

Response

**of the Ukrainian Government to the request for
information in paragraph 13 of the CPT's report
on the visit to Ukraine from 9 to 21 October 2013**

(dated 30 July 2014)

Strasbourg, 13 January 2015

May 16, 2014 at the enlarged meeting of the board of SPtS of Ukraine some issues were discussed on the implementation of specific observations and recommendations of the ECPT to ensure respect for human rights in penal institutions and detention facilities after the visit of its representatives to Ukraine in October 2013.

Following the meeting of the board there was decided to promote the work in 2014 on preventing any repressive methods against persons who are held in Kryvyi Rih penitentiary facility (№ 3) and Stryzhavka correctional camp (№ 81); and to take additional steps to combat manifestations of “subculture” among prisoners and persons detained in all penal institutions and detention facilities (paragraph 7 of the Plan of additional measures of SPtS of Ukraine to strengthen safeguards to protect the rights and freedoms of persons in institutions under jurisdiction of SPtS of Ukraine, preventing torture and inhuman or degrading treatment or punishment ratified by protocol of extended operational meeting of SPtS of Ukraine on November 27, 2013 № 59). A common practice of the above mentioned practices is extended within Oleksiyivka correctional camp (№ 25).

In May 2014 the General Prosecutor’s Office of Ukraine organized and ensured inspections for preventing intimidation of prisoners in Kryvyi Rih penitentiary facility (№ 3), Dnipropetrovsk and Odessa detention facilities¹, Oleksiyivka correctional camp №25 and Stryzhavka correctional camp (№81), and in the course of control - in May 2014 in Stryzhavka correctional camp (№81).

June 2, 2014 at its first meeting of the Commission on state policy in the execution of criminal penalties reviewed the results of official investigations of human rights violations during execution and serving criminal sentences and detention revealed during a visit to Ukraine of ECPT² representative and measures to prevent such incidents in the future.

As a result of numerous inspections in Dnipropetrovsk detention facility and Kryvyi Rih penitentiary facility №3 comments by ECPT representatives found their partial evidence, but were deemed to contain no grounds for opening criminal proceedings and submission of information to the Single register of pre-trial investigations (SRPI). In particular, the heads of these institutions are able to perform their duties, subject to addressing the identified deficiencies. Currently work is underway to address them.

¹ employees of the General Prosecutor’s Office of Ukraine during the inspections in the Kryvyi Rih penitentiary facility №3, Dnepropetrovsk and Odessa detention facilities in May 2014 have been visited by more than 80 prisoners. None of them expressed claims and complaints regarding misconduct by administration of institution, violence or other misconduct.

² formed by the order of the Ministry of Justice of Ukraine as of 04/18/2014, №670/5Ю.

In order to implement all the recommendations of the ECPT the staff of the penitentiary bodies and institutions of the region within individual educational work, service training it is conducted a systematic work to prevent cases of torture, on inadmissibility of violent treatment of the of prisoners and persons taken into custody, or commitment actions that degrade their human dignity.

The complex of measures is held to create high professional and moral traits of character, discipline and order, ethical conduct of staff, ensuring effective individualization of each employee. Staff is provided with the reminder cards on the main provisions of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the special attention focuses on mastering these provisions by employees of medical and psychosocial services, the junior officers of the supervision service and security.

There was created and implemented Inter-institutional Preventive Mechanism (IPM) for monitoring places of detention³.

For the practical implementation of the tasks from mentioned above mechanism on 5th of June, 2014 there were established five working (mobile) groups of the Commission on Human Rights at execution and serving criminal sentences and remand in custody. The composition of such groups was approved by the order of the Ministry of Justice of Ukraine as of 06/05/2014 №116/7.

During June-July, 2014 the mentioned groups organized the inspections of Kyiv and Odessa detention facilities, Boryspil correctional camp (№ 119) of administration of SPtS of Ukraine in Kyiv and Kyiv region and Stryzhavka correctional camp (№ 81) of administration of SPtS of Ukraine in the Vinnytsa region.

Representatives of civil society and social council formed at SPtS of Ukraine actively involved in the mentioned work. Even those who are considered to be opposition regarding activity of bodies and institutions subordinated to the SPtS of Ukraine participated in this.

While continuing the work of the above mentioned Commission it is scheduled to check Oleksiyivka correctional camp (№25) of administration of SPtS of Ukraine in Kharkiv region and Kharkiv detention facility, Kryvyi Rih penitentiary facility (№3), Dnipropetrovsk detention facility, Polytska penitentiary facility of administration of SPtS of Ukraine in Rivne region (№76).

From May 2014, one introduced the practice of agreeing candidates for management of the bodies and institutions within jurisdiction of the SPtS of Ukraine, and consideration of materials for their appointment or promotion at work during activities of recruiting commissions based on the comments contained in the reports of the ECPT. In May-July, 2014 there were considered materials in relation to 21 candidates for management positions of authorities and institutions within jurisdiction of SPtS of Ukraine.

