that they did not have a formal role in notifying a prosecutor of any injuries observed on a detained person. At the same time, the delegation was concerned to learn that the information on injuries was sent to the Internal Affairs division from which the detained person had arrived (and could be returned to for further questioning).

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<sup>10</sup> See also the CPT’s 14<sup>th</sup> General Report (CPT/Inf (2004) 28) concerning the criteria for an effective investigation.

<sup>11</sup> See Section 162 of the draft new CCP.



It also became apparent that medical examinations were conducted in the presence of Internal Affairs officers as a matter of routine. Such a practice is a flagrant violation of the principle of medical confidentiality and could clearly inhibit the person concerned from making a truthful statement about what had happened to him.

If the procedure for medical examination of persons admitted to ITTs is to genuinely contribute to the prevention of ill-treatment, steps must be taken to ensure that the examination of persons admitted to ITT facilities is performed by a doctor/feldsher in a systematic and thorough manner. **The CPT calls upon the Ukrainian authorities to adopt instructions on medical screening at ITT facilities. All medical examinations must be conducted out of the hearing and – unless the member of health-care staff concerned expressly requests otherwise in a given case – out of the sight of Internal Affairs staff. Staff should be clearly instructed that if a person is admitted bearing injuries consistent with possible ill-treatment, the relevant prosecutor should be immediately notified and a copy of the report on injuries forwarded to him (rather than to the Internal Affairs division concerned). Detained persons and their lawyers should be entitled to receive a copy of that report at the same time.**

**Further, whenever a detained person presents injuries and makes allegations of ill-treatment, he should be promptly seen by an independent doctor qualified in forensic medicine who should draw conclusions as to the degree of consistency between the allegations made and the objective medical findings. The detained person should be entitled to such an examination without prior authorisation from an investigator, prosecutor or judge.**

23. More generally, the CPT has misgivings about the formal position of feldshers working in ITTs. Such feldshers are Internal Affairs employees and have the difficult task of combining aspects of the role of a treating clinician with the carrying out of certain duties requested by the Militia. During the visit, it became clear to the delegation that feldshers' decisions could be influenced by their hierarchical supervisors. This makes it all the more important that persons detained by the Militia do not have access to outside, independent doctors (see paragraph 30). **In order to guarantee the professional independence of health-care staff working in ITTs, the CPT considers that such staff should be aligned as closely as possible with the mainstream of health-care provision in the community at large.**

24. A related issue is that of the timing and availability of forensic medical examinations. It would appear that, at present, only State-appointed forensic doctors can provide forensic medical reports which have legal force in court. The delegation was informed that citizens can, on their own initiative, request a forensic medical examination against payment. However, concerns were expressed about the lack of independence of State-appointed forensic doctors, and some allegations of corruption were heard.

**The CPT would like to know if, in addition to examinations by State forensic doctors, there is a provision in law for examinations by independent doctors qualified in forensic medicine.**

25. Finally, the CPT considers that there is a joint responsibility of all relevant State agencies to combat the phenomenon of ill-treatment in a proactive way and through concerted action. The delegation's observations from the visit suggest that more can be done to improve co-ordination between the different Ministries and agencies involved in order to make sure that no case of ill-treatment goes unnoticed or unpunished. **Consideration should therefore be given to bringing together the efforts of all relevant structures in a concerted strategy, such as a National Action Plan against torture.**

### **3. Procedural safeguards against ill-treatment**

26. The situation as regards the three fundamental safeguards advocated by the CPT, namely the right of detained persons to inform a close relative or another third party of their choice of their situation and to have access to a lawyer and a doctor, has remained practically unchanged. Since 2005, most of these rights have been incorporated into Section 5 of the Law on the Militia.<sup>12</sup> However, the delegation's observations from the 2009 visit suggest that the legal framework still requires improvement and that there continues to be a gap between the practice and the legal provisions.

27. As regards the right of notification of custody, most of the detained persons interviewed by the delegation indicated that they had been informed of this right and their detention had been notified to a family member. That said, many persons complained that they did not know whether their relatives had been informed of the fact of their detention. Further, it was alleged that families had been misguided about where some of the detained persons were located. The delegation also received allegations of delays in notifying detained persons' families, e.g. until after admission to an ITT.

**The CPT recommends that further measures be taken to ensure that all detained persons effectively benefit from the right of notification of custody as from the very outset of their deprivation of liberty. In this context, it should be made clear to Internal Affairs staff that their obligation to notify the relatives of detained persons of the fact of their detention entails the responsibility to provide accurate information as regards the detained persons' whereabouts.**

**The Committee also invites the Ukrainian authorities to take steps to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

28. It appeared clearly during the 2009 visit that little progress has been made as regards the operation in practice of the right of access to a lawyer. Detained persons were, as a rule, informed of their right of access to a lawyer by investigators at the time of the drawing up of the protocol of detention, which, as was noted in paragraph 10, was often preceded by a period of questioning by operational staff (for 3 hours, according to law, but in practice occasionally much longer). Further, many detained persons indicated that they had been pressurised by Internal Affairs staff to sign a statement to the effect that they did not need a lawyer and would defend themselves.

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<sup>12</sup> As amended by Law No. 2322-IV on 12 January 2005.

The right of detained persons to have a private meeting with a lawyer before the first and each subsequent interrogation, as well as the right to have the lawyer present during interrogations, have been introduced in the draft CCP. However, it would appear that these rights will only apply from the moment a person is officially deemed a suspect. As repeatedly stressed by the CPT, the right of access to a lawyer should be guaranteed to all persons – including administrative detainees – as from the outset of deprivation of liberty (and not only when a protocol of detention is drawn up). **The Committee calls upon the Ukrainian authorities to take steps to ensure that both the law and the practice are aligned with this precept. Further, Internal Affairs operational staff and investigators should receive a firm message that any attempts to make detained persons renounce their right to a lawyer are illegal.**

29. The failure to provide detained persons with access to a lawyer is obviously linked to the absence of an effective system of free legal aid. At the Dnipropetrovsk SIZO, some remand prisoners indicated that they had been told that no *ex officio* lawyers were available. The delegation learned that *ex officio* lawyers were paid little and were not motivated to work for their clients. As to those detained persons who had had contacts with *ex officio* lawyers, many of them complained about the quality of their work and questioned their independence of the Internal Affairs and prosecuting bodies. In this context, it is noteworthy that the draft Law on Legal Aid had still not been adopted at the time of the 2009 visit.

**The CPT recommends that the draft Law on Legal Aid be adopted as a matter of priority. The Committee recalls that particular attention should be paid to the effectiveness of the legal aid system and, more specifically, to the issue of impartiality of *ex officio* lawyers and their independence from the law enforcement structures and the prosecuting/investigating authorities.**

30. As regards access to a doctor, the exercise of this right continued to be left to the discretion of Internal Affairs staff.<sup>13</sup> A number of detained persons interviewed in the course of the 2009 visit claimed that they had not received the medical assistance that they needed until after they had been transferred to an ITT.

The CPT must stress once again that the right of access to a doctor should include the possibility for persons detained by Internal Affairs agencies to be examined, in private, by an independent doctor. It is regrettable that no steps have been taken to introduce such a right in the draft new Code of Criminal Procedure. **The Committee calls upon the Ukrainian authorities to introduce legal provisions ensuring that persons deprived of their liberty by Internal Affairs agencies have an effective right to be examined by an independent doctor (including a doctor of one's own choice, it being understood that an examination by such a doctor may be carried out at the detained person's own expense) as from the moment of the *de facto* deprivation of liberty.**

Reference should also be made here to the recommendations made in paragraphs 22 and 24 concerning the confidentiality of medical examinations and the possibility to undergo a forensic medical examination.

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<sup>13</sup> Section 5 of the Law on the Militia provides that Internal Affairs staff shall “when necessary, take measures to provide immediate medical or other assistance to the persons in detention or arrest”.

31. Most detained persons met during the visit indicated that they had received information on rights at the time of drawing up of a protocol of detention or at the beginning of the first official interrogation by an investigator. The procedure involved showing the detained person a 3-page document listing articles of the Constitution and sections of other relevant laws, asking the person to sign the document and attaching it to his legal file. This approach to providing information on rights appeared to be largely bureaucratic: the list of rights was regarded as one more piece of paperwork and, provided that Internal Affairs officers had gone through the process of having it signed, that task was considered as completed. Ensuring that detained persons are in a position to understand their rights fully and therefore to exercise them effectively is, of course, a different matter.

**The CPT recommends that the Ukrainian authorities take steps to ensure that all persons detained by Internal Affairs agencies are fully informed of their rights (including the rights indicated above). This should involve the provision of clear verbal information at the very outset of deprivation of liberty, to be supplemented at the earliest opportunity (that is, immediately upon first entry into Internal Affairs premises) by provision of a written information on rights. In this context, the Committee recommends that the Ukrainian authorities draw up an information sheet on rights which is more simple and easy to understand and available in an appropriate range of languages. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on Internal Affairs staff to ascertain that this is the case.**

32. During the 2009 visit, the delegation paid particular attention to the application of specific safeguards concerning juveniles detained by Internal Affairs agencies. A number of juveniles interviewed in the course of the visit stated that they had been questioned and made to sign documents (confessions or other statements) without the presence of a lawyer or a relative. This is totally unacceptable. It also appeared that detained juveniles' parents had been notified of the fact of their detention with a considerable delay.

The CPT must stress that the point of special provisions for juveniles is to protect this age group and to provide them with adult support so that they do not have to make decisions with important legal implications on their own. **The Committee recommends that steps be taken to ensure that juveniles do not make any statement or sign any document related to the offence of which they are suspected without the benefit of a lawyer and ideally another trusted adult being present.**

**The CPT also recommends that a specific version of the information sheet on rights, setting out the particular position of detained juveniles (i.e. mandatory assistance by a lawyer, possibility to have a trusted adult present), be developed and given to all such persons taken into custody. For this age group especially, the information sheet should be made easy to understand and be available in a variety of languages. Special care should also be taken to explain the information to ensure comprehension.** In this connection, the Ukrainian authorities should take into account Recommendation Rec(2003)20 of the Council of Europe's Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.<sup>14</sup>

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<sup>14</sup> See in particular Section 15: "Where juveniles are detained in police custody, account should be taken of their status as a minor, their age and their vulnerability and level of maturity. They should be promptly informed of their rights and safeguards in a manner that ensures their full understanding. While being questioned by the police they should, in principle, be accompanied by their parent/legal guardian or other appropriate adult..."

33. As regards custody registers, the delegation observed various deficiencies (e.g. missing time of apprehension, incomplete or inaccurate information). For instance, the records consulted at Zhovtnevyi District Municipal Militia Sub-Division No. 1 (MVM-1) in Lugansk indicated that certain persons had been detained there for up to three hours, whereas it clearly appeared in other records that they had spent the night at the establishment in question.

The requirement that the fact of a person's deprivation of liberty be properly recorded is one of the most fundamental legal safeguards against ill-treatment. In addition to facilitating control over the observance of the legal provisions concerning police custody, the accurate recording of all aspects of a person's period of detention can protect Internal Affairs officers by countering false allegations made against them. **The CPT calls upon the Ukrainian authorities to take steps to ensure that custody registers are properly maintained, accurately record the times of apprehension, placement in a cell, release or transfer, and reflect all other aspects of custody (precise location where a detained person is being held; visits by a lawyer, relative, doctor or consular officer; taking out for questioning, etc.).**

Further, **the CPT recommends that supervising prosecutors and senior Internal Affairs officials exercise increased vigilance as regards the accuracy of custody registers in Internal Affairs establishments.**

34. It appeared during the 2009 visit that supervising prosecutors carried out regular inspections of Internal Affairs detention facilities, and the delegation was provided with reports on the findings from these visits. However, detained persons met by the delegation alleged that these prosecutors did not seek to have private interviews with them.

As regards independent monitoring, since 2005, mobile groups composed of Internal Affairs staff and NGO representatives have been set up in all regions of Ukraine. The powers of these groups have been extended so as to allow them to carry out unannounced visits, including at night. According to information provided to the delegation, the mobile groups carried out 377 visits to Internal Affairs establishments in 2008 and 234 visits in the first eight months of 2009. Various deficiencies were reported as a result of these visits. Internal Affairs officials and NGO representatives met during the 2009 visit were positive about the impact of the work of the mobile groups, which were said to have facilitated better relations and understanding between Internal Affairs staff and members of civil society, at least in some regions of Ukraine. At the same time, it appeared that in other regions (e.g. Kyiv) the mobile groups were virtually not operational.

The CPT wishes to stress that, if they operate efficiently, mobile groups can constitute a significant safeguard against ill-treatment. Unfortunately, the information gathered during the 2009 visit suggests that certain aspects of the mobile groups' status diminish their effectiveness. In particular, the mobile groups depend on the Ministry of Internal Affairs for financial and logistical support. Further, the mobile groups' members are appointed by Internal Affairs structures. **The CPT recommends that the Ukrainian authorities build upon the experience of the mobile groups to develop a system of monitoring visits to Internal Affairs establishments by fully independent outside bodies.**

In this context, **the Committee would like to be informed of steps taken towards developing a national preventive mechanism in order to fulfil Ukraine's obligations under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.**

#### 4. Conditions of detention in Internal Affairs establishments

35. The 2009 visit brought to light a considerable improvement in the conditions of detention in Internal Affairs establishments. As noted in paragraph 10, the practice of detaining persons in Internal Affairs divisions for prolonged periods of time had been curbed. Further, in some Internal Affairs establishments visited (e.g. Amur-Nizhnodniprovskyi District Division of Internal Affairs in Dnipropetrovsk), cells considered to be substandard had been withdrawn from service.

In the course of the visit, the Ministry of Internal Affairs informed the delegation of steps taken to refurbish cells at Internal Affairs divisions<sup>15</sup> and eliminate violations of the duration of custody.<sup>16</sup> Further, the delegation was informed of the adoption of Ministry of Internal Affairs Order No. 181 of 28 April 2009<sup>17</sup> which is said to pay particular attention to the respect of the constitutional rights of citizens. **The CPT would like to be provided with a copy of this order.**

36. The delegation observed that Internal Affairs Division cells which had been refurbished offered acceptable conditions. For example, at Leninskyi District Division of Internal Affairs in Lugansk, a cell of some 8 m<sup>2</sup> was equipped with two beds, a sink and a partially partitioned toilet; at Darnitske District Directorate of Internal Affairs in Kyiv, cells measuring some 11 m<sup>2</sup> were equipped with two double bunk-beds, a table, chairs, and a partitioned toilet and sink. Further, at Shevchenkivske District Directorate of Internal Affairs in Kyiv where the cells were undergoing refurbishment, the delegation received the impression that material conditions would be of a very good standard (the cells measured between 13 and 17 m<sup>2</sup>, had good-sized windows and were equipped with two double bunk-beds and a partitioned toilet).

However, cells at other divisions did not offer appropriate conditions for overnight stays. At the City Divisions of Internal Affairs in Boryspil, Chernigiv and Slavutich, as well as at Zhovtnevyi and Industrialnyi District Divisions of Internal Affairs in Dnipropetrovsk, the cells were equipped with narrow benches, and no mattresses were provided to persons held overnight. Further, some of the cells were very small (e.g. at Slavutich, the cells measured 3.5 m<sup>2</sup>, with some 1 m between the walls; at Industrialnyi District Division in Dnipropetrovsk, the cells measured some 4 m<sup>2</sup> and were also dark).

There were still no arrangements for the provision of food to persons detained in Internal Affairs divisions.

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<sup>15</sup> According to this information, as of 1 September 2009, 208 of the 1,528 available cells were in conformity with the CPT's standards, 933 cells were in a satisfactory condition and repair works were being performed in another 212 cells.

<sup>16</sup> In the first 8 months of 2009, the number of persons who were detained for over 3 hours was reduced by 4.2 % in comparison with the same period in 2008, and of those detained over 24 hours, by 33.4%.

<sup>17</sup> "On the organisation of activities of duty points of bodies and units of internal affairs of Ukraine directed on defense of interests of society and state from illegal encroachments".

37. **The CPT recommends that the Ukrainian authorities pursue their efforts to provide appropriate conditions of detention to persons held in Internal Affairs Divisions. This should involve steps to ensure that:**

- **cells are of a reasonable size for their intended occupancy, cells measuring less than 5 m<sup>2</sup> not being used for periods of detention exceeding three hours;**
- **adequate in-cell lighting (access to natural light/artificial lighting), ventilation and heating are provided;**
- **all cells are equipped with a means of rest suitable for overnight stays;**
- **all persons detained overnight are provided with clean mattresses and blankets;**
- **Internal Affairs Divisions are allocated a specific budget to cover the cost of providing food to detained persons.**

38. The CPT notes with satisfaction the general trend towards improving material conditions in temporary holding facilities (ITTs). Some of the facilities visited had been renovated (e.g. in Stakhanov) or were being refurbished (e.g. one floor of Dnipropetrovsk ITT). An ITT with a capacity of 56 places, due to open in 2010, was being constructed at Boryspil. Further, in Dniprodzerzhinsk, where the ITT was in a poor state of repair, the construction of a new detention facility was underway, and it was scheduled to become operational in 2012. All the ITTs visited were operating below their respective capacities and efforts were being made to ensure that detained persons were offered at least 4 m<sup>2</sup> of living space in the cells.

However, material conditions in some of the detention facilities continued to display serious shortcomings. The official occupancy levels observed in some cells were too high (e.g. two beds in a cell of 6.5 m<sup>2</sup> at Chernigiv ITT; four beds in a cell of 9.5 m<sup>2</sup> at Lugansk ITT; ten beds in a cell of some 26 m<sup>2</sup> at Dnipropetrovsk ITT). Most of the cells in Slavutich were very dark and poorly ventilated; in a few cells, the windows had been enlarged, but the impact of this measure remained limited as the windows faced a wall. At the Dniprodzerzhinsk ITT, window panes were missing in some cells, and the shower room was in an advanced state of dilapidation.

39. At most ITTs visited, detained persons confirmed that they had access to outdoor exercise for one hour a day. However, this was not the case at Dniprodzerzhinsk ITT, despite the presence of exercise yards. Further, some of the yards seen by the delegation were too small (e.g. 7 m<sup>2</sup> in at Stakhanov; 12 m<sup>2</sup> in Lugansk) to allow physical exertion.

As regards food, arrangements had been made to provide three meals a day.

40. The CPT recommends that the Ukrainian authorities pursue the renovation of ITTs, a high priority being given to refurbishing the detention facility in Dnipropetrovsk and building a new ITT in Dniprodzerzhinsk. In this context, the Committee recommends that:

- the official occupancy levels of cells be reduced, the objective being to offer at least 4 m<sup>2</sup> of living space per detainee in multi-occupancy cells; cells of less than 7 m<sup>2</sup> should never accommodate more than one detained person;
- missing window panes be replaced in the cells at Dniprodzerzhinsk ITT;
- access to natural light be significantly improved in the cells at Slavutich ITT;
- the shower facilities be refurbished at Dniprodzerzhinsk ITT;
- measures be taken to ensure that detainees have access to at least one hour of outdoor exercise a day and that outdoor exercise yards are sufficiently large and adequately equipped.

41. The delegation observed that in some of the ITTs visited (e.g. in Stakhanov), cells were equipped with video surveillance. In the report on the 2005 visit, the CPT requested a copy of the regulations governing the use of such equipment in ITT cells.<sup>18</sup> **The Committee reiterates this request.**

42. Although some of the ITTs visited were holding female detainees, there were no female custodial staff present in the detention areas at the time of the visit. This was clearly felt as an embarrassment by female detainees, some of whom alleged that body searches were carried out by male custodial staff.

The Committee considers that mixed-gender staffing can contribute to improved relations between staff and persons in custody and is a requirement when women are held, so that gender sensitive tasks can always be performed by persons of the same gender. Persons deprived of their liberty should only be searched by staff of the same gender; any search which requires an inmate to undress should be conducted out of the sight of custodial staff of the opposite gender. **The CPT recommends that the Ukrainian authorities employ female staff in detention areas in all ITTs and ensure that at least one female staff member is constantly present whenever female detainees are accommodated.**

43. Material conditions at the Lugansk Reception and Distribution Centre for vagrants were acceptable, except for access to natural light in the cells (due to the small size of the windows). The main problem concerned the lack of activities. Detainees were taken out of their cells for only one to two hours a day, which they spent in a small yard (measuring some 15 m<sup>2</sup>). There was no access to TV, radio or reading matter.

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<sup>18</sup> See paragraph 47 of document CPT (2007) 22.



The CPT recommends that steps be taken at the Lugansk Reception and Distribution Centre for vagrants to:

- **improve access to natural light in the cells;**
- **enlarge the outdoor exercise yard;**
- **provide some form of activity in addition to outdoor exercise (e.g. access to radio, TV, reading matter, board games, work).**

44. The delegation received some complaints from detained persons about transport conditions during transfers between Internal Affairs establishments. At Boryspil Division of Internal Affairs, the delegation had the opportunity to inspect a van used for transporting detained persons. The conditions inside it were unacceptable. The cabin was divided into four individual compartments, measuring some 0.5 m<sup>2</sup> each. **Such a confined space is unsuitable for transporting a person, no matter how short the duration. The CPT recommends that the Ukrainian authorities take steps to review the arrangements for transporting detained persons.**

## **5. Secure ward at Kyiv Emergency Hospital**

45. In the reports on the visits in 1998 and 2005, the CPT recommended that a stop be put to the practice of systematically fixating patients to their beds, the presence of Internal Affairs officers during medical interventions and nursing procedures, and the open carrying of firearms, truncheons and gas canisters by officers in the ward. It became apparent during the 2009 visit that these practices had continued. Detained persons who had very recently been hospitalised in the secure ward indicated that they had been routinely handcuffed to their beds. Further, custodial staff were always present during medical interventions and nursing procedures. It also appeared that Internal Affairs staff continued to carry truncheons, and on occasion, gas canisters and firearms, in the full view of patients.

46. It is high time that the Ministry of Internal Affairs take steps to meet the concerns which had been expressed not only by the CPT but also by the Ministry of Health.<sup>19</sup> **The Committee calls upon the Ukrainian authorities to adopt clear instructions for custodial/escort staff at the secure ward of Kyiv Emergency Hospital with a view to ensuring that:**

- **the practice of handcuffing detainees to hospital beds be discontinued;**
- **medical examinations are conducted out of the hearing and – unless the health-care staff concerned expressly request otherwise in a particular case – out of the sight of non-medical staff;**
- **truncheons are hidden from view – preferably, staff should not carry them at all – and gas canisters and firearms are always deposited in a safe place when staff enter the secure ward.**

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<sup>19</sup> See the response of the Ministry of Health in document CPT/inf (2007) 23.

## **B. Foreign nationals detained under aliens legislation**

### **1. Preliminary remarks**

47. It should be recalled that the State Border Service operates two types of facilities for the detention of foreign nationals: Specially equipped premises (SP), intended for stays of up to 3 days, and Temporary detention facilities (PTT), intended for stays of up to 10 days.

Further, the Ministry of Internal Affairs runs Temporary accommodation centres (PTPs) designed for the detention of foreign nationals for up to six months. Two new PTPs entered into service in Rozsudiv (Chernigiv region) in July 2008 and in Zhuravichi (Volyn' region) in September 2008. At the same time, the CPT is pleased to note that the Pavshino Temporary holding centre, which was criticised by the Committee in the past,<sup>20</sup> was closed down in December 2008.

During the 2009 visit, the delegation was informed that by 2012, the Ukrainian authorities intend to build some 85 new Border Service detention facilities (including in Chop, Mukachevo, Kharkiv and Odessa), as well as additional Internal Affairs facilities for the detention of foreign nationals (in Donetsk, Dnipropetrovsk and Lviv regions). **The CPT would like to receive up-to-date information on the progress of these plans.**

48. It is noteworthy that some detained foreign nationals were kept in Border Service facilities for prolonged periods of time: stays of up to 24 days were noted at the Boryspil Airport SP and stays of up to two months at the Chernigiv PTT. **The CPT reiterates its recommendation that steps be taken to ensure that the legal provisions governing detention by the State Border Service are fully respected in practice.**

49. In the course of the 2009 visit, the delegation heard some allegations that Border guards and Internal Affairs staff had asked detained persons for money in order to arrange their release or provide them with services. **The CPT recommends that the Ukrainian authorities continue to deliver to Border Service and Internal Affairs staff working in establishments for foreign nationals the firm message that abusing their position in order to obtain money from detained foreign nationals will be subject to severe sanctions** (see also paragraph 17).

