



CPT/Inf (2015) 24 Addendum 1

Additional Response

**of the Ukrainian Government
to the request for information in paragraph 44
of the report of the European Committee for the
Prevention of Torture and Inhuman or Degrading
Treatment or Punishment (CPT) on its visit to
Ukraine**

from 9 to 16 September 2014

The Ukrainian Government has requested the publication of this additional response. The CPT's report on the September 2014 visit to Ukraine is set out in document CPT/Inf (2015) 21.

Strasbourg, 18 November 2015

on 13 October 2015

ADDITIONAL INFORMATION

On the results of the work conducted on implementation of paragraph 44 of recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following the visit of representatives of CPT to Ukraine in period from 9 till 16 September 2014 to Oleksiivska correctional colony (№ 25) and Temnivska correctional colony (№ 100) of the SPtS of Ukraine in Kharkiv region

To paragraph 44 with regard to continuation of efforts on prevention in the fight against abuse and intimidation in all penitentiary establishments.

On July 3, 2015 it was launched a new two-component project of the Council of Europe and the European Union "Further support of penitentiary reform in Ukraine" for 2015-2017 (hereinafter - Project of CoE and the EU).

The purpose of the Project of CoE and the EU is implementing to the activities of the bodies and institutions, belonging to the management of the SPtS of Ukraine, the mechanisms of applying the rehabilitation approach during the execution of criminal penalties in accordance with European standards and European experience, improvement of procedures and practice of prison inspections and review mechanism of complaints from prisoners.

Initiation of the Project of CoE and the EU due to the need to better implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, decisions of the European Court of Human Rights and the recommendations of the CoE Committee of Ministers on human rights.

To ensure proper cooperation of the SPtS of Ukraine with the Office of the Council of Europe on implementation of the tasks of the Project of CoE and the EU on July 20, 2015 a Memorandum of Understanding between the State Penitentiary Service of Ukraine and the Council of Europe Office in Ukraine on implementation of the project "Further support of penitentiary reform in Ukraine" was signed

By Order of the SPtS of Ukraine on 31.08.2015 № 458 identified six pilot agencies and four pilot regions for optimisation of standards of the Council of Europe: Bilotserkivska (№35), Chernihivska (№44), Naderzhynschynska (№65) and Stryzhavska (№ 81) correctional colonies, Prylutska and Kremenchutska juvenile correctional facilities in Kyiv, Vinnytsia, Chernihiv and Poltava regions.

It is planned to test in practice "Four principles of effective prison", that used in advanced European penitentiary systems, in six pilot institutions.

The first principle provided to ensure a safe environment for staff and inmates. This principle requires evidence, that confirming support and adhere the interests of prisoners, especially, when they are most vulnerable, prevent violent incidents and bullying. It also needs efficient, well understood and fair security measures and disciplinary processes. This principle covers such areas as physical and dynamic security, surveillance, investigation procedures, protection, disciplinary actions and the prevention of suicide.

The second principle provides an understanding that with the prisoners behave politely and respect their human dignity. This principle includes checking the conditions in which prisoners are held, and attitudes on the part of prison staff. It covers areas such as accommodation, hygiene, clothing, food, health care and relationship staff / prisoner.

The third principle means that prisoners have the opportunity to participate in purposeful activity. This principle provides for appropriate targeted activities such as work, education and training for all inmates through the best use of all available resources. This principle covers areas such as education, work, training, the work program on illegal behavior, religious activities, physical education.

The fourth and final principle - the prisoners are ready for rehabilitation and release from prison. Prisons play an important role in an effort to rehabilitate prisoners and reducing the risk of committing repeated crimes. This principle includes supporting of family relationships, correspondence, visits, telephone calls, the outside life, employment opportunities and social ties.

Related Links:

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/793891>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/786549>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/785619>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/781136>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/780822>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/771518>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/744978>

<http://www.ombudsman.gov.ua/ua/all-news/pr/18315-iw-zaxist-prav-lyudini-prioritet-planu-dij-radi-yevropi-dlya-ukraiini-na/>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/786313>

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/786106>

Under the auspices of the Council of Europe continued the dialogue on implementation to the national legislation and implementation in practice of the new institution of "prevention and compensation" protection means from improper detention conditions in penitentiary establishments.

On 17th of June, 2015 was held a second working meeting with Council of Europe experts to discuss the Council of Europe standards in this area and the experience of Italy and France.

