



CPT/Inf (2015) 24 Addendum 2

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 authorised 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, 15 March 2016



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15.02.2016 № 12.2-41/454

На № _____

Dear Mr. Gnatovskyy,

I avail myself of this opportunity to convey to You my assurances of the highest consideration.

In response to Your letter on March 27, 2015 Ministry of Justice sends the requested information (attached).

Furthermore, to inform on progress and measures taken by Ukraine in connection with the comments and recommendations of the CPT, Ministry of Justice sends unofficial translation of the Decree of the President of Ukraine # 501/2015 «On Approval of the National Human Rights Strategy of Ukraine» and the Action Plan on Implementation of the National Strategy in the area of Human Rights for the Period until 2020 approved by the order of the Cabinet of Ministers of Ukraine # 1393 which includes issues of combating torture and cruel, inhuman or degrading treatment or punishment (by electronic mail).

I wish You every success and look forward to our constructive cooperation.

Annex: mentioned on 5 pages.

Sincerely yours

Deputy Minister for European integration

Sergiy PETUKHOV

**To the President of the European
Committee for the Prevention of
Torture and Inhuman or
Degrading Treatment or
Punishment**

Mykola Gnatovskyy

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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 division 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

Work continues on the implementation from 3 July 2015 of 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 are implementing in 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 signed 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."

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.

On 26 and 27 January 2016 summarized the results of six months work in the framework of the Project of CoE and the EU, discussed the results of the implementation of the "mini-projects" in the abovementioned six pilot penitentiary establishments.

Mini-projects include work on pilot development of the possibility of practical application of 25 recommendations prepared by the European experts, on improving the execution of criminal penalties in closed penitentiary establishments on the principles of rehabilitation approach used in the course of this work.

Currently, these mini-projects focus on the implementation of dynamic security methods, training of prison personnel to methods of conflict-free communication with the prisoners, improving the system of preparation of convicts for release, prevention among them suicide, organization of receiving convicted on personal matters, the organization of legal education of convicts, training convicts to healthy lifestyle.

In future it is planned within the framework of the Project of CoE and the EU continuation to test in practice "Four principles of effective prison", that used in advanced European penitentiary systems, in six pilot institutions (In details the information on "Four principles of effective prison" was mentioned in the letter of the Ministry of Justice from 13 October 2015 № № 12.2-41/283).

On 9 February 2016 work began on the drafting of a brochure on the rights and duties of prisoners and detainees. This work is conducted within the framework of the Project of CoE and the EU with the participation of representatives of state bodies and public organizations.

Related Links:

on Framework Programme on Cooperation

[http://www.ukrinform.ua/rubric-iac/1826337-](http://www.ukrinform.ua/rubric-iac/1826337-rada_e_vropi_dast_ukraiini_45 mln_e_vro_na_reformi_2033491.html)

[rada_e_vropi_dast_ukraiini_45 mln_e_vro_na_reformi_2033491.html](http://www.ukrinform.ua/rubric-iac/1826337-rada_e_vropi_dast_ukraiini_45 mln_e_vro_na_reformi_2033491.html) (interview with Verena Teilor)

<http://www.radiosvoboda.org/content/news/27342380.html>.

on the competence of SPtS of Ukraine within Framework Programme on Cooperation

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/805584> (4 November 2015)

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/803138> (23 October 2015)

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/793891> (organizational documents on project of the SPtS)

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/786549> (9 July 2015)

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

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/781136> (4 June 2015)

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/780822> (3 June 2015)

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/771518> (24 March 2015)

<http://www.ombudsman.gov.ua/ua/all-news/pr/18315-iw-zaxist-prav-lyudini-prioritet-planu-dij-radi-yevropi-dlya-ukraiini-na/> (18 March 2015)

<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/744978>(30 September 2014).

Links for expert visits to institutions from 6 to 7 July 2015:

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

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

On 17 June 2015 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, who prepared 85 recommendations on options for the introduction of an effective mechanism of preventive and compensatory remedies to taking an appeal on detention conditions

(<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/783154>).

On 12 October 2015 by the order of the Minister of Justice of Ukraine № 283/7 created an interagency working group under the auspices of the Government Plenipotentiary for European Court of Human Rights for working out real proposals on the implementation of these recommendations (*reference: 22 October 2015 the first meeting of the working group took place. During the debates discussed the practical side of implementation provided by Ukrainian legislation preventive and compensatory remedies for challenging the detention conditions in penitentiary establishments. 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 the fourth quarter of 2015 and in 2016 under the auspices of the Mission of European Union on reform the civil security sector in Ukraine (*EU Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine, http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/144079.pdf)* elaborated draft Law of Ukraine "On penitentiary judges and preventive and compensatory measures due to improper treatment against prisoners and persons in custody."

The mentioned draft Law is accompanied by close cooperation with the Subcommittee on the activities of the State Penitentiary Service of Ukraine of the Verkhovna Rada Committee on Legislative Support of Law Enforcement Activities.

From December 2015 in Ukraine legally provided "an unprecedented experience" on "automatic compensation" of pre-trial custody term to term for serving punishment.