### **2. Ill-treatment**

50. Foreign nationals interviewed during the 2009 visit indicated that they had generally been treated correctly at the time of their apprehension by law enforcement officials and during detention at the Boryspil Airport SP and Rozsudiv Internal Affairs PTP. At Rozsudiv PTP, the delegation heard some accounts of rude behaviour and racist remarks by certain members of custodial staff towards detained foreign nationals; the delegation nevertheless gained the impression that the management strived to take action whenever such attitudes came to light.

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<sup>20</sup> See, for instance, paragraphs 21-26 of document CPT/Inf (2009) 15.

However, the delegation heard a few allegations of physical ill-treatment of foreign nationals during questioning at the PTT in Chernigiv. The ill-treatment alleged mainly consisted of truncheon blows in order to make detained persons reveal their identity and country of origin.

**The CPT recommends that Border Service staff working at the PTT in Chernigiv be given a firm message, at regular intervals, that any forms of ill-treatment of detained persons will not be tolerated.**

51. Several foreign nationals who had previously been held at the Chernigiv PTT complained about the climate of fear which reigned in this facility. The equipment carried by Border Service staff within the detention area – rubber truncheons, handcuffs, tear gas canisters (*Teren 4M*), rubber bullet guns (*Fort 12 P*) and bullet-proof jackets – contributed to this state of affairs. Border guards interviewed by the delegation stated that it was necessary to carry such devices to have a deterrent and “psychological” effect on detainees. At Boryspil Airport SP and Rozsudiriv Internal Affairs PTP, custodial staff were also openly carrying truncheons and handcuffs within the detention areas. The CPT strongly opposes such a policy, which can increase tension between staff and detainees.

**If it is deemed necessary for custodial staff to carry truncheons and handcuffs in detention areas, the CPT recommends that this equipment be hidden from view. Tear gas canisters and rubber bullet weapons should not form part of the standard equipment of custodial staff and, given the potentially dangerous effect of this substance, tear gas should not be used in confined spaces. If necessary, the relevant regulations should be amended.**

### **3. Safeguards**

52. The CPT must stress once again that the safeguards during detention referred to in paragraph 26 should equally apply to foreign nationals held under aliens legislation, as from the outset of deprivation of liberty. Where necessary, recourse should be had to the services of an interpreter. However, the delegation’s findings during the 2009 visit suggest that there had been no major improvements as regards the implementation of these safeguards.

53. Most detained foreign nationals interviewed by the delegation indicated that, despite repeated requests, they had not been put in a position to inform a relative or another third person of their choice of their situation during the whole period of their detention by Border Service staff. Border Service officers met by the delegation considered that it was up to the relevant diplomatic missions/consulates, which they notified within 12 hours of detention (see paragraph 58), to inform detained persons’ relatives. The CPT does not agree with this approach; the decision of a law enforcement agency to deprive a person of his liberty entails a correlative duty upon this agency to ensure that the person concerned enjoys his rights, including the right to inform his family or other person of his choice of his situation.

By contrast, foreign nationals detained at Rozsudiriv PTP were put in a position to inform promptly family members or another third party of the fact of their detention.

54. Although protocols of detention referred to the right of access to a lawyer, the exercise of this right was seriously restricted in practice. The vast majority of detainees met by the delegation complained that they had been denied access to a lawyer until they had been transferred from a Border Service detention facility to Rozsudiv PTP. At the latter establishment, NGO legal advisors provided legal assistance and information to detainees who had filed asylum applications.

In the report on the 2007 visit, the CPT invited the Ukrainian authorities to develop as soon as possible a fully fledged and properly funded system of legal aid which extends to detained foreign nationals who are not in a position to pay for a lawyer, and which is applicable from the very outset of their deprivation of liberty. During the 2009 visit, the delegation learned that some pilot projects were being developed in this respect. **The CPT would like to receive more information on this issue.**

55. A number of detained foreign nationals indicated that they had benefitted from the services of an interpreter during the initial interview with Border Service officers. However, the delegation received many accounts from detainees that they had had to sign documents they did not understand or that court decisions were read to them without the assistance of an interpreter. During the visit, Border Service and Internal Affairs staff confirmed that it was difficult to provide the services of qualified interpreters in the Chernigiv region, as interpreters generally resided in Kyiv.

56. It appeared during the 2009 visit that efforts had been made to provide detained foreign nationals with written information on their rights and the internal regulations in the establishments visited. However, a number of detainees interviewed complained about the lack of information about their situation (in particular, as regards the reasons for their continued detention after they had agreed to be deported).

57. In the light of the above, **the CPT calls upon the Ukrainian authorities to implement its recommendations made in paragraph 42 of the report on the 2007 visit, and in particular to ensure that all persons held under aliens legislation:**

- **have an effective right, as from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with a law enforcement agency), to inform a relative or a third party of their choice of their situation;**
- **have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings;**
- **receive, when necessary, the assistance of a qualified interpreter.**

Further, **the CPT invites the Ukrainian authorities to redouble their efforts to ensure that foreign nationals held under aliens legislation are fully informed about their situation and the procedure applicable to them.**

58. As regards the risk of ill-treatment after expulsion, the CPT recommended in previous visit reports that the Ukrainian authorities amend the relevant regulations with a view to substantially extending the 12-hour period of time during which consulates or relevant diplomatic missions are to be contacted following the detention of a foreign national. In response, the Ukrainian authorities indicated that consulates or other relevant institutions are not contacted if the detained foreign national concerned applies for refugee status. However, it is clear from the delegation's findings that many potential refugees were not in a position to apply for refugee status within 12 hours. **The CPT must reiterate its recommendation.**

59. During the 2009 visit, the delegation's attention was drawn to the practice of prosecutors obtaining the cancellation of refugee status of some foreign nationals, without a court decision, in order to allow their return to countries where there are substantial grounds for believing that they would run a risk of being subjected to torture or inhuman or degrading treatment or punishment. **The CPT wishes to receive the comments of the Ukrainian authorities on this issue.**

#### **4. Conditions of detention**

##### **a. Internal Affairs Temporary accommodation centre (PTP) in Rozsudiv**

60. With an official capacity of 235 places, at the time of the visit, Rozsudiv PTP was holding 92 foreign nationals, including five women and three children aged from 3 to 20 months. Detained foreign nationals were being held in five separate sections, one of which was accommodating the women and children.

61. The delegation was impressed by the material conditions offered to detained foreign nationals. The bedrooms, which were designed to hold from three to eight persons and measured from 16 to 34 m<sup>2</sup>, were well lit and ventilated, adequately equipped (with beds, table, chairs and wardrobes) and clean. Each section had a sanitary facility with toilets and showers, and detainees were provided with a set of personal hygiene items. Further, there were plans to build a laundry; pending that, clothes and bedding were washed outside the centre.

The delegation received hardly any complaints about food. There were special dietary arrangements for 53 detainees at the time of the visit.

62. As regards the regime, there was an open-door policy and detained foreign nationals had access throughout the day to a spacious outdoor exercise yard, fitted with sports equipment. That said, **the CPT recommends that the outdoor exercise areas be equipped with shelters against inclement weather and means of rest.**

Major efforts had been made to ensure that a range of leisure-time activities is available to detainees (table tennis, TV with many foreign channels, radio, books, board games, etc.). However, there was a lack of structured activities (e.g. language classes, organised sports activities, work, etc.). As indicated in previous visit reports, the longer the period for which persons are detained, the more developed should be the activities which are offered to them. **The CPT invites the Ukrainian authorities to further develop the range of activities offered to detained foreign nationals at the Rozsudiv PTP, as well as in other PTPs in Ukraine.**

b. Border Service holding facilities

63. Boryspil Airport Specially equipped premises (SP) had been renovated in June 2008 and comprised four double-occupancy cells measuring some 10 m<sup>2</sup>. The delegation observed that in-cell lighting was of a good standard and the cell equipment was adequate. Detained foreign nationals had ready access to a toilet and could take a shower every day. In view of the future reconstruction of Boryspil Airport, staff expressed concerns about plans to locate the new facilities in a semi-basement area, which would make it difficult to provide detainees with access to natural light. **The CPT recommends that the Ukrainian authorities ensure that any future detention premises at Boryspil Airport offer appropriate material conditions, including access to natural light.**

The persons interviewed who were, and had recently been, detained at Boryspil Airport SP stated that they had not been offered access to outdoor exercise (apart from walks in a corridor). **The Committee recommends that measures be taken to ensure that foreign nationals detained at Boryspil Airport SP for more than 24 hours have access to at least one hour of daily outdoor exercise. In this context, the future Border Service detention premises at Boryspil Airport should be equipped with an appropriate outdoor exercise area.**

64. In the course of the visit, the delegation was shown the area of the airport transit zone where foreign nationals who are refused entry to the Ukrainian territory may be kept, under the supervision of Boryspil Airport Border Service staff. According to Border guards met by the delegation, foreign nationals were usually kept in the transit area for short periods of time (i.e. a few hours) while awaiting transfer. However, some persons had had to stay there for much longer periods, ranging from several days to some six months in one recent case. Despite efforts made by Border Service staff to meet their basic needs, such persons had apparently been kept in the transit area without proper sleeping arrangements (e.g. sleeping on chairs). **The CPT invites the Ukrainian authorities to take measures to ensure that the basic needs of foreign nationals kept in the Boryspil Airport transit zone for more than 24 hours are met in future. Further, the Committee trusts that Border Service staff will always seek to resolve such cases in full accordance with relevant national and international legal provisions and in co-operation with the competent national and international agencies.**

65. The Temporary detention facility (PTT) in Chernigiv, which entered into service in September 2006, had one single cell of 6.5 m<sup>2</sup>, one double-occupancy cell of 10 m<sup>2</sup> and four cells of 18 m<sup>2</sup> designed to hold four persons each. The cells were well lit, had good ventilation and were equipped with a sink and partitioned toilet. The facility had two showers; however, some foreign nationals alleged that they had been refused access to a shower and had had to wash themselves in the cells. **The CPT recommends that staff receive clear instructions that foreign nationals detained at Chernigiv PTT have regular access to a shower.**

The detention facility had two yards of 30 m<sup>2</sup> each, with a sheltered area and a bench. Detained foreign nationals interviewed indicated that they could spend up to two hours in the yards every day. However, they did not have access to any other forms of activity. **The CPT recommends that some form of activity be introduced for foreign nationals held at Chernigiv PTT (e.g. association, TV/radio, books, etc.).**

## 5. Health care

66. The health-care team at Rozsudiv PTP comprised one doctor, who worked five days a week, four feldshers ensuring 24-hour cover, and two orderlies. One post of a doctor was vacant at the time of the visit. There was no system of regular visits by outside medical specialists, although some ad hoc arrangements had been made in the months preceding the visit. **The CPT invites the Ukrainian authorities to set up a system of regular visits by medical specialists (dentist, paediatrics, psychiatrists, etc.) to better meet the detainees' health-care needs.**

At Boryspil Airport SP and Chernigiv PTT, health care was provided by doctors and feldshers of the Border Service medical centres.

67. In the establishments visited, the medical units had a monthly budget to ensure that basic medication was available. This is a positive development. However, medical staff pointed out that the medication quickly ran out when there were detainees with health problems. **The CPT encourages the Ukrainian authorities to pursue their efforts to ensure that holding facilities for aliens are provided with sufficient financing for purchasing the necessary medication.**

68. At Rozsudiv PTP, detained foreign nationals were subject to medical examinations soon after arrival. An individual medical file was opened for each detainee and kept locked in the medical unit. However, health-care professionals and detainees were often unable to communicate with each other during the examinations; not surprisingly, the medical documentation consulted by the delegation rarely contained detainees' accounts of their health problems or the origin of their injuries.

At the two Border Service establishments visited, the observations recorded by doctors or feldshers during the examination of detained foreign nationals on admission were generally superficial and accessible to non-medical staff.

Further, in all the establishments visited, Border Service or Internal Affairs non-medical staff were routinely present during medical examinations.

**The CPT reiterates the recommendation that steps be taken to ensure that:**

- **the medical examination of detained foreign nationals is performed in a systematic and thorough manner;**
- **all medical examinations are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of non-medical staff;**
- **information concerning detained persons' health is kept in a manner which ensures respect for medical confidentiality; naturally, health-care staff may inform custodial officers on a need-to-know basis about the state of health of a detained person, including medication being taken and particular health risks.**

Further, **the Committee recommends that steps be taken at Border Service detention facilities to improve the recording of medical data. In particular, the relevant medical documentation should contain diagnostic information as well as an ongoing record of the person's state of health and of his treatment, including any special examinations he has undergone.**

## 6. Other issues

69. The CPT notes with satisfaction that a series of staff training sessions were organised for both Internal Affairs and Border Service officers working in holding facilities for aliens. That said, many detainees met by the delegation complained of the lack of communication with staff, mainly due to language barriers, and the delegation observed for itself that staff-detainee relations were very limited.

The Committee must stress again that the existence of positive relations between staff and detainees, based on the notions of dynamic security and care, will depend to a great extent on staff possessing appropriate interpersonal communication skills. Staff should be familiar with the various cultures of the detainees and at least some of them should have relevant language skills. **The CPT recommends that the Ukrainian authorities further develop specialised training programmes for Border Service and Internal Affairs staff assigned to work in holding facilities for aliens. In this context, greater communication between staff and detainees should be encouraged.**

70. As regards possibilities for contact with the outside world, detainees were entitled to one free three-minute phone call per month at Rozsudiv PTP and were allowed to keep their own mobile phones (provided they were not equipped with video/photo devices). Further, they could receive visits. However, all visits took place under closed conditions (in booths with plexiglas partition). The CPT acknowledges that it may be necessary for certain detainees to be subject to restrictions over the manner in which visits take place. However, visits under open conditions should be the rule and visits through a glass partition the exception. **The CPT recommends that steps be taken to ensure that the imposition of visits under closed conditions is based on an individual risk assessment at Rozsudiv PTP, as well as in other Internal Affairs detention facilities for foreign nationals in Ukraine.**

In both Border Service holding facilities visited, foreign nationals interviewed claimed that they had generally been denied visits and phone calls (even when they offered to pay for the calls themselves). **The CPT recommends that the Ukrainian authorities review the policy in Border Service holding facilities in order to ensure that persons held under aliens legislation are allowed visits and have access to a telephone.**

71. Concerning discipline and segregation, foreign nationals detained in PTPs may be subjected to disciplinary sanctions (warning, reprimand) if they violate the establishment's internal regulations. If a detained foreign national is considered to display problematic behaviour (e.g. represents an escape risk, is violent), he may be segregated for up to 15 days, extendable to up to 30 days.<sup>21</sup>

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<sup>21</sup> See Order No. 390 of the Ministry of Internal Affairs of 16 October 2007.



The CPT's delegation did not find any evidence of excessive resort to disciplinary sanctions or segregation measures at Rozsudiriv PTP. Detained foreign nationals interviewed indicated that they had been heard by the management before a segregation measure was taken. However, they had not received a copy of the decision and had had no possibility to contest it before an outside authority.

Rooms in the establishment's segregation unit were spacious (e.g. 9 m<sup>2</sup> for a single room, 16 m<sup>2</sup> for a double-occupancy room), well lit and adequately equipped (including with a call bell). The segregation unit also had a shower facility. However, detainees who had been placed in segregation complained that they had not been allowed to take a shower during their two-week stay in the unit. As regards the regime in the segregation unit, apart from 45 minutes of daily outdoor exercise (which was taken in cages measuring some 20 m<sup>2</sup>), detainees were locked up in their rooms, with nothing to occupy their time, and were not allowed to lie down from 6 a.m. to 10 p.m.

**The CPT recommends that steps be taken at Rozsudiriv PTP to:**

- **provide foreign nationals subject to a segregation measure with a copy of the relevant decision and information on the possibilities to appeal the measure to an outside authority;**
- **guarantee regular access to a shower for foreign nationals held in segregation;**
- **review the regime of foreign nationals subject to a segregation measure. In particular, steps should be taken to ensure that they have access to an adequately equipped outdoor exercise yard for at least one hour a day, as well as to reading matter.**

72. In the report on the 2007 visit, the CPT invited the Ukrainian authorities to further develop the monitoring of holding facilities for aliens by independent outside bodies. During the 2009 visit, the delegation noted that a local NGO carried out regular visits to Rozsudiriv PTP, had private interviews with detained foreign nationals and was entitled to examine their personal files. That said, Boryspil Airport SP and Cherniv Border Service PTT were apparently not visited by NGOs.

**The CPT recommends that the Ukrainian authorities pursue their efforts to develop independent monitoring of Border Service and Internal Affairs holding facilities for aliens (see also paragraph 34).**

C. Establishments under the authority of the State Department on Enforcement of Sentences

1. Preliminary remarks

73. The delegation visited for the first time the SIZO in Kyiv, Colony No. 89 in Dnipropetrovsk and Colony No. 60 in Lozivske, and paid a follow-up visit to Colony No. 85 in Gostomel. Further, it carried out a targeted visit to the SIZO in Dnipropetrovsk, where it focused on newly arrived prisoners and life-sentenced inmates. The delegation also went to the SIZO in Lugansk in order to interview prisoners who had recently been detained by Internal Affairs structures.

74. At the time of the 2009 visit, the total number of prisoners in Ukraine stood at 145,000 (including 36,000 on remand), compared to some 178,000 at the time of the 2005 visit. Thus, the positive trend towards a reduction of the prison population already noted in the report on the 2005 visit continues. That said, overcrowding persists in remand establishments, the ones in Kyiv, Kherson, Crimea, Odessa and Kirovograd being cited as the most problematic. The delegation observed for itself that the overcrowding was particularly acute in the Kyiv SIZO, where there was some 1 m<sup>2</sup> of space per prisoner in certain cells, with inmates sharing beds or sleeping on the floor (see paragraph 101).

There was general agreement among the delegation's interlocutors that the current length of court proceedings in criminal cases, combined with excessive recourse to the preventive measure of remand in custody, was to blame for the high number of remand prisoners and the consequent overcrowding. At the SIZO in Kyiv, 188 remand prisoners had been held for over two years, including seven inmates who had spent almost 7 years on remand.

The delegation was informed of various measures planned to relieve the problem of overcrowding in remand prisons. In particular, it was proposed to introduce a 9-month limit on the duration of court proceedings and to reduce the number of sections of the Criminal Code (CC) which provide for imprisonment of over 3 years (this being one of the conditions for the imposition of the preventive measure of remand in custody). As a result of these measures, it was hoped to reduce the number of remand prisoners by some 7,500.

75. Attacking the roots of the problem of overcrowding will require the reconsideration of existing law and practice in relation to custody pending trial. In particular, steps should be taken to ensure that the preventive measure of remand in custody is applied to persons facing criminal charges only when this is really necessary. Further, it is axiomatic that any person remanded in custody should not remain subject to that measure for longer than is strictly necessary. **The Committee recommends that the examination of the above-mentioned proposals to amend the CCP and CC be considered a priority, the aim being to shorten the length of court proceedings in criminal cases and to circumscribe more closely the circumstances in which recourse can be had to the preventive measure of remand in custody. Further, efforts should be made to develop the training provided to judges and prosecutors, with a view to promoting the use of alternatives to imprisonment.**

**In their endeavours to combat prison overcrowding, the Ukrainian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole) and Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.**

**The CPT also reiterates its recommendation that the Ukrainian authorities review as soon as possible the norms fixed by legislation for living space per prisoner, ensuring that they provide for at least 4 m<sup>2</sup> per inmate in multi-occupancy cells in all the establishments under the authority of the Department on Enforcement of Sentences (SIZOs included).**

76. The situation as regards the provision of organised activities (work, training, education, sports, etc.) to inmates in the prison establishments visited was unsatisfactory. As regards in particular remand prisoners, the almost total lack of activities aggravated the experience of imprisonment and rendered it more punitive than the regime for sentenced persons. Taken together with the restrictions on contact with the outside world and association, this produced a regime which was oppressive and stultifying.

The State Department on Enforcement of Sentences informed the delegation of efforts made to improve the situation, in particular the setting up of schools at all penitentiary facilities, the development of vocational training and the possibility to obtain University degrees by correspondence courses. **The CPT calls upon the Ukrainian authorities to step up their efforts to develop the programmes of activities for sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature.**

## **2. Torture and other forms of ill-treatment**

77. The vast majority of prisoners interviewed at the Kyiv SIZO, Colony No. 60 in Lozivske and Colony No. 85 in Gostomel made no allegations of deliberate physical ill-treatment by staff. Further, during the targeted visits to the SIZOs in Dnipropetrovsk and Lugansk, the prisoners interviewed by the delegation did not make any allegations about ill-treatment by staff working at those establishments. This is a positive reflection on the personnel working at these establishments. The improvement in the situation at Colony No. 85, which had previously been visited by the CPT in 1999 and 2000, is particularly noteworthy.<sup>22</sup>

That said, at the *Kyiv SIZO*, there were indications that, in a few cases, the use of “special means” may have been disproportionate and misused as a form of punishment. Further, at the latter establishment, the delegation heard an allegation that prisoners were beaten during a cell search. As regards *Colonies Nos. 60 and 85*, there were isolated allegations of prisoners being punched and kicked by prison officers, in particular while being taken to the disciplinary unit (DIZO).

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<sup>22</sup> At the time of the 1999 visit, the CPT’s delegation had received widespread allegations of ill-treatment by members of a special-purpose detachment (*spetsnaz*).

**The CPT recommends that the management of the Kyiv SIZO, Colony No. 60 in Lozivske and Colony No. 85 in Gostomel continue to deliver to custodial staff the clear message that the ill-treatment of inmates is not acceptable and will be dealt with severely.**

78. In stark contrast to the above-mentioned establishments, at *Colony No. 89 in Dnipropetrovsk*, the delegation received numerous, consistent allegations of physical ill-treatment of inmates by staff. Some of the alleged ill-treatment was of such severity that it could be considered as amounting to torture. The ill-treatment was said to have taken place in offices of operational staff or in the high-security unit, containing the disciplinary section (DIZO/PKT), lifers' cells and "*tyurma*" cells.<sup>23</sup> It appeared that the ill-treatment was known to and condoned by senior prison officials. It is also noteworthy that some inmates with whom the delegation spoke stated that staff had threatened them with repercussions after the visit (see paragraph 5).

A number of prisoners alleged that in the course of being questioned about suspected offences (e.g. possession of a mobile phone, having had a fight with another prisoner), they had been hit with truncheons and wooden mallets by operational officers and other members of staff; in some cases, allegations were also made of the application of electric shock and/or asphyxiation using a plastic bag or a gas mask, with cigarette smoke being poured through the mask's tube. It was also alleged that enemas and aperients had been used, with the assistance of health-care staff, when a prisoner was suspected to have hidden a mobile phone internally. As regards the high-security unit, it was alleged that prisoners were being made to stand spread-eagled facing the wall, and hit with truncheons, usually in the exercise yard. Some allegations, dating back to September/October 2008, were also heard of ill-treatment by members of a special-purpose detachment (*spetsnaz*) which had been called in to conduct cell searches.

79. As indicated in paragraph 7, the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention and requested the Ukrainian authorities to carry out without delay, at the national level, an independent, thorough and comprehensive inquiry into the treatment of prisoners at Colony No. 89. On this occasion, the delegation also stressed that any kind of intimidating or retaliatory action against a person before or after he has spoken to a CPT delegation would be totally incompatible with the obligations of Parties to the Convention.

80. By letter of 2 February 2010, the Ukrainian authorities informed the CPT that following an inquiry carried out by the Dnipropetrovsk Regional Prosecutors' Office from 21 to 30 September 2009, it had been decided not to institute criminal proceedings in respect of two junior inspectors from the security and patrol unit of Colony No. 89, since their actions did not constitute crimes under Sections 127 and 365 of Criminal Code. That said, on 15 October 2009, the two staff members concerned were dismissed because the inquiry had found indications of "untactful treatment" of prisoners. At the same time, a commission from the State Department on Enforcement of Sentences had carried out an in-service inquiry, focusing on eliminating ill-treatment and improving the work of the operational service at the establishment. As a result of this inquiry, a plan of measures had been drawn up. Further, by order of the Head of the Dnipropetrovsk Regional Division issued on 20 September 2009, administrative proceedings had been opened in respect of 13 senior officers working at Colony No. 89.

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<sup>23</sup> For more details on prisoners held in "*tyurma*" cells, see section II.C.4.

The steps taken by the Ukrainian authorities are not commensurate with the seriousness of the CPT's concerns about the manner in which prisoners are treated by staff at Colony No. 89 and the management's apparent condoning of ill-treatment. In the Committee's opinion, the inquiry should have been carried out at the national (rather than regional) level, particular care being taken to ensure that it is independent and impartial and fully meets the basic requirements of an "effective" investigation, as established through the case-law of the European Court of Human Rights. **The CPT would like to receive, within one month, detailed information on the precise actions taken by the Prosecutor's Office which led to the above-mentioned conclusion and refusal to institute criminal proceedings (in particular, interviews with alleged victims and witnesses, alleged culprits, medical staff; any medical examinations carried out, etc.).**

**Further, the Committee would like to be informed of the outcome of the administrative proceedings opened on 20 September 2009.**

Moreover, **the Committee recommends that the administration and staff of Colony No. 89 in Dnipropetrovsk be given a firm and clear reminder that ill-treatment, in any form, is unacceptable and that any member of staff committing, aiding and abetting or tolerating such abuses will be severely punished.**

81. The prisoners' situation at Colony No. 89 was exacerbated by the perceived impossibility to complain in a confidential manner to outside bodies without facing the risk of repercussions (see also paragraph 155). Many prisoners indicated that their attempts to complain to outside bodies had led to retaliatory measures, including ill-treatment.

**The CPT recommends that prison staff at Colony No. 89 in Dnipropetrovsk receive the clear message that any kind of threats or intimidating action against a prisoner who has complained or any attempts to prevent complaints or requests from reaching the relevant supervisory bodies will not be tolerated.**

82. According to the management of Colony No. 89, there had been no cases of the use of "special means" (i.e. truncheons, handcuffs, tear gas, etc.) in 2009, save for one application of handcuffs. There was no dedicated register for recording the use of "special means" and the delegation was told that such information would normally be entered in the on-duty officers' report.

In any prison system, prison staff may on occasion have to use force to control violent and/or recalcitrant prisoners. These are clearly high risk situations insofar as the possible ill-treatment of prisoners is concerned, and as such call for specific safeguards. In particular, a record should be kept of every instance of the use of force or "special means" against prisoners. Moreover, physical force and "special means" should never be applied as a punishment. A prisoner against whom any means of force have been used should have the right to be immediately examined and, if necessary, treated by a medical doctor. The results of the examination (including any relevant statements by the prisoner and the doctor's conclusions) should be formally recorded and made available to the prisoner, who in addition should be enabled to undergo a forensic medical examination. Further, it is important that bodies with the power to inspect and investigate be systematically notified of any use of force and "special means" by prison staff and be particularly vigilant when examining such cases.

**The CPT recommends that the Ukrainian authorities take steps to bring practice into line with the above requirements. A specific register recording the use of “special means” should be set up at Colony No. 89 in Dnipropetrovsk (as well as at other penitentiary establishments where such a register does not already exist). It is also important to ensure that supervising prosecutors and the State Department on Enforcement of Sentences are systematically notified in writing of any use of physical force and “special means” by prison staff and are particularly vigilant when examining such cases.**

83. According to information provided by the Prosecutor General’s Office at the time of the visit, in the course of 2008 and 2009, two criminal cases had been initiated pursuant to Section 365 of the CC (excess of authority or official powers) against prison officers who had inflicted serious injuries on inmates.

In order to obtain a nationwide overview of the situation concerning the treatment of prisoners by prison staff, **the CPT would like to receive the following information for 2008 and 2009 in respect of all penitentiary establishments in Ukraine:**

- **the number of complaints of ill-treatment lodged against prison staff;**
- **an account of disciplinary and/or criminal proceedings initiated and sanctions imposed.**

**In this context, the Committee would also like to receive detailed information on the complaints and disciplinary procedures in respect of prison staff, including the safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution.**

84. In the report on the visit in 2005, the CPT highlighted the important contribution which prison health-care staff can make to the prevention of ill-treatment, and recommended improvements to the procedure followed by health-care staff when physical force has been used against prisoners. The delegation’s observations from the 2009 visit suggest that the approach followed in this respect remains unsatisfactory. A “register of traumatic lesions” was kept by the health-care services of the establishments visited. However, these registers contained very brief descriptions, with no mention of the alleged origin of the injuries and no conclusions by the doctor on the compatibility of these injuries with any statements made by prisoners. As regards in particular the register kept at Colony No. 89 in Dnipropetrovsk, it contained only 5 entries in 2009. In this context, the delegation was particularly concerned by the fact that the head doctor of the colony’s medical unit appeared unaware of the problem of ill-treatment (“no one has ever complained regarding staff using force”) and did not seem to consider it his task to report such matters to the competent authorities.

Further, although doctors in the establishments visited told the delegation that screening for injuries was performed in a confidential manner (i.e. without the presence of non-medical staff), this was denied by most of the prisoners with whom the delegation spoke.

The CPT reiterates its long-standing recommendation that steps be taken to ensure that the health-care services of the establishments visited, as well as in the Ukrainian penitentiary system in general, perform a thorough and systematic screening of prisoners for injuries, both on admission and, when appropriate, during imprisonment. Screening should take place out of the hearing and – save if the doctor expressly requests otherwise in a particular case – out of the sight of non-medical staff. As already stressed in the past, the medical record drawn up after such a screening should contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available without delay to the prisoner and his lawyer.

The CPT also recommends that prison doctors be reminded that it is their duty to report to the prison administration and to the competent prosecutor any cases of ill-treatment of which they are aware; the doctors (and the inmates concerned) should not be exposed to any form of reprisals from the prison administration if they fulfil that duty. Further, the Ukrainian authorities should give a clear message to prison doctors and prison directors that the doctors' professional independence and medical ethics take precedence over their administrative subordination to the establishment's management.

85. During the 2009 visit, the delegation observed that prison staff in the establishments visited carried truncheons, and sometimes also tear gas canisters and handcuffs, within the prisoner accommodation areas in the full view of inmates. **The CPT recommends that steps be taken to end the practice of prison staff openly carrying such equipment within detention areas. If it is deemed necessary for staff to be armed with truncheons, they should be hidden from view. Further, tear gas canisters should not be part of prison staff's standard equipment and should not be used in a confined area.**

86. The CPT regrets that a number of anachronistic and potentially degrading practices persist in the Ukrainian penitentiary system. In particular, inmates in high-security units are obliged to spread-eagle themselves and call out their offences every time the cell door opens (see paragraph 91). **The CPT calls upon the Ukrainian authorities to put an end to such practices.**

### 3. Prisoners sentenced to life imprisonment

87. The 2009 visit provided an opportunity to review the situation of prisoners sentenced to life imprisonment. Colony No. 60 and Colony No. 89 were holding 71 and 58 such inmates respectively. Further, the Dnipropetrovsk and Kyiv SIZOs were accommodating 26 and 41 lifers at various stages of appeal processes.

88. Material conditions of detention in the lifers' unit at Colony No. 60 were generally good. In particular, the cells' occupancy levels were adequate (e.g. two prisoners in a cell of some 10 m<sup>2</sup>; three inmates in a cell of 16 m<sup>2</sup>), a differentiated day/night lighting system had been installed, and the cells were appropriately equipped (with beds, chairs, a table, fridge and partitioned toilet). Conditions were also acceptable in the lifers' cells of the Dnipropetrovsk and Kyiv SIZOs; that said, the occupancy levels in the cells were too high (e.g. three inmates in cells measuring some 10 m<sup>2</sup>).

The worst conditions were seen at Colony No. 89 where some cells accommodating two persons measured a mere 5 m<sup>2</sup> and a number of cells were too narrow (less than 2 m between the walls). Further, several cells were in bad state of repair (e.g. signs of dampness on the ceiling).

In Colonies Nos. 60 and 89, cell windows were fitted with frosted glass, only a small pane at a top corner of the windows being transparent; as a result, access to natural light and ventilation was limited, and lifers could not see outside their cells, which generated an oppressive effect.

Life-sentenced prisoners were provided with some basic personal hygiene items. As regards access to a shower, it was limited to once a week, as was the case for prisoners in general in the establishments visited.

89. **The CPT recommends that the Ukrainian authorities take urgent measures to:**

- **ensure that there is at least 4 m<sup>2</sup> of living space per life-sentenced prisoner in multi-occupancy cells at the Kyiv SIZO and Colony No. 89;**
- **withdraw from service or enlarge the cells measuring less than 6 m<sup>2</sup> at Colony No. 89, and ensure that all cells have at least 2 metres between the walls;**
- **improve access to natural light and ventilation in the cells for life-sentenced prisoners at Colonies Nos. 60 and 89. The design of the cell windows should be reviewed so as to allow inmates to see outside their cells.**

More generally, **the Committee recommends that the Ukrainian authorities consider the possibility of increasing the frequency of prisoners' access to a shower in the establishments visited, as well as in other penitentiary establishments in Ukraine, taking into consideration Rule 19.4 of the European Prison Rules.**<sup>24</sup>

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<sup>24</sup> Rule 19.4 of the European Prison Rules states: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene."



90. It is of great concern to the CPT that no progress was observed during the 2009 visit as regards the regime of activities offered to life-sentenced prisoners. These inmates spent 23 hours a day in their cells in a state of enforced idleness, their main activity being watching TV and reading books. Further, the exercise yards to which they had access one hour every day were of an oppressive design and too small for real physical exertion (e.g. some 9 m<sup>2</sup> at Colony No. 60; about 16 m<sup>2</sup> at Colony No. 89). **The CPT calls upon the Ukrainian authorities to develop a programme of purposeful activities for prisoners sentenced to life imprisonment (including work, education, association, sports and cultural activities, as well as targeted rehabilitation programmes).** Further, **the Committee recommends that steps be taken to enlarge the exercise yards at Colonies Nos. 60 and 89 so as to allow life-sentenced prisoners to exert themselves physically (as regards life-sentenced prisoners held in the Kyiv SIZO, reference is made to the second recommendation in paragraph 107).**

91. The security measures applied to lifers remained grossly excessive. As was the case in the past, lifers were systematically handcuffed whenever they were taken out of their cells. In addition, in the colonies visited, an unmuzzled dog was present in the corridor whenever a lifer was taken out of his cell. These excessive security arrangements created challenges for prison staff in enabling the delegation to carry out its task effectively (as regards interviews in private). Further, lifers were moved to a different cell every ten days.

Not surprisingly, staff-inmate relations in the lifers' units were reduced to the strict minimum. Staff working with lifers (e.g. psychologist, priest) were only allowed to talk to them through a hatch in the cell door or in an interview room where the prisoner was locked inside a cage. Further, at Colony No. 60, the very detailed accounts of the manner in which lifers had committed their crimes, which were conspicuously posted in the detention areas, were not only stigmatising, but also had the effect of damaging staff-prisoner relations.

In the CPT's view, much more reliance needs to be placed on dynamic security; in the interests of both staff and prisoners, the aim should be to build positive relations between staff and inmates. The practice of talking to prisoners through a hatch in the cell door or through a cage is counter-productive, and infringes upon the dignity of both staff and the prisoners concerned. Clearly, cages for holding lifers have no place in an interview room; rooms should be designed in such a way as to limit security risks.

**The CPT calls upon the Ukrainian authorities to review the security arrangements for life-sentenced prisoners, in the light of the above remarks. Steps should be taken in particular to ensure that:**

- **the handcuffing of life-sentenced prisoners when outside their cells is always based on an individual risk assessment;**
- **the dangerous and intimidating practice of having dogs within detention areas whenever life-sentenced prisoners are taken out of their cells is stopped without delay.**

Further, while acknowledging that operational considerations might exceptionally require the moving of life-sentenced prisoners to different cells, **the Committee must stress that it is desirable to minimise, as much as possible, the uprooting of prisoners.**

92. As regards possibilities for contact with the outside world, the CPT considers that special efforts should be made to prevent the breakdown of family ties of prisoners serving life sentences. Ukrainian legislation continues to impose severe restrictions on the visiting entitlement of life-sentenced prisoners.<sup>25</sup> This approach runs counter to the generally accepted principle that offenders, whatever the crimes for which they have been sentenced, are sent to prison as a punishment, not to receive punishment.

Lifers' visits took place in secure booths with a glass partition, which allowed no physical contact between inmates and their visitors. In addition, some lifers at Colony No. 89 indicated that they remained handcuffed during visits. As the CPT has indicated in the past, to be handcuffed when receiving a visit could certainly be considered as degrading for both the prisoner concerned and his visitors. Further, life-sentenced prisoners had no access to a telephone.

**The CPT calls upon the Ukrainian authorities to increase substantially the visit entitlement of life-sentenced prisoners. As a general rule, visits should take place in open conditions (e.g. around a table), visits through a partition being the exception. Further, life-sentenced prisoners should only be prohibited from receiving long-term visits on the basis of an individual risk assessment. In addition, staff must receive clear instructions that life-sentenced prisoners should not be kept in handcuffs during visits. Steps should also be taken to ensure that life-sentenced prisoners have access to a telephone.**

The delegation was informed that, as a rule, lifers had to serve their sentence in regions other than that of their origin. This made the maintenance of family contact even more difficult. **The Committee would like to receive the comments of the Ukrainian authorities on this issue.**

93. More generally, during the 2009 visit, the delegation was informed of proposals to amend the legislation with a view to improving the situation of life-sentenced prisoners (e.g. increasing their visit entitlement, enabling their transfer to the mainstream prison population after serving 10 years of their sentence). However, there was reportedly political resistance to these proposals. **The CPT urges the Ukrainian authorities to pursue these legislative proposals without further delay.**

In this context, the CPT must stress that it can see no justification for systematically segregating lifers.<sup>26</sup> Reference should be made in this regard to the Council of Europe's Committee of Ministers' Recommendation (2003) 23 of 9 October 2003 on the management by prison administrations of life-sentence and other long-term prisoners and the report accompanying the recommendation, which recalls that the assumption is often wrongly made that the fact of a life-sentence implies that a prisoner is dangerous. The placement of persons sentenced to life imprisonment should therefore be the result of a comprehensive and ongoing risk and needs assessment, based on an individualised sentence plan, and not merely a result of their sentence. **The CPT recommends that the Ukrainian authorities review the legislation and practice as regards the segregation of life-sentenced prisoners, in the light of the above remarks.**

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<sup>25</sup> Pursuant to Section 151 (5) of the Code on Enforcement of Sentences, prisoners sentenced to life imprisonment are not entitled to receive long-term visits, and the entitlement of short-term visits is one visit every six months. As regards phone calls, they are entitled to four phone calls a year, as for other categories of inmate (see also paragraph 153).

<sup>26</sup> Section 150 (2) of the Code on Enforcement of Sentences provides that life-sentenced prisoners are to be kept apart from other inmates.

#### 4. Prisoners held in special conditions of high security or control

94. At Colonies Nos. 60 and 89, 120 and 31 prisoners were subjected to a strict cellular regime on account of the gravity of their sentences (prisoners held in special conditions of high security) or their negative attitude (prisoners segregated in an “enhanced control unit”<sup>27</sup>). Both categories of inmate were accommodated in sections referred to as “*tyurma*”. Colony No. 85 was also holding 37 inmates in conditions of enhanced control.

95. As regards placement, Section 140 of the Code on Enforcement of Sentences provides that prisoners sentenced for particularly serious crimes and certain repeat offenders held in maximum-security conditions should also be subjected to a strict cellular regime. After having served at least a quarter of their sentence, the inmates concerned may re-integrate into the mainstream population on condition of good behaviour.<sup>28</sup>

The CPT considers that the placement of prisoners in special conditions of high security should not be merely a result of prisoners’ sentences. In the great majority of cases, such a placement should be decided by the prison authorities after a period of accommodation in a normal location and, in all cases, on the basis of a thorough risk and needs assessment, linked to an individualised sentence plan. The prisoners concerned should have the right to contest the decision on placement in conditions of high security before an independent authority (e.g. a court). **The Committee recommends that the relevant legal provisions be amended accordingly.**

96. As regards prisoners placed under conditions of enhanced control, the decision on placement was taken by the establishment’s director, upon the proposal of the head of the social and psychological department and with the approval of an internal commission. The application of the measure was reviewed every three months and was of an unlimited duration.

A large number of the prisoners interviewed by the delegation were subject to this regime for extensive periods of time (e.g. several years) and did not see any prospect of being moved back to a normal location. Some saw their continued placement as a retaliation measure for having made complaints. Most prisoners stated that they had not been heard before the relevant decisions had been taken and had not been informed in writing of the reasons for their placement in conditions of enhanced control. It also appeared during the visit that certain inmates had been placed in such conditions on account of their mental disorder.

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<sup>27</sup> Дільниця посиленого контролю (ДПК).

<sup>28</sup> See Section 100 and 101 (1) of the Code on Enforcement of Sentences.

The Committee must stress that placement in conditions of enhanced control should not be a purely passive response to the prisoner's attitude and behaviour. Instead, reviews of placement should be objective and meaningful, and form part of a positive process designed to address the prisoner's problems and permit his (re-)integration into the mainstream prison population. The prisoner concerned should always be offered the opportunity to express his views on the matter and should be informed in writing of the reasons for the measure and, if necessary, its renewal (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security); this should, *inter alia*, enable him to make effective use of avenues for challenging that measure before an independent authority. Further, placement in conditions of enhanced control should not be imposed for any longer than is necessary in each individual case. Moreover, the CPT must stress that placing inmates with mental disorders in such conditions for prolonged periods amounts to a denial of adequate care; where necessary, such persons should be transferred to specialised facilities. **The Committee recommends that the Ukrainian authorities review the procedure for placement in conditions of enhanced control, in the light of the above remarks.**

97. Efforts were being made at Colonies Nos. 60 and 85 to offer prisoners held in special conditions of high security or control acceptable material conditions of detention. Most cells seen by the delegation were sufficiently lit, ventilated and adequately equipped (with beds, table, chairs, fridge, partitioned toilet). That said, the occupancy levels were too high (e.g. nine inmates in a cell of 33 m<sup>2</sup> at Colony No. 60; four prisoners in a cell of 13 m<sup>2</sup> at Colony No. 85). **The CPT encourages the Ukrainian authorities to pursue their efforts to improve material conditions in the cells for inmates subject to especially high security arrangements or enhanced control in Colonies Nos. 60 and 85. Steps must be taken to reduce the occupancy levels in the cells, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells.**

By contrast, the cells at Colony No. 89 displayed similar shortcomings to those observed in the cells for lifers: some cells measured less than 6 m<sup>2</sup>, in-cell lighting and ventilation left much to be desired, and a number of cells were in a poor state of repair. **The second and third recommendations made in paragraph 89 apply equally to the cells at Colony No. 89 for prisoners held in special conditions of high security or control.**

98. Turning to the regime of activities, the delegation observed that prisoners held in special conditions of high security or control were locked up in their cells for 23 hours a day, save for one hour of outdoor exercise. Their only occupation consisted of reading books or watching TV. This situation was at variance with the provisions of the Code on Enforcement of Sentences.<sup>29</sup>

The CPT considers that the paucity of the above-described regime of activities is not a suitable way to respond to problematic behaviour in prison, to allow safe progress towards release and to reduce the risk of re-offending after release. It is crucial that the prisoners concerned are provided with tailored activity programmes and enjoy a relatively relaxed regime within the confines of their detention units.

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<sup>29</sup> Pursuant to Section 97 of the Code on Enforcement of Sentences, a special individualised programme of an educational, psychotherapeutic and psycho-correctional nature should be drawn up with a view to re-integrating prisoners held in conditions of enhanced control into the mainstream prison population.

**The Committee recommends that a programme of purposeful activities of a varied nature (including work, education, association and targeted rehabilitation programmes) be offered to prisoners held in special conditions of high security or control. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a qualified psychologist and an educator), in consultation with the inmates concerned.**

99. As regards contact with the outside world, prisoners held in special conditions of high security or control had the same entitlements as the mainstream prison population (see paragraph 153).

## **5. Conditions of detention of the general prison population**

### **a. pre-trial establishments (SIZOs)**

#### *i) the SIZO in Kyiv*

100. The SIZO in Kyiv occupies a complex of buildings in one of the central areas of Kyiv. Some of the detention buildings had been constructed some 140 years previously. Three smaller, more recent blocks provided accommodation for sentenced working prisoners, women and juveniles. A new block for women was in the process of construction, but that process had virtually been halted due to lack of resources.

With an official capacity of 2,950 places,<sup>30</sup> on 8 September 2009 the establishment was holding 3,440 inmates, including 217 women and 69 juveniles. The vast majority of the inmate population was on remand.<sup>31</sup> The establishment was also holding 297 inmates awaiting the outcome of their appeal (including 41 life-sentenced prisoners), 93 prisoners in transit and 100 sentenced inmates assigned to work in the prison's general services and maintenance. Further, there were 11 inmates who had been subject to forensic psychiatric assessment and who were awaiting a final decision concerning their criminal responsibility. The prisoner population comprised 210 foreign national prisoners (of whom 170 were from countries of the Commonwealth of Independent States).

Since 2001, following amendments to the CC, a section referred to as an "arrest house" had been set up for first-time offenders serving sentences of up to 6 months.

101. The vast majority of the cells holding male prisoners were seriously overcrowded (for example, 52 prisoners in a cell measuring some 50 m<sup>2</sup> and containing 40 beds; 32 prisoners in a cell measuring 33 m<sup>2</sup> and containing 20 beds). In some cells, the number of prisoners exceeded the number of beds available, and inmates took turns to sleep on the available beds or slept on the floor. The cells were packed with double bunk-beds, leaving very little space for any other furniture. In some cells, there were TV sets which belonged to the occupants.

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<sup>30</sup> The number of places was said to be 2,250 if the rule that 10% of cells undergo refurbishment at any given time is observed.

<sup>31</sup> 663 at the stage of investigation, 1,372 indicted and 915 defendants (i.e. at the stage of court proceedings).

Because of the human mass, ventilation was almost non-existent and the cells were very hot and stuffy. The level of hygiene was also highly unsatisfactory: in some cells the delegation saw cockroaches, and prisoners also referred to the presence of mice and rats. The in-cell sanitary installations (a partitioned toilet and sink) were generally in a decrepit state and were clearly not sufficient for the numbers of inmates held in the larger cells.

The negative consequences of the deplorable material conditions described above were compounded by the fact that some prisoners had spent lengthy periods of time at the SIZO (see paragraph 74). In the CPT's view, the combination of negative factors to which a large number of prisoners were subjected at the Kyiv SIZO (overcrowding, appalling material conditions and levels of hygiene, and practically non-existent activity programmes) could easily be described as inhuman and degrading treatment.

102. The basement of the men's detention block contained eight cells to which prisoners about to be transferred to other establishments were moved on the day of the transfer. The delegation saw 14 prisoners in a cell measuring 7 m<sup>2</sup> and equipped with benches along the walls; they complained that they had spent some 4 hours in the cell without being allowed to go to the toilet. Further, there were a number of cells for inmates transiting through the SIZO. These cells were dark, badly ventilated, overcrowded (e.g. 13 prisoners in a cell measuring 25 m<sup>2</sup>), damp and dilapidated.

The delegation saw 18 waiting cells, referred to as "boxes", which measured some 4 m<sup>2</sup> each, were equipped with small benches, had no access to natural light and were poorly ventilated. Prisoners alleged that they had been kept for up to 8 hours in such "boxes", without access to a toilet and no food provision.

It is also noteworthy that the seven cells in the "arrest house" had metal shutters attached to the windows which severely restricted access to natural light and fresh air. The delegation requested that these shutters be removed and was assured that this would be done without delay. By letter of 2 February 2010, the Ukrainian authorities confirmed that all the shutters had been removed from cell windows in the "arrest house" of the Kyiv SIZO. The CPT welcomes this step.

103. Material conditions prevailing in the section for women were somewhat better. In particular, the cells were less overcrowded (e.g. 6 inmates in a cell measuring 8 m<sup>2</sup>; 16 prisoners in a cell measuring 27 m<sup>2</sup>). The cells had good access to natural light, but ventilation was inadequate and prisoners complained that in the summer the cells became very hot. The in-cell sanitary annexes were fully partitioned and had both cold and hot water taps. Some of the cells had been decorated by the inmates themselves and gave a homely impression.

Conditions of detention in the section for juveniles were generally good. Living space in the cells was more generous (e.g. 5 juveniles in a cell measuring 27 m<sup>2</sup>), access to natural light, artificial lighting and ventilation were adequate, and the sanitary annexes were in a good state of repair.

104. The section for sentenced working prisoners provided the best conditions of detention in comparison with the other sections. The dormitories were adequately lit, well ventilated and clean. They were suitably furnished (beds, tables and chairs or stools, some shelves and lockers) and inmates could have their own radio or television. Further, the section comprised a sports hall, a spacious "club" where prisoners could watch films and play table tennis, and a chapel.

105. The prison did not provide inmates with personal hygiene products other than soap. As mentioned in paragraph 88, access to the shower was limited to once a week.

As regards food, prisoners were provided with three meals a day. The quantity of the food appeared to be sufficient, but many prisoners complained about its poor quality and lack of variety. In particular, there was no fresh fruit, eggs or milk (not even for juvenile prisoners). To supplement their diet, prisoners relied to a great extent on food parcels from their families and purchases from the prison shop.

106. In the light of the above remarks, **the CPT recommends that at the Kyiv SIZO:**

- **immediate steps be taken to provide every prisoner with a bed;**
- **strenuous efforts be made to decrease the overcrowding and to distribute prisoners more evenly amongst the available accommodation, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner;**
- **measures be taken to ensure, as a matter of priority, access to natural light and adequate ventilation in prisoner accommodation;**
- **efforts be made to renovate the prisoner accommodation and ensure an adequate level of hygiene;**
- **prisoners be guaranteed access to adequate quantities of essential personal hygiene products and cleaning products for their cells;**
- **serious efforts be made to improve the quality and quantity of food provided to prisoners, paying particular attention to the specific dietary needs of juveniles.**

**Reference is also made to the recommendation in paragraph 89 as regards access to a shower.**

107. As regards activities, in addition to the 100 sentenced male prisoners and “arrest house” prisoners assigned to maintenance work, 3 female prisoners worked in the kitchen and 6 other were employed in a sewing workshop. Further, 18 prisoners were engaged in artistic activities and 20 worked for the Ukrainian Orthodox Church. The remainder of the adult prisoners (i.e. some 94 % of the prisoner population) were confined to their cells for 23 hours a day with very little to occupy their time (e.g. listening to the radio, reading books, making puzzles, playing board games). The delegation saw TV sets in some of the cells, but it was alleged that staff had to be bribed to allow prisoners to bring in a TV set. Spending months and years on end in enforced inactivity was described by one prisoner as “mental and physical degradation”.

The SIZO had a library with a collection of some 27,000 books. The delegation was surprised to learn that remand prisoners were not allowed to receive books (other than the Bible) or newspapers from outside. **The CPT would like to receive the Ukrainian authorities’ comments concerning this prohibition.**

The only regular out-of-cell activity was outdoor exercise of one hour per day, which took place in a series of exercise yards located on the top of the accommodation blocks. By virtue of their size and configuration, these high-walled, bare areas (measuring between 16 and 60 m<sup>2</sup>) did not allow prisoners to exercise themselves physically.

**The CPT recommends that the Ukrainian authorities make strenuous efforts to offer organised out-of-cell activities (work, recreation/association, education, sport) to prisoners at the Kyiv SIZO. Further, the Committee recommends that steps be taken to construct more appropriate exercise yards which allow prisoners to exert themselves physically, as well as indoor and outdoor sports facilities.**

108. As regards juvenile prisoners, some efforts had been made to provide them with organised activities. A psychologist was assigned to work with the juveniles, holding both individual and group sessions, and there was also an educator. Once or twice a week, juveniles attended school classes which were taught by 3 teachers paid by the Ministry of Education. There was also a computer room, a table tennis room and a room where juveniles watched films and met the psychologist. Outdoor exercise of two hours a day was regularly provided. **The CPT recommends that further efforts be made to develop a full programme of education, sport, vocational training, recreation and other purposeful activities for detained juveniles.**

*ii) the SIZO in Dnipropetrovsk*

109. When visited by the delegation, the SIZO in Dnipropetrovsk was holding 2,900 prisoners (including 220 women and 63 juveniles) for an official capacity of 3,456. The prisoner population comprised 26 life-sentenced prisoners. The SIZO served as a transit point for prisoners being transferred between penitentiary establishments and had a monthly turnover of some 5,000 inmates.

Prisoners were accommodated in 10 buildings of different age and configuration. Given that the visit to the establishment was of a targeted nature – focusing on newly arrived prisoners and life-sentenced prisoners – the delegation received an impression of material conditions only in some of the buildings.

110. In a detention block which had recently been renovated (units 6 and 7), cells measuring some 7 m<sup>2</sup> were holding usually 2, but occasionally 3, prisoners. There was enough natural light coming through the cells' large windows, and access to artificial light and ventilation also appeared to be adequate. Each cell was equipped with a partitioned toilet and sink. This block, referred to as the "Euro-standard" block, was considered by the administration as a model.

In the four-storey building accommodating female prisoners (unit 10) and some of the male remand prisoners (unit 9), the delegation observed that the cells were less overcrowded than in the Kyiv SIZO (e.g. a cell measuring some 15 m<sup>2</sup> was holding 6 female prisoners; there were 13 prisoners in a cell of 33 m<sup>2</sup>). The cell equipment (double-bunk beds, lockers, a partitioned sanitary annexe) did not call for any particular comments. However, it was a matter of concern to the delegation that all cells' windows were fitted with a solid metal shutter which considerably limited access to natural light. The CPT welcomes the immediate steps taken by the management of the SIZO to remove the metal shutters from all the cell windows in units 9 and 10, following a remark by the delegation at the end of the visit to the SIZO in Dnipropetrovsk.



**The CPT recommends that, at the Dnipropetrovsk SIZO, efforts be made to decrease overcrowding, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells.**

111. As at the Kyiv SIZO, the vast majority of prisoners spent almost all their time locked up in their cells, without being offered any activities worthy of the name. **The first recommendation made in paragraph 107 applies equally to the Dnipropetrovsk SIZO.**

b. establishments for sentenced prisoners

i) *follow-up visit to Colony No. 85 in Gostomel (Kyiv region, Bucha district)*

112. Colony No. 85 had already been visited by the CPT in 1999 and 2000.<sup>32</sup> With an official capacity of 1,435 places (compared to 1,950 in 2000), the establishment was holding 933 inmates on the first day of the 2009 visit (compared to 1,856 in 2000), including 37 held under conditions of enhanced control (see section II.C.4. of this report) and 16 inmates placed in a social rehabilitation unit (see paragraph 158).

113. Efforts were being made to improve material conditions. Compared to the situation observed during previous visits, prisoners generally had more living space in the dormitories. The national standard of 3 m<sup>2</sup> of living space per inmate was observed in most dormitories (e.g. 27 beds in a dormitory of 82 m<sup>2</sup>). However, some dormitories were clearly overcrowded (e.g. 114 beds in a dormitory of some 200 m<sup>2</sup> in Block No. 5), even if the negative consequences of this state of affairs were attenuated by the fact that prisoners were free to move around within their respective detention section. Large-capacity dormitories in Blocks Nos. 1 and 6 had been transformed into smaller living units offering more privacy and better possibilities for control by staff. The declared objective was to accommodate all inmates in rooms with some 15 beds and to replace bunk beds with ordinary beds, Blocks Nos. 4 and 5 - which had the biggest dormitories - being considered as a priority for 2010.

The dormitories were, on the whole, clean, well-lit and adequately ventilated. However, the state of repair and cleanliness of some of the communal toilets left something to be desired. Further, inmates had access to a shower once a week and relied largely on their relatives for personal hygiene items.

**The CPT recommends that all the necessary support be provided to the management of Colony No. 85 in order to realise the plans of transforming all large-capacity dormitories into smaller living units, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner. Further, the Committee recommends that prisoners be provided with an appropriate range of basic personal hygiene items at regular intervals (soap, shampoo, toilet paper, etc.). Reference is also made to the recommendation in paragraph 89 as regards access to a shower.**

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<sup>32</sup> A description of this establishment can be found in paragraph 38 of document CPT/Inf (2002) 21.

114. As regards activities, the delegation was informed that there were about 500 work places. However, at the time of the visit, only 366 prisoners were working in the production workshops or in general services. This represents a decrease in the proportion of inmates engaged in work (i.e. from some 38 % in 2000 to 36 %).

At the same time, efforts were being pursued to provide prisoners with educational and other activities. The delegation was told that 73 inmates were involved in secondary education courses and 58 prisoners were engaged in an electrician's vocational training course lasting six months. As regards sports activities, the delegation was assured by the prison management that the indoor sports hall, which had temporarily been withdrawn from service, would be re-opened shortly.

**The CPT recommends that the efforts to provide a broad range of purposeful activities to prisoners at Colony No. 85 be continued. Particular care should be taken to ensure that all prisoners fit and willing to work are offered a job. Efforts should also be made to further develop educational programmes (including higher education) and vocational training.**

Further, **the Committee would like to receive confirmation that the indoor sports hall at Colony No. 85 has been re-opened.**

*ii) Colony No. 60 in Lozivske (Lugansk region, Slovyanoserbsk district)*

115. Colony No. 60 is a maximum-security establishment located in the outskirts of the village of Lozivske. Its buildings were originally used for coal mining activity and it assumed its current function in 1958. With an official capacity of 820 places, the establishment was holding 760 inmates at the time of the visit, including 71 lifers and 120 inmates held in special conditions of high security or control.

116. As regards material conditions, although the establishment was functioning below its official capacity, most of the dormitories were overcrowded (e.g. 24 beds in a dormitory of 35 m<sup>2</sup> in Block No. 1; 40 beds in a dormitory of 64 m<sup>2</sup> in Block No. 3). This situation was somewhat compensated for by the fact that inmates were allowed to move around freely within their detention area during the day. Further, the dormitories were generally well-lit and ventilated.

The delegation was submerged in complaints about the water supply and conditions of hygiene. Inmates generally had access to running water for two hours in the morning and/or in the evening. Some inmates alleged that, on occasion, there was no running water for up to several days. It was also claimed that there was no electricity in the accommodation blocks (from 7 a.m. to 7 p.m.). This state of affairs was reportedly due to the location of the establishment. However, it is incumbent on the prison authorities to address these problems.

**The CPT recommends that the Ukrainian authorities take action, as a matter of urgency, to improve the water supply at Colony No. 60. Further, the Committee recommends that measures be adopted in order to:**

- **reduce overcrowding in the dormitories, the objective being to offer at least 4 m<sup>2</sup> of living space per inmate;**
- **improve the electricity supply in accommodation blocks.**

117. The programme of activities was impoverished. The delegation was informed that, apart from a few work opportunities in the establishment's farm and general services, there were 200 working positions in the colony's workshops. However, more than half of the positions were not filled. In this connection, the delegation received allegations from both staff and prisoners that funds dedicated to the provision of jobs to prisoners were being used for other purposes; **the CPT would like to receive the comments of the Ukrainian authorities on this matter.**

As regards educational and other activities, 36 inmates were following evening courses. No vocational training was being offered at the time of the visit. Other activities mainly consisted in reading books from the colony's library (which was poorly stocked) and religious practice.

**The CPT recommends that the Ukrainian authorities redouble their efforts with a view to providing prisoners at Colony No. 60 with a range of purposeful activities (e.g. work, education and vocational training, sports and cultural activities).**

*iii) Colony No. 89 in Dnipropetrovsk*

118. Colony No. 89 in Dnipropetrovsk is situated in an industrial area on the outskirts of Dnipropetrovsk. It was originally constructed after the Second World War as a camp for prisoners-of-war. The colony is a medium-security establishment for sentenced prisoners, within which there is also a high-security unit and, since 1997, a hospital for prisoners with tuberculosis (see section II.C.6. of the report). A social rehabilitation centre has also been set up in recent years (see paragraph 158).

With an official capacity of 1,250 places, at the time of the visit, the colony was holding 1,098 sentenced prisoners, of whom 571 were undergoing treatment in the TB hospital. The high-security unit was holding 38 life-sentenced prisoners and 31 prisoners in special conditions of high security or control.

119. Prisoners in the medium-security part of the colony were accommodated in six blocks. The delegation noted that in some blocks, efforts had been made to transform large-capacity dormitories into smaller living units offering more privacy and better possibilities for control by staff. However, in the other blocks, the practice of accommodating prisoners in large dormitories, with up to 70-80 beds, still prevailed (e.g. 76 beds in a dormitory measuring 152 m<sup>2</sup> and holding 70 prisoners). In some of the dormitories, access to natural light and ventilation left something to be desired, due to the fact that only two small panes in the windows could be opened. As regards cell furniture, in addition to double bunk-beds, there were lockers shared by two prisoners and stools.

120. Each unit had a sanitary annexe, generally found to be clean. However, the number of wash-basins was not enough for the numbers of prisoners held. Further, no sanitary products were provided to prisoners.

As regards food, prisoners with TB received a special diet, consisting of five meals a day and comprising butter, eggs and fruit. That said, the delegation received some complaints about the quality of food provided to other prisoners (e.g. lack of fresh fruit and vegetables).

121. **The CPT recommends that all the necessary support be provided to the management of Colony No. 89 in order to transform large-capacity dormitories into smaller living units. Efforts should also be pursued to reduce the occupancy levels in the dormitories, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner, and to improve access to natural light and ventilation.**

Further, **the Committee recommends that the sanitary annexes in the accommodation blocks be enlarged and prisoners be provided with an appropriate range of basic personal hygiene items (soap, shampoo, toilet paper, etc.). Reference is also made to the recommendation in paragraph 89 as regards access to a shower.**

In addition, **the CPT invites the Ukrainian authorities to check the quality of food served at Colony No. 89.**

122. Concerning the programme of activities, the delegation was informed that a total of 130 prisoners were employed in the colony's workshops (for metalwork, the production of concrete blocks, briquettes and woodwork), bakery, kitchen and on various household duties. There was also a forge, which could employ up to 200 prisoners, but which was not operating due to the lack of demand. According to information provided to the delegation, 109 prisoners had had paid work in August 2009, the average monthly salary being 306 hryvnas.

The delegation heard a number of complaints from prisoners about the working conditions and payment. It was alleged that inmates were made to work long hours (12-15 hours a day), including at week-ends, but the salaries were very low. Some prisoners suggested that there was a system of double book-keeping which directed money for salaries to the administration. One prisoner stated that he had been promised conditional release if he worked free-of-charge. Two allegations were also heard that some prisoners produced souvenirs without being paid. **The CPT would like to receive the comments of the Ukrainian authorities on these matters.**

As regards educational activities, 53 prisoners were attending secondary school classes. The colony had a library with some 6,000 books, and prisoners could take subscriptions to newspapers. Further, there was a chapel, which had been painted and decorated by the inmates. It is noteworthy that prisoners with TB and inmates held in the high-security unit did not have access to the chapel (the delegation was informed that a priest could visit them in their cells).

**The CPT recommends that the Ukrainian authorities strive to develop the programmes of activities for prisoners at Colony No. 89 in Dnipropetrovsk, taking due account of the remarks made in paragraph 76.** This is an essential part of the process of social rehabilitation.

## 6. Health care

### a. introduction

123. In the course of the 2009 visit, the delegation was informed of a proposal to set up a working group to study the transfer of prisoners' health care to the Ministry of Health. The CPT can only encourage this initiative, which is consistent with the remarks made in paragraph 142 of the report on its 1998 visit, namely that a greater involvement of the Ministry of Health in the provision of health-care services in prison will help to ensure optimal health care for prisoners, as well as implementation of the general principle of the equivalence of health care with that in the outside community. **The Committee wishes to be informed of the action taken on the above-mentioned proposal.**

In this context, **the CPT also wishes to stress the need for continued professional training for prison health-care staff, with a view to enabling them to perform their duties satisfactorily. The Committee would like to be informed of the national policy in this respect.**

124. The reports on previous visits by the CPT to Ukraine contain a number of recommendations, comments and requests for information in the area of provision of health care to prisoners. Despite efforts made by the Ukrainian authorities in recent years and the goodwill and commitment of health-care staff at the penitentiary establishments visited, the provision of health care to inmates remains problematic, due to the shortage of staff, facilities and resources. During the visit, the delegation heard a number of complaints from prisoners at the establishments visited concerning delays in access to a doctor, lack of medication, and the inadequate quality of care.

The Committee will limit itself in this report to several matters of particular concern which arose during the 2009 visit.

### b. staff, facilities and medication

125. The health-care service of the Kyiv SIZO had a staff complement of 31.5 posts (all of which were filled). Full-time staff included a head doctor, three GPs, a pulmonary specialist,<sup>33</sup> a psychiatrist, a radiologist, a venereologist, two dentists, 7 feldshers and 5 nurses. Further, 10 visiting specialists held regular surgeries (of 3 hours per week). The feldshers provided a 24-hour presence. According to the head doctor, more specialists in infectious diseases were needed, in view of the high number of prisoners suffering from such diseases.

Given the increase in the inmate population at the Kyiv SIZO, the above-mentioned health-care staffing resources are clearly insufficient to provide appropriate care to some 3,400 prisoners. Despite the staff's efforts and goodwill, this shortage of staff had detrimental effects on the quality of care. Not surprisingly, the delegation heard many complaints about considerable delays in access to a doctor and outside specialists (e.g. a gynaecologist).

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<sup>33</sup> A second pulmonary specialist had been recruited and was about to start work.

As regards the facilities of the medical unit, some of the cells had been refurbished and offered appropriate conditions. However, other cells were awaiting renovation. In particular, conditions in cell No. 262 holding psychiatric patients and cell No. 265 used as an isolator required urgent improvement.

**The CPT recommends that the Ukrainian authorities take urgent steps at the Kyiv SIZO to:**

- **reinforce significantly the health-care staff team with additional feldshers and/or nurses;**
- **employ additional doctors, in particular specialists in infectious diseases;**
- **refurbish the remainder of the cells in the medical unit, cells Nos. 262 and 265 being treated as a priority.**

126. Colony No. 85 continued to have on its territory a 120-bed inter-regional hospital. The delegation was told that compared to 2000, the number of health-care staff had decreased (from 74.5 to 53), in particular at the expense of nursing staff. At the time of the 2009 visit, the hospital was employing 18 doctors, 3 feldshers and 22 nurses. Since the previous CPT's visit, the hospital equipment had been upgraded and the premises refurbished. Nevertheless, the delegation noted that the hospital's material environment was deficient in certain respects (e.g. general hygiene conditions, equipment of the intensive care unit) and that there was still no post-operative room.

The hospital's doctors also provided medical cover for the rest of the prisoners in the colony (for example, the dentist held 3-hour surgeries three days a week, and the psychiatrist was available for 1½ hours on weekdays). However, there were only 3 feldshers and no nurses attached to the colony's health-care unit.

The above-mentioned decrease in health-care staffing resource runs contrary to the Committee's previous recommendations and negatively affects the provision of health care to prisoners who are not accommodated in the hospital. **The CPT recommends that steps be taken at Colony No. 85 to:**

- **increase the time during which a dentist is available for the colony's general prisoner population to the equivalent of at least one full-time post;**
- **increase significantly the number of feldshers and/or nurses providing cover for the colony's general prisoner population;**
- **upgrade the equipment of the intensive care unit and equip a proper post-operative room;**
- **ensure an overall level of hygiene which befits a hospital facility.**

127. At Colony No. 60, the health-care staff team comprised a head doctor (with training in psychiatry), three GPs, a radiologist, a dentist, two feldshers, a laboratory technician and a pharmacist. One doctor's and one feldsher's posts were vacant. The feldshers provided 24-hour cover.

The health-care service at Colony No. 89 (considered separately from the penitentiary TB hospital, on which see paragraphs 133-136) employed a head doctor, a GP, a dentist and two feldshers (all working full-time). Further, a visiting psychiatrist came once a week. Other medical specialists were shared with the TB hospital.

**The CPT recommends that efforts be made to reinforce the health-care staff resources at Colonies Nos. 60 and 89, and in particular:**

- **to fill the vacant posts at Colony No. 60;**
- **to increase the number of feldshers and/or nurses at both colonies.**

128. Regarding medication for prisoners, the delegation noted some improvement in the centralised supply of drugs. For example, at Colony No. 60, the pharmacy was stocked with an appropriate range of medication (including drugs for the treatment of tuberculosis). However, at the Kyiv SIZO, second-line drugs for the treatment of tuberculosis were scarce. Further, despite the presence of medication in the pharmacies of the establishments visited, many prisoners indicated that they often had to rely on drugs supplied by their families. **The CPT recommends that the Ukrainian authorities make continued efforts to ensure that penitentiary establishments have a sufficient supply of appropriate medication, including second-line drugs for the treatment of tuberculosis, and to introduce better management of the distribution of available drugs to prisoners.**

129. The delegation noted that, at the hospital at Colony No. 85 as well as in the TB hospital and high-security unit at Colony No. 89, health-care staff administered injections through bars or cell hatches as part of routine practice. In the CPT's opinion, such an approach could be considered as degrading for both prisoners and the health-care staff concerned. The Committee recognises that special security measures might be called for in specific cases; however, the systematic placing of prisoners in barred areas when injections are administered is clearly unjustified. **The CPT recommends that the Ukrainian authorities put an end to this practice.**

c. transmissible diseases

130. In the area of tuberculosis control, one positive development since the 2005 visit is the screening for TB of all persons admitted to an ITT. The delegation was informed that a chest X-ray was systematically performed and if TB was diagnosed, the detained person concerned received medication at the ITT.

However, it appeared that interruption of TB treatment could occur after admission to a SIZO. One detained person alleged that although he had been receiving TB medication at Stakhanov ITT, following his transfer to Lugansk SIZO, the treatment was interrupted for 10 days. As noted above, at the Kyiv SIZO, there was a problem with the supply of second-line drugs, and it was impossible to secure the transfer of remand prisoners to hospital facilities for TB treatment.

131. At the colonies visited, all newly arrived prisoners were screened for TB and those diagnosed with TB (on the basis of an X-ray and sputum test) were sent for treatment to a specialist hospital unit, such as the one visited at Colony No. 89 in Dnipropetrovsk. The delegation was informed that inmates who had been treated for TB in the past underwent medical checks twice a year and received prophylactic treatment with anti-tuberculostatic drugs. **The CPT would like to receive information on the criteria for prescribing prophylactic treatment.**

132. Despite the steps taken in recent years, the provision of adequate care to prisoners with TB continues to be a serious problem resulting in significant levels of morbidity and mortality. It is clear that further improvement is needed to ensure coherent assessment, treatment and preventive strategies. **The CPT recommends that urgent steps be taken to ensure:**

- **the provision of sufficient quantities and types of anti-TB medication in all penitentiary establishments (including SIZOs);**
- **the possibility to transfer remand prisoners suffering from TB to specialist units within or outside the penitentiary system so as to offer adequate treatment;**
- **systematic treatment of prisoners in accordance with the DOTS method for tuberculosis control.**

133. The delegation noted the efforts being made to treat sentenced prisoners with TB at the penitentiary hospital for prisoners with tuberculosis at Colony No. 89 in Dnipropetrovsk. In particular, the hospital was adequately staffed (according to the list provided during the visit, there were 58 doctors, including various specialists, 4 feldshers, 75 nurses, as well as laboratory staff, pharmacists, disinfection staff and orderlies). Further, there were no problems with the supply of medication, which was being distributed in accordance with the DOTS method, and the laboratory facilities and medical equipment were generally satisfactory.



134. Patients were housed in eight wards according to diagnosis-based criteria. The delegation noted that the national norm of 5 m<sup>2</sup> of living space per prisoner was far from being respected and, more generally, material conditions did not meet the standards that might be expected of a hospital facility. The majority of prisoners were accommodated in large-capacity dormitories (e.g. 62 to 71 prisoners in a dormitory measuring 162 m<sup>2</sup>) and slept on double bunk-beds placed close together. There were not enough lockers for all prisoners, and the dayrooms where inmates associated and prepared tea and food for themselves were too small for the numbers held. Access to the showers was limited to once a week, which is hardly sufficient for prisoners suffering from tuberculosis. Further, prisoners complained that electricity was turned off from 8 to 12 a.m. and from 1 to 7 p.m.

Somewhat better conditions were observed in ward 1, which had recently been refurbished and consisted of smaller rooms (e.g. 9 single beds in a room measuring 27 m<sup>2</sup>). Refurbishment was also underway in ward 2.

135. In the light of the above, **the CPT recommends that at the penitentiary hospital for prisoners with tuberculosis at Colony No. 89 in Dnipropetrovsk:**

- **the living space in the dormitories be increased to reach the national standard of 5 m<sup>2</sup> of living space per patient;**
- **efforts be made to ensure that material conditions meet hospital standards, by refurbishing the wards, transforming large-capacity dormitories into smaller units, and providing prisoners with personal lockers and adequate dayroom facilities;**
- **more frequent access to showers (preferably on a daily basis) be arranged for prisoners with TB.**

136. During the day, prisoners could circulate within their wards and were allowed two to three hours of exercise a day in spacious yards (with trees, benches, table-tennis tables and some basic sports equipment). However, other than watching television and reading books, no organised activity (such as work or education) was provided. **The CPT invites the Ukrainian authorities to broaden the range of activities available to prisoners in the TB hospital at Colony No. 89.**

137. HIV tests were performed on a voluntary basis. However, at the Kyiv SIZO, some prisoners complained that their requests to be tested for HIV had not been met due to a limit on the number of tests that could be performed. **The CPT would like to receive the comments of the Ukrainian authorities on this issue.**

Each of the establishments visited was holding a number of HIV-positive prisoners. At the Kyiv SIZO, the delegation was informed that there were 115 HIV-positive inmates, 15 of whom were receiving antiretroviral therapy. At Colony No. 85, there were 54 HIV-positive prisoners, 13 of whom were on antiretroviral therapy, and at Colony No. 60, 1 out of the 5 HIV-positive prisoners was receiving such therapy. **The CPT would like to be informed of the criteria for prescribing antiretroviral therapy to HIV-positive prisoners and the availability of antiretroviral medication within the penitentiary system.**

At the TB hospital at Colony No. 89, it appeared that there was no allocation of

antiretroviral drugs. Only two prisoners who had been on such therapy before their arrival at the hospital continued to receive it. According to the hospital's chief doctor, prisoners with active TB did not require antiretroviral therapy. The CPT finds this position rather surprising. Recent medical studies have shown a large reduction in the mortality risk for HIV-infected patients receiving antiretroviral therapy before or during TB treatment. **The Committee would like to receive the comments of the Ukrainian authorities on this issue.**

d. psychiatric and psychological care

138. As mentioned above, each of the establishments visited either employed a psychiatrist or was receiving periodic visits from an outside psychiatrist. However, the delegation was surprised to learn that in the Kyiv SIZO, there was no licence allowing the use of psychiatric medication, mentally disordered prisoners therefore often being held untreated for months on end. Further, at Colony No. 60, the delegation noted that although a number of prisoners had been diagnosed with psychiatric disorders, none was receiving psychiatric medication. It appeared also that there were considerable delays in transferring prisoners to psychiatric hospitals for treatment (e.g. one prisoner at Colony No. 60 had been awaiting transfer since April 2009).

**The CPT recommends that the Ukrainian authorities take urgent steps to reinforce the provision of psychiatric care to prisoners, and in particular to:**

- **ensure the availability of adequate supplies of psychotropic drugs;**
- **transfer without delay mentally disturbed prisoners who require in-patient psychiatric treatment to appropriate hospital facilities which are adequately equipped and possess appropriately trained staff.**

139. All the establishments visited employed a number of psychologists (two at the Kyiv SIZO, Colony No. 60 and Colony No. 89; one at Colony No. 85). However, their workload appeared to be dominated by tasks related to testing and assessment, with little time left for counselling or therapy. **The CPT recommends that the Ukrainian authorities further develop the profession of prison psychologist and offer external stimulation, support and training possibilities to such staff.**

e. drug addiction

140. The delegation was informed that the number of prisoners with drug-related problems was on the rise (at Colony No. 85, reportedly some 90% of prisoners were concerned). However, it appeared during the visit that little action (other than traditional prison security) was being taken as regards prevention and the provision of psycho-social and educational assistance to such prisoners.

The CPT considers that there should be a multifaceted strategy vis-à-vis inmates with drug-related problems, which combines prevention of the entry of drugs with the provision of treatment, assistance and information. The services made available to such prisoners should include, *inter alia*, medical detoxification, psychological support, life skills, rehabilitation and substitution. **The Committee recommends that the Ukrainian authorities develop a comprehensive and coherent prison drug strategy, including the provision of assistance to inmates with drug-related problems.**

- f. prisoners with physical disabilities and inmates unsuited to continued detention

141. Colony No. 60 specialises in the holding of prisoners with physical disabilities, of whom there were 82 at the time of the 2009 visit. The conditions in which these prisoners were being held are of concern to the CPT. No proper arrangements had been made satisfactorily to meet their needs. Some wheelchair-bound prisoners were accommodated on upper floors (without a lift), which made their access to outdoor exercise and other facilities dependent on the assistance of other prisoners. Further, due to ongoing refurbishment, some bedridden prisoners were accommodated in the corridor.

The CPT refers to the Council of Europe's Committee of Ministers Recommendation R (98) 7 on the Ethical and Organisational Aspects of Health Care in Prison, according to which structural alterations should be effected to assist wheelchair-bound and physically disabled prisoners on lines similar to those in the outside environment. Such prisoners should be guaranteed access to all basic facilities, including prisoner accommodation areas, shower and toilet facilities, canteen, exercise yards and medical unit. When required, they should benefit from assistance in their daily life. Efforts should also be made to provide them with an appropriate range of purposeful activities. **The CPT recommends that steps be taken at Colony No. 60, in the light of the above remarks.**

142. At the hospital of Colony No. 85, the delegation met a terminally ill prisoner who was reportedly awaiting the decision of the court concerning his compassionate release, following a proposal by a special medical commission. The inmate concerned was left alone in a room containing nothing but a bed without bed linen. Despite his critical condition, he did not appear to be receiving appropriate nursing assistance and was living out his last days in solitude and anxiety.

**The CPT recommends that steps be taken to ensure that prisoners who are the subject of a short-term fatal prognosis are provided with dignified end-of-life care either within or outside the penitentiary system. In this context, the Committee also wishes to stress the need for an early intervention by special medical commissions preparing applications for release on medical grounds, and the speedy consideration of such applications by courts.**

## 7. Other issues of relevance to the CPT's mandate

### a. prison staff

143. During the 2009 visit, the State Department on Enforcement of Sentences informed the CPT's delegation that Ukrainian legislation provided for a ratio of 1 prison staff member per 3 inmates. A proposal to change this ratio to 1 staff member per 2 prisoners was being examined by a working group. The overall prison staff number in the country was 51,000, some 5% of the available posts being vacant.

The above-mentioned ratio did not appear to be adhered to in all of the establishments visited. The delegation observed that the number of staff working in the prisoner accommodation areas was generally low, and was told that there were a number of unfilled posts. For example, there was a total of 486.5 staff posts at the Kyiv SIZO (which had an official capacity of 2,950 places and was accommodating 3,440 inmates). There were 70 unfilled posts, including 60 for regime and security staff. The SIZO director indicated that recruiting good-quality staff was a problem: salary levels were low and, as there were more job opportunities in Kyiv than elsewhere in Ukraine, a significant proportion of staff tended to be drawn from rural areas and were less well-educated. Security staff worked on 24-hour shifts, there being 40 to 45 staff on each shift. During the day, a further 80 staff members ensured the running of various regime activities (e.g. taking prisoners to outdoor exercise, the bathroom, visiting rooms, etc.).

At Colony No. 85, there were 33 vacant staff posts and the delegation observed that only nine custodial staff members were on duty at any given time (for 933 inmates). As regards Colony No. 60, there were five prison officers during the day in each prisoner accommodation block (holding some 250 prisoners) and three during the night.

In the CPT's view, a low staff complement impedes the development of positive relations between staff and prisoners, precludes the emergence of dynamic security and has a negative influence on the quality and level of the activities provided to prisoners. To obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources in the process of recruitment and training. This might also enhance the standing of prison staff in the community and attract candidates from a wider pool.<sup>34</sup> **The CPT recommends that the Ukrainian authorities take steps to increase staffing levels and improve the recruitment and remuneration of prison staff, in the light of the preceding remarks. Further, the Committee considers that the above-mentioned 24-hour shift pattern negatively affects professional standards.**

144. The Ukrainian authorities have made efforts in recent years to improve prison staff training. The delegation was informed that the initial training for newly-recruited staff lasted 8 weeks. Re-training was also organised for higher-grade staff.

That said, the delegation's observations from the 2009 visit suggest that there continue to be problems as regards the attitude of the staff towards prisoners. The level of communication between staff and inmates remained very low.

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<sup>34</sup> In this connection, see Rules 76, 78 and 79 of the European Prison Rules and the comments thereto.

The CPT welcomes the above-mentioned efforts and **trusts that the Ukrainian authorities will continue to attach a high priority to the development of prison staff training, both initial and ongoing. Particular measures should be taken to develop specialised training for staff working with certain categories of prisoner (e.g. juveniles, women, life-sentenced prisoners, and prisoners held in special conditions of high security or control).**

145. A number of prisoners alleged that they had been asked to pay money to staff in order to be allowed to exercise their rights (e.g. concerning visits, correspondence, access to a shower, access to medical care, transfer to a hospital, etc.) or be granted certain privileges, such as extra visits. Further, some allegations were heard of staff members requesting payment in order not to place a prisoner in a disciplinary cell or arrange conditional release.

**The CPT recommends that the Ukrainian authorities step up their efforts to combat corruption in the prison system through transparency in the decision-making procedures, prevention, education and the application of appropriate sanctions. Staff working in the prison system should be given the clear message that obtaining or demanding undue advantages from prisoners is not acceptable; this message should be reiterated in an appropriate form at suitable intervals. In this context, the Committee would like to receive more details on the action plan for combating corruption within the penitentiary system, and on the results of its implementation.**

b. discipline and segregation

146. It should be recalled that remand prisoners may be placed in a disciplinary cell (*kartzer*) for up to 10 days (5 days for juveniles).<sup>35</sup> As regards sentenced prisoners, placement in a disciplinary cell (DIZO or *kartzer*) can last up to 15 days (10 days for women). Further, sentenced prisoners may be placed under strict cellular regime (PKT) for up to three months.<sup>36</sup>

147. As regards the procedure, prisoners indicated that they had been heard before a decision on placement in a DIZO/*kartzer* or PKT was taken. However, the inmates interviewed claimed that they had not been informed of the right to contest the decision before an independent authority and to be assisted by a lawyer. Further, the text of the decision was only shown to them, but they did not receive a copy of it. **The CPT calls upon the Ukrainian authorities to review the procedure for placement in a DIZO/*kartzer* and PKT in order to ensure that the prisoners concerned (i) are informed in writing of the charges against them, (ii) are given sufficient time to prepare for their defence, (iii) have the right to call witnesses on their own behalf and to cross-examine evidence given against them, and (iv) are provided with a copy of the decision which contains the reasons for placement and straightforward information on their rights, including the right to legal assistance and the means available to them to challenge the decision before an independent authority (e.g. a judge).**

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<sup>35</sup> See Section 15 of the Law on Pre-Trial Detention.

<sup>36</sup> See Section 132 of the Code on Enforcement of Sentences.

148. Material conditions of detention in disciplinary cells displayed a number of shortcomings. The worst conditions were observed in Colony No. 89 where some disciplinary cells were unsuited for use as inmate accommodation due to their limited size (e.g. 4.5 to 5 m<sup>2</sup>); further, certain cells were very narrow (1.3 m). The cells were dark, dilapidated and dirty.

To a lesser extent, similar shortcomings were noted in some of the DIZO/PKT cells of Colonies Nos. 60 and 85. For instance, several cells at Colony No. 60 measured less than 6 m<sup>2</sup> and were in a poor state of repair. High occupancy levels were observed in some cells at Colony No. 85 (e.g. four inmates in a cell of some 14 m<sup>2</sup>) and access to natural light and ventilation was obstructed by dense layers of bars and grids. Further, there was generally no call system in the cells, creating difficulties for prisoners to attract staff attention in case of need.

The *kartzer* cells at the Kyiv SIZO had been repainted shortly before the delegation's visit and were still not being used.

**The CPT recommends that steps be taken to ensure that:**

- **DIZO/*kartzer* or PKT cells measuring less than 6 m<sup>2</sup> are withdrawn from service or enlarged at Colonies Nos. 60 and 89;**
- **prisoners benefit from at least 4 m<sup>2</sup> of living space in multi-occupancy cells;**
- **access to natural light and ventilation are significantly improved;**
- **refurbishment is carried out of the DIZO/PKT cells in Colonies Nos. 60 and 89;**
- **DIZO/*kartzer* and PKT cells are equipped with a call system.**

149. Inmates placed in disciplinary confinement or segregation benefitted from one hour of exercise per day. However, at Colony No. 85, the exercise yards consisted of windowless cubicles located on the top floor of the DIZO/PKT building, many of them entirely covered by a metal roof and thus preventing any view of the sky; other yards offered slightly better conditions as they had been covered by a plexiglas roof. Further, the exercise yards at Colony No. 89 were cramped (around 15 m<sup>2</sup>). **The CPT recommends that steps be taken to ensure that exercise yards of the DIZO/PKT building at Colony No. 85 offer outdoor exercise in the true sense of the term. As far as possible, inmates should have regular access to outdoor exercise facilities located at ground level. Steps should also be taken at Colony No. 89 to enlarge the exercise yards.**

As regards activities, prisoners placed in the DIZO/*kartzer* were still not allowed reading matter (except for the Bible) and inmates held in PKT cells were not allowed board games. **The CPT calls upon the Ukrainian authorities to amend the legislation in order to ensure that prisoners placed in a DIZO/*kartzer* are allowed access to reading matter and that those held in PKT cells are allowed some form of leisure activities.**

150. It should be added that inmates placed in DIZO/*kartzer* and PKT cells are, as a rule, automatically deprived of contact with the outside world (i.e. visits, letters and phone calls). **The CPT recommends that the Ukrainian authorities take steps to ensure that placement of prisoners in a DIZO/*kartzer* and PKT does not include a total prohibition on family contacts (see also Rule 60 (4) of the European Prison Rules). Any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts.**

151. In the report on the 2005 visit, the CPT recommended that the Ukrainian authorities take the necessary steps, including amendments to the relevant regulations where required, to ensure that prison doctors are no longer tasked with approving prisoners' placement in DIZO/*kartzet* or PKT. However, the situation remained unchanged at the time of the 2009 visit; it appeared from the documentation consulted that prison doctors continued to certify that prisoners were fit for placement in a DIZO/*kartzet* or PKT. **The CPT calls upon the Ukrainian authorities to implement its long-standing recommendation on this matter.** In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 15<sup>th</sup> General Report (see paragraph 53 of CPT/Inf (2005) 17).

c. contact with the outside world

152. Despite previous recommendations by the CPT, the situation as regards remand prisoners' contact with the outside world remained unchanged. It was rare for such persons, including juveniles, to be authorised to receive visits and even to be authorised to send/receive letters, and no telephone calls were allowed. In some instances, the ban on visits continued even after the criminal investigation had been terminated. The delegation met prisoners who had not had any visits for up to 21 months.

**The CPT calls upon the Ukrainian authorities to take measures in order to ensure that remand prisoners are entitled to receive visits and send/receive letters as a matter of principle. Any refusal to permit visits or send/receive letters should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case in hand and be applied for a specified period of time, with reasons stated. If necessary, the relevant legislation and regulations should be amended.**

Further, **the CPT recommends that access to a telephone be guaranteed for remand prisoners; any decision to prohibit or impose restrictions on a given prisoner's access to a telephone should be based on a substantiated risk of collusion, intimidation or another illegal activity and be for a specified period. The law should be amended accordingly.**

153. Visiting entitlements in respect of sentenced prisoners remained unchanged: one "short visit" of up to 4 hours a month and one "long visit" of up to 72 hours every three months. The law still imposes a financial contribution from prisoners or their visitors for visits.

Short-term visits took place as a matter of routine in secure booths with a glass partition allowing no physical contact between inmates and visitors. Further, the capacity of the short-term visiting facilities was generally not sufficient to meet the demand. For instance, at Colony No. 85, staff explained that they were often unable to observe the prisoners' entitlement to visits as a result of this. Colonies Nos. 60, 85 and 89 also had various types of long-term visiting facilities (ranging from basic bedrooms to spacious suites); those facilities were generally adequate.

It also appeared during the 2009 visit that sentenced prisoners had no access to a telephone in the colonies visited, although the law provides for four telephone calls a year.

**The CPT calls upon the Ukrainian authorities to:**

- **modify the facilities for short-term visits in order to enable prisoners to receive visits under reasonably open conditions. Open visiting arrangements should be the rule and closed ones the exception, such exceptions to be based on well-founded and reasoned decisions following individual assessment of the potential risk posed by a particular prisoner. Further, the capacity of the short-term visiting facilities should be increased to meet the prison population's needs;**
- **ensure that sentenced prisoners have access to a telephone and increase significantly the phone-call entitlement for all categories of inmate.**

**The Committee also reiterates its recommendation that short-term visits be exempted from any financial contribution.**

At the Kyiv SIZO, the delegation was informed that prisoners serving sentences of up to 6 months in the “arrest house” were not allowed visits and phone calls. **The CPT would like to receive clarification as regards the visiting and phone-call entitlement of sentenced prisoners held in an “arrest house”.**

154. As concerns correspondence, indigent prisoners were not provided with envelopes and stamps for sending letters. **The CPT recommends that this shortcoming be remedied.**

Further, some prisoners interviewed during the visit alleged that incoming letters were systematically opened and read. **The CPT would like to receive the comments of the Ukrainian authorities on this subject.**

d. complaints and inspection procedures

155. Ukrainian law provides that prisoners have the right to address confidential complaints to outside national and international bodies.<sup>37</sup> However, it emerged during the 2009 visit that letters other than those addressed to the Parliamentary Commissioner for Human Rights and the prosecuting and judicial authorities (including the European Court of Human Rights) may be opened and read, including correspondence with the CPT. Further, at Colony No. 89, the confidentiality guarantees apparently did not apply to incoming letters from outside bodies.

Many inmates alleged that their complaints to outside bodies had been vetted by the prison administration or complained of undue delays in the dispatching of their letters to these bodies (see also paragraph 81).

**The CPT recommends that the Ukrainian authorities take measures to safeguard the confidential character of prisoners' outgoing and incoming correspondence with national and international human rights bodies (including the CPT). If necessary, the relevant legal provisions should be amended. Specific practical measures should also be taken to ensure that letters are transmitted confidentially.**

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<sup>37</sup> See Section 113 of the Code on Enforcement of Sentences.



156. It appeared during the 2009 visit that the effectiveness of the existing inspection mechanisms could be improved.

Supervising prosecutors were frequently present in the establishments visited, had direct contact with prisoners and produced inspection reports. However, it appeared that prosecutors' meetings with prisoners were often held in the presence of prison staff. Some inmates at the Kyiv SIZO alleged that they had been threatened with reprisals by operational staff who had attended the meeting with the prosecutor.

The Parliamentary Commissioner for Human Rights and her staff are also entitled to visit penitentiary establishments. That said, it appeared that they did not have the capacity to carry out frequent visits to these establishments.

157. The CPT considers that there is a need to develop, in addition to the existing inspections by prosecutors and visits by the Parliamentary Commission for Human Rights, a system of regular monitoring visits to penitentiary establishments by independent outside bodies (e.g. NGOs). **The CPT recommends that the Ukrainian authorities develop such a system without further delay** (see also the recommendation and request for information made in paragraph 34).

**Further, supervising prosecutors should receive instructions that individual interviews with prisoners are to be held in private (without the presence of any prison staff).**

e. preparation for release

158. Efforts were being made to prepare prisoners for release. In particular, social rehabilitation units, which were designed to give prisoners more autonomy during a period of up to one year before release, had been set up at Colonies Nos. 85 and 89. However, these units were largely underused.<sup>38</sup> **The CPT invites the Ukrainian authorities to make the maximum use of social rehabilitation units.**

159. During the 2009 visit, the delegation was informed of steps taken by the Ukrainian authorities to facilitate early release and preparation for release. At legislative level, a Draft Law on Probation Service was being developed. At practical level, every prisoner is supposed to receive counselling on how to obtain conditional release, and NGOs composed of former prisoners are said to provide support.

However, some of the prisoners held in special conditions of high security or control indicated that they expected to be released directly from their units into the community, which gave the impression that there was no effort to provide "step down" arrangements for those prisoners. **The CPT would like to receive the comments of the Ukrainian authorities on the issue of prisoners' preparation for release, in particular as regards inmates held in special conditions of high security or control.**

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<sup>38</sup> At the time of the visit, only 16 inmates were placed in the social rehabilitation unit at Colony No. 85 (for a capacity of 75) and 28 prisoners at the respective unit at Colony No. 89 (for a capacity of 120).

## **D. Psychiatric establishments**

### **1. Dnipropetrovsk High-Security Psychiatric Hospital**

#### a. preliminary remarks

160. The visit to the National High-Security Psychiatric Hospital in Dnipropetrovsk was of a follow-up nature, the aim being to assess the changes made since the CPT's previous visit to that establishment in 1998.<sup>39</sup>

On 15 September 2009, the hospital was accommodating 1,095 patients, including 142 women, for an overall capacity of 1,200 beds.<sup>40</sup> The great majority of patients were persons found to be criminally irresponsible for their acts and subjected by court decision to compulsory medical measures under a high-security regime, in accordance with the criminal legislation. There were also 32 persons (27 men and 5 women) who had developed a mental illness during the investigation period and had been hospitalised by court decision. The delegation was informed that 55% of patients had spent over 10 years at the hospital.

The hospital's structure had not changed much and still comprised thirteen wards,<sup>41</sup> but there were three wards for women instead of two (a reflection of the fact that the number of female patients had more than doubled since 1998). Further, a Centre for medico-social rehabilitation and psychological assistance and a Centre for consultative-diagnostic and methodological work had been set up at the hospital.

#### b. ill-treatment

161. The delegation heard no complaints of physical or verbal abuse of patients by health-care staff, who were working in a difficult environment with limited human and financial resources. However, as in 1998, a few allegations were received about physical ill-treatment by "controllers" (security staff employed by the State Department on Enforcement of Sentences) in the form of hitting or kicking. Such acts reportedly occurred when a patient was agitated or aggressive and needed to be restrained before being administered a sedative. Further, it was sometimes alleged that "controllers" were verbally abusive with patients. Concern about the attitude of some "controllers" vis-à-vis patients were expressed by some health-care staff members.

**The CPT recommends that a clear message be given to staff of the State Department on Enforcement of Sentences assigned to security tasks at the High-Security Psychiatric Hospital in Dnipropetrovsk that any form of ill-treatment of patients – including verbal abuse and the excessive use of force in the context of applying restraints – is unacceptable and will be dealt with severely.**

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<sup>39</sup> For a detailed description of the hospital, see paragraph 191 of CPT/Inf (2002) 19.

<sup>40</sup> At the time of the 1998 visit, the hospital was undergoing reconstruction, which had resulted in the official capacity being temporarily reduced to 1,040.

<sup>41</sup> Including one for patients with tuberculosis and two somato-psychiatric wards.

The Committee also invites the management of the Dnipropetrovsk hospital to exercise increased vigilance and encourage the reporting of any instances of ill-treatment of patients (be it physical or verbal) in order to ensure that such conduct does not go unpunished. It is also necessary that preventive action be taken, for example, through the organisation of specialised training for “controllers”.

Further, the CPT reiterates its recommendation that the Ukrainian authorities consider the possibility of security staff working inside psychiatric establishments being recruited directly by the Ministry of Health, and subordinated to the hospital's director.

c. patients' living conditions

162. The majority of patients were accommodated in large-capacity dormitories which were seriously overcrowded, there being 2 - 2.5 m<sup>2</sup> of floor space per patient in many dormitories, with some patients even sharing beds (e.g. 17 patients sleeping on 15 beds in a room measuring 33 m<sup>2</sup> in ward 13). The lighting and ventilation in the dormitories, the level of hygiene and the bedding were generally acceptable. However, the dormitories remained austere and completely devoid of individualisation, due to the lack of private space and lockable areas to keep personal belongings. Further, the dayroom facilities were limited in number and could not accommodate all the patients on a ward.

As in 1998, the majority of patients were dressed in pyjamas, and were given grey uniform overcoats during periods of outdoor exercise.

163. Part of the hospital's premises (i.e. three floors of one of the buildings) continued to be occupied by a penitentiary hospital. Over the years, the hospital's management had engaged in legal proceedings against the State Department on Enforcement of Sentences, which had recently resulted in a court decision that the disputed premises should be restituted to the psychiatric hospital. **The CPT trusts that this decision will be implemented as soon as possible with a view to alleviating the overcrowding in the psychiatric hospital.**

The Committee recommends that steps be taken at the High-Security Psychiatric Hospital in Dnipropetrovsk to improve material conditions in the wards, the overriding objective being to provide a positive therapeutic environment for patients. This should involve:

- as a first step, ensuring that every prisoner has his/her own bed;
- reducing the occupancy levels in the patients' dormitories;
- offering a more congenial and personalised environment to patients, in particular by providing them with lockable space and allowing a reasonable number of personal belongings;
- ensuring that an individualised approach is followed as regards patients' clothing;
- providing dayroom areas sufficient for the number of patients being held.

**The CPT also reiterates its invitation to the Ukrainian authorities to consider the possibility of modifying the large-capacity dormitories found in the hospital; such facilities are scarcely compatible with the norms of contemporary psychiatry.** Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patients' dignity, and also a key element of any policy for the psychological and social rehabilitation of patients. Structures of this type also facilitate the allocation of patients to relevant categories for therapeutic purposes.

d. treatment and activities

164. Similar to what had been found during the CPT's visit in 1998, the treatment provided to patients was mainly based on pharmacotherapy. An examination of medical records and the information obtained by the delegation from interviews with patients and staff indicated that there was no overmedication. Medication was available in sufficient quantities. Further, the medical records were detailed and well kept.

165. It became clear during the visit that rehabilitative psycho-social activities were still missing and there was no evidence of a multi-disciplinary team approach. The hospital's workshops had been definitively closed down and no occupational therapy was available to patients (other than cleaning floors, distributing food and changing the bedding). As for psychotherapy, only a limited number of patients due shortly to leave the hospital were attending so-called "psycho-correction" sessions performed by psychologists in the hospital's Centre for medico-social rehabilitation and psychological assistance.

As a result of the paucity of structured therapeutic activities, the majority of patients spent most of the time locked up in their dormitories, lying in their beds or wandering idly around (sometimes with the radio on). This monotonous existence was broken by meals, outdoor exercise of one hour a day, and two and a half hours of TV access in the evening. Playing board games, reading books from the hospital's library and attending the chapel concluded the list of recreational activities available to patients.

The regime in some of the "isolators" (e.g. on ward 4) was even more strikingly impoverished. Patients placed there had no TV or radio access and were provided with very little human contact.

166. Concerning outdoor exercise, patients from the larger wards used an exercise area which did not have a shelter against inclement weather. Further, the smaller yard could become very crowded at exercise times, thereby restricting the patients' possibility to exert themselves physically.

167. **The CPT recommends that efforts be made at the High-Security Psychiatric Hospital in Dnipropetrovsk to move away from the environment primarily based on the custody of patients and the use of medication, and to create a therapeutic milieu which includes occupational therapy and psycho-social intervention. This should involve steps to:**

- **expand the range of therapeutic options and involve more patients in rehabilitative psycho-social activities, in order to prepare them for independent life and a return to their families; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and the improvement of self-image;**
- **draw up an individual treatment plan for each patient (taking into account the special needs of forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress.**

**The Committee also recommends that steps be taken to improve the conditions under which patients take outdoor exercise.**

168. The delegation was informed that antiretroviral therapy was not provided to HIV-positive patients. **The CPT recommends that such a therapy be made available to those HIV-positive patients whose state of health requires it.**

e. staff

169. The hospital's official staff complement at the time of the visit comprised 577.25 posts, of which 545.5 were filled. There were 58 doctors (for 67 available posts), 34 of whom were psychiatrists, while the rest possessed various other specialisations (dentist, neuropathologist, etc.). In addition, a number of consulting medical specialists paid visits to the hospital on a periodic basis.

Further, there were 186 posts for "middle rank staff",<sup>42</sup> of which 176 were filled, and 210 posts for "junior rank staff",<sup>43</sup> of which 198 were filled.

Concerning staff qualified to provide therapeutic activities, the hospital had 5 psychologist posts, of which 4.5 were filled. There were also 2 "occupational inspectors" and 9 nurses in charge of social work.

170. As regards doctors, the above-mentioned staffing situation shows an improvement compared to 1998 (when there were 48 full-time doctors). Further, there has been a slight increase in the number of actually employed nurses and orderlies. However, the delegation observed that the nursing presence on the wards was not adequate (e.g. during the day shift, there was one nurse, two orderlies and one nurse distributing food for over 40 patients on some wards). Moreover, the limited number of psychologists and other staff qualified to provide therapeutic activities clearly precluded the emergence of a therapeutic milieu based on a multidisciplinary approach.

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<sup>42</sup> This category of staff includes nurses, laboratory assistants, physiotherapists, pharmacists, etc.

<sup>43</sup> This category includes orderlies, staff in charge of distributing the food, bed linen, etc.

It is clear that more should be done to provide working conditions that are sufficiently attractive to recruit and retain staff. **The CPT recommends that the Ukrainian authorities define a recruitment strategy based on proper funding and enhanced conditions of service, with a view to ensuring adequate staffing levels at the High-Security Psychiatric Hospital in Dnipropetrovsk. This should involve steps to:**

- **fill all vacant nursing posts and increase the nursing staff/patient ratio on the wards;**
- **reinforce substantially the team of specialists qualified to provide therapeutic and rehabilitation activities.**

f. means of restraint

171. The CPT welcomes the fact that there was no resort to isolation in the Dnipropetrovsk Hospital. Further, there was no evidence of excessive use of physical restraint.

Following a recommendation made in the report on the 1998 visit, registers for the recording of means of restraint had been introduced on all wards. However, the examination of these registers suggested that more could be done to improve the recording and monitoring of the use of restraint. In particular, the entries in the registers were very brief and the accompanying use of medication was not recorded. Furthermore, the delegation got the impression that, at least on some of the wards, the registers on the use of restraint were not accurately kept and did not reflect all cases of restraining patients (e.g. some patients made reference to prolonged periods of restraint which they had witnessed being applied to other patients, but there was no mention of that in the registers). It should also be noted that the management did not have an overview of the situation in the hospital as regards the use of restraint.

**The CPT recommends that steps be taken to ensure that all instances of restraint are systematically recorded in a detailed, standardised form (including the times at which the measure began and ended, the reasons for resorting to it, any medication given, the name of the doctor who ordered it, staff who participated in the application of the measure, an account of any injuries sustained by the patient or staff).**

**Further, the Committee recommends that single accommodation be used when applying immobilisation to patients, in order to avoid this being done in the presence of other patients.**

**Once means of restraint have been removed, a debriefing of the patient should take place.** This provides an opportunity to explain the rationale behind the measure, thus reducing the psychological trauma of the experience as well as restoring the clinician-patient relationship. It also gives the patient an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

g. safeguards in the context of involuntary hospitalisation

172. The legal framework for committal to psychiatric hospital under the criminal legislation has been summarised in the report on the visit in 1998.<sup>44</sup>

The delegation was pleased to note that the 6-monthly treatment review by the hospital's medical commission was working well. Further, a room for court sessions had been set up at the hospital in 2001, which made it easier for patients to attend court hearings.

However, the 2009 visit revealed that several of the recommendations made in the report on the visit in 1998 have not been implemented. In particular, there is still no system of independent review or legal process to confirm a patient's consent to treatment (e.g. administration of medication).

The CPT must emphasise once again that patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The very concept of "compulsory medical measures", as contained in the Ukrainian criminal legislation, appears to be at variance with this principle. In the Committee's opinion, the involuntary hospitalisation of a patient who is competent should not be automatically construed as authorising treatment without his consent. Every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. This implies, inter alia, that patients should receive full and accurate information about their condition and the treatment which is proposed. If a patient is to be medicated against his informed consent, there should be clear criteria for this and procedures by which this can be authorised (which should allow for a second, independent, medical opinion beyond that of the doctor(s) proposing the treatment). **The CPT recommends that the Ukrainian authorities take steps to reflect this principle in both law and practice.**

173. A major concern of the CPT is the fact that patients' possibilities to maintain contact with the outside world were unduly limited. The visiting room was too small and there was a blanket prohibition on physical contact between patients and their relatives during visits (reportedly imposed by the security staff). Further, patients did not have access to telephones (unless they were exceptionally allowed to use a phone in a staff office). Considering that many patients' families live in faraway parts of the country, **the CPT recommends that steps be taken to facilitate patients' contact with the outside world. This should involve:**

- **changing the rules in order to enable patients to make phone calls;**
- **setting up more spacious visiting facilities;**
- **allowing patients physical contact with their visitors during visits, unless there are reasoned grounds against this on the basis of an individual risk assessment.**

174. The delegation was informed that 78 patients had been deprived of legal capacity, and in respect of 16 of them, the treating psychiatrist was fulfilling the role of legal guardian. This state of affairs is clearly far from optimal. **The CPT recommends that steps be taken to ensure that all patients under guardianship have an appropriate and effectively monitored legal guardian.**

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<sup>44</sup> See paragraph 225 of CPT/Inf (2002) 19.

Further, the delegation was told that only 30-40% of patients had passports and national personal identification numbers, which caused difficulties for the payment of pensions to such patients. **The CPT invites the Ukrainian authorities to take steps to resolve this problem.**

In this context, the delegation learned that the hospital did not have a post for a lawyer who could take up issues for patients. **The CPT recommends that the Ukrainian authorities consider creating such a post.**

175. It transpired during the visit that patients are still not being provided with an introductory brochure following their admission. **The CPT reiterates its recommendation that an introductory brochure setting forth the hospital routine and patients' rights be devised and issued to each patient on admission, as well as to their families/guardians. Any patients unable to understand this brochure should receive appropriate assistance.**

Further, in the light of the information obtained during the visit, **the Committee recommends that:**

- **a formal system for lodging complaints be introduced. Patients should be informed of the bodies empowered to receive complaints, and complaints boxes (with restricted staff access) should be set up at the hospital;**
- **in addition to inspections by supervising prosecutors, a system of regular visits by independent outside bodies empowered to monitor patient care be introduced.**

## **2. Svyatoshynskiy Neuropsychiatric Institution for women in Kyiv**

### **a. preliminary remarks**

176. The CPT's delegation paid a brief visit to the Svyatoshynskiy Neuropsychiatric Institution (referred to as "Internat" in Ukrainian) for women in Kyiv, an establishment under the authority of the Ministry of Labour and Social Policy. It is located in the outskirts of Kyiv where it occupies a large territory surrounded by a two-meter-high fence, topped with barbed wire, and comprising two residential buildings (Block 1, accommodating the more dependent residents, and Block 2 for the more independent residents), as well as a building used for general purposes. The establishment had opened in 1932 and was originally used for persons with disabilities and war veterans. Block 2 was built in 1982. In the last twenty years, the Internat has specialised in the accommodation of adult women with mental disorders from Kyiv and the surrounding region.

On the day of the visit, there were 703 residents for a total capacity of 705 beds. The delegation was informed that residents usually spent lengthy periods at the Internat, the longest stay being 42 years. According to staff, 15-20% of residents suffered from learning disabilities and the rest were mentally ill.



b. ill-treatment

177. The delegation received a number of allegations from residents that some orderlies were at times verbally abusive and occasionally hit patients, including with sticks fashioned from tree branches. On one of the wards, the delegation found a wooden object which matched the description given by residents. Some staff members suggested that the low staffing levels may have contributed to personnel expressing their frustration by resorting to such unacceptable means to try and control disturbed residents.

Working with mentally disabled people will always be a difficult task for all categories of staff involved. Therefore, proper managerial control is essential to contribute to the prevention of ill-treatment. **The CPT recommends that a clear message be given to staff at the Svyatoshynskiy Neuropsychiatric Internat that ill-treatment of residents is totally unacceptable and will be dealt with severely. The Ukrainian authorities should also actively address factors that may have influenced such staff behaviour** (see paragraph 180).

178. Both residents and staff indicated that there were occasional instances of inter-resident violence, again linked to the low staffing levels. The authorities' obligation to care for residents includes the responsibility to protect them from other residents who might cause them harm. This requires an adequate staff presence at all times, including at night and weekends. Staff should be both properly trained and resolved to intervene when necessary. Further, appropriate arrangements should be made for particularly vulnerable residents; in particular, residents with motor disabilities or who are bedridden should not be accommodated or left alone with residents identified as behaving in an aggressive manner. **The CPT calls upon the Ukrainian authorities to take appropriate steps to protect residents at the Svyatoshynskiy Neuropsychiatric Internat from other residents who might cause them harm, in the light of the above remarks.**

c. staffing

179. The delegation was informed that the official staff complement stood at 396, practically all the posts being filled. Health-care staff comprised a chief doctor (who was a surgeon and internal diseases specialist), 3 psychiatrists, 2 gynaecologists and a dentist. Further, there were 30 nurses and some 304 orderlies (working in two 12-hour shifts). After 10 p.m., there was no doctor in the establishment and only one nurse was present in each block. Other staff in direct contact with residents involved 3 social workers and 5 persons in charge of work therapy. There was no psychologist. Outside medical specialists visited the Internat when needed and residents could be transferred to psychiatric hospitals for treatment.

180. Notwithstanding the above-mentioned staff numbers, on the day of the visit (a Saturday), the delegation observed that there were only 2 staff members on duty in ward 4 (accommodating 74 of the most disturbed residents). A noisy and chaotic environment prevailed in the ward, with large numbers of residents wandering the corridors, some lying on the floor rocking and shouting, while others were locked in the dormitories. Such a state of affairs is totally unacceptable and amounts in practice to an abandonment of residents.

The low number of staff in direct contact with residents appeared to be at the core of the Internat's inability to provide adequate protection, care, hygiene and regime for the residents. Inadequate staffing levels tend to generate highly stressful work conditions and increase the risk of disproportionate reactions towards challenging residents. The delegation was informed that the impossibility to recruit and retain qualified staff was linked to low salaries.<sup>45</sup>

**The CPT recommends that the Ukrainian authorities explore the possibilities of providing enhanced conditions of service for staff at the Svyatoshynskiy Neuropsychiatric Internat, so as to facilitate appropriate staff recruitment and retention. The numbers of staff in direct contact with residents (including nurses, educators, work therapists, social workers and psychologists) should be substantially increased.**

d. residents' living conditions

181. Material conditions were generally satisfactory, in particular in the three-storey Block 2 which had been refurbished in 2007 and was accommodating some 400 residents<sup>46</sup> on eight wards (around 50 residents per ward). Most of the rooms were designed to hold 4 residents and were spacious, light, airy and clean. The equipment consisted of single beds, bedside lockers, chairs, tables and wardrobes. Each ward had a bathroom with two showers and a bath, and a balcony used for hanging out clothes.

The two-storey Block 1 was accommodating around 300 residents in 4 wards (70-80 residents per ward). Each ward comprised a number of rooms with two to six beds, bedside lockers and some decoration (wall-mounted carpets, paintings, calendars). As in Block 2, the environment was light and airy, and the sanitary facilities and toilets were clean.

In both blocks, the rooms were usually not locked and residents had 24-hour access to the toilets. However, at least one dormitory in Block 1 had what appeared to be urine on the floor. The delegation was informed that the Internat was supplied with sufficient disposable pads for incontinent residents but did not receive waterproof mattress covers (which staff had to make themselves from oily cloth).

Residents were served meals in three shifts in a canteen. During interviews, the delegation received divergent opinions about the quality of the food served.

182. The CPT welcomes the efforts made to offer good material conditions to residents at the Svyatoshynskiy Neuropsychiatric Internat. **The Committee invites the Ukrainian authorities to ensure that there is a sufficient supply of disposable pads for incontinent residents and to provide waterproof mattress covers.**

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<sup>45</sup> A nurse was reportedly paid 800 to 1,000 Hryvna per month (some 65 - 82 Euros), and an orderly an average of 770 Hryvna per month (some 63 Euros).

<sup>46</sup> Staff could not provide the delegation with the precise number of residents accommodated in each block.

e. care of residents

183. All newly-arrived residents were examined by a psychiatrist and screened for TB. The delegation was informed that there was sufficient medication and residents did not appear to be over-sedated. Further, residents' medical records and prescription cards appeared adequate. However, the delegation learned that some relevant psychotropic medication (e.g. Leponex) was not available and had to be provided by the residents' families.

As noted in paragraph 179, there was no doctor on duty at night. If a resident became agitated during the night, staff on duty administered tranquillisers or called an ambulance. The delegation was told that the treating doctor would be informed of this the following morning and make a note in the relevant medical records. **The CPT recommends that there is a doctor on call and available to the Internat on a 24-hour basis.**

184. There was a paucity of rehabilitative psycho-social and recreational activities. Some residents were engaged in knitting, sewing and painting. The delegation was told that residents could also be taken out, under supervision, to cultural and artistic events and to the countryside.

There was clearly a lack of dayroom facilities: each ward had a small area (an extended part of the corridor, equipped with a TV set) which could not accommodate more than 30 residents at a time. The Internat's library had closed some time ago.

185. There was a large outdoor exercise area which was secured with a metal fence and had shelters and seating. The delegation was informed that residents, if they were not too disturbed, went out into the yard for 2 to 3 hours a day. At the time of the visit, there were some 70-80 residents in the yard, being observed by 4 orderlies. There was music playing, some residents danced, others walked around.

186. The treatment of mentally disabled persons should involve a wide range of therapeutic, rehabilitative and recreational activities, such as access to appropriate medication and medical care, occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Residents should have regular access to suitably-equipped recreation rooms; it is also desirable for them to be offered education and suitable work, the aim being to prepare residents for independent or at least more autonomous living. **The CPT recommends that the Ukrainian authorities take steps to ensure the implementation of individual treatment and rehabilitation plans by involving all residents in activities adapted to their needs. Achieving this goal will require recruiting more staff** (see paragraph 180).

f. means of restraint

187. The delegation was informed that disturbed residents could be placed in locked rooms and/or restrained with the help of soft restraints or straightjackets (which were available in each ward). The isolator, which comprised two rooms with a total of 7 beds, an adjacent sitting room and a room for orderlies, was located in the medical unit of Block 2. However, as far as the delegation could ascertain, there was no dedicated register recording the use of means of restraint and/or isolation. Such instances were being noted only in the shift book.

188. The CPT understands that, on occasion, there may be a need to restrain or isolate residents to protect themselves or others and, exceptionally, to resort to instruments of mechanical restraint. However, there should be a clearly defined policy in this respect. This policy should state that initial attempts to restrain agitated or violent residents should, as far as possible, be non-physical (e.g. verbal instruction) and that, where physical restraint is necessary, it should in principle be limited to manual control. Further, alternatives to restraint should be actively looked for by the staff together with the residents.

Resort to restraint or isolation is only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. If, exceptionally, recourse is had to instruments of mechanical restraint, they should be removed at the earliest opportunity. Residents subject to means of mechanical restraint or isolation should, at all times, have their mental and physical state continuously and directly monitored by a member of the health-care staff. Further, mechanical restraint should be applied exclusively by care staff (nurses or orderlies) and should never take place in the presence of other residents. The adoption of a policy on the use of restraints or isolation should be accompanied by practical training, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated. Residents should also be duly informed of the establishment's restraint policy as well as the existing complaints mechanisms in this respect.

Further, every instance of restraint of a resident (manual control, mechanical or chemical restraint) should be recorded in a specific register established for this purpose (as well as in the resident's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by residents or staff. This will greatly facilitate both the management of such incidents and oversight as to the frequency of their occurrence.

**The CPT recommends that steps be taken to ensure that a comprehensive and clearly-defined policy on the use of means of restraint and isolation is introduced at the Svyatoshynskiy Neuropsychiatric Internat, applying the above-described precepts.**

g. safeguards

189. The legal framework for committal to a neuropsychiatric institution, which is governed by the 2000 Law on Psychiatric Care, was described in the report on the 2002 visit.<sup>47</sup>

In the report on the 2002 visit, the CPT asked for information as to whether a person who has been committed to a neuropsychiatric institution may apply to a court at any time to contest his/her placement and, if so, under what conditions. The Ukrainian authorities did not provide a response to this request for information. **Consequently, the Committee reiterates that request. The CPT also wishes to receive statistics on the number of cases in which the courts have decided that persons were illegally committed to a neuropsychiatric institution since the Law on Psychiatric Care entered into force.**

190. The delegation was informed that approximately 73 % of residents had had guardians appointed. For the remaining ones, the Director of the Internat acted as guardian. Such a situation may easily lead to a conflict of interests, considering that part of the role of a guardian is to defend the rights of the incapacitated person for whom he or she is responsible vis-à-vis the host institution. **The CPT recommends that the Ukrainian authorities strive to find alternative solutions which avoid such a conflict of interests and better guarantee the independence and impartiality of guardians.**

As regards residents' pensions, the delegation was told that 75 % was retained by the establishment to cover expenses, the remainder being either given to the resident or transferred to a bank account for those deprived of legal capacity. However, the delegation received some allegations of financial abuse by the Internat's management in respect of residents' pensions and assets. **The CPT would like to be informed whether there have been any formal complaints in this respect, if they have been investigated and the results thereof.**

191. There were no specific arrangements for providing residents and their families with information concerning the stay at the Internat. The CPT considers that an introductory brochure setting out the establishment's routine, the rules for admission and discharge, residents' rights and the possibilities to lodge formal complaints on a confidential basis with clearly designated outside bodies, should be issued to the families/guardians of each resident. **The CPT recommends that such a brochure be drawn up and systematically distributed to residents, their families and guardians.**

192. Concerning contact with the outside world, residents could be visited by their families on three days a week. A special yearly authorisation for such visits was issued by the Internat's Director. Further, some residents were taken out by their families for week-ends, holidays or longer periods (up to 2 months), following prior approval by the Director. About 12 residents were allowed to leave the grounds of the Internat without supervision.

There are no public telephones in the establishment and the delegation was told that residents could phone from the medical unit, upon prior authorisation.

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<sup>47</sup> See paragraph 145 of CPT/Inf (2004) 34.

**The CPT invites the Ukrainian authorities to pursue their efforts to encourage residents' contacts with the outside world. In this context, the limitation on visits to only three days a week seems unduly restrictive. Further, steps should be taken to provide residents with access to the telephone.**

193. The delegation was informed that the Svyatoshynskiy Neuropsychiatric Internat had received a number of inspections from the Ministry of Labour and Social Policy and the Kyiv municipal authorities. However, it appeared that no independent outside bodies had visited the establishment.

The CPT attaches great importance to social care homes being visited on a regular basis by an independent outside body which is responsible for the inspection of residents' care. This body should be authorised, in particular, to talk privately with residents, and make any necessary recommendations to the authorities on ways to improve the care and conditions afforded to residents. Visits by such a body - which could also be competent to receive complaints from residents or their families - would, in the Committee's view, constitute an important safeguard for residents in social care institutions.

**Taking into account the above remarks, the CPT invites the Ukrainian authorities to introduce a system of regular visits to the Svyatoshynskiy Neuropsychiatric Internat and other similar institutions in Ukraine by bodies which are independent of the social care authorities (as provided for in Section 31 of the 2000 Law on Psychiatric Care).**

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194. Finally, the CPT wishes to stress that the implementation of the recommendations made above would be assisted by the adoption of a comprehensive national plan for mental health, including a strategy for addressing the shortfalls in all psychiatric and social care institutions in the country and for de-institutionalisation/avoiding institutional care. **The Committee invites the Ukrainian authorities to develop such a national plan.**

## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Co-operation**

##### recommendations

- the Ukrainian authorities to take measures to prevent any kind of intimidating or retaliatory action against a person before or after he/she has spoken to a CPT delegation (paragraph 5).

##### comments

- the CPT trusts that measures will be taken in future to avoid incidents of the type referred to in paragraph 5; this should involve the dissemination of information about the CPT's mandate and powers to all the authorities and staff concerned (paragraph 5).

#### **Establishments under the authority of the Ministry of Internal Affairs**

##### **Preliminary remarks**

##### recommendations

- the Ukrainian authorities to ensure that the legal provisions on the duration of police custody are respected in practice. This should include measures to ensure that the time-limit of 72 hours starts to run as from the moment of *de facto* apprehension, which is referred to in protocols of detention and arrest warrants (paragraph 10);
- the Ukrainian authorities to take resolute steps to stamp out the practice of using the provisions of the Code of Administrative Offences and Section 11 (5) of the Law on the Militia to prolong the time available for questioning criminal suspects, and to ensure that the detention and questioning of persons suspected of a criminal offence are always carried out in full compliance with the provisions of the Code of Criminal Procedure (paragraph 11).

##### **Torture and other forms of ill-treatment**

##### recommendations

- non standard-issue items capable of being used for inflicting ill-treatment to be removed from Internal Affairs premises where persons might be questioned (paragraph 13);

- a firm message of “zero tolerance” of ill-treatment to continue to be delivered at regular intervals to all Internal Affairs staff. It should be made clear that the perpetrators of ill-treatment and those condoning or encouraging such acts will be subject to severe sanctions (paragraph 16);
- the Ukrainian authorities to develop more rigorous recruitment procedures and improve professional training of Internal Affairs operational officers and investigators. During the training, particular emphasis should be placed on advanced methods of crime investigation, thereby reducing reliance on information and confessions obtained via interrogations for the purpose of securing convictions. In this context, investment should also be made in the acquisition of modern technical means of inquiry (e.g. criminalistic and laboratory equipment) (paragraph 16);
- professional training of operational officers should be combined with the adoption of detailed instructions on the proper questioning of criminal suspects (including initial interviews by operational officers) (paragraph 16);
- the new draft Code of Criminal Procedure to contain amendments which reduce the incentive to seek to extract confessions. Further, statements which have been made as a result of torture or other forms of ill-treatment should be inadmissible as evidence in any proceedings, except against a person accused of ill-treatment as evidence that the statement was made (paragraph 16);
- a clear message to be delivered to Internal Affairs staff that abusing their position in order to obtain money from detained persons will be the subject of severe sanctions (paragraph 17);
- the practice of making persons detained at Internal Affairs establishments sign statements before leaving the premises that no measures of physical coercion have been applied to them to be abolished (paragraph 18);
- urgent steps to be taken to ensure that investigations into cases involving allegations of ill-treatment fully meet the criteria of an “effective” investigation, as established by the European Court of Human Rights. In this context, the Ukrainian authorities are urged to set up an independent agency specialised in the investigation of complaints against law enforcement officials which is demonstratively separate from the Internal Affairs structures and the prosecution service (paragraph 20);
- the Ukrainian authorities to adopt instructions on medical screening at ITT facilities. All medical examinations must be conducted out of the hearing and – unless the member of health-care staff concerned expressly requests otherwise in a given case – out of the sight of Internal Affairs staff. Staff should be clearly instructed that if a person is admitted bearing injuries consistent with possible ill-treatment, the relevant prosecutor should be immediately notified and a copy of the report on injuries forwarded to him (rather than to the Internal Affairs division concerned). Detained persons and their lawyers should be entitled to receive a copy of that report at the same time (paragraph 22);



- whenever a detained person presents injuries and makes allegations of ill-treatment, he should be promptly seen by an independent doctor qualified in forensic medicine who should draw conclusions as to the degree of consistency between the allegations made and the objective medical findings. The detained person should be entitled to such an examination without prior authorisation from an investigator, prosecutor or judge (paragraph 22).

comments

- on several occasions, the delegation found gas masks which were unlabelled and not in a container (paragraph 13);
- the CPT wishes to stress the need for the adoption of a comprehensive strategy - based on specific legislation, prevention, education and the application of appropriate sanctions - for combating corruption in the Internal Affairs bodies (paragraph 17);
- the Ukrainian authorities are invited to introduce a uniform nationwide system for the compilation of statistical information on complaints, disciplinary sanctions, and criminal proceedings and sanctions against Internal Affairs officers. Steps should also be taken to improve the provision of information to the public on the outcome of investigations into complaints of ill-treatment by Internal Affairs officers (paragraph 19);
- in order to guarantee the professional independence of health-care staff working in ITTs, the CPT considers that such staff should be aligned as closely as possible with the mainstream of health-care provision in the community at large (paragraph 23);
- consideration should be given to bringing together the efforts of all relevant structures in a concerted strategy, such as a National Action Plan against torture (paragraph 25).

requests for information

- the envisaged date of entry into force of the draft new CCP and of any measures taken in the meantime concerning the role of judges in ascertaining whether ill-treatment has occurred (paragraph 21);
- if, in addition to examinations by State forensic doctors, there is a provision in law for examinations by independent doctors qualified in forensic medicine (paragraph 24).

## **Procedural safeguards against ill-treatment**

### recommendations

- further measures to be taken to ensure that all detained persons effectively benefit from the right of notification of custody as from the very outset of their deprivation of liberty. In this context, it should be made clear to Internal Affairs staff that their obligation to notify the relatives of detained persons of the fact of their detention entails the responsibility to provide accurate information as regards the detained persons' whereabouts (paragraph 27);
- the Ukrainian authorities to take steps to ensure that both the law and the practice are aligned with the precept that the right of access to a lawyer should be guaranteed to all persons – including administrative detainees – as from the outset of deprivation of liberty (paragraph 28);
- Internal Affairs operational staff and investigators to receive a firm message that any attempts to make detained persons renounce their right to a lawyer are illegal (paragraph 28);
- the draft Law on Legal Aid to be adopted as a matter of priority. Particular attention should be paid to the effectiveness of the legal aid system and, more specifically, to the issue of impartiality of ex officio lawyers and their independence from the law enforcement structures and the prosecuting/investigating authorities (paragraph 29);
- the Ukrainian authorities to introduce legal provisions ensuring that persons deprived of their liberty by Internal Affairs agencies have an effective right to be examined by an independent doctor (including a doctor of one's own choice, it being understood that an examination by such a doctor may be carried out at the detained person's own expense) as from the moment of the *de facto* deprivation of liberty (paragraph 30);
- the Ukrainian authorities to take steps to ensure that all persons detained by Internal Affairs agencies are fully informed of their rights (including the rights indicated above). This should involve the provision of clear verbal information at the very outset of deprivation of liberty, to be supplemented at the earliest opportunity (that is, immediately upon first entry into Internal Affairs premises) by provision of a written information on rights. In this context, the Ukrainian authorities should draw up an information sheet on rights which is more simple and easy to understand and available in an appropriate range of languages. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on Internal Affairs staff to ascertain that this is the case (paragraph 31);
- steps to be taken to ensure that juveniles do not make any statement or sign any document related to the offence of which they are suspected without the benefit of a lawyer and ideally another trusted adult being present (paragraph 32);
- a specific version of the information sheet on rights, setting out the particular position of detained juveniles (i.e. mandatory assistance by a lawyer, possibility to have a trusted adult present), to be developed and given to all such persons taken into custody. For this age group especially, the information sheet should be made easy to understand and be available in a variety of languages. Special care should also be taken to explain the information to ensure comprehension (paragraph 32);

- the Ukrainian authorities to take steps to ensure that custody registers are properly maintained, accurately record the times of apprehension, placement in a cell, release or transfer, and reflect all other aspects of custody (precise location where a detained person is being held; visits by a lawyer, relative, doctor or consular officer; taking out for questioning, etc.) (paragraph 33);
- supervising prosecutors and senior Internal Affairs officials to exercise increased vigilance as regards the accuracy of custody registers in Internal Affairs establishments (paragraph 33);
- the Ukrainian authorities to build upon the experience of the mobile groups to develop a system of monitoring visits to Internal Affairs establishments by fully independent outside bodies (paragraph 34).

#### comments

- the Ukrainian authorities are invited to take steps to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 27).

#### requests for information

- steps taken towards developing a national preventive mechanism in order to fulfil Ukraine's obligations under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (paragraph 34).

### **Conditions of detention in Internal Affairs establishments**

#### recommendations

- the Ukrainian authorities to pursue their efforts to provide appropriate conditions of detention to persons held in Internal Affairs Divisions. This should involve steps to ensure that:
  - cells are of a reasonable size for their intended occupancy, cells measuring less than 5 m<sup>2</sup> not being used for periods of detention exceeding three hours;
  - adequate in-cell lighting (access to natural light/artificial lighting), ventilation and heating are provided;
  - all cells are equipped with a means of rest suitable for overnight stays;
  - all persons detained overnight are provided with clean mattresses and blankets;
  - Internal Affairs Divisions are allocated a specific budget to cover the cost of providing food to detained persons(paragraph 37);

- the Ukrainian authorities to pursue the renovation of ITTs, a high priority being given to refurbishing the detention facility in Dnipropetrovsk and building a new ITT in Dniprodzerzhinsk. In this context, the Committee recommends that:
  - the official occupancy levels of cells be reduced, the objective being to offer at least 4 m<sup>2</sup> of living space per detainee in multi-occupancy cells; cells of less than 7 m<sup>2</sup> should never accommodate more than one detained person;
  - missing window panes be replaced in the cells at Dniprodzerzhinsk ITT;
  - access to natural light be significantly improved in the cells at Slavutich ITT;
  - the shower facilities be refurbished at Dniprodzerzhinsk ITT;
  - measures be taken to ensure that detainees have access to at least one hour of outdoor exercise a day and that outdoor exercise yards are sufficiently large and adequately equipped  
(paragraph 40);
- the Ukrainian authorities to employ female staff in detention areas in all ITTs and to ensure that at least one female staff member is constantly present whenever female detainees are accommodated (paragraph 42);
- steps to be taken at the Lugansk Reception and Distribution Centre for vagrants to:
  - improve access to natural light in the cells;
  - enlarge the outdoor exercise yard;
  - provide some form of activity in addition to outdoor exercise (e.g. access to radio, TV, reading matter, board games, work)  
(paragraph 43);
- the Ukrainian authorities to take steps to review the arrangements for transporting detained persons (paragraph 44).

#### comments

- the confined space of the individual compartments (some 0.5 m<sup>2</sup>) in the van inspected by the delegation is unsuitable for transporting a person, no matter how short the duration (paragraph 44).

#### requests for information

- a copy of Ministry of Internal Affairs Order No. 181 of 28 April 2009 (paragraph 35);
- a copy of the regulations governing the use of video surveillance equipment in ITT cells (paragraph 41).

## **Secure ward at Kyiv Emergency Hospital**

### recommendations

- the Ukrainian authorities to adopt clear instructions for custodial/escort staff at the secure ward of Kyiv Emergency Hospital with a view to ensuring that:
  - the practice of handcuffing detainees to hospital beds is discontinued;
  - medical examinations are conducted out of the hearing and – unless the health-care staff concerned expressly request otherwise in a particular case – out of the sight of non-medical staff;
  - truncheons are hidden from view – preferably, staff should not carry them at all – and gas canisters and firearms are always deposited in a safe place when staff enter the secure ward(paragraph 46).

## **Foreign nationals detained under aliens legislation**

### **Preliminary remarks**

#### recommendations

- steps to be taken to ensure that the legal provisions governing detention by the State Border Service are fully respected in practice (paragraph 48);
- the Ukrainian authorities to continue to deliver to Border Service and Internal Affairs staff working in establishments for foreign nationals the firm message that abusing their position in order to obtain money from detained foreign nationals will be subject to severe sanctions (paragraph 49).

#### requests for information

- up-to-date information on the progress of plans to build new Border Service detention facilities, as well as additional Internal Affairs facilities for the detention of foreign nationals (paragraph 47).

### **Ill-treatment**

#### recommendations

- Border Service staff working at the PTT in Chernigiv to be given a firm message, at regular intervals, that any forms of ill-treatment of detained persons will not be tolerated (paragraph 50);

- if it is deemed necessary for custodial staff to carry truncheons and handcuffs in detention areas, this equipment to be hidden from view. Tear gas canisters and rubber bullet weapons should not form part of the standard equipment of custodial staff and, given the potentially dangerous effect of this substance, tear gas should not be used in confined spaces. If necessary, the relevant regulations should be amended (paragraph 51).

## **Safeguards**

### recommendations

- the Ukrainian authorities to implement the recommendations made in paragraph 42 of the report on the CPT's 2007 visit, and in particular to ensure that all persons held under aliens legislation:
  - have an effective right, as from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with a law enforcement agency), to inform a relative or a third party of their choice of their situation;
  - have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings;
  - receive, when necessary, the assistance of a qualified interpreter (paragraph 57);
- the Ukrainian authorities to amend the relevant regulations with a view to substantially extending the 12-hour period of time during which consulates or relevant diplomatic missions are to be contacted following the detention of a foreign national (paragraph 58).

### comments

- the Ukrainian authorities are invited to redouble their efforts to ensure that foreign nationals held under aliens legislation are fully informed about their situation and the procedure applicable to them (paragraph 57).

### requests for information

- on the pilot projects for providing legal aid to detained foreign nationals (paragraph 54);
- comments of the Ukrainian authorities on the practice of prosecutors obtaining the cancellation of refugee status of some foreign nationals, without a court decision, in order to allow their return to countries where there are substantial grounds for believing that they would run a risk of being subjected to torture or inhuman or degrading treatment or punishment (paragraph 59).

## **Conditions of detention**

### recommendations

- the outdoor exercise areas at Rozsudiv PTP to be equipped with shelters against inclement weather and means of rest (paragraph 62);
- the Ukrainian authorities to ensure that any future detention premises at Boryspil Airport offer appropriate material conditions, including access to natural light (paragraph 63);
- measures to be taken to ensure that foreign nationals detained at Boryspil Airport SP for more than 24 hours have access to at least one hour of daily outdoor exercise. In this context, the future Border Service detention premises at Boryspil Airport should be equipped with an appropriate outdoor exercise area (paragraph 63);
- staff to receive clear instructions that foreign nationals detained at Chernigiv PTT have regular access to a shower (paragraph 65);
- some form of activity to be introduced for foreign nationals held at Chernigiv PTT (e.g. association, TV/radio, books, etc.) (paragraph 65).

### comments

- the Ukrainian authorities are invited to further develop the range of activities offered to detained foreign nationals at Rozsudiv PTP, as well as in other PTPs in Ukraine (paragraph 62);
- the Ukrainian authorities are invited to take measures to ensure that the basic needs of foreign nationals kept in the Boryspil Airport transit zone for more than 24 hours are met in future (paragraph 64);
- the CPT trusts that Border Service staff will always seek to resolve cases of foreign nationals kept in the Boryspil Airport transit zone in full accordance with relevant national and international legal provisions and in co-operation with the competent national and international agencies (paragraph 64).

## **Health care**

### recommendations

- steps to be taken to ensure that:
  - the medical examination of detained foreign nationals is performed in a systematic and thorough manner;
  - all medical examinations are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of non-medical staff;

- information concerning detained persons' health is kept in a manner which ensures respect for medical confidentiality; naturally, health-care staff may inform custodial officers on a need-to-know basis about the state of health of a detained person, including medication being taken and particular health risks (paragraph 68);

- steps to be taken at Border Service detention facilities to improve the recording of medical data. In particular, the relevant medical documentation should contain diagnostic information as well as an ongoing record of the person's state of health and of his treatment, including any special examinations he has undergone (paragraph 68).

#### comments

- the Ukrainian authorities are invited to set up a system of regular visits by medical specialists (dentist, paediatrics, psychiatrists, etc.) at Rozsudiriv PTP to better meet the detainees' health-care needs (paragraph 66);
- the Ukrainian authorities are encouraged to pursue their efforts to ensure that holding facilities for aliens are provided with sufficient financing for purchasing the necessary medication (paragraph 67).

#### **Other issues**

#### recommendations

- the Ukrainian authorities to further develop specialised training programmes for Border Service and Internal Affairs staff assigned to work in holding facilities for aliens. In this context, greater communication between staff and detainees should be encouraged (paragraph 69);
- steps to be taken to ensure that at Rozsudiriv PTP, as well as in other Internal Affairs detention facilities for foreign nationals in Ukraine, the imposition of visits under closed conditions is based on an individual risk assessment (paragraph 70);
- the Ukrainian authorities to review the policy in Border Service holding facilities in order to ensure that persons held under aliens legislation are allowed visits and have access to a telephone (paragraph 70);
- steps to be taken at Rozsudiriv PTP to:
  - provide foreign nationals subject to a segregation measure with a copy of the relevant decision and information on the possibilities to appeal the measure to an outside authority;
  - guarantee regular access to a shower for foreign nationals held in segregation;
  - review the regime of foreign nationals subject to a segregation measure. In particular, steps should be taken to ensure that they have access to an adequately equipped outdoor exercise yard for at least one hour a day, as well as to reading matter (paragraph 71);



- the Ukrainian authorities to pursue their efforts to develop independent monitoring of Border Service and Internal Affairs holding facilities for aliens (paragraph 72).

### **Establishments under the authority of the State Department on Enforcement of Sentences**

#### **Preliminary remarks**

##### recommendations

- the examination of proposals to amend the Code of Criminal Procedure and the Criminal Code to be considered a priority, the aim being to shorten the length of court proceedings in criminal cases and to circumscribe more closely the circumstances in which recourse can be had to the preventive measure of remand in custody (paragraph 75);
- efforts to be made to develop the training provided to judges and prosecutors, with a view to promoting the use of alternatives to imprisonment (paragraph 75);
- in their endeavours to combat prison overcrowding, the Ukrainian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole) and Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse (paragraph 75);
- the Ukrainian authorities to review as soon as possible the norms fixed by legislation for living space per prisoner, ensuring that they provide for at least 4 m<sup>2</sup> per inmate in multi-occupancy cells in all the establishments under the authority of the Department on Enforcement of Sentences (SIZOs included) (paragraph 75);
- the Ukrainian authorities to step up their efforts to develop the programmes of activities for sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature (paragraph 76).

#### **Torture and other forms of ill-treatment**

##### recommendations

- the management of the Kyiv SIZO, Colony No. 60 in Lozivske and Colony No. 85 in Gostomel to continue to deliver to custodial staff the clear message that the ill-treatment of inmates is not acceptable and will be dealt with severely (paragraph 77);

- the administration and staff of Colony No. 89 in Dnipropetrovsk to be given a firm and clear reminder that ill-treatment, in any form, is unacceptable and that any member of staff committing, aiding and abetting or tolerating such abuses will be severely punished (paragraph 80);
- prison staff at Colony No. 89 in Dnipropetrovsk to receive the clear message that any kind of threats or intimidating action against a prisoner who has complained or any attempts to prevent complaints or requests from reaching the relevant supervisory bodies will not be tolerated (paragraph 81);
- the Ukrainian authorities to take steps to bring practice concerning the use of “special means” into line with the requirements set out in paragraph 82. A specific register recording the use of “special means” should be set up at Colony No. 89 in Dnipropetrovsk (as well as at other penitentiary establishments where such a register does not already exist). It is also important to ensure that supervising prosecutors and the State Department on Enforcement of Sentences are systematically notified in writing of any use of physical force and “special means” by prison staff and are particularly vigilant when examining such cases (paragraph 82);
- steps to be taken to ensure that the health-care services of the establishments visited, as well as in the Ukrainian penitentiary system in general, perform a thorough and systematic screening of prisoners for injuries, both on admission and, when appropriate, during imprisonment. Screening should take place out of the hearing and – save if the doctor expressly requests otherwise in a particular case – out of the sight of non-medical staff. The medical record drawn up after such a screening should contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor’s conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. Further, the results of every examination, including the above-mentioned statements and the doctor’s conclusions, should be made available without delay to the prisoner and his lawyer (paragraph 84);
- prison doctors to be reminded that it is their duty to report to the prison administration and to the competent prosecutor any cases of ill-treatment of which they are aware; the doctors (and the inmates concerned) should not be exposed to any form of reprisals from the prison administration if they fulfil that duty (paragraph 84);
- the Ukrainian authorities to give a clear message to prison doctors and prison directors that the doctors’ professional independence and medical ethics take precedence over their administrative subordination to the establishment’s management (paragraph 84);
- steps to be taken to end the practice of prison staff openly carrying truncheons within detention areas. If it is deemed necessary for staff to be armed with truncheons, they should be hidden from view. Further, tear gas canisters should not be part of prison staff’s standard equipment and should not be used in a confined area (paragraph 85);

- the Ukrainian authorities to put an end to anachronistic and potentially degrading practices persisting in the Ukrainian penitentiary system, such as the obligation imposed on inmates in high-security units to spread-eagle themselves and call out their offences every time the cell door opens (paragraph 86).

#### requests for information

- the precise actions taken by the Prosecutor's Office which led to the conclusion that the actions of two junior inspectors from the security and patrol unit of Colony No. 89 did not constitute crimes and the refusal to institute criminal proceedings (in particular, interviews with alleged victims and witnesses, alleged culprits, medical staff; any medical examinations carried out, etc.) (paragraph 80);
- the outcome of the administrative proceedings opened on 20 September 2009 in respect of 13 senior officers working at Colony No. 89 in Dnipropetrovsk (paragraph 80);
- for 2008 and 2009, in respect of all penitentiary establishments in Ukraine:
  - the number of complaints of ill-treatment lodged against prison staff;
  - an account of disciplinary and/or criminal proceedings initiated and sanctions imposed (paragraph 83);
- detailed information on the complaints and disciplinary procedures in respect of prison staff, including the safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution (paragraph 83).

### **Prisoners sentenced to life imprisonment**

#### recommendations

- the Ukrainian authorities to take urgent measures to:
  - ensure that there is at least 4 m<sup>2</sup> of living space per life-sentenced prisoner in multi-occupancy cells at the Kyiv SIZO and Colony No. 89;
  - withdraw from service or enlarge the cells measuring less than 6 m<sup>2</sup> at Colony No. 89, and ensure that all cells have at least 2 metres between the walls;
  - improve access to natural light and ventilation in the cells for life-sentenced prisoners at Colonies Nos. 60 and 89. The design of the cell windows should be reviewed so as to allow inmates to see outside their cells (paragraph 89);
- the Ukrainian authorities to develop a programme of purposeful activities for prisoners sentenced to life imprisonment (including work, education, association, sports and cultural activities, as well as targeted rehabilitation programmes) (paragraph 90);

- steps to be taken to enlarge the exercise yards at Colonies Nos. 60 and 89 so as to allow life-sentenced prisoners to exert themselves physically (paragraph 90);
- the Ukrainian authorities to review the security arrangements for life-sentenced prisoners, in the light of the remarks made in paragraph 91. Steps should be taken in particular to ensure that:
  - the handcuffing of life-sentenced prisoners when outside their cells is always based on an individual risk assessment;
  - the dangerous and intimidating practice of having dogs within detention areas whenever life-sentenced prisoners are taken out of their cells is stopped without delay (paragraph 91);
- the Ukrainian authorities to increase substantially the visit entitlement of life-sentenced prisoners. As a general rule, visits should take place in open conditions (e.g. around a table), visits through a partition being the exception. Further, life-sentenced prisoners should only be prohibited from receiving long-term visits on the basis of an individual risk assessment. In addition, staff must receive clear instructions that life-sentenced prisoners should not be kept in handcuffs during visits. Steps should also be taken to ensure that life-sentenced prisoners have access to a telephone (paragraph 92);
- the Ukrainian authorities to review the legislation and practice as regards the segregation of life-sentenced prisoners, in the light of the remarks in paragraph 93 (paragraph 93).

comments

- it is desirable to minimise, as much as possible, the uprooting of life-sentenced prisoners (paragraph 91);
- the CPT urges the Ukrainian authorities to pursue without further delay the legislative proposals aimed at improving the situation of life-sentenced prisoners (paragraph 93).

requests for information

- comments of the Ukrainian authorities on the requirement that life-sentenced prisoners should, as a rule, serve their sentence in regions other than that of their origin (paragraph 92).

## **Prisoners held in special conditions of high security or control**

### recommendations

- the legal provisions pertaining to placement in special conditions of high security to be amended, in the light of the remarks in paragraph 95 (paragraph 95);
- the Ukrainian authorities to review the procedure for placement in conditions of enhanced control, in the light of the remarks in paragraph 96 (paragraph 96);
- steps to be taken to reduce the occupancy levels in the cells at Colonies Nos. 60 and 85 for prisoners held in special conditions of high security or control, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells (paragraph 97);
- the second and third recommendations in paragraph 89 apply equally to the cells at Colony No. 89 for prisoners held in special conditions of high security or control (paragraph 97);
- a programme of purposeful activities of a varied nature (including work, education, association and targeted rehabilitation programmes) to be offered to prisoners held in special conditions of high security or control. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a qualified psychologist and an educator), in consultation with the inmates concerned (paragraph 98).

### comments

- the Ukrainian authorities are encouraged to pursue their efforts to improve material conditions in the cells for inmates subject to especially high security arrangements or enhanced control in Colonies Nos. 60 and 85 (paragraph 97).

## **Conditions of detention of the general prison population**

### recommendations

- at the Kyiv SIZO:
  - immediate steps to be taken to provide every prisoner with a bed;
  - strenuous efforts to be made to decrease the overcrowding and to distribute prisoners more evenly amongst the available accommodation, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner;
  - measures to be taken to ensure, as a matter of priority, access to natural light and adequate ventilation in prisoner accommodation;
  - efforts to be made to renovate the prisoner accommodation and ensure an adequate level of hygiene;
  - prisoners to be guaranteed access to adequate quantities of essential personal hygiene products and cleaning products for their cells;

- serious efforts to be made to improve the quality and quantity of food provided to prisoners, paying particular attention to the specific dietary needs of juveniles (paragraph 106);
- the Ukrainian authorities to consider the possibility of increasing the frequency of prisoners' access to a shower in the establishments visited, as well as in other penitentiary establishments in Ukraine, taking into consideration Rule 19.4 of the European Prison Rules (paragraphs 89, 106, 113 and 121);
- the Ukrainian authorities to make strenuous efforts to offer organised out-of-cell activities (work, recreation/association, education, sport) to prisoners at the Kyiv and Dnipropetrovsk SIZOs (paragraphs 107 and 111);
- steps to be taken at the Kyiv SIZO to construct more appropriate exercise yards which allow prisoners to exert themselves physically, as well as indoor and outdoor sports facilities (paragraph 107);
- further efforts to be made at the Kyiv SIZO to develop a full programme of education, sport, vocational training, recreation and other purposeful activities for detained juveniles (paragraph 108);
- efforts to be made to decrease overcrowding at the Dnipropetrovsk SIZO, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells (paragraph 110);
- all the necessary support to be provided to the management of Colony No. 85 in order to realise the plans of transforming all large-capacity dormitories into smaller living units, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner (paragraph 113);
- prisoners at Colony No. 85 to be provided with an appropriate range of basic personal hygiene items at regular intervals (soap, shampoo, toilet paper, etc.) (paragraph 113);
- efforts to provide a broad range of purposeful activities to prisoners at Colony No. 85 to be continued. Particular care should be taken to ensure that all prisoners fit and willing to work are offered a job. Efforts should also be made to further develop educational programmes (including higher education) and vocational training (paragraph 114);
- the Ukrainian authorities to take action, as a matter of urgency, to improve the water supply at Colony No. 60 (paragraph 116);
- measures to be adopted at Colony No. 60 in order to:
  - reduce overcrowding in the dormitories, the objective being to offer at least 4 m<sup>2</sup> of living space per inmate;
  - improve the electricity supply in accommodation blocks (paragraph 116);

- the Ukrainian authorities to redouble their efforts with a view to providing prisoners at Colony No. 60 with a range of purposeful activities (e.g. work, education and vocational training, sports and cultural activities) (paragraph 117);
- all the necessary support to be provided to the management of Colony No. 89 in order to transform large-capacity dormitories into smaller living units. Efforts should also be pursued to reduce the occupancy levels in the dormitories, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner, and to improve access to natural light and ventilation (paragraph 121);
- the sanitary annexes in the accommodation blocks at Colony No. 89 to be enlarged and prisoners to be provided with an appropriate range of basic personal hygiene items (soap, shampoo, toilet paper, etc.) (paragraph 121);
- the Ukrainian authorities to strive to develop the programmes of activities for prisoners at Colony No. 89 in Dnipropetrovsk, taking due account of the remarks made in paragraph 76 (paragraph 122).

#### comments

- the Ukrainian authorities are invited to check the quality of food served at Colony No. 89 (paragraph 121).

#### requests for information

- comments on the fact that remand prisoners at the Kyiv SIZO were not allowed to receive books (other than the Bible) or newspapers from outside (paragraph 107);
- confirmation that the indoor sports hall at Colony No. 85 has been re-opened (paragraph 114);
- comments on the allegations that funds dedicated to the provision of jobs to prisoners at Colony No. 60 were being used for other purposes (paragraph 117);
- comments on complaints heard at Colony No. 89 about prisoners' working conditions and payment (paragraph 122).

### **Health care**

#### recommendations

- the Ukrainian authorities to take urgent steps at the Kyiv SIZO to:
  - reinforce significantly the health-care staff team with additional feldshers and/or nurses;
  - employ additional doctors, in particular specialists in infectious diseases;
  - refurbish the remainder of the cells in the medical unit, cells Nos. 262 and 265 being treated as a priority(paragraph 125);

- steps to be taken at Colony No. 85 to:
  - increase the time during which a dentist is available for the colony's general prisoner population to the equivalent of at least one full-time post;
  - increase significantly the number of feldshers and/or nurses providing cover for the colony's general prisoner population;
  - upgrade the equipment of the intensive care unit and equip a proper post-operative room;
  - ensure an overall level of hygiene which befits a hospital facility (paragraph 126);
- efforts to be made to reinforce the health-care staff resources at Colonies Nos. 60 and 89, and in particular:
  - to fill the vacant posts at Colony No. 60;
  - to increase the number of feldshers and/or nurses at both colonies (paragraph 127);
- the Ukrainian authorities to make continued efforts to ensure that penitentiary establishments have a sufficient supply of appropriate medication, including second-line drugs for the treatment of tuberculosis, and to introduce better management of the distribution of available drugs to prisoners (paragraph 128);
- the Ukrainian authorities to put an end to the practice of administering injections through bars or cell hatches (paragraph 129);
- urgent steps to be taken to ensure:
  - the provision of sufficient quantities and types of anti-TB medication in all penitentiary establishments (including SIZOs);
  - the possibility to transfer remand prisoners suffering from TB to specialist units within or outside the penitentiary system so as to offer adequate treatment;
  - systematic treatment of prisoners in accordance with the DOTS method for tuberculosis control (paragraph 132);
- at the penitentiary hospital for prisoners with tuberculosis at Colony No. 89 in Dnipropetrovsk:
  - the living space in the dormitories to be increased to reach the national standard of 5 m<sup>2</sup> of living space per patient;



- efforts to be made to ensure that material conditions meet hospital standards, by refurbishing the wards, transforming large-capacity dormitories into smaller units, and providing prisoners with personal lockers and adequate dayroom facilities;
  - more frequent access to showers (preferably on a daily basis) to be arranged for prisoners with TB (paragraph 135);
- the Ukrainian authorities to take urgent steps to reinforce the provision of psychiatric care to prisoners, and in particular to:
- ensure the availability of adequate supplies of psychotropic drugs;
  - transfer without delay mentally disturbed prisoners who require in-patient psychiatric treatment to appropriate hospital facilities which are adequately equipped and possess appropriately trained staff (paragraph 138);
- the Ukrainian authorities to further develop the profession of prison psychologist and offer external stimulation, support and training possibilities to such staff (paragraph 139);
- the Ukrainian authorities to develop a comprehensive and coherent prison drug strategy, including the provision of assistance to inmates with drug-related problems (paragraph 140);
- steps to be taken at Colony No. 60 to improve the treatment of prisoners with physical disabilities, in the light of the remarks in paragraph 141 (paragraph 141);
- steps to be taken to ensure that prisoners who are the subject of a short-term fatal prognosis are provided with dignified end-of-life care either within or outside the penitentiary system (paragraph 142).

#### comments

- the CPT wishes to stress the need for continued professional training for prison health-care staff, with a view to enabling them to perform their duties satisfactorily (paragraph 123);
- the Ukrainian authorities are invited to broaden the range of activities available to prisoners in the TB hospital at Colony No. 89 (paragraph 136);
- the CPT wishes to stress the need for an early intervention by special medical commissions preparing applications for release on medical grounds, and the speedy consideration of such applications by courts (paragraph 142).

#### requests for information

- action taken on the proposal to set up a working group to study the transfer of prisoners' health care to the Ministry of Health (paragraph 123);
- information on the national policy on continued professional training for prison health-care staff (paragraph 123);

- information on the criteria for prescribing prophylactic treatment to prisoners who had been treated for TB in the past (paragraph 131);
- comments on the complaints received from prisoners at the Kyiv SIZO that requests to be tested for HIV had not been met due to a limit on the number of tests that could be performed (paragraph 137);
- information on the criteria for prescribing antiretroviral therapy to HIV-positive prisoners and the availability of antiretroviral medication within the penitentiary system (paragraph 137);
- comments on the approach followed at the TB hospital at Colony No. 89 as regards antiretroviral therapy (paragraph 137).

### **Other issues of relevance to the CPT's mandate**

#### recommendations

- the Ukrainian authorities to take steps to increase staffing levels and improve the recruitment and remuneration of prison staff, in the light of the remarks made in paragraph 143 (paragraph 143);
- the Ukrainian authorities to step up their efforts to combat corruption in the prison system through transparency in the decision-making procedures, prevention, education and the application of appropriate sanctions. Staff working in the prison system should be given the clear message that obtaining or demanding undue advantages from prisoners is not acceptable; this message should be reiterated in an appropriate form at suitable intervals (paragraph 145);
- the Ukrainian authorities to review the procedure for placement in a DIZO/*kartzer* and PKT in order to ensure that the prisoners concerned (i) are informed in writing of the charges against them, (ii) are given sufficient time to prepare for their defence, (iii) have the right to call witnesses on their own behalf and to cross-examine evidence given against them, and (iv) are provided with a copy of the decision which contains the reasons for placement and straightforward information on their rights, including the right to legal assistance and the means available to them to challenge the decision before an independent authority (e.g. a judge) (paragraph 147);
- steps to be taken to ensure that:
  - DIZO/*kartzer* or PKT cells measuring less than 6 m<sup>2</sup> are withdrawn from service or enlarged at Colonies Nos. 60 and 89;
  - prisoners benefit from at least 4 m<sup>2</sup> of living space in multi-occupancy disciplinary/PKT cells;
  - access to natural light and ventilation in disciplinary/PKT cells are significantly improved;

- refurbishment is carried out of the DIZO/PKT cells in Colonies Nos. 60 and 89;
- DIZO/*kartzer* and PKT cells are equipped with a call system (paragraph 148);
- steps to be taken to ensure that exercise yards of the DIZO/PKT building at Colony No. 85 offer outdoor exercise in the true sense of the term. As far as possible, inmates should have regular access to outdoor exercise facilities located at ground level. Steps should also be taken at Colony No. 89 to enlarge the exercise yards (paragraph 149);
- the Ukrainian authorities to amend the legislation in order to ensure that prisoners placed in a DIZO/*kartzer* are allowed access to reading matter and that those held in PKT cells are allowed some form of leisure activities (paragraph 149);
- the Ukrainian authorities to take steps to ensure that placement of prisoners in a DIZO/*kartzer* and PKT does not include a total prohibition on family contacts. Any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts (paragraph 150);
- the Ukrainian authorities to implement the CPT's long-standing recommendation that prison doctors no longer be tasked with approving prisoners' placement in a DIZO/*kartzer* or PKT (paragraph 151);
- the Ukrainian authorities to take measures in order to ensure that remand prisoners are entitled to receive visits and send/receive letters as a matter of principle. Any refusal to permit visits or send/receive letters should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case in hand and be applied for a specified period of time, with reasons stated. If necessary, the relevant legislation and regulations should be amended (paragraph 152);
- access to a telephone to be guaranteed for remand prisoners; any decision to prohibit or impose restrictions on a given prisoner's access to a telephone should be based on a substantiated risk of collusion, intimidation or another illegal activity and be for a specified period. The law should be amended accordingly (paragraph 152);
- the Ukrainian authorities to:
  - modify the facilities for short-term visits in order to enable prisoners to receive visits under reasonably open conditions. Open visiting arrangements should be the rule and closed ones the exception, such exceptions to be based on well-founded and reasoned decisions following individual assessment of the potential risk posed by a particular prisoner. Further, the capacity of the short-term visiting facilities should be increased to meet the prison population's needs;
  - ensure that sentenced prisoners have access to a telephone and increase significantly the phone-call entitlement for all categories of inmate (paragraph 153);
- short-term visits to be exempted from any financial contribution (paragraph 153);

- indigent prisoners to be provided with envelopes and stamps for sending letters (paragraph 154);
- the Ukrainian authorities to take measures to safeguard the confidential character of prisoners' outgoing and incoming correspondence with national and international human rights bodies (including the CPT). If necessary, the relevant legal provisions should be amended. Specific practical measures should also be taken to ensure that letters are transmitted confidentially (paragraph 155);
- the Ukrainian authorities to develop a system of monitoring visits to penitentiary establishments by independent outside bodies without further delay (paragraph 157);
- supervising prosecutors to receive instructions that individual interviews with prisoners are to be held in private (without the presence of any prison staff) (paragraph 157).

#### comments

- the 24-hour shift pattern for prison staff negatively affects professional standards (paragraph 143);
- the CPT trusts that the Ukrainian authorities will continue to attach a high priority to the development of prison staff training, both initial and ongoing. Particular measures should be taken to develop specialised training for staff working with certain categories of prisoner (e.g. juveniles, women, life-sentenced prisoners, and prisoners held in special conditions of high security or control) (paragraph 144);
- the Ukrainian authorities are invited to make the maximum use of social rehabilitation units in colonies (paragraph 158).

#### requests for information

- more details on the action plan for combating corruption within the penitentiary system, and on the results of its implementation (paragraph 145);
- clarification as regards the visiting and phone-call entitlement of sentenced prisoners held in an "arrest house" (paragraph 153);
- comments on the allegations received that prisoners' incoming letters were systematically opened and read (paragraph 154);
- comments on the issue of prisoners' preparation for release, in particular as regards inmates held in special conditions of high security or control (paragraph 159).

## **Psychiatric establishments**

### **Dnipropetrovsk High-Security Psychiatric Hospital**

#### recommendations

- a clear message to be given to staff of the State Department on Enforcement of Sentences assigned to security tasks at the High-Security Psychiatric Hospital in Dnipropetrovsk that any form of ill-treatment of patients – including verbal abuse and the excessive use of force in the context of applying restraints – is unacceptable and will be dealt with severely (paragraph 161);
- the Ukrainian authorities to consider the possibility of security staff working inside psychiatric establishments being recruited directly by the Ministry of Health, and subordinated to the hospital's director (paragraph 161);
- steps to be taken at the High-Security Psychiatric Hospital in Dnipropetrovsk to improve material conditions in the wards, the overriding objective being to provide a positive therapeutic environment for patients. This should involve:
  - as a first step, ensuring that every prisoner has his/her own bed;
  - reducing the occupancy levels in the patients' dormitories;
  - offering a more congenial and personalised environment to patients, in particular by providing them with lockable space and allowing a reasonable number of personal belongings;
  - ensuring that an individualised approach is followed as regards patients' clothing;
  - providing dayroom areas sufficient for the number of patients being held (paragraph 163);
- efforts to be made at the High-Security Psychiatric Hospital in Dnipropetrovsk to move away from the environment primarily based on the custody of patients and the use of medication, and to create a therapeutic milieu which includes occupational therapy and psycho-social intervention. This should involve steps to:
  - expand the range of therapeutic options and involve more patients in rehabilitative psycho-social activities, in order to prepare them for independent life and a return to their families; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and the improvement of self-image;
  - draw up an individual treatment plan for each patient (taking into account the special needs of forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress (paragraph 167);

- steps to be taken to improve the conditions under which patients take outdoor exercise at the High-Security Psychiatric Hospital in Dnipropetrovsk (paragraph 167);
- antiretroviral therapy to be made available to those HIV-positive patients whose state of health requires it (paragraph 168);
- the Ukrainian authorities to define a recruitment strategy based on proper funding and enhanced conditions of service, with a view to ensuring adequate staffing levels at the High-Security Psychiatric Hospital in Dnipropetrovsk. This should involve steps to:
  - fill all vacant nursing posts and increase the nursing staff/patient ratio on the wards;
  - reinforce substantially the team of specialists qualified to provide therapeutic and rehabilitation activities (paragraph 170);
- steps to be taken to ensure that all instances of restraint are systematically recorded in a detailed, standardised form (including the times at which the measure began and ended, the reasons for resorting to it, any medication given, the name of the doctor who ordered it, staff who participated in the application of the measure, an account of any injuries sustained by the patient or staff) (paragraph 171);
- single accommodation to be used when applying immobilisation to patients, in order to avoid this being done in the presence of other patients (paragraph 171);
- the Ukrainian authorities to take steps to reflect the principle of free and informed consent to treatment in both law and practice (paragraph 172);
- steps to be taken to facilitate patients' contact with the outside world. This should involve:
  - changing the rules in order to enable patients to make phone calls;
  - setting up more spacious visiting facilities;
  - allowing patients physical contact with their visitors during visits, unless there are reasoned grounds against this on the basis of an individual risk assessment (paragraph 173);
- steps to be taken to ensure that all patients under guardianship have an appropriate and effectively monitored legal guardian (paragraph 174);
- the Ukrainian authorities to consider creating a post for a lawyer who could take up issues for patients at Dnipropetrovsk High-Security Psychiatric Hospital (paragraph 174);
- an introductory brochure setting forth the hospital routine and patients' rights to be devised and issued to each patient on admission, as well as to their families/guardians. Any patients unable to understand this brochure should receive appropriate assistance (paragraph 175);

- a formal system for lodging complaints to be introduced. Patients should be informed of the bodies empowered to receive complaints, and complaints boxes (with restricted staff access) should be set up at the hospital (paragraph 175);
- in addition to inspections by supervising prosecutors, a system of regular visits by independent outside bodies empowered to monitor patient care to be introduced (paragraph 175).

comments

- the management of Dnipropetrovsk High-Security Psychiatric Hospital is invited to exercise increased vigilance and encourage the reporting of any instances of ill-treatment of patients (be it physical or verbal) in order to ensure that such conduct does not go unpunished. It is also necessary that preventive action be taken, for example, through the organisation of specialised training for “controllers” (paragraph 161);
- the CPT trusts that the court decision, according to which the premises occupied by a penitentiary hospital should be restituted to the High-Security Psychiatric Hospital, will be implemented as soon as possible with a view to alleviating the overcrowding in the latter establishment (paragraph 163);
- the Ukrainian authorities are invited to consider the possibility of modifying the large-capacity dormitories found in the hospital; such facilities are scarcely compatible with the norms of contemporary psychiatry (paragraph 163);
- once means of restraint have been removed, a debriefing of the patient should take place (paragraph 171);
- the Ukrainian authorities are invited to take steps to resolve the problem of patients at the High-Security Psychiatric Hospital in Dnipropetrovsk not having passports and national personal identification numbers (paragraph 174).

**Svyatoshynskiy Neuropsychiatric Institution (“Internat”) for women in Kyiv**

recommendations

- a clear message to be given to staff at the Svyatoshynskiy Neuropsychiatric Internat that ill-treatment of residents is totally unacceptable and will be dealt with severely. The Ukrainian authorities should also actively address factors that may have influenced such staff behaviour (paragraph 177);
- the Ukrainian authorities to take appropriate steps to protect residents at the Svyatoshynskiy Neuropsychiatric Internat from other residents who might cause them harm, in the light of the remarks made in paragraph 178 (paragraph 178);

- the Ukrainian authorities to explore the possibilities of providing enhanced conditions of service for staff at the Svyatoshynskiy Neuropsychiatric Internat, so as to facilitate appropriate staff recruitment and retention. The numbers of staff in direct contact with residents (including nurses, educators, work therapists, social workers and psychologists) should be substantially increased (paragraph 180);
- a doctor to be on call and available to the Svyatoshynskiy Neuropsychiatric Internat on a 24-hour basis (paragraph 183);
- the Ukrainian authorities to take steps to ensure the implementation of individual treatment and rehabilitation plans by involving all residents in activities adapted to their needs. Achieving this goal will require recruiting more staff (paragraph 186);
- steps to be taken to ensure that a comprehensive and clearly-defined policy on the use of means of restraint and isolation is introduced at the Svyatoshynskiy Neuropsychiatric Internat, applying the precepts described in paragraph 188 (paragraph 188);
- the Ukrainian authorities to strive to find alternative solutions which avoid the conflict of interests inherent in the Director of the Internat acting as the guardian of residents and better guarantee the independence and impartiality of guardians (paragraph 190);
- an introductory brochure setting out the establishment's routine, the rules for admission and discharge, residents' rights and the possibilities to lodge formal complaints on a confidential basis with clearly designated outside bodies, to be drawn up and systematically distributed to residents, their families and guardians (paragraph 191);
- steps to be taken to provide residents with access to the telephone (paragraph 192).

#### comments

- the Ukrainian authorities are invited to ensure that there is a sufficient supply of disposable pads for incontinent residents and to provide waterproof mattress covers (paragraph 182);
- the Ukrainian authorities are invited to pursue their efforts to encourage residents' contacts with the outside world. In this context, the limitation on visits to only three days a week seems unduly restrictive (paragraph 192);
- the Ukrainian authorities are invited to introduce a system of regular visits to the Svyatoshynskiy Neuropsychiatric Internat and other similar institutions in Ukraine by bodies which are independent of the social care authorities (as provided for in Section 31 of the 2000 Law on Psychiatric Care) (paragraph 193);
- the Ukrainian are invited to develop a comprehensive national plan for mental health, including a strategy for addressing the shortfalls in all psychiatric and social care institutions in the country and for de-institutionalisation/avoiding institutional care (paragraph 194).



requests for information

- information as to whether a person who has been committed to a neuropsychiatric institution may apply to a court at any time to contest his/her placement and, if so, under what conditions (paragraph 189);
- statistics on the number of cases in which the courts have decided that persons were illegally committed to a neuropsychiatric institution since the Law on Psychiatric Care entered into force (paragraph 189);
- whether there have been any formal complaints about financial abuse by the Internat's management in respect of residents' pensions and assets, if they have been investigated and the results thereof (paragraph 190).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND INTERNATIONAL AND  
NON-GOVERNMENTAL ORGANISATIONS WITH WHICH  
THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

**State Department on Enforcement of Sentences**

Mr Oleksandr GALINSKIY	Head of the State Department on Enforcement of Sentences
Mr Mykola ILTIAY	First Deputy Head
Mr Yevgen SERGIENKO	First Deputy Head
Ms Natalia KALASHNYK	Deputy Head
Mr Anatolyi VYSOCHANSKYI	Deputy Head
Mr Oleksyi DVOYNOS	Head of Directorate
Mr Oleksandr FEDORUK	Head of Directorate
Mr Sergyi ZHIVAGO	Head of Directorate
Mr Oleksandr KISLOV	Head of Directorate
Mr Sergyi POLYOVII	Head of Directorate
Mr Oleg SHEPEL	Head of Directorate
Mr Oleksyi SHEVCHUK	Head of Directorate
Mr Leonid SUBOTENKO	Head of Directorate
Mr Sergyi YAKHNOVICH	Head of Directorate
Mr Oleg YANCHUK	Deputy Head of Directorate
Mr Vladislav KLISHA	Head of Division
Ms Valentina RIZANENKO	Head of Division
Mr Volodimir SHUMAI	Head of Division

**Ministry of Internal Affairs**

Mr Yuryi MAZUR	Head of Division "Special detention facilities and convoy units" of the Department for Public Order
Mr Yuryi BELOUSOV	Assistant to the Minister of Internal Affairs, Head of Division in the Department on monitoring human rights observance in the Internal Affairs bodies

**Ministry of Justice**

Mr Petro KOCHERGAN	Head of Directorate
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**Ministry of Foreign Affairs**

Mr Sergyi SHABLYI	Advisor, Division on the Council of Europe, Department on the UN and other international organisations
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**Ministry of Health**

Ms Olga KOLLYAKOVA	Head of Division “Specialised health care”
Mr Oleksandr REVENOK	Chief forensic psychiatric expert
Ms Natalia MARUTA	Chief psychiatric expert

**State Border Service**

Mr Boris MARCHENKO	Deputy Director of Department of Border Guard Administration, Head of Directorate “Work with foreign nationals, investigation and administrative proceedings”
Mr Yaroslav KLIUGA	Head of Division
Mr Sergyi ABALMASOV	Head of Division

**Prosecutor General’s Office**

Mr Oleksyi LILIAKOV	Head of Division
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**Office of the Parliamentary Commissioner for Human Rights**

Mr Anatolyi PALYI	Senior consultant, Division on penitentiary establishments
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**B. International organisations**

Delegation of the Commission of the EU to Ukraine and Belarus

Mission of the International Organisation for Migration

OSCE Project Co-ordinator in Ukraine

UNHCR Regional Representation

**C. Non-governmental organisations**

Association of Relatives of Psychiatric Patients

Association of Users of Psychiatry

Donetsk Memorial

Kharkiv Human Rights Protection Group

Ukrainian Helsinki Human Rights Union

Ukrainian Psychiatric Association