In the autumn of 2015 an interagency working group is planned to be created under the auspices of the Government Agent for European Court of Human Rights with the aim to work out real proposals on the implementation of these recommendations (*For reference: during the debates, the practical side of implementation, provided by Ukrainian legislation, preventive and compensatory remedies for challenging the detention conditions in penitentiary establishments has been discussed. In particular, it was discussed a number of issues regarding remedies that could be implemented in Ukraine. Experts noted that such remedies should provide to persons held in custody, the opportunity to complain on the conditions of detention and to receive compensation at the national level, thus prevent the submission of relevant complaints to the Strasbourg court*).

In August 2015 increased independence of the Commission on the state policy in execution of punishments and its mobile (working) groups to conduct inspections of activities of penitentiary establishments and pre-trial establishments. Mentioned mobile groups were headed by representatives of the Public Council under the SPtS of Ukraine, established under the SPtS of Ukraine on 1 April 2015.

On this issue were approved relevant orders of the Ministry of Justice of Ukraine from 12.08.2015 №№ 219/7 and 220/7.

To paragraph 44 with regard to activities of correctional colonies №№ 25 and 100

According to paragraph 3.1 of instruction of the Minister of Justice Ukraine Petrenko P.D. from 30.01.2015 № 6-48 / 1 (hereinafter - the Instruction) by created working group of the division of the State Penitentiary Service of Ukraine in Kharkiv region every month with the involvement of representatives of public organizations monitored human rights and communication with prisoners who serving sentences in Oleksiivska (№ 25) and Temnivska (№ 100) correctional colonies.

During the monitoring carried out sample surveys of prisoners and staff of institutions and prisoners anonymous questionnaire. As a result of an anonymous questionnaire concerning facts related to misbehavior of administration staff of institutions to convicts were not found.

Also during the monitoring revealed that, staff of Oleksiivska (№ 25) and Temnivska (№ 100) correctional colonies provided realization by prisoners of the right to appeal in accordance with requirements of the Law of Ukraine "On citizens' appeals". The procedure of personal reception of citizens complies with the

requirements of legal acts. In order to inform prisoners of their rights and responsibilities under the legislation provided such an informing of prisoners who come to these institutions. Also with the prisoners held additional lectures, including via cable television networks.

In Oleksiivska (№ 25) and Temnivska (№ 100) correctional colonies introduced the practice of holding with prisoners of the "evening of questions and answers" with the participation of representatives of public authorities, including the prosecutor's office, and public organizations.

In addition, effected monitoring of appeals of convicts who serving sentences in Oleksiivska (№ 25) and Temnivska (№ 100) correctional colonies that received by the State Penitentiary Service of Ukraine. According to its results found that concerning all such appeals conducted detailed inspections. On results of inspections violations of the current legislation and misconduct of administrations in Oleksiivska (№ 25) and Temnivska (№ 100) correctional colonies to prisoners were not specified.

In Oleksiivska correctional colony (№ 25) criminal proceedings against employees of institution on the use of physical force against prisoners and psychological violence have not been opened. At present there are no data on the criminal proceedings against the administration of Oleksiivska correctional colony (№25).

By the order of the State Penitentiary Service of Ukraine from 31.12.2014 №203 / OC the head of Oleksiivska correctional colony (№25) colonel of internal service H.V.G. released from the State Criminal Executive Service of Ukraine. By the Order of the State Penitentiary Service of Ukraine from 28.01.2015 №7 / OC-15 colonel of internal service O.A.M. dismissed from the post of the Head of Temnivska correctional colony (№100), appointing him the head of the Kharkiv correctional colony (№43) with six months' probation period.

By the Order of division of the State Penitentiary Service of Ukraine in Kharkiv region from 11.09.2015 №134/OC-15 colonel of internal service P.V.M. appointed the first deputy head of Dykanivska correctional colony (№12), dismissed him from the post of Deputy Head of Oleksiivska correctional colony (№25).

In July 2014, by the Prosecutor office of Kharkiv region was initiated criminal proceedings under part 1 of article 122, part 2 article 365 of the Criminal Code of Ukraine on applications of prisoners T.O.I., H.R.P., S.V.P., P.V.P., S.P.D., S.V.U., L.U.O., H.O.I., M.O.S. and I.D.V. on application to them of physical and psychological violence by officials of Temnivska correctional colony (№100). However, by the decision from 24 December 2014 the mentioned criminal proceeding was closed under paragraph 2 part 1 article 284 of the Criminal Procedure Code of Ukraine due to the lack in the actions of officials of Temnivska correctional colony (№100) of criminal elements he was charged with.

At present, there are no data on criminal proceedings against employees of Administration of Temnivska correctional colony (№ 100).