In particular, 26 November 2015 adopted the Law of Ukraine № 838-VIII "On Amendments to the Criminal Code of Ukraine concerning improvement of the order of inclusion of pre-trial detention by the court to term for serving punishment" which came into force on 24 December 2015.

On its face, the scope of the mentioned Law in penitentiary establishments covered about 50 thousand of convicts, of which 6 thousand persons is expected to release from further service of sentence.

However, the concern is expected for the release of nearly 3 thousand people who have been convicted for serious crimes and 1.8 thousand - for the especially grave crimes (*including 809 people - for murder; 473 - for intentional infliction of serious bodily injury; 150 - for the forceful rape; 72 - for forcible sexual assault by unnatural means; 927 - for robbery*).

In a society gets a significant number of citizens from detention facilities, who must be ready for outside life and to be socially adapted. On the other hand it is not created sufficient opportunities outside the penitentiary establishments on social adaptation of released from detention facilities citizens, that creates a threat to the worsening of crime situation in the country.

In the State Penitentiary Service of Ukraine there is an awareness that policies of developed European countries aimed at ensuring the safety of local communities from crimes, protection of the victim's rights of these offenses.

In this regard, there is a real need to continue the work on prevention through creating an effective probation in Ukraine, providing tough and fair policy of execution of punishments in detention facilities, based on the principles of the rule of law and fair legal liability of sentenced to prison personnel requirements, and personnel to citizens, who serving sentences.

As of 05.02.2016 the number of persons to whom the above-mentioned law applied in penitentiary establishments amounted to 4387 persons (of them, exempt from further punishment - 1415 persons) in detention centers the law applied to 568 persons (of them, exempt from further punishment 190 people).

27-28 October 2015 under the chairmanship of the President of the European Committee for the Prevention of Torture (CPT) Mykola Gnatovskyy and the Secretariat of the Ukrainian Parliament Commissioner for Human Rights a seminar on "Modern standards of human rights observance in places of detention" was held.

The target group included the first deputy heads of regional bodies of the SPtS of Ukraine who are directly responsible for organizing the regime of serving criminal sentence in penitentiary establishments and detention of persons taken into custody in the detention centers. The meeting was attended by the Head of the State Penitentiary Service of Ukraine Volodymyr Palahniuk.

As part of the regional project "Support to the penitentiary reform (from punitive to rehabilitation approach)" of the Framework Programme of cooperation of the European Union and the Council of Europe, work on "prevention of overcrowding in prisons", the spread of Ukrainian experience in this area has started (<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/805998>).

Reference:: in the period from 2001 to 2016 the number of persons, who held in detention facilities decreased from 490 to 160 persons per 100 thousand population of Ukraine).

In connection with the adoption by CPT on 15 December 2015 of the new European standard of living space in the SPtS of Ukraine was made an unofficial translation of the document into Ukrainian and placed on the official website of the SPtS of Ukraine for electronic consultations with society in terms of timeliness, scope and volume of reviewing of articles 64 and 115 of the Criminal Executive Code of Ukraine establishing a norm of living space per convict. These consultations were held in the period from 11 January to 12 February 2016 (<http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/815680>).

The abovementioned events are held with a purpose of execution of the Decree of the President of Ukraine from 20 May 2015 №276 "On the strategy of reforming the judiciary, the justice system and related legal institutions for the years 2015-2020" and from 25 August 2015 № 501 "On Approval of the National Human Rights Strategy."

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 till the end of 2015, with the involvement of representatives of public organizations it was monitored human rights and communication with prisoners who serving sentences in Oleksiivska (№ 25) and Temnivska (№ 100) correctional colonies. In the future, this work continues on a common basis in the manner prescribed by the Criminal Executive Code of Ukraine.

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 not specified.

Staff of establishments provided by handouts "The main provisions of the international standards for the treatment of persons deprived of their liberty." In-service training system are held classes for the study of international documents on the protection of fundamental human rights with a viewing the training material (including videos on human rights protection). These classes held on a quarterly basis, according to the quarterly plan, and the plan of activities within the framework of in-service training.

Conducts classes to explain the requirements of Article 16 of the Law of Ukraine "On the State Criminal Executive Service of Ukraine" and Article 8 of the Criminal Executive Code of Ukraine on inadmissibility of abuse by staff of the correctional services to inmates or acts, degrading human dignity, which is the basis for prosecution under the law.

All employees read, understand and acknowledge by signing the provision of Article 127 of the Criminal Code of Ukraine "Torture", as well as the Code of honor and the professional ethics of the staff of the State Criminal Executive Service of Ukraine. Written examination attached to the personal file of employees.

In institutions of the Kharkiv region developed a program of informing the newly arrived convicts on their rights and obligations of prisoners.

Requirements of the Criminal Executive Code of Ukraine, the Criminal Procedure Code of Ukraine, the Criminal Code of Ukraine, and legal acts, that regulates the order and conditions of serving the sentence by prisoners are brought to the attention on a receipt a signature in the form according to Annex 3 to the Rules of Internal Order, receipts are attached to the personal files of convicted. With all the prisoners in the departments of social and psychological services conducted additional lectures to explain the order and conditions of serving the sentence, the basic rights and duties of convicts taking into account changes in the Criminal Executive legislation. Provided lectures for prisoners on cable channels of establishments.