

## IAP Information Note No. 14

### CPT AND COMMISSIONER FOR HUMAN RIGHTS COMMENTS ON USE OF SPECIAL MEANS AND LACK OF IDENTIFICATION OF LAW ENFORCEMENT AGENTS

In its report of 29 April 2014 concerning the visits carried out in October 2013, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“CPT”) referred to the provisions of the Law on Police 1990 regulating the use of physical force and special means (Articles 12-14). In the opinion of the CPT, the legal framework regulating the use of such special means was unclear, which led to a disproportionate and inappropriate use of such means. The CPT recommended that the Ukrainian Government review the existing legal framework with respect to the use of special means and ensure that the circumstances of the use of each type of force was clearly defined in a legislative act or in relevant regulations.<sup>1</sup>

In the same report the CPT raised the issue of lack of identification of the members of special forces belonging to the Ministry of the Interior (“MoI”). The CPT referred to information gathered from persons who had been detained by members of the MoI special forces wearing balaclavas and not bearing any identification numbers either on their uniforms or helmets, save for special insignia on their uniforms. According to the CPT, “the wearing of balaclavas by members of the special forces might exceptionally be justified in the context of high-risk operations taking place outside a secure environment (e.g. potentially challenging apprehensions). That said, it should be ensured that subsequent identification of the officers concerned is always possible, through the wearing of not only a clearly distinctive insignia, but also a prominent identification number on each uniform/helmet.” The CPT has also recommended that the interventions of the MoI special forces be always recorded, giving as an example the possibility of the use of tactical cameras as part of the equipment of the officers concerned.<sup>2</sup>

In December 2013 the CPT was informed that action was being taken to ensure the proper identification of law enforcement officers in future. Indeed, after the violent dispersal of protesters on 30 November 2013 the then Prosecutor General, Mr Pshonka, expressed the intention to introduce identification insignia on the uniforms of MoI special units.<sup>3</sup>

The Council of Europe Commissioner for Human Rights has also addressed the question of legislative regulation of the use of force and special means and the identification of law enforcement officers. The Commissioner stressed the importance of the existence of clear guidelines on the use of force by police and recommended that the existing legal framework on the use of force and governing the actions of anti-riot police be revised and brought in line with international standards and Convention case law<sup>4</sup>. He also noted the legislative gaps with regard to the identification of police officer participating in policing demonstrations.<sup>5</sup>

The need to introduce legal changes aimed at allowing for the identification of law enforcement officials when in service was also emphasised by leading human rights organisations such as the Kharkiv Human Rights Group<sup>6</sup> and by the Parliamentary

---

<sup>1</sup> [Report](#) on the visit to Ukraine CPT from 9 to 21 October 2013, §§ 53-54.

<sup>2</sup> *Ibid.*, §§ 50-52

<sup>3</sup> News report of 14 December 2013: <http://www.radiosvoboda.org/articleprintview/25200762.html>.

<sup>4</sup> For instance, *Abdullah Yaşa and others v. Turkey*, application no. 44827/08, 16 July 2013.

<sup>5</sup> [Report](#) by the Commissioner for Human Rights of the Council of Europe, 4 March 2014, §§ 19, 30-31.

<sup>6</sup> <http://www.khpg.org/index.php?id=1394803915> (in Ukrainian).

Commissioner on Human Rights in her Annual Report on the Human Rights Situation in Ukraine in 2013.

An initiative was undertaken by several members of the Parliament who in August 2013 registered with the Parliament a draft law introducing changes in several legislative acts concerning the identification of law enforcement officials and the presence of the special forces and internal military forces belonging to the MoI structure during peaceful demonstrations.<sup>7</sup> The draft law proposed introducing a badge on the uniform of a law enforcement official which would contain the full name and information about the rank of the official and the organ to which he belonged. The draft law prohibited a law enforcement official from covering the information on the badge and introduced administrative liability for hindering his or her identification and for the absence of identification information on the uniform. The draft law also envisaged legislative changes to prevent the involvement of special police forces or internal military forces in the protection of public order during peaceful demonstrations. However, the draft law was not adopted for consideration by the Parliament.

On 22 October 2014 the Cabinet of Ministers by its Resolution No. 594 introduced changes in the document containing the description and samples of the uniform and insignia of law enforcement officers.<sup>8</sup> In particular, a badge containing a personal identification number was introduced. It is, however, unclear how such badge is to be worn and there appear to be no rules ensuring the visibility of such identification badges at all times.

---

<sup>7</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=47995](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=47995) (in Ukrainian).

<sup>8</sup> <http://zakon4.rada.gov.ua/laws/show/594-2014-%D0%BF/paran11#n11> (in Ukrainian).