³ On the 19 of June, 2014 a special section regarding this issue was created at the web site of SPtS of Ukraine <http://www.kvs.gov.ua/peniten/control/main/uk/publish/category/643790>

From 16th of May to 16th of June, 2014 there were held discussions regarding recommendations of the expert of the Council of Europe regarding assessment of the effectiveness of the mechanism to file complaints of ill-treatment in the prison system of Ukraine involved in this work in the framework of a joint program of the EU and the Council of Europe “Strengthening the fight against ill-treatment and impunity” (Council of Europe Action Plan for Ukraine 2011-2014). The above is due to the need to develop an improved mechanism of complaints filing by the sentenced persons on the ill-treatment against them and to avoid the human factor in the process. There were proposals regarding the above recommendations from representatives of four non-governmental organizations and one sentenced person.

According to the order of the Cabinet of Ministers of Ukraine as of 14/07/2014 №25007/1/1-14 the issue on improving the mechanism for investigating complaints on mistreatment is under the control of the Government Commissioner of the European Court of Human Rights. This issue is considered as one of the ways to solve the problems that lead to complaints on violations of human rights provided for in Articles 3 and 13 of the Convention for the Protection of Human Rights and fundamental Freedoms proposed by the Government Commissioner of the European Court of Human Rights.

June 2, 2014 during a meeting of the Commission on state policy issues in the execution of criminal penalties there was agreed priorities of the State Penitentiary Service of Ukraine regarding reforms of the State Penitentiary Service of Ukraine for 2014. In particular priorities relate to the following fields:

- strengthening safeguards to protect the rights and freedoms of persons which are in institutions within jurisdiction of the State Penitentiary Service of Ukraine, improving conditions of detention in accordance with national legislation and international standards;

- modernization of engineering security facilities, establishment of modern security systems in penal institutions and detention facilities;

- improvement of the efficiency of combating crime and illicit trafficking of narcotic drugs, operational activities in the bodies and institutions within jurisdiction of the State Penitentiary Service of Ukraine;

- improvement of the quality of medical assistance, improving care of health of sentenced persons and persons in detention;

- increase the level of social, educational and psychological work with sentenced persons, respect for the rights of children in conflict with the law;

- modernization of production facilities of penitentiary institutions, and improving the system of professional training of sentenced persons;

- increase the efficiency of punishment other than imprisonment;

- improve the efficiency of the staff and of penitentiary bodies and institutions.

Work continues on the preparation of draft legal acts concerning the necessity of amending legal acts concerning the manner and conditions of detention, serving criminal sentences and increasing standards of living space for persons taken into custody, and measures to improve the conditions for granting short-term visits to convicted persons, humanization of security measures for persons sentenced to life imprisonment and to improve medical examinations of prisoners and persons detained in the view of registration of accidents and other body injuries, subordination of health care bodies of penitentiary service to the Ministry of Health of Ukraine.

Solution of these issues is to be implemented as part of the draft laws of Ukraine “On the State Penitentiary Service of Ukraine”, "On pre-trial detention” and “On probation”.

According information of the General Prosecutor’s Office

General Prosecutor’s Office of Ukraine in April of this year has sent letters to prosecutors of the regions to intensify prosecutor supervision on the observance of laws and constitutional rights of prisoners, and international norms and standards in the execution of judicial decisions in criminal proceedings and the application of other coercive measures. These letters require taking additional organizational and practical measures to ensure effective prosecutor supervision of the observance of laws in the bodies and institutions of SPTs and Ministry of Internal Affairs of Ukraine, preventing cases of torture or inhuman or degrading treatment or punishment.

Because of the assignment of the General Prosecutor’s Office of Ukraine the facts of use of physical violence against prisoners, ill-treatment and violations of the rights of some prisoners by other prisoners were not registered.

In order to prevent intimidation and to strengthen the trust of prisoners in prosecutors in 2013 there was introduced their mandatory personal reception in places of freedom restriction that is carried out by regional prosecutors and their deputies, including in the form of a private survey.

In addition, 04/28/2014 the Deputy Prosecutor General of Ukraine sent the tasks to the regional prosecutors to conduct audits on compliance with constitutional rights of persons in places of freedom restriction, the prevention of torture and inhuman or degrading treatment or punishment, taking into account recommendations made by representatives of the ECPT according to the results of visit in 2013.

According to the results of the inspections the General Prosecutor’s Office of Ukraine made two submissions to the Ministry of Internal Affairs of Ukraine and SPTs of Ukraine to eliminate violations of legislation on operational requirements, procedures and conditions of persons which are in detention and custody, their material and household and sanitary supply. These submissions are pending.

12 officers were brought to disciplinary